

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

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**Chelsey Nelson Photography LLC  
and Chelsey Nelson,**

Plaintiffs,

v.

**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-Enforcement; and **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,

Defendants.

**Case No. 3:19-cv-00851-BJB-CHL**

**Plaintiffs' Supplement to Their  
Motion to Compel Discovery and  
Response to Defendants' Motion for  
Protective Order**

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## Introduction

About three months ago, Plaintiffs Chelsey Nelson Photography and Chelsey Nelson (collectively Chelsey) moved to compel Louisville to produce certain documents and information relevant to show whether Louisville could use its public accommodation law to force Chelsey to speak messages about marriage she disagreed with. *See* Pls.' Mot. to Compel Discovery ("MtC"), ECF No. 63. Now, after depositions last week, Louisville has doubled down on defending its law by citing past allegations of discrimination, past applications of its law, and an alleged compelling interest to enforce its law. *See id.* at 2-3, 6-13, 19-21, ECF No. 63 (moving to compel and outlining Louisville's arguments). During these depositions, Louisville disclosed that it will justify its alleged need to regulate Chelsey by relying on discrimination complaints from the 1980's and all past employment, housing, and public accommodations complaints. Ex. 7; Excerpts of 30(b)(6) Deposition, attached to Motion to Supplement as Ex. 8, at 182-83, 187-92, 212-13, 228-30. Meanwhile, Louisville has only produced one case file and no comprehensive statistics about these past incidents. And none of Louisville's witnesses could answer questions about past cases or statistics because they had not reviewed any case files or statistics.

Louisville should not be allowed to play a shell game by citing enforcement history and past complaints to defend against Chelsey's claims while denying Chelsey any access to this information. As the recent depositions show, Chelsey's earlier motion to compel should be granted and Chelsey should be permitted to re-depose Louisville's 30(b)(6) witness about Louisville's case files, enforcement statistics, and supplemental discovery responses.

## Supplemental Background

The following background supplements the information Chelsey provided in her motion to compel. *See* MtC at 1-4.

This Court set a new fact-discovery deadline on May 31, 2021, *see* Order, ECF No. 75, and Chelsey scheduled to depose Louisville’s witnesses in late May to meet this deadline. In early May, Chelsey sent a Federal Rule of Civil Procedure 30(b)(6) (“30(b)(6)”) deposition notice to Louisville and set that deposition for May 25, 2021. Bryan D. Neihart’s Decl. in Supp. of Pls.’ Suppl. to Their Mot. to Compel and Resp. to Defs.’ Mot. for Protective Order (“Decl.”) ¶ 6. On May 17, Chelsey sent her final 30(b)(6) deposition notice. *Id.* at ¶ 7.

But well before that final notice, Chelsey had already sent a similar 30(b)(6) notice to Louisville in February, two in March, and one in April to give Louisville time to review documents and prepare its witness.<sup>1</sup> *Id.* at ¶ 3-5. Because Louisville defends its law by citing to past incidents of discrimination, past applications of its law, and an alleged compelling interest in enforcing its law, *see* MtC at 1-3, Chelsey’s 30(b)(6) notices addressed these topics. *See* Exs. 2, 6. Louisville never objected to any of these 30(b)(6) topics. Decl. ¶ 9.

On May 25, Chelsey’s counsel deposed Louisville’s 30(b)(6) witness, Kendall Boyd, the former Executive Director of Louisville Human Relations Commission’s (“Commission”). Ex. 8. But Boyd did not review any case files, meeting minutes, or annual reports published by the Commission for his deposition. *Id.* at 14. He also did not review any of the case files for the noticed cases. *Id.* at 225-26 (asking about preparation for Topic 13). In total, he spent about “[f]ive or six hours” preparing for his deposition—including flipping through almost 1,200 pages of legislative history—at night after “watching baseball or something.” *Id.* at 14, 16.

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<sup>1</sup> The February and final notice contained mostly the same topics. *Compare* Ex. 2 with Ex. 6.

Chelsey’s counsel also deposed Boyd the next day in his personal capacity and then deposed Verná Goatley—the Commission’s current Executive Director—the next day on May 27. But when Chelsey’s counsel asked Ms. Goatley questions about her affidavit—the affidavit she signed to support Louisville’s motion for a protective order—she admitted she was not personally aware of most of the things she swore to. *See* Excerpts of Verná Goatley Deposition, attached to Motion to Supplement as Ex. 10, at 123-32; *infra* § II(B) (detailing this lack of knowledge).

Meanwhile, at the deposition two days before, Louisville’s 30(b)(6) witness testified that Louisville relies on “the continuous complaints we receive in our office” and “[a]ny discrimination, race-based or otherwise” as a basis for applying Louisville’s law against Chelsey. Ex. 8 at 187-92; *See also id.* at 182-83. Information about these complaints were “[a]bsolutely” contained in the case files. *Id.* at 191. Louisville’s 30(b)(6) witness also testified that Louisville is “relying on discrimination that occurs in those areas, whether it’s employment, housing, ... or public accommodation” for its compelling interest. *Id.* at 212-13. And at the tail end of the 30(b)(6) witness’s deposition, Louisville stated that its alleged compelling interest is also supported by Commission reports from 1981-1993, which reference employment, housing, and public accommodations cases. *Id.* at 230. *See also* Ex. 7 (excerpts of reports). Louisville produced these reports a few days before the 30(b)(6) depositions. Decl. ¶ 10.

But none of Louisville’s witnesses could answer questions about enforcement statistics, past applications of Louisville’s law, past incidents of discrimination, or Louisville’s alleged compelling interest without looking at documents with these statistics or case files. In other words, the witnesses needed to see the documents Chelsey asked Louisville to produce. *See* MtC at 4 (requesting Louisville to produce case files and statistics referenced in RFP’s 1-58).

Louisville’s witnesses also could not answer questions about statistics without seeing documents containing those statistics. Chelsey asked Louisville’s 30(b)(6) witness about enforcement statistics from 2004 to the present, including complaints alleging sexual-orientation discrimination against public accommodations. Ex. 8 at 176-77. The witness didn’t know them. To answer, he would “have to have somebody pull all that together to give you a total number.” *Id.* at 177. The witness also didn’t know how many complaints had been filed “this year” or “last year.” *Id.* at 188-89. He said the “new director” (meaning Ms. Goatley) “would know that information.” *Id.* at 188. But Ms. Goatley did not know that information either—she “would have to look that up.” Ex. 10 at 27, 32, 137.

Louisville’s witnesses also could not answer questions about previous incidents of discrimination or how Louisville applied its law without reviewing the case files. For example, Louisville’s 30(b)(6) witness did not know information about conciliation agreements published in the Commission’s public annual reports without reviewing “the documents inside the file itself.” Ex. 8 at 151-54. *See also id.* at 154-58 (“I wouldn’t know anything about that particular cause of action without having to look at the file as to how it originated or what the final conciliation agreement was.”). And Louisville’s 30(b)(6) witness could not recall information from two sexual-orientation complaints that proceeded to a hearing “[w]ithout having the file in front of me.” *Id.* at 138-41<sup>2</sup>.

During his personal deposition, Mr. Boyd did not know any specifics about conciliation agreements that he approved, and he did not even know if he had ever signed off on agreements that involved public accommodations. Excerpts of Kendall Boyd Deposition, attached to Motion to Supplement as Ex. 9, at 50-52. And he could not recall any specific instances when he made reasonable-cause or no-reasonable-

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<sup>2</sup> To comply with parties’ confidentiality agreement, we have redacted certain information in this deposition transcript.

cause determinations in cases involving employment or public accommodations “without going back and reviewing any and all case files.” Ex. 9 at 72. Mr. Boyd testified that he would need to review the case files to explain the reasoning behind conciliation agreements and reasonable-cause determinations. *Id.* at 72-74.

Invoking similar responses, Ms. Goatley did not know information about when she dismissed complaints, who filed particular complaints with the Commission during her tenure, why she approved conciliations, or when she issued probable-cause determinations. Ex. 10 at 36, 78-88, 90-91. To recall this information, Ms. Goatley would have to “look at the document” or “review what I have signed off on.” *Id.* at 88, 91.

And even if the witnesses might have known about previous discrimination cases, they were often instructed not to answer due to “confidentiality restrictions.” Ex. 8 at 152-53. *See also* Ex. 9 at 51, 123-25; Ex. 10 at 78-83.

The witnesses were even confused about the status of particular cases without the records in front of them. For example, in a public accommodations complaint filed under Louisville’s law against a restaurant (Scooter’s Triple B’s), Louisville’s 30(b)(6) witness said “[y]ou would have to ask the [current Commission] where they are on that.” Ex. 8 at 147. Then during his personal deposition, Boyd said he did not “know what ultimately came out from that complaint” even though he brought the incident to the enforcement board’s attention when he was executive director, Ex. 9 at 119. But Ms. Goatley said she did not “know anything ... about the case.” Ex. 10 at 101. She said that the complaint would have been “Mr. Boyd’s responsibility.” Ex. 10 at 101-10.

### **Certificate of Conferral**

The parties’ counsel made good faith efforts to resolve this dispute. MtC at 4 (detailing attempts to resolve the disputes). Louisville still objects to Chelsey’s

motion to compel. And Louisville currently objects to re-deposing its 30(b)(6) witness (although Louisville indicated its position may be influenced by whether it is required to produce the documents and information Chelsey requests).

### **Argument**

Louisville should be compelled to produce the case files and statistics Chelsey requested. Then Chelsey should be able to re-depose Louisville's 30(b)(6) witness about these documents. To effectively litigate her claims, Chelsey must have access to and question Louisville officials about the very documents Louisville is relying on for its defense.

**I. Louisville's 30(b)(6) witness testimony and its reliance on annual reports from the 1980's proves Louisville should be compelled to produce documents responsive to RFP numbers 1-58.**

Since Chelsey moved to compel and responded to Louisville's protective order, it has become even more apparent that the documents responsive to RFP numbers 1-58 (case files and statistics) are (A) relevant and (B) not overly burdensome to produce. *See* MtC at 5-13, 17-19 (making this point); Pls.' Resp. to Defs.' Mot. for Protective Order ("MPO") at 2-4, 10-14, ECF No. 65 (same). And "confidentiality laws" do not give Louisville an across-the-board excuse to produce nothing, as Chelsey has already explained. *See* MtC at 14-16 (making this point and providing alternatives); Pls.' Resp. to MPO at 4-10 (same).

**A. RFP numbers 1-58 are relevant because Louisville relies on all past discrimination complaints to support its alleged compelling interest in this case.**

Louisville's 30(b)(6) witness testified that all past complaints of discrimination in employment, housing, and public accommodations justify its alleged compelling interest in applying its law to Chelsey. *See* Ex. 8 at 182-83, 187-92, 212-13. The information about past complaints is "[a]bsolutely" in Louisville's

case files. *Id.* at 191. And Louisville now relies on statistics and discrimination complaints from the 1980's and 1990's to support its compelling interest too. *Id.* at 230; Ex. 7. So under Louisville's own legal theory, Louisville believes that past discrimination complaints are relevant. Otherwise, Louisville would not rely on them to support its interest.

But none of the witnesses could answer questions about these past complaints or about statistics about complaints without reviewing the case files or the actual statistics. *See* Ex. 8 at 138-41, 145, 151-58, 177; Ex. 9 at 50-52, 72-74; Ex. 10 at 6, 27, 32, 78-88, 90-91, 137. So Chelsey needs these case files and statistics to test Louisville's compelling-interest argument, among other reasons. *See* MtC at 6-13. Louisville cannot rely on all past complaints of discrimination to support its compelling interest, then hide documents with that information, and then offer witnesses who do not know the specifics about those documents or the information contained in those documents.

**B. RFP numbers 1-58 are not overly burdensome because Louisville depends on cases and information from the 1980's.**

Chelsey's request for case files and statistics from the 2000's is "proportional to the needs of the case." Fed. R. Civ. P. 26(b)(1). *See* MtC at 6-13, 19-21; Pls.' Resp. to MPO at 10-13. This is now especially true because Louisville relies on all past complaints of discrimination (including complaints more than 40 years old) to support its alleged compelling interest in applying its law to Chelsey. Ex. 7; Ex. 8 at 182-83, 187-92, 212-13, 228-30.

Plus, Louisville has failed to prove that Chelsey's request is burdensome. Pls.' Resp. to MPO at 10-13. To try to prove its burden, Louisville cited Ms. Goatley's affidavit. *See id.* This failed to show an undue burden then. *Id.* But to make matters worse now, Ms. Goatley has admitted in her deposition that she has never knew most of the things she swore to in her affidavit. For example, Ms. Goatley admitted

she has never knew how the Commission has organized its case files, what documents the Commission includes in its case files, what documents are organized in paper versus electronic form, how archives organizes its files, or how long documents remain at the Commission before being sent to archives. Ex. 10 at 124-27, 131-33. What she did know contradicted her affidavit. Ms. Goatley testified that “[i]t could take a couple of days to a couple of weeks” to retrieve documents from archives, *id.* at 127, not “2-4 weeks,” Verná Goatley Affidavit ¶ 7. In short, Louisville cannot rely on this deficient affidavit to demonstrate burden. *Cf. France v. Lucas*, 836 F.R.D. 612, 622 (6th Cir. 2016) (explaining that under the sham affidavit doctrine, in the summary judgment context, affidavits directly contradicting sworn testimony should be stricken). And Louisville has not offered any other evidence of burden. *See* Pls.’ Resp. to MPO at 10-13. *See also Little Hocking Water Assn., Inc. v. E.I. Du Pont Nemours & Co.*, 2013 WL 608154, at \*19 (S.D. Ohio Feb. 19, 2013) (“Where there is no evidence that searching for responsive documents in the files of the P & S group imposes a burden on DuPont, the Court cannot conclude, under these circumstances, that DuPont has fulfilled its discovery obligations.”).

**II. Chelsey should be allowed to re-depose Louisville’s 30(b)(6) on the limited issue of the content of RFP numbers 1-58 if produced.**

To comply with the new fact-discovery deadline, Chelsey deposed Louisville’s witnesses without the documents she requested. If Louisville is required to produce these documents, Chelsey requests an opportunity to re-depose Louisville’s 30(b)(6) witness after reviewing those documents. The court “must grant leave to [reopen the deposition] to the extent consistent with Rule 26(b)(1) and (2).” Fed. R. Civ. P. 30(a)(2). And re-deposing Louisville’s 30(b)(6) witness is appropriate here because witnesses could not answer (or were instructed not to answer) questions about enforcement statistics, past discrimination complaints, and past application of

Louisville's law. See *Troutman v. Louisville Metro Dep't of Corr.*, 2018 WL 3041079, at \*4-5 (W.D. Ky. June 19, 2018) (Lindsay, J.) (permitting re-deposition of a witness on certain unanswered topics). Courts routinely grant requests to re-depose witnesses after more documents are produced after the original deposition. See *Builders Insulation of Tennessee, LLC v. Southern Energy Solutions*, 2020 WL 265297, \*9 (W.D. Tenn. Jan. 17, 2020); *Miller v. Federal Express Corp.*, 186 F.R.D. 376, 389 (W.D. Tenn. 1999); *ADT Services AG v. Brady*, 2012 WL 12828182, \*2 (W.D. Tenn. Jan. 20, 2012); *Laethem Equipment Co. v. Deere and Co.*, 2007 WL 2897848, \*10 (E.D. Mich. Sept. 28, 2007); *Disney v. State Farm Life and Cas. Co.*, 2004 WL 784509, \*2 (W.D. Tenn. Feb. 26, 2004). Chelsey should be given the same chance here.

### **Conclusion**

For the reasons stated in Chelsey's previously filed motion and response and the additional reasons in this supplement, Chelsey respectfully asks this Court to order Louisville to produce the requested case files, statistics, and information and to make a 30(b)(6) witness knowledgeable about documents produced available for re-deposition.

Respectfully submitted this 1st day of June, 2021.

By: s/ Bryan D. Neihart

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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 1, 2021, I electronically filed the foregoing document with the Clerk of Court and that the foregoing document will be served via the CM/ECF system on all counsel of record.

By: s/ Bryan D. Neihart

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

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**Chelsey Nelson Photography LLC  
and CHELSEY NELSON,**

Plaintiffs,

v.

**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-Enforcement; and **Marie  
Dever, Kevin Delahanty, Charles  
Lanier, Sr., Leslie Faust, William  
Sutter, Ibrahim Syed, and Leonard  
Thomas,** in their official capacities as  
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Human Relations Commission-  
Enforcement,

Defendants.

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**Case No. 3:19-cv-00851-BJB-CHL**

**Bryan D. Neihart's Declaration in  
Support of Plaintiffs' Supplement  
to Their Motion to Compel  
Discovery and Response to  
Defendants' Motion for Protective  
Order**

I, Bryan D. Neihart, declare as follows:

1. I am over the age of eighteen and competent to testify, and I make this declaration based on my personal knowledge.
2. I am one of the attorneys representing Plaintiffs Chelsey Nelson Photography LLC and Chelsey Nelson in this litigation.
3. On February 22, 2021, March 12, 2021, and March 30, 2021, Plaintiffs served via email their 30(b)(6) Notice of Deposition of the Louisville/Jefferson County

Metro Government, First Amended Notice of Deposition of the Louisville/Jefferson County Metro Government, and Second Amended Notice of Deposition of the Louisville/Jefferson County Metro Government, respectively. Attached as Exhibit 1 are true and accurate copies of those emails.

4. Attached as Exhibit 2 is a true and accurate copy Plaintiffs' Notice of Deposition of the Louisville/Jefferson County Metro Government sent on February 22, 2021.

5. On April 19, 2021, Plaintiffs served via email their Third Amended Notice of Deposition of the Louisville/Jefferson County Metro Government. Attached as Exhibit 3 is a true and accurate copy of that email.

6. On May 7, 2021, Plaintiffs served via email their Fourth Amended Notice of Deposition of the Louisville/Jefferson County Metro Government and set Defendants' 30(b)(6) deposition for Tuesday, May 25, 2021. Plaintiffs also served via email deposition notices for Kendall Boyd and Verna Goatley. Exhibit 4 is a true and accurate copy of that email.

7. On May 17, 2021, Plaintiffs served via email their Fifth Amended Notice of Deposition of the Louisville/Jefferson County Metro Government. Exhibit 5 is a true and accurate copy of that email.

8. Attached as Exhibit 6 is a true and accurate copy Plaintiffs' Fifth Amended Notice of Deposition of the Louisville/Jefferson County Metro Government sent on May 17, 2021.

9. Defendants never objected to any of the topics listed in Plaintiffs' Notice of Deposition of the Louisville/Jefferson County Metro Government through Plaintiffs' Fifth Amended Notice of Deposition of the Louisville/Jefferson County Metro Government.

10. On May 20, 2021, Defendants produced documents marked LOU METRO 02013-02187. Attached as Exhibit 7 are true and accurate copies of excerpts of those records.

11. On May 25, 2021, Plaintiffs deposed Defendants' 30(b)(6) witness, Kendall Boyd. Attached as Exhibit 8 are true and accurate copies of excerpts of his deposition.

12. On May 26, 2021, Plaintiffs deposed Kendall Boyd in his capacity as the former executive director of the Louisville Metro Human Relations Commission. Attached as Exhibit 9 are true and accurate copies of excerpts of his deposition.

13. On May 27, 2021, Plaintiffs deposed Verná Goatley in her capacity as the current executive director of the Louisville Metro Human Relations Commission. Attached as Exhibit 10 are true and accurate copies of excerpts of her deposition.

**Declaration Under Penalty of Perjury**

I, Bryan D. Neihart, a citizen of the United States and a resident of the State of Arizona, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 1st day of June, 2021, at Scottsdale, Arizona.

s/ Bryan D. Neihart  
Bryan D. Neihart

# EXHIBIT 1

**From:** [Bryan Neihart](#)  
**To:** [Casey Hinkle](#); [David Kaplan](#); [Carroll, John F.](#); [Fowler, Jason D.](#)  
**Cc:** [Jon Scruggs](#); [Julie Peterson](#); [Kate Anderson](#); [Hailey Vrdolyak](#)  
**Subject:** RE: CNPvLJC 30(b)(6) deposition notice  
**Date:** Tuesday, March 30, 2021 1:01:00 PM  
**Attachments:** [2021.03.30 Plaintiffs" 30.b.6. Second Amended Deposition Notice.pdf](#)

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Counsel,

I've attached Plaintiffs' second amended 30(b)(6) deposition notice. This notice has two new topics (#s 12 and 38) based on Defendants' recent discovery responses and briefing and contains a new deposition date (April 16, 2021). Once again, the change in date accounts for the fact that the parties' discovery disputes remain unresolved. Depending on Judge Lindsay's orders on the motion to compel and the motion for extension of time, and any subsequent discovery from Defendants, we reserve the right to amend the topics and the date of the deposition.

As before, please let me know soon if you object to any of these topics so that we can try to expeditiously resolve them without additional delay.

Thank you.

Best,

Bryan Neihart

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**From:** Bryan Neihart  
**Sent:** Friday, March 12, 2021 1:23 PM  
**To:** Casey Hinkle <[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)>; David Kaplan <[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)>; Carroll, John F. <[John.Carroll2@louisvilleky.gov](mailto:John.Carroll2@louisvilleky.gov)>; Fowler, Jason D. <[Jason.Fowler@louisvilleky.gov](mailto:Jason.Fowler@louisvilleky.gov)>  
**Cc:** Jon Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Julie Peterson <[JPeterson@adflegal.org](mailto:JPeterson@adflegal.org)>; Kate Anderson <[kanderson@adflegal.org](mailto:kanderson@adflegal.org)>; Hailey Vrdolyak <[hvrldolyak@adflegal.org](mailto:hvrldolyak@adflegal.org)>  
**Subject:** RE: CNPvLJC 30(b)(6) deposition notice

Counsel,

I've attached Plaintiffs' first amended 30(b)(6) deposition notice. This notice includes the same topics as before, but the deposition date has been changed to Wednesday March 31, 2021. This accounts for the fact that the parties' discovery disputes haven't been resolved yet. As before, we reserve the right to amend the notice depending on Judge Lindsay's order.

In an effort to expeditiously resolve any disputes that might arise from the topics listed in the 30(b)(6), we would appreciate it if you could send us any objections to these topics soon. That way we can work on negotiating any of the disputed topics to potentially minimize any additional delay.

Thank you.

Best,

Bryan Neihart

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**From:** Bryan Neihart

**Sent:** Monday, February 22, 2021 2:24 PM

**To:** Casey Hinkle <[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)>; David Kaplan <[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)>; Carroll, John F. <[John.Carroll2@louisvilleky.gov](mailto:John.Carroll2@louisvilleky.gov)>; Fowler, Jason D. <[Jason.Fowler@louisvilleky.gov](mailto:Jason.Fowler@louisvilleky.gov)>

**Cc:** Jon Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Julie Peterson <[JPeterson@adflegal.org](mailto:JPeterson@adflegal.org)>; Kate Anderson <[kanderson@adflegal.org](mailto:kanderson@adflegal.org)>; Hailey Vrdolyak <[hvrldolyak@adflegal.org](mailto:hvrldolyak@adflegal.org)>

**Subject:** CNPVLJC 30(b)(6) deposition notice

Counsel,

I've attached Plaintiffs' 30(b)(6) deposition notice. I know that you are still working on getting the schedules for deposition dates, but I have nonetheless noticed the 30(b)(6) deposition for March 16, 2021. We can adjust that date once you determine the witnesses' availability, but I wanted to include a date as part of the formal notice.

We also reserve the right to add or amend topics depending on Judge Lindsay's order regarding the discovery disputes and whether Plaintiffs receive additional documents or responses based on that order. Thank you.

Best,

Bryan Neihart

# EXHIBIT 2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

**Chelsey Nelson Photography LLC,  
and Chelsey Nelson,**

Plaintiffs,

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**Louisville/Jefferson County Metro  
Government; Louisville Metro  
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Sutter, Ibrahim Syed, and Leonard  
Thomas, in their official capacities as  
members of the Louisville Metro  
Human Relations Commission-  
Enforcement,**

Defendants.

**Case No. 3:19-cv-00851-BJB-CHL**

**Plaintiffs' Notice of Deposition of  
the Louisville/Jefferson County  
Metro Government**

TO: The Louisville/Jefferson County Metro Government, by and through its  
Attorneys

John Carroll: john.carroll2@louisvilleky.gov  
Jason Fowler: jason.fowler@louisvilleky.gov  
David Kaplan: dkaplan@Kaplanjohnsonlaw.com  
Casey Hinkle: chinkle@Kaplanjohnsonlaw.com

Please take notice that counsel for Plaintiffs will take the deposition upon oral examination of the Louisville/Jefferson County Metro Government's designated witness(es) pursuant to Fed. R. Civ. P. 30(b)(6) before a certified court reporter and videographer. This deposition will take place via remote access videoconference and pursuant to the Rules of Civil Procedure on Tuesday, March 16, 2021, at 10:00am Eastern Time and will continue day to day until complete. Pursuant to Fed. R. Civ. P. 32, Plaintiffs may use all or part of this deposition for trial, hearing, or any other purpose allowed by the Rules of Civil Procedure.

The person or persons to be deposed shall be one or more of the Louisville/Jefferson County Metro Government's agents, officers, employees, directors, or other individuals who are knowledgeable with respect to the matters designated for examination.

## DEFINITIONS

1. The term “Plaintiffs” means Plaintiff Chelsey Nelson Photography LLC and Chelsey Nelson.
2. The term “Defendants” means the parties named as Defendants in *Chelsey Nelson Photography LLC v. Louisville/Jefferson County Metro Government*, 3:19-cv-00851-BJB-CHL.
3. The term “Commission” means the Louisville Metro Human Relations Commission-Enforcement and the Louisville Metro Human Relations Commission-Advocacy, and any executive director, commissioner, hearing officer, official, employee, agent, or representative of the Louisville Metro Human Relations Commission-Enforcement or the Louisville Metro Human Relations Commission-Advocacy.
4. The term “Metro” means the Louisville/Jefferson County Metro Government and any past or present member of the Metro Council, official, employee, agent, or representative of Metro.
5. The term “Louisville” means the city of Louisville, Kentucky before the merger creating Metro, the Louisville Human Relations Commission or its equivalent, and any official, employee, agent, or representative of Louisville.
6. The term “Jefferson County” means the county of Jefferson County, Kentucky prior to the merger creating Metro, the Jefferson County Human Relations Commission or its equivalent, and any official, employee, agent, or representative of Jefferson County.
7. The term “Metro Ordinance” means the ordinances in Lou. Metro Am. Ord. No. 157-2003, §§ 32.761, 32.761 and Lou. Metro Am. Ord. No. 193-2004 §§ 92.01-92.25.

8. The terms “complaint,” “complainant,” “commissioner,” “reasonable cause,” “hearing,” “hearing officer,” “appeals,” “appeal panel,” “discrimination,” “unlawful practice,” and “public accommodation” are equivalent in meaning to how that term is defined in the Metro Ordinance.

9. The term “protected characteristic” means “race,” “age,” “color,” “religion,” “national origin,” “familial status,” “disability,” “sexual orientation,” “gender identity,” and “sex” as those terms are interpreted by or defined in the Metro Ordinance.

10. The terms “Complaint,” “Exhibits 1 and 2 to the Complaint,” “Declaration of Chelsey Nelson in Support of Plaintiff’s Preliminary Injunction Motion,” “Appendix to Plaintiffs’ Brief in Support of Plaintiffs’ Preliminary Injunction Motion,” and “Supplemental Declaration of Chelsey Nelson in Support of Plaintiff’s Preliminary Injunction Motion” refer to pleadings filed in this case, *Chelsey Nelson Photography LLC v. Louisville/Jefferson County Metro Government*, 3:19-cv-00851-BJB-CHL.

11. The term “Interrogatory Response” refers to the responses contained in Defendants’ Objections and Responses to Plaintiffs’ First Set of Interrogatories and the term “Requests for Production” refers to Plaintiffs’ First Set of Requests for Production.

12. The term “Admissions” refers to the responses contained in Defendants’ Responses to Plaintiffs’ First Set of Requests for Admissions.

13. The term “including” means “including but not limited to.”

14. The term “any” includes and encompasses “all.”

15. The term “and” means and/or.

16. The term “or” means and/or.

The matters for examination of the witness(es) appearing for Defendants are the following:

1. The structure, organization, and operation of the Commission, including the identities and roles of persons involved in carrying out or determining the rules, polices, practices, criteria, procedures, trainings, or guidance identified in Topics 2-12.
2. The rules, processes, policies, practices, and procedures used by the Commission to receive written complaints alleging a violation of the Metro Ordinance, including who may file such complaints, when commissioners may file complaints based on their belief that an unlawful practice has occurred, and what actions the Commission may take when receiving complaints.
3. The rules, processes, policies, practices, and procedures used by the Commission to investigate charges alleging a violation of the Metro Ordinance, including how those investigations are conducted, who conducts those investigations, and the Commission's power to conduct investigations, to engage in mediation, settlement, conciliation, or enforcement agreements, to consult with commissioners, to issue reasonable cause determinations, and to recommend or require a formal hearing.
4. The rules, processes, policies, practices, and procedures involved in the formal adjudication of complaints alleging a violation of the Metro Ordinance, including the Commission's power to conduct a formal hearing and to administer any appeals processes, who may conduct the hearings, who may compose the appeal panel, how the person or persons who conduct this hearing or compose the appeal panel are selected, who those persons work for and are paid by, who may appear or

participate at the hearing or in the appeals process, and who may represent the Commission at this hearing or during any appeals.

5. The rules, processes, policies, practices, and procedures used by the Commission to enforce the Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C).

6. The scope and extent of penalties the Commission has authority to impose for violations of the Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C) and what penalties have been imposed in the past for violations of these provisions.

7. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether an entity constitutes a public accommodation under Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C) and what types of entities the Commission has found to be a public accommodation under this ordinance.

8. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether it has jurisdiction to enforce a complaint filed under Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C) against a place of public accommodation, including jurisdiction over the complainant, jurisdiction over the public accommodation, jurisdiction over referrals to the Kentucky Human Rights Commission and any other state or federal agency, and the situations where the Commission concluded that it did and did not have jurisdiction over public accommodation complaints.

9. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether a public accommodation declines to provide a good or service based on a protected characteristic under the Metro Ordinance §§ 92.05(A) and 92.05(C) and the situations where the Commission concluded that a public accommodation did and did not decline to provide service based on a protected characteristic.

10. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether a public accommodation has communicated that it will decline to provide a good or service based on a protected characteristic under the Metro Ordinance § 92.05(B) and the situations where the Commission concluded that a public accommodation did and did not communicate that it would decline to provide goods or services based on a protected characteristic.

11. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether a public accommodation has communicated that someone's patronage is objectionable, unwelcome, unacceptable, or undesirable based on a protected characteristic under the Metro Ordinance § 92.05(B) and the situations where the Commission concluded that a public accommodation did and did not communicate that someone's patronage is objectionable, unwelcome, unacceptable, or undesirable based on a protected characteristic.

12. The rules, policies, processes, practices, criteria, procedures, training, and guidance that the Commission has changed, implemented, or issued in response to the U.S. Supreme Court's decision in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 138 S. Ct. 1719 (2018) and the situations where the Commission cited this decision in making a reasonable cause or no reasonable cause determination, settled or conciliated a complaint, or issued a hearing officer or appeal panel order under the Metro Ordinance.

13. Statistics from 2004 to the present about prior complaints, investigations, rulings, and enforcements for alleged violations of the Metro Ordinance §§ 92.05(A), 92.05(B), and 92.05(C) received or carried out by the Commission, including the total number of complaints received or filed, the total number complaints where the Commission did and did not find reasonable cause discrimination, the total number

of petitions for reconsideration granted or denied, the total number of settlements or conciliations, the total number of administrative hearings and appeals held, the total number of hearings and appeals where the Commission did and did not find discrimination, the total number of actions filed by the Commission in Jefferson Circuit Court. Each category identified in this topic includes the total number of each category by the type of discrimination alleged based on protected characteristic.

14. The application of the Metro Ordinance § 92.05(A) and § 92.05(B) to the activities, policies, and practices identified in Plaintiff's Complaint paragraphs 126-129 and 183-208, Exhibits 1 and 2 to the Complaint, Declaration of Chelsey Nelson in Support of Plaintiff's Preliminary Injunction Motion paragraphs 218-219, 237-239, and 251-255, Appendix to Plaintiffs' Brief in Support of Plaintiffs' Preliminary Injunction Motion pages 3-4 and 30-43, Supplemental Declaration of Chelsey Nelson in Support of Plaintiff's Preliminary Injunction Motion paragraphs 12-25, and Plaintiffs' Response to Interrogatory Number 9.

15. The basis for any government interest meant to be furthered by Louisville in passing Lou. Code Ord. § 98.05(A), § 98.05(B), and § 98.05(C) (collectively "Lou. Ord. § 98.05") (Lou. Ord. No. 0088-2001, 2), including, the facts, legislative debates, testimony, statistics, or any other information relied on in passing the Lou. Ord. § 98.05, the particular problem(s) the Lou. Ord. § 98.05 was intended to address, and how the Lou. Ord. § 98.05 was tailored towards addressing that problem(s).

16. The alternatives considered by the Louisville other than passing and enforcing the Lou. Ord. § 98.05 to achieve any government interest, including whether and what less restrictive means were considered, the evidence considered in favor and against these less restrictive means, and where the less restrictive means were considered in the legislative record.

17. Statistics from 1999 to 2003 about prior complaints, investigations, rulings, and enforcements for alleged violations of the Lou. Ord. § 98.05 received or carried out by the Louisville and Jefferson County Human Relations Commission, including the total number of complaints received or filed, the total number complaints where the Commission did and did not find reasonable cause discrimination, the total number of settlements or conciliations, the total number of administrative hearings and appeals held, the total number of hearings and appeals where the Commission did and did not find discrimination, and for each previously mentioned categories, the type of discrimination allege. Each category identified in this topic includes the total number of each category by the type of discrimination alleged.

18. The basis for any government interest meant to be furthered by Jefferson County in passing and enforcing Jeff. Code Ord. §§ 92.05(A), 92.05(B), and 92.05(C) (collectively “Jeff. Code Ord. § 92.05”) (Jeff. Ord. 36-1999) including the facts, legislative debates, testimony, statistics, or any other information relied on in passing the Jeff. Code Ord. § 92.05, the particular problem(s) the Jeff. Code Ord. § 92.05 was intended to address, and how the Jeff. Code Ord. § 92.05 was tailored towards addressing that problem(s).

19. The alternatives considered by Jefferson County other than passing and enforcing the Jeff. Code Ord. § 92.05 to achieve any government interest, including whether and what less restrictive means were considered, the evidence considered in favor and against these less restrictive means, and where the less restrictive means were considered in the legislative record.

20. Statistics from 1999 to 2003 about prior complaints, investigations, rulings, and enforcements for alleged violations of the Jeff. Code Ord. § 92.05 received or carried out by the Louisville and Jefferson County Human Relations Commission, including the total number of complaints received or filed, the total number complaints where the Commission did and did not find reasonable cause

discrimination, the total number of settlements or conciliations, the total number of administrative hearings and appeals held, the total number of hearings and appeals where the Commission did and did not find discrimination, and for each previously mentioned categories, the type of discrimination alleged. Each category identified in this topic includes the total number of each category by the type of discrimination alleged.

21. The identity of and basis for any governmental interest meant to be furthered by Metro passing and enforcing the Metro Ordinance §§ 92.05(A) and 92.05(B) (collectively “§ 92.05”), including the facts, testimony, statistics, or any other information relied on in passing the Metro Ordinance § 92.05, the particular problem(s) the Metro Ordinance § 92.05 was intended to address, and how the Metro Ordinance § 92.05 is tailored towards addressing that problem(s).

22. The alternatives considered by the Metro other than passing and enforcing the Metro Ordinance §§ 92.05(A) and 92.05(B) to achieve any government interest, including whether and what less restrictive means were considered, the evidence considered in favor and against these less restrictive means, where the less restrictive means were considered in the legislative record, and whether Metro considered a certification program similar to what is now available for businesses under the Metro Ordinance §§ 37.66, 37.67, and 37.68.

23. The names of businesses offering for-profit photography services on the list of certified LGBT owned businesses in Metro as developed through Metro Ordinance § 37.69.

24. The basis for how enforcing the Metro Ordinance § 92.05 furthers the interests identified in the Metro Ordinance § 92.01 and in Interrogatory Response Numbers 12-14, including how enforcing the Metro Ordinance § 92.05 furthers these interests with respect to protecting individuals from discrimination on the basis of the protected characteristics listed in Metro Ordinance § 92.01.

25. The basis for how enforcing the Metro Ordinance §§ 92.04(A)(1), (2), (3), (4), (5), 92.04(D), 92.05(C), 92.07(A)(1), (2), (3), (4), and 92.07(B) (collectively “§§ 92.04, -05, -07”), furthers the interests identified in the Metro Ordinance § 92.01 and Interrogatory Response Numbers 12-14, including the facts, testimony, statistics, or any other information relied on in passing and enforcing the Metro Ordinance §§ 92.04, -05, -07, the particular problem(s) the Metro Ordinance §§ 92.04, -05, -07 was intended to address, and , and how the Metro Ordinance §§ 92.04, -05, -07 is tailored towards addressing that problem(s).

26. The governmental interest meant to be furthered by Metro in applying the Metro Ordinance §§ 92.05(A) and 92.05(B) to Plaintiffs’ activities identified in Topic 14.

27. The scope and extent of the legislative record for Lou. Code Ord. § 98.05 (Lou. Ord. No. 0088-2001, 2), Jeff. Code Ord. § 92.05 (Jeff. Ord. 36-1999), and Metro Ordinance § 92.05, including the facts, testimony, statistics, or any other information relied on in passing these laws.

28. The identity of individuals likely to have discoverable information that Defendants may use to support its claims and defenses, including those individual identified in Defendants’ initial disclosures and the subjects of that information.

29. All past allegations and incidents of discrimination that you contend justify applying Metro Ordinance § 92.05(A) and § 92.05(B) to Plaintiffs.

30. The basis for Defendants’ contention in Interrogatory Response Number 6 that “if wedding photographers are permitted to discriminate against same-sex couples, the level of access to this service would be inferior to that available to opposite-sex couples.”

31. The basis for Defendants’ contention in Interrogatory Response Number 7 “that the Public Accommodations Provisions guarantees equal access to this service

by same-sex couples, which would not exist if all such service providers are not required to comply with the Public Accommodations Provision.”

32. The basis for Defendants’ contentions in Interrogatory Response Numbers 12, 13, and 14 that Metro has a compelling interest in requiring Plaintiffs to provide paid photography, editing, and blogging services for same-sex weddings and photographers photographing same-sex weddings if they provide paid photography, editing, and blogging services for opposite-sex weddings and photographers photographing opposite-sex weddings.

33. The basis for Defendants’ contentions in Interrogatory Response Numbers 12, 13, and 14 that “[g]overnments have a compelling interest in rooting out all forms of discrimination that create social strife, cause humiliation, and produce economic inefficiency.”

34. The basis for Defendants’ contentions in Interrogatory Response Numbers 15, 16, and 17 that the least restrictive means to achieve any government interest is to require Plaintiffs to provide paid photography, editing, and blogging services for same-sex weddings and photographers photographing same-sex weddings when they already provide paid photography, editing, and blogging services for opposite-sex weddings and photographers photographing opposite-sex weddings.

35. The basis for Defendants’ admission in Admission Numbers 26, 28, and 30 that Chelsey Nelson Photography LLC violates Metro Ordinance § 92.05(A) if it maintains a practice of only photographing, editing, and blogging about opposite-sex weddings, but not same-sex weddings.

36. The basis for Defendants’ denial in Admission Numbers 56, 57, and 58 that a public accommodation supplying paid photography, photography editing, and blogging services to the general public violates Metro Ordinance § 92.05(A) if it provides the same photography, photography editing, and blogging services for opposite-sex and same-sex weddings.

37. Defendants' system for filing, organizing, managing, and preserving the documents requested in Requests for Production Numbers 40-58, including how these documents are organized, where the documents are stored, how the documents are archived, whether the documents are available electronically, the accessibility of these documents, and the search processes Defendants used to locate documents in response to Requests for Production Numbers 40-58.

The witness(es) designated by Defendants may also be examined on matters within their personal knowledge. *See* Fed. R. Civ. P. 30(b)(6); *Harris v. Goins*, 2017 WL 4080692, at \*2 (E.D. Ky. Sept. 14, 2017) (“Rule 30(b)(6) does not limit what can be asked at a deposition, nor does it confer a special privilege on a deponent responding to this type of notice.”); *Consumer Fin. Prot. Bureau v. Borders & Borders, PLC*, 2016 WL 9460471, at \*3 (W.D. Ky. June 29, 2016) (governmental agency service with a Rule 30(b)(6) notice must produce a witness “knowledgeable about the subjects described in the notice” and “prepare the witness or witnesses to testify not simply to their own knowledge, but the knowledge of the corporation or governmental institution”); *Overseas Private Inv. Corp. v. Mandelbaum*, 185 F.R.D. 67, 68 (D.D.C. 1999) (scope of properly notice Rule 30(b)(6) witness is limited only be Rule 26(b)(1)).

Respectfully submitted this 22nd of February, 2021.

By: Bryan Neihart

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AZ Bar No. 030505\*  
Katherine L. Anderson  
AZ Bar No. 033104\*  
Bryan Neihart  
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\* Admission *Pro Hac Vice*

## CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2021, the foregoing document and all its attachments were served via email on the following:

John F. Carroll  
Jason D. Fowler  
Assistant Jefferson County Attorneys  
531 Court Place, Ste. 900  
Louisville, Kentucky 40202  
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chinkle@Kaplanjohnsonlaw.com

*Attorneys for Defendants*

# EXHIBIT 3

**From:** [Bryan Neihart](#)  
**To:** [Casey Hinkle](#); [David Kaplan](#); [Carroll, John F.](#); [Fowler, Jason D.](#)  
**Cc:** [Jon Scruggs](#); [Julie Peterson](#); [Kate Anderson](#); [Hailey Vrdolyak](#)  
**Subject:** RE: CNPvLJC 30(b)(6) deposition notice  
**Date:** Monday, April 19, 2021 10:47:00 AM  
**Attachments:** [2021.04.19 Plaintiffs" 30.b.6. Third Amended Deposition Notice.pdf](#)

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Counsel,

I've attached Plaintiffs' third amended 30(b)(6) deposition notice. This notice contains a new deposition date (May 11, 2021) to reflect the unresolved discovery disputes. We reserve the right to amend the topics or change the deposition date based on Judge Lindsay's orders on the motion to compel and the motion for extension of time. If you object to any of these topics, please let me know soon so that we can try to resolve them without further delay.

Thank you.

Best,

Bryan Neihart

---

**From:** Bryan Neihart  
**Sent:** Tuesday, March 30, 2021 1:02 PM  
**To:** Casey Hinkle <[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)>; David Kaplan <[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)>; Carroll, John F. <[John.Carroll2@louisvilleky.gov](mailto:John.Carroll2@louisvilleky.gov)>; Fowler, Jason D. <[Jason.Fowler@louisvilleky.gov](mailto:Jason.Fowler@louisvilleky.gov)>  
**Cc:** Jon Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Julie Peterson <[JPeterson@adflegal.org](mailto:JPeterson@adflegal.org)>; Kate Anderson <[kanderson@adflegal.org](mailto:kanderson@adflegal.org)>; Hailey Vrdolyak <[hvrldolyak@adflegal.org](mailto:hvrldolyak@adflegal.org)>  
**Subject:** RE: CNPvLJC 30(b)(6) deposition notice

Counsel,

I've attached Plaintiffs' second amended 30(b)(6) deposition notice. This notice has two new topics (#s 12 and 38) based on Defendants' recent discovery responses and briefing and contains a new deposition date (April 16, 2021). Once again, the change in date accounts for the fact that the parties' discovery disputes remain unresolved. Depending on Judge Lindsay's orders on the motion to compel and the motion for extension of time, and any subsequent discovery from Defendants, we reserve the right to amend the topics and the date of the deposition.

As before, please let me know soon if you object to any of these topics so that we can try to expeditiously resolve them without additional delay.

Thank you.

Best,

Bryan Neihart

---

**From:** Bryan Neihart  
**Sent:** Friday, March 12, 2021 1:23 PM  
**To:** Casey Hinkle <[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)>; David Kaplan <[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)>; Carroll, John F. <[John.Carroll2@louisvilleky.gov](mailto:John.Carroll2@louisvilleky.gov)>; Fowler, Jason D. <[Jason.Fowler@louisvilleky.gov](mailto:Jason.Fowler@louisvilleky.gov)>  
**Cc:** Jon Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Julie Peterson <[JPeterson@adflegal.org](mailto:JPeterson@adflegal.org)>; Kate Anderson <[kanderson@adflegal.org](mailto:kanderson@adflegal.org)>; Hailey Vrdolyak <[hvrldolyak@adflegal.org](mailto:hvrldolyak@adflegal.org)>  
**Subject:** RE: CNPvLJC 30(b)(6) deposition notice

Counsel,

I've attached Plaintiffs' first amended 30(b)(6) deposition notice. This notice includes the same topics as before, but the deposition date has been changed to Wednesday March 31, 2021. This accounts for the fact that the parties' discovery disputes haven't been resolved yet. As before, we reserve the right to amend the notice depending on Judge Lindsay's order.

In an effort to expeditiously resolve any disputes that might arise from the topics listed in the 30(b)(6), we would appreciate it if you could send us any objections to these topics soon. That way we can work on negotiating any of the disputed topics to potentially minimize any additional delay.

Thank you.

Best,

Bryan Neihart

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**From:** Bryan Neihart  
**Sent:** Monday, February 22, 2021 2:24 PM  
**To:** Casey Hinkle <[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)>; David Kaplan <[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)>; Carroll, John F. <[John.Carroll2@louisvilleky.gov](mailto:John.Carroll2@louisvilleky.gov)>; Fowler, Jason D. <[Jason.Fowler@louisvilleky.gov](mailto:Jason.Fowler@louisvilleky.gov)>  
**Cc:** Jon Scruggs <[jscruggs@adflegal.org](mailto:jscruggs@adflegal.org)>; Julie Peterson <[JPeterson@adflegal.org](mailto:JPeterson@adflegal.org)>; Kate Anderson <[kanderson@adflegal.org](mailto:kanderson@adflegal.org)>; Hailey Vrdolyak <[hvrldolyak@adflegal.org](mailto:hvrldolyak@adflegal.org)>  
**Subject:** CNPvLJC 30(b)(6) deposition notice

Counsel,

I've attached Plaintiffs' 30(b)(6) deposition notice. I know that you are still working on getting the schedules for deposition dates, but I have nonetheless noticed the 30(b)(6) deposition for March 16, 2021. We can adjust that date once you determine the witnesses' availability, but I wanted to include a date as part of the formal notice.

We also reserve the right to add or amend topics depending on Judge Lindsay's order regarding the

discovery disputes and whether Plaintiffs receive additional documents or responses based on that order. Thank you.

Best,

Bryan Neihart

# EXHIBIT 4

**From:** [Bryan Neihart](#)  
**To:** [Casey Hinkle](#); [David Kaplan](#); [Carroll, John F.](#); [Fowler, Jason D.](#)  
**Cc:** [Jonathan Scruggs](#); [Hailey Vrdolyak](#); [Julie Peterson](#)  
**Subject:** Chelsey Nelson Photography LLC v. Metro: Deposition Notices and Discovery  
**Date:** Friday, May 7, 2021 11:06:00 AM  
**Attachments:** [2021.05.07 Plaintiffs" 30.b.6. Fourth Amended Deposition Notice.pdf](#)  
[2021.05.07 Plaintiffs" Notice of Deposition of Verna Goatley.pdf](#)  
[2021.05.07 Plaintiffs" Notice of Deposition of Kendall Boyd.pdf](#)

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Dear Counsel,

I am writing to follow up on the discovery email I sent on Tuesday, April 27, 2021. Have you located the hearing documents from the two hearings involving allegations of sexual orientation discrimination? And have you found any additional Annual Reports or minutes that are not available on the Commission's website? If so, when will you produce the hearing documents, reports, and minutes? If you have not yet found these documents, when do you expect to locate them and produce them?

I have also attached deposition notices for Defendants' 30(b)(6) witness, Kendall Boyd, and Verná Goatley. We plan to move forward with the depositions of these witnesses on the noticed dates. We reserve the right to amend the 30(b)(6) topics depending on Judge Lindsay's order and further document production.

Thank you.

Best,

Bryan Neihart

# EXHIBIT 5

**From:** [Bryan Neihart](#)  
**To:** [Casey Hinkle](#); [David Kaplan](#); [Fowler, Jason D.](#); [Carroll, John F.](#)  
**Cc:** [Jonathan Scruggs](#); [Hailey Vrdolyak](#); [Kate Anderson](#); [Julie Peterson](#)  
**Subject:** Chelsey Nelson Photography LLC v. Metro: Amended 30(b)(6) notice  
**Date:** Monday, May 17, 2021 12:07:00 PM  
**Attachments:** [2021.05.17 Plaintiffs" 30.b.6. Fifth Amended Deposition Notice .pdf](#)

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Dear Counsel,

I have attached Plaintiffs' fifth amended 30(b)(6) notice. Some of the topics have been tweaked to be more specific, and we included two additional topics (13 and 17) to add more specificity to pre-existing topics. We reserve the right to amend the topics depending on Judge Lindsay's order and further document production. Nonetheless, as I previously mentioned, we plan to move forward with this deposition on May 25 regardless of whether Judge Lindsay has ruled by then.

Also, I still haven't heard from you about the status of the sexual orientation discrimination hearings and the annual reports. Please let me know when you will produce these documents.

Thank you.

Best,

Bryan Neihart

# EXHIBIT 6

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

**Chelsey Nelson Photography LLC,  
and Chelsey Nelson,**

Plaintiffs,

v.

**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-Enforcement; and 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,**

Defendants.

**Case No. 3:19-cv-00851-BJB-CHL**

**Plaintiffs' Fifth Amended Notice of  
Deposition of the  
Louisville/Jefferson County Metro  
Government**

TO: The Louisville/Jefferson County Metro Government, by and through its  
Attorneys

John Carroll: john.carroll2@louisvilleky.gov  
Jason Fowler: jason.fowler@louisvilleky.gov  
David Kaplan: dkaplan@Kaplanjohnsonlaw.com  
Casey Hinkle: chinkle@Kaplanjohnsonlaw.com

Please take notice that counsel for Plaintiffs will take the deposition upon oral examination of the Louisville/Jefferson County Metro Government's designated witness(es) pursuant to Fed. R. Civ. P. 30(b)(6) before a certified court reporter and videographer. This deposition will take place via remote access videoconference and pursuant to the Rules of Civil Procedure on Tuesday, May 25, 2021, at 10:30am Eastern Time and will continue day to day until complete. Pursuant to Fed. R. Civ. P. 32, Plaintiffs may use all or part of this deposition for trial, hearing, or any other purpose allowed by the Rules of Civil Procedure.

The person or persons to be deposed shall be one or more of the Louisville/Jefferson County Metro Government's agents, officers, employees, directors, or other individuals who are knowledgeable with respect to the matters designated for examination.

## DEFINITIONS

1. The term “Plaintiffs” means Plaintiff Chelsey Nelson Photography LLC and Chelsey Nelson.
2. The term “Defendants” means the parties named as Defendants in *Chelsey Nelson Photography LLC v. Louisville/Jefferson County Metro Government*, 3:19-cv-00851-BJB-CHL.
3. The term “Commission” means the Louisville Metro Human Relations Commission-Enforcement and the Louisville Metro Human Relations Commission-Advocacy, and any executive director, commissioner, hearing officer, official, employee, agent, or representative of the Louisville Metro Human Relations Commission-Enforcement or the Louisville Metro Human Relations Commission-Advocacy.
4. The term “Metro” means the Louisville/Jefferson County Metro Government and any past or present member of the Metro Council, official, employee, agent, or representative of Metro.
5. The term “Louisville” means the city of Louisville, Kentucky before the merger creating Metro, the Louisville Human Relations Commission or its equivalent, and any official, employee, agent, or representative of Louisville.
6. The term “Jefferson County” means the county of Jefferson County, Kentucky prior to the merger creating Metro, the Jefferson County Human Relations Commission or its equivalent, and any official, employee, agent, or representative of Jefferson County.
7. The term “Metro Ordinance” means the ordinances in Lou. Metro Am. Ord. No. 157-2003, §§ 32.761, 32.761 and Lou. Metro Am. Ord. No. 193-2004 §§ 92.01-92.25.

8. The terms “complaint,” “complainant,” “commissioner,” “reasonable cause,” “hearing,” “hearing officer,” “appeals,” “appeal panel,” “discrimination,” “unlawful practice,” and “public accommodation” are equivalent in meaning to how that term is defined in the Metro Ordinance.

9. The term “protected characteristic” means “race,” “age,” “color,” “religion,” “national origin,” “familial status,” “disability,” “sexual orientation,” “gender identity,” and “sex” as those terms are interpreted by or defined in the Metro Ordinance.

10. The terms “Complaint,” “Exhibits 1 and 2 to the Complaint,” “Declaration of Chelsey Nelson in Support of Plaintiff’s Preliminary Injunction Motion,” “Appendix to Plaintiffs’ Brief in Support of Plaintiffs’ Preliminary Injunction Motion,” and “Supplemental Declaration of Chelsey Nelson in Support of Plaintiff’s Preliminary Injunction Motion” refer to pleadings filed in this case, *Chelsey Nelson Photography LLC v. Louisville/Jefferson County Metro Government*, 3:19-cv-00851-BJB-CHL.

11. The term “Interrogatory Response” refers to the responses contained in Defendants’ Objections and Responses to Plaintiffs’ First Set of Interrogatories and the term “Requests for Production” refers to Plaintiffs’ First Set of Requests for Production.

12. The term “Admissions” refers to the responses contained in Defendants’ Responses to Plaintiffs’ First Set of Requests for Admissions and Defendants’ Responses to Plaintiffs’ Second and Third Set of Discovery Requests.

13. The term “including” means “including but not limited to.”

14. The term “any” includes and encompasses “all.”

15. The term “and” means and/or.

16. The term “or” means and/or.

The matters for examination of the witness(es) appearing for Defendants are the following:

1. The structure, organization, and operation of the Commission, including the identities and roles of persons involved in carrying out or determining the rules, policies, practices, criteria, procedures, trainings, or guidance identified in Topics 2-14.
2. The rules, processes, policies, practices, and procedures used by the Commission to receive written complaints alleging a violation of the Metro Ordinance, including who may file such complaints, when commissioners may file complaints based on their belief that an unlawful practice has occurred, and what actions the Commission may take when receiving complaints.
3. The rules, processes, policies, practices, and procedures used by the Commission to investigate charges alleging a violation of the Metro Ordinance, including how those investigations are conducted, who conducts those investigations, and the Commission's power to conduct investigations, to engage in mediation, settlement, conciliation, or enforcement agreements, to consult with commissioners, to issue reasonable cause determinations, and to recommend or require a formal hearing.
4. The rules, processes, policies, practices, and procedures involved in the formal adjudication of complaints alleging a violation of the Metro Ordinance, including the Commission's power to conduct a formal hearing and to administer any appeals processes, who may conduct the hearings, who may compose the appeal panel, how the person or persons who conduct this hearing or compose the appeal panel are selected, who those persons work for and are paid by, who may appear or participate at the hearing or in the appeals process, and who may represent the Commission at this hearing or during any appeals.

5. The rules, processes, policies, practices, and procedures used by the Commission to enforce the Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C).

6. The scope and extent of penalties the Commission has authority to impose for violations of the Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C) and what penalties have been imposed in the past for violations of these provisions.

7. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether an entity constitutes a public accommodation under Metro Ordinance § 92.02, § 92.05(A), § 92.05(B), and § 92.05(C) and what types of entities the Commission has found to be a public accommodation under this ordinance.

8. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether it has jurisdiction to enforce a complaint filed under Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C) against a place of public accommodation, including jurisdiction over the complainant, jurisdiction over the public accommodation, jurisdiction over referrals to the Kentucky Human Rights Commission and any other state or federal agency, and the situations where the Commission concluded that it did and did not have jurisdiction over public accommodation complaints.

9. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether a public accommodation declines to provide a good or service based on a protected characteristic under the Metro Ordinance §§ 92.05(A) and 92.05(C) and the situations where the Commission concluded that a public accommodation did and did not decline to provide service based on a protected characteristic.

10. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether a public accommodation has communicated that it will decline to provide a good or service

based on a protected characteristic under the Metro Ordinance § 92.05(B) and the situations where the Commission concluded that a public accommodation did and did not communicate that it would decline to provide goods or services based on a protected characteristic.

11. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether a public accommodation has communicated that someone's patronage is objectionable, unwelcome, unacceptable, or undesirable based on a protected characteristic under the Metro Ordinance § 92.05(B) and the situations where the Commission concluded that a public accommodation did and did not communicate that someone's patronage or presence is objectionable, unwelcome, unacceptable, or undesirable based on a protected characteristic.

12. The rules, policies, processes, practices, criteria, and procedures the Commission has used and currently uses to determine whether to "investigate or prosecute any activity engaged in by one or more persons that may be protected by the First Amendment of the United States Constitution" as detailed in Exhibit B to Verná Goatley's Affidavit, ECF No. 64-3 PageID # 1723.

13. The rules, policies, processes, practices, criteria, and procedures identified in Topics 2-12 (as applicable) the Commission used or is currently using in the following cases:

- 2012 and 2014 sexual orientation complaints that proceeded to hearing (referenced in Kendall Boyd's February 27, 2020 affidavit);
- Scooter's Triple B's (referenced in March 2, 2020 Advocacy Meeting Minutes)
- Nett v. Parrot Beach (referenced in Louisville Metro Human Relations Commission 2006-2008 Bi-Annual Report);
- Marlatt v. McDonalds (referenced in Louisville Metro Human Relations Commission 2009 Annual Report);

- Eggers v. McDonalds (same);
- Hayden v. Blockbuster, LLC (referenced in Louisville Metro Human Relations Commission 2011-2012 Annual Report );
- Lexington Fair Housing Council v. Edward and Jung Ju Winner (referenced in Louisville Metro Human Relations Commission 2009 Annual Report);
- Louisville Metro Human Relations Commission v. Lea, LLC (referenced in Louisville Metro Human Relations Commission 2015-2017 Annual Report);;
- Louisville Metro Human Relations Commission v. Mark J. Bailey & Margaret DeNicola (same);
- Louisville Metro Human Relations Commission v. Sara Marcum (same);
- Louisville Metro Human Relations Commission v. Sydney and Elise Wright (same);
- Louisville Metro Human Relations Commission v. TJG Investments, LLC (same);
- Louisville Metro Human Relations Commission v. West Nashville Condominiums, LLC (same);
- Louisville Metro Human Relations Commission v. Jhanna Waddell (same);
- Lexington Fair Housing Council v. Barrington Place Apartments (same);
- Louisville Metro Human Relations Commission v. Heidi Poth Tracy (same);
- Louisville Metro Human Relations Commission v. Four Seasons Apartments, Properties Four, Inc. (same);
- Louisville Metro Human Relations Commission v. Pinnacle Properties Development Group, LLC (same);
- Fair Housing Advocates, Inc. v. C.F.L.P. 1 LLC dba Arcadia Apartments, John M. Clark (same);
- Fair Housing Advocates, Inc. v. Garden Gate Apartments (same);
- Fair Housing Advocates, Inc. v. Woodbridge Apartments (same); and

- Fair Housing Advocates, Inc. v. Family Investments, Inc. and Service Management of KY, Inc. Peterson & Associates Inc. dba Sun Residential (same)

14. The rules, policies, processes, practices, criteria, procedures, training, and guidance that the Commission has changed, implemented, or issued in response to the U.S. Supreme Court's decision in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 138 S. Ct. 1719 (2018) and the situations where the Commission cited this decision in making a reasonable cause or no reasonable cause determination, settled or conciliated a complaint, or issued a hearing officer or appeal panel order under the Metro Ordinance.

15. Statistics from 2004 to the present about prior complaints, investigations, rulings, and enforcements for alleged violations of the Metro Ordinance §§ 92.03, 92.04, 92.05, 92.06, and 92.07 received or carried out by the Commission, including the total number of complaints received or filed, the total number complaints where the Commission did and did not find reasonable cause discrimination, the total number of petitions for reconsideration granted or denied, the total number of settlements or conciliations, the total number of administrative hearings and appeals held, the total number of hearings and appeals where the Commission did and did not find discrimination, the total number of right-to-sue letters issued by the Commission to complainants, and the total number of actions filed by the Commission in Jefferson Circuit Court under the Metro Ordinance. Each category identified in this topic includes the total number of each category by the type of discrimination alleged based on protected characteristic.

