

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
LOUISVILLE DIVISION**

**CHELSEY NELSON PHOTOGRAPHY
LLC and CHELSEY NELSON,**

Plaintiffs,

v.

**LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT, et al.,**

Defendants.

Case No. 3:19-cv-851-JRW

**DEFENDANTS' RESPONSE TO
PLAINTIFFS' MOTION TO COMPEL DISCOVERY**

Defendants Louisville/Jefferson County Metro Government, Louisville Metro Human Relations Commission – Enforcement, Louisville Metro Human Relations Commission – Advocacy, Verná Goatley, in her official capacity as Executive Director of the Louisville Metro Human Relations Commission, Marie Dever, Kevin Delahanty, Charles Lanier, Sr., Leslie Faust, William Sutter, Ibrahim Syed, and Leonard Thomas, in their official capacities as members of the Louisville Metro Human Relations Commission-Enforcement (collectively, “Defendants”), by counsel, pursuant the Court’s Order dated March 1, 2021 [Doc. No. 62], incorporate their Motion for Protective Order [Doc No. 64] as if fully set forth herein and additionally respond as follows to the Motion to Compel Discovery filed by Plaintiffs Chelsey Nelson Photography and Chelsey Nelson (collectively, “Plaintiffs”):

INTRODUCTION

It is remarkable that Plaintiffs have failed to identify a case like this one, where discovery regarding non-party discrimination complaints was permitted in a pre-enforcement challenge to

the constitutionality of an anti-discrimination statute. During meet-and-confers regarding this discovery dispute, Defendants asked Plaintiffs' counsel if they were aware of any similar case which permitted the kind of broad discovery Plaintiffs seek to compel here. Plaintiffs' counsel is involved in similar cases all around the country¹—presumably if there was any authority for this broad scope of discovery, Plaintiffs' counsel would be aware of it. Based on Defendants' research, it would be unprecedented to compel a government agency defending the constitutionality of an anti-discrimination law to produce every discrimination complaint received and every investigative file relating to the agency's enforcement of the law. There is no good reason for this to be the first case to permit such a sweeping fishing expedition, which would contravene established concepts of relevance, burden, and proportionality, not to mention constitute violations of contract and federal and local confidentiality laws.

FACTUAL BACKGROUND

Plaintiff Chelsey Nelson is a wedding photographer who filed this litigation to challenge the constitutionality of Louisville's Fairness Ordinance, which prohibits discrimination in employment, housing, and the provision of goods and services (public accommodations).² *See* Louisville Metro Ordinance § 92.01, *et seq.* Ms. Nelson alleges a religious objection to providing photography services for same-sex weddings. *See generally* Verified Complaint.

Ms. Nelson advertised her religious beliefs for years without directly stating that she would

¹ *See* <https://www.adflegal.org/about-us#close>.

² Specifically, Ms. Nelson challenges the Denial Clause, which makes it “an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation . . . on the ground of . . . sexual orientation . . .”, and the “Unwelcome Clause,” which makes it “an unlawful practice for a person, directly or indirectly, to publish, . . . [a] communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation . . . will be refused, withheld, or denied an individual on account of his [or her] . . . sexual orientation . . .” Louisville Metro Ordinance § 92.05(A) & (B).

refuse services relating to a same-sex wedding. Deposition of Chelsey Nelson (Feb. 16, 2021), excerpts and Exhibit 1 collectively attached hereto as Exhibit 1 (“Nelson Tr.”), 125:24-126:18 & Exhibit 1, 171:15-172:3. Ms. Nelson was never asked to photograph or provide any services with respect to a same-sex wedding and therefore never had occasion to refuse services to a same-sex couple. *Id.* at 128:14-18, 151:15-20. No discrimination complaints have ever been filed against Ms. Nelson and Ms. Nelson has never been investigated by Louisville Metro’s Human Relations Commission (“HRC”). Indeed, Ms. Nelson has only ever professionally photographed 5 weddings as primary shooter and 5 weddings as a second shooter for other photographers.

Plaintiffs’ counsel, the Alliance Defending Freedom (“ADF”), recruited Ms. Nelson to become a plaintiff in this litigation by initiating contact with her and providing legal advice to Ms. Nelson regarding changes to her website marketing statement. *Id.* at 149:20-150:6, 166:7-167:1. It was only after ADF provided this legal advice that Ms. Nelson’s marketing statement included a direct statement that she would refuse to provide services relating to a same-sex wedding, a clear violation of Louisville’s Fairness Ordinance.

Ms. Nelson did not immediately post this revised marketing statement to her website. Instead she filed it as an exhibit to the Complaint in this litigation as part of an effort to allege that Plaintiffs have standing to challenge the constitutionality of the Fairness Ordinance. *See* Doc. Nos. 1-2, 1-3. Ms. Nelson’s Complaint alleges that she wanted to grow her business by more directly advertising her religious objections to providing services for same-sex weddings, but that the threat of prosecution for violations of Louisville’s Fairness Ordinance was preventing her from taking that step, which caused her to lose business opportunities. *See* Verified Complaint, ¶¶ 210-213, 235, 238-241, 282.

In fact, Ms. Nelson was scaling back her photography business at the time she filed the

Complaint. She no longer offered family and birth photography sessions and had chosen instead to focus exclusively on wedding photography. Nelson Tr. 130:23-131:1, 232:11-22, 236:1-21. This coincided with the birth of Ms. Nelson's daughter and her decision to quit her full-time job at a payment processing company to spend more time at home with her daughter. *Id.*; *id.* at 22:4-6, 23:12-19, 233:1-8.

Since filing the Complaint in November 2019, Ms. Nelson has photographed just one wedding (in the same month the Complaint was filed). Since Ms. Nelson obtained an injunction from the District Court in August 2020 [Doc. No. 47], which allowed her to post the version of her marketing statement which directly states that she would refuse to provide services to a same-sex wedding, Ms. Nelson has booked just one wedding client, who is scheduled to be married in June 2021. Apparently Ms. Nelson's freedom to advertise her discriminatory intent has not led to the growth in her business that she anticipated.

ARGUMENT

Plaintiffs have identified three categories of documents and information that are subject to dispute: (1) discrimination complaints and case files requested by Plaintiffs' Requests for Production Nos. 40-58; (2) summary spreadsheets containing information regarding HRC's investigation of discrimination complaints requested by Plaintiffs' Requests for Production Nos. 1-39; and (3) Interrogatory Nos. 15-17, which seek an identification of facts relating to any consideration of alternative means to achieve Louisville Metro's interest in preventing discrimination.

I. Discrimination Complaints and Case Files

Plaintiffs' Request for Production Nos. 40-58 broadly sought all complaints and case files for every complaint of discrimination investigated by HRC since December 2004, regardless of the category of discrimination (employment, housing, public accommodations) or protected class

(race, religion, national origin, age, disability, sex, gender identity, or sexual orientation).

A. The Requested Discovery Is Not Relevant to Plaintiffs' Claims

Plaintiffs first argue that discovery of HRC's case files is relevant to evaluating whether Plaintiffs have standing to bring this pre-enforcement challenge to the Fairness Ordinance. Although Courts do consider a history of enforcement against plaintiff and others (or lack thereof) in evaluating whether a plaintiff has established a credible threat of prosecution, discovery of hundreds of unrelated case files is not necessary to make the point that Louisville enforces the Fairness Ordinance. The Fairness Ordinance itself describes the procedure for filing complaints of discrimination. *See* Louisville Metro Ordinance § 92.09. Defendants have admitted that members of the public may submit complaints of discrimination³ and that the Fairness Ordinance is actively enforced by HRC. *See* Defendants' Responses to Plaintiffs' Requests for Admission [Doc. No. 64-2], Nos. 4-11; Answer, ¶ 10 (admitting the allegation in Paragraph 303 of the Complaint which alleges that HRC's Enforcement Commission actively investigates complaints of alleged violations of the Fairness Ordinance).

Plaintiffs next argue that discovery of HRC's case files is relevant to their allegation that the Fairness Ordinance regulates the content and viewpoint of Plaintiffs' speech. Plaintiffs also claim they need discovery of HRC's case files to be able to evaluate how Plaintiffs' religious objections were treated under the Fairness Ordinance compared to secular exemptions granted to others. Plaintiffs hope to argue that the challenged provisions of the Fairness Ordinance are not neutral and/or not generally applicable based on exemptions in the law.

³ But Plaintiffs are incorrect in arguing that "*anyone* from the public can initiate an enforcement action against Chelsey." Motion to Compel, p. 7 (emphasis added). As set forth in Louisville Metro Ordinance § 92.09, in order to file a complaint, the person must either claim to be aggrieved by an unlawful practice or be a member of the Human Relations Commission – Enforcement who has reason to believe an unlawful practice has occurred.

Of course, Defendants did not address Plaintiffs' religious objections at all before this litigation was filed, because no one ever filed a complaint against Chelsey Nelson, she never contacted Defendants to request any exemption, and she was never investigated by HRC. As such there are no facts relating to Plaintiffs' case other than her hypothetical intention not to provide services relating to a same-sex wedding (even though she has never been asked to do so) and the marketing statements she drafted with the assistance of counsel. Defendants have admitted that this hypothetical conduct and certain language in Plaintiffs' marketing statement violates the portion of the Fairness Ordinance that prohibits advertising one's refusal to provide services to a member of a protected class. *See Answer*, ¶ 17.

Moreover, evaluations of the neutrality of a law, its alleged overbreadth or under-inclusiveness, and comparisons in treatment of religious and secular exemptions typically are based on the text of the statute being challenged, the text of other statutes that apply to any comparable conduct, and/or the absence of similar regulations. *See, e.g., Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 535-45 (1993) (evaluating challenges to law's neutrality, scope, and general application based on a plain reading of statutory text and legislative history); *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786, 802-04 (2011) (evaluating under- and over-inclusiveness of statute based on text of statute itself); *Monclova Christian Academy v. Toledo-Lucas County Health Dep't*, 984 F.3d 477 (6th Cir. 2020), reh'g denied (Jan. 6, 2021) (evaluating based on text of statute how health department's COVID-19 resolution applied to religious schools compared to secular activities presenting similar risk of virus transmission).

Indeed, Plaintiffs make these arguments based on the plain text of the Fairness Ordinance in their Motion to Compel. *See, e.g., Doc. No. 63*, pp. 10, 13. Plaintiffs have articulated no good

reason why they need to go beyond the text of the statute to discover individual case files which might involve applications of exemptions apparent on the face of the Ordinance.⁴

Plaintiffs argue that evidence from case files which would show how Defendants apply exemptions appearing on the face of the Ordinance is properly discoverable. However, the discovery Plaintiffs seek to compel is not remotely tailored to application of statutory exemptions. Indeed, out of 17 interrogatories, 105 requests for production of documents, and 58 requests for admission tendered as Plaintiffs' First Set of Discovery Requests, not a single discovery request makes any explicit reference to exemptions in the Fairness Ordinance. The notion that Plaintiffs' requests were "precisely tailored" (Motion to Compel [Doc. No. 63], p. 11) to obtain information regarding exemptions is absurd. Rather, Plaintiffs broadly move to compel the production of every discrimination complaint filed with HRC over the last 17 years and related case files.

