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<p>UNITED STATES DISTRICT COURT                  WESTERN DISTRICT OF KENTUCKY                  LOUISVILLE DIVISION                  Case No 3-19-CV-00851-BJB-CHL</p> <p>CHELSEY NELSON PHOTOGRAPHY, LLC                  and CHELSEY NELSON, PLAINTIFFS</p> <p>v</p> <p>LOUISVILLE/JEFFERSON COUNTY METRO                  GOVERNMENT, et al, DEFENDANTS</p> <p>DEPONENT: KENDALL BOYD, 30(b)(6) REPRESENTATIVE                  DATE: MAY 25, 2021</p> <p>COURT REPORTER: JESSICA TAYLOR ROSS</p> <p>TAYLOR COURT REPORTING KENTUCKY                  2901 SIX MILE LANE                  LOUISVILLE, KENTUCKY 40220</p>	<p>1 APPEARANCES</p> <p>2</p> <p>3 COUNSEL FOR PLAINTIFFS:</p> <p>4 Jonathan A Scruggs, Esq , AZ Bar No 030505</p> <p>5 Bryan D Neihart, Esq , AZ Bar No 035937</p> <p>6 Hailey Vrdolyak, Esq</p> <p>7 (Via Zoom videoconference)</p> <p>8 ALLIANCE DEFENDING FREEDOM</p> <p>9 15100 N 90th Street</p> <p>10 Scottsdale, Arizona 85260</p> <p>11 Telephone: (480)444-0020</p> <p>12 Email: jscruggs@adfllegal.org</p> <p>13 bneihart@adfllegal.org</p> <p>14</p> <p>15 COUNSEL FOR DEFENDANT, LOUISVILLE/JEFFERSON                  COUNTY METRO GOVERNMENT:</p> <p>16</p> <p>17 Casey L Hinkle, Esq</p> <p>18 David Kaplan, Esq</p> <p>19 (Via Zoom videoconference)</p> <p>20 KAPLAN JOHNSON ABATE AND BIRD, LLP</p> <p>21 710 W Main Street, 4th Floor</p> <p>22 Louisville, Kentucky 40202</p> <p>23 Telephone: (502) 416-1630</p> <p>24 Email: chinkle@kaplanjohnsonlaw.com</p> <p>25 dkaplan@kaplanjohnsonlaw.com</p>
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6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: center;">PAGE</p> <p>5</p> <p>6 Exhibit 1 33 (Notice)</p> <p>7</p> <p>8 Exhibit 2 37 (Metro Ordinance Section 32)</p> <p>9 Exhibit 3 43 (Complaint form)</p> <p>10</p> <p>11 Exhibit 4 58 (Online General Discrimination Complaint Form)</p> <p>12</p> <p>13 Exhibit 5 61 (Public Accommodation Intake Questionnaire)</p> <p>14 Exhibit 6 69 (Metro Ordinance Section 92)</p> <p>15</p> <p>16 Exhibit 7 136 (KRS 344.230)</p> <p>17 Exhibit 8 137 (Boyd Supplemental Affidavit)</p> <p>18</p> <p>19 Exhibit 9 142 (Hearing Excerpts)</p> <p>20 Exhibit 10 144 (Advocacy Board Minutes 6/9/20)</p> <p>21</p> <p>22 Exhibit 11 149 (Scooter Triple B sign)</p> <p>23 Exhibit 12 151 (2009 HRC Annual Report)</p> <p>24</p> <p>25</p>	8	<p>1</p> <p>2</p> <p>3</p> <p style="text-align: center;">S T I P U L A T I O N S</p> <p>4</p> <p>5 The remote deposition of KENDALL BOYD,</p> <p>6 was taken pursuant to Notice via Zoom</p> <p>7 videoconference, on Tuesday, May 25, 2021; said</p> <p>8 deposition to be used in accordance with the</p> <p>9 Federal Rules of Civil Procedure.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

37	1 (Whereupon, the referred to 2 document was marked as Exhibit 2, 3 and is attached hereto and made a 4 part hereof.) 5 BY MR. SCRUGGS: 6 Q. So how often -- well, how often do 7 the boards meet, the Advocacy Board and the 8 Enforcement Board? 9 A. Well, it depends. We -- as you're 10 aware, we've been in a pandemic for 18 months 11 now. So that dynamic has changed, but during 12 the, quote/unquote, normal times when there's 13 not a pandemic, we're not living in a virtual 14 world, they would meet monthly. 15 Q. Both -- each board meets monthly? 16 A. Yes. 17 Q. Okay. Well, what typically happens 18 at the Enforcement Board meeting? 19 A. They have an agenda. They discuss 20 the various topics on that agenda. And then, 21 there's a reconsideration portion of that 22 meeting, which is like if the HRC has determined 23 that a particular complaint should be dismissed, 24 the complaining party can ask for 25 reconsideration of that dismissal through the	39	1 to? 2 Q. Yes. 3 A. Okay. 4 Q. Yes. Title 92. 5 A. That's fine. 6 Q. Okay. So I think you mentioned 7 that the Enforcement -- well, who -- who 8 receives the complaints? Let me ask that. 9 A. Generally, the complaints -- 10 like -- well, again, if the complaint originated 11 from someone walking in off the street, it would 12 go through the admin, who would do the initial 13 intake. And then, that person would sign off on 14 the intake, and then it would be given to an 15 investigator to start the investigation process. 16 Q. Okay. Any other -- so you 17 mentioned the person off the street. And then, 18 I guess, the -- 19 A. Or typically -- 20 Q. -- could it be any other method? 21 A. I'm sorry. Go ahead. 22 Q. I said -- go ahead. What's the 23 other method? 24 A. Or if we were to receive one from 25 EEOC, so the EEOC may have already vetted it and