16. The application of the Metro Ordinance § 92.05(A), § 92.05(B), and § 92.05(C), to the activities, policies, and practices identified in Plaintiff's Complaint paragraphs 96-208 and 250-260, Exhibits 1 and 2 to the Complaint, Declaration of Chelsey Nelson in Support of Plaintiff's Preliminary Injunction Motion paragraphs

58-75, 80-143, 157-180, 200-219, 237-255, 328-333, Appendix to Plaintiffs' Brief in Support of Plaintiffs' Preliminary Injunction Motion pages 3-4 and 30-43, Supplemental Declaration of Chelsey Nelson in Support of Plaintiff's Preliminary Injunction Motion paragraphs 12-25, Plaintiffs' Response to Interrogatory Number 9, Crystal Ludwick Deposition pages 10-12, Sarah Katherine Deposition pages 13-15, and Mary Slinger-Carreer deposition pages 12-13.

17. The history of the Metro Ordinance, including when its predecessor statutes were passed, when sexual orientation was added as a protected class to its predecessor statutes, when the Metro Ordinance was passed, and why the Metro Ordinance was passed after the Louisville/Jefferson County merger.

18. The basis for any government interest meant to be furthered by Louisville in passing Lou. Code Ord. § 98.05(A), § 98.05(B), and § 98.05(C) (collectively "Lou. Ord. § 98.05") (Lou. Ord. No. 0088-2001, 2), including, the facts, legislative debates, testimony, statistics, or any other information relied on in passing the Lou. Ord. § 98.05, the particular problem(s) the Lou. Ord. § 98.05 was intended to address, and how the Lou. Ord. § 98.05 was tailored towards addressing that problem(s).

19. The alternatives considered by the Louisville other than passing and enforcing the Lou. Ord. § 98.05 to achieve any government interest, including whether and what less restrictive means were considered, the evidence considered in favor and against these less restrictive means, and where the less restrictive means were considered in the legislative record.

20. Statistics from 1999 to 2003 about prior complaints, investigations, rulings, and enforcements for alleged violations of the Lou. Ord. § 98.05 received or carried out by the Louisville and Jefferson County Human Relations Commission, including the total number of complaints received or filed, the total number complaints where the Commission did and did not find reasonable cause discrimination, the total number of settlements or conciliations, the total number of administrative hearings

and appeals held, the total number of hearings and appeals where the Commission did and did not find discrimination, and for each previously mentioned categories, the type of discrimination allege. Each category identified in this topic includes the total number of each category by the type of discrimination alleged.

21. The basis for any government interest meant to be furthered by Jefferson County in passing and enforcing Jeff. Code Ord. §§ 92.05(A), 92.05(B), and 92.05(C) (collectively “Jeff. Code Ord. § 92.05”) (Jeff. Ord. 36-1999) including the facts, legislative debates, testimony, statistics, or any other information relied on in passing the Jeff. Code Ord. § 92.05, the particular problem(s) the Jeff. Code Ord. § 92.05 was intended to address, and how the Jeff. Code Ord. § 92.05 was tailored towards addressing that problem(s).

22. The alternatives considered by Jefferson County other than passing and enforcing the Jeff. Code Ord. § 92.05 to achieve any government interest, including whether and what less restrictive means were considered, the evidence considered in favor and against these less restrictive means, and where the less restrictive means were considered in the legislative record.

23. Statistics from 1999 to 2003 about prior complaints, investigations, rulings, and enforcements for alleged violations of the Jeff. Code Ord. § 92.05 received or carried out by the Louisville and Jefferson County Human Relations Commission, including the total number of complaints received or filed, the total number complaints where the Commission did and did not find reasonable cause discrimination, the total number of settlements or conciliations, the total number of administrative hearings and appeals held, the total number of hearings and appeals where the Commission did and did not find discrimination, and for each previously mentioned categories, the type of discrimination allege. Each category identified in this topic includes the total number of each category by the type of discrimination alleged.

24. The identity of and basis for any governmental interest meant to be furthered by Metro passing and enforcing the Metro Ordinance §§ 92.05(A) and 92.05(B) (collectively “§ 92.05”), including the facts, testimony, statistics, or any other information relied on in passing the Metro Ordinance § 92.05, the particular problem(s) the Metro Ordinance § 92.05 was intended to address, and how the Metro Ordinance § 92.05 is tailored towards addressing that problem(s).

25. The alternatives considered by the Metro other than passing and enforcing the Metro Ordinance §§ 92.05(A) and 92.05(B) to achieve any government interest, including whether and what less restrictive means were considered, the evidence considered in favor and against these less restrictive means, where the less restrictive means were considered in the legislative record, and whether Metro considered a certification program similar to what is now available for businesses under the Metro Ordinance §§ 37.66, 37.67, and 37.68.

26. The alternatives considered by the Metro other than passing and enforcing the Metro Ordinance §§ 92.05(A) and 92.05(B) against Plaintiffs’ activities identified in Topic 16 to achieve any government interest, the evidence considered in favor and against these less restrictive means, where and when the less restrictive means were considered, by whom they were considered, and whether Metro considered a certification program similar to what is now available for businesses under the Metro Ordinance §§ 37.66, 37.67, and 37.68.

27. The basis for how enforcing the Metro Ordinance § 92.05 furthers the interests identified in the Metro Ordinance § 92.01 and in Interrogatory Response Numbers 12-14, including how enforcing the Metro Ordinance § 92.05 furthers these interests with respect to protecting individuals from discrimination on the basis of the protected characteristics listed in Metro Ordinance § 92.01.

28. The basis for how enforcing the Metro Ordinance §§ 92.04(A)(1), (2), (3), (4), (5), 92.04(D), 92.05(C), 92.06(E), 92.07(A)(1), (2), (3), (4), and 92.07(B) (collectively

“§§ 92.04, -05, -07”), furthers the interests identified in the Metro Ordinance § 92.01 and Interrogatory Response Numbers 12-14, including the facts, testimony, statistics, or any other information relied on in passing and enforcing the Metro Ordinance §§ 92.04, -05, -07, the particular problem(s) the Metro Ordinance §§ 92.04, -05, -07 was intended to address, and , and how the Metro Ordinance §§ 92.04, -05, -07 is tailored towards addressing that problem(s).

29. The identity and basis for any governmental interest meant to be furthered by Metro in applying the Metro Ordinance §§ 92.05(A) and 92.05(B) (collectively “§ 92.05”) to Plaintiffs’ activities identified in Topic 16, including the facts, testimony, statistics, or any other information relied on to justify this application, the particular problem(s) this application was intended to address, and how this application is tailored towards addressing that problem(s).

30. The scope and extent of the legislative record for Lou. Code Ord. § 98.05 (Lou. Ord. No. 0088-2001, 2), Jeff. Code Ord. § 92.05 (Jeff. Ord. 36-1999), and Metro Ordinance § 92.05, including the facts, testimony, statistics, or any other information relied on in passing these laws.

31. The identity of individuals likely to have discoverable information that Defendants may use to support its claims and defenses, including those individual identified in Defendants’ initial disclosures and the subjects of that information.

32. All past allegations and incidents of discrimination that you contend justify applying Metro Ordinance § 92.05(A) and § 92.05(B) to Plaintiffs and where those incidents of discrimination appear in the legislative record or documents held by the Commission.

33. The basis for Defendants’ contention in Interrogatory Response Number 6 that “if wedding photographers are permitted to discriminate against same-sex couples, the level of access to this service would be inferior to that available to opposite-sex couples.”

34. The basis for Defendants' contention in Interrogatory Response Number 7 "that the Public Accommodations Provisions guarantees equal access to this service by same-sex couples, which would not exist if all such service providers are not required to comply with the Public Accommodations Provision."

35. The basis for Defendants' contentions in Interrogatory Response Numbers 12, 13, and 14 that Metro has a compelling interest in requiring Plaintiffs to provide paid photography, editing, and blogging services for same-sex weddings and photographers photographing same-sex weddings if they provide paid photography, editing, and blogging services for opposite-sex weddings and photographers photographing opposite-sex weddings.

36. The basis for Defendants' contentions in Interrogatory Response Numbers 12, 13, and 14 that "[g]overnments have a compelling interest in rooting out all forms of discrimination that create social strife, cause humiliation, and produce economic inefficiency."

37. The basis for Defendants' contentions in Interrogatory Response Numbers 15, 16, and 17 that the least restrictive means to achieve any government interest is to require Plaintiffs to provide paid photography, editing, and blogging services for same-sex weddings and photographers photographing same-sex weddings when they already provide paid photography, editing, and blogging services for opposite-sex weddings and photographers photographing opposite-sex weddings.

38. The basis for Defendants' admission in Admission Numbers 26, 28, and 30 that Chelsey Nelson Photography LLC violates Metro Ordinance § 92.05(A) if it maintains a practice of only photographing, editing, and blogging about opposite-sex weddings, but not same-sex weddings.

39. The basis for Defendants' denial in Admission Numbers 56, 57, and 58 that a public accommodation supplying paid photography, photography editing, and blogging services to the general public violates Metro Ordinance § 92.05(A) if it

provides the same photography, photography editing, and blogging services for opposite-sex and same-sex weddings.

40. The basis for Defendants' denial in Admission Numbers 66 and 67 that Plaintiffs did not violate Metro Ordinance § 92.05(A) by declining to pursue prospective clients for editing and wedding photography services as described in Plaintiffs' Responses to Defendants' First Set of Discovery Requests to Plaintiffs Response to Interrogatory Numbers 9 and 10 and CNP 00397-398 and 00454-458.

41. Defendants' system for filing, organizing, managing, and preserving the documents requested in Requests for Production Numbers 40-58, including how these documents are organized, where the documents are stored, how the documents are archived, whether the documents are available electronically, the accessibility of these documents, and the search processes Defendants used to locate documents in response to Requests for Production Numbers 40-58.

The witness(es) designated by Defendants may also be examined on matters within their personal knowledge. *See* Fed. R. Civ. P. 30(b)(6); *Harris v. Goins*, 2017 WL 4080692, at \*2 (E.D. Ky. Sept. 14, 2017) ("Rule 30(b)(6) does not limit what can be asked at a deposition, nor does it confer a special privilege on a deponent responding to this type of notice."); *Consumer Fin. Prot. Bureau v. Borders & Borders, PLC*, 2016 WL 9460471, at \*3 (W.D. Ky. June 29, 2016) (governmental agency service with a Rule 30(b)(6) notice must produce a witness "knowledgeable about the subjects described in the notice" and "prepare the witness or witnesses to testify not simply to their own knowledge, but the knowledge of the corporation or governmental institution"); *Overseas Private Inv. Corp. v. Mandelbaum*, 185 F.R.D. 67, 68 (D.D.C. 1999) (scope of properly notice Rule 30(b)(6) witness is limited only be Rule 26(b)(1)).

Dated this 17th of May, 2021.

By: Bryan Neihart

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Katherine L. Anderson  
AZ Bar No. 033104\*  
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*Attorneys for Plaintiffs*

## CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2021, the foregoing document and all its attachments were served via email on the following:

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*Attorneys for Defendants*

*Library Copy*

# The Louisville and Jefferson County Human Relations Commission



## Annual Reports

**1981-1982**

**1982-1983**

LOUISVILLE AND JEFFERSON COUNTY HUMAN RELATIONS COMMISSION

Legal Arts Building, Suite 120  
200 South Seventh Street  
Louisville, Kentucky 40202

(502) 587-3631

HARVEY I. SLOANE  
Mayor

MITCH McCONNELL  
County Judge/Executive

1981 - 1983

CITY COMMISSIONERS

Susie Bachman  
Robert Davis  
Marge Farley  
Reverend Tecumseh X. Graham  
Ira Grupper  
Cass Irvin  
George Knight  
Kathleen Lyons, Chairperson (1981-82)  
Joseph McMillan, Chairperson (1983)  
Homer Mills  
Donald D. Noble  
Paul Schweitzer  
Montest Eaves  
Rosa Henderson  
Timothy Peters  
Barbara Price

COUNTY COMMISSIONERS

William Boston  
Tanney Bradley  
Gertrude White-Coleman  
Robert Durham  
Sonia Levine  
Marcia Roth  
Reverend Isaac Shoulders  
Joseph Stone  
Reverend Louis J. Twyman  
Philip Bramer  
Earl Searcy  
Kendrick Riggs

STAFF

Gwendolyn M. Young, Executive Director  
Elizabeth Shipley, Compliance Supervisor  
Janet Wrightsel, Compliance Investigator II  
Lynn A. Weber, Compliance Investigator I  
Maurice Byrd, Compliance Investigator II  
David Cornelius, Compliance Investigator I  
Kent Lollis, Compliance Investigator II  
Ethel Southard, Executive Secretary  
Linda Holland, Secretary/Receptionist  
Patricia Hammons, Clerk Typist

The Chairperson of the Commission designates the Chair of the Anti-Discrimination Panel. This Panel meets bi-monthly.

Other committees, Education, Employment and Housing have been established to work on community problems. Each committee consists of at least one Commissioner, a staff person and members of the community at large. Meetings are held at least once a month.

Rights Task Forces, Disability, Minority and Women's were created to address the special problems encountered by these particular groups in this community. These Task Forces take active stands on issues of immediate concern and make recommendations to alter public policies or programs. A Commissioner is Chairperson of each Task Force. A staff person is assigned and general membership comes from the affected groups along with other interested parties.

#### COMPLIANCE (ENFORCEMENT) UNIT

During Fiscal year 1981-82, the Commission as an enforcement agency dealt with the following cases:

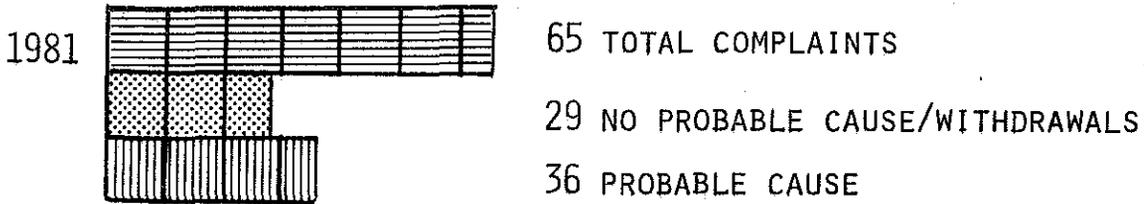
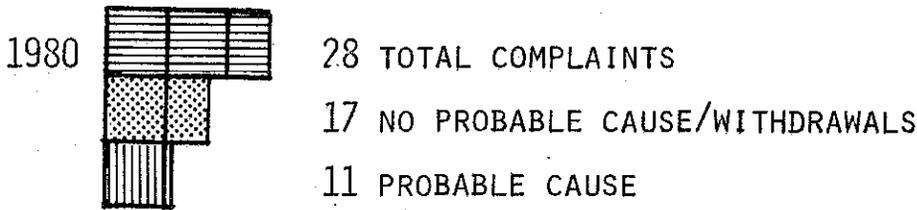
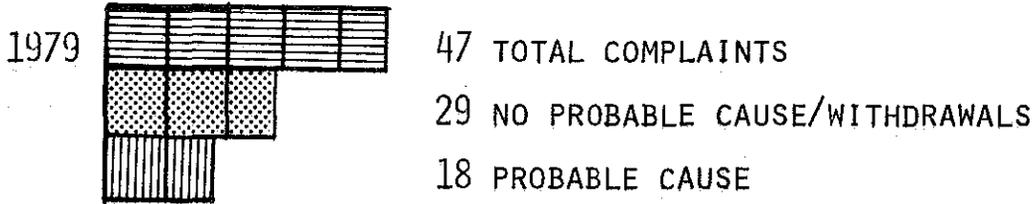
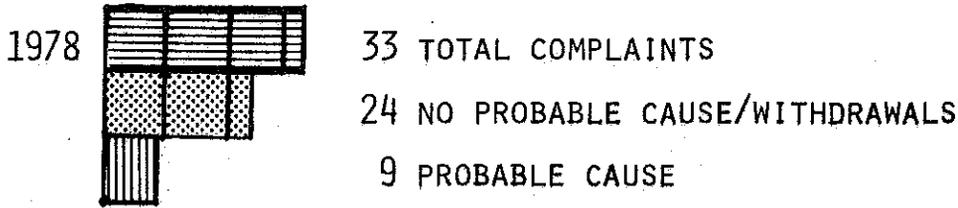
658	Recorded Inquiries
155	Inquiries Investigated To Determine Merit
61	New Complaints
94	Carryover From Fiscal Year 1980-81
155	Complaint Case Load Fiscal Year 1981-82
17	Settled
5	Withdrawals
39	No Probable Cause Determinations
<u>61</u>	Completed Cases
94	Carryover
45	Probable Cause Determinations Under Conciliation And Set For Hearing
49	Under Investigation

During Fiscal Year 1982-83, the Commission as an enforcement agency dealt with the following cases:

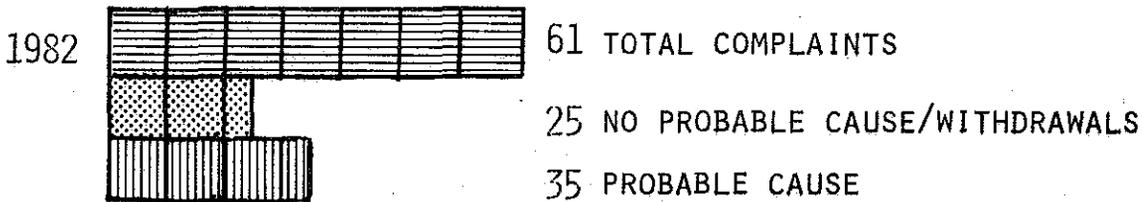
819	Recorded Inquiries
190	Inquiries Investigated To Determine Merit
106	New Complaints
94	Carryover From Fiscal Year 1981-82
200	Complaint Case Load Fiscal Year 1982-83
33	Settled
48	No Probable Cause Determinations/Withdrawals
<u>81</u>	Completed Cases
119	Carryover

### COMPLAINT HISTORY

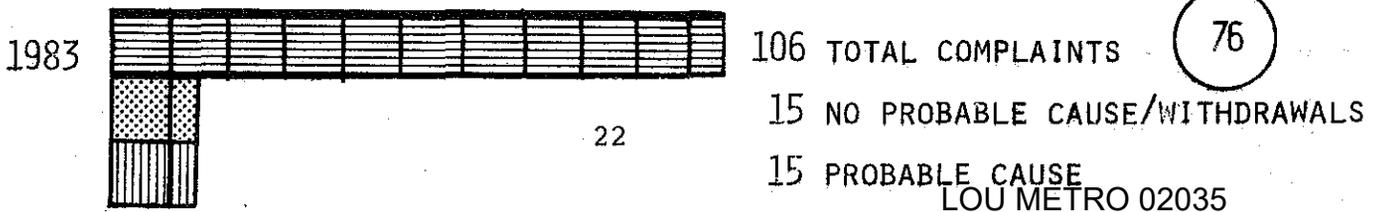
FISCAL YEAR



UNDER INVESTIGATION

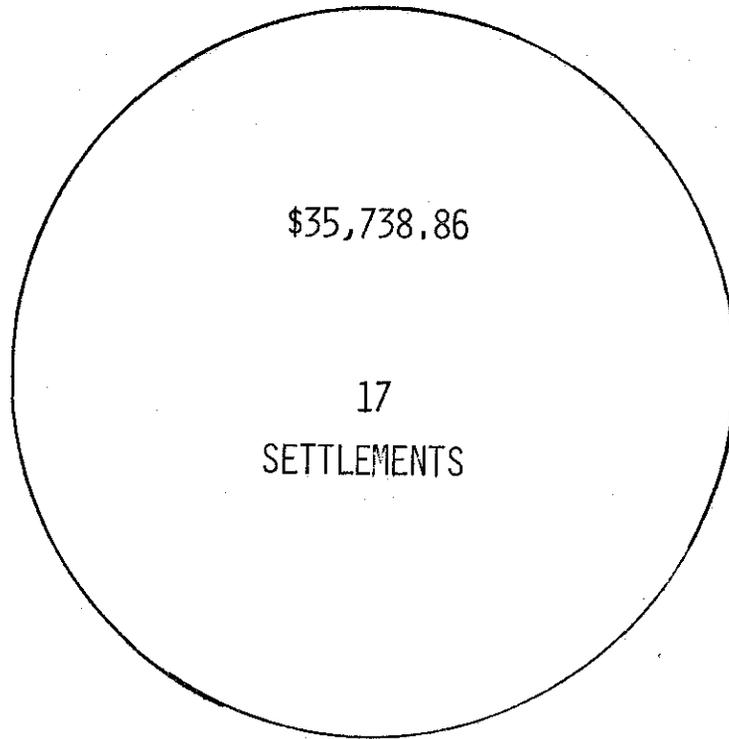


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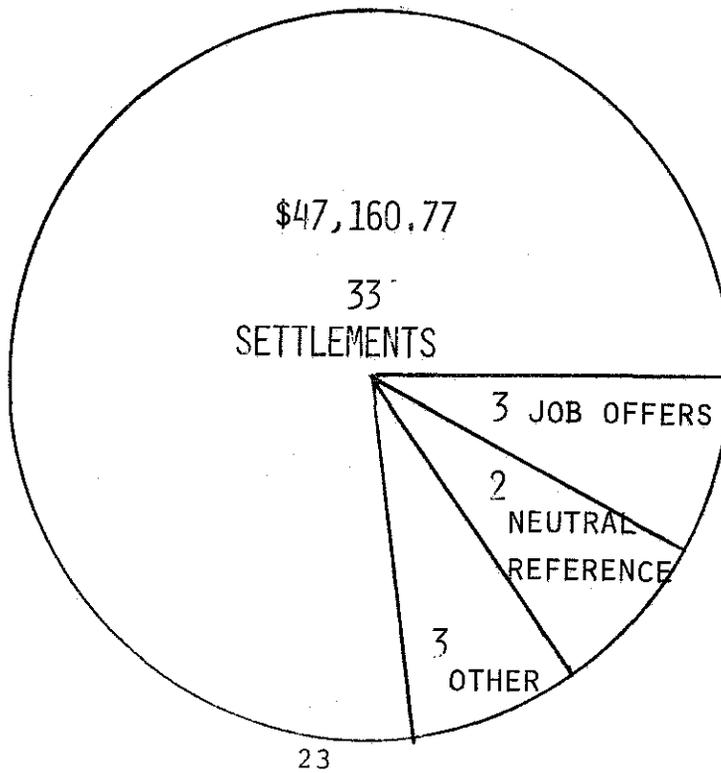


76

F Y 1981 - 1982

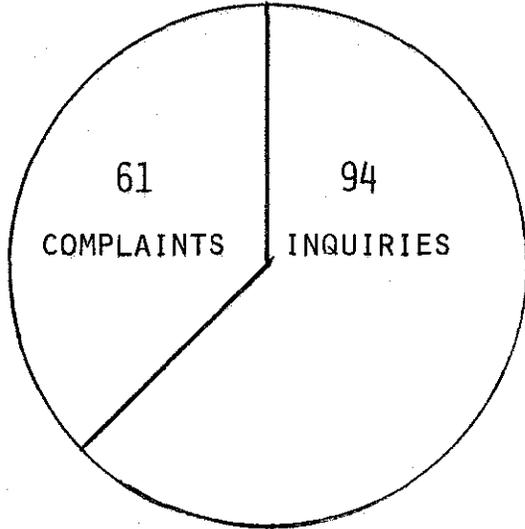


F Y 1982 - 1983



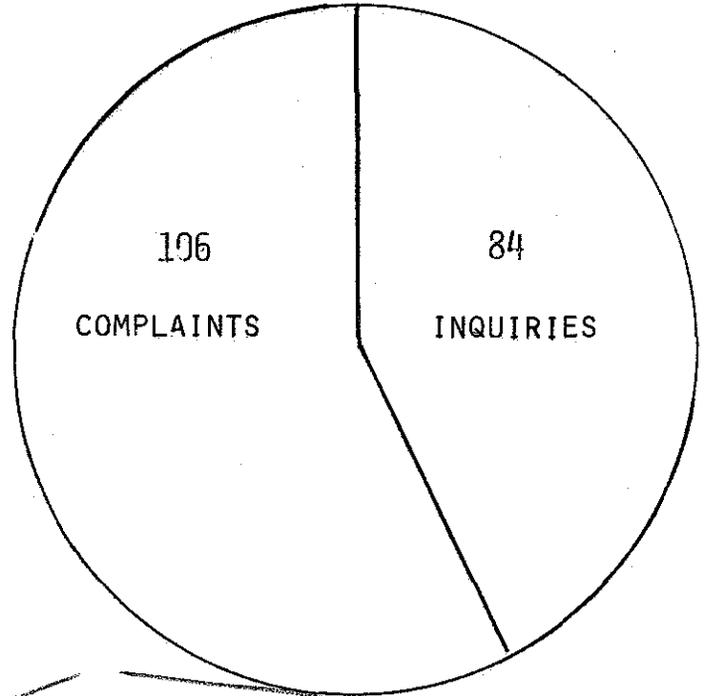
### CATEGORY OF COMPLAINTS

FY 1981-1982



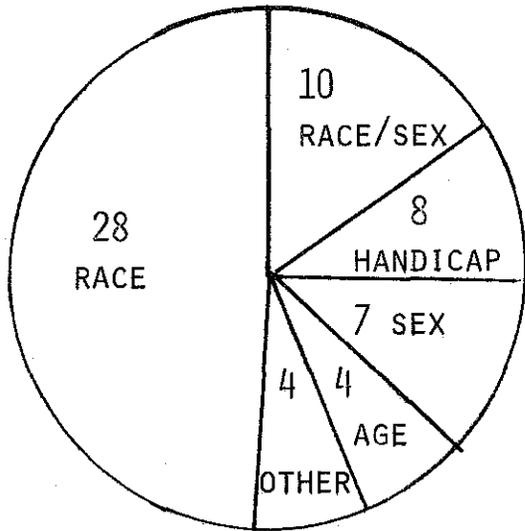
TOTAL 155

FY 1982-1983

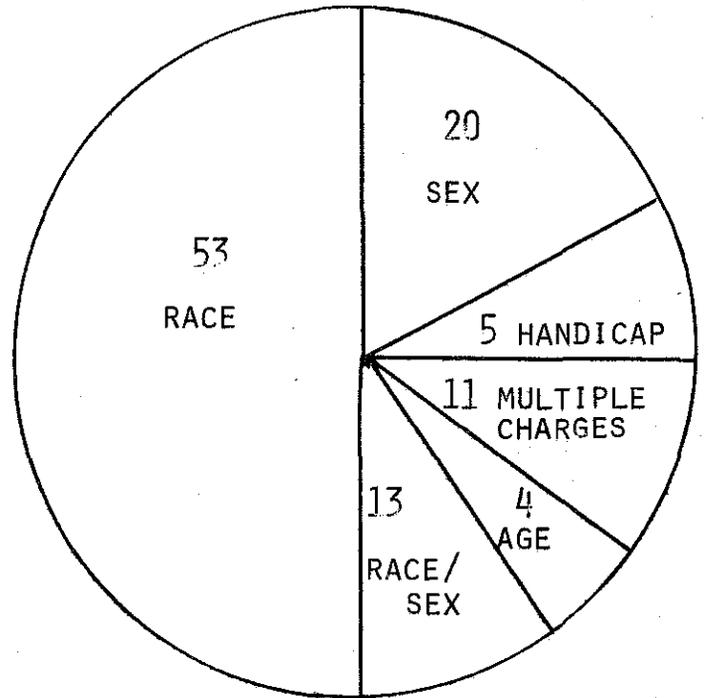


TOTAL 190

### BASIS OF COMPLAINTS

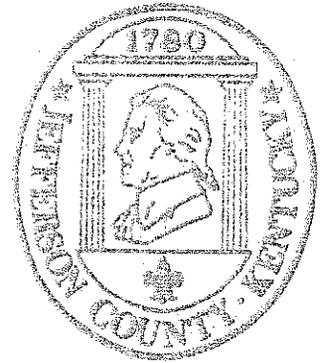
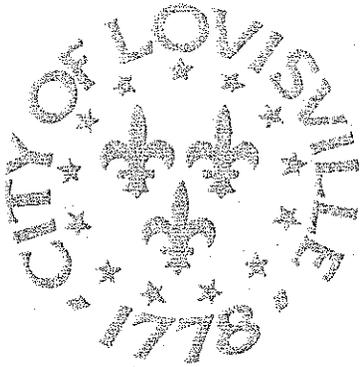


TOTAL 61



TOTAL 196

*Library Copy*



# **Annual Report**

## **1983-1984**

### **The Louisville and Jefferson County Human Relations Commission**

COMPLIANCE (ENFORCEMENT) UNIT

Pursuant to City and County Civil Rights Ordinances, individuals claiming to be aggrieved may file a complaint alleging discrimination in employment, housing and places of public accommodation. To afford due process and fairness to all parties involved, the Commission assesses the Complainant's allegations. A Compliance Investigator is assigned to investigate complaints of discrimination. To be valid, a complaint must be signed by the Complainant and sworn to as true. The Commission must then file the complaint, and commence an investigation.

The extensive investigation begins with service of the complaint on the Respondent. The respondent usually makes a formal reply, which becomes a part of the record. The investigator will request necessary documentation and interviews to evaluate the merits of complainant's allegations and the respondent's position. At the conclusion of the investigation, the investigator submits findings, along with a recommendation, to the Commission's Anti-Discrimination Panel. It is this Panel that has the responsibility of determining whether or not the facts substantiate a finding of "probable cause" or "no probable cause" to believe discrimination occurred.

When a finding of "no probable cause" is made by the Panel, the complaint is dismissed. The Complainant may ask for a reconsideration within 10 days after receipt of such dismissal. When a finding of "probable cause" is made by the Panel, the Commission attempts to conciliate the charge with a satisfactory settlement, pursuant to City/County Anti-Discrimination laws. If conciliation efforts fail, the matter is set for public hearing. At a public hearing, a panel of three members, one of which is a commissioner and the Chair of the Panel, sit as an impartial body to hear the case. The hearing panel makes a decision based on the weight of the evidence at the close of the hearing. The hearing panel's decision is binding but may be appealed to the Appeal Committee of the Commission, followed by Circuit Court review.

During fiscal year 1983-1984, the Commission processed the following cases:

943	Recorded Inquiries
370	Inquiries Investigated to Determine Merit
187	Complaints Filed
3	Reopened Complaints
119	Carryover from Fiscal Year 1982-83
	100    Conciliated
	<u>69</u> No Probable Cause Determinations
	169    Completed Cases
	140    Carryover
	15 Probable Cause Determinations
	Under conciliation
	6 Hearings Set/Held
	119 Under Investigation

Since the Commission is now a party to a worksharing agreement with the Equal Employment Opportunity Commission, the Commission dual filed 100 cases under Title VII. As a result of this agreement, Commission staff has had several opportunities this year to receive superior training in the area of enforcement. In addition, local citizens are now offered federal assistance directly through our Commission.

