

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

Civil Action No. 1:18-cv-02074-WYD-STV

MASTERPIECE CAKESHOP INCORPORATED,  
a Colorado corporation; and  
JACK PHILLIPS,

*Plaintiffs,*

v.

AUBREY ELENIS, Director of the Colorado Civil Rights Division, in her official and individual capacities;  
ANTHONY ARAGON, as member of the Colorado Civil Rights Commission, in his official and individual capacities;  
MIGUEL “MICHAEL” RENE ELIAS, as member of the Colorado Civil Rights Commission, in his official and individual capacities;  
CAROL FABRIZIO, as member of the Colorado Civil Rights Commission, in her official and individual capacities;  
CHARLES GARCIA, as member of the Colorado Civil Rights Commission, in his official and individual capacities;  
RITA LEWIS, as member of the Colorado Civil Rights Commission, in her official and individual capacities;  
JESSICA POCOCK, as member of the Colorado Civil Rights Commission, in her official and individual capacities;  
AJAY MENON, as member of the Colorado Civil Rights Commission, in his official and individual capacities; and  
PHIL WEISER, Colorado Attorney General, in his official capacity,

*Defendants.*

---

**PLAINTIFFS’ REPLY IN SUPPORT OF THEIR MOTION TO EXPEDITE THE FED.  
R. CIV. P. 72(a) OBJECTION TO MAGISTRATE JUDGE’S ORDER FORBIDDING  
DEPOSITIONS OF DEFENDANT COMMISSIONERS AND TO STAY EXPEDITED  
DISCOVERY**

---

## **INTRODUCTION**

A letter that Defendants (collectively, Colorado) sent yesterday leaves no doubt that Colorado believes it should be entitled to depose the four witnesses of its choosing and that Plaintiffs Jack Phillips and Masterpiece Cakeshop (collectively, Phillips) should not be allowed to depose anyone—not even depositions permitted under the Magistrate Judge’s contested order. This is all the more reason to expedite this Court’s ruling on Phillips’s objection to the Magistrate Judge’s order, stay expedited discovery pending that ruling, afford the parties two weeks after that ruling to conduct the expedited depositions, and continue the preliminary-injunction hearing until at least 10 days after that new deposition period concludes.

## **ARGUMENT**

Colorado paints a one-sided picture of what has happened during the expedited discovery period. It begins by faulting Phillips for not immediately providing a list of desired deponents and Rule 30(b)(6) deposition topics when Colorado requested them on February 14. Doc. 131 at 2-3. But Colorado’s rendition of the facts ignores that Phillips filed the motion to expedite and stay on February 18—a court holiday less than two business days after Colorado first inquired about those matters—and that this motion announced Phillips’s predicament in facing an order that compelled him to forego the depositions he wanted to take. Doc. 121 at 4. While Phillips’s plan was to focus his expedited depositions on the commissioners, the Magistrate Judge’s order directly affected those efforts. *Id.* at 3-4. And until Phillips knows whether he can depose individual commissioners, he is prejudiced in moving forward. *Id.* That is why he moved the Court for relief.

In reciting the history that has led to this point, Colorado suggests that it has not created any delay in the expedited discovery process. Doc. 131 at 3. That is simply not true. Colorado

delayed its document production by eight days—a delay to which Phillips objected, Doc. 120-1 at 2-3—and that delay constrained the time following document production that was available for depositions. Then on February 15—two days after all documents were produced and four days after Colorado indicated that it *will* call Division Director Aubrey Elenis as a witness at the preliminary-injunction hearing, *see* Doc. 121-1 at 1—Phillips inquired about deposing her, *see* Doc. 130-1 at 2. Although Colorado said that it would “get back to [Phillips] early next week” about that request, Doc. 130-1 at 1, Colorado did not inform Phillips of its position on that issue until February 21, which was six days after Phillips first inquired. Ex. A at 2. Upon receiving that information, the very next day Phillips sent Colorado two sets of deposition notices—one set that applies if this Court allows depositions of the individual commissioners and another that applies if this Court does not. Ex. B at 2. To ensure that Phillips has an opportunity to complete those depositions, he proposed that the deposition deadline be extended by three days. *Id.*

On February 25, just before Colorado filed its response to Phillips’s motion to expedite and stay, the state sent Phillips a letter announcing its extremely one-sided position on the expedited depositions. *See* Ex. C. Having itself occupied the last four business days of the deposition period with its scheduled depositions, Colorado refuses to extend the deposition period by three days to enable Phillips to conduct his. *Id.* at 1-5. Colorado does this even though its eight-day delay in production and six-day delay in notifying Phillips whether it would allow him to depose Director Elenis limited Phillips’s window to develop his deposition plans.

Also, despite the fact that Phillips gave Colorado at least 12 days’ notice for the depositions it has noticed, Colorado insists on the 14-day notice in Local Rule 30.1. *Id.* at 2-5. Colorado does this even though the parties are navigating an expedited discovery period and

Phillips *agreed to waive Local Rule 30.1* for the depositions that Colorado seeks to take. Colorado, in other words, refuses to reciprocate the courtesies extended to it. All this makes one thing clear: if Colorado has its way, it will conduct the four depositions of its choice, which are scheduled to begin in a few days, and Phillips will get *none*, not even depositions available under the Magistrate Judge's order.

Other unsettled issues abound as the parties prepare for the preliminary-injunction hearing. For example, one of the depositions that Phillips provisionally noticed is a Rule 30(b)(6) deposition of the Commission. After shielding Phillips from deposing individual commissioners and forcing him to obtain all information needed from the Commission through that Rule 30(b)(6) deposition, Colorado now objects that the notice for that deposition is “overly broad.” Ex. C at 2. But the state cannot have it both ways. It cannot limit Phillips to a Rule 30(b)(6) deposition in order to shield the individual commissioners while simultaneously confining the scope of that deposition in an unreasonable manner. Indeed, the Magistrate Judge warned that overbreadth objections to the Rule 30(b)(6) could lead to him “allow[ing] the individual commissioner’s deposition.” Doc. 120-2 at 59-60 (Tr. of Feb 5, 2019 Hearing).