38	1 Enforcement Board, which they will make that 2 decision at a meeting. 3 Q. Got it. And what typically happens 4 at an Advocacy Board meeting? 5 A. Same sort of thing. Again, agenda. 6 You may have an executive director's report and 7 that also happens in the Enforcement Board, as 8 well, executive director's report. And then, at 9 the Advocacy Board, there may be sub-committee 10 reports, not always, it just kind of depends on 11 if there's something to report out. And then, 12 you have the chair's report, and then any new 13 business, old business. 14 Q. Okay. All right. Well, let's talk 15 about the -- the process of receiving 16 complaints. I think you mentioned that before. 17 And just a terminology point, when I say the 18 ordinance, I'm going to be referring to the 19 Discriminatory Practice Ordinance. 20 Right? That's the ordinance that 21 I'm talking about. So we can just kind of use 22 that terminology for simplification. 23 Is that okay with you? 24 A. Just to clarify, are you meaning 25 like Title 92? Is that what you're referring	40	1 said, hey, you need to investigate this, then 2 our investigator would continue to investigate 3 it pursuant to the process. Again, that's if we 4 received one from the EEOC. 5 And then, the Enforcement Board one 6 would originate with the Enforcement Board 7 saying we've got information regarding alleged 8 discriminatory behavior or discriminatory 9 actions, and the Enforcement -- the complaint 10 would originate with the Enforcement Board, but 11 then ultimately, it would go to the investigator 12 for the Human Relations Commission and it would 13 follow that process. 14 Q. Okay. And how are these -- to kind 15 of get granular, how are the complaints 16 received. Is there -- does it have to be 17 someone walking off the street, can it be 18 through an email? 19 A. Well, we ask that the complaints be 20 sworn, so nine times out of ten it's sworn in 21 person. But because of the issues with the 22 pandemic, we have incorporated sort of this 23 virtual style to receiving complaints. 24 But again, once we get back to, 25 quote/unquote, normal after this pandemic, we

<p style="text-align: right;">41</p> <p>1 ask the person to come in, because we ask people 2 to assign -- ascribe their name, because it's a 3 sworn complaint that they've filled out against 4 another party. 5 Q. So typically, can someone file a 6 complaint online? 7 A. They can, but again, that was 8 because of the pandemic. There's -- there's 9 other rules that go along with that to file a 10 complaint online. I'm not 100 percent sure how 11 the online process works, because that occurred 12 after I left the Human Relations Commission. 13 All complaints received prior to 14 the pandemic were sworn and signed in person. 15 Q. So do you know if that online 16 process is going to continue? 17 A. Don't know. 18 Q. Got it. And who is the current 19 executive director? 20 A. Of the Human Relations Commission? 21 Q. Yes. 22 A. Yes. That is Ms. Verna Goatley, 23 V-e-r-n-a, Goatley, G-o-a-t-l-e-y. 24 Q. And did you talk to her today in 25 preparation for this deposition?</p>	<p style="text-align: right;">43</p> <p>1 actual correct document. 2 But this appears to be the 3 complaint document that is utilized by the Human 4 Relations Commission for a complaint of 5 discrimination that comes through our door. 6 MR. SCRUGGS: Okay. Well, let me 7 mark that one as 4 (sic). 8 (Whereupon, the referred to 9 document was marked as Exhibit 3, 10 and is attached hereto and made a 11 part hereof.) 12 BY MR. SCRUGGS: 13 Q. And we mentioned -- so we have this 14 form and you mentioned an online form. 15 Is there any other -- 16 MR. SCRUGGS: Go ahead. 17 THE COURT REPORTER: I thought this 18 one was 3? I have -- 1 was the notice, 2 was 19 Metro Ordinance Section 32, and this was -- the 20 complaint form is 3. 21 MR. SCRUGGS: Okay. Let's do 3, 22 then. 23 THE COURT REPORTER: Sorry. I just 24 want to keep us on track. 25 MR. SCRUGGS: Oh, trust me, I</p>
<p style="text-align: right;">42</p> <p>1 A. No. 2 Q. All right. Let me show you another 3 form -- another document. I'm getting a bit 4 quicker with this, I think. 5 Okay. Is this the complaint form 6 that is used to file a complaint with the 7 Commission? 8 A. Is this evidenced in the binder? 9 MS. HINKLE: I believe that is in 10 your binder, Kendall. 11 THE WITNESS: Number 4? 12 MS. HINKLE: Number 4, yeah. 13 MR. SCRUGGS: And what -- what 14 exhibit are we on now? We're on 3. 15 Right? 16 THE COURT REPORTER: Yes. This -- 17 this will be Exhibit Number 3. 18 MR. SCRUGGS: Okay. 19 (Whereupon, the referred to 20 document was marked as Exhibit 3, 21 and is attached hereto and made a 22 part hereof.) 23 A. Yeah. And the reason I had to 24 refer to it is it's -- you've got it zoomed in 25 so far, I just wanted to make sure it was the</p>	<p style="text-align: right;">44</p> <p>1 greatly appreciate it. I always need someone to 2 keep me on track for more than one reason in my 3 life. So this will be Exhibit 3. 4 BY MR. SCRUGGS: 5 Q. So we have this form and you 6 mentioned the online form. Is there any other 7 form that the Commission uses? 8 A. Not that the Commission uses. If 9 we receive a referral from the EEOC, they may 10 have a different sort of information form, but 11 that's -- that's a record kept by the EEOC, not 12 by Louisville Metro Human Relations Commission. 13 Q. Okay. So no other forms that you 14 know of? 15 A. Not that I know of, no. 16 Q. Okay. Is all the information -- 17 MS. HINKLE: Is this form -- sorry 18 to interrupt. 19 MR. SCRUGGS: What was that? 20 MS. HINKLE: Is this just a 21 two-page document that you have pulled up and 22 marked as Exhibit 3? Would you mind just to 23 kind of scroll through and see -- 24 MR. SCRUGGS: Oh, yeah. 25 MS. HINKLE: Okay. Thank you.</p>