### SYSTEMIC UNIT

The systemic unit is that component of the Human Relations Commission that administers City of Louisville Ordinance No. 68, Series 1978. The Board of Aldermen of the City of Louisville adopted this ordinance to promote equal employment opportunities for minorities and females. This Ordinance requires contractors and vendors, doing business with the City of Louisville, to properly utilize minorities and females in their workforce. The Commission's enforcement and administration of Ordinance No. 68, Series 1978 continues to progress. As of June, 1984, 1432 vendors and suppliers were approved. The following is a breakdown of the classification for approval.

752	or	52.5%	-	10 or fewer employees
36	or	2.5%	-	Federally approved Affirmative Action Plans
101	or	7.1%	-	Proper Utilization of minorities and females
419	or	29.3%	-	Staff approved Affirmative Action Plans in accordance with 41 CFR 60-2
124	or	8.7%	-	Other reasonable indicia in accordance with 41 CFR 60-4

A company is approved if one of the following is found:

- a. The company employs a total of ten or fewer persons.
- b. The company has a recent letter from the OFCCP stating it is in compliance with 41 CFR 60-2.
- c. The company workforce reflects the employment of females and minorities consistent with their availability in the population.
- d. The company submits an Affirmative Action Plan which meets the guidelines of the Ordinance, Rules of Procedure, and Federal Regulations. Specifically, goals and timetables must be set to correct underutilization of females and minorities.
- e. The construction company agrees to the percentages for female and minority workers published by the U.S. Department of Labor.

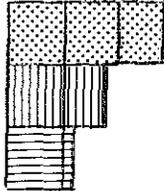
1978 - 33

1979 - 47

COMPLAINT HISTORY

FISCAL YEAR

1980

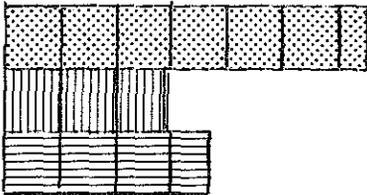


28 TOTAL COMPLAINTS

17 NO PROBABLE CAUSE/WITHDRAWALS

11 PROBABLE CAUSE

1981

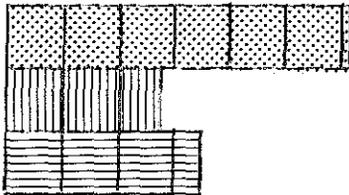


65 TOTAL COMPLAINTS

29 NO PROBABLE CAUSE/WITHDRAWALS

36 PROBABLE CAUSE

1982

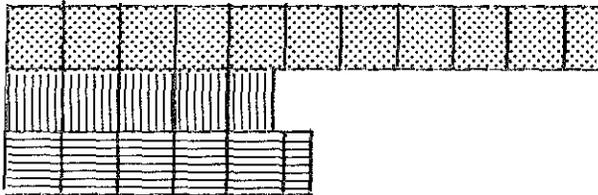


61 TOTAL COMPLAINTS

28 NO PROBABLE CAUSE/WITHDRAWALS

33 PROBABLE CAUSE

1983



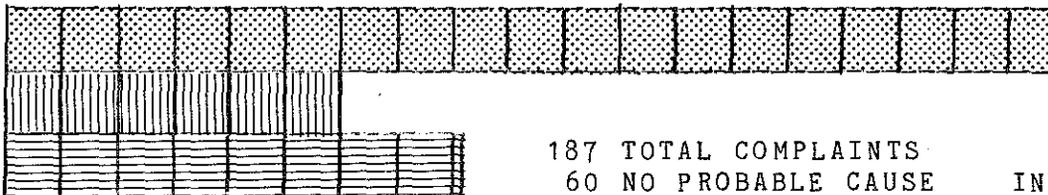
106 TOTAL COMPLAINTS

48 PROBABLE CAUSE/  
WITHDRAWAL

55 PROBABLE CAUSE

3 UNDER INVESTIGATION

1984



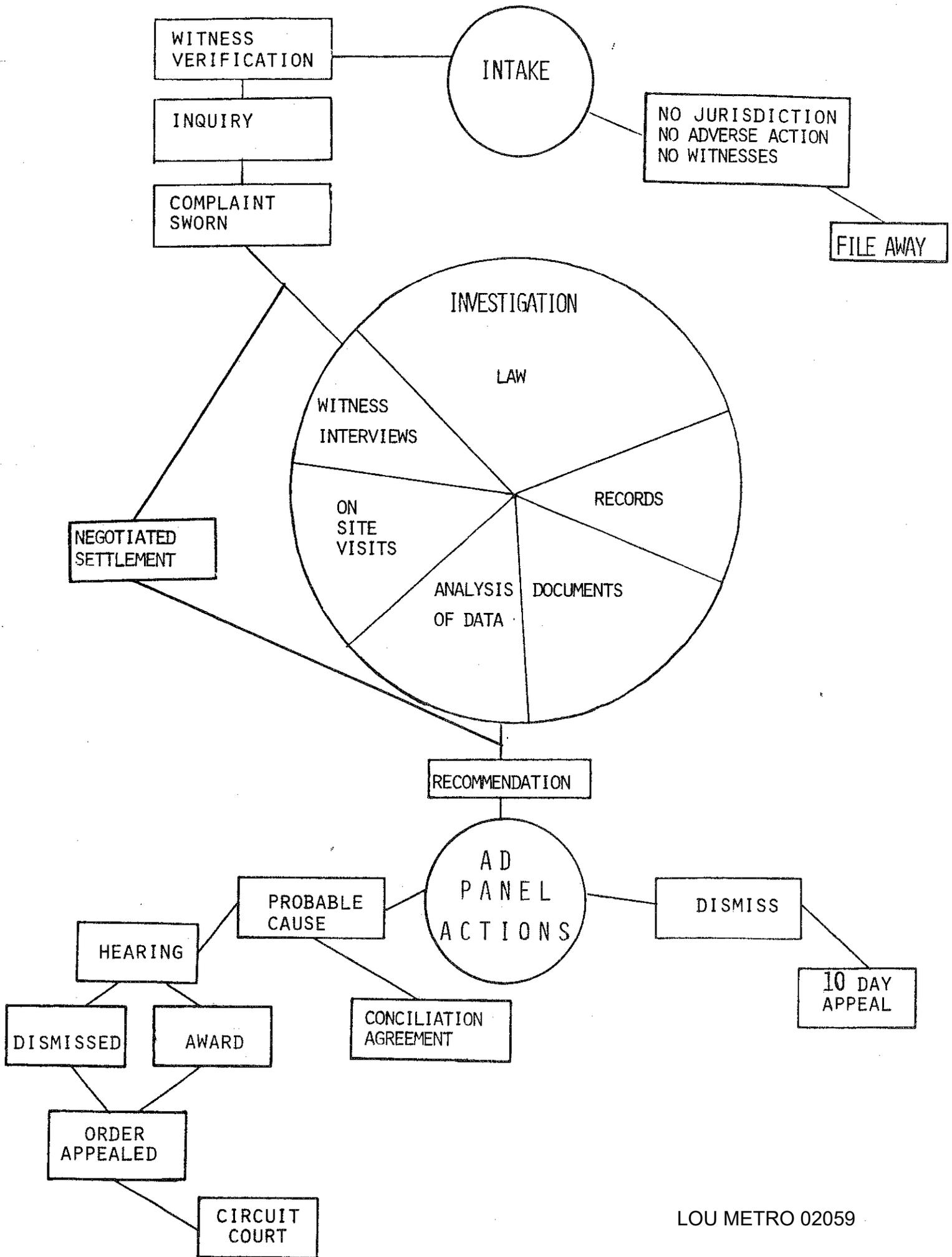
187 TOTAL COMPLAINTS

60 NO PROBABLE CAUSE

81 PROBABLE CAUSE

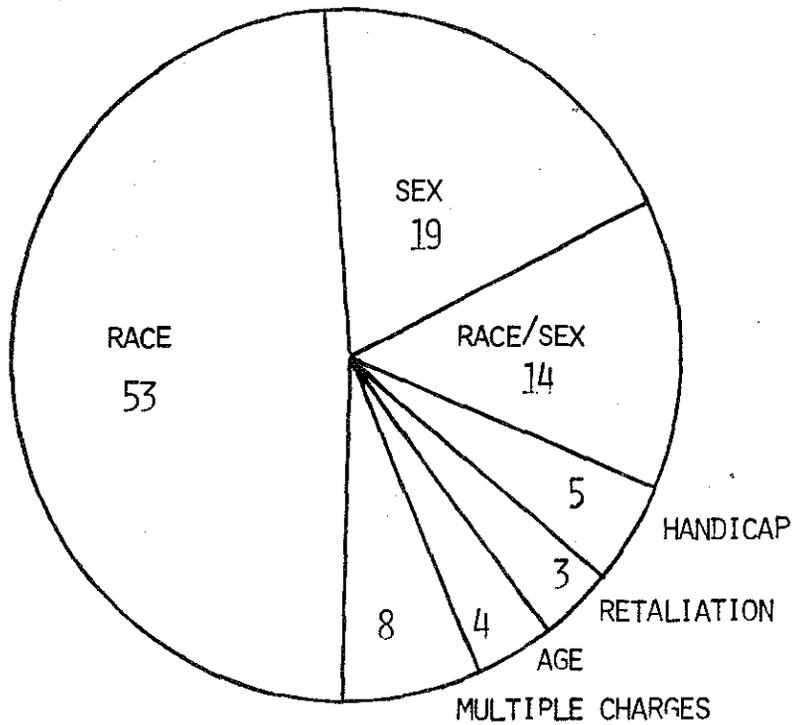
46 UNDER  
INVESTIGATION

370



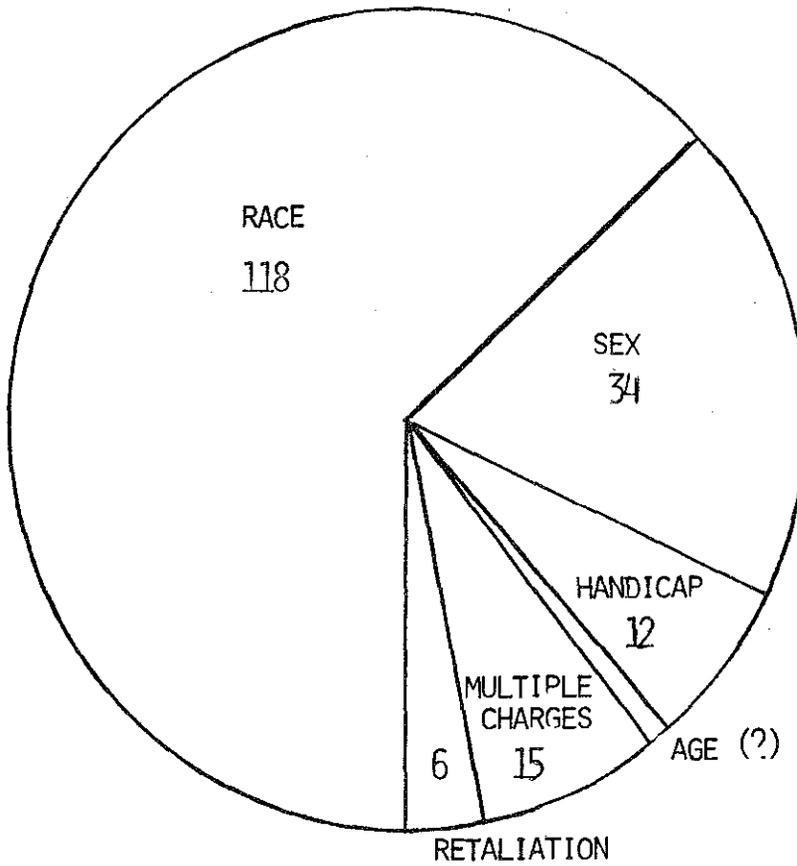
FISCAL YEAR

1982-1983

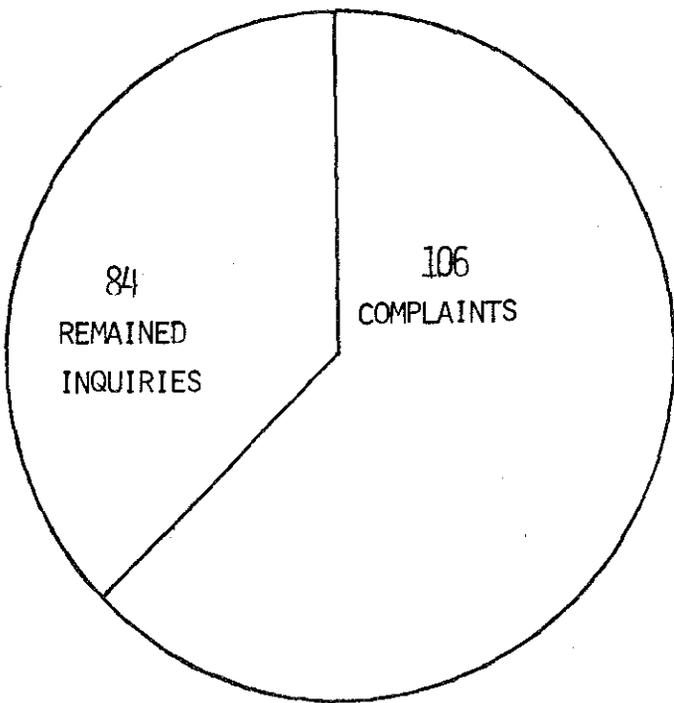


FISCAL YEAR

1983-1984

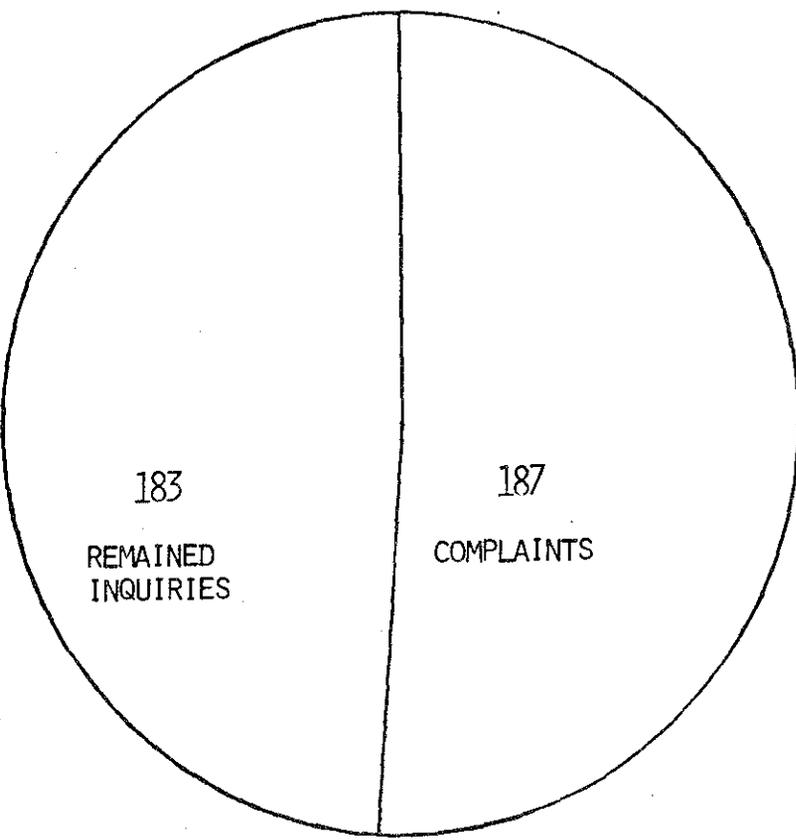


FISCAL YEAR  
1982-1983



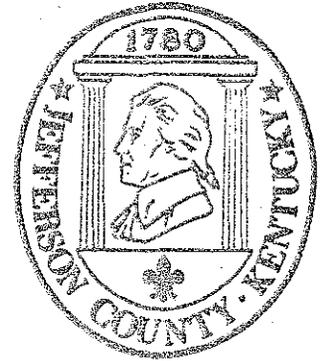
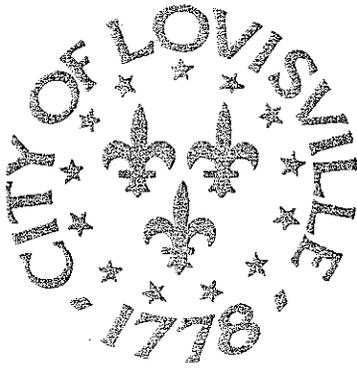
TOTAL INQUIRIES  
190

FISCAL YEAR  
1983-1984



TOTAL INQUIRIES  
370

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# **Annual Report**

## **1985-1986**

**The Louisville and Jefferson County  
Human Relations Commission**

## Compliance - Jurisdiction

### EMPLOYMENT

It is against the law in Louisville and Jefferson County for employers, employment agencies, and labor organizations to discriminate on the basis of:

RACE	SEX
COLOR	AGE
RELIGION	HANDICAP
NATIONAL ORIGIN	ANCESTRY
PLACE OF BIRTH	

in accepting job applications, referring job applicants, hiring, tenure, apprenticeship, wages or salary, upgrading and promotions or discharge.

An employer must employ at least two employees in the preceding calendar year and the act complained of must have occurred within 90 days. Employment complaints account for 83% of all cases filed this fiscal year.

### PUBLIC ACCOMMODATIONS

The law states that it is unlawful for any owner, lessee, operator, manager, agent or employee

1. to discriminate on the basis of:

RACE	COLOR
NATIONAL ORIGIN	RELIGION

in connection with admission to service or sales in or price, quality or use of any facility or service of any place of public accommodation, resort or amusement in the County.

2. to display, circulate or publicize or cause to be displayed or publicized, directly or indirectly, any notice, communication or advertisement which states or implies that any facility, service, commodity or activity in such place will not be made available to any person in full conformity with the requirements of the law on account of the person's race, color, religion, or national origin.

While this is the least likely area basis for a complaint of discrimination, it is still viable law. Historically blacks were blatantly denied services in places of public accommodation. With the enactment of the 1964 Civil Rights Act, such discrimination is rare. However, The Commission tested a newly opened downtown restaurant/bar after receiving several anonymous complaints. The Commission's test was negative, but other Civil

Rights Agencies found cause to believe blacks were being treated unfairly.

FAIR HOUSING

It is a violation of the Fair Housing Law for any real estate broker or salesperson, or for any person owning or managing multi-unit dwellings to:

- 1. deny housing to any person because of

RACE	COLOR
ANCESTRY	NATIONAL ORIGIN
SEX	RELIGION
HANDICAP	PLACE OF BIRTH

- 2. discriminate against any person because of RACE, COLOR, ANCESTRY, NATIONAL ORIGIN, SEX, HANDICAP, PLACE OF BIRTH OR RELIGION with respect to the terms, conditions, or privileges of housing accommodations or in the furnishing of facilities or services in connection therewith.

During this fiscal year the Commission saw a dramatic increase in the number of housing complaints and inquiries filed. This rise is partially attributed to the agencies contract with the Department of Housing and Urban Development.

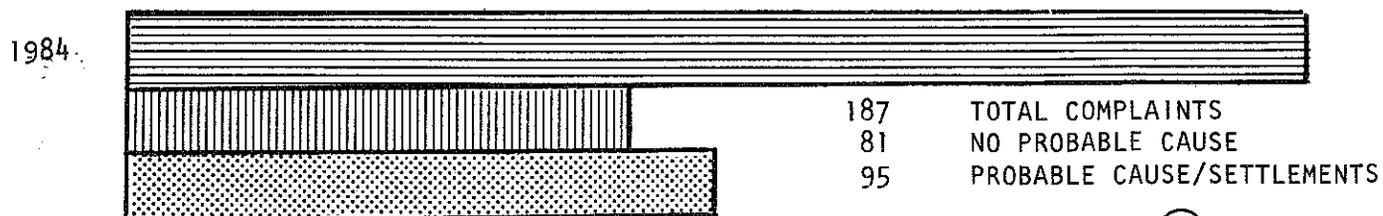
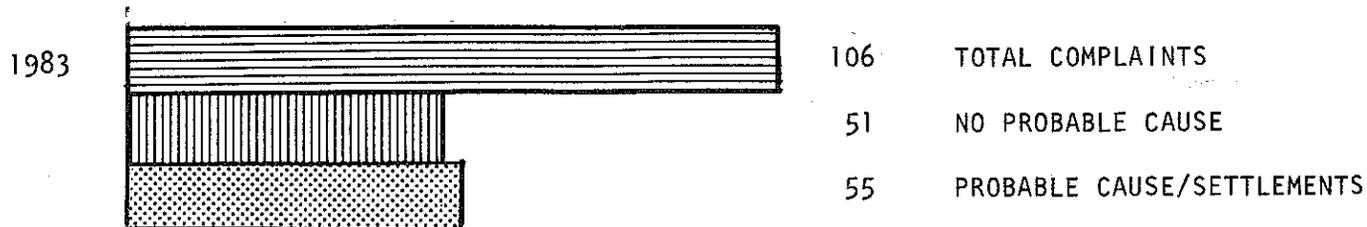
The Community Involvement Committee met twice with representatives of the Housing Authority of Louisville in 1985 to inquire about its progress in desegregating the units under its control. HAL officials related that they had changed their policy such that if a white person refused a placement, he/she would go to the bottom of the waiting list. This, hopefully, will provide additional incentive for whites to move into the predominately black complexes and thereby increase integration. However, in early 1986, the local HUD director issued an opinion stating that the desegregation policies of HAL were illegal as they violated Title VIII. This opinion is currently being challenged with the hope that the local HUD office will encourage, rather than discourage, integration of local public housing.

Also, during this fiscal year members of the Commission's staff testified before the U.S. Commission on Civil Rights respecting segregated public housing in Louisville and Jefferson County.

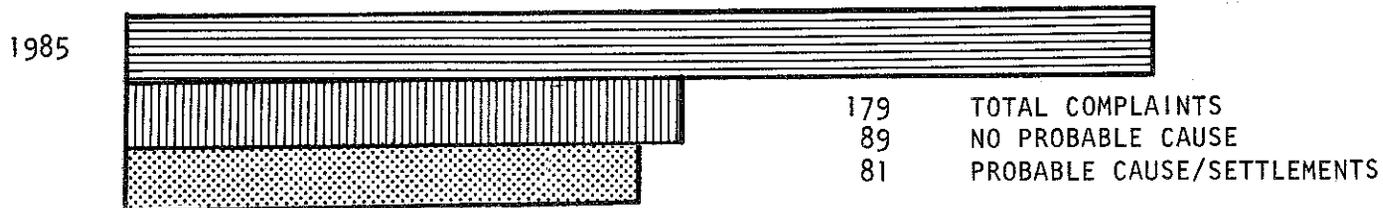
Other Fair Housing activities during this fiscal year included:

The Commission being selected for the State Fair Housing award and as one of the agencies to receive the HUD IV Regional Fair Housing Award. The awards were for special achievement in the area of fair housing and for substantial contributions in the supporting and developing of fair housing.

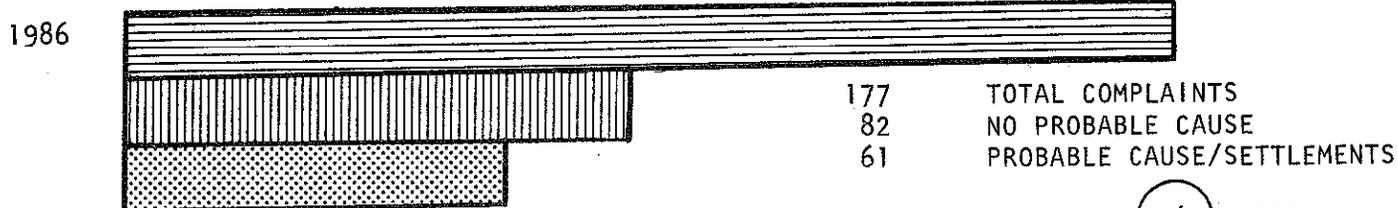
### Complaint History



① UNDER INVESTIGATION

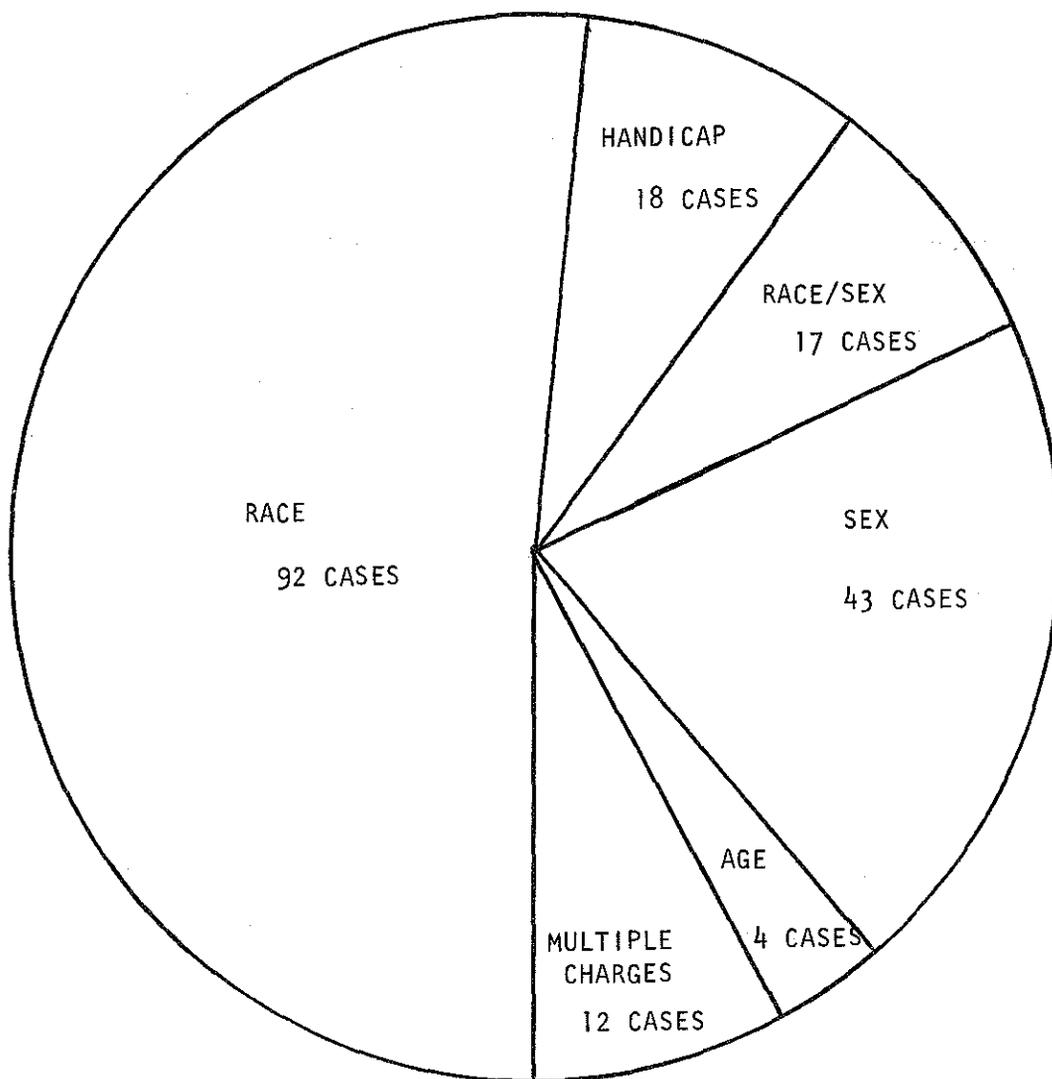


④ UNDER INVESTIGATION



③④ UNDER INVESTIGATION

### Fiscal Year 1986



## Compliance Panels

### Anti-Discrimination Panel

The Anti-Discrimination Panel is the arm of the Commission which on the basis of extensive investigation of the allegations in complaints, determines whether there is probable cause to believe there has been discrimination or no discrimination. The Panel basis its decision on the weight of the evidence derived from the information and data collected during the investigation. This Panel consists of five Commissioners selected by the Executive Committee and meets monthly.

The committee members are: Ira Grupper, Lyman T. Johnson,  
Paul Schweitzer, Barbara Price  
Father Tim Hogan, Phil Bramer

### HEARING PANEL

If a probable cause determination is not conciliated, the Commission sets the case for a public hearing before a Panel of three. The Panel is chaired by a current Commissioner and the other two may be either current or former Commissioners.

Commissioners: Phyllis Florman, Montest Eaves, Suzy Post  
Jann Logsdon and Kendrick Riggs

### PUBLIC HEARINGS

FISCAL YEAR 86

#### 1. KEVIN KELTEE V. MONARCH AUTO

Complaint: Mr. Keltee alleged he was denied a transfer because of his race (black).

Date of Public Hearing: August 22, 1985

Panel's Decision and Order: The Panel found that sufficient evidence existed which indicated that Mr. Keltee recieved unequal treatment when he was denied the transfer.

The Panel made the following award:

\$1,500.00	Backwages
1,000.00	Embarrassment and Humiliation Damages

TOTAL \$2,500.00

Appeal to Commission: The Respondent appealed the Hearing Panel's award to the Commission's Appeal Panel. The Appeal Panel affirmed the Hearing Panel's award and findings.

Appeal to Circuit Court: The Respondent appealed the Commission's decision and award to the Jefferson County Circuit Court on July 3, 1986. Decision is pending.

HEARING OFFICERS: James Thornton, J. R. Hughes, Kathleen Lyons

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2. DONNA MASON & ROCHELLE COLEMAN V WING CONSTRUCTION COMPANY

Complaint: Ms. Mason and Ms. Coleman both alleged that they were subjected to unequal treatment and terminated because of their race (black).

Date of Public Hearing: November 12, 1985

Panel's Decision and Order: The Respondent failed to appear at the hearing and the Panel awarded the Complainants a default judgement. The Panel awarded each of the Complainants back pay and \$1,000 embarrassment and humiliation damages.

HEARING OFFICERS: Montest Eaves, Suzy Post, Tanney Bradley

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3. SHERYL MEERS V GUARANTEED AIR FREIGHT

Complaint: Ms. Meers alleged that she was subjected to unequal treatment respecting her pay and was terminated because of her sex (female).

Date of Public Hearing: December 5, 1985

Panel's Decision and Order: The Panel found that insufficient evidence existed to support the complainant's claim that she was discriminated against because of her sex. The case was ordered dismissed.

HEARING OFFICERS: Phyllis Florman, Marge Farley and J. R. Hughes

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4. SHIRLEY DUKE AND BARBARA CARROLL V. MR. MAID

Complaint: Ms. Duke and Ms. Carroll alleged that they were transferred and laid off for several days because of their sex (female).

Date of Public Hearing: February 7, 1986

Panel's Decision and Order: The Panel found that insufficient evidence existed to support the Complainants' claim of sex discrimination. The case was ordered dismissed.

Appeal to Commission: The Complainants appealed the Hearing Order to the Commission's Appeal Panel. Case reversed and remanded for determination of monetary damages.