But even if Plaintiffs had propounded discovery requests specifically seeking information or documents regarding the application of exemptions in the Fairness Ordinance, Defendants would be unable to comply without manually reviewing the entirety of their case files. Because the application of exemptions in the Fairness Ordinance is not a metric tracked by HRC, there would be no way to systematically identify files containing potentially relevant information. As such, this seems to be a topic that is far better suited for deposition discovery rather than written

⁴ Plaintiffs cite only one case which considered exceptions granted by a civil rights commission that did not appear on the face of the statute. *See Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com'n*, 138 S. Ct. 1719, 1730 (2018). However, information about these other applications of the law appear to have come from public hearings and/or decisions, and not from confidential case files. *See id.* at 1728 (citing the cases by title and case number). Moreover, *Masterpiece Cakeshop* did not involve a pre-enforcement challenge. The ruling was based in significant part on evidence of hostility against the plaintiff during hearings in the enforcement action brought against him. *See id.* at 1729-30. The court did compare plaintiff's treatment to other parties asserting conscience-based objections, but there was something to compare. Here, because there has never been any enforcement against Plaintiffs, there is no real basis for comparison beyond what is reflected in the text of the Ordinance.

discovery requests.

B. Complying with Plaintiffs' Requests Would Impose Undue Burdens on Defendants

Plaintiffs' effort to dismiss Defendants' objections based on undue burden as boilerplate is disingenuous. As acknowledged by Plaintiffs, Defendants began conferrals with Plaintiffs regarding undue burden even before tendering written responses and objections to Plaintiffs' requests for production. *See* Motion to Compel [Doc. No. 63], p. 4. Defendants provided further details regarding their burden objections in subsequent meet-and-confers and correspondence (*see id.*) and have now submitted an affidavit from HRC's Executive Director describing HRC's recordkeeping practices and the burdens that would be imposed if Defendants were required to manually review hundreds of case files to identify the small handful of documents that Defendants would be permitted to disclose under the confidentiality laws and contractual obligations further discussed below. *See* Doc. No. 64-3.

Plaintiffs argue that these burdens should be disregarded because Defendants have indicated an intent to rely on the legislative history of the Fairness Ordinance, including evidence of discrimination provided to legislators considering passage of the Fairness Ordinance, to support the governmental interest in preventing invidious discrimination. However, this legislative history has been produced to Defendants. To the extent Plaintiffs are suggesting that they may attempt to argue there is no history of discrimination against same-sex couples that could support a government interest in prohibiting discrimination, the discovery they seek would not help those efforts. Even if the Court grants Plaintiffs the unreasonable and wholly unwarranted assumption that Plaintiffs might be able to disprove any allegations of discrimination reflected in HRC's case files, that would still not refute the evidence presented to Louisville's legislators by numerous citizen witnesses, who testified both for and against passage of the Fairness Ordinance. During

these public hearings, legislators heard numerous personal accounts from citizens who had experienced discrimination on the basis of sexual orientation. *See, e.g.*, Testimony from Maureen Keenan, Dan Farrell, Johnnie Hardin, collectively attached hereto as Exhibit 2.

Plaintiffs have requested the production of an enormous volume of documents that date back to December 2004. The burdens associated with the volume of documents requested is compounded by the fact that HRC's case files are in hard copy, in archived storage, and contain confidential documents intermingled with documents that may be subject to disclosure under the confidentiality laws discussed below. *See* Goatley Aff. [Doc No. 64-3]. These burdens are simply not proportional to the marginal-at-best relevance of the discovery sought. *See* Fed. R. Civ. P. 26(b)(1) (discovery must be "proportional to the needs of the case"); *see, e.g., King v. Biter*, 2017 WL 3149592 *2-5 (E.D. Cal. July 25, 2017) (finding in several instances documents requested were not proportional to the needs of the case and indicating the party seeking discovery has the burden of establishing relevancy); *Wiley v. Equifax Information Services, LLC, et al.*, 2020 WL 7266599, *3-7 (D. Mn. Oct. 23, 2020) (court found documents requested not proportional to the needs of the case and indicating part of the standard is whether the burden or expense is undue and whether the "hardship is unreasonable in light of the benefits to be secured from the discovery." (internal citation omitted)); *Marsh v. Bloomberg, Inc.*, 2017 WL 2224250, *2 (N.D. Cal. May 22, 2017) (in a gender discrimination case finding certain documents requested were not proportional to the needs of the case and therefore not discoverable).

C. Defendants Are Prohibited from Producing the Vast Majority of the Requested Documents by Confidentiality Laws

As detailed in Defendants' Motion for Protective Order [Doc No. 64, pp. 7-12], provisions of Louisville's Fairness Ordinance, Louisville's contracts with federal agencies, and federal law prohibit production of the vast majority of the complaints, case files, and summary spreadsheets

sought by Plaintiffs. As attested by HRC’s Executive Director, aside from being legally required, the confidentiality of discrimination complaints and HRC’s investigative files serves important policy purposes that would be thwarted by the kind of sweeping disclosures requested by Plaintiffs in this litigation. *Goatley Aff.* [Doc No. 64-3], at ¶ 20. In addition to these public policy interests, disclosing documents and information in violation of these obligations could subject Defendants to criminal penalties (*see* 42 U.S.C.A. § 2000e-8) and loss of federal funding for its work in combatting discrimination in employment and housing in the Louisville community (*see* *Goatley Aff.*, at ¶¶ 10, 16).

Dismissing these obligations and consequences as “insignificant,” Plaintiffs deride Defendants as attempting to “hide” behind these confidentiality laws. The suggestion that Defendants should ignore statutory mandates at the whim of the Plaintiffs is outrageous. As further explained above, there is no precedent for the broad scope of discovery sought by Plaintiffs in this case, which is not relevant or necessary for Plaintiffs to pursue their claims. But Plaintiffs are also dead wrong in arguing that Defendants are not required to comply with these confidentiality laws or that they may be disregarded by this Court.

1. Confidentiality Requirement in Louisville’s Fairness Ordinance

Louisville Metro Ordinance § 92.08(B)(7) mandates that all records and information other than conciliation agreements⁵ “shall be confidential except as reasonably necessary to conduct an

⁵ Plaintiffs argue that individuals who file complaints with HRC have no expectation of privacy because Louisville’s Ordinance permits HRC to publish conciliation agreements. However, it is not only the complainant’s privacy interests that are at stake. The privacy of parties accused of discrimination are also protected by Louisville’s Ordinance. In cases where a complaint is deemed lacking probable cause, the case is closed and there is never a conciliation agreement that is subject to publication. *See* Louisville Metro Ordinance § 92.09(E)(1). Moreover, even where a complaint of discrimination is meritorious, a plaintiff may choose to withdraw the complaint before a conciliation agreement is reached in order to avoid publication of the complainant’s identity.

investigation and proceeding.” Defendants are obviously subject to this mandate which applies to all categories of discrimination complaints and case files. Plaintiffs argue that the Ordinance can be disregarded because federal law governs discoverability and confidentiality in this case. However, even the cases cited by Plaintiffs recognize that laws such as Louisville Metro’s Ordinance cannot be ignored and illustrate important privacy interests that principles of comity may require federal courts to recognize. *See, e.g., King v. Conde*, 121 F.R.D. 180, 187 (E.D.N.Y. 1988).

The cases cited by Plaintiffs have one thing in common that fundamentally distinguishes them from this case: they all involved discovery of information *about a specific wrong or investigation involving the plaintiff and/or defendant in the litigation*. *See King*, 121 F.R.D. at 185 (“These cases involve only the [personnel] files of the police officers who are defendants and thus avoid the more vexing issues raised when records of other officers are sought in an attempt to prove the practice and policy of a municipal government.”); *Hancock v. Dodson*, 958 F.2d 1367, 1372 (6th Cir. 1992) (addressing admissibility of testimony by plaintiff’s treating physician in a Section 1983 case alleging that excessive force was used in plaintiff’s arrest); *ACLU of Mississippi, Inc. v. Finch*, 638 F.2d 1336, 1338, 1345 (5th Cir. 1981) (requiring production of state commission’s investigative files concerning the plaintiffs where plaintiffs alleged that Mississippi officials unlawfully harassed and surveilled their lawful activities⁶); *Grummons v. Williamson County Bd. of Educ.*, 2014 WL 1491092, at *1 (M.D. Tenn. Apr. 15, 2014) (resolving motion for protective order regarding request for production of documents “relating to any investigation by

⁶ This case is also notably distinguishable because the Mississippi legislature passed the law purporting to seal the state commission’s records only after plaintiffs filed their complaint. *See ACLU of Mississippi*, 638 F.2d at 1344. During the time period when the investigative files were created, they were open to all members of the Mississippi legislature. *Id.*

DCS of Plaintiffs or their minor daughter arising from any report or complaint made by an employee of Defendant” in case alleging that plaintiffs were wrongfully reported for child abuse in retaliation for plaintiffs challenging board of education for refusing to provide special education services to plaintiffs’ daughter); *Farley v. Farley*, 952 F. Supp. 1232 (M.D. Tenn. 1997) (addressing use of files relating to investigation of child abuse allegedly committed by plaintiff in case where plaintiff claimed that her former husband conspired with the Tennessee Department of Children’s Services to remove her children from her home based on false allegations); *Hansen v. Allen Memorial Hosp.*, 141 F.R.D. 115, 116, 123 (S.D. Iowa 1992) (addressing discoverability of interviews conducted by Iowa Civil Rights Commission in its investigation of plaintiff’s claim of employment discrimination and noting that *parties* are generally entitled to obtain the entire investigative file).

This is not the type of discovery Plaintiffs seek in this case. Plaintiffs have never been accused of discrimination in any complaint filed with HRC and have never been investigated by HRC. As such, no documents exist which are comparable to those discovered in the cases cited by Plaintiffs. Instead, Plaintiffs are seeking the production of documents relating to complaints and investigations of third-parties that have no involvement whatsoever in this litigation. Indeed, Plaintiffs’ Request for Production Nos. 40-58 broadly sought all complaints and case files for every complaint of discrimination investigated by HRC since December 2004.

Plaintiffs also invoke a 1985 Kentucky Attorney General Opinion to argue that the documents requested are “subject to public inspection.” However, the Opinion, which addressed an open records request for complaints received by Lexington’s Human Rights Commission against the Lexington Housing Authority, is entirely consistent with Defendants’ position in this case. *See* Ky. OAG 85-5, 1985 WL 193264. Like Louisville’s Fairness Ordinance, the state law at

issue in that Opinion provides: “Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.” KRS 344.200(4). The Attorney General found that the Human Rights Commission properly withheld complaints and other documents because none of the complaints had “progressed to the point where an order of dismissal or a conciliation agreement has been entered or a hearing has been held.” *Id.* at *2. As explained by HRC’s Executive Director and as reflected by publicly available documents, public hearings regarding complaints of discrimination filed with HRC are very rare. *See Goatley Aff.* [Doc No. 64-3], ¶ 17. As such, the vast majority of HRC’s case files are required to be kept confidential.