Another disputed issue—which further illustrates Colorado’s desire to have everything its way—is the location of any Rule 30(b)(6) deposition that Phillips conducts. Ex. C at 2-3. After Colorado insisted that it would set its desired depositions at its preferred location, *see* Ex. B at 2, it now objects to Phillips doing the same, demanding that Rule 30(b)(6) depositions of the state’s representatives be held at the federal courthouse, Ex. C at 2. Additional unsettled matters also include (1) the scope of the deposition of Director Elenis, Ex. C at 3-4—the one state witness who Colorado has indicated it *will* call at the hearing, Doc. 121-1 at 1—because Colorado insists on

tightly limiting what Phillips can ask her, and (2) whether Phillips will be allowed to conduct a Rule 30(b)(6) deposition of the Division, Ex. C at 3.

In light of this, Phillips requests that the Court rule on his objection to the Magistrate Judge's order soon, stay expedited discovery in the meantime, reset the deposition deadline to two weeks after the ruling on the Magistrate Judge's order, and continue the preliminary-injunction hearing until at least 10 days after that new deposition deadline. This will allow adequate time for the parties to prepare for the hearing (a hearing whose outcome will likely be appealed by the losing party), and a few-week delay will not prejudice anyone.

Colorado claims that resetting the time to complete depositions "would prejudice the State Officials" because they have not encountered any roadblocks to conducting their desired depositions and are scheduled to complete them soon. Doc. 131 at 5. That Colorado is able to complete its depositions is not prejudice. That Phillips is barred from doing so is. The only party who faces prejudice is Phillips, especially under Colorado's current plan to take all its depositions while prohibiting Phillips from taking any.

Colorado also objects to delaying the hearing at all, arguing that a modest continuance will "divert[]" state officials' "attention away from their official duties to attend to the work that is necessary to properly defend against this litigation." Doc. 131 at 5. But this argument fails to account for the fact that the state officials will need to do the work of defending against this litigation one way or another. Whether they are forced to cram that work into the next few weeks or space it out over a few additional weeks will not make any material difference. Colorado's argument makes sense only to the extent that it is banking on getting out of depositions altogether,

which shows yet again that Colorado is intent on ensuring that it can conduct its depositions while keeping Phillips from conducting any.

**CONCLUSION**

Absent immediate relief from this Court, Colorado will press forward with its current plan to depose its four witnesses but to prevent Phillips from deposing anyone. That is neither fair nor equitable. Accordingly, this Court should rule on Phillips's objection to the Magistrate Judge's order soon, stay expedited discovery pending that ruling, reset the deposition deadline to two weeks after the Court's ruling on the Magistrate Judge's order, and continue the preliminary-injunction hearing until at least 10 days after that new deposition deadline.

Respectfully submitted this 26th day of February, 2019.

Attorneys for Plaintiffs:

*s/ Ryan J. Tucker*

---

Kristen K. Waggoner (Arizona Bar No. 032382)  
Ryan J. Tucker (Arizona Bar No. 034382)  
James A. Campbell (Arizona Bar No. 026737)  
Jonathan A. Scruggs (Arizona Bar No. 030505)  
Roger G. Brooks (North Carolina Bar No. 16317)  
Jacob P. Warner (Arizona Bar No. 033894)  
ALLIANCE DEFENDING FREEDOM  
15100 N. 90th Street  
Scottsdale, AZ 85260  
(480) 444-0020  
(480) 444-0028 (facsimile)  
kwaggoner@ADFlegal.org  
rtucker@ADFlegal.org  
jcampbell@ADFlegal.org  
jscruggs@ADFlegal.org  
rbrooks@ADFlegal.org  
jwarner@ADFlegal.org

David A. Cortman (Georgia Bar No. 188810)  
ALLIANCE DEFENDING FREEDOM  
1000 Hurricane Shoals Road NE, Suite D-1100  
Lawrenceville, GA 30043  
(770) 339-0774  
(770) 339-6744 (facsimile)  
dcortman@ADFlegal.org

Nicolle H. Martin (Colorado Bar No. 28737)  
P.O. Box 270615  
Littleton, CO 80127  
(303) 332-4547  
nicollem@comcast.net

**CERTIFICATE OF SERVICE**

I hereby certify that on February 26, 2019, the foregoing document and all its attachments were filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

LeeAnn Morrill  
First Assistant Attorney General  
Public Officials Unit  
State Services Section  
1300 Broadway, 6th Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6159  
Facsimile: (720) 508-6041  
leeann.morrill@coag.gov

Vincent E. Morscher  
Senior Assistant Attorney General  
Civil Litigation and Employment Law  
Section  
1300 Broadway, 10th Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6588  
Facsimile: (720) 508-6032  
vincent.morscher@coag.gov

Grant T. Sullivan  
Assistant Solicitor General  
Public Officials Unit  
State Services Section  
1300 Broadway, 6th Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6349  
Facsimile: (720) 508-6041  
grant.sullivan@coag.gov

Jacquelynn Rich Fredericks  
Assistant Attorney General  
Higher Education Unit  
State Services Section  
1300 Broadway, 6th Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6603  
Facsimile: (720) 508-6041  
jacquelynn.richfredericks@coag.gov

Michael D. McMaster  
Assistant Solicitor General  
Public Officials Unit  
State Services Section  
1300 Broadway, 6th Floor  
Denver, Colorado 80203  
Telephone: (720) 508-6000  
Facsimile: (720) 508-6041  
michael.mcmaster@coag.gov

*Attorneys for Defendants*

s/ Ryan J. Tucker  
Ryan J. Tucker

**From:** [Grant Sullivan](#)  
**To:** [Ryan Tucker](#)  
**Cc:** [Vincent Morscher](#); [Jacquelynn Rich Fredericks](#); [Vincent Morscher](#); [Leslie Bostwick](#)  
**Subject:** RE: Masterpiece v Elenis - Discovery Schedule  
**Date:** Thursday, February 21, 2019 5:26:50 PM  
**Attachments:** [image001.png](#)

---

Ryan,

Thank you for your email regarding scheduling of depositions. We, too, hope we can work collaboratively on these issues, as encouraged by Magistrate Judge Varholak. I'll attempt to address the issues you raised in the order you raised them.

First, although we are not willing to completely withdraw our subpoenas or notices of depositions to Jack Phillips, Debra Phillips, or Lisa Eldfrick, we are willing to amend them to dates and times that are convenient to both sides while still within the confines of the expedited discovery period, which as of now the parties have agreed to extend to March 5. You stated that Jack Phillips has availability during the week of March 4; you also stated that you prefer consecutive deposition days, with Jack Phillips on one day, and Mrs. Phillips and Ms. Eldfrick split on the second day. With that in mind, we propose amending the notices and subpoenas to depose Jack Phillips on March 4, and depose both Debra Phillips and Lisa Eldfrick on March 5. As we indicated, we may decide after Jack Phillips' deposition that Debra Phillips' and Lisa Eldfrick's depositions are unnecessary.