HEARING OFFICERS: Phyllis Florman, Don Noble and Marge Farley

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5. DEBORAH OSBORNE V. J. D. MANAGEMENT

Complaint: Ms. Osborne alleged that she was given a 10 day warning letter and that the Respondent had begun an eviction process against her because of her race (black).

Date of Public Hearing: February 6, 1986

Panel's Decision and Order: The Panel found that sufficient evidence existed to support the complainant's claim that she had been given a 10 day warning letter and subjected to an eviction because of her race (black). The Panel made the following award:

\$500.00 Embarrassment and Humiliation damages and moving costs.

HEARING OFFICERS: Phyllis Florman, Tanney Bradley and Rev. C. Mackey Daniels

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6. ANNA ROBARDS V. CONCO

Complaint: Ms. Robards alleged that she was terminated because of her sex (female), age (42) and her handicap (injured finger).

Date of Public Hearing: February 20, 1986

Panel's Decision and Order: The Panel found that insufficient evidence existed to support the complainant's claim that she was terminated because of her age, sex or handicap. The case was ordered dismissed.

**HEARING OFFICERS:** Phyllis Florman, Tanney Bradley  
and Fredric Michels

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7. **NANCY GOLDSMITH V. HAIR PERFORMERS**

**Complaint:** Ms. Goldsmith alleged that she was terminated because of her handicap (hearing impairment).

**Date of Public Hearing:** April 17, 1986

**Panel's Decision and Order:** Case was settled prior to completion of hearing. Complainant received \$625.00 in settlement of her claims.

**HEARING OFFICERS:** Phyllis Florman, J. R. Hughes and  
Rev. C. Mackey Daniels

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8. **REBECCA L. SPALDING V MOTEL SIX (6)**

**Complaint:** Ms. Spalding alleged that she was terminated because of her sex (female).

**Date of Public Hearing:** August 27, 1985

**Panel's Decision and Order:** The Panel found that sufficient evidence existed which indicated that Ms. Spalding was terminated because of her sex. Complainant was awarded \$1670.00 in damages.

**HEARING OFFICERS:** Montest Eaves, Gertrude White-Coleman  
and Joseph Stone

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9. **BRUCE TATUM V. WLKY BROADCASTING**

**Complaint:** Mr. Tatum alleged that he was denied a promotion because of his race (black).

**Date of Public Hearing:** June 10, 1986

**Panel's Decision and Order:** Transcripts and decision pending

**HEARING OFFICERS:** Phyllis Florman, Rev. C. Mackey Daniels  
and Dot Hagan

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**APPEAL PANEL:**

If either party is dissatisfied with the Hearing Panel's decision and order, they may appeal the case to the Commission's Appeal Panel. The Appeal Panel is comprised of four Commissioners who review transcript records before determining whether the Hearing Panel's decision is based on sufficient evidence and law in the records.

Appeal Panel Commissioners: Kendrick Riggs, Rosa Ashmore,  
Joe McMillan and Charles King

Cases Appealed to the Commission's Appeal Panel

**Kevin Keltee v. Monarch Auto**

**Appeal Panel Decision:** Upheld Hearing Panel finding of  
discrimination.

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**Hills V. Louisville Memorial Primary Care**

**Complaint:** Ms. Mills alleged that she was denied a Dental  
Assistant position because of her race (black).

**Appeal Panel Decision:** Pending

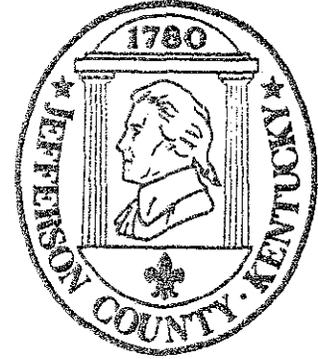
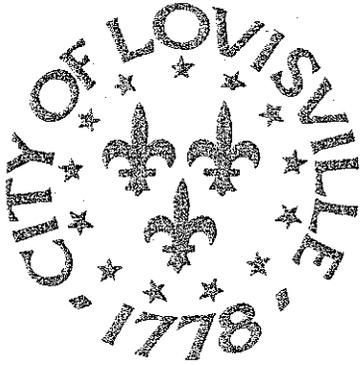
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**Duke & Carroll v. Mr. Maid**

**Appeal Panel Decision:** Case reversed and remanded for  
determination of monetary damages.

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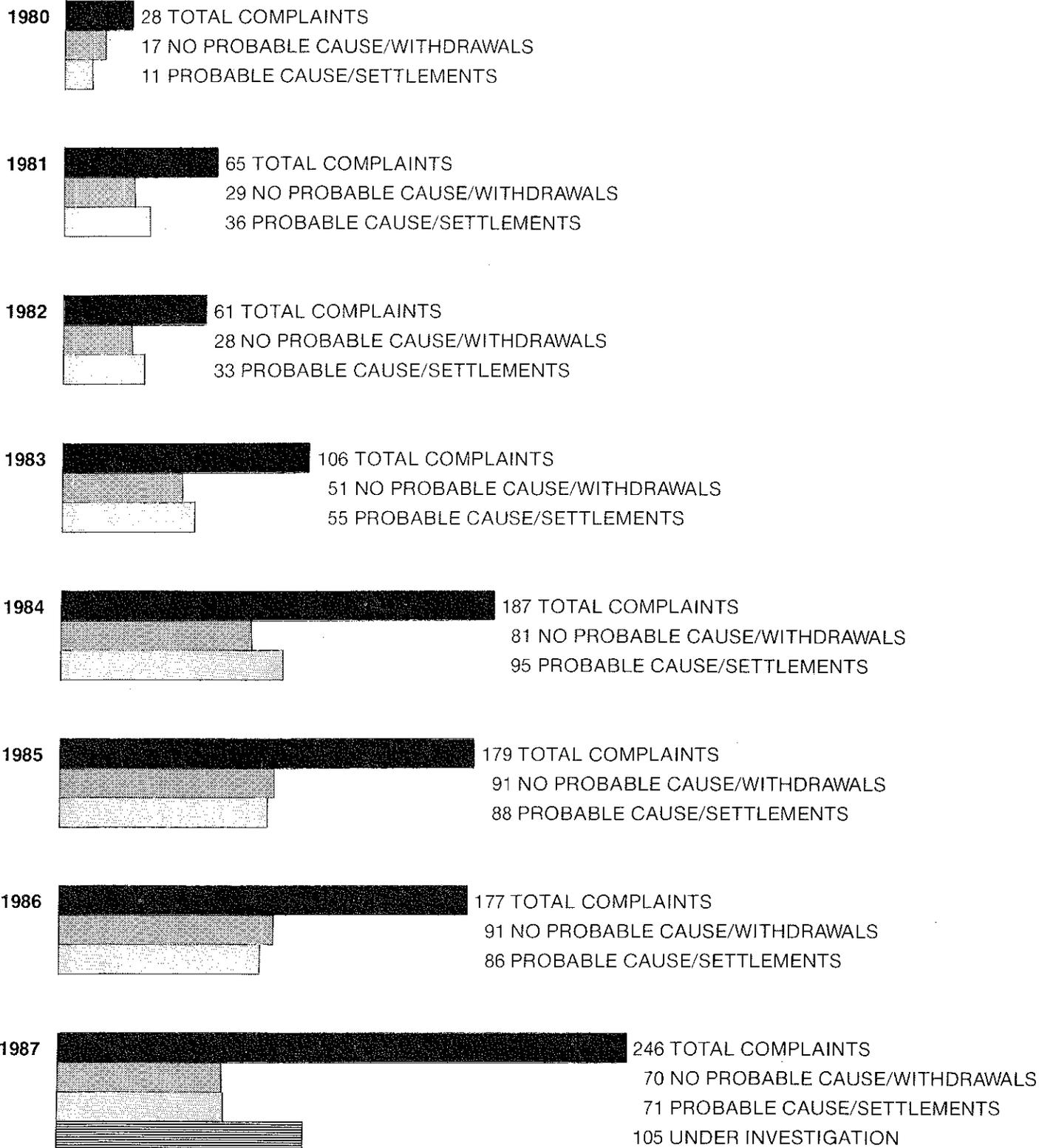
# **Annual Report**

## **Fiscal Year 1987**

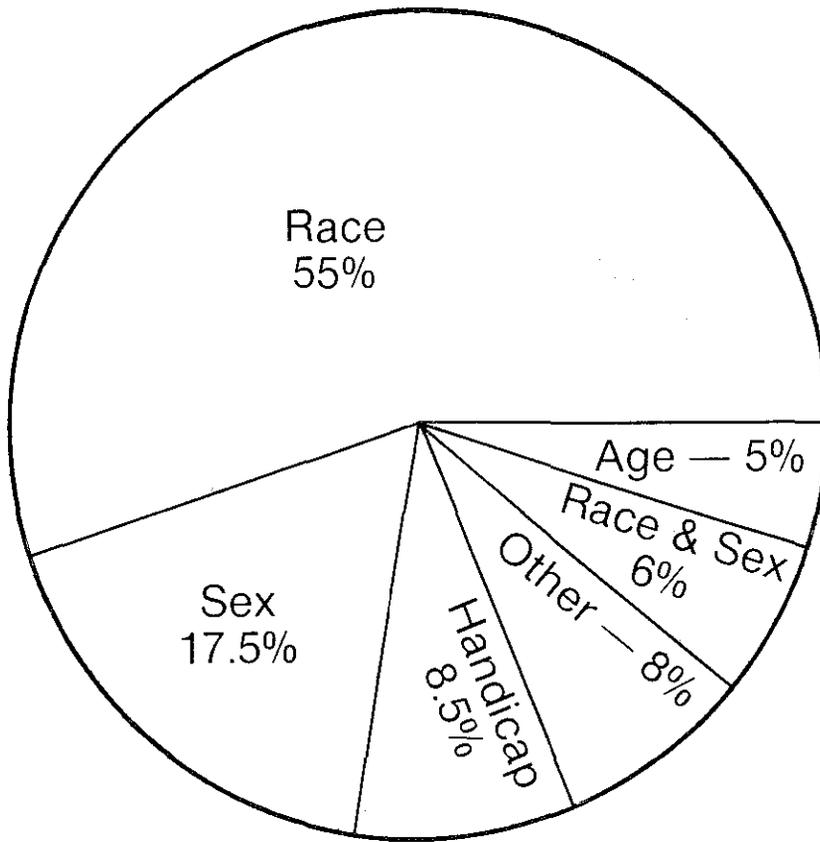
### **The Louisville and Jefferson County Human Relations Commission**

# COMPLAINT HISTORY

## FISCAL YEAR

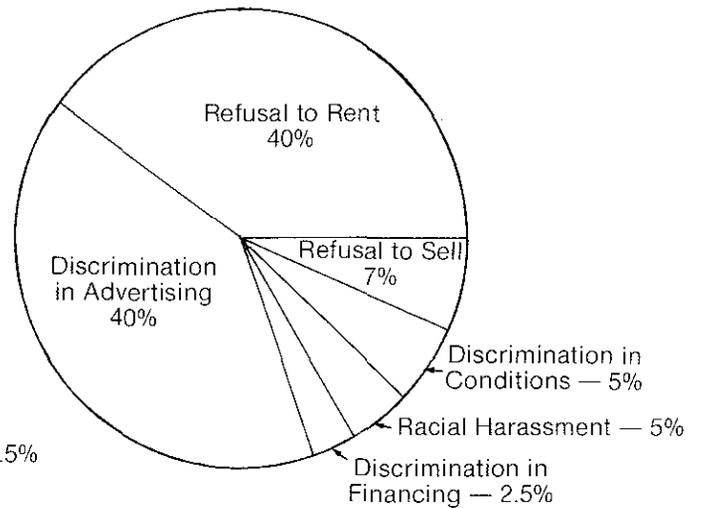
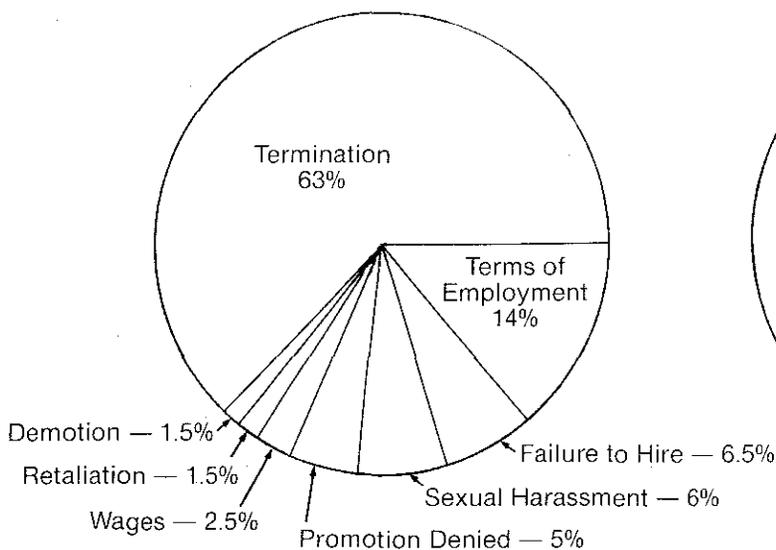


# BASIS OF ALL COMPLAINTS/1987



## EMPLOYMENT COMPLAINTS

## HOUSING COMPLAINTS



the hearing was held during March and April of 1987. The decision is pending receipt of legal briefs.

Hearing officers: Montest Eaves, Jack Dulworth and Dot Hagan.

## ADDITIONAL DECISIONS

### Duke and Carroll v. Mr. Maid

After a dismissal, the Appeals Panel reviewed the case, determined the Complainants had been discriminated against because of sex and sent the case back to the hearing panel to determine the amount of damages. In December of 1986, the hearing panel awarded the Complainants \$1240 in back pay and damages and ordered the Respondent to adopt an affirmative recruitment policy.

Hearing officers: Phyllis Florman, Don Noble and Marge Farley.

### Tatum v. WLKY

The Complainant alleged he had been denied a promotion because of his race and a public hearing was held. On February 5, 1987, the hearing panel found for the Complainant, by a vote of two-to-one, and awarded him a promotion and ordered the employer to adopt an appropriate affirmative action plan. The decision was appealed to the Appeals Panel.

Hearing officers: Phyllis Florman, C. Mackey Daniels and Dot Hagan.

## APPEALS PANEL DECISIONS

### Mills v. Louisville Memorial Primary Care Center

The Appeals Panel upheld the hearing officers decision that employment be offered the Complainant and that she be awarded \$3000 in damages, back pay, and that an affirmative action plan be adopted as remedies for racial discrimination. The case has been appealed to circuit court.

Appeals Panel members: Rosa Ashmore, Reverend Charles King, James E. McGovern, Joseph McMillan, Carolyn Mims and Pearlina Williams.

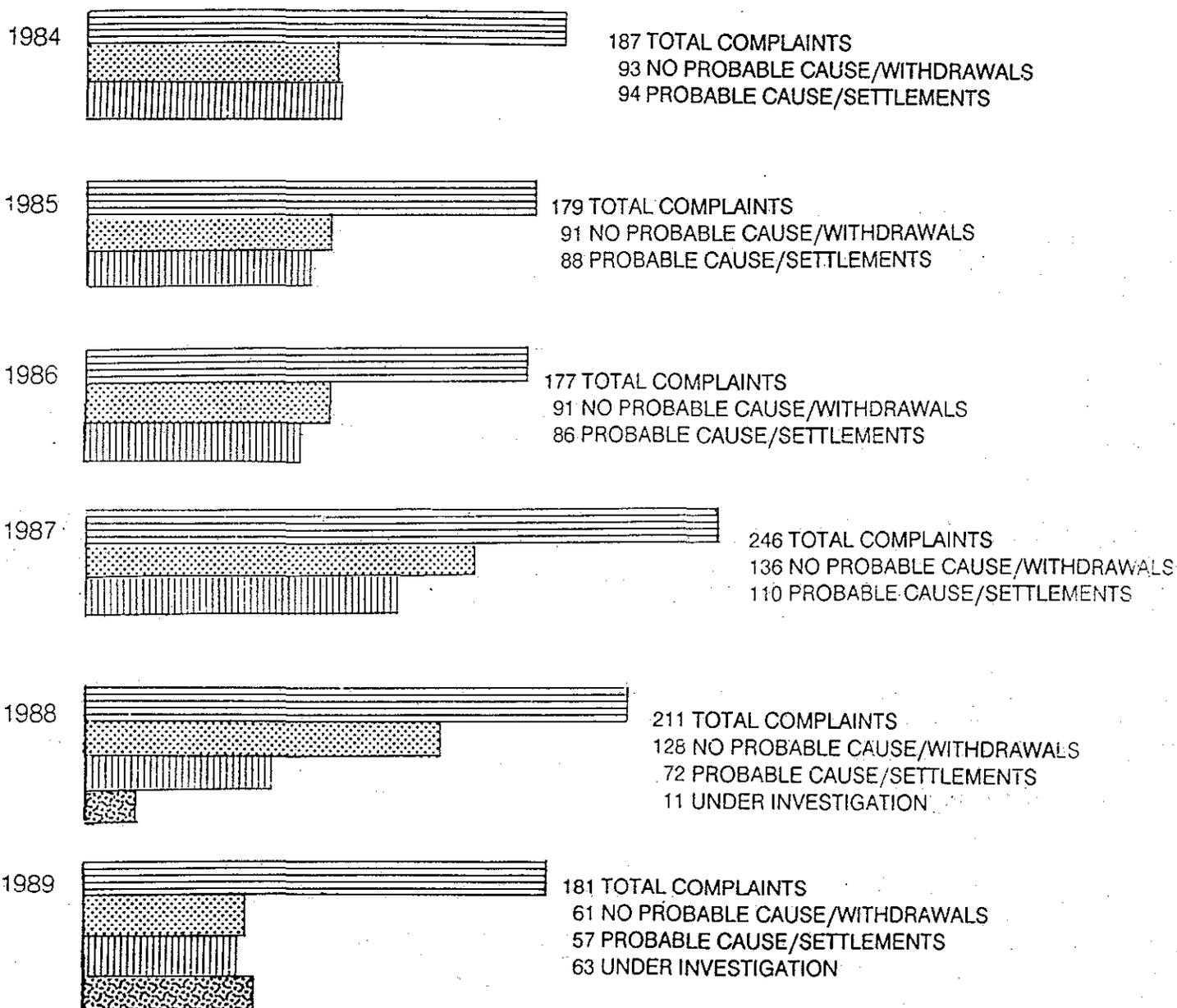


# **ANNUAL REPORTS**

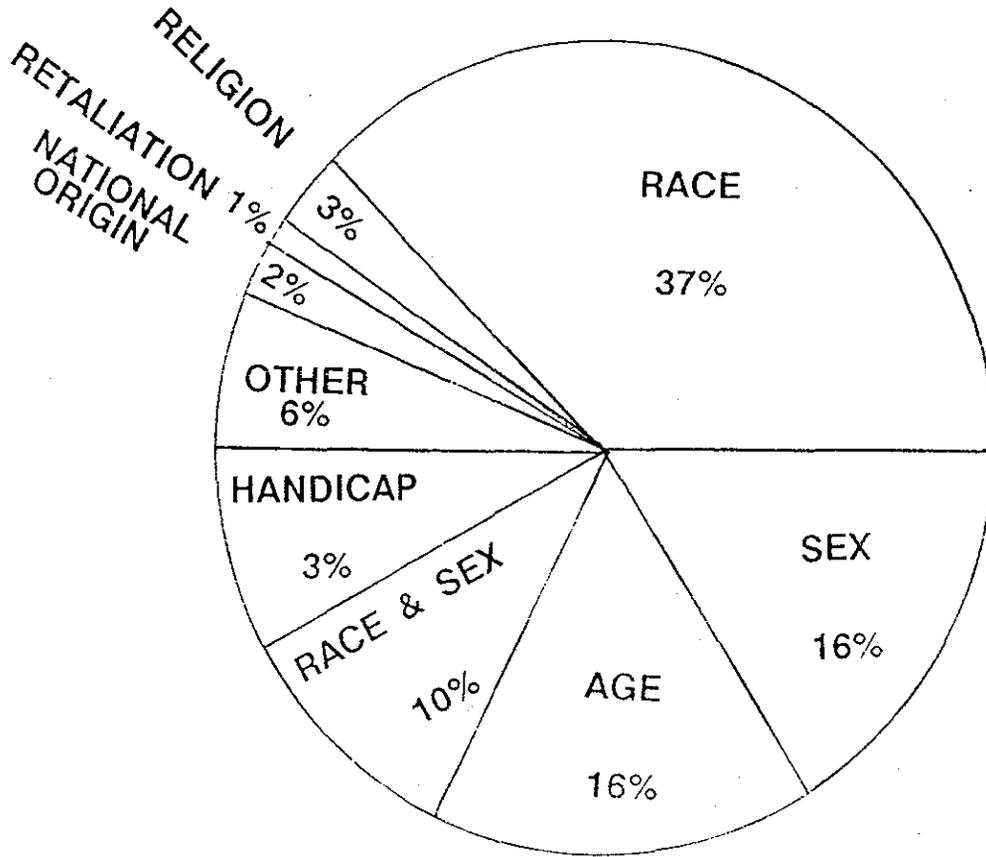
**FISCAL YEARS 1988/1989**

**THE  
Louisville & Jefferson County  
*HUMAN RELATIONS  
COMMISSION***

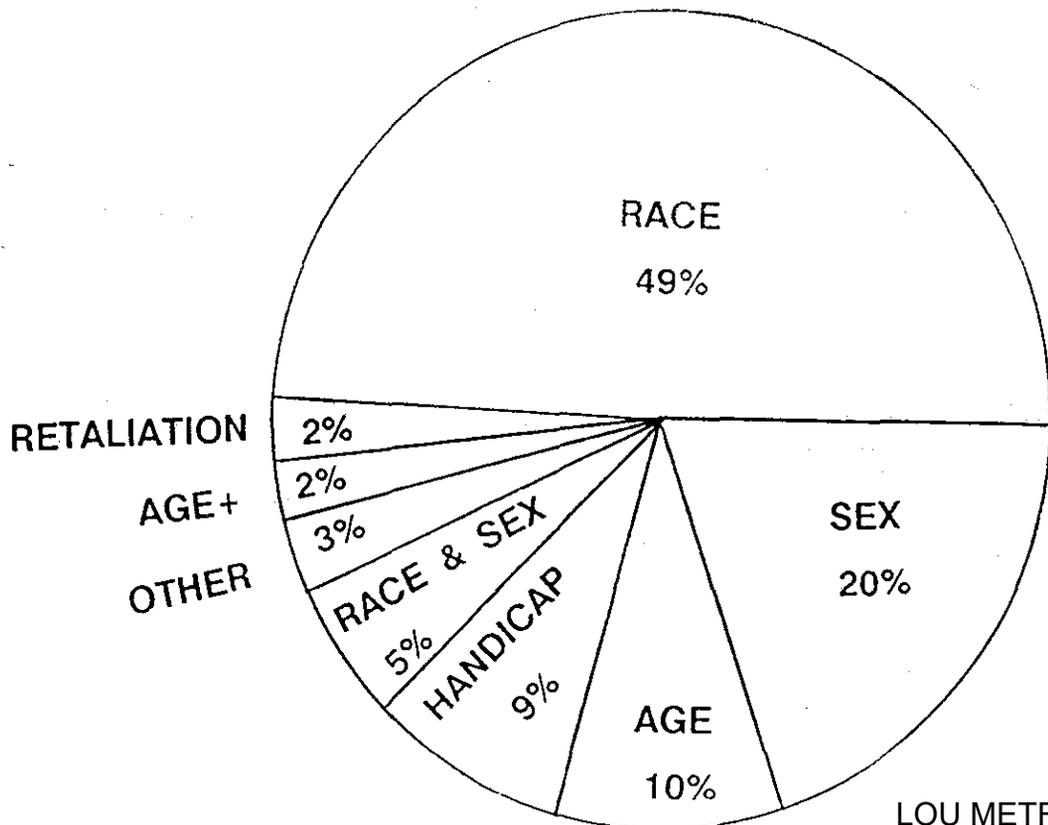
# COMPLAINT HISTORY



### BASIS FOR COMPLAINTS --- 1988



### BASIS FOR COMPLAINTS --- 1989



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HEARING PANEL DECISIONS - FISCAL YEARS 1988/1989

Helton v. Spartan Express

Basis: Age, Handicap, Retaliation

Adverse Action: Termination

Decision: For the Respondent. Complaint Dismissed

Date of Decision: December 16, 1987

Nichols v. H. J. Scheirich Co.

Basis: Race

Adverse Action: Termination

Decision: For the Complainant, reinstatement, back wages,  
\$1,000, for embarrassment and humiliation.

Date of Decision: April 12, 1988

Burtsfield v. Mr. Maid

Basis: Sex and Retaliation

Adverse Action: Unequal Pay, Termination

Decision: For the Complainant, \$3,400 back wages due to un-  
equal pay, back wages due to termination, \$3,000  
for embarrassment and humiliation.

Date of Decision: April 19, 1988

Edwards v. Republic Maintenance

Basis: Race

Adverse Action: Termination

Decision: For the Respondent. Complaint dismissed.

Date of Decision: June 22, 1988

Calloway v. Louisville Gas & Electric

Basis: Race

Adverse Action: Termination

Decision: For the Respondent. Complaint dismissed.

Date of Decision: July 1, 1988

McAnelly v. The Courier-Journal

Basis: Handicap

Adverse Action: Failure to Promote

Decision: For the Respondent. Complaint dismissed.

Date of Decision: July 1, 1988

Handley v. The Kentucky Center For The Arts

Basis: Race

Adverse Action: Denial of Promotion

Decision: For the Complainant, back wages and \$1,500 in embarrassment and humiliation.

Date of Decision: July 12, 1988

Edwards v. Pleasant Place Nursing Home

Basis: Handicap

Adverse Action: Termination

Decision: For the Complainant, back wages and \$1,000 in embarrassment and humiliation.

Date of Decision: July 12, 1988

Murphy v. Bohannon

Basis: Race

Adverse Action: Failure To Rent

Decision: For the Complainant. \$650 for difference in rent and \$850 for embarrassment and humiliation.

Date of Decision: August 24, 1988

Franklin & Sorg v. TWA

Basis: Age and Sex

Adverse Action: Lay Off

Decision: Pending

Date of Hearing: June 20, 21, 1989

Vittitow v. Alioto Dry Cleaners

Basis: Sex

Adverse Action: Sexual Harassment

Decision: For the Respondent. Complaint dismissed.

Date of Decision: October 12, 1989

Kearns v. American Printing House For the Blind

Basis: Handicap

Adverse Action: Termination

Decision: For the Respondent. Complaint dismissed

Date of Decision: July 10, 1989

Jones v. Spencerian College

Basis: Race Association

Adverse Action: Termination

Decision: Case was settled prior to a decision of the Hearing Panel.

JEFFERSON CIRCUIT COURT DECISIONS - FISCAL YEARS 1988/1989

Monarch Auto v. Keltee

Basis: Race

Adverse Action: Failure To Promote

Decision: Upheld Commission award of \$1,000 to the Complainant for embarrassment and humiliation, overturned award of back wages.

Date: December 18, 1987

Memorial Care Center v. Mills

Basis: Race

Adverse Action: Failure To Hire

Decision: Upheld Commission award of \$3,000 for embarrassment and humiliation, and remanded to the Commission for a determination of the feasibility of the requirement of a job tender and computation of the amount of back wages due.

Date: November 3, 1987

WLKY v. Tatum

Basis: Race

Adverse Action: Failure To Promote

Decision: Commission decision in favor of the Complainant was overturned.

Date: February 8, 1988

Wright v. The Elizabethan Club

Basis: Sex

Adverse Action: Termination

Decision: Upheld decision for the Complainant on Summary Judgement.

Date: December 6, 1988

Handley v. The Kentucky Center For The Arts

Basis: Race

Adverse Action: Failure To Promote

Decision: A decision for the Complainant upheld on appeal.

Date: April 6, 1989

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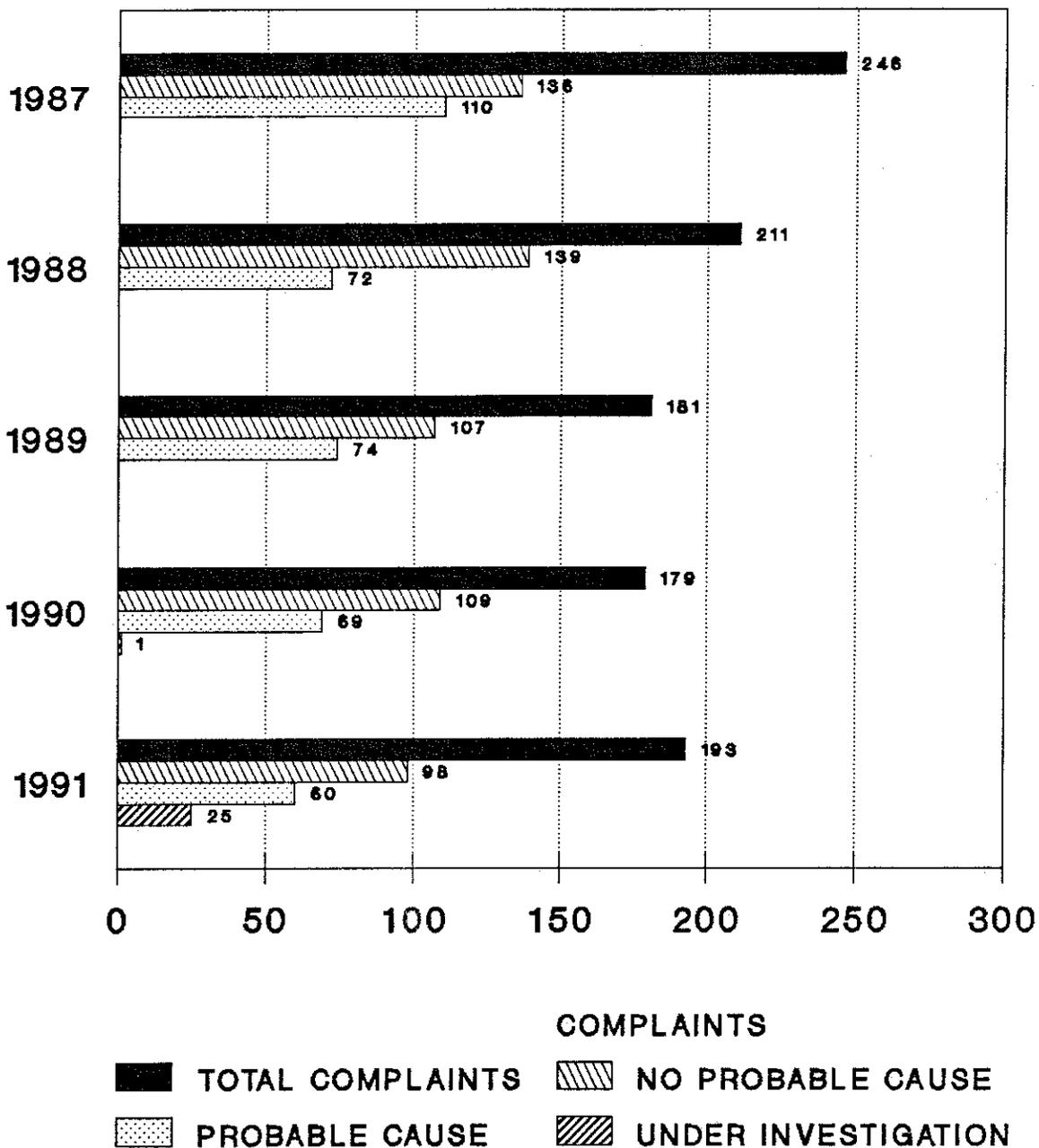


# Annual Report

**FISCAL YEARS 1990 & 1991**

## **The Louisville and Jefferson County Human Relations Commission**

### COMPLAINT HISTORY



**Hearing Panel Decisions - Fiscal Years 1990 - 1991**

**Showalter v. William H. Ray and Associates Inc.**

Basis: Age and Sex  
Adverse Action: Constructive Discharge  
Decision: For the Respondent. Complaint Dismissed  
Date of Decision: October 23, 1989

**Simms v. Insurance Field**

Basis: Race  
Adverse Action: Termination  
Decision: Case was settled prior to a decision by the Hearing Panel.