Plaintiffs have failed to identify any authority this Court could invoke to require production of confidential information regarding third parties which have nothing to do with the parties to this litigation. The cases cited by Plaintiffs certainly offer no precedent for the far-ranging fishing expedition into hundreds of confidential third-party discrimination complaints and case files Plaintiffs seek. But even if the Court were to engage in the balancing of relevance and confidentiality concerns as suggested by *King*, 121 F.R.D. at 187, the balance would not favor disclosure given the marginal, at best, relevance of the discovery sought and the important policy interests relating to effective enforcement of anti-discrimination laws served by Louisville Metro Ordinance § 92.08(B)(7).

2. Federal Statutory Prohibitions and Contractual Obligations relating to Complaints and Investigations of Employment and Housing Discrimination

Plaintiffs argue that the federal laws cited by Defendants⁷ apply only to federal agencies. However, as detailed in Defendants' Motion for Protective Order, Louisville Metro Government's contract with the federal Equal Employment Opportunity Commission ("EEOC") requires HRC to comply with federal confidentiality laws. *See* Goatley Aff. Ex. A, Sections H.1 and H.8. Louisville Metro Government's contract with the federal Department of Housing and Urban Development ("HUD") also imposes confidentiality obligations. *See* Goatley Aff. Ex. B, Section 26. As part of HRC's collaborative work with these federal agencies, information regarding investigation of discrimination complaints is regularly and freely shared between HRC and EEOC/HUD. Goatley Aff., at ¶¶ 11, 13. These agencies regularly audit HRC for compliance with recordkeeping requirements and federal funding received by HRC would be threatened by HRC's violation of its confidentiality obligations. *Id.*, at ¶¶ 10, 16. In response to a question specifically posed by HRC during preparation of Defendants' Motion for Protective Order, HUD agents confirmed that HUD considers files regarding housing discrimination confidential and vehemently objected to their public disclosure. *Id.*, at ¶ 15. There is no doubt that these federal statutes and contractual obligations prohibit the vast majority of the discovery sought by Plaintiffs.

II. Summary Spreadsheets regarding HRC's Investigation of Discrimination Complaints

In response to Plaintiffs' arguments with respect to spreadsheets used by HRC to track open and closed cases, Defendants incorporate by reference their Motion for Protective Order [Doc. No. 64], pp. 12-14. Plaintiffs apparently do not seek to compel production of the EEOC and

⁷ To avoid unnecessary duplication, Defendants incorporate by reference the detailed discussion of confidentiality laws in their Motion for Protective Order [Doc. No. 64], pp. 7-12, and supporting affidavit from HRC's Executive Director Verná Goatley [Doc. No. 64-3].

HUD spreadsheets identified by Defendants as withheld on the basis of the confidentiality laws. With respect to HRC's internal tracking spreadsheets, Plaintiffs suggest that Defendants' objections could be resolved by producing redacted or summary spreadsheets that do not reveal the identity of the complainants, respondents, or other individual case details. *See* Motion to Compel [Doc. No. 63], p. 19 (citing 29 C.F.R. § 1601.22). However, anonymized data has already been made available to Plaintiffs. *See, e.g.*, Doc. No. 64-4 (example of HRC annual report), Doc. No. 64-5 (example of Compliance Activity Report appended to minutes from meetings of HRC's Enforcement Board); Doc. No. 64-6 (example of anonymized EEOC report produced in discovery). Plaintiffs claim that data has not been provided for the years 2010 and 2017-2020, but that is not true. HRC's Annual Report for 2010 contains data for that year and Compliance Activity Reports for 2017-2020 are publicly available on HRC's website with minutes from HRC's Enforcement Board Meetings. *See* <https://louisvilleky.gov/government/human-relations-commission/reports-publications> and <https://louisvilleky.gov/government/human-relations-commission/advocacy-and-enforcement-boards>.

III. Interrogatories Regarding Consideration of Alternative Means to Prevent Discrimination

Plaintiffs move to compel a supplemental response to that part of Interrogatory Nos. 15-17 which asked Defendants to identify all alternative means considered to achieve the government interest in eradicating invidious discrimination. Defendants reject Plaintiffs' assumption that strict scrutiny applies to Plaintiffs' claims, but recognize that merits issues will not be resolved by these discovery motions. However, Plaintiffs confuse the issue of discoverability with the issue of whether Defendants will ultimately be able to carry whatever burden is imposed on them when the District Court resolves the merits of Plaintiffs' claims.

Interrogatory Nos. 15-17 are contention interrogatories. Fed. R. Civ. P. 33(a)(2) expressly

authorizes a court to order that contention interrogatories “need not be answered until designated discovery is complete, or until a pretrial conference or some other time.” Defendants submit that they have adequately responded to Plaintiffs’ Interrogatories Nos. 15-17 based on the information presently known and reasonably available to them. As recognized by Fed. R. Civ. P. 33(a)(2), that does not mean that Defendants cannot continue to investigate and pursue discovery of these issues, producing any information on which Defendants intend to rely to Plaintiffs if and when that information is discovered by Defendants. As explained by Defendants’ Motion for Protective Order [Doc. No. 64], pp. 14-15, Defendants were not legislators at the time the Fairness Ordinance was considered and passed and do not currently possess any information regarding what alternative measures those legislators considered, other than the transcripts and minutes of those legislative sessions, which have been produced to Plaintiffs.

CONCLUSION

For the foregoing reasons and those set forth in Defendants’ Motion for Protective Order [Doc. No. 64], Defendants respectfully request that the Court deny Plaintiffs’ motion to compel and grant Defendants’ motion for protective order with respect to the discovery disputed by this motion.

Respectfully submitted,

/s/ Casey L. Hinkle _____

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CERTIFICATE OF SERVICE

I hereby certify that on March 12, 2021, the foregoing was filed via the Court's electronic filing system, which will automatically send notice of such filing to all counsel of record.

/s/ Casey L. Hinkle

Counsel for Defendants

Exhibit 1

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 9
 10 V. VIDEO DEPOSITION FOR THE DEFENDANTS
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 12 LOUISVILLE/JEFFERSON COUNTY
 13 METRO GOVERNMENT, et al. DEFENDANTS
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 15 * * *
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 18 ALSO PRESENT:
 19 KENDALL BOYD - Via Video
 20 GRETA MAAS - Via Video
 21 MODERATOR:
 22 T.J. BARR
 23 Coulter Reporting
 24
 25

Page 21

1 A. Credit card payments, things of that
 2 nature.
 3 **Q. Okay. Now, I'm familiar with the**
 4 **payments industry, so -- but they aren't a processor.**
 5 **They were writing the software?**
 6 A. They are also a processor.
 7 **Q. Okay. Okay. So what part of that**
 8 **business were you involved in?**
 9 A. I was a client manager in the
 10 portfolio management department.
 11 **Q. Okay. And their customers are**
 12 **basically businesses that want to process credit card**
 13 **payments?**
 14 A. Yes.
 15 **Q. Okay. And so what were you -- were**
 16 **you customer facing, trying to maintain the**
 17 **portfolio?**
 18 A. I was customer facing, yes.
 19 **Q. So you were just mainly dealing with**
 20 **businesses?**
 21 A. Mainly dealing with business owners,
 22 yes.
 23 **Q. And what period did you work for**
 24 **Heartland Payment Systems?**
 25 A. I think it spanned from 2017 to 2019.

Page 22

1 **Q. Okay. So that has overlapped with**
 2 **Chelsey Nelson Photography then, correct?**
 3 A. Yes, correct.
 4 **Q. Was that a full-time or a part-time**
 5 **position at Heartland?**
 6 A. Full time.
 7 **Q. Would you go into the office every**
 8 **day?**
 9 A. Yes.
 10 **Q. From 2017 to 2019, was Heartland**
 11 **Payment Systems, you know, your primary source of**
 12 **income from employment?**
 13 A. Yeah.
 14 **Q. I'm talking about you individually.**
 15 **Not including your husband.**
 16 A. Yes.
 17 **Q. Okay. How much were you making with**
 18 **Heartland Payment Systems, approximately?**
 19 A. Approximately 55,000 per year.
 20 **Q. Before you took that position with**
 21 **Heartland Payment Systems did you have any prior**
 22 **connection to the payments industry?**
 23 A. No.
 24 **Q. How did you find the job?**
 25 A. I saw a posting on Facebook about the

Page 23

1 position.
 2 **Q. Where is that company based?**
 3 A. The main office is based in Oklahoma.
 4 I think it's Oklahoma City.
 5 **Q. Do you know approximately how many**
 6 **employees they have in Louisville?**
 7 A. Last I remember, I think it was
 8 between three and four hundred, approximately, but
 9 the office was located in Jeffersonville, not
 10 Louisville technically.
 11 **Q. Okay. That's helpful.**
 12 **So I think you told me that your**
 13 **employment with Heartland ran into 2019. When did it**
 14 **terminate, if you remember the month?**
 15 A. July.
 16 **Q. Was there a reason why you stopped**
 17 **working at Heartland?**
 18 A. Yes. I wanted to be home with my
 19 daughter and devote my time to her.
 20 **Q. So -- yeah, so your daughter had been**
 21 **born on May the 7th, so you resigned a couple of**
 22 **months later?**
 23 A. Yes.
 24 **Q. So you could be home with your baby on**
 25 **a more regular basis?**

Page 24

1 A. Yes.
 2 **Q. I also saw on your profile Margaret**
 3 **Lynn Duggar & Associates. Did you work for that**
 4 **company in Tallahassee?**
 5 A. Yes, I did.
 6 **Q. And what do they do?**
 7 A. They are an association management
 8 firm.
 9 **Q. Okay. So do they put on events?**
 10 A. They did, yes.
 11 **Q. Is that the main thing, or are there**
 12 **other things that they do for associations?**
 13 A. They also manage the association
 14 membership base.
 15 **Q. What was your role with Margaret Lynn**
 16 **Duggar & Associates?**
 17 A. My official title was program
 18 specialist, and I assisted in managing the membership
 19 base of clients, assisting in writing strategic
 20 plans, administrative tasks and event planning.
 21 **Q. Did that company represent all kinds**
 22 **of associations, for-profit and nonprofit?**
 23 A. Mostly nonprofit.
 24 **Q. And was the founder of that company**
 25 **Margaret Lynn Duggar?**

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1 **It's tab A, T.J.**
 2 (DEPOSITION EXHIBIT NO. 1 MARKED)
 3 MR. KAPLAN: Okay. And maybe if you
 4 could zoom in a little bit. So that -- maybe more,
 5 because I want to focus on some of the text under, "I
 6 believe."
 7 Ms. Nelson, can you see that?
 8 A. Yes, I can.
 9 **Q. Okay. So I'll represent to you that**
 10 **this is a recent, within the past few days, printout**
 11 **from your current website. And I think if you looked**
 12 **at this you could confirm that. You can see at the**
 13 **bottom, you see where it says, "Wedding Services**
 14 **Celebration Statement"?**
 15 A. I do.
 16 **Q. Okay. That was added after you won**
 17 **your injunction last fall, correct?**
 18 A. Correct.
 19 **Q. So -- but up above that under "I**
 20 **believe," has that series of statements next to the**
 21 **crosses, has that been there for some time?**
 22 A. That preexisted the wedding services
 23 celebrations statement (unclear audio).
 24 **Q. Do you recall when you first put the**
 25 **belief statements that are next to the crosses onto**