Second, as to location of the depositions, we prefer to leave the location of the Jack Phillips, Debra Phillips, and Lisa Eldfrick depositions at our office. Should you decide to depose Aubrey Elenis (see my note below), we will be happy to travel to a Denver office of your choosing for her deposition. Of course, we are also happy to host Aubrey Elenis's deposition, given that most of your team is not local.

Third, regarding your contemplated motion to quash, we oppose at this time but wish to continue conferring with you as required by the local rules and encouraged by Magistrate Judge Varholak. Please provide us the legal authority that you believe supports a motion to quash. As summarized in my letter from earlier this morning, we attempted to confer with you in good faith on multiple occasions regarding deposition availability. Indeed, we waited 6 days after our initial February 14 conferral before issuing the subpoenas, with multiple conferrals over the intervening days. At no point did you provide us availability.

Given the extremely tight expedited discovery period, the fact that your objection does not stay expedited discovery, *see* D.C.COLO.LCivR 30.2(b), and the fact that your objection does not impact the depositions that the State Officials seek to take, we believe your motion to quash is without merit. In the event you file such a motion and the court deems it frivolous, we reserve our right to seek our attorneys' fees and costs for the time expended in responding to it.

Fourth, your request for deposition availability of the individual commissioners is premature. Magistrate Judge Varholak's ruling limits Plaintiffs to a Rule 30(b)(6) deposition of the Commission and that decision has not been set aside. We thus encourage you to proceed with a

**EXHIBIT A**

Rule 30(b)(6) deposition of the Commission as outlined in our letter from earlier this morning.

Finally, regarding your request to depose Aubrey Elenis, we object for the reasons stated in the Joint Statement regarding Discovery Disputes [Doc. 113] and in our Supplemental Brief regarding Discovery Disputes [Doc. 115]. Moreover, the parties have agreed to extend the expedited discovery period only through March 5. Your request to depose Director Elenis, and any notice you may issue, thus will not comply with the 14-day notice provision in D.C.COLO.LCivR 30.1.

With that said, we are willing to make Director Elenis available for deposition at a mutually-agreeable time during the week of March 4, and will waive the 14-day requirement and agree to extend the expedited discovery window, provided you agree to limit the deposition in the same manner that Magistrate Judge Varholak limited the scope of the 30(b)(6) deposition of the Commission. We believe Magistrate Judge Varholak's reasons for limiting the Commission's deposition apply equally to Director Elenis. If that is agreeable, please let us know no later than COB tomorrow, 2/22, so that we can begin to prepare her for the deposition. Please also let us know whether you prefer March 6, 7, or 8 for her deposition.

Thank you in advance, and please let us know if you have any questions.

**Grant T. Sullivan**

Assistant Solicitor General  
Office of the Colorado Attorney General  
State Services Section  
Public Officials Unit  
1300 Broadway, 6<sup>th</sup> Floor  
Denver, Colorado 80203  
Direct: (720) 508-6349  
Email: [grant.sullivan@coag.gov](mailto:grant.sullivan@coag.gov)

Confidentiality Statement: This e-mail and any attachments from the Colorado Attorney General's Office are confidential and intended solely for the use of the individual or entity to which it is addressed. The information contained herein may include protected or otherwise privileged information. Unauthorized review, forwarding, printing, copying, distributing, or using such information is strictly prohibited and may be unlawful. If you have received this message in error, please notify the sender by replying to this message with "Received in Error" in the Subject Line and delete the e-mail without further disclosure.

---

**From:** Ryan Tucker [mailto:rtucker@adflegal.org]  
**Sent:** Thursday, February 21, 2019 11:00 AM  
**To:** Grant Sullivan  
**Cc:** Vincent Morscher  
**Subject:** RE: Masterpiece v Elenis - Discovery Schedule

Grant,

I wanted to follow-up on my voicemail from yesterday to get your thoughts on how we can navigate the scheduling challenges while we wait for the Court's ruling on our objection to the magistrate's order and our motion to expedite that ruling and to stay discovery pending that ruling.

**EXHIBIT A**

First, as to your recently noticed depositions, I respectfully request that you withdraw the subpoenas to Jack Phillips, Debra Phillips, and Lisa Eldfrick. Notices to parties or agents of parties are sufficient. Plus, before their issuance, I stated that subpoenaing these witnesses was unnecessary. And speaking of that exchange, I recognize you proposed a couple of dates for Jack Phillips' deposition last Friday. However, on Monday we filed an objection and motion related to the magistrate's order and are waiting for that ruling. It seems premature to set depositions until we receive a ruling as to how we may proceed. If we need to move the discovery period deadlines, we are certainly amenable to doing so. Please let me know whether you will agree to withdraw the deposition notices and subpoenas. Once we get clarity from the Court, we can work together on sending out notices that will accommodate everyone's schedule. Otherwise, we may be forced to file a motion to quash/protective order.

Operating on the assumption that we will receive some guidance from the Court early next week, I did want to let you know that Mr. Phillips does currently have some availability the week of March 4th. Regarding Mrs. Phillips and Ms. Eldfrick, my understanding is that you may not need those two depositions based upon the deposition of Mr. Phillips. Either way, my thought is that we try to put those depositions on consecutive days, with perhaps Mr. Phillips' deposition set for one day and the other two split the following day if needed. Also, are you amenable to changing the location in your notice to another office in the Denver area? Our experience is that depositions are defended at the office of the attorney for the party being deposed. You may also defend your clients' depositions at your office. If you don't want to proceed that way, we'll set the depositions of your clients at a Denver office of our choosing.

As I mentioned in my voicemail, I also need to check on dates of availability for some of your clients. We respectfully disagree with the magistrate judge's ruling, but while we wait for Judge Daniel's order on those pending issues, I would like to get notices out for the depositions of Aubrey Elenis, Anthony Aragon, Michael Elias, and Jessica Pocock. We could probably schedule Aubrey Elenis for 9:00 a.m. one day, followed by Michael Elias around 2:00 p.m. that same day (as I do not think his depo will take as long). And then we could split Anthony Aragon and Jessica Pocock up the following day, with one beginning at 9:00 a.m. and the other around 1:00 p.m. The commissioner notices would be sent subject to the Court's ruling.