**Franklin and Sorg v. Trans World Airlines, Inc.**

Basis: Age and Sex  
Adverse Action: Elimination of Jobs  
Decision: For the Respondent on the issue of sex  
For the Complainants on the issue of age  
Award included back wages and return to former positions.  
Date of Decision: February 8, 1990

**Schlenk v. J. Keith Upholstery and Decorating**

Basis: Sex  
Adverse Action: Difference in Terms and Conditions of Employment  
Decision: Individual Complaint: For the Respondent.  
Complaint Dismissed.  
Pattern and Practice: For the Commission. Award required inclusion of pregnancy coverage in medical benefits insurance policy.  
Date of Decision: March 14, 1990

**Egan v. Request-A-Temp**

Basis: Age

Adverse Action: Termination

Decision: For the Respondent. Dismissal of the complaint.

Date of Decision: April 17, 1991

**Jefferson County Circuit Court**

**Franklin and Sorg v. TWA**

Basis: Age  
Adverse Action: Elimination of Jobs  
Decision: Upheld award for the Complainants: back wages and return to former positions.  
Date: September 7, 1990

**C.D.S. Management v. Edwards and the Louisville and Jefferson County Human Relations Commission**

Basis: Handicap  
Adverse Action: Termination  
Decision: Reversed Commission award for the Complainant  
Date: January 10, 1991

**H. J. Scheirich v. Nichols and the Louisville and Jefferson County Human Relations Commission**

Basis: Race  
Adverse Action: Termination  
Decision: Dismissed Respondent's appeal without prejudice from Commission award for the Complainant: reinstatement, back wages, \$1,000, for embarrassment and humiliation.  
Date: March 21, 1991

**REPORTED CASES OF DISCRIMINATION BASED ON "SEXUAL ORIENTATION"**

In 1986, following the Commission's resolution urging the amendment of local anti-discrimination laws to include "sexual orientation", the Louisville Board of Aldermen requested that this Commission document claims of discrimination based on "sexual orientation".

In 1990 the Commission was contacted by six (6) persons alleging employment discrimination and harassment because of "sexual orientation".

In 1991 the Commission was contacted by eight (8) persons alleging employment and housing discrimination and physical attacks because of "sexual orientation".



# **ANNUAL REPORTS**

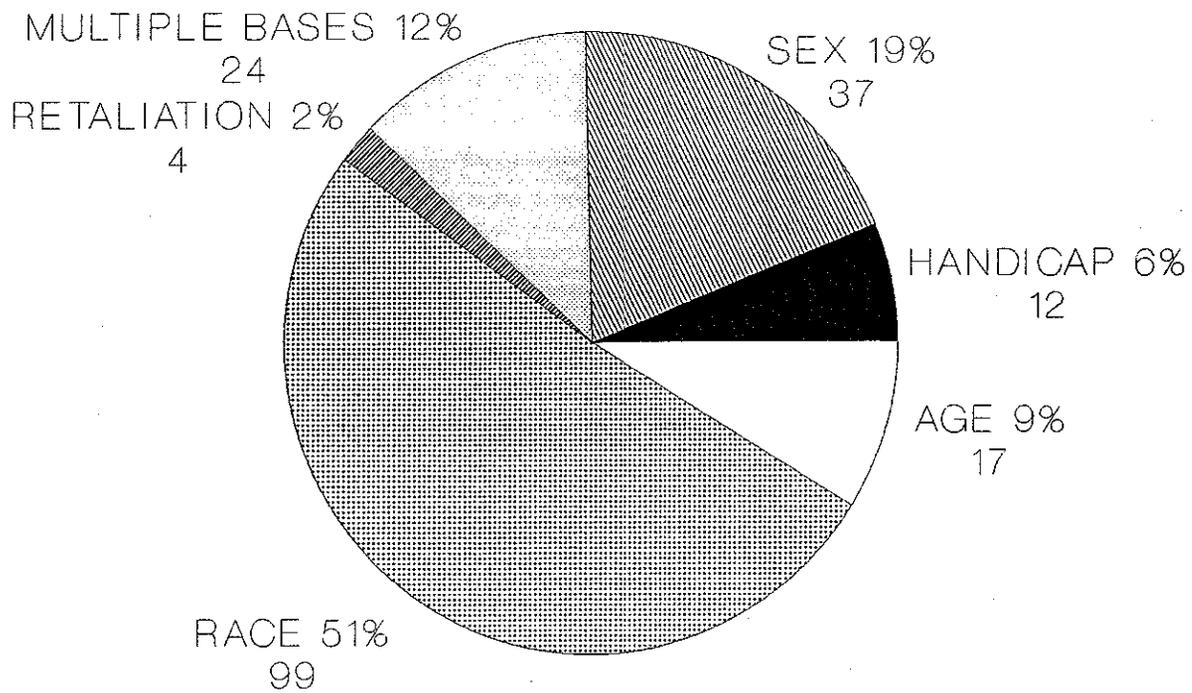
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**FISCAL YEARS 1992–1993**

**THE  
Louisville & Jefferson County  
*HUMAN RELATIONS  
COMMISSION***

# CLOSURES-EMPLOYMENT

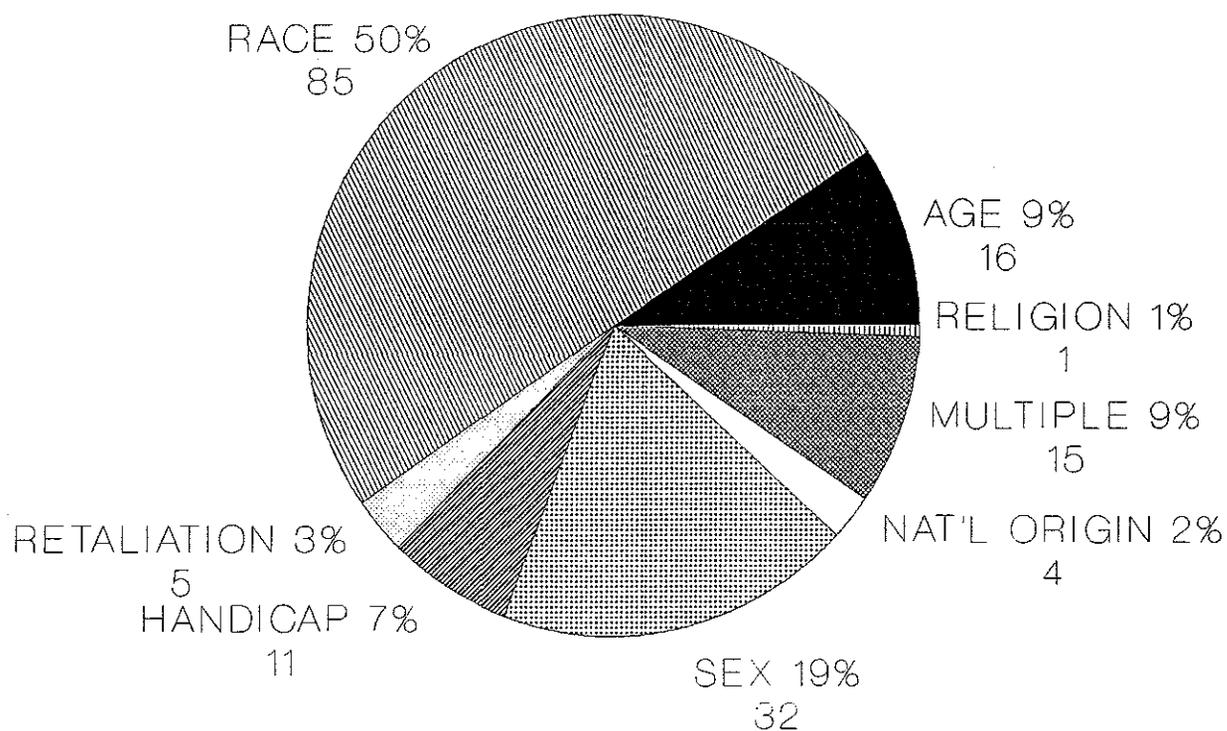
JULY 1, 1992 - JUNE 30, 1993



TOTAL NUMBER OF CASES CLOSED-193

# CLOSURES-EMPLOYMENT

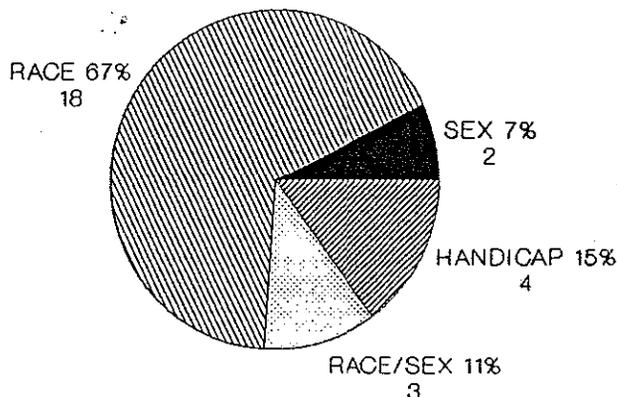
## JULY 1, 1991-JUNE 30, 1992



TOTAL NUMBER OF CASES CLOSED - 169

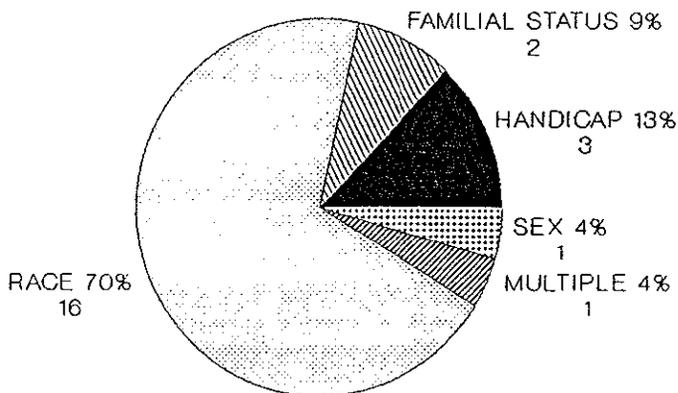
# CLOSURES-HOUSING

## JULY 1, 1991 - JUNE 30, 1992



TOTAL CASES CLOSED - 27

## JULY 1, 1992 - JUNE 30, 1993



TOTAL CASES CLOSED - 23

HEARING PANEL DECISIONS

Helm v. WIP Auto Parts

Basis: Age  
Adverse Action: Termination  
Decisions: For the Respondent. Complaint Dismissed.  
Date of Decision: January 16, 1992

Ricks v. Wal-Mart Stores

Basis: Sex-Pregnancy  
Adverse Action: Difference in Terms and Conditions of Employment.  
Decision: For the Respondent. Complaint Dismissed.  
Date of Decision: January 29, 1992

Franklin v. Bauer's Restaurant

Basis: Race  
Adverse Action: Termination  
Decision: For the Complainant. Award \$1,440.  
Date of Decision: March 2, 1992

Jenkins v. Amelia Fendley

Basis: Race  
Adverse Action: Harassment  
Decision: For the Complainant. Award: Cease and Desist, \$660.00, Cancellation of Respondent's Lease.  
Date of Decision: May 12, 1992

APPEAL PANEL DECISIONS

Brewer v. Southeastern Dairies

Basis: Sex, Handicap, Religion  
Adverse Action: Termination  
Decision: Reversed Dismissal by Hearing Examiner.  
Date of Decision: August 22, 1991

Mahoney v. Louisville Forge and Gear

Basis: Sex  
Adverse Action: Difference in Terms and Conditions of Employment.  
Decision: Affirmed the Dismissal.  
Date of Decision: January 9, 1992

Helm v. WIP Auto Parts 24J-A-90-2552

Basis: Age  
Adverse Action: Termination  
Decision: Affirmed Dismissal of Complaint.  
Date of Decision: May 5, 1992

JEFFERSON COUNTY CIRCUIT COURT

Schlenk v. J. Keith Upholstery

Basis: Sex  
Adverse Action: Difference in Terms and Conditions of Employment.  
Decision: Reinstated Hearing Officer's Findings For the Respondent.  
Date of Decision: March 27, 1992

1993 HEARING PANEL DECISIONS

LUCAS V. SHOREWOOD APTS

Basis: Sex  
Adverse Action: Threat of Eviction  
Decision: Dismissal of complaint for the Complainant's failure to appear.  
Date of Decision: April 3, 1993

SMITH V. CARRICO FOOD MART

Basis: Sex  
Adverse Action: Termination  
Decision: For the Complainant. Award of four hundred dollars (\$400.00) for embarrassment and humiliation and back wages.  
Date of Decision: May 3, 1993

DRISKELL V. JACK FRY'S

Basis: Handicap and Sex  
Adverse Action: Termination  
Decision: For the Respondent. Complaint dismissed.  
Date of Decision: May 19, 1993

JENKINS V. FENDLEY

Hearing Re-Opened  
Basis: Race  
Adverse Action: Harassment  
Decision: For the Complainant  
Date of Decision: July 27, 1992

**ALEXANDER V. HUMANITY HEALTH CARE**

Basis: Sex

Adverse Action: Sexual Harassment

Decision: For the Complainant. Award of \$6400.00 for back wages and \$6400.00 for embarrassment and humiliation.

Date of Decision: November 12, 1992

**APPEAL PANEL DECISIONS**

**BREWER V. SOUTHEASTERN DAIRIES**

Basis: Handicap, Sex, Religion

Adverse Action: Termination

Decision: For the Complainant

Date of Decision: March 12, 1992

**FRANKLIN V. BAUER'S**

Basis: Race

Adverse Action: Termination

Decision: For the Complainant

Date of Decision: September 10, 1992

**JENKINS V. FENDLEY**

Basis: Race

Adverse Action: Harassment

Decision: For the Complainant

Date of Decision: September 10, 1992

ALEXANDER V. HUMANITY HEALTH CARE

Basis: Sex  
Adverse Action: Harassment  
Decision: For the Complainant  
Date of Decision: January 29, 1993

1993 JEFFERSON CIRCUIT COURT DECISIONS

ALEXANDER V. HUMANITY HEALTH CARE

Basis: Sex  
Adverse Action: Harassment  
Decision: For the Complainant  
Date of Decision: April 21, 1993

JENKINS V. AMELIA FENDLEY

Basis: Race  
Adverse Action: Harassment  
Decision: For the Complainant  
Date of Decision: September 1, 1993

# EXHIBIT 8

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

Case No. 3-19-CV-00851-BJB-CHL

CHELSEY NELSON PHOTOGRAPHY, LLC  
and CHELSEY NELSON, PLAINIFFS

v.

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

DEPONENT: KENDALL BOYD, 30(b)(6) REPRESENTATIVE

DATE: MAY 25, 2021

COURT REPORTER: JESSICA TAYLOR ROSS

TAYLOR COURT REPORTING KENTUCKY  
2901 SIX MILE LANE  
LOUISVILLE, KENTUCKY 40220

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KENDALL BOYD

MAY 25, 2021

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A P P E A R A N C E S

COUNSEL FOR PLAINTIFFS:

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A P P E A R A N C E S

COUNSEL FOR DEFENDANT, LOUISVILLE/JEFFERSON  
COUNTY METRO GOVERNMENT:

Jason D. Fowler, Esq.

John Carroll, Esq.

(Via Zoom videoconference)

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john.carroll2@louisvilleky.gov

1 A. Yes.

2 Q. Okay. How did you prepare for  
3 today's deposition?

4 A. I talked with my counsel -- legal  
5 counsel, and reviewed documents that are in this  
6 binder that counsel spoke of right before we  
7 went on the deposition.

8 Q. And what types of documents did you  
9 review?

10 A. The Fairness Ordinance, as it's  
11 called, and some specific documents, I think,  
12 that were given in preparation for our legal  
13 defense to this matter. It's -- it's all laid  
14 out in this document. I can't go verbatim what  
15 they are, but what's in this --

16 Q. Oh, sure. Did you review any  
17 complaint files -- the complaints filed with the  
18 Human Rights -- Human Relations Commission, any  
19 documents associated with complaint files?

20 A. Just the process, the complaint  
21 process. Actual cases, no.

22 Q. Okay. Did you review any of the  
23 legislative history for the Metro Ordinance?

24 A. Just what was prepared in  
25 anticipation of this litigation.

1 A. -- the process.

2 Q. Roughly, how much time did you  
3 spend on preparing for the deposition?

4 A. A few hours over the last week.  
5 I've been meeting with legal counsel on several  
6 occasions. I looked at a lot of the materials  
7 over the weekend. Mostly, like I said, the  
8 Ordinance -- the Fairness Ordinance itself.

9 Q. So can you put a ball park figure  
10 on the total amount of time you spent?

11 A. Five or six hours. I mean, I can't  
12 give you the exact amount. I was just -- had an  
13 hour here, watching like baseball or something I  
14 might turn it off and look at this for an hour.  
15 I mean, not an exact figure, no.

16 Q. Yeah. Not an exact figure, but  
17 less than 10 hours, would you say?

18 A. Yeah. That's fair, yeah. Yes.

19 Q. Okay. So around five or six hours  
20 is your testimony?

21 A. That's my guess, yes.

22 Q. Okay. All right. Do -- did you  
23 talk to anyone else besides your attorneys  
24 about -- when you were preparing for the  
25 deposition?

1 ago. I believe one of our admins had pulled  
2 together a list of cases that had been filed  
3 based upon sexual orientation and had found  
4 through the query that 173 complaints had been  
5 filed in 18 years that alleged sexual  
6 orientation.

7 Q. And is that complaints for all the  
8 categories, public accommodation, housing, and  
9 employment?

10 A. That's my understanding, yes,  
11 housing -- housing, employment, and possibly  
12 hate crimes.

13 Q. Also hate crimes? Okay. So four  
14 categories.

15 Now, it mentions of these types of  
16 cases, only two proceeded to an administrative  
17 hearing, one in 2012 and one in 2014?

18 A. Yes. Yes.

19 Q. What do you know about the one in  
20 2012?

21 A. Without having the file in front of  
22 me, I would have to look at the information that  
23 was contained as to what happened in that  
24 hearing. Again, with the parties and  
25 confidentiality, based upon my advice from

1 counsel, I'm not at liberty to say right now,  
2 but again, I would have to review the file to  
3 see what occurred in that situation. Because  
4 again, I signed this over a year ago.

5 Q. Okay. Well, let me see here. So  
6 just to be clear about your testimony, are you  
7 saying you don't remember or you do or are you  
8 saying you have no knowledge about that or you  
9 do have knowledge and you're not answering on  
10 advice of counsel?

11 A. No.

12 MS. HINKLE: Can you clarify what  
13 the question was, Jonathan. I think you said  
14 something general like can you -- what do you  
15 know about --

16 BY MR. SCRUGGS:

17 Q. Yeah. So that first -- yeah. So  
18 that -- the initial, general question is that  
19 first complaint, what was that about.

20 A. Right. And again, without the file  
21 here to refresh my recollection of that actual  
22 complaint, I wouldn't be able to tell you right  
23 now what that complaint was about, who the  
24 parties were or anything like that.

25 I would have to look at the party

1 names and look at the file to refresh my  
2 recollection on what happened in both the 2012  
3 administrative hearing and the 2014  
4 administrative hearing.

5 Q. Okay. Let me -- okay. I'm showing  
6 you a document on the screen there that, I  
7 think, appears to be the complaint filed in that  
8 first matter.

9 Does this help you remember?

10 A. Well, it looks like the  
11 complainant's name was [REDACTED], filed  
12 an employment discrimination claim based on his  
13 sexual orientation against [REDACTED]

14 [REDACTED].

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 Q. Okay. Have you done any other  
21 research about this complaint?

22 A. No. Not recently, no.

23 Q. Okay. So you don't have any  
24 knowledge about this complaint outside of what's  
25 in these documents?

1           A.       That's correct.  If this happened  
2       in 2012, that was before I was executive  
3       director or anything like that.  So this would  
4       have happened under a different director,  
5       everything.

6           Q.       Do you know what happened with  
7       respect to the second complaint, the one filed  
8       in 2014?

9           A.       No.  Again, I would have to refresh  
10      my recollection on what's incorporated in the  
11      document there.  Again, I wasn't the director in  
12      2014.  So without having looked at the actual  
13      complaint of discrimination, I wouldn't be able  
14      to speak to what's contained in the -- in the  
15      file.

16          Q.       Well, before this deposition, did  
17      you look at either of those complaints?

18          A.       Back when I did this affidavit,  
19      these two -- it's my understanding that these  
20      two were pulled and I reviewed the files.  But  
21      again, that's been over a year ago.

22          Q.       Okay.  So again, my question is in  
23      preparation for this deposition, did you review  
24      these complaints?

25          A.       No.  No.

1 MS. HINKLE: Could you scroll down  
2 just a little bit, Jonathan? It looks like  
3 we're obscured by the --

4 THE WITNESS: No, the other way.

5 MS. HINKLE: Sorry.

6 MR. SCRUGGS: Is that good?

7 MS. HINKLE: Yeah.

8 BY MR. SCRUGGS:

9 Q. Okay. So these are the meeting  
10 minutes. Is this meeting public? Can anyone  
11 attend this meeting?

12 A. Yes.

13 Q. Okay. And so at this meeting, you  
14 talked about this Facebook posting.

15 Is that correct?

16 A. Yes.

17 Q. And did someone file a complaint  
18 about that Facebook posting?

19 A. With the HRC or -- what do you  
20 mean?

21 Q. Did anyone file a complaint with  
22 the Commission about that -- that Facebook post?

23 A. Actually, I brought it to the  
24 Enforcement Board's attention and said that  
25 there should be something done about this, it

1 Q. Okay. And so what did the  
2 Enforcement Board do?

3 A. They -- they looked at the  
4 information that I provided to them. I think at  
5 that time, I maybe had a screen shot of the  
6 Facebook post or something like that and shared  
7 it with the Enforcement Board. And then,  
8 ultimately, the Enforcement chair, which I  
9 believe was Chair Marie Dever, instituted a  
10 formal complaint through the process and she  
11 signed it. And it was through the normal  
12 channels of -- you know, through the normal  
13 progress process.

14 Q. And where is that complaint  
15 currently in process?

16 A. It's -- I'm not exactly sure. You  
17 would have to ask the HRC where they are on  
18 that. It's -- I think this is over a year old,  
19 so -- so I'm assuming it's either been  
20 conciliated or it's still pending. I don't  
21 know.

22 Q. Don't know? Well, did you talk to  
23 any officials at the Commission about this  
24 complaint?

25 A. Recently?

1 scribed by the chair of the Enforcement Board.

2 MR. SCRUGGS: Okay. I think we  
3 marked this sign as the next exhibit.

4 Correct? Got it.

5 BY MR. SCRUGGS:

6 Q. All right. I'm going to show you  
7 another document here. You'd think I'd be  
8 getting better at -- quicker at sharing these  
9 documents.

10 Okay. I'm going to show you  
11 another document. It looks like it's the 2009  
12 Human Relations Commission Report.

13 Is that your understanding?

14 A. It looks like that's what appears  
15 to be on the screen. Again, some of it's  
16 partially obstructed because of the zoom photos.

17 Q. Let's see here. Okay. I'm going  
18 to take --

19 MR. SCRUGGS: Let's mark this as  
20 the next Exhibit.

21 THE COURT REPORTER: 12.

22 (Whereupon, the referred to  
23 document was marked as Exhibit 12,  
24 and is attached hereto and made a  
25 part hereof.)

1 BY MR. SCRUGGS:

2 Q. And I'm going to show you the next  
3 page here, where it appears to list  
4 conciliations and settlements, 2008, 2009. And  
5 in this third line, it mentions, it looks like,  
6 two situations with McDonalds.

7 Do you see that?

8 A. Are you referring to Marlatt versus  
9 McDonalds and Eggers versus McDonalds?

10 Q. Yes, correct.

11 And it looks like -- let's talk  
12 about Marlatt versus McDonalds. Do you know  
13 what the basis of the complaint filed in that  
14 situation was?

15 MS. HINKLE: I'm going to object to  
16 questions about specific cases for the reasons  
17 set forth in our recent briefing to Magistrate  
18 Judge Lindsay. You know, there's a provision in  
19 the Fairness Ordinance which permits the  
20 publication of terms of conciliation agreements,  
21 but that doesn't waive the confidentiality  
22 restrictions and requirements that apply to the  
23 rest of the case file, as we've briefed to the  
24 court.

25 MR. SCRUGGS: Okay. I appreciate

1 that. Let's just get our record clear.

2 So are you going to refuse to  
3 answer questions about the complaints that was  
4 filed in both Marlatt versus McDonalds and  
5 Eggers versus McDonalds.

6 MS. HINKLE: Well, first of all,  
7 you know, your deposition notice includes  
8 specific cases, but under a topic that makes  
9 reference to policies and procedures.

10 So we have -- we have no objection  
11 to asking about policies and procedures used in  
12 the investigation and prosecution of -- of  
13 complaints, but we do object to inquiry into the  
14 specific details of discrimination complaints  
15 for all the many reasons that we set forth in  
16 our motion for protective order in response to  
17 your motion to compel.

18 BY MR. SCRUGGS:

19 Q. Okay. So what was the policy and  
20 procedure used in this Marlatt versus McDonalds  
21 case. Could you walk me through the policies  
22 and procedures used there?

23 A. Well, those cases would have been  
24 from sometime like in 2007 to 2008. I'm not  
25 exactly sure if they would -- when they would

1 have occurred. But if it's contained in the  
2 annual report, the policies and procedures that  
3 were adhered to were what we've been discussing  
4 all afternoon, which are the ordinal  
5 requirements under Title 92.

6 Q. Do you know how it was determined  
7 that part of the settlement was for \$2,000?

8 A. No, I do not.

9 Q. Do you know what the terms of the  
10 manager training involved?

11 A. No, I do not.

12 Q. Mr. Boyd, could you answer  
13 questions -- I'm not saying if your lawyer would  
14 allow you, but I'm saying if you had the  
15 documents in front of you regarding the  
16 complaint and the case files, would you be able  
17 to answer questions about that case file?

18 A. I would not. And the reason is is,  
19 again, this is way before I was executive  
20 director. These cases were probably 12 or 13  
21 years before I was even promoted to executive  
22 director. So I would only be able to speak as  
23 to what's contained in the file based upon the  
24 authentication of the documents inside the file  
25 itself.

1 Q. Let me show you another document.  
2 I'll stop my screen sharing. Okay. I want to  
3 show you another -- it looks like an annual  
4 report from the Commission, 2011 to 2012.

5 Do you see that?

6 A. Yes.

7 Q. Let's see here. Actually, I  
8 apologize -- I apologize. Let me actually go  
9 back to the prior report, which I can do, the  
10 2000 -- let's see here, 2009 report.

11 Okay. On that last line -- in that  
12 last column there, it mentions, it looks like, a  
13 conciliation settlement of a Lexington Fair  
14 Housing Council versus Edward and Jung Ju  
15 Winner.

16 Do you see that?

17 A. Yes.

18 Q. So was that complaint filed by an  
19 organization?

20 A. I -- I don't know. I'd have to see  
21 the file. I don't know.

22 Q. Do you know if that organization  
23 was using testing activity for the basis of its  
24 complaint?

25 A. I don't know. I'd have -- again,

1 I'd have to see the file. I wouldn't know  
2 anything about that particular cause of action  
3 without having to look at the file as to how it  
4 originated or what the final conciliation  
5 agreement was.

6 Q. Got it. Okay. Let's see. Let me  
7 show you another document. Okay. And this  
8 document appears to be another annual report,  
9 this time from 2015-2017.

10 MR. SCRUGGS: Let's go ahead and  
11 mark that as an exhibit.

12 THE COURT REPORTER: So we did not  
13 mark the one that you briefly popped up, right?  
14 I think it was 2011 to '12. Am I right?

15 MR. SCRUGGS: Yeah. We didn't mark  
16 that.

17 THE COURT REPORTER: Okay. That's  
18 fine. Okay. I want to keep on track. So this  
19 one will be Exhibit 13.

20 (Whereupon, the referred to  
21 document was marked as Exhibit 13,  
22 and is attached hereto and made a  
23 part hereof.)

24 BY MR. SCRUGGS:

25 Q. Okay. I'm going to scroll down,

1 Page 13. So it looks like in this section, it's  
2 a list of conciliations. And there are a few  
3 conciliations that look like that -- it mentions  
4 the Fair Housing Advocates, Incorporated, for  
5 certain parties. For example, there is one, and  
6 then, for example, there is another one.

7 Do you know if those complaints  
8 were filed by organizations?

9 A. The same answer as I had with the  
10 other cases you asked me about in the other  
11 reports. Without having had seen the actual  
12 file, I can't tell you as to how they originated  
13 or how they were conciliated. And I did not  
14 review those for this deposition.

15 Q. Okay. Let me go back up to the  
16 beginning, a few pages up. And it mentions --  
17 let's see, Page 7. So let me direct you to one  
18 of these. It talks about the -- and it's  
19 Housing -- it mentions the Louisville Metro  
20 Human Relations Commission verses a party.