45	<p>1 BY MR. SCRUGGS: 2 Q. So is -- and it lists a bunch of 3 blanks for information. Is all the information 4 in the form required? Must all the information 5 in the form be filled out? 6 A. I'm sorry, I'm not understanding 7 your question. Does all this information need 8 to be filled out? Is that what you said? 9 Q. Yes. Yes. Say, what happens if 10 someone didn't fill out some of the information? 11 A. Well, the information that's 12 contained in this form needs to be filled out to 13 the complainant's knowledge -- to the best of 14 their knowledge. 15 So for example, there may be -- 16 like on a property ownership, there may be 17 another property owner that's subsequently we 18 would have to amend the complaint to include 19 that additional property owner, because the 20 complainant themselves wouldn't know about the 21 person. 22 So I mean, you see this a lot, like 23 in landlord/tenant situations. But we have the 24 person fill this out to the best of their 25 knowledge, and then we have them affirm and</p>	47	<p>1 A. Well, I wouldn't call it a low bar, 2 it's just you -- you fill out this information, 3 you file a complaint alleging discrimination. 4 Q. Got it. And you try to make it 5 easy to do, I'd assume? 6 A. We try to make it -- the process 7 efficient, but at the same time, we try to make 8 it effective to ensure we address discrimination 9 that occurs within our community. 10 Q. Can someone file a complaint 11 anonymously? 12 A. No. 13 Q. No? 14 Now, in the middle there, there's a 15 section that says because of, check one. But it 16 doesn't ask for the protected status of the 17 person filing the complaint? 18 Is that correct? 19 A. Well, the person that's filing the 20 complaint is saying I was discriminated against 21 because of one of these reasons. That's what 22 they're alleging. 23 Q. Okay. So can someone allege 24 discrimination -- what happens when someone 25 alleges discrimination on behalf -- committed on</p>
46	<p>1 swear that this is -- this information is true 2 and accurate within the complaint. 3 Q. Got it. So none of the information 4 is absolutely required. 5 Is that right? 6 A. Well, I mean, that -- I mean, that 7 depends. We need the name for someone to give 8 notification that a complaint has been filed 9 against them. 10 Q. Okay. So the -- well, let me ask 11 you this. So the respondent's name is required, 12 but is there any other information that is 13 required for the Commission to process a 14 complaint? 15 A. Not really. I mean, it just -- 16 information we receive, we follow up and 17 investigate. If in the course of that 18 investigation we uncover more information, we 19 may go back to the complainant to verify 20 information that they previously either may have 21 forgotten or they just didn't know at the time 22 when they filed their complaint. 23 Q. Got it. So it's a pretty low bar 24 to file the complaint. 25 Correct?</p>	48	<p>1 behalf of someone else? 2 MS. HINKLE: Object to the form. 3 You can answer. 4 A. Well, we would -- we would have 5 that -- that's not the complainant. The 6 complainant is the person who -- who encountered 7 the discrimination. So if someone is saying 8 someone is discriminating against this party, 9 then we would say that party needs to come in 10 and file a complaint. 11 BY MR. SCRUGGS: 12 Q. Okay. So the complaint -- how does 13 that work? Do you just not accept the complaint 14 in that situation? 15 A. Well, if the person isn't the one 16 that's been discriminated against, they don't 17 file the complaint. 18 Q. Okay. Let's see here. Now, at the 19 top, it mentions -- it has name and street 20 address. Is that information just used for 21 contact information? 22 A. Yes. 23 Q. Is it used to assess anything else? 24 A. Not to my knowledge. 25 Q. So what happens when someone puts</p>