Please let me know your thoughts at your earliest convenience. I'm hopeful we can work together on these matters.

Thanks,  
Ryan

---

**From:** Ryan Tucker  
**Sent:** Wednesday, February 20, 2019 1:14 PM  
**To:** 'Grant Sullivan' <Grant.Sullivan@coag.gov>  
**Cc:** Kristen Waggoner <kwaggoner@ADFlegal.org>; Jim Campbell <jcampbell@ADFlegal.org>; Jon Scruggs <jscruggs@ADFlegal.org>; Jake Warner <jwarner@adflegal.org>; Kate Anderson <kanderson@adflegal.org>; nicollem@comcast.net; David Cortman <dcortman@ADFlegal.org>;

**EXHIBIT A**

Jacquelynn Rich Fredericks <Jacquelynn.RichFredericks@coag.gov>; Vincent Morscher <Vincent.Morscher@coag.gov>; Michael McMaster <Michael.McMaster@coag.gov>; Leslie Bostwick <Leslie.Bostwick@coag.gov>; McHugh, John (jmchugh@rplaw.com) <jmchugh@rplaw.com>; greisen@kinggreisen.com  
**Subject:** RE: Masterpiece v Elenis - Discovery Schedule

Grant,

I disagree with your assessment of the situation (including your subpoenaing of these witnesses), but will call you soon to discuss.

Thanks,  
Ryan

---

**From:** Grant Sullivan [mailto:Grant.Sullivan@coag.gov]  
**Sent:** Wednesday, February 20, 2019 10:34 AM  
**To:** Ryan Tucker <rtucker@adflegal.org>  
**Cc:** Kristen Waggoner <kwaggoner@adflegal.org>; Jim Campbell <jcampbell@adflegal.org>; Jon Scruggs <jscruggs@adflegal.org>; Jake Warner <jwarner@adflegal.org>; Kate Anderson <kanderson@adflegal.org>; nicollem@comcast.net; David Cortman <dcortman@adflegal.org>; Jacquelynn Rich Fredericks <Jacquelynn.RichFredericks@coag.gov>; Vincent Morscher <Vincent.Morscher@coag.gov>; Michael McMaster <Michael.McMaster@coag.gov>; Leslie Bostwick <Leslie.Bostwick@coag.gov>; McHugh, John (jmchugh@rplaw.com) <jmchugh@rplaw.com>; greisen@kinggreisen.com  
**Subject:** RE: Masterpiece v Elenis - Discovery Schedule

Ryan,

Attached please find Notices of Deposition and accompanying subpoenas for Jack Phillips, Debra Phillips, and Lisa Eldfrick. We are having these personally served since we have not heard back from you following our multiple conferral attempts at deposition scheduling.

Regards,

**Grant T. Sullivan**  
Assistant Solicitor General  
Office of the Colorado Attorney General  
State Services Section  
Public Officials Unit  
1300 Broadway, 6<sup>h</sup> Floor  
Denver, Colorado 80203  
Direct: (720) 508-6349  
Email: [grant.sullivan@coag.gov](mailto:grant.sullivan@coag.gov)

Confidentiality Statement: This e-mail and any attachments from the Colorado Attorney General's Office are confidential and intended solely for the use of the individual or entity to which it is addressed. The information contained herein may include protected or otherwise privileged information. Unauthorized review, forwarding, printing, copying, distributing, or using such information is strictly prohibited and may be unlawful. If you have received this message in error, please notify the sender by

**EXHIBIT A**

replying to this message with "Received in Error" in the Subject Line and delete the e-mail without further disclosure.

---

**From:** Grant Sullivan  
**Sent:** Sunday, February 17, 2019 5:12 PM  
**To:** 'Ryan Tucker'  
**Subject:** RE: Masterpiece v Elenis - Discovery Schedule

Ryan,

We don't anticipate needing the full 14-day period to prepare our 30(b)(6) designee, but we won't know for sure until after we see your 30(b)(6) deposition notice with list of topics. Please send it over when you can and we'll let you know promptly.

Thanks,  
Grant

**Grant T. Sullivan**  
Assistant Solicitor General  
Office of the Colorado Attorney General  
State Services Section  
Public Officials Unit  
1300 Broadway, 6<sup>h</sup> Floor  
Denver, Colorado 80203  
Direct: (720) 508-6349  
Email: [grant.sullivan@coag.gov](mailto:grant.sullivan@coag.gov)

Confidentiality Statement: This e-mail and any attachments from the Colorado Attorney General's Office are confidential and intended solely for the use of the individual or entity to which it is addressed. The information contained herein may include protected or otherwise privileged information. Unauthorized review, forwarding, printing, copying, distributing, or using such information is strictly prohibited and may be unlawful. If you have received this message in error, please notify the sender by replying to this message with "Received in Error" in the Subject Line and delete the e-mail without further disclosure.

---

**From:** Ryan Tucker [mailto:[rtucker@adflegal.org](mailto:rtucker@adflegal.org)]  
**Sent:** Saturday, February 16, 2019 6:43 AM  
**To:** Grant Sullivan  
**Subject:** RE: Masterpiece v Elenis - Discovery Schedule

Also, I'm assuming your side is agreeing to waive the 14 day requirement as well. Is that correct?  
Thanks.

---

**From:** Ryan Tucker  
**Sent:** Friday, February 15, 2019 4:55 PM  
**To:** Grant Sullivan <[Grant.Sullivan@coag.gov](mailto:Grant.Sullivan@coag.gov)>

**EXHIBIT A**

**Subject:** Re: Masterpiece v Elenis - Discovery Schedule

We're representing Mrs Phillips and Ms Eldfrick so need to subpoena them. Thx

Sent from my iPhone

On Feb 15, 2019, at 4:01 PM, Grant Sullivan <[Grant.Sullivan@coag.gov](mailto:Grant.Sullivan@coag.gov)> wrote:

Ryan,

Thank you for waiving the 14-day requirement. Are you also able to waive personal service of deposition subpoenas for Mr. and Mrs. Phillips, and Ms. Eldfrick?

On your request to depose Ms. Elenis, let us confer internally and then get back to you early next week.

Regarding not copying Ms. Scardina's counsel on scheduling emails, is there a legal basis you have for not including them? The State Officials are taking no position on Ms. Scardina's request to intervene. Our concern is just a logistical one – if Ms. Scardina is permitted to intervene but her counsel has not been included on scheduling correspondence, the parties may have to scramble at the last second to revise the deposition schedule. If she is denied intervention, her counsel will obviously not have the right to attend the scheduled depositions. In light of that, does it make sense to at least copy them on scheduling emails for the time being?