21 Does that indicate that the  
22 Commission itself filed that complaint?

23 A. I -- again, without seeing the  
24 file, I can't say for certain what's -- what's  
25 being implied here. It could be a

1 Commission-oriented complaint, it could be an  
2 Enforcement Board-oriented complaint. I  
3 don't -- I'd have to look at the file to see who  
4 swore the complaint and who filed the complaint.

5 Q. Let's see here. Let me point you  
6 to Page 9. Okay. Let me point to this one  
7 here, the Prospect Park one. And it mentions  
8 adverse action, discriminatory terms, conditions  
9 and privileges.

10 Does the Commission investigate  
11 discriminatory terms and conditions in business  
12 practices?

13 A. The Commission investigates  
14 allegations of discrimination where they occur.  
15 So if it's an allegation of terms and conditions  
16 or services from a facility, again, that would  
17 be based upon the facts and evidence that was  
18 submitted to determine what the -- what  
19 discrimination occurred, whether it's through a  
20 policy, whether it's through a practice, or  
21 whatever it is.

22 Q. So is discriminatory terms and  
23 conditions different than discriminatory refusal  
24 to rent?

25 A. No. Discrimination is

1 Q. Yes, that's correct, 10 and I think  
2 it goes over to 11.

3 A. Okay.

4 Q. Okay. So it basically -- this  
5 topic talks about statistics -- I want to make  
6 sure I get the right statistics here. Let's see  
7 here.

8 I apologize. Okay. Sorry.  
9 Actually, why don't you go up to Topic 15, very  
10 similar to 20. Let's go up to Topic 15.

11 Okay. It says -- the topic asks  
12 for various statistics from 2004 to the present  
13 about complaints and investigations under the  
14 Metro ordinance.

15 What did you do to prepare for this  
16 topic for today?

17 A. I believe I reviewed several of  
18 the -- the year-end reviews, like you had shown  
19 earlier, annual reports, things like that, the  
20 information that were contained in that -- in  
21 those documents. I know there's a few that are  
22 missing, but that's where the compilation of  
23 stats that I reviewed come from those, those  
24 annual reports.

25 Q. So do you know how many -- since

1 2004, do you know how many public accommodation  
2 complaints were filed under the Metro ordinance?

3 A. Not off the top of my head. I'd  
4 have to look at a condensed version of what was  
5 presented through those stats in those annual  
6 reports. I'd have to -- I'd have to have  
7 somebody put all that together to give you a  
8 total number.

9 Q. Do you know how many complaints of  
10 public accommodations based on sexual  
11 orientation there have been?

12 A. No. Same -- same reason why. No.

13 Q. Do you know how many findings --  
14 findings of discrimination on the basis of  
15 sexual orientation there have been?

16 A. Findings of discrimination, meaning  
17 like --

18 Q. Yeah.

19 A. -- the person went through a  
20 hearing and was adjudged to have discriminated  
21 against?

22 Q. Yeah.

23 A. No, I do not.

24 Q. Maybe you can take me just a little  
25 bit at a very high level about the history of

1 Q. So help me understand. How is the  
2 ordinance a material fact that supports that  
3 contention or -- let me strike and rephrase  
4 that.

5 Is Metro relying on the ordinance  
6 preamble as a fact to support this contention?

7 A. It's one of the things we're  
8 relying on. We're also relying --

9 Q. And how does it -- go ahead.

10 A. No. No. Go ahead. I'm sorry.

11 Q. Well, you mentioned something else  
12 you were relying on. What else is that?

13 A. We're relying on the fact that we  
14 continued to receive complaints of  
15 discrimination based upon those various  
16 protected classes, which is why we do the work  
17 that we do year in and year out. Again, that  
18 declarations policy just gives us the power to  
19 enforce anti-discrimination laws here in our  
20 city to make our city more compassionate and  
21 accepting of all people.

22 Q. So you're relying on the fact that  
23 you're receiving complaints currently under the  
24 ordinance?

25 A. No. I'm relying on the fact that

1 people continue to discriminate in our city,  
2 which is unlawful, which is why we --

3 Q. Got it. You're relying on the  
4 fact -- oh, I'm sorry. You're relying on the  
5 fact that you're receiving complaints of people  
6 discriminating?

7 A. No, that's not what I said. I said  
8 I'm relying on the fact that people continue to  
9 discriminate against other people in our  
10 community, which is one of the reasons people  
11 come to our agency to file discrimination  
12 complaints. Discrimination continues to occur  
13 in our community.

14 Q. And you know that because  
15 complaints are being filed about it.

16 Is that right?

17 A. That's one of the reasons that I  
18 know about it, yes.

19 MS. HINKLE: I'm sorry to  
20 interrupt, but could I ask the court reporter to  
21 let David Kaplan back into the Zoom session?

22 THE COURT REPORTER: Sure. Hang on  
23 one second.

24 MS. HINKLE: I'm sorry about that,  
25 Mr. Scruggs.

1 anti-discriminatory intent. That's the whole  
2 intent behind this policy. That's why we  
3 enforce this policy. We're looking to prohibit  
4 discrimination that occurs within our community.

5 Q. So back to Interrogatory Response  
6 Number 12, it mentioned the declaration of  
7 policy in the ordinance and -- pull it up  
8 here -- and various documents Bates-stamped  
9 1 to 1066.

10 Do you see that?

11 A. I see -- I see 1166. I don't  
12 see --

13 Q. 1,166. Sorry.

14 A. Yeah. I see that referenced in the  
15 answer. I -- I don't have that 1,166 in front  
16 of me.

17 Q. So is there anything besides the  
18 declaration of policy and those documents that  
19 Metro is relying on to support its contention?

20 A. I'm asking counsel if I can see  
21 those documents you're referring to.

22 MS. HINKLE: Yes. We have those  
23 here.

24 Jonathan, it's the legislative  
25 history.

1 THE WITNESS: Which tab is it  
2 under?

3 MS. HINKLE: It's the entirety --

4 THE WITNESS: Oh, okay.

5 MS. HINKLE: That's the full --

6 THE WITNESS: Okay.

7 MS. HINKLE: That's the legislative  
8 history --

9 THE WITNESS: Okay. I understand.

10 MS. HINKLE: -- located in the  
11 archives.

12 A. So I'm sorry, can you ask your  
13 question, again?

14 BY MR. SCRUGGS:

15 Q. Yeah. Is there anything beyond the  
16 declaration of policy and the ordinance and  
17 those -- that list of documents that Metro is  
18 relying on?

19 A. Again, the continuous complaints we  
20 receive in our office, as well, which is the  
21 reason we enforce this ordinance.

22 Q. And how many complaints have you  
23 received this year?

24 A. I would have to double-check. The  
25 new director would know that information better

1 than I would.

2 Q. And how many complaints have you  
3 received last year?

4 A. Same. The new director would know  
5 that more than I would. I'd have to go back and  
6 double-check that.

7 Q. Do you know that -- whether  
8 Louisville received any complaints this year?

9 A. I'm going to assume, yes.

10 Q. Well, I don't want you to assume.  
11 Do you know?

12 A. I don't know. Again, the current  
13 director can tell you how many, if any, we have  
14 received this year.

15 Q. Okay. So besides the policy -- the  
16 declaration of policy and those documents and  
17 the complaints that Louisville has received, are  
18 you relying on any other facts to support this  
19 contention?

20 A. I mean, we look at occurrences of  
21 events that are happening in our community,  
22 whether a complaint comes out of those events or  
23 not. Looking at the temperature of our  
24 community with respect to race relations, gender  
25 relations, any other protected class that's

1 included in the ordinance.

2 Again, when we spoke earlier about  
3 the Advocacy Board, those are some of the things  
4 that are brought to our attention is that these  
5 things are occurring in our community and that  
6 we need to address them as a Human Relations  
7 Commission.

8 So I mean, there's a number of  
9 factors that go into the importance of our work.  
10 One discrimination complaint is too many in our  
11 community. So that's why we continue to do this  
12 work. We're not necessarily relying on one  
13 declaration, one policy, we're looking at the  
14 totality of things that come into our -- our  
15 attention and come through our door that we need  
16 to address as a city.

17 Q. So what incidents in the community  
18 is Metro relying on to support its need to  
19 regulate Chelsey Nelson Photography?

20 A. Again, there's numerous ones.

21 Q. Okay. What -- let's start. What  
22 incidents are those?

23 A. Again, as you saw like, for  
24 example, in the Scooter Triple B's case,  
25 allegations of someone saying we don't offer

1 transgender restrooms or we don't cater to  
2 transgender individuals. The attitudes and  
3 actions of individuals in this community that  
4 exclude people, intolerable. So that's why we  
5 enforce this ordinance.

6 Q. Got it. So the -- the complaints  
7 that you receive, you're relying on.

8 Correct?

9 A. Partly, yes, in addition to other  
10 things like I just mentioned.

11 Q. And information of those complaints  
12 is contained in the case files.

13 Is that right?

14 A. Complaints that we have received,  
15 yes. Absolutely.

16 Q. Got it. And are you relying --  
17 beyond the complaints and the case files, are  
18 you relying on -- you mentioned incidents. What  
19 other incidents are you relying on beyond the  
20 complaints and case files?

21 A. Relying on to do what, to continue  
22 the work that we're doing?

23 Q. No. To -- in response to this  
24 question, as the basis for regulating Chelsey  
25 Nelson Photography.

1           A.       Again, strong compelling interest  
2 to prevent discrimination. That's what we're  
3 relying on. That information comes from the  
4 various sources I just listed to you.

5           Q.       Okay. So I believe you listed the  
6 complaints that were filed, you listed the case  
7 files. Anything else?

8           A.       Legislative history that we just  
9 referred to, incidents that we're seeing occur  
10 like in news feeds and the information that's  
11 provided to like our -- our Advocacy Board and  
12 other advocates. And then, again, the general  
13 temperature of the community based upon things  
14 that have occurred in our community, race-based,  
15 gender-based, whatever.

16          Q.       Sir, are you referring to incidents  
17 of race discrimination as a basis for the need  
18 to regulate Chelsey Nelson Photography?

19          A.       Any discrimination, race-based or  
20 otherwise. Any discrimination is bad  
21 discrimination.

22                   And I'm sorry, I'm getting some  
23 feedback from something. I can barely hear you.

24          Q.       Can you hear me there?

25          A.       Yeah.

1 back to that one document that we looked at --  
2 497. This is the chart, again.

3 A. It's from the Fairness Ordinance --  
4 or the Fairness Campaign, excuse me.

5 Q. Yes. That's right.

6 And at least, according to this  
7 data, it looks like there are more allegations  
8 about employment and hate crimes.

9 A. For that time period, yes.

10 Q. And I think the answer to this is  
11 yes, but is Metro relying on the allegations  
12 about employment and housing as a basis upon  
13 which to regulate Chelsey Nelson Photography?

14 MS. HINKLE: Objection to form.

15 A. Well, again, we're -- we're relying  
16 on discrimination that occurs in those areas,  
17 whether it's employment, housing, or hate  
18 crimes, or public accommodation.

19 BY MR. SCRUGGS:

20 Q. So Metro's need to regulate  
21 discrimination applies across all the different  
22 categories.

23 Correct?

24 A. Are you referring to employment,  
25 housing, public accommodations, and hate crimes?

1 Q. Yes.

2 A. Yes.

3 Q. And it applies regardless of the  
4 protected qualification.

5 Correct?

6 A. I don't understand. What do you  
7 mean by protected qualification?

8 Q. Sorry. Protected -- protected  
9 classification.

10 A. I mean, as a protected  
11 classification, that's -- that's defined by the  
12 ordinance. Is that what you're asking?

13 Q. Yeah. Yes.

14 A. I mean, the protected classes that  
15 are outlined in the ordinance are those that we  
16 protected in these four areas pursuant to the  
17 ordinance.

18 Q. Got it. So the -- again, Metro's  
19 interest in prohibiting discrimination on the  
20 basis of each of those protected classifications  
21 is the same?

22 A. Yes. Strong and compelling. Yes.  
23 Absolutely.

24 Q. Okay. And Metro can't -- you know,  
25 I think you mentioned earlier the one instance

1           A.       Well, I -- I didn't look at past  
2       allegations or incidents outside of the two we  
3       had just talked about and then, again, the  
4       legislative history, I browsed through. But I  
5       mean --

6           Q.       How long -- in preparation for the  
7       deposition, how long did you look at the  
8       legislative history?

9           A.       I can't give you an exact answer,  
10      but a few hours.

11          Q.       A few hours? Did you review the  
12      legislative history for past allegations and  
13      incidents of discrimination?

14          A.       I looked at some of the contentions  
15      that were brought forth that would justify the  
16      passage of an anti-discrimination ordinance.

17          Q.       I'm sorry, it was a bit blurry.

18                   MR. SCRUGGS: Court Reporter, do  
19      you mind repeating that answer?

20          A.       I reviewed the legislative history  
21      that was utilized to justify the passage of the  
22      anti-discrimination ordinance.

23      BY MR. SCRUGGS:

24          Q.       Got it. And did you review that  
25      history specifically for the purpose for looking

1 for past allegations and incidents of  
2 discrimination?

3 A. I looked at it for justification as  
4 to why an anti-discrimination ordinance is  
5 necessary, whether it's past incidents of  
6 allegations or actual incidents of crimes that  
7 may have occurred or anything that was contained  
8 in that binder.

9 Q. Okay. So you said you looked --  
10 looked at it for justification for the  
11 ordinance. Which incidents or allegations  
12 support the city's contention of the need for  
13 its ordinance?

14 A. Unless proven otherwise, everything  
15 that's contained in there justifies  
16 anti-discrimination ordinance that has passed.

17 Q. Is there any particular incident or  
18 allegation that you can point to?

19 A. No. It -- what's been -- what  
20 we've seen here when we talked about the social  
21 humiliations and economic inequities that  
22 result, that's -- this is what justifies this  
23 anti-discrimination ordinance.

24 Q. Got it.

25 MR. SCRUGGS: I've got no further

1 questions. Casey, we're going to reserve the  
2 right to keep open the deposition, both for  
3 the -- the pending motion to compel regarding  
4 the other complaint forms and, also, for  
5 insufficient preparation. I just wanted to get  
6 that on the record. So --

7 MS. HINKLE: And I'd like to just  
8 put on the record what I told you before we came  
9 back on, Jonathan, that we intend to amend our  
10 response to Interrogatory Number 12 to also  
11 include the annual reports from the Human  
12 Relations Commission for the years 1981 to 1993,  
13 which are Bates-stamped Lou Metro 2013 through  
14 2187.

15 Those reports reflect an attempt to  
16 collect complaints based on sexual orientation  
17 discrimination before the ordinance was  
18 passed -- or excuse me, before sexual  
19 orientation was added to the anti-discrimination  
20 laws of protected basis.

21 MR. SCRUGGS: I have no further  
22 questions, then, contingent, of course, on our  
23 reservation that we made.

24 THE COURT REPORTER: Okay. Nothing  
25 else before we go off the record? Okay. We

1 will go off.

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(Witness Excused.)

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1 STATE OF KENTUCKY )  
2 ) SS.  
3 COUNTY OF JEFFERSON )

4 I, JESSICA TAYLOR ROSS, a Notary  
5 Public within and for the State at Large, do  
6 hereby certify that the foregoing deposition was  
7 taken before me, via Zoom, at the time and for  
8 the purpose in the caption stated; that the  
9 witness was first duly sworn to tell the truth,  
10 the whole truth and nothing but the truth; that  
11 the deposition was reduced to digital shorthand  
12 and recorded by me in the presence of the  
13 witness; that the foregoing is a full, true and  
14 correct transcript of my digital notes and  
15 recording; that there was no request that the  
16 witness read and sign this deposition; that the  
17 appearances were as stated in the caption.

18 WITNESS MY SIGNATURE this 26th day of  
19 May, 2021.

20 My commission expires July 21, 2022.

21 /s/ Jessica T. Ross  
22 JESSICA TAYLOR ROSS  
23 Court Reporter  
24 Notary Public, State At Large  
25 Notary ID 602031

PG/lt

# EXHIBIT 9

Kendall Boyd  
May 26, 2021

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

Case No. 3-19-CV-00851-BJB-CHL

CHELSEY NELSON PHOTOGRAPHY, LLC  
and CHELSEY NELSON, PLAINIFFS

v.

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

DEPONENT: KENDALL BOYD

DATE: MAY 26, 2021

COURT REPORTER: JESSICA TAYLOR ROSS

TAYLOR COURT REPORTING KENTUCKY  
2901 SIX MILE LANE  
LOUISVILLE, KENTUCKY 40220

Kendall Boyd  
May 26, 2021

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KENDALL BOYD

MAY 26, 2021

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1 respondent and generally, was not even included  
2 in any draft of a conciliatory agreement.

3 Q. Okay. So did any of the 40 or 50  
4 conciliation agreements that you were involved  
5 in at your time as the executive director  
6 involve public accommodations?

7 A. Again, I'd have to go back and  
8 look. I'm sure it did if we had a public  
9 accommodation case and it was conciliated during  
10 the time that I was there, then I would've  
11 signed it, but I don't know of any specific ones  
12 off the top of my head.

13 Q. Okay. Okay. So were -- were most  
14 of the conciliation agreements employment  
15 agreements?

16 A. Again, I don't know of that off the  
17 top of my head. I have to go back to look at  
18 the ones that we had resolved and through the  
19 conciliation process.

20 Q. Okay. Or is your general sense  
21 that they were housing conciliations?

22 MS. HINKLE: Objection to form.

23 A. Again, I can't speak to that  
24 because I'd have -- again, I'd have to look at  
25 the time that I was there to see which -- which

1 ones were agreed upon, and it's been --

2 BY MR. NEIHART:

3 Q. So -- so --

4 A. I'm sorry. Go ahead.

5 Q. So during your -- your  
6 two-and-a-half years there, you don't remember  
7 any public accommodations conciliation?

8 A. Not off the top of my head, no.

9 Q. And you don't remember any of the  
10 bases for the complaints that led to the  
11 conciliation agreements?

12 A. I'm not understanding that  
13 question.

14 MS. HINKLE: Yeah. And just object  
15 to the form, and then also, if your question is  
16 asking for details of a particular complaint, I  
17 think we would assert the same objections that  
18 we have in our briefing to Judge Lindsay.

19 BY MR. NEIHART:

20 Q. Okay. Yeah. I'm not asking for  
21 specifics. I'm just asking for general -- the  
22 -- you know, were they typically, you know,  
23 housing discrimination cases on the basis of  
24 race, familial status? Do you remember those  
25 details?

1           A.           Not for one particular case. I  
2 mean, we had numerous type of cases come through  
3 the door that we ultimately conciliated during  
4 that time that I was executive director. It  
5 could have been a housing based on race or  
6 familial status. It could've been employment  
7 case based upon gender identity or -- or sexual  
8 orientation, or could've been a public  
9 accommodation based upon national origin. I  
10 mean, it just -- it depends on what came to the  
11 door at the time that we resolved during the  
12 time that I was executive director.

13           Q.           Okay. Do you -- do you remember  
14 any specific conciliation agreements that you  
15 worked on?

16           A.           No, not off the top of my head.

17           Q.           Okay. So let's move on now to the  
18 reasonable cause determinations. Again, we  
19 talked about this a little bit yesterday, so I  
20 won't rehash what we talked about. But after a  
21 complaint gets -- after a complaint gets  
22 investigated, the investigative report, the  
23 investigator writes a final report, right?

24           A.           Yes. In their -- in the  
25 investigative file, yes.

1 housing accommodations and public  
2 accommodations.

3 Correct?

4 A. And possibly hate crimes, yes.

5 Q. And possibly hate crimes, okay. So  
6 you -- let's take employment first. Do you  
7 recall any situations where you found probable  
8 cause to support a particular complaint?

9 A. No. I can't recall a particular  
10 case off the top of my head, no.

11 Q. Okay. Do you recall a particular  
12 case where you found no reasonable cause to find  
13 a violation of the ordinance?

14 A. For employment purposes or just in  
15 general?

16 Q. Yeah, for employment.

17 A. No. I can't recall any specific  
18 cases.

19 Q. Okay. What about -- can you  
20 remember -- recall any specific cases about  
21 finding probable cause or no probable cause as  
22 to housing or public accommodations?

23 A. No, not without going back and  
24 reviewing any and all case files.

25 Q. And so if you had those case files,

1 that would be helpful for you in remembering  
2 what the -- the conclusions that you made at  
3 that time.

4 Correct?

5 A. Not necessarily. If you have a  
6 particular case in mind, then I can -- I can go  
7 back and review the file and explain why we made  
8 the determination, but I can't give a blanket  
9 determination as to why I decided reasonable  
10 cause or no reasonable cause on any case.

11 Q. Right. And my -- my question was  
12 really what you just said, which is that if you  
13 had the case files and had reviewed them, you  
14 would be able to answer those questions.

15 A. If I had a particular case file  
16 that was during the time that I was the  
17 executive director, and there was a no  
18 reasonable cause finding, then I can review that  
19 case file and give you the reasoning as to why I  
20 found reasonable cause or no reasonable cause  
21 based upon what's contained in the file.

22 Q. And that would be the same for  
23 conciliation agreements too. You would be able  
24 to recall certain facts about conciliations if  
25 you had those case files in front of you.

1 Correct?

2 A. I can recall what's -- what's put  
3 on the conciliation agreement -- what's put in  
4 the conciliation agreement. If I -- if I see  
5 the conciliation agreement in a particular case,  
6 yes.

7 Q. Okay. And you haven't reviewed any  
8 case files in preparation for today?

9 THE WITNESS: No. Mr. -- is it  
10 Neihart? Is that how you say your last name?

11 MR. NEIHART: Yeah. That's --  
12 that's right. You got it right. Most people  
13 pronounce that wrong. You're right.

14 THE WITNESS: The only reason I --  
15 I think I got it is because it's similar to  
16 Neidhart, the wrestler. You know, if you  
17 recall?

18 MR. NEIHART: Fortunately or  
19 unfortunately, no relationship there.

20 THE WITNESS: Okay. I was  
21 wondering if the next 10 to 15 minutes, if we  
22 could take a break. I'll probably need to use  
23 the bathroom here in a little bit.

24 MR. NEIHART: Yeah. Well, let's  
25 just take a break now. I'm at a good stopping

1 Q. Did you say when we did that  
2 investigation? Is that what you said?

3 A. Yeah, there was -- I believe there  
4 was a complaint that was initiated by the  
5 Enforcement Board which I think ultimately may  
6 have been investigated by one of the  
7 investigators. That was -- that was right  
8 around the time where I was appointed to this  
9 chief equity officer position, so I -- I don't  
10 know what ultimately came out from that  
11 complaint.

12 Q. Just based on, you know, this sign  
13 by itself, you would need more information to  
14 know whether the sign violates the -- the  
15 unwelcome -- the unwelcome clause.

16 Is that right?

17 A. Yes. Yes.

18 Q. You can't make that determination  
19 just by looking at this sign?

20 A. No, and I wouldn't want to. Again,  
21 from a legal standpoint, I would have to prove  
22 invidious, intentional discrimination for public  
23 accommodation in the ordinance. So that's why I  
24 would never say that this is actual  
25 discrimination until I have -- I'm factually

1 Q. Just looking at my notes here, one  
2 second. Thank you for being patient.

3 A. Uh-huh. (Witness answers in the  
4 affirmative.)

5 Q. Okay. Well, Mr. Boyd, you  
6 mentioned that as the -- as the county attorney  
7 of Jefferson County and as the executive  
8 director, you know, you were involved with the  
9 hearing process.

10 Is that right?

11 At the Commission level, I think.

12 A. Yes. That's correct.

13 Q. So -- and you mentioned that you  
14 had prosecuted or been involved with one or two  
15 hearings as an attorney with the Commission?  
16 Representing the Commission?

17 A. Yes. Back when I was a county  
18 attorney.

19 Q. All right. Do you remember what  
20 those cases were about?

21 A. If I recall, one dealt with a  
22 refusal to rent because of an income source.  
23 The party was a disabled party who received  
24 disability.

25 MS. HINKLE: Before we get into the

1 details of the complaint, I would like to --  
2 Bryan, is it your intention then to ask him the  
3 details of the alleged discrimination and what  
4 occurred?

5 MR. NEIHART: Yeah.

6 MS. HINKLE: Then I think it's our  
7 position that under the confidentiality laws  
8 that we've briefed to the court, that what  
9 occurred in that public hearing is -- is  
10 something that would be subject to disclosure,  
11 but not anything that, you know, did not happen  
12 at the public hearing, so including the  
13 investigation before the hearing by the HRC.

14 MR. NEIHART: Yeah, I'm going to  
15 ask him about the hearing because we've all  
16 agreed that those are public events. And so I'm  
17 not asking him -- I'm just asking his  
18 recollection about what happened at the hearing.  
19 I'm not asking anything else.

20 THE WITNESS: Okay. Then well,  
21 strike what I just said.

22 MR. NEIHART: I will say that --  
23 but I will say that I think part of the evidence  
24 will be -- part of the record in the hearings  
25 include the complaint, basis for the complaint,

1 and other documents. So our position is that  
2 those are fair game.

3 MS. HINKLE: I agree. It depends  
4 on what -- on what your question is and -- and  
5 what the responsive information is. I'm just --  
6 I'm just trying to understand the scope of what  
7 you're going to inquire into. I understand that  
8 your intent is to ask about what occurred at the  
9 hearing, and, you know, that -- I think that's  
10 permissible.

11 I would just caution the witness  
12 that if -- you know, if you ask something, to  
13 try to limit your answer to what occurred at the  
14 public hearing rather than what may have  
15 occurred prior to that.

16 THE WITNESS: Sure. Sure.  
17 BY MR. NEIHART:

18 Q. Okay. So we were talking about the  
19 housing accommodation claim that you represented  
20 on behalf of the Commission at a hearing. What  
21 do you recall about that hearing, and what  
22 happened at the hearing?

23 A. Parties appeared, both the  
24 complainant and the respondent, in addition to  
25 witnesses. Evidence was presented by the Human

Dall Boyd  
May 26, 2021

1 STATE OF KENTUCKY )  
 ) SS.  
2 COUNTY OF JEFFERSON )

3 I, JESSICA TAYLOR ROSS, a Notary  
4 Public within and for the State at Large, do  
5 hereby certify that the foregoing deposition was  
6 taken before me, via Zoom, at the time and for  
7 the purpose in the caption stated; that the  
8 witness was first duly sworn to tell the truth,  
9 the whole truth and nothing but the truth; that  
10 the deposition was reduced to digital shorthand  
11 and recorded by me in the presence of the  
12 witness; that the foregoing is a full, true and  
13 correct transcript of my digital notes and  
14 recording; that there was no request that the  
15 witness read and sign this deposition; that the  
16 appearances were as stated in the caption.

17  
18 WITNESS MY SIGNATURE this 31st day of  
19 May, 2021.

20 My commission expires July 21, 2022.

21  
22 /s/ Jessica T. Ross  
JESSICA TAYLOR ROSS  
23 Court Reporter  
Notary Public, State At Large  
24 Notary ID 602031

25 V/JR

# EXHIBIT 10

Verna Goatley  
May 27, 2021

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

Case No. 3-19-CV-00851-BJB-CHL

CHELSEY NELSON PHOTOGRAPHY, LLC  
and CHELSEY NELSON, PLAINIFFS

v.

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

DEPONENT: VERNA GOATLEY

DATE: MAY 27, 2021

COURT REPORTER: JESSICA TAYLOR ROSS

TAYLOR COURT REPORTING KENTUCKY  
2901 SIX MILE LANE  
LOUISVILLE, KENTUCKY 40220

Verna Goatley  
May 27, 2021

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VERNA GOATLEY

MAY 27, 2021

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S T I P U L A T I O N S

The remote deposition of VERNA GOATLEY,  
was taken pursuant to Notice via Zoom  
videoconference, on Thursday, May 27, 2021; said  
deposition to be used in accordance with the  
Federal Rules of Civil Procedure.

1 A. Okay.

2 Q. And then, the last thing is that I  
3 just wanted to make sure that you understood  
4 that you're under oath to testify truthfully  
5 today.

6 A. Okay. I am.

7 Q. Okay.

8 A. I understand.

9 Q. Okay. Thank you. Ms. Goatley, did  
10 you do anything to prepare for today's  
11 deposition?

12 A. I read over some notes and had some  
13 conversations with the attorneys.

14 Q. Okay. What notes did you review?

15 A. My affidavit and other information  
16 that has been sent to the office.

17 Q. Okay. And what information is  
18 that?

19 A. Some emails that have been  
20 circulating back and forth.

21 MS. HINKLE: Are those emails with  
22 counsel, Verna?

23 THE WITNESS: Yes.

24 MR. NEIHART: Okay. Yeah. That's  
25 a good -- that's a good point, Ms. Hinkle.

1           Q.       Yeah. I wouldn't -- when I'm  
2 asking you questions, don't -- don't tell me  
3 anything about communications that you have had  
4 with your attorneys, because that's not -- those  
5 are things that are kept confidential. So I  
6 don't want to know the substance of those  
7 emails.

8                       Anything beyond communications back  
9 and forth with counsel that you reviewed?

10           A.       No.

11           Q.       Okay. Other than with counsel, did  
12 you speak with anybody else about this  
13 deposition?

14           A.       The staff in the office know that  
15 I'm at a deposition today, that I'm not in the  
16 office.

17           Q.       Okay. And did you speak with  
18 Mr. Boyd prior to today -- or prior to your  
19 deposition today?

20           A.       No, I have not spoken to Mr. Boyd  
21 this week.

22           Q.       Okay. Now, I noticed that you have  
23 some documents in front of you. What -- can you  
24 describe those documents, please? What are  
25 they?

1 Q. Okay. During your time with the  
2 Commission, how many complaints have been filed,  
3 approximately?

4 A. I would have to look that up. I  
5 don't know that offhand.

6 Q. You didn't look that up to prepare  
7 for the deposition today?

8 A. No, I did not.

9 Q. How -- ball park, how many do you  
10 think have been filed? Is it, you know, dozens,  
11 hundreds?

12 A. I can't answer.

13 Q. Okay. So it could be no complaints  
14 have been filed?

15 A. A number of complaints have been  
16 filed, but I don't know the exact number.

17 Q. That's okay if you don't know the  
18 exact number, I'm just trying to get a ball  
19 park. How many do you -- you know, is it less  
20 than 100?

21 A. More than one.

22 Q. Okay. Is it less than 10?

23 A. More than one.

24 Q. More than two?

25 A. More than one.

1 should be able to be -- have a way to have  
2 people connect with us at their leisure.

3 Q. And so they can connect with you  
4 through phone calls?

5 A. They can call the office and a  
6 person answers between eight and five. But  
7 after -- before eight or after five, it's a  
8 voicemail.