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1 **your website?**
 2 A. I don't remember the exact time, no.
 3 **Q. Do you think it was prior to 2020?**
 4 A. Yes.
 5 **Q. Do you think it was prior to 2019?**
 6 A. Yes, I think so.
 7 **Q. Do you think it was prior to 2018?**
 8 A. It was probably approximately in
 9 either 2017 or 2018. I don't remember specifically,
 10 but probably in one of those years.
 11 **Q. Why did you choose to include those**
 12 **belief statements on your website at that time, if**
 13 **you recall?**
 14 A. I wanted to provide an example of my
 15 philosophy and beliefs to potential clients so that
 16 they could have clarity in the type of work I want to
 17 create and promote before they inquire about wedding
 18 services.
 19 **Q. Okay. Good, that's helpful. So, for**
 20 **example, that first statement there, I'll read it**
 21 **into the record. "I believe God's vision for**
 22 **marriage is beautiful, and one of his sweetest gifts**
 23 **to us in this life to be treasured and held in**
 24 **honor."**
 25 **Did I read that correctly?**

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1 A. Yes.
 2 **Q. So based on your testimony you just**
 3 **gave, I would infer that you felt that by**
 4 **communicating your view about God's vision for**
 5 **marriage and your support of that, that that could**
 6 **attract the kinds of customers that you wanted for**
 7 **your wedding photography business?**
 8 A. I believe that it would or hopefully
 9 could attract customers that resonated with the work
 10 that I want to make.
 11 **Q. Is the same true for the fourth plus**
 12 **statement that's, "I believe in spreading the truth**
 13 **and love of Jesus by showing off his creativity in**
 14 **creation"? Did you think that that could, you know,**
 15 **attract customers who shared your views about your**
 16 **Christian faith?**
 17 A. I did think that it could attract
 18 those who agreed, but also help people understand my
 19 perspective even if they don't agree.
 20 **Q. Right.**
 21 A. Just as a clarifying point so that my
 22 potential clients could get to know me better.
 23 **Q. Did you believe that, at the time you**
 24 **posted those statements, that -- that anyone who had**
 25 **an aversion to your religious beliefs would probably**

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1 **avoid your services?**
 2 A. I believed that that was possible.
 3 **Q. And was that one of your intentions,**
 4 **though, to sort of attract the market that you wanted**
 5 **and not attract a market that wouldn't be a good fit**
 6 **for you?**
 7 A. The goal was to be upfront,
 8 transparent with anyone interested in hiring me so
 9 that they could make a decision based on information
 10 before taking their time to inquire.
 11 **Q. And so you think it was sometime in**
 12 **2017 that this went up?**
 13 A. Probably 2017 or 2018.
 14 **Q. Okay. And you -- you never received**
 15 **an inquiry directly from someone who wanted you to**
 16 **take photographs of a same-sex marriage wedding, is**
 17 **that correct?**
 18 A. Not that I'm aware of, no.
 19 **Q. Is it fair to say that the closest**
 20 **that you came was when you were communicating with**
 21 **Melissa Gwinn -- or I'm sorry, Melissa Glynn about**
 22 **possibly being a second shooter for her?**
 23 A. That was an instance where she was
 24 interested in boutique editing services rather than a
 25 second shooter.

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1 **Q. Okay, boutique editing. Got it. And**
 2 **she's a photographer.**
 3 A. Yes.
 4 **Q. And is she a wedding photographer?**
 5 A. I don't remember if she shoots other
 6 things other than weddings, but I do know she shoots
 7 weddings.
 8 **Q. Okay. And so Jodie Brim and Amanda --**
 9 **what's her last name?**
 10 A. Amanda Nichols.
 11 **Q. Amanda Nichols, they take pictures at**
 12 **weddings, but do they also do family portraits?**
 13 A. I know Jodie Brim has done family
 14 portraits. I'm not sure if family portraits is
 15 something that Amanda Nichols advertises or does
 16 regularly because I've never photographed -- excuse
 17 me, I've never edited family sessions for her or
 18 anything other than weddings.
 19 **Q. Is that true for both of them?**
 20 A. I have also edited family Christmas
 21 photos and business branding photos and what may have
 22 been a senior portrait photo shoot -- I don't
 23 remember the context of that -- for Jodie Brim.
 24 **Q. Do you recall when you did that work**
 25 **for her?**

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1 A. For which photographer?
 2 **Q. For Jodie Brim, the portrait project.**
 3 A. I don't remember the specific date,
 4 but I believe it's listed in my interrogatory answers
 5 (unclear audio).
 6 **Q. Okay. Was that a one-off for you? I**
 7 **thought you only did -- for hire you only wanted to**
 8 **do wedding photography?**
 9 A. I market myself for weddings, but
 10 Jodie Brim had some other projects that I did for her
 11 in addition to weddings at that time. I don't
 12 currently market --
 13 THE REPORTER: I'm sorry. I'm sorry,
 14 you're cutting out on me. I'm sorry. "I don't
 15 currently" --
 16 A. I don't currently market my editing
 17 services for anything other than weddings.
 18 **Q. When did you decide to limit the**
 19 **marketing only to weddings?**
 20 A. I -- to my knowledge, I've never
 21 marketed any -- any other way for my editing.
 22 **Q. And what about for you yourself**
 23 **photographing at events? Did you -- when did you**
 24 **decide to limit that to weddings, if you've limited**
 25 **it in that fashion?**

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1 A. Around the time my daughter was born.
 2 **Q. Okay.**
 3 A. In that season of life.
 4 **Q. Okay. So before your daughter was**
 5 **born you were willing to photograph events other than**
 6 **weddings if the opportunity arose?**
 7 A. It depended on the situation. At that
 8 time the only other thing I photographed close to the
 9 date of her birth was a birth photography session,
 10 but I stopped offering those after my daughter was
 11 born.
 12 **Q. And, yeah, I would like to encourage**
 13 **you to speak up as much as possible. I'm afraid that**
 14 **the court reporter might not be able to hear**
 15 **everything because I'm having a little trouble. So**
 16 **do your best and if it continues to be a problem, we**
 17 **might have you try to call back in instead.**
 18 A. Okay.
 19 **Q. So I think you mentioned that you did**
 20 **a project involving a baby birth, is that correct?**
 21 A. Birth photography.
 22 **Q. Yes. Was that Megan and Ryan Kemp?**
 23 A. Yes.
 24 **Q. Okay. And that -- so that was in**
 25 **February of 2019?**

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1 A. February or March. I don't remember
 2 specifically when the baby was born, but it was in
 3 generally --
 4 THE REPORTER: I'm sorry. Could we go
 5 off the record for just a moment, please.
 6 (OFF THE RECORD)
 7 THE MODERATOR: Back on the record at
 8 1:35.
 9 MR. SCRUGGS: Chelsey, I'd mute your
 10 computer as well as --
 11 THE WITNESS: Okay.
 12 BY MR. KAPLAN:
 13 **Q. Can you hear me, Ms. Nelson?**
 14 A. Yes, I can. Can you hear me?
 15 **Q. Yeah.**
 16 A. Okay.
 17 **Q. Okay. So before we leave Melissa**
 18 **Glynn I just want to have it in the record what**
 19 **happened with her. Do I understand that you first**
 20 **came into contact with her through a website?**
 21 A. I think we first came into contact
 22 when she inquired through my website.
 23 **Q. Okay. So she expressed interest in**
 24 **possibly using you as a boutique editor?**
 25 A. She did.

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1 A. I'm not sure.

2 **Q. Okay. And the time that you're**

3 **becoming like concerned about this specifically, was**

4 **that in 2018?**

5 A. I was concerned specifically about

6 legal action since even before I formed my business

7 in 2016, but that broadened to the realization of the

8 specific ordinance in 2018.

9 **Q. So I understand from your testimony**

10 **just now that you did have some concerns from the**

11 **beginning, even in 2016. Why didn't you seek legal**

12 **counsel at that time?**

13 A. I hadn't thought about it.

14 **Q. Hadn't thought about what?**

15 A. Seeking legal counsel at that time.

16 **Q. Okay. And so there was a later point**

17 **in time where you still had these concerns where you**

18 **did seek legal counsel?**

19 A. Yes.

20 **Q. Okay. Did you contact legal counsel**

21 **or did legal counsel contact you?**

22 A. Legal counsel contacted me initially.

23 **Q. Contacted you what?**

24 A. Initially.

25 **Q. Okay. So you did not initially reach**

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1 **out to counsel. You were contacted by counsel.**

2 A. Yes.

3 **Q. Okay. And was that the law firm**

4 **that's currently representing you, the Alliance**

5 **Defense Fund?**

6 A. Alliance Defending Freedom, yes.

7 **Q. Sorry, Alliance Defending Freedom,**

8 **sorry, yeah. ADF. All right.**

9 **Let's get back to that in a second.**

10 **So -- well, actually, let's continue on that. So --**

11 **and, again, I don't want to know anything about any**

12 **conversations or communications written or otherwise**

13 **that you've exchanged with any attorney for Alliance**

14 **Defense Fund or any other firm that you've retained.**

15 **So with that clarification, is it true that you**

16 **started talking to attorneys at Alliance Defense Fund**

17 **in October 2018, that time frame?**

18 A. Alliance Defending Freedom, and I

19 don't remember the specific month when we would have

20 began speaking.

21 **Q. Okay. Yeah, I'm sorry, I keep getting**

22 **that name wrong. Alliance Defending Freedom. I must**

23 **know that other organization from some other former**

24 **life. I'm starting to get a little -- my memory is**

25 **failing me. So --**

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1 A. You can say ADF if that's easier.

2 **Q. So you -- I'm sorry?**

3 A. You can say ADF if that's easier.

4 **Q. Yeah, let's say ADF. So you don't**

5 **recall the year that you first spoke to an attorney**

6 **at ADF?**

7 A. I do recall the year. I think it was

8 2018.

9 **Q. Okay. So sometime in 2018. Were**

10 **those the first attorneys you talked to about this**

11 **particular concern that you were having about being**

12 **persecuted for your beliefs?**

13 A. In an official capacity, yes, I think

14 so.

15 **Q. Okay. And just to clarify, at the**

16 **time you started talking to legal counsel, you had**

17 **not actually been approached by a same-sex couple**

18 **asking you to photograph their wedding, is that**

19 **correct?**

20 A. That's correct.

21 **Q. And I think we've covered the closest**

22 **that you ever came to that was the Melissa -- Melissa**

23 **Glynn inquiry. Is that fair?**

24 A. Yes.

25 **Q. To your knowledge.**

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1 A. Yes, to my knowledge.

2 **Q. And the Melissa Glynn situation, that**

3 **arose in April of 2019, is that correct, after you**

4 **had already engaged legal counsel?**

5 A. It was after I'd already engaged legal

6 counsel. I don't remember the specific time frame

7 off the top of my head, but I believe I listed it in

8 the interrogatory answers.