Thanks in advance,

**Grant T. Sullivan**  
Assistant Solicitor General  
Office of the Colorado Attorney General  
State Services Section  
Public Officials Unit  
1300 Broadway, 6<sup>h</sup> Floor  
Denver, Colorado 80203  
Direct: (720) 508-6349  
Email: [grant.sullivan@coag.gov](mailto:grant.sullivan@coag.gov)

Confidentiality Statement: This e-mail and any attachments from the Colorado Attorney General's Office are confidential and intended solely for the use of the individual or entity to which it is addressed. The information contained herein may include protected or otherwise privileged information. Unauthorized review, forwarding, printing, copying, distributing, or using such information is strictly prohibited and may be unlawful. If you have received this message in error, please notify the sender by replying to this message with "Received in Error" in the Subject Line and delete the e-mail without further disclosure.

---

**From:** Ryan Tucker [<mailto:rtucker@adflegal.org>]  
**Sent:** Friday, February 15, 2019 1:35 PM  
**To:** Grant Sullivan

**EXHIBIT A**

**Subject:** Re: Masterpiece v Elenis - Discovery Schedule

Grant,

Let me check on those. And yes, we can waive the local rule requirement.

Also, we noticed that you identified Aubrey Elenis as a person who you intend to call at the preliminary injunction hearing. Do you object to us taking her deposition?

Lastly, with regard to the request by Autumn Scardina's counsel, we do not think it is appropriate to be looping them in on discovery scheduling unless it is for the specific scheduling of Scardina's deposition.

Thanks,  
Ryan

Sent from my iPhone



Ryan Tucker  
Sr. Counsel  
+1 480 444 0020 (Office)  
480-444-0028 (Fax)  
[rtucker@ADFlegal.org](mailto:rtucker@ADFlegal.org)  
[www.ADFlegal.org](http://www.ADFlegal.org)

---

On Feb 15, 2019, at 1:00 PM, Grant Sullivan <[Grant.Sullivan@coag.gov](mailto:Grant.Sullivan@coag.gov)> wrote:

Jim and Ryan,

We wanted to follow up on our call with Ryan yesterday regarding deposition scheduling. Regarding Jack Phillips' deposition, we have good availability on February 27, 28 and March 1. Please let us know your availability.

We also intend to take the deposition of Autumn Scardina. Our understanding is that John McHugh, copied here, is checking on his and Ms. Scardina's availability for the weeks of February 25 and March 4.

We may also want to take the depositions of Debra Phillips and Lisa Eldrick, although it might be the case that Mr. Phillips' and Ms. Scardina's deposition testimony renders their depositions unnecessary.

Last, local rule 30.1 in this district requires that notices of deposition

**EXHIBIT A**

be served 14 days in advance of the deposition. Jim and John, please let us know this afternoon if your clients are willing to waive this requirement. If not, we can have notices served later this afternoon and then work cooperatively with you to modify the actual deposition dates to fit scheduling needs. Please also let us know if you are authorized to waive service of deposition subpoenas for your clients. If yes, we'll have waivers prepared and sent to you.

Thank you in advance,

**Grant T. Sullivan**  
Assistant Solicitor General  
Office of the Colorado Attorney General  
State Services Section  
Public Officials Unit  
1300 Broadway, 6<sup>h</sup> Floor  
Denver, Colorado 80203  
Direct: (720) 508-6349  
Email: [grant.sullivan@coag.gov](mailto:grant.sullivan@coag.gov)

Confidentiality Statement: This e-mail and any attachments from the Colorado Attorney General's Office are confidential and intended solely for the use of the individual or entity to which it is addressed. The information contained herein may include protected or otherwise privileged information. Unauthorized review, forwarding, printing, copying, distributing, or using such information is strictly prohibited and may be unlawful. If you have received this message in error, please notify the sender by replying to this message with "Received in Error" in the Subject Line and delete the e-mail without further disclosure.

---

**From:** McHugh, John [<mailto:jmchugh@rplaw.com>]  
**Sent:** Thursday, February 14, 2019 2:43 PM  
**To:** 'Jon Scruggs'; David Cortman; Jake Warner; Jim Campbell; Kate Anderson; Kristen Waggoner; '[nicollem@comcast.net](mailto:nicollem@comcast.net)'; Roger Brooks; Grant Sullivan; Jacquelynn Rich Fredericks; LeeAnn Morrill; Michael McMaster; Vincent Morscher  
**Cc:** Paula Greisen  
**Subject:** Masterpiece v Elenis - Discovery Schedule

Counsel,

Assuming there is a chance that our motion to intervene is granted, please include Paula and me on any discussions regarding discovery scheduling in advance of the preliminary injunction hearing.

Thanks,

John

JOHN McHUGH

**EXHIBIT A**

REILLY POZNER LLP | [WWW.RPLAW.COM](http://WWW.RPLAW.COM)

1700 LINCOLN STREET, SUITE 3400

DENVER, COLORADO 80203

MAIN: 303.893.6100 | FAX: 303.893.6110

[JMCHUGH@RPLAW.COM](mailto:JMCHUGH@RPLAW.COM)

---

**From:** Jon Scruggs [<mailto:jscruggs@adflegal.org>]

**Sent:** Tuesday, February 05, 2019 6:28 PM

**To:** McHugh, John; David Cortman; Jake Warner; Jim Campbell; Kate Anderson; Kristen Waggoner; '[nicollem@comcast.net](mailto:nicollem@comcast.net)'; Roger Brooks; Grant Sullivan; '[Jacquelynn.RichFredericks@coag.gov](mailto:Jacquelynn.RichFredericks@coag.gov)'; '[leeann.morrill@coag.gov](mailto:leeann.morrill@coag.gov)'; '[michael.mcmaster@coag.gov](mailto:michael.mcmaster@coag.gov)'; '[Vincent.Morscher@coag.gov](mailto:Vincent.Morscher@coag.gov)'

**Cc:** Paula Greisen

**Subject:** RE: Masterpiece v Elenis - Motion to Intervene

Counsel, thank you for reaching out. With respect to your request, Plaintiffs will oppose your motion to intervene.