<p style="text-align: right;">49</p> <p>1 an address that's not in the Metro County 2 Government area? 3 A. Well, they can live outside of 4 Metro and still file a complaint as long as the 5 alleged discriminatory behavior occurred within 6 the jurisdiction of Louisville Metro Government. 7 Q. Okay. 8 A. So if they live in Indiana or 9 something, but I work in Louisville, I can file 10 a complaint at the HRC, even if I live in 11 Indiana. 12 Q. Got it. Or if you live outside the 13 Metro Government -- rephrase. 14 Or if the -- a business is outside 15 the Metro Government and declines a service via 16 email to someone in the Metro area? 17 A. I would need more information to be 18 able to answer that. That's -- that's more -- 19 we would need more facts and evidence to 20 determine our jurisdiction over that company or 21 business or whoever. 22 Q. Okay. Well, how -- how would 23 you -- how do you go about determining 24 jurisdiction? 25 A. As set forth in the ordinance.</p>	<p style="text-align: right;">51</p> <p>1 how does the Commission go about determining its 2 jurisdiction? 3 A. That's a legal question that we 4 take with our county attorney. So for example, 5 let's say a landlord does not live in Louisville 6 Metro jurisdiction, but they own property inside 7 of Louisville Metro, and the alleged 8 discriminatory behavior occurred because of the 9 rental disagreement on that property that's 10 located in Metro, that's how we determine 11 questions of jurisdiction. 12 So it's a legal question that our 13 legal representatives give us, you know, the yea 14 or nay on, basically. 15 Q. Okay. And when is that 16 determination made? 17 A. It's usually done at the beginning 18 of the process. If we have jurisdiction, then 19 we can -- we can investigate it. So if there's 20 a question of jurisdiction, then we would submit 21 that question to our legal representatives 22 usually at the beginning of the process. 23 Q. So you accept a complaint, and then 24 determine jurisdiction? Is that the process? 25 A. I mean, again, it depends. I mean,</p>
<p style="text-align: right;">50</p> <p>1 Q. Repeat that. I'm sorry. 2 A. It's set forth in the ordinance. 3 The ordinance provides the jurisdiction of the 4 Human Relations Commission's ability to enforce 5 discrimination in Louisville Metro. 6 Q. So how does the Commission 7 determine, again, a complaint that is filed 8 out -- a complaint that is filed by an entity 9 located outside the Metro Government area? 10 MS. HINKLE: Objection to form. 11 A. I'm -- I guess I'm not 12 understanding your question. So if the 13 complainant lives outside of Metro? Is that 14 what you're asking? 15 BY MR. SCRUGGS: 16 Q. Yes. Yes. Let's do the 17 complainant lives outside the Metro. 18 A. And then -- and so then, what is 19 the question? 20 Q. I'm sorry, let me -- let me 21 rephrase. 22 In a situation when the 23 complainant -- let me rephrase. 24 In a situation when the respondent 25 lives outside the Metro County Government area,</p>	<p style="text-align: right;">52</p> <p>1 if the complainant comes in off the street, 2 let's say, and says ABC Corporation is 3 discriminating against me, and they give us the 4 name and the address of the company, we start 5 the process at that point in time to determine 6 everything, you know, jurisdiction, is this a 7 protected class that's pursuant checked to the 8 box. I mean, there's -- there's a whole lot of 9 stuff that goes into the investigative process. 10 Again, usually a complainant that 11 comes into our -- into the office and makes a 12 complaint against somebody, they are -- they're 13 relatively affiliated with them or they know who 14 that person is and they're able to give us that 15 information. 16 And based on the information they 17 give us, generally, jurisdiction is not a 18 problem, but it can arise in the course of an 19 investigation. Like I said, at the beginning of 20 the investigation if we determine that this -- 21 the defendant does not live in Louisville Metro 22 or they're outside of our jurisdiction, what -- 23 can we still exercise jurisdiction over that 24 party. 25 There's a process in evidence and</p>

<p style="text-align: right;">53</p> <p>1 facts that go into all that that we have to make 2 that determination. 3 Q. Got it. So -- well, let me ask you 4 this. In a situation where there's questionable 5 jurisdiction, is that something you go to the 6 lawyers after the complaint is filed or do you 7 ask the respondent to respond to the complaint 8 first? 9 A. I mean, after the complaint is 10 filed, sometimes they can go concurrently. I 11 mean, it really just depends. I mean, when the 12 issue comes up, we address it from a legal 13 standpoint. 14 Q. Okay. All right. So let's -- let 15 me point you back to the document here. And I 16 think we've noted at the end there's a sign -- a 17 space for this to be sworn at the -- on the 18 second page. 19 A. Uh-huh. (Witness answers in the 20 affirmative.) 21 Q. And so does that happen -- when 22 someone comes off the street, they have to sign 23 this and swear it under oath. 24 Is that right? 25 A. Yeah, before a notary. Yes.</p>	<p style="text-align: right;">55</p> <p>1 Q. Got it. Got it. 2 So when is the -- I assume that at 3 some point someone has to file an answer to the 4 complaint. 5 Correct? 6 A. Well, yeah, because there's a 7 default portion in the ordinance. If you don't 8 file an answer within a certain amount of time, 9 which is again outlined in the ordinance 10 procedure, then it's technically default. 11 Q. So when is that -- when does that 12 obligation kick in? Does it kick in immediately 13 after someone files a complaint or does someone 14 review the complaint for substance? 15 A. I would have to review the 16 ordinance which gives the timelines on when 17 responses are due. I think it's 92.09 -- I 18 think, of the ordinance that you referred to 19 earlier. 20 Q. Got it. Well, I guess when does 21 the Commission -- or when the Commission 22 officials send out the request to respond to the 23 complaint? 24 A. Again, that's -- that's in the 25 ordinance. I'd have to refresh my recollection</p>