9 **Q. Okay. Yeah, I probably -- I have that**

10 **in my outline. I put April 2019. That's probably**

11 **where I got that. But we can just refer to your**

12 **interrogatory answers for the definitive information.**

13 **And, again, I don't want to know about**

14 **the content of any communications, but who was the**

15 **first ADF representative that you spoke to, just the**

16 **name?**

17 A. Jonathan Scruggs.

18 **Q. And so, again, talking just**

19 **approximate time frames here, but from the time you**

20 **started talking to ADF until you filed your lawsuit**

21 **in November of 2019, that was over a year, wasn't it?**

22 A. I don't remember for sure.

23 **Q. You started talking to ADF sometime in**

24 **2018, is that correct?**

25 A. Yes.

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1 **what I'm referring to?**

2 A. I do. Could you pull up the document.

3 **Q. Yeah.**

4 **T.J., could you pull up tab AA.**

5 THE REPORTER: Is this being marked?

6 MR. KAPLAN: Yes, this is going to be

7 marked as Deposition Exhibit 4.

8 (DEPOSITION EXHIBIT NO. 4 MARKED)

9 **Q. Is that the first page of the**

10 **document? Okay. So that's the first page,**

11 **Ms. Nelson, so what I've provided you here are**

12 **documents produced to me by -- to me by your counsel.**

13 **I believe they are Exhibits 1 and 2 to your complaint**

14 **and they've been numbered CNP461 through -- I guess**

15 **there's probably four pages here, so -- 465.**

16 **So if you could -- T.J., if you could**

17 **just move to the second page.**

18 **And if you could just take a moment to**

19 **look at that, Ms. Nelson, and let me know when you're**

20 **prepared to answer questions.**

21 A. Okay.

22 **Q. Okay. So this is your wedding**

23 **services celebrations statement, is that correct?**

24 A. Yes.

25 **Q. And this -- is this the same text that**

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1 **is currently up on your website?**

2 A. To my knowledge, yes.

3 **Q. Okay. Your intention after you got**

4 **the injunction was to put this exact statement onto**

5 **your website. Is that accurate?**

6 A. Yes.

7 **Q. Okay. Who drafted this statement?**

8 A. I wrote it with my attorneys.

9 **Q. Was there someone who was the primary**

10 **draftsman, like the person who wrote -- who's most**

11 **responsible for it if you had to pick one person?**

12 A. Myself.

13 **Q. Okay. And then -- and then your**

14 **attorneys advised you after they -- based on a draft**

15 **you provided to them?**

16 A. My attorneys helped review what I

17 wrote, yes.

18 **Q. Okay. Did it change much?**

19 MR. SCRUGGS: Objection. I'm going to

20 object based on attorney/client privilege on that.

21 MR. KAPLAN: Okay.

22 MR. SCRUGGS: And instruct the witness

23 not to answer.

24 **Q. Did you do the first draft,**

25 **Ms. Nelson?**

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1 A. I don't remember.

2 **Q. When did you start working on this**

3 **statement? How long before the lawsuit, if you**

4 **recall?**

5 A. I don't remember when I first started

6 working on it.

7 **Q. Was it a long time before the lawsuit**

8 **or not such a long time?**

9 A. I honestly don't remember.

10 **Q. Are you familiar with Microsoft Word?**

11 A. Yes.

12 **Q. Okay. I'll represent to you that your**

13 **attorneys produced to me two Microsoft Word files.**

14 **One is the document we're looking at here, and the**

15 **other is the text that falls under the boutique**

16 **editing services statement. So they produced to me**

17 **Microsoft Word versions of these texts. Were you**

18 **aware they did that?**

19 A. Yes.

20 **Q. Okay. And I think you've stated in**

21 **your interrogatory answers that these documents were**

22 **finalized on or around November the 8th, 2019, is**

23 **that correct?**

24 A. I don't remember specifically, but

25 that generally sounds correct.

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1 **Q. Okay. You know, I'll -- have you ever**

2 **inspected the Word files by looking at the properties**

3 **of the files?**

4 A. Not that I remember.

5 **Q. Do you know how to do that where you**

6 **right click on it?**

7 A. I know how to do that for other files,

8 but I don't remember a time I've done that for a Word

9 file.

10 **Q. Okay. Do you know when these**

11 **documents were last saved?**

12 A. I don't remember.

13 **Q. Have you ever talked to someone named**

14 **Jessica Perske?**

15 A. I don't remember that name.

16 **Q. And I -- you may have already answered**

17 **this question, but I just want to make sure that I**

18 **ask the right question. Do you know whether or not**

19 **you went into Microsoft Word and drafted -- did the**

20 **first draft of this statement?**

21 A. I do not remember if I did, no.

22 **Q. Okay. You don't remember one way or**

23 **the other.**

24 A. No, I don't.

25 **Q. Okay.**

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1 A. What I do know is that what is
 2 represented here -- I was the main author of what is
 3 represented here.

4 **Q. Okay. Before you started talking to**
 5 **counsel at the ADF, did you ever consider putting**
 6 **anything like this on your website?**

7 A. By "like this," I would say that the
 8 "I believe" statements are at -- on some level
 9 similar.

10 **Q. Okay. Well, would you agree with me**
 11 **that this is much more extensive?**

12 A. I would say that this is a more
 13 comprehensive representation of my beliefs.

14 **Q. Was there anything in particular that**
 15 **prompted you at this time to want to express your**
 16 **beliefs in this fashion as opposed to sticking with**
 17 **what you already had on your website?**

18 A. I wanted to be as open as possible
 19 about my beliefs and the messages that I seek to
 20 promote through my business.

21 **Q. So was your intention with these**
 22 **statements to more effectively market your services?**

23 A. My intention was to more faithfully
 24 honor God in how I market my business, represent my
 25 beliefs in business and be transparent to potential

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1 clients.

2 **Q. So the -- the third paragraph of this**
 3 **statement, if you could drop down to that, and look**
 4 **at the fourth sentence that starts out, "I also can't**
 5 **photograph anything." Do you see that sentence?**

6 A. Yes, I do.

7 **Q. So you've written there, "I also can't**
 8 **photograph anything that conflicts with my religious**
 9 **conviction that marriage is a covenant relationship**
 10 **before God between one man and one woman (for**
 11 **example, I don't photograph same-sex weddings or**
 12 **ceremonies celebrating an open marriage)."**

13 **Do you see that?**

14 A. Yes, I do.

15 **Q. Is there any particular reason why you**
 16 **did not express your absolute refusal to photograph**
 17 **same-sex weddings on your website when you set it up**
 18 **in 2016?**

19 A. Could you repeat that question?

20 **Q. Is there -- so this statement very**
 21 **clearly expresses your outright refusal to photograph**
 22 **same-sex weddings. Would you agree with me on that?**

23 A. This example does state that I don't
 24 photograph same-sex weddings or --

25 **Q. Right.**

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1 A. -- ceremonies --

2 **Q. And there wasn't any statement quite**
 3 **like that on your website when you first started**
 4 **marketing Chelsey Nelson Photography on that site in**
 5 **2016, was there?**

6 A. No, there was not.

7 **Q. So is there a particular reason why**
 8 **you decided to express your outright refusal to**
 9 **photograph a same-sex wedding in this particular**
 10 **statement?**

11 A. I wanted to be as transparent as
 12 possible about which messages I am and am not willing
 13 to create based on my religious beliefs, and this
 14 seemed like a good way to do that.

15 **Q. Did you -- did you -- did you**
 16 **understand, though, that when you put those**
 17 **statements out there in 2016, those belief statements**
 18 **we were looking at, that you were very clearly**
 19 **expressing that you had a Christian view of the**
 20 **marriage relationship?**

21 A. Those statements were posted after
 22 2016, but, yes, I was fully aware and intending to
 23 relay that I have a biblical worldview on God's
 24 design for marriage.

25 **Q. Okay. And that was -- I'm sorry,**

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1 **you're right. I think you told me that that was in**
 2 **2017 or later, is that right?**

3 A. Yes, I think generally 2017 or 2018.

4 **Q. Okay. And wasn't it your goal in --**
 5 **in putting that particular statement here to create a**
 6 **claim under the Metro Louisville ordinance that you**
 7 **didn't think you had without making a statement of**
 8 **outright refusal?**

9 A. My goal was to be the most transparent
 10 as possible in order to exercise my freedom to create
 11 consistent with -- consistently with my beliefs and
 12 express what those beliefs are and what the messages
 13 are that I'm willing and not willing to promote
 14 through my business.

15 **Q. Okay. Well, do you deny that that**
 16 **statement was in there to try to create a violation**
 17 **of the statute?**

18 MR. SCRUGGS: Asked and answered.

19 A. What my intention was is to clearly
 20 state the messages that I am and am not willing to
 21 promote based on my religious beliefs, and I believe
 22 that that should be a freedom that I am offered and
 23 is protected through the Constitution.

24 **Q. Let's assume that you deleted the part**
 25 **that we were just talking about, that one sentence,**

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1 A. I would need to pray about it because
 2 I'm not sure what I would do and because I would need
 3 more information in order to make the best decision
 4 possible, and because it would not merely be a
 5 financial decision in that my blog post is -- is one
 6 of the main ways I'm able to tell the story of
 7 someone's wedding day that I've taken part in and
 8 celebrated when I photograph their wedding, and it's
 9 one of my -- it's one of my favorite things that I
 10 do. It's also I think something that is a favorite
 11 among my past clients. Again, I would need more
 12 information. I'm not sure what I would do, and I'd
 13 just make the best decision I could at the time, but
 14 I'm not sure.

15 **Q. When was the blogging added to the**
 16 **package of wedding celebration services? When was it**
 17 **first made a part of the package?**

18 A. As far as I can remember, I've
 19 always -- always added it. I mean, it's always been
 20 a part of it, excuse me. It's always been part of
 21 the package since that first wedding with Annie and
 22 Andrew Meyer.

23 **Q. And, again, I want to understand kind**
 24 **of the outer boundaries of your position with respect**
 25 **to adhering to your religious convictions. So is**

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1 **there anything in your religious convictions that**
 2 **would prevent you from hiring an openly gay second**
 3 **shooter to help you take pictures at a wedding?**

4 A. I wouldn't be immediately opposed to
 5 that. It would depend on the situation.

6 **Q. Would it matter at all if the second**
 7 **shooter was in a same-sex marriage?**

8 A. That's never come up. I would need to
 9 think about it.

10 MR. KAPLAN: T.J., could you pull up
 11 tab H, please? And I'll mark this as Deposition
 12 Exhibit 10.

13 (DEPOSITION EXHIBIT NO. 10 MARKED)

14 **Q. And, Chelsey, same procedure. Just**
 15 **let me know after you've had a chance to review the**
 16 **document.**

17 A. Okay, I'm ready.

18 **Q. Okay. So do you recognize this**
 19 **proposal?**

20 A. I do.

21 **Q. And this was the baby birth**
 22 **photography proposal?**

23 A. Yes.

24 **Q. And the Kemps actually did hire you**
 25 **for this service, is that correct?**

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1 A. Yes, they did.