9 Q. Okay. Does the Commission receive  
10 a lot of complaints via the online complaint  
11 process?

12 A. I don't know the number of  
13 complaints we get online. I'll have to look  
14 that up.

15 Q. Okay. Is it -- do you know like  
16 approximately a percentage? Like does it seem  
17 to you that 50 percent of the complaints might  
18 come online?

19 A. I can't say that.

20 Q. Do you have a ball park idea of how  
21 many come online?

22 A. No, I don't.

23 Q. So it could be 100 --

24 MS. HINKLE: Your audio cut out  
25 briefly there, Bryan. Would you mind repeating

1 92.09(C). Tell me when you're done reading it.

2 A. Okay.

3 Q. Okay. So this says on receipt of a  
4 complaint or acceptance of a complaint, the  
5 Human Relations Commission Enforcement shall  
6 serve the complaint.

7 Do you see that?

8 A. Yes.

9 Q. So it's your understanding that  
10 once the Commission receives a complaint, it is  
11 required to serve the complaint on the  
12 responding party?

13 A. Yes.

14 Q. Okay. And -- and then in 92.09(B),  
15 just above that section -- I'll give you a  
16 chance to look it over.

17 A. Okay.

18 Q. Okay. And so this is the -- it  
19 says complaints filed with the Commission by  
20 individuals should -- has the Commission ever  
21 dismissed a complaint that had this required  
22 information before sending it to the respondent?

23 MS. HINKLE: Objection to form.

24 A. Without further research, I can't  
25 answer that question.

1 Q. And those meetings are open to the  
2 public?

3 A. Correct.

4 Q. Okay. So I'm going to share  
5 another document with you.

6 MR. NEIHART: And can we mark this  
7 as Exhibit 5, please?

8 THE COURT REPORTER: Yes.

9 (Whereupon, the referred to  
10 document was marked as Exhibit 5,  
11 and is attached hereto and made a  
12 part hereof.)

13 BY MR. NEIHART:

14 Q. All right. So Ms. Goatley, is  
15 this -- this looks like it's a meeting minutes  
16 from the Tuesday, April 13th, 2021 Enforcement  
17 Board meeting.

18 Is that right?

19 A. Yes.

20 Q. All right. Let me go down -- okay.  
21 Do you see where it says complaints and  
22 settlements?

23 A. Yes.

24 Q. All right. It says Chair Dever  
25 communicated that she signed a commissioner's

1 housing complaint yesterday?

2 A. Yes.

3 Q. What is a commissioner's housing  
4 complaint?

5 A. I would have to look to see what  
6 complaint it was.

7 Q. Okay. In general, what does a  
8 commissioner housing complaint suggest to you?

9 A. There are, in part of the  
10 processing of the closure of complaints, certain  
11 closures require the Board to review and sign.

12 Q. I'm sorry, you cut out at the end.  
13 The Board to review what?

14 A. To review and sign off on the  
15 conciliation or the -- the agreement.

16 Q. Right. And this says it's a  
17 housing complaint. So what does a  
18 commissioner's housing complaint suggest to you?

19 A. It's not an actual commissioner's  
20 complaint, it was one of the complaints that we  
21 had in the office. So maybe I need to tell the  
22 transcriber to -- to change that wording,  
23 because it was not a commissioner complaint, per  
24 se, it was a complaint that was brought to the  
25 office and processed.

1 Q. Okay. And so you're saying that  
2 this -- these board meeting minutes are  
3 inaccurate?

4 A. No, I'm saying that the wording is  
5 confusing, because the commissioner was not the  
6 complainant.

7 Q. Okay. So then, who filed the  
8 complaint?

9 A. I would have to go back to see what  
10 actual complaint that they were referencing.

11 Q. Okay. And do you know who the  
12 complainant was?

13 MS. HINKLE: I'm going to object to  
14 questions about the details of any particular  
15 complaint for the reasons set forth in our  
16 briefing on the motions pending before Judge  
17 Lindsay.

18 BY MR. NEIHART:

19 Q. Okay. I just asked do you know who  
20 filed the -- do you know who the complainant  
21 was?

22 MS. HINKLE: I'd just ask the  
23 witness to answer yes or no and not disclose the  
24 name of the person, even if you do remember.

25 A. No.

1 BY MR. NEIHART:

2 Q. Okay. And who is Chair Dever?

3 A. That's the Board chair person.

4 Q. All right. And so you don't know  
5 the identity of the complainant, it could be  
6 Chair Dever?

7 A. The complaint is one of the  
8 complaints that the office had processed. And  
9 it's not the chair.

10 Q. Right. And when it says Chair  
11 Dever signed the complaint, does that mean that  
12 Chair Dever was the complainant?

13 A. No. She signed as the chair of the  
14 Enforcement Board.

15 Q. Okay. And why did Chair Dever sign  
16 the complaint?

17 A. She signed the settlement. It's  
18 part of the process.

19 Q. Okay. So she signed the  
20 settlement.

21 Is that right?

22 A. She signed off on a settlement,  
23 correct.

24 Q. Okay. And so if she signed off on  
25 the settlement, then why does the last sentence

1 in that paragraph say there were no settlements  
2 or conciliations?

3 A. I would have to ask that.

4 Q. If -- if she signed the  
5 complaint -- excuse me. If she signed the  
6 settlement, then that would be inaccurate.

7 Right?

8 A. It seems like the minutes are  
9 inaccurate, correct.

10 Q. Okay. How often, in your  
11 experience, are the minutes inaccurate?

12 A. I can't say. I don't know.

13 Q. Did somebody review these minutes  
14 before they get submitted?

15 A. I would have to ask the person that  
16 did that, because I don't review them.

17 Q. Okay. And who is the person that  
18 reviews these?

19 A. I don't know who reviewed them. I  
20 can give you -- Ms. Calhoun is the person that  
21 transcribed them.

22 Q. Okay. And so the meeting minutes  
23 are an official publication of the Commission?

24 A. Yes.

25 Q. And -- and you're not sure who

1 reviews these documents before they're  
2 published?

3 A. No.

4 Q. All right. Do you think that it's  
5 part of your responsibility as the executive  
6 director to make sure that the publications that  
7 are sent out are accurate?

8 A. Should, but not always.

9 Q. I'm sorry?

10 A. Not always.

11 Q. Okay. Are you going to seek to  
12 have this information corrected?

13 A. I will have a discussion with the  
14 commissioner and the -- and my office personnel.

15 Q. Okay. Ms. Goatley, are you  
16 familiar with the Commission's conciliation  
17 process?

18 A. I'm still learning.

19 Q. Okay. It's your job as the  
20 executive director to approve conciliation  
21 agreements.

22 Correct?

23 A. I sign off on them, yes.

24 Q. All right. And so you approve  
25 those conciliation agreements?

1           A.        When I sign off, yes, it's approval  
2 from me.

3           Q.        All right. Are you involved in the  
4 conciliation process at all other than approving  
5 the conciliation?

6           A.        No.

7           Q.        Okay. Have you ever rejected a  
8 conciliation agreement that was sent to you?

9           A.        Personally, no.

10          Q.        Okay. How many conciliation  
11 agreements have you approved since becoming the  
12 executive director?

13          A.        More than one.

14          Q.        Okay. Less than 10?

15          A.        I don't know. I'd have to look  
16 back.

17          Q.        And you've been saying that you'd  
18 have to look back at several of these questions.  
19 Is there a particular document that you would  
20 review that would have that information?

21          A.        I'd have to go back and look to see  
22 what has been closed in the time frame you're  
23 asking.

24          Q.        Does the Commission keep track of  
25 cases that are closed?

1           A.       Keep track?  What do you mean?

2           Q.       Well, if a case is closed, how is  
3 that documented?

4           A.       We have a process that we have to  
5 close it out in the software.

6           Q.       Okay.  And is there a document that  
7 contains information about cases that have been  
8 closed?

9           A.       Uh-uh.  (Witness answers in the  
10 negative.)  Information is uploaded in the  
11 software system.  So we would have to run a -- I  
12 have to run a report.

13          Q.       All right.  And you could run a  
14 report to get that information?

15          A.       I can run a report to get the  
16 information on the number of cases closed.

17          Q.       Right.  Is that pretty easy to do?

18          A.       I don't work in the software, so I  
19 can't tell you.

20          Q.       Have you ever asked them to produce  
21 a report for you so that you can look at the  
22 number of closed cases?

23          A.       No.

24          Q.       Is it your responsibility as the  
25 executive director to make sure that the

1 complaints are proceeding along the timelines  
2 indicated in the ordinance?

3 A. Part of my job is to make sure that  
4 we get cases out in a timely manner.

5 Q. And how do you keep track of that  
6 information?

7 A. I have team meetings with the --  
8 with the investigation team.

9 Q. Okay. Have you ever asked anyone  
10 to run any report for you?

11 A. We run reports to see what  
12 outstanding cases we have.

13 Q. Okay. And is that information  
14 pretty easy to obtain?

15 A. No.

16 Q. What do you need -- what needs to  
17 be done to run those reports?

18 A. Software process.

19 Q. Okay. What do you mean by software  
20 process?

21 A. Well, the person that uses the  
22 software, they have the process of running the  
23 reports. As I stated before, I don't work in  
24 the software.

25 Q. Okay. So you don't actually know,

1 then, that the software process -- if it's hard  
2 or not?

3 A. No.

4 Q. Okay. So it could be easy or it  
5 could be hard, you don't know?

6 A. I know it has a report capability  
7 of the software.

8 Q. Right. But you don't know how  
9 those reports are run?

10 A. No.

11 Q. And you don't know how quickly  
12 those reports can be generated?

13 A. No.

14 Q. Can the Commission enforce  
15 conciliation agreements that have been broken?

16 A. I don't have enough knowledge to  
17 answer that question.

18 Q. During your time with the  
19 Commission, has the Commission ever enforced a  
20 conciliation agreement that was broken?

21 A. I haven't been involved in one.

22 Q. Okay. What were some of the terms  
23 of the conciliation agreements that you've  
24 approved? Do you recall?

25 MS. HINKLE: Are you asking just

1 for categories of things, Bryan, or specifics of  
2 a particular agreement?

3 MR. NEIHART: Let's go with types,  
4 for now.

5 A. Most -- sometimes we have  
6 conciliations that involve training. A person  
7 might be asking for reconsideration for housing.

8 BY MR. NEIHART:

9 Q. Okay.

10 A. They're asking for reconsideration  
11 of their service animal or their emotional  
12 support animal.

13 Q. Okay. Have you ever approved a  
14 conciliation agreement with respect to a public  
15 accommodation?

16 A. I'd have to look. I can't  
17 remember.

18 Q. Is that information -- I mean, if  
19 you looked at the conciliation agreements, you  
20 could know whether you had approved a  
21 conciliation agreement with a public  
22 accommodation?

23 A. If I look at the document, I could  
24 tell you.

25 Q. Right. Okay. So after a complaint

1 the investigator's report is pretty minimal  
2 before you sign off on it?

3 MS. HINKLE: Objection to form.

4 A. We basically have a meeting that we  
5 sit down and discuss cases before they are  
6 closed out.

7 Q. And when you say closed out, what  
8 do you mean by that?

9 A. Before they can complete the  
10 conciliation or before the no probable cause.  
11 We -- that's why we have a team meeting to  
12 discuss those cases.

13 Q. Have you ever -- have you ever  
14 overridden -- during those conversations ever  
15 overridden an investigator's conclusion?

16 A. At this point, no.

17 Q. Okay. Do you recall making any  
18 probable cause determinations as to employers?

19 A. Without looking, I can't -- I can't  
20 answer that.

21 Q. What about housing providers?

22 A. I'd have to look.

23 Q. And same with public  
24 accommodations?

25 A. The same, I'd have to look.

1 Q. And when you say I'd have to look,  
2 what would you need to look at?

3 A. I'd have to review what I have  
4 signed off on in order to give you a more  
5 conclusive answer.

6 Q. And so those documents would  
7 include the basis for the reasonable cause or no  
8 reasonable cause determinations?

9 A. I'd have to look to see what it has  
10 on there to answer.

11 Q. Do you read the -- do you read the  
12 investigative reports before you sign them?

13 A. Yes, I do.

14 Q. What do those reports typically  
15 contain?

16 A. A summation of the information  
17 given by both the complainant and the respondent  
18 and the conclusion.

19 Q. Okay. Now, what types of things do  
20 you look at when you're making these no cause  
21 determinations?

22 A. I don't make the determination, it  
23 is made by the investigator. I just read what  
24 they have, their conclusions. And if I have  
25 questions, I question them -- I can question

1 that?

2 A. I can't tell you what Mr. Boyd  
3 knows.

4 Q. And during your discussions with  
5 Ms. Calhoun, you've never asked about the  
6 testing policy, the testing procedures, you've  
7 never asked her to see the specific policy?

8 A. No, I have not.

9 Q. Now, are you familiar with the case  
10 involving Scooter's Triple B's?

11 A. No, I am not.

12 Q. Have you ever heard of Scooter's  
13 Triple B's?

14 A. I've heard, but I don't know  
15 anything about a case -- about the case.

16 Q. What have you heard about Scooter's  
17 Triple B's?

18 A. I just heard that it's a case.

19 Q. Okay. Who did you hear that from?

20 A. It was in a recent conversation  
21 that was going on that that came up.

22 Q. Okay. Who were you having that  
23 conversation with?

24 A. I don't remember who all was in  
25 that conversation.

1 Q. Do you remember anyone that was  
2 there for that conversation?

3 A. No, I don't.

4 Q. Where were you having the  
5 conversation?

6 A. I don't even remember.

7 Q. When did you have the conversation?

8 A. Don't remember that either.

9 Q. What was -- what was said during  
10 the conversation?

11 A. I don't remember.

12 Q. All right. Ms. Goatley, I'm going  
13 to share a document with you. Can you see this  
14 document?

15 A. Yes. It's our Advocacy Board  
16 meeting agenda.

17 Q. Right.

18 MR. NEIHART: You can mark this as  
19 the next exhibit.

20 THE COURT REPORTER: Sure. That  
21 will be 6.

22 (Whereupon, the referred to  
23 document was marked as Exhibit 6,  
24 and is attached hereto and made a  
25 part hereof.)

1 BY MR. NEIHART:

2 Q. Okay. Now, I'm going to scroll  
3 down here. Do you see where it says  
4 Scooter's -- well, let me back up. Sorry.

5 This is from the June -- looks like  
6 it's from the June 9th, 2020 Advocacy Board  
7 meeting?

8 A. Yes.

9 Q. And you were the assistant director  
10 at this time?

11 A. No.

12 Q. You -- you began as the assistant  
13 director in July 2019?

14 A. Yes. Oh, yes, I was the  
15 assistant -- I was the assistant director,  
16 wasn't I?

17 Q. Yeah.

18 A. I'm sorry.

19 Q. That's okay. I'm sorry.

20 A. No, I'm sorry. I'm sorry, I made  
21 a --

22 Q. That's all right. And then, you  
23 became the executive director the following  
24 month in July 2020?

25 A. Yes.

1 Q. All right. So -- and then as the  
2 executive director, you are responsible for --  
3 we talked about this, investigating -- excuse  
4 me, supervising the complaint process and  
5 signing off on probable cause determinations or  
6 no probable cause determinations?

7 A. Right. But prior -- let me just  
8 explain. During this time, I still was not  
9 working in the role of signing documents at that  
10 time, because Mr. Boyd was still transitioning.  
11 And he had taken -- he was doing that  
12 responsibility.

13 Q. Right. Yeah. He was still  
14 transitioning out of the executive director  
15 role.

16 Right?

17 A. Right.

18 Q. Okay.

19 A. I had not started reviewing cases  
20 at that time.

21 Q. All right. Do you see here on this  
22 document, it says -- it talks about Scooter's  
23 Triple B's Facebook posting of no transgender  
24 restroom?

25 A. Yes, I see that.

1 Q. All right. Do -- does this  
2 recall -- refresh your recollection as to this  
3 particular case?

4 A. No, it does not.

5 Q. It's a -- can you read that  
6 paragraph and let me know if it refreshes your  
7 recollection about -- well, let me rephrase  
8 that.

9 A. Part of it is being blocked by your  
10 picture on here.

11 Q. Oh, okay. Let's move the picture.  
12 Can you see it now?

13 A. Yes.

14 Q. Does this paragraph refresh your  
15 recollection about the conversation that was had  
16 during this Advocacy Board meeting?

17 A. No, it does not.

18 Q. All right. Do you remember talking  
19 to anyone about the no transgender restroom  
20 post?

21 A. No, I do not.

22 Q. Okay. Do you remember signing a  
23 probable cause determination as to this case?

24 A. I do not.

25 Q. Okay. It said that a formal

1 complaint was signed against the bar. Do you  
2 remember seeing the formal complaint?

3 A. I do not.

4 Q. Okay. It says that the owners of  
5 the bar has 30 days to respond. Do you remember  
6 seeing the owners' response to the complaint?

7 A. No.

8 Q. Okay. Would it refresh your  
9 recollection if you had these documents in front  
10 of you to look at?

11 A. Yes.

12 Q. Do you know what the status of this  
13 case is currently?

14 A. No, I do not.

15 Q. You became the executive director  
16 in July 2020?

17 A. Yes.

18 Q. All right. It says the owners of  
19 the bar has -- so we've talked about these  
20 meeting minutes were in June 2020.

21 Right?

22 A. Right.

23 Q. Okay. And it says the owners of  
24 the bar has 30 days to respond.

25 Do you see that?

1 A. Yes.

2 Q. Their response would have been due  
3 in July when you were the executive director.  
4 Right?

5 A. I still was not taking on those  
6 cases at that time. Mr. Boyd was still  
7 completing those cases.

8 Q. So Mr. Boyd would know what  
9 happened in that case and whether -- the status  
10 of that case?

11 A. I can't say that he knows, but it  
12 wasn't -- that was during our transition part.

13 Q. Okay. So that would have been  
14 Mr. Boyd's responsibility to oversee the  
15 investigation of that complaint?

16 A. Yes.

17 Q. Do you know if the complaint is  
18 still ongoing now?

19 A. I don't know.

20 Q. If it is ongoing now, would that be  
21 your responsibility to be supervising the  
22 process of that complaint?

23 A. It would be.

24 Q. If the case had been conciliated,  
25 that would have been your responsibility to

1 approve the conciliation agreement?

2 A. Depending on when it was  
3 conciliated, whether it would have been myself  
4 or Kendall Boyd.

5 Q. Okay. When -- when did you start  
6 having it be your responsibility to sign  
7 conciliation agreements?

8 A. I'd have to look back. I can't  
9 remember date-wise.

10 Q. Was it in the last month?

11 A. It was last year, but I don't know  
12 exactly when last year.

13 Q. Do you remember approximately when  
14 last year?

15 A. No.

16 Q. Was it in the fall?

17 A. No, I don't remember.

18 Q. At some point, you assumed  
19 responsibility for the conciliation agreements?

20 A. At some point, I did, but I don't  
21 remember exactly.

22 Q. Okay. And prior to that,  
23 Mr. Boyd -- it was his responsibility to approve  
24 the conciliation agreements?

25 A. Correct.

1 Q. Okay. So either he would have  
2 signed the conciliation agreement or you would  
3 have signed the conciliation agreement if there  
4 was one?

5 A. If there was one. I'll have to  
6 research it and see.

7 Q. Okay. In the notes here, it says  
8 that Kendall communicated the posting was on the  
9 bar's Facebook page.

10 Do you remember that?

11 A. No.

12 Q. Okay. It said that Kendall talked  
13 with the Enforcement chair. Were you involved  
14 in that conversation?

15 A. No.

16 Q. Okay. If a probable cause or no  
17 probable cause determination had been signed,  
18 would that have been either your responsibility  
19 or Mr. Boyd's responsibility?

20 A. Mr. Boyd's responsibility.

21 Q. So it would have been Mr. Boyd's  
22 responsibility to sign the probable cause  
23 determination?

24 A. To sign it, yes. Or depending on  
25 the timetable of when it was signed, but I don't

1 remember that case.

2 Q. Okay. I'm going to pull up a  
3 document here, Ms. Goatley. Thanks for being  
4 patient. All right. Here we go. Can you see  
5 this sign?

6 A. Yes.

7 Q. Does this sign refresh your  
8 recollection at all about Scooter's Triple B's?

9 A. Never seen it.

10 Q. All right. Just looking at this  
11 sign, if you saw this sign at a restaurant,  
12 would you report it to the Commission?

13 A. Probably wouldn't have paid it no  
14 attention.

15 Q. Okay. Why is that?

16 A. Personally speaking, it doesn't  
17 appeal.

18 Q. Okay. And what do you mean by  
19 that?

20 A. It wouldn't be anything that  
21 grabbed my attention.

22 Q. Okay. Well, just looking at this  
23 sign, it doesn't rise to the level of a probable  
24 cause determination in your mind?

25 MS. HINKLE: Objection to form.

1 Q. Okay. Well, let me think about --  
2 I'll rephrase it.

3 Do you think Ms. Nelson should have  
4 the freedom to decline to photograph same-sex  
5 weddings?

6 MS. HINKLE: Objection to form.

7 A. I can't make the determination how  
8 Ms. Nelson should run her business.

9 BY MR. NEIHART:

10 Q. Do you think she should have the  
11 freedom to decline to photograph same-sex  
12 weddings if she so chooses?

13 MS. HINKLE: Objection to form and  
14 asked and answered.

15 A. I can't make the determination how  
16 Ms. Nelson should run her business.

17 Q. Okay. Ms. Goatley, during your  
18 time as the executive director, have any cases  
19 gone to a hearing?

20 A. Pardon me?

21 Q. During your time as the assistant  
22 director or the executive director, have any  
23 cases gone to a hearing?

24 A. No.

25 Q. Okay. Are you -- are you familiar

1 with the Commission's process for organizing its  
2 files?

3 A. Not thoroughly.

4 Q. You're not thoroughly aware of how  
5 the Commission organizes its complaints?

6 A. You asked me how they organize  
7 their files. No, I --

8 Q. And by files, I mean the -- like  
9 investigative or the case files. Are you  
10 familiar with the Commission's process for  
11 organizing those documents?

12 A. I am not aware of the desk duty of  
13 the file organization.

14 Q. So you're -- do you know if the  
15 files are in hard copy or electronic copy?

16 A. Our files are in hard copy.

17 Q. Do you know how they're organized?

18 A. No.

19 Q. How do you know that they're  
20 organized only in hard copy, then?

21 A. We have hard copy files and we  
22 upload certain information in a software system.  
23 All information that's in the hard copy file is  
24 not uploaded to the systems.

25 Q. Okay. What information is loaded

1 up into the digital file?

2 A. The requirements of either the EEOC  
3 or the -- or the HUD office.

4 Q. Okay. And what do those  
5 requirements include?

6 A. I can't -- I -- I don't know.

7 Q. You don't -- you don't know the HUD  
8 or the EEOC's filing requirements?

9 A. No, I don't.

10 Q. You're not aware of those in any  
11 way?

12 A. No.

13 Q. Does the Commission organize its  
14 public accommodation case files electronically?

15 A. I would have to ask my staff.

16 Q. So sitting here today, the public  
17 accommodations case files may be organized  
18 electronically, they may not be, you don't know?

19 A. I don't know.

20 Q. You mentioned the Commission  
21 receives documents via email and by online  
22 submissions. Are those kept electronically?

23 A. I don't know.

24 Q. Do the investigators keep hard  
25 copies of files that they're investigating on

1 their desk?

2 A. Yes.

3 Q. Do you know how many case files  
4 that they maintain on their desk at any time?

5 A. No.

6 Q. Do you know what these case files  
7 include?

8 A. No.

9 Q. How long after an investigation --  
10 what happens after -- strike that.

11 After an investigation is  
12 concluded, how long do the case files remain in  
13 the office?

14 A. I don't know what the time limit is  
15 that we keep them on site before we take them to  
16 archives.

17 Q. Is it a couple of years?

18 A. I'm not certain.

19 Q. So it could be five years?

20 A. I'm not certain the exact time of  
21 keeping them on site before we archive them. I  
22 do know they stay in archive for 10 years.

23 Q. Okay. What happens after 10 years?

24 A. They are destroyed.

25 Q. So -- and that happens every year?

1           A.       I haven't followed up on archives,  
2       so I don't know what their procedures are on  
3       them.

4           Q.       Are you familiar, generally, with  
5       archive's procedures?

6           A.       No.

7           Q.       Do you have any idea about any of  
8       the archive's procedures?

9           A.       No.

10          Q.       Do you know how long it takes to  
11       retrieve documents from archives?

12          A.       It could take a couple of days to a  
13       couple of weeks.

14          Q.       Ms. Goatley, earlier you said that  
15       Ms. Nelson should be able to run her business as  
16       she -- as she sees fit. Do you think the  
17       Government should tell her how to run her  
18       business?

19                   MS. HINKLE: Objection to form.

20          A.       We can't tell Ms. Nelson how to run  
21       her business.

22       BY MR. NEIHART:

23          Q.       And do you think the Government  
24       should be able to force Ms. Nelson to photograph  
25       same-sex weddings?

1 MS. HINKLE: Objection to form.

2 A. We're not in a position to tell  
3 Ms. Nelson how to run her business.

4 BY MR. NEIHART:

5 Q. And if the Government is forcing  
6 Ms. Nelson to photograph same-sex weddings, the  
7 Government is not in that business, because that  
8 would be unjust, wouldn't it?

9 MS. HINKLE: Objection to form.

10 A. I can't answer that question.

11 BY MR. NEIHART:

12 Q. Are you familiar with the  
13 contract -- the work share contracts that HUD  
14 and the EEOC have with the Commission?

15 A. I'm familiar.

16 Q. Have you read those contracts  
17 before?

18 A. Yes, I have.

19 Q. Now, earlier you mentioned that the  
20 case files have case numbers. How are those  
21 case numbers assigned?

22 A. I would have to ask my staff person  
23 how those are assigned.

24 Q. So you don't know how the case  
25 numbers are assigned?

1 A. No, I don't.

2 Q. Do you know how the cases are --  
3 how those case numbers are generated?

4 A. No, I don't.

5 Q. Do you know how to retrieve that  
6 information?

7 MS. HINKLE: Objection to form.

8 A. I -- I would have to ask the staff.

9 BY MR. NEIHART:

10 Q. Do you know what documents are  
11 contained in individual case files?

12 A. I'd have to ask the staff.

13 Q. So sitting here today, you don't  
14 know what documents are contained in the case  
15 files?

16 A. I would have to confer to the staff  
17 as to what documents are in what case files.

18 Q. Are you familiar with HUD's audits  
19 of the Commission's files?

20 A. I'm just now getting familiar with  
21 those.

22 Q. Ms. Goatley, do you remember  
23 signing an affidavit in this case?

24 A. Yes, I did.

25 Q. Okay. Did you -- did you talk to

1 anyone before signing that affidavit?

2 A. I conferred with my boss and the  
3 County Attorney's Office and the attorneys  
4 present.

5 Q. Did you confer with any  
6 complainants before signing the affidavit?

7 A. Did I confer with who, please?

8 Q. Any complainants, any people who  
9 had filed complaints before signing the  
10 affidavit.

11 A. Did I confer with any complainants  
12 before I signed that affidavit?

13 Q. Yeah. Did you talk with any  
14 complainants before signing the affidavit?

15 A. The affidavit that you're talking  
16 about that I signed about this case?

17 Q. Yes.

18 A. No.

19 MR. NEIHART: Can we take about a  
20 five-minute break? I'm almost -- I'm close to  
21 being -- close to being done -- five or 10  
22 minutes.

23 MS. HINKLE: Sure.

24 THE COURT REPORTER: We're off the  
25 record.

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\* \* \*

(Off the record.)

\* \* \*

THE COURT REPORTER: We're back on  
the record.

\* \* \*

CONTINUED EXAMINATION

BY MR. NEIHART:

Q. Welcome back from the break.

Ms. Goatley, before the break, we  
were talking about your knowledge of the case  
files organizational system with the Commission.

Is it your testimony that you've  
never known how the Commission has organized its  
case files?

A. I'm not aware of the -- of what  
documents go in what place of the case files,  
no.

Q. And you've never had knowledge of  
that?

A. I've never done an investigation,  
so no.

1 Q. And you've never had knowledge  
2 about how the case files are organized?

3 A. No.

4 Q. And you've never had knowledge of  
5 the archive procedures?

6 A. No.

7 Q. And you've never had knowledge  
8 about how the case files are organized in paper  
9 form or electronic form?

10 A. No.

11 Q. And you've never had knowledge  
12 about how long the case files are kept at the  
13 Commission's office before they're sent off  
14 site?

15 A. No.

16 Q. And you've never had knowledge of  
17 the process for destroying old files?

18 A. No.

19 Q. And when you say you've never had  
20 knowledge, that means anytime in the past or  
21 sitting here today.

22 Right?

23 A. I don't know the -- I don't have  
24 knowledge of the actual date-wide process of the  
25 archiving and destruction schedules.

1 Oh, that must have been an echo. I'm sorry.

2 Okay. Ms. Goatley, since the  
3 injunction went into place in this case in  
4 August 2020, are you aware of any increase in  
5 complaints filed with the Commission?

6 A. I'm not aware of the number of  
7 complaints before or after the filing of this --  
8 of the numbers. I'd have to look at our records  
9 to see.

10 Q. On -- well, at the very beginning  
11 of the deposition today, you -- you mentioned  
12 how when you were the assistant director, you  
13 were involved initially with the certification  
14 program of the city.

15 A. Correct.

16 Q. And then, that's still part of your  
17 responsibilities as the executive director.

18 Right?

19 A. Correct.

20 Q. So would you kind of explain what  
21 that process is, again, please?

22 A. If a business owner is -- if a  
23 business is owned and operated 51 percent or  
24 more by a woman, an ethnic minority, a disabled  
25 person or persons, or an LGBT person, then we

1 STATE OF KENTUCKY )  
2 ) SS.  
3 COUNTY OF JEFFERSON )

4 I, JESSICA TAYLOR ROSS, a Notary  
5 Public within and for the State at Large, do  
6 hereby certify that the foregoing deposition was  
7 taken before me, via Zoom, at the time and for  
8 the purpose in the caption stated; that the  
9 witness was first duly sworn to tell the truth,  
10 the whole truth and nothing but the truth; that  
11 the deposition was reduced to digital shorthand  
12 and recorded by me in the presence of the  
13 witness; that the foregoing is a full, true and  
14 correct transcript of my digital notes and  
15 recording; that there was no request that the  
16 witness read and sign this deposition; that the  
17 appearances were as stated in the caption.

18 WITNESS MY SIGNATURE this 28th day of  
19 May, 2021.

20 My commission expires July 21, 2022.

21 /s/ Jessica T. Ross  
22 JESSICA TAYLOR ROSS  
23 Court Reporter  
24 Notary Public, State At Large  
25 Notary ID 602031

PG/lt