Jonathan Scruggs

---

Jon Scruggs

Sr. Counsel, Director of Center for Conscience Initiatives

+1 480 444 0020 (Office)

480-444-0028 (Fax)

[jscruggs@ADFlegal.org](mailto:jscruggs@ADFlegal.org)

[ADFlegal.org](http://ADFlegal.org)

[<image001.png>](#)

---

**From:** McHugh, John [<mailto:jmchugh@rplaw.com>]

**Sent:** Monday, February 04, 2019 4:30 PM

**To:** David Cortman <[dcortman@adflegal.org](mailto:dcortman@adflegal.org)>; Jake Warner <[jwarner@adflegal.org](mailto:jwarner@adflegal.org)>; Jim Campbell <[jcampbell@adflegal.org](mailto:jcampbell@adflegal.org)>; Jon Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Kate Anderson <[kanderson@adflegal.org](mailto:kanderson@adflegal.org)>; Kristen Waggoner <[kwaggoner@adflegal.org](mailto:kwaggoner@adflegal.org)>; '[nicollem@comcast.net](mailto:nicollem@comcast.net)' <[nicollem@comcast.net](mailto:nicollem@comcast.net)>; Roger Brooks <[rbrooks@adflegal.org](mailto:rbrooks@adflegal.org)>; Grant Sullivan <[Grant.Sullivan@coag.gov](mailto:Grant.Sullivan@coag.gov)>; '[Jacquelynn.RichFredericks@coag.gov](mailto:Jacquelynn.RichFredericks@coag.gov)' <[Jacquelynn.RichFredericks@coag.gov](mailto:Jacquelynn.RichFredericks@coag.gov)>; '[leeann.morrill@coag.gov](mailto:leeann.morrill@coag.gov)' <[leeann.morrill@coag.gov](mailto:leeann.morrill@coag.gov)>; '[michael.mcmaster@coag.gov](mailto:michael.mcmaster@coag.gov)' <[michael.mcmaster@coag.gov](mailto:michael.mcmaster@coag.gov)>; '[Vincent.Morscher@coag.gov](mailto:Vincent.Morscher@coag.gov)' <[Vincent.Morscher@coag.gov](mailto:Vincent.Morscher@coag.gov)>

**Cc:** Paula Greisen <[greisen@kinggreisen.com](mailto:greisen@kinggreisen.com)>

**Subject:** Masterpiece v Elenis - Motion to Intervene

Counsel,

Paula and I represent Autumn Scardina. My client intends to move to intervene in the federal action for, at the present, the limited purpose of

**EXHIBIT A**

the preliminary injunction motion filed by plaintiffs.

Please advise if you will oppose.

Thanks,

John

JOHN McHUGH

**REILLY POZNER LLP** | [WWW.RPLAW.COM](http://WWW.RPLAW.COM)

1700 LINCOLN STREET, SUITE 3400

DENVER, COLORADO 80203

MAIN: 303.893.6100 | FAX: 303.893.6110

[JMCHUGH@RPLAW.COM](mailto:JMCHUGH@RPLAW.COM)

**This e-mail transmission contains information from the law firm of Reilly Pozner LLP which may be confidential or protected by the attorney-client privilege. If you are not the intended recipient, you are hereby notified that you must not read this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is prohibited. If you have received this transmission in error, please notify us immediately by e-mail and delete the original transmission.**

This e-mail message from Alliance Defending Freedom and any accompanying documents or embedded messages is intended for the named recipients only. Because Alliance Defending Freedom is a legal entity engaged in the practice of law, this communication contains information, which may include metadata, that is confidential, privileged, attorney work product, or otherwise protected from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. If you have received this message in error, please immediately notify the sender and permanently delete the message. PRIVILEGED AND CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION/ATTORNEY WORK PRODUCT.

**This e-mail transmission contains information from the law firm of Reilly Pozner LLP which may be confidential or protected by the attorney-client privilege. If you are not the intended recipient, you are hereby notified that you must not read this transmission and that any disclosure, copying, printing, distribution or use of any of the information contained in or attached to this transmission is prohibited. If you have received this transmission in error, please notify us immediately by e-mail and delete the original transmission.**



February 22, 2019

**Via E-mail**

Grant T. Sullivan  
Assistant Solicitor General  
Public Officials Unit  
State Services Section  
1300 Broadway, 6th Floor  
Denver, Colorado 80203

Re: *Masterpiece Cakeshop, Inc., et al. v. Elenis, et al.*, Case No. 18-cv-02074-WYD-STV

Dear Grant:

Thank you for your letter dated February 21, 2019. I am writing to follow-up with you on that letter as well as our various e-mail exchanges on these discovery subjects.

On February 15, you proposed some dates for the deposition of Jack Phillips. Later that same day, we finished our initial review of Defendants' document production and determined that filing an objection to Magistrate Judge Varholak's order on the commissioner depositions would be necessary. We filed that objection on Monday, February 18, as well as a motion to expedite and to stay discovery. Those filings stated our position on depositions, which we believe made clear our position that it was premature to set depositions without further guidance from the Court.

In response to our Court filings, Defendants two days later (and after the Court's minute order requesting an expedited response) served deposition subpoenas on Jack Phillips, Debra Phillips, and Lisa Eldfrick, which was unnecessary based upon the Rules and information that I previously passed along. *See* Fed. R. Civ. P. 45, 2013 Notes, at ¶ 13 ("Depositions of parties, and officers, directors, and managing agents of parties need not involve use of a subpoena."). Regardless, we ask again that you withdraw the subpoenas and re-notice the deposition of Mr. Phillips for March 4, 2019, and the depositions of Mrs. Phillips and Ms. Eldfrick for March 5, 2019. Your e-mail on February 21 seems to indicate that you are amenable to this, but please confirm to us by

**EXHIBIT B**

February 25. If you are not, we will be forced to file a motion to quash and/or protective order with the Court. Thank you again for working with us on those dates.

As to location of those depositions, we believe the party defending the deposition should pick the place for their client's deposition. And while we do not have an office in Denver, we would select a location in the area to defend those depositions. However, based upon your February 21 e-mail, it is our understanding that Defendants instead desire for each party to select the location of the depositions they notice. We will proceed accordingly.

For planning purposes, we offer two proposals for how we plan to proceed with depositions—one plan in the event that the Court agrees with our objection to the Magistrate Judge's ruling on commissioner depositions, and the other plan in the event that the Court does not. To ensure that all the depositions are completed, we propose that the parties agree to extend the expedited deposition period by a few days, from March 5 to March 8. We hope that you are agreeable to that. That will result in an eight-day total extension of the original deposition deadline of February 28, which is commensurate with the defendants' original request for an eight-day delay in producing documents.