2 **Q. So you were there with them when the**
 3 **baby was born taking pictures?**

4 A. Yes, I was.

5 **Q. Okay. Did you know the Kemps prior to**
 6 **them approaching you about this project?**

7 A. I did not.

8 **Q. How did they find you?**

9 A. I think she said she found me on
 10 Instagram, but I'm not entirely sure.

11 **Q. Okay. And this was -- I guess based**
 12 **on the documents you provided it looks like the first**
 13 **payment from them was on December the 28th of '18,**
 14 **and the second one was February the 13th of '19.**
 15 **Does that refresh your recollection as to when the**
 16 **services were provided?**

17 A. By "services" do you mean the actual
 18 birth?

19 **Q. Yeah.**

20 A. Okay. I would need to go back in my
 21 records to remember the exact date, but it was in
 22 2019.

23 **Q. Okay.**

24 A. I believe -- probably February or
 25 March. I don't remember specifically. I think I

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1 listed it in the interrogatory answers, the exact
 2 month.

3 **Q. Okay. And so this project was done**
 4 **after you had already started focusing on wedding**
 5 **photography, is that correct?**

6 A. Yes.

7 **Q. So was this a one-off? I mean, why**
 8 **did you agree to do this particular project?**

9 A. There was a time that I did offer
 10 birth photography and I accepted this project before
 11 I more exclusively transitioned my services to be
 12 focused on weddings. They engaged my services well
 13 before her due date, so there was, you know, quite a
 14 bit of time between when they signed the contract and
 15 when I actually performed the services in the
 16 contract.

17 **Q. And so sitting here today, would you**
 18 **consider doing another one of these or have you ruled**
 19 **that out entirely at this point?**

20 A. I'm not currently offering birth
 21 photography, and I don't have any current plans to
 22 offer that.

23 **Q. Why is that? Well, let me back up a**
 24 **second. Was this a positive experience for you?**

25 A. Yes, yes.

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1 **Q. Okay. So why wouldn't you want to do**
2 **more of this type of work?**

3 A. Logistically, it's very difficult and
4 demanding, and it seemed to be the best decision in
5 light of becoming a mother myself that the logistics
6 and schedule needed to continue providing birth
7 photography services was not conducive to, you know,
8 my new lifestyle as a -- as a mom.

9 **Q. Back to the boutique editing services**
10 **for a second. You've walked me through the process**
11 **that you go through to edit so I won't ask more about**
12 **that, but I did want to ask about your customer base.**
13 **So as it stands right now, are your major customers**
14 **Amanda Nichols and Jodie Brim?**

15 A. I would say my main current customer
16 base is only Amanda Nichols.

17 **Q. Okay. I saw -- there's I think a**
18 **recommendation from Jodie Brim on your website. Are**
19 **you still on good terms with her?**

20 A. Yes, I am.

21 **Q. Okay. When you said Amanda Nichols**
22 **currently, is that just because you've continued to**
23 **get engagements from her but you're not getting any**
24 **from Jodie Brim anymore?**

25 A. I have only recently received a

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1 wedding editing request from Amanda Nichols.

2 **Q. Is there any reason that you're aware**
3 **of why you haven't received any from Jodie Brim?**

4 A. No.

5 **Q. So those are the two main customers**
6 **for that service historically, is that correct?**

7 A. Yes.

8 **Q. And then you also did a lesser amount**
9 **of that same kind of work for both Lindsey McDonald**
10 **and Laura Cook, is that correct?**

11 A. Yes.

12 **Q. And if you've answered this question**
13 **already, I apologize. I just don't remember. But**
14 **has the work that you've done for those individuals**
15 **been entirely editing of photographs taken at**
16 **weddings, or predominantly?**

17 A. Predominantly weddings, but not only
18 weddings.

19 **Q. And I think you may have testified**
20 **about one project that you did for one of them that**
21 **was not wedding related, but has there been more than**
22 **one?**

23 A. I don't remember the specific number,
24 but more than one, yes.

25 **Q. Do you know whether any of those**

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1 **individuals has ever worked on a same-sex wedding?**

2 A. Not that I'm aware of.

3 **Q. Do you know if any of those**
4 **individuals would identify themselves as a Christian**
5 **wedding photographer?**

6 A. I'm not sure.

7 **Q. So let's talk about family photography**
8 **for a second. I think you disclosed that you did do**
9 **some family photography for a few families. Did you**
10 **do family photography for Caleb Abernathy?**

11 A. Yes, I did.

12 **Q. Donna Anderson?**

13 A. Yes.

14 **Q. And Schrea Davison?**

15 A. Yes.

16 **Q. And then I think we've talked about**
17 **the Kemps. So the three, the Abernathys, Andersons**
18 **and Davison, what type of engagement was that? I**
19 **mean, was it just general shots of their immediate**
20 **family?**

21 A. Those were all families that attended
22 my church, the same church as I did, and requested
23 services. So I -- I let them know that I mainly do
24 weddings, but I then proceeded to take portraits of
25 their families.

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1 **Q. Are you still willing to provide**
2 **family photography on a paid basis?**

3 A. I'm not currently providing that
4 service to the public and would only consider it on a
5 case-by-case basis likely from close friends or
6 family, but that's not something that I am promoting
7 or advertising even among my family and friends.

8 **Q. Does -- does the fact that right now**
9 **you're exclusively involved with editing wedding**
10 **photos and photographing opposite-sex weddings, does**
11 **that have anything to do with the litigation, wanting**
12 **to focus on weddings specifically?**

13 A. I stopped having a -- well, strike
14 that. I've never focused on offering wedding --
15 excuse me, on offering family photography, and that
16 happens to just coincide with my season of life and
17 being a new mom and having limited time and resources
18 to devote to my business and needing to prioritize
19 where that energy should go. And in my best
20 estimation and judgment, that's to wedding
21 photography and wedding editing.

22 **Q. I think you testified before about**
23 **some second shooter work that you did. I mean, were**
24 **you paid for that work?**

25 A. Yes.

Chelsey Nelson

Photography

SHOP / BOUTIQUE EDITING / ABOUT / BLOG / PHOTOGRAPHY / CONTACT



WEDDINGS

CHELSEY NELSON PHOTOGRAPHY WEDDING PORTFOLIO - LOUISVILLE, KENTUCKY

WEDDING PHOTOGRAPHY

I Believe

+ I believe God's vision for **marriage is beautiful**, and one of his sweetest gifts to us in this life to be treasured and held in honor.

+ I believe the **permanence** of marriage brings a freedom to blossom and grow as a person like nothing else.

+ I believe the work we do in our marriages each day can make this world a better place for future generations. The marriage your children grow up observing will have **one of the biggest impacts** on their life.

+ I believe in **spreading the truth and love of Jesus** by showing off his creativity in creation.

+ I also believe in tickle fights, **cuddles**, playful banter and seeing things with a glass half full.

Because life is too short to live any other way.

I would be honored to talk to you about what you envision for your wedding day, and how I can make this an easy, customized process perfectly tailored for you.

Wedding Services Celebration Statement

My highest aim of creative expression is to honor God. This looks like focusing on and filling minds with whatever is true or noble, whatever is right or pure, whatever is lovely or admirable, excellent or praiseworthy (based on Philippians 4). This mentality inspires my photography, blogging, and how I try to serve my clients.

I believe marriage is a special gift from God that represents Jesus Christ's love for his Church, and it all begins at a wedding between a man and a woman. A celebration where love, joy, purity and beauty are publicly proclaimed. When I get to photograph a wedding, I get to share in the ceremony and publicly celebrate the start of a new relationship between the bride and groom. No other human relationship is quite like it in terms of beauty or significance.

God's word greatly impacts my life and business. Practically, this means I don't photograph every wedding that comes my way. I cannot positively depict anything that demeans others, sexually objectifies others, or devalues marriage between one man and one woman. I also can't photograph anything that conflicts with my religious conviction that marriage is a covenant relationship before God between one man and one woman (for example, I don't photograph same-sex weddings or ceremonies celebrating an open marriage).

I believe *everyone* is beautifully made in the image of God and deserves respect. I appreciate the freedom to create and highlight beauty in such a way that is consistent with my beliefs and presents those messages in the best light possible.



Welcome! I'm Chelsey - a Louisville, Kentucky photographer and private photo editor with a heart for Jesus.

I blog here about my journey as a creative entrepreneur, lifestyle tips and everyday adventures. I hope this space can be a cozy, safe haven for you to feel refreshed and inspired.

Chelsey Nelson

Photography

Featured by

KENTUCKY BRIDE

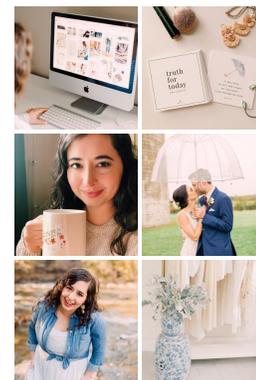




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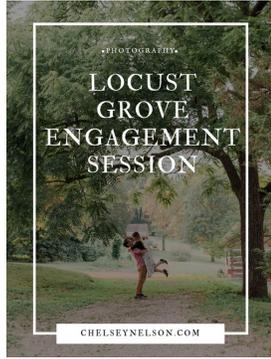
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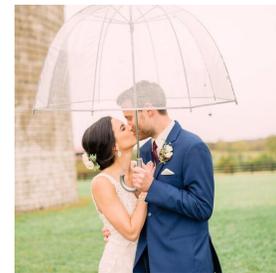


Exhibit 2

In The Matter Of:

*Public Hearing
Fairness Ordinance*

*Various Speakers
Vol. 1, April 15, 1999*

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[1] you.
[2] COMMISSIONER CORRADINO: We've got Kay
[3] Tillow. If I'm saying it wrong, I apologize. Kay
[4] Tillow is the next For speaker. Is Kay here?
[5] (NO RESPONSE FROM THOSE PRESENT.)
[6] COMMISSIONER CORRADINO: Then I'm going to
[7] ask Gemna, is the last name Gemna here, For
[8] speaker? How about Ziegler, I can't tell if this is
[9] Tim or Tom Ziegler. Is a Mister Ziegler or Ms.
[10] Ziegler here?
[11] (NO RESPONSE FROM THOSE PRESENT.)
[12] COMMISSIONER CORRADINO: The next For
[13] speaker is Maureen Keenan. Is Maureen here?
[14] MS. KEENAN: Yes.
[15] COMMISSIONER CORRADINO: We will now hear
[16] from Alan McCutchen and then we will hear from
[17] Maureen.
[18]
[19] MR. MCCUTCHEN: It is rather inconvenient
[20] to have to come out to talk about such a thing as
[21] this. Moreover, it's inappropriate that such an
[22] issue as this should ever come before a governing
[23] body to have to be decided for and against. It
[24] speaks for itself.
[25] The relationship between sodomites

[1] is manifestly a nonproductive relationship. How can
[2] children be had? I don't know, I don't have the
[3] answer for that, except modern law will provide the
[4] sodomites with children. That's how it works.
[5] It's a sad day for Louisville that
[6] they have seen fit to enact a law. Employers ought
[7] to be free to hire the kind of people that they want
[8] to hire. And if there's a question whether
[9] something is right or wrong, then we ought to decide
[10] what - we ought to do what is right. And the fair
[11] thing for the majority of people, not for the noisy
[12] minority, the fair thing is to keep the law like it
[13] is. The civil law is adequate for everybody that
[14] lives under it at this time, except in Louisville,
[15] they've already started to water it down.
[16] It's a privilege to be here and to
[17] see this many people who are interested in what
[18] happens. And I agree with the one that spoke at
[19] this mike a moment ago, it ought to be put out to a
[20] vote. And it oughtn't to be decided by the
[21] commissioners, unless there can be a tie vote and
[22] the issue rejected, then it would be okay with me,
[23] for one, that it was decided by the commissioners.
[24] But if they plan to railroad it through, then I
[25] think it ought to be put out to the people to vote.