<p style="text-align: right;">54</p> <p>1 Q. Before a notary? Okay. 2 So can someone call a complaint in? 3 A. Generally, what happens is if we 4 receive a phone call, we encourage them to come 5 and file a complaint in person, because again, 6 it has to be sworn with the Commission stamp and 7 all that stuff. So -- 8 Q. Got it. So do you -- when the call 9 happens, do you receive the information, and 10 then say -- and take it down, and then say come 11 in or do you just at the beginning of the call 12 say just come on -- you need to come on in? 13 A. I mean, that kind of depends. 14 Usually the admin -- administrative staff 15 receives that information if it's a telephone 16 call. And the general sort of procedure is if 17 there's something -- if they feel that there's 18 something to it, meaning, hey, Mr. So-And-So or 19 Mrs. So-And-So, we would need you to come in and 20 file a formal complaint if you feel that you've 21 been discriminated against. 22 I mean, the admin staff doesn't 23 necessarily make the determination whether or 24 not discrimination occurred, they just encourage 25 people to come in and file a complaint.</p>	<p style="text-align: right;">56</p> <p>1 of the ordinance. That's all right with you? 2 Q. Well, let me rephrase it in this 3 sense. I'm asking for when -- if an analysis -- 4 if a review happens and when that review 5 happens, between the time a complaint is filed 6 and the obligation to respond to the complaint 7 starts. 8 MS. HINKLE: Object to the form. 9 A. Again, I -- I'd have to refer to 10 the ordinance on when the actual sort of watch 11 starts, meaning when the -- I guess, you know, 12 like when formal notification has been given. 13 Again, I'd have to refer to the ordinance to 14 give you the exact timeline on how that process 15 starts. 16 BY MR. SCRUGGS: 17 Q. Well, I'm not asking so much for 18 the timeline, I'm asking for when is a -- or 19 first of all, is a review done of the complaint 20 form to determine if the complaint goes forward? 21 A. By whom? 22 Q. By Commission officials, any -- 23 anyone who works for the Commission. 24 A. Well, generally, after the form has 25 been sworn and signed by a complainant, it's</p>

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1 given to the investigator, who then has a  
2 certain time limit to start looking at  
3 information, verifying information, things like  
4 that.  
5 Q. Got it. So does that investigator  
6 review the form -- or review the complaint for  
7 substance, for example?  
8 A. You mean like to determine if  
9 actual discrimination occurred?  
10 Q. To determine if the process  
11 continues.  
12 A. Sure. I mean, they -- again, they  
13 receive specific information from both the  
14 complainant, any witnesses, and things like  
15 that.  
16 Again, as we mentioned earlier, if  
17 it becomes like a legal question of like  
18 jurisdiction or something like that, then we  
19 have to defer to our attorneys on legal  
20 questions that may arise in the process.  
21 But ultimately, the investigator is  
22 trained -- is trained to investigate to  
23 determine whether or not there's a likelihood of  
24 discrimination that occurred based on what's  
25 been presented in that form and presented from

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1 complainants and witnesses and everything like  
2 that.  
3 Q. Got it. And if the investigator  
4 makes that determination, then at some point he  
5 asks for the respondent to respond.  
6 Is that right?  
7 A. I believe so, yes. Keep in mind,  
8 as the respondent is presenting information back  
9 to the HRC, additional witnesses can provide  
10 information. Because sometimes witnesses aren't  
11 always readily available or may be reluctant to  
12 get involved. So there could be a concurrency  
13 of those two things going on at the same time.  
14 MR. SCRUGGS: Okay. Let me go to  
15 the next form here. I'm moving a bit faster, I  
16 guess.  
17 Okay. I'm putting another document  
18 on the screen. I think this is Exhibit  
19 Number 4.  
20 Why don't we go ahead and enter  
21 that.  
22 (Whereupon, the referred to  
23 document was marked as Exhibit 4,  
24 and is attached hereto and made a  
25 part hereof.)

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1 BY MR. SCRUGGS:  
2 Q. Now, Mr. Boyd, to me, this appears  
3 to be the online form that the Commission uses.  