If the Court agrees with our pending objection and allows us to depose the commissioners, we plan to take the depositions of Anthony Aragon, Miguel "Michael" Rene Elias, and Jessica Pocock. Attached to this letter are the deposition notices for those individuals, which include language stating that these notices are made subject to the Court's ruling. I understand from our e-mail exchange yesterday that your position is that our request for their availability is premature. While we agree that the most prudent course would have been to wait until the Court rules on our objection before any depositions were noticed, you served our clients with deposition subpoenas and then e-mailed us those documents. We are sending these notices to you now to make clear the commissioners we would like to depose should the Court rule in our favor.

In addition to those three commissioners, we have also included a notice for the deposition of Aubrey Elenis. In response to your February 21 e-mail, we do not agree to limit the deposition. Not only did Magistrate Judge Varholak's order not place any limitation on her deposition, but because she stated in her declaration that "[t]he Division has not exercised bad faith, bias, animus, or hostility in handling the Scardina charge," Doc. 116-1, para. 24, we cannot agree to limit the deposition as you have requested and still fully evaluate that statement in her declaration.

I recognize that in your February 21 e-mail you indicated that you might not waive the 14-day notice requirement for Ms. Elenis's deposition, but we have two responses to that. First, given the expedited discovery schedule, we extended the courtesy to you of waiving that notice requirement for our clients. It is inequitable for you to refuse to extend that same courtesy to us. Second, after you indicated to us on February 11 that

## **EXHIBIT B**

Ms. Elenis is a witness you will call at the upcoming hearing, we first inquired with you on February 15 about deposing her. But it wasn't until February 21 that you told us you would allow her to be deposed but with the parameters you want to impose. Delaying your response for nearly a week and now holding fast to the notice requirement is prejudicial.

The second scheduling option is based on the situation where the Court denies our objection. Under that scenario, we would take the depositions of the representative of the Colorado Civil Rights Division, the representative of the Colorado Civil Rights Commission, Wesley Fry, and Aubrey Elenis. Regarding your request for deposition topics, attached to this letter are the notices for the depositions of the Division and the Commission. Plaintiffs continue to maintain that 30(b)(6) testimony is insufficient, so these notices are likewise being sent to you subject to our pending objection. In addition to these two 30(b)(6) notices, we have also attached a notice to take the deposition of Wesley Fry, which is likewise conditioned on the Court's ruling on our objection. As with all of these depositions, we are willing to work with you on dates and times.

Thank you for your attention to these matters. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ryan J. Tucker', with a long horizontal line extending to the right.

Ryan J. Tucker

Enclosures

**EXHIBIT B**



PHIL WEISER  
Attorney General  
NATALIE HANLON LEH  
Chief Deputy Attorney General  
JUNE TAYLOR  
Chief Operating Officer  
ERIC R. OLSON  
Solicitor General

RALPH L. CARR  
COLORADO JUDICIAL CENTER  
1300 Broadway, 10th Floor  
Denver, Colorado 80203  
Phone (720) 508-6000

STATE OF COLORADO  
DEPARTMENT OF LAW

State Services Section

February 25, 2019

*Via Email Only:* [rtucker@ADFlegal.org](mailto:rtucker@ADFlegal.org)  
Ryan Tucker  
Alliance Defending Freedom  
15100 N. 90<sup>th</sup> Street  
Scottsdale, AZ 85260

RE: *Masterpiece Cakeshop, Inc., et al. v. Elenis, et al.*, No. 18-cv-02074-WYD-STV  
(D. Colo.) – Discovery Disputes

Dear Ryan:

We write in response to your February 22, 2019, letter regarding depositions during the expedited discovery window in this case, including the seven (7) notices of deposition you issued that same day. We believe we are able to reach agreement on some issues, however on other issues we believe approaching Magistrate Judge Varholak for resolution is now necessary.

***Areas of Potential Agreement***

The State Officials are amenable to your request to reschedule the deposition of Mr. Phillips for March 4, 2019, and the depositions of Mrs. Phillips and Ms. Eldfrick for March 5, 2019, provided you sign the enclosed amended subpoena waivers for Mrs. Phillips and Ms. Eldfrick and return them to my attention no later than the close of business on February 26, 2019. We agree that an amended subpoena is not necessary for Mr. Phillips, as he is a party. Once the signed waivers are received, the State Officials will issue amended notices of deposition for all three witnesses. If we do not receive signed waivers by the close of business tomorrow, we will proceed with these three depositions as originally set forth in the notices that we issued on February 20, 2019.

***Areas of Disagreement***

Having now reviewed your February 22, 2019, letter and accompanying deposition notices, we believe that the parties have the following discovery disputes that require court intervention:

- *Deposition Notices of the Individual Commissioners.* Plaintiffs' deposition notices for Commissioners Aragon, Elias, and Pocock violate Magistrate

Judge Varholak's ruling that limits Plaintiffs to a Fed. R. Civ. P. 30(b)(6) deposition of the Colorado Civil Rights Commission ("Commission"). See Doc. 120-2, pp. 53-60. While we recognize Plaintiffs filed an objection with Judge Daniel, that filing does not stay Magistrate Judge Varholak's ruling. D.C.COLO.LCivR 30.2(b). We thus object under Fed. R. Civ. P. 32(a)(5)(A) and 32(d)(1). Plaintiffs' notices are also defective because they fail to comply with the 14-day notice requirement in D.C.COLO.LCivR 30.1. As you know, the State Officials have not waived the 14-day requirement. Last, the dates in your notices are outside of the extended expedited discovery window that the parties previously agreed to. The parties' agreement was to extend expedited discovery only through March 5, 2019. We reserve all other objections to these improper deposition notices.