[1] And regardless of what they decide, maybe it should
[2] be. I don't know, I'm not a constitutional scholar,
[3] none of that. But it's a privilege to be here and
[4] to speak. And that's what I say.
[5] COMMISSIONER CORRADINO: Thank you. Noelle
[6] Dielman is the next speaker to speak Against. Is
[7] Noelle here? Please come to this mike. Maureen.
[8]
[9] MS. KEENEN: My name is Maureen Keenen. I
[10] live at 1708 Fernwood Avenue in the B District. I'm
[11] here to tell my story because the law as it stands
[12] in the county and the laws that used to stand in the
[13] city did not work for me.
[14] I was working in 1996 at a company
[15] that investigates and negotiates medical malpractice
[16] cases for major health care corporations. At my six
[17] month review, I was given a fantastic review and a
[18] ten percent salary increase. In the eighth month, a
[19] new supervisor came on. In the ninth month, my
[20] secretary inadvertently and without malice mentioned
[21] that I was a lesbian.
[22] In the tenth month, I received no
[23] communication verbally from my supervisor, but
[24] instead notes in my case files that critiqued things
[25] that had never been critiqued before. Those notes

[1] were carbon copied to the president of the company
[2] in New Jersey. Those notes persisted with no verbal
[3] communication. Every time I was out of the office,
[4] I would come back to those notes.
[5] The verbal communication I did
[6] receive consisted of, "I know you belong to that
[7] Fairness organization and I know that those laws are
[8] going to pass one day, but it shouldn't. Because if
[9] it does, gay people would be allowed in the schools
[10] with kids. I'm not judging gay people, God will
[11] judge them them in hell. I understand that gay
[12] people have sex with people of the same sex and the
[13] opposite sex, do you? I know that you're in a
[14] committed relationship, you say, but don't you also
[15] have sex with men? Come on, you can tell me."
[16] This was in the workplace, this was
[17] from my supervisor. There were four people in the
[18] office, she was the only person above me. I
[19] petitioned the corporate office in New Jersey
[20] because we had a discrimination policy that said
[21] discrimination against sexual - or on the basis of
[22] sexual orientation is against company policy. When
[23] I talked to the corporate office, they said we
[24] deeply regret that the best we can do is explain to
[25] this woman that this is our policy. She will not

(1) receive a written reprimand, she cannot be fired.
(2) So I had no choice but to leave. They could not
(3) guarantee me in any way that the environment would
(4) be any less hostile.

(5) That is a two minute version of my
(6) story. My story and the story of anyone else who
(7) has been discriminated against is a good deal
(8) longer. We can't in three minutes relate to you the
(9) hell that we've lived through. Whether that kind of
(10) hell is intended by the people you see here or not
(11) really isn't relevant to me. That hell gets worse
(12) with every time I have to come here.

(13) To say that it's inappropriate to
(14) come talk about this, I could not agree more,
(15) because it's my personal life that's under a
(16) microscope, it is my personal life that's being
(17) attacked. It is the hell I'm living through because
(18) someone feels inconvenienced by my need for human
(19) and civil rights. I urge you to pass this law, not
(20) just to protect me and my people, but my brothers
(21) and sisters of color, of disability, of age. Thank
(22) you.

(23) **COMMISSIONER CORRADINO:** Thank you,
(24) Maureen. After Noelle, we've got Alicia Pedreira.
(25) Alicia, if you can come to this mike, I'd appreciate

Page 23

(1) it.

(2)
(3) **MS. DIELMAN:** Good evening. My name is
(4) Noelle Dielman. I live at 4635 Southcrest Drive in
(5) Louisville. And I'm not going to quote from the
(6) Bible this evening because I believe that probably
(7) you're going to hear from some people who will. But
(8) I do want to quote something that came from Samuel
(9) Adams, who was one of our founding fathers, a man
(10) who came from tyranny and who is considered the
(11) Father of the American Revolution. And he said, a
(12) general dissolution of principles and manners will
(13) more surely overthrow the liberties of America than
(14) the whole force of the common enemy.

(15) What he was referring to when he
(16) referred to principles and manners, are the
(17) principles of the Bible. And I can tell you that we
(18) have reached the point where liberties are being
(19) trampled. I'm talking about the liberties of
(20) business owners, people who pour their money into
(21) starting a business, many times their life savings,
(22) own that business, they should have the right to
(23) hire and fire at will. You're putting an employer
(24) in great jeopardy by passing this so called Fairness
(25) ordinance in the county, and I'll explain why.

Page 24

(1) If you have a man who is sexually
(2) harassing women, you can fire him, as rightly you
(3) should. If you don't fire him, you are open to a
(4) lawsuit. However, if you have a homosexual man
(5) sexually harassing another man, or homosexual woman
(6) sexually harassing another woman on the job, you're
(7) in the position of having to fire that person also.
(8) But if you do, the business owner is being opened up
(9) for a lawsuit. And they will claim that they were
(10) discriminated against because they were homosexual.
(11) If you don't fire that person, then you are being
(12) opened up for a lawsuit by the person who has been
(13) harassed. And I'm asking you for the sake of the
(14) business people in this county, please do not pass
(15) this ordinance. Owners of businesses pour their
(16) life into their work, pour their life into their
(17) businesses. Please don't take away their right to
(18) have good employees.

(19) Now, let me explain something. If
(20) an employer chooses to fire someone for the plain
(21) and simple fact that they're homosexual, it's the
(22) businessman's loss. If he has a good employee and
(23) he's going to fire them for that reason, it's his
(24) loss. That fired employee can go to the competition
(25) and offer their skills to the next man or the next

Page 25

(1) business owner. And I thank you for listening to me
(2) this evening.

(3) **COMMISSIONER CORRODINO:** Thank you very
(4) much, Ma'am. Following Alicia Pedreira, we'd like
(5) Mike Alzman. Alicia.

(6)
(7) **MS. PEDREIRA:** Good evening. My name is
(8) Alicia Pedreira. I live at 1128 Charles Street in
(9) the B District. And many of you have probably heard
(10) my story. I was fired from Kentucky Baptist Homes
(11) For Children, simply because I was gay, something
(12) that I had told before I was hired in the
(13) interviewing process. And I won't go through the
(14) whole story because it takes longer than three
(15) minutes.

(16) However, my story is a little
(17) different than most people that I know who have been
(18) fired from their jobs, because, one, my employer was
(19) willing to say that they fired me solely on that
(20) basis and, two, is that I talked about it. Because
(21) most employers won't fire someone directly and say
(22) well, I'm going to fire you because you're gay, get
(23) out. They're going to say no, you're not doing a
(24) good job, you're not doing excellent work like
(25) you're supposed to be. They'll come up with the

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In The Matter Of:

*Public Hearing
Proposed Fairness Ordinance*

*Various Speakers
Vol. 1, May 6, 1999*

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[7] THE PUBLIC HEARING ON THE PROPOSED FAIRNESS
[8] ORDINANCE HELD AT THE SHIVELY CITY HALL, 3920 DIXIE
[9] HIGHWAY, LOUISVILLE, KENTUCKY, ON MAY 6, 1999.
[10]
[11] APPEARANCES
[12]
[13]
[14] JOE CORRADINO
OFFICE OF THE COUNTY COMMISSIONER, B DISTRICT
[15] 203 JEFFERSON COUNTY COURTHOUSE
LOUISVILLE, KENTUCKY 40202-2817
[16]
STUART ADAMS
[17] COUNTY ATTORNEY'S OFFICE
531 COURT PLACE
[18] LOUISVILLE, KENTUCKY 40202
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[1] it. Thank you.
[2] **COMMISSIONER CORRADINO:** Thank you, Ma'am.
[3] On this microphone is Mister Howard, Alex Howard.
[4] Dan Farrell.
[5] **DAN FARRELL:** Commissioner Corradino, thank
[6] you for your time and for giving the deliberate
[7] consideration to the issue of discrimination in our
[8] community. As you know, on January 26th of this
[9] year the City of Louisville passed historic
[10] legislation that prohibited employment
[11] discrimination on the basis of sexual orientation
[12] and gender identity. Now Jefferson County Fiscal
[13] Court is considering similar legislation.
[14] The law passed by the city was a
[15] good first step, but discrimination against lesbian,
[16] gay, bisexual and transgendered people does not
[17] begin and end in the workplace. This is why tonight
[18] I challenge you and Fiscal Court to do more.
[19] Housing discrimination is prevalent
[20] in our community. Dozens of people have told the
[21] Fairness campaign about being denied housing or
[22] being evicted because of their sexual orientation or
[23] gender identity.
[24] In October of 1997, in response to
[25] the growing number of these complaints, the campaign

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[1] and lesbian couples, but not to the heterosexual
[2] couples. One such rule was that the gay couple was
[3] told that they only rent to married couples, while
[4] the heterosexual couple was not told that, even
[5] though the managers knew that they were not
[6] married.
[7] With this blatant evidence - not
[8] inuendo, not rumor, but evidence - I ask that
[9] Fiscal Court enact legislation to prohibit
[10] discrimination in housing on the basis of sexual
[11] orientation and gender identity. Thank you,
[12] Commissioner.
[13] **COMMISSIONER CORRADINO:** Thank you, Mister
[14] Farrell. Folks, there are a few chairs up in the
[15] front. You're welcome to join us up in this area,
[16] taking chairs that are next to where we're sitting,
[17] if you so desire. There are a few chairs up in here
[18] and these brown chairs, you're welcome to sit at.
[19] And we're going to ask Reverend Crysler to step to
[20] this microphone. Mister Howard, begin, please.
[21] **ALEX HOWARD:** Yes, I am Reverend Howard
[22] and I come to speak against the Fairness Act as far
[23] as going to set up a special law, because all of us
[24] are treated equally under the law, or supposed to
[25] be, on things that happen on an individual level.