4 A. Okay. Is this --  
5 Q. Is that --  
6 MS. HINKLE: No, it's different.  
7 THE WITNESS: Different? Okay.  
8 A. Yeah. I'm -- I'm not very familiar  
9 with the online form.  
10 BY MR. SCRUGGS:  
11 Q. Okay. Well, do you know -- so the  
12 online form is somewhat similar, but is a little  
13 different. For example, it asks where did the  
14 event happen.  
15 Do you see that line?  
16 A. Yes.  
17 Q. So -- and that line is not on the  
18 earlier form -- or that question exactly is not  
19 on the earlier form. So do you know why that  
20 change occurred?  
21 A. No.  
22 Q. Do you know how that information is  
23 used by officials?  
24 A. No.  
25 Q. Got it. So is that a fact that the

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1 investigator uses to evaluate the complaint?  
2 A. I'm not sure because, again, I'm  
3 not -- I'm not familiar with why that was put  
4 into this form, because I'm not familiar with  
5 this form.  
6 Q. Okay. Did you talk to any  
7 investigators about what process they use to  
8 gather information?  
9 A. For the deposition?  
10 Q. For the deposition.  
11 A. No, I did not.  
12 Q. Okay. And again, at the end of the  
13 form, it asks for desired outcome. Again,  
14 that's different from the earlier form.  
15 Do you have any -- do you know why  
16 that -- why that question was added?  
17 A. No. Again, I -- I had nothing to  
18 do with this form, how it got put together or --  
19 or how it's utilized.  
20 Q. Got it. And in your preparation  
21 for the deposition, none of this came up.  
22 Is that right?  
23 A. Yes. Correct.  
24 Q. All right. Okay. Let me show you  
25 one more form here. Okay. And this appears to

<p style="text-align: right;">61</p> <p>1 be an intake questionnaire that the Commission 2 uses. 3 Is that correct? 4 MS. HINKLE: Could you just give us 5 the Bates number? I think Kendall has that in 6 front of him, but I just want to make sure it's 7 the same thing. 8 MR. SCRUGGS: Sure. It's 9 Bates 1167. 10 Go ahead and mark this one as 5. 11 (Whereupon, the referred to 12 document was marked as Exhibit 5, 13 and is attached hereto and made a 14 part hereof.) 15 BY MR. SCRUGGS: 16 Q. Okay. Is that correct? Is this 17 the intake questionnaire that the Commission 18 uses? 19 A. It's what it appears to be, yes. 20 Q. So who -- who fills out this form? 21 What -- what was that? I didn't -- didn't hear 22 that. 23 A. It would be the admin staff. 24 Q. The admin staff? Okay. It 25 mentions walk-in, telephone, and referral.</p>	<p style="text-align: right;">63</p> <p>1 A. Well, a person, for example, who 2 may be mixed race may identify as Caucasian or 3 African American or whatever, but they -- they 4 declare themselves as African American. I mean, 5 it's -- it's just a clarification as to what 6 their race is, what their national origin is. I 7 mean, that's -- it's just explanatory 8 information as to what protected class the 9 complainant is a member of. 10 Q. But there's no section for declared 11 sexual orientation or declared sex. 12 Why is that? 13 A. I don't know. 14 Q. You don't? Did you review this 15 document in preparation for your 30(b)(6) 16 deposition? 17 A. Yes, briefly. 18 Q. Okay. Down under the -- under the 19 harm section there, it mentions denial of goods, 20 denial of services, denial of facilities, denial 21 of privileges. 22 Do you see that section? 23 A. Yes. 24 Q. Okay. What's the difference 25 between those boxes?</p>
<p style="text-align: right;">62</p> <p>1 Do you see that box at the top? 2 A. Yes. 3 Q. So when someone calls in, the admin 4 staff fills out all this information? 5 A. Yes, to the best of their ability. 6 Yes. 7 Q. Okay. The -- in the section on 8 protected class, it mentions national origin, 9 declared national origin, race, declared race. 10 Do you see that? 11 A. Yes. 12 Q. So what's the difference between 13 those? 14 A. Between what, declared race and 15 race? 16 Q. Yes. 17 A. I mean, I would assume that it's 18 the person -- the complainant that's saying I am 19 X, Y and Z. I am African American or I am 20 Ethiopian or I am whatever -- whatever their 21 declaration is is what they're alleging the 22 discrimination occurred. 23 Q. So how is that different than -- so 24 there's -- is there discrimination based on race 25 and discrimination based on declared race?</p>	<p style="text-align: right;">64</p> <p>1 A. What are the -- the complainants 2 coming in and saying they were denied. The 3 discrimination that they incurred, how did you 4 incur discrimination, I was harmed because I was 5 denied a good or service. 6 Q. Got it. And what -- what's the 7 difference between being denied a service and 8 being denied an advantage? 9 A. It depends on the facts and 10 circumstances of that complainant. 11 Q. What -- well, what facts and 12 circumstances are those? 13 A. Again, it depends on what comes 14 through the door. 15 Q. Got it. Can someone -- can the 16 intake person check multiple boxes? 17 A. Yes. 18 Q. Got it. Now, on the second page, 19 there's a section that says complaint filed yes 20 or no. 21 A. Uh-huh. (Witness answers in the 22 affirmative.) 23 Q. So when -- when is this form used 24 when a complaint is not filed? 25 A. When is this form used when a</p>