- *Fed. R. Civ. P. 30(b)(6) Notice of the Commission.* Plaintiffs' Fed. R. Civ. P. 30(b)(6) deposition notice to the Commission is overly broad. It lists 34 issues for which the Commission's designee must be prepared, and many have multiple subparts. These are likely more topics than can reasonably be covered during the course of a standard deposition day. The vast majority of the listed topics also exceed the contours of permissible inquiry set forth in Magistrate Judge Varholak's ruling. The notice is further defective because it fails to comply with the 14-day notice requirement in D.C.COLO.LCivR 30.1. As you know, adequately preparing for a Fed. R. Civ. P. 30(b)(6) deposition is a time-intensive endeavor. Although the State Officials' February 21, 2019, letter stated that we were willing to make a Commission designee available during the week of March 4, 2019, that offer was specifically contingent on Plaintiffs' notice containing "a list of topics that complies with Magistrate Judge Varholak's ruling." Because Plaintiffs' notice is not properly confined to the topics delineated in Magistrate Judge Varholak's ruling, the State Officials object to Plaintiffs' noncompliance with the 14-day notice requirement. Last, the date in the notice is outside of the extended expedited discovery window that the parties agreed to. The parties' agreement was to extend expedited discovery only through March 5, 2019. The State Officials reserve all other objections to this improper deposition notice.
- *Location of the Commission's Deposition.* Even if Plaintiffs' deposition notice for the Commission was proper in scope and timely issued, the State Officials object to the deposition's location being at the office of Hunter + Geist, Inc. The parties previously conferred via email on February 6 and 11, 2019, regarding the location of the Commission's deposition. Plaintiffs agreed to hold the Fed. R. Civ. P. 30(b)(6) deposition at the federal courthouse in Denver. The State Officials object to your apparent backtracking on this agreement. Moreover, each of the reasons set forth above speak to why it is critically important that the parties hold this deposition in the federal courthouse so that we may mutually seek Magistrate Judge Varholak's

guidance on any discovery disputes, which are likely to arise during the course of the deposition.

- *Fed. R. Civ. P. 30(b)(6) Notice of the Colorado Civil Rights Division.* Plaintiffs' Fed. R. Civ. P. 30(b)(6) deposition notice of the Colorado Civil Rights Division ("Division") is overly broad. It lists 35 issues for which the Division's designee must be prepared, and many have multiple subparts. These are likely more topics than can reasonably be covered during the course of a standard deposition day. The State Officials also believe inquiry into many of these listed topics is improper for the reasons previously asserted regarding the Commission and the Division Director in our discovery-related briefing. *See* Docs. 113 & 115. As you know, Magistrate Judge Varholak's ruling did not address these arguments as to the Division, likely because Plaintiffs never indicated any intention to depose the Division as an entity, and the parties did not brief the propriety of your doing so. In any event, we believe that if the issue were put to him, Magistrate Judge Varholak would impose the same limitations on the Division's Fed. R. Civ. P. 30(b)(6) deposition as he did on the Commission's Fed. R. Civ. P. 30(b)(6) deposition. Moreover, Plaintiffs' notice is defective because it fails to comply with the 14-day notice requirement in D.C.COLO.LCivR 30.1. As you know, adequately preparing a designee for a Fed. R. Civ. P. 30(b)(6) deposition is a time-intensive endeavor. The belated timing of Plaintiffs' notice does not permit the State Officials adequate time to prepare one Fed. R. Civ. P. 30(b)(6) designee, let alone two. Last, the date in Plaintiffs' notice is outside of the extended expedited discovery window that the parties agreed to. The parties' agreement was to extend expedited discovery only through March 5, 2019. The State Officials reserve all other objections to this improper deposition notice.
- *Notice of Deposition of Aubrey Elenis.* Plaintiffs' February 22, 2019, letter states that you will not agree to conduct the deposition of Director Elenis subject to the same conditions that are in place for the Commission's Fed. R. Civ. P. 30(b)(6) deposition. As you know, the State Officials previously asserted that the deposition of the Division Director is improper for largely the same reasons that protect the individual Commissioners. *See* Docs. 113 & 115. Magistrate Judge Varholak did not address these arguments, likely because Plaintiffs expressly represented that they did not intend to depose the Division Director during this expedited discovery period. Doc. 114, p. 9. In any event, the State Officials believe that if the issue were put to him, Magistrate Judge Varholak would impose the same limitations on the Division Director's deposition as he did on the Commission's Fed. R. Civ. P. 30(b)(6) deposition. Moreover, Plaintiffs' notice is defective because it fails to comply with the 14-day notice requirement in D.C.COLO.LCivR 30.1. Although Plaintiffs initially inquired about deposing Director Elenis on February 15, we responded that same day by stating that we would have to

Page 4

confer internally to determine our position and that we would respond the following week, which we did. Nothing prohibited Plaintiffs from issuing a notice of deposition in the interim to comply with the 14-day notice requirement. Last, the date in Plaintiffs' notice is outside of the extended expedited discovery window that the parties have agreed to. The parties' agreement was to extend expedited discovery only through March 5, 2019. The State Officials reserve all other objections to this improper deposition notice.

- *Notice of Deposition of Wesley Fry.* Plaintiffs' notice of deposition for Wesley Fry is defective because it fails to comply with the 14-day notice requirement in D.C.COLO.LCivR 30.1. The date in Plaintiffs' notice is also outside of the extended expedited discovery window that the parties have agreed to. The parties' agreement was to extend expedited discovery only through March 5, 2019. Last, the Division no longer employs Mr. Fry and at this time we are not authorized to waive service of a deposition subpoena on his behalf. The State Officials reserve all other objections to this improper deposition notice.

To resolve these discovery disputes, the State Officials propose that we raise them with Magistrate Judge Varholak pursuant to section IV of his civil practice standards. The practice standards require that we first meet and confer in person or by telephone. We are available for a telephone conference on these issues on February 26, 2019, at either 8:30 a.m. or 12:00 p.m., Mountain Time. Please let us know what time you prefer and we will contact you at (480) 444-0020.

Thank you for your attention to this matter.

Sincerely,

FOR THE ATTORNEY GENERAL



GRANT T. SULLIVAN  
Assistant Solicitor General  
State Services Section  
Public Officials Unit  
(720) 508-6349  
Email: [grant.sullivan@coag.gov](mailto:grant.sullivan@coag.gov)

Enclosures

cc:

Jim Campbell ([jcampbell@adflegal.org](mailto:jcampbell@adflegal.org))

**EXHIBIT C**

Page 5

Jon Scruggs (jscruggs@adflegal.org)

Jake Warner (jwarner@adflegal.org)

Sr. AAG Vincent Morscher (vincent.morsher@coag.gov)

Sr. AAG Jacquelynn Rich Fredericks (jacquelynn.richfredericks@coag.gov)

Ass't Solicitor Gen. Michael McMaster (michael.mcmaster@coag.gov)

Legal Assistant Leslie Bostwick (leslie.bostwick@coag.gov)

**EXHIBIT C**