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[1] began working with other fair housing advocates to
[2] create a discrimination testing program.
[3] Discrimination testing is a widely used, legally
[4] acceptable method of determining the merit of
[5] discrimination claims. It is currently used
[6] throughout the country to test housing
[7] discrimination for bias against race, sex,
[8] disability, age, and familial status.
[9] The way it works is that two
[10] applicants go to the same landlord, two applicants
[11] that are the same except for one distinct
[12] characteristic, what's being tested for. What we
[13] did in this case is that we did our own test. In
[14] each test, a heterosexual couple first requested a
[15] one bedroom apartment in an apartment complex.
[16] Following within thirty minutes, a gay or lesbian
[17] couple went to the same complex and asked for a one
[18] bedroom apartment.
[19] Almost all of these apartments that
[20] were tested were located right here in the C
[21] District. The results were disheartening. Four of
[22] the six apartment complexes tested denied equal
[23] housing to the gay or lesbian couple, based solely
[24] on their sexual orientation. In all cases, the
[25] apartment complex had a rule that applied to the gay

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[1] And according to the word of God,
[2] homosexual action is an abomination of his law. So
[3] what it is, is we are not against the practice, and
[4] we are not trying to keep anyone from work, we are
[5] not trying to keep anyone from fair housing, because
[6] we realize that everyone needs a place to stay and
[7] everyone needs a job.
[8] But also, we have to realize that we
[9] have children and we have grandchildren that are
[10] coming up within the community, and with the - I
[11] have had friends to die from AIDS and the AIDS is
[12] real popular among the black community. And because
[13] once they contract AIDS, there is nothing - they
[14] are not able to afford the money to buy the medicine
[15] to keep them alive.
[16] So if we are going to say it's all
[17] right for a man to be with a man and it's all right
[18] for a woman to be with a woman, then we are just
[19] throwing out the rules of God because when God
[20] created heaven and earth, he created - when he
[21] created man, he created man and woman, and he told
[22] them to go be fruitful and multiply.
[23] He has never - and there's nowhere
[24] in the holy writ where he has said that it's okay
[25] for a man to be with a man or it's okay for a woman

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In The Matter Of:

*Public Hearing on Proposed
Fairness Ordinance*

*Hearing Volume Number 1
June 10, 1999*

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 [2] OFFICE OF THE COUNTY COMMISSIONER, "B" DISTRICT
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 [8] JUNE 10, 1999
 [9]
 [10]
 [11] ATHERTON HIGH SCHOOL
 3000 DUNDEE ROAD
 LOUISVILLE, KENTUCKY
 [12]
 [13]
 [14]
 [15]
 [16]
 [17] TAKEN BY: KATHY NOLD, COURT REPORTER
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[1] straighten that out. Others who want a hard copy of
[2] the transcript, just let us know and we'll provide
[3] that to you.

[4] So I'm going to begin and ask the
[5] first person, and we'll start with those who have
[6] signed up on the Against sheet to speak from that
[7] roster, and those that want to speak For here. And
[8] as we've done in the past, if we can keep two up at
[9] the same time - I know it's a little bit of a
[10] problem, but it will allow us to get through the
[11] meeting fairly quickly. So I'm going to leave this
[12] mike - I can yell pretty loudly. I can yell the
[13] name and I'm sure you'll hear me, but so these two
[14] mikes do and will work. Okay.

[15] The first person is Chris VanMeter.
[16] He will speak to this microphone and then Johnnie
[17] Hardin will speak at this microphone. But Chris,
[18] you'll go first, okay. Three minutes, please.

[19] CHRIS VANMETER: Okay, thank you. One,
[20] two, okay. Make sure it works here. I didn't know
[21] I was going to have three minutes, I was thinking I
[22] was going to have about thirty seconds. So I guess
[23] I'll speak from my heart. For one, I'm against this
[24] bill to be passed and I am a youth minister in town
[25] and I do have my set of morals that I believe, and

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[1] people, and God loves them, but his word does say
[2] it's sin. I am a sinner just as much as they are a
[3] sinner, but I have been forgiven by asking Jesus
[4] Christ to forgive me of my sins. And his word does
[5] say that Jesus came to die for those. And if we
[6] confess our sins, he will forgive us of our sins.

[7] I don't know how much time I have
[8] left, I guess you'll let me know when I get to one.
[9] Thank you, Brother, thank you. The thing I don't
[10] want to see happen - thank you, sir.

[11] I don't want to see this get
[12] accepted into the schools, but I do understand
[13] separation of church and state. But I do not want
[14] my children in the future, someone telling them this
[15] is an acceptable life-style. It's different if
[16] they're in the world and they pick up on it there,
[17] but I don't want it to be taught in school
[18] organizations or from people that work with children
[19] to be able to openly express their feelings about
[20] this to my children. I believe it's up to us in our
[21] homes to raise our children in the way they should
[22] know and as the Bible says, when they grow older,
[23] they'll not depart from it. And I believe a lot of
[24] things that have happened and gone wrong in this
[25] country have been in the breakdown of the home. We

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[1] one being the Bible being one hundred percent true.

[2] So God's word does tell us that this
[3] life-style is not acceptable in his eyes. And
[4] there's a lot of people who can argue with what the
[5] word and what it says and how it's been interpreted,
[6] but there are countless times in the word, cities
[7] like Sodom and Gomorrah that have been destroyed
[8] because of their life-style, and other instances
[9] where God said it was not acceptable. And just like
[10] if you were in the Garden of Eden, where you had man
[11] and woman and they procreate their own kind.

[12] I guess aside from the Bible, if you
[13] want to look at it in this aspect, is this little
[14] precious one here, my son. He would not have been
[15] able to be created if there was not a man and woman
[16] together. And the people who are here for the bill
[17] being passed, of the Fairness Ordinance, they
[18] themselves would not even be here if it was not for
[19] a male and female together, to create them
[20] themselves.

[21] So if we look at it in that respect,
[22] how can we even be here to grow as a society in the
[23] future and to have children and grandchildren and to
[24] cultivate as human beings? So I guess from that
[25] aspect, and back to the Bible, is that I love these

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[1] need to concentrate on our homes and our families
[2] and not make our jobs and careers number one, but
[3] our families, because they are our future. Thank
[4] you and God bless.

[5] COMMISSIONER CORRADINO: Thank you, Mister
[6] VanMeter. Johnnie Hardin is going to speak next and
[7] we'll ask Rita Haag, I believe it is, H-A-A-G, to
[8] please step to this microphone or sit in the seat
[9] close to the microphone. Mister Hardin.

[10] JOHNNIE HARDIN: Thank you very much. I
[11] appreciate everyone here who are speaking tonight.
[12] First, I would like to say that no person is without
[13] sin. And I do love all of you as well. We are all
[14] sinners on a daily basis. The only way you can be
[15] without sin is to be called home. You have not been
[16] called home yet so you are indeed a sinner. Your
[17] child may grow up to be gay one day, you don't
[18] know.

[19] But I want to get back to why this
[20] is so important to protect this child as well, being
[21] straight or gay. And the reason is, I work in a
[22] salon in St. Matthews, have been there for three
[23] months, had a return clientele of eighty-two
[24] percent. The manager only had a return clientele of
[25] twenty percent. Someone - I was living in the

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[1] closet – told the manager, through a friend,
[2] through a friend, that I was gay in my private
[3] life.
[4] They went to the manager of the Mall
[5] itself and they got together and came to me and said
[6] you're a good hairdresser, you're a good person, we
[7] found out you're gay, we can't have this in St.
[8] Matthews. A lot of gay people live in St. Matthews,
[9] believe me. Luckily, through the love and support
[10] of my mother, as a young boy was told by my aunt, do
[11] you realize Johnnie is different. My mother said
[12] yes. She said what are we going to do, my aunt did,
[13] and my mother said we're going to love him that much
[14] more because he has a harder road to travel.
[15] My mother just died last year. I
[16] took care of her for the last five years of her
[17] life. I agreed to take care of my stepfather now,
[18] who is eighty-two, because his straight children did
[19] not want him. They wanted his money every month,
[20] but not him. I also take care of my husband's
[21] mother, who we just bought a home two doors down
[22] from ours so that we can take care of her as well.
[23] If I didn't have a job, I couldn't take care of my
[24] family.
[25] My family is at my home each and

[1] labels for those of us who oppose a sinful perverted
[2] behavior so we can appear wrong or bad. If you
[3] oppose them, you're called homophobes, mean
[4] spirited, full of hate. They endorse a cause that
[5] considers gay and lesbians living an alternate
[6] life-style in domestic partnerships.
[7] Gay parades endorse sexual
[8] perversion and orgies in the streets. God calls
[9] them sodomites and fornicators for practicing sin.
[10] He also calls them an abomination. That's in
[11] Leviticus 18, 22. Isaiah 5, 20 states, woe to them
[12] that call evil good and good evil, that puts
[13] darkness for light and light for darkness.
[14] Something you are considering doing.
[15] Proverbs 6, 16 to 17, states, these
[16] six things the Lord hates, yeah, seven are an
[17] abomination to him, a proud look, a lying tongue, a
[18] hand that sheds innocent blood. If you allow this
[19] to become law in Jefferson County, the blood of
[20] every child destroyed, whether body, soul or spirit,
[21] at the hands of the homosexual, will be on your
[22] hands. You can stop this if you so choose. You can
[23] make special rights for sodomites legal, but you
[24] will never make it right or moral or acceptable in
[25] God's sight.

[1] every weekend. His family, every single weekend.
[2] That is what family values is all about, being a
[3] family and supporting one another. When I was
[4] fired, I couldn't get my unemployment. I was told,
[5] because I was fired legally. My mother had just had
[6] her first heart attack, was totally disabled, she
[7] got three hundred and forty-two dollars a month. I
[8] don't know if any of you all could live on that. If
[9] I had not had a job, I could not help her. She
[10] raised eleven children by herself, making a dollar
[11] thirty-three cents an hour. Support this bill, it
[12] is going to support everybody's family throughout.
[13] Thank you.
[14] COMMISSIONER CORRADINO: Yes, sir. The
[15] next person who will speak at this microphone For is
[16] Jennifer Post and we'll now listen to Rita Haag.
[17] Thank you. State your name just for the record.
[18] RITA HAAG: My name is Rita Haag. When I
[19] became a christian, I realized God only decided what
[20] was good or bad, righteousness or sin, acceptable or
[21] unacceptable to him. It is not for me to decide.
[22] He has laid out absolutes in his word that mandates
[23] to society what is right and wrong so we can't do
[24] what we want and have society condone it. The
[25] homosexual community has used negative emotional

[1] You, Mister Corradino, have a very
[2] important decision to make. I hope for your sake
[3] you make the right one. Galatians 6, 7, states, be
[4] not deceived, God is not mocked. For what sort of a
[5] man soweth, that shall he also reap. Is this really
[6] what you want for your community, for your
[7] grandchildren and for the children and grandchildren
[8] of your family and friends? Thank you.
[9] COMMISSIONER CORRADINO: Thanks, Ms. Haag.
[10] After Ms. Haag will be Tom Elbert, coming to the
[11] microphone on your right. Tom Elbert. Ms. Post.
[12] JENNIFER POST: I support the Fairness
[13] Ordinance for the county. The reason I support the
[14] ordinance is because I feel every person who works
[15] should be protected against discrimination in the
[16] workplace. I speak from experience as a postop
[17] transsexual who has experienced harassment in the
[18] workplace, such as name calling and being ostracized
[19] by coworkers, which in turn caused me to be treated
[20] by a psychiatrist for job-related stress. After
[21] reporting these incidents to management, I was told
[22] to get a thick skin, if you can't take the heat, get
[23] out of the kitchen.
[24] As a taxpayer, I feel I should get
[25] the same protection as everyone else in the

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