<p style="text-align: right;">65</p> <p>1 complaint is not filed? Again, this is -- 2 Q. Yeah. 3 A. -- an initial -- initial sort of 4 communication between one of the admin staff and 5 the person making the allegations. 6 Q. So why is there a box for someone 7 to click that says no, complaint not filed? 8 A. Because sometimes a person may 9 decide they want to go get independent legal 10 counsel and do it themselves. Or they may 11 decide that they don't want to follow through. 12 I mean, there's some people that are intimidated 13 with the process, so they just don't follow 14 through, so they don't want to file a complaint. 15 Q. So this isn't -- strike that. 16 So someone can just walk in, fill 17 out a form and make allegations, but then not 18 file a complaint? 19 A. It's rare, but yes. 20 Q. Okay. And in that situation, 21 the -- does the process just end? 22 A. Yes. Because nobody wants to file 23 a -- if the person doesn't want to file a 24 complaint, there's nothing further to do. 25 Q. Okay. In the respondent</p>	<p style="text-align: right;">67</p> <p>1 just own the residence. So they would not be a 2 business provider. 3 Q. And what about a non-profit 4 organization? 5 A. It's a business. 6 Q. Oh, you consider -- what's 7 considered a business there encompasses 8 non-profit organizations? 9 A. Right. I mean, type of business, 10 not for profit, exercise group or something, I 11 don't know, just -- it depends on the 12 information, again, we get from the complainant. 13 Q. Does the -- do any Commission 14 officials help someone fill out these -- 15 MR. SCRUGGS: Well, let me take 16 this down real quick, because this was -- this 17 was 5. 18 Correct? 19 BY MR. SCRUGGS: 20 Q. Can Commission officials help 21 people fill out these forms. 22 A. What do you mean -- 23 MS. HINKLE: Object to the form. 24 A. What do you mean by Commission 25 official? Because I indicated that it's the</p>
<p style="text-align: right;">66</p> <p>1 information section on the first page -- if you 2 can go back to the first page there. Under 3 respondent one, it mentions type of business 4 what was denied. 5 Do you see that? 6 A. Yes. 7 Q. Is that information required? 8 A. I mean, to the -- to the best of 9 the complainant's knowledge of what -- what type 10 of business it is and what they were denied. 11 Q. Well, how does the Commission 12 handle the situation when it's not a business? 13 A. I'm not understanding what you mean 14 when it's not a business? If it's not a 15 business, that -- I'm going to assume that would 16 be left blank if it wasn't a business, if it was 17 an individual person. 18 Q. Or a different type of entity, for 19 example, non-profit? 20 A. No. I -- like -- because we have 21 hate crimes. And so like if a person is a 22 victim of a hate crime by, let's say, a neighbor 23 or something like that, that wouldn't be a 24 business, that would be a person. Or we have 25 landlords who don't own rental businesses, they</p>	<p style="text-align: right;">68</p> <p>1 admin staff that walks the person through this. 2 BY MR. SCRUGGS: 3 Q. Okay. Let's talk about the written 4 form that we looked at earlier that someone 5 files to file a complaint. Does -- 6 A. The complaint form paper? Is that 7 what you're referring to? 8 Q. Yes. Yes, the sworn complaint. 9 Can intake officials help someone 10 fill out this form? 11 A. If the person, for example, has a 12 disability or can't read, the intake person can 13 help populate the information, but they cannot 14 basically tell the complainant what to put in 15 here. So in that situation. 16 But no, intake official or anybody 17 that works for the Human Relations Commission 18 will not fill this out for somebody and then 19 tell them to sign it. That's not the way that 20 works. 21 Q. Got it. Can officials suggest 22 additional claims or ask for additional 23 information? 24 A. We can ask for additional 25 information after the initial sort of</p>

<p style="text-align: right;">69</p> <p>1 investigation begins. Because, for example, as 2 I mentioned earlier, we may find another party 3 who may be responsible for the alleged 4 discrimination or there may be a protected class 5 that wasn't considered before all of a sudden 6 appear. So then, we can add that amended 7 information to the complaint. 8 Q. Okay. So let's talk about who can 9 file a complaint. And we mentioned -- we 10 touched on that briefly. 11 And let me probably go ahead and 12 show you another document, just to make things 13 quicker. 14 All right. Do you see this 15 document? 16 A. Yes. 17 MR. SCRUGGS: All right. This is a 18 copy of the Ordinance, Chapter 92. And let's go 19 ahead and mark this, I believe, as Exhibit 6. 20 (Whereupon, the referred to 21 document was marked as Exhibit 6, 22 and is attached hereto and made a 23 part hereof.) 24 BY MR. SCRUGGS: 25 Q. So I'm going to point you to -- let</p>	<p style="text-align: right;">71</p> <p>1 section, mentions that any member of the Human 2 Relations Commission Enforcement who has reason 3 to believe an unlawful practice has occurred may 4 file a complaint. 5 A. Uh-huh. (Witness answers in the 6 affirmative.) 7 Q. Is that correct? 8 A. Yes. 9 Q. Can a person acting on behalf of a 10 commissioner file a complaint? 11 A. Acting on behalf of a commissioner? 12 I've never seen or heard that before, no. 13 Q. Can any other Metro official file a 14 complaint? 15 A. On behalf of somebody else or on 16 behalf of themselves? 17 Q. On behalf of themselves. 18 A. Well, that -- that depends who -- 19 who they're filing the complaint against. 20 Meaning if they're filing it against another 21 Metro official or another Metro employee, 22 there's an inside process on how we deal with 23 complaints that way. But if a Metro employee 24 suffered discrimination outside of employment, 25 they are more than welcome to come and file a</p>
<p style="text-align: right;">70</p> <p>1 me get to this other section here. All right. 2 I'm going to point you to a section about the 3 complaint procedure, 92.09 Section (A). 4 A. Okay. 5 Q. And it mentions there, any person 6 or persons claiming to be aggrieved by an 7 unlawful practice by this chapter may file a 8 written complaint. 9 Do you see that? 10 A. Yes. 11 Q. Okay. So does that include a 12 person acting on a person's behalf, like a 13 lawyer? 14 A. I mean, again, the information that 15 we would receive would need to be sworn by the 16 person who's been impacted or who's been -- who 17 suffered the grievance. I mean -- 18 Q. So a lawyer can't -- a lawyer can't 19 file a complaint on behalf of his or her client? 20 A. With the agency, no. We generally 21 ask the aggrieved party to come in and sign the 22 complaint. Because again, it's a signed and 23 sworn affidavit alleging discrimination. 24 Q. Got it. And it also mentions 25 that -- later on in that paragraph, same</p>	<p style="text-align: right;">72</p> <p>1 complaint with the Commission. 2 Q. What about through this process 3 here, the second section talks about any member 4 who has reason to believe an unlawful practice 5 has occurred. Can a member of the Advocacy 6 Board file a complaint through that process? 7 A. If they are the aggrieved member. 8 If they are not aggrieved, they can refer 9 information to the Enforcement Board, who can 10 then file a complaint pursuant to the procedure 11 outlined herein. 12 Q. Okay. So you talked about 13 referring information to the Enforcement Board. 14 Can someone -- what does that process look like? 15 A. Well, if any person, regardless if 16 they're a member of the Advocacy Board or, you 17 know, Mr. or Mrs. Off-the-Street, if they 18 provide the Enforcement Board specific 19 information because they believe unlawful 20 discrimination has occurred, the Enforcement 21 Board may make a complaint based on the 22 discrimination that has allegedly occurred. 23 Q. Okay. So someone could see some 24 information on the news and refer that to the 25 Enforcement Board? And then, the Enforcement</p>

<p style="text-align: right;">73</p> <p>1 Board can file a complaint? 2 A. Most likely. I mean, it's not 3 automatic that the Enforcement Board would file 4 a complaint. I mean, there would have to be 5 some information gathering, pursuant to the 6 process that we just outlined here. 7 Q. Well -- so take me through that 8 process. Someone sees something in this news, 9 they email the Enforcement Board member -- 10 A. Uh-huh. (Witness answers in the 11 affirmative.) 12 Q. -- and then what happens? 13 A. The Enforcement Board member would 14 receive more specific information from the 15 person or persons who sent them that email. And 16 then at that point in time, the Enforcement 17 Board member may fill out the complaint, just 18 pursuant to this process, alleging unlawful 19 discriminatory behavior or practices. 20 Q. So does that Enforcement Board 21 member gather more information or does he ask 22 another employee of the Commission to gather 23 that information? 24 A. Well, the only time an employee of 25 the Commission gathers more information on an</p>	<p style="text-align: right;">75</p> <p>1 A. I mean, pursuant to the process, 2 you know, it's the same way that a complaint is 3 filed with the agency. So it's whenever they've 4 been given, you know, the information that they 5 feel would substantiate a claim, then they would 6 proceed forward. 7 Q. And who makes that determination? 8 Does each individual board member make that 9 determination? 10 A. For the complaint? 11 Q. Yes. 12 A. No. No. It's usually -- if that 13 Enforcement member has done the complaint 14 process and signed a complaint, then it's 15 submitted forward. Usually, the Enforcement 16 Board member has identified themselves as saying 17 I would like to file a complaint pursuant to the 18 process because of information that I have 19 received of alleged discriminatory behavior. 20 Q. Yeah. And I guess I'm asking how 21 did they determine whether the information they 22 received rises to the level of being worthy of 23 filing a complaint. 24 A. I believe that process is outlined 25 in 92.09 (B).</p>
<p style="text-align: right;">74</p> <p>1 allegation of discrimination is after a sworn 2 complaint has been received. 3 Q. Okay. But except in the situation 4 where someone emails the Enforcement Board 5 member, you know, they see something, that 6 Enforcement Board member can ask for more 7 information from the person. 8 Is that right? 9 A. From the person who is making the 10 allegation. 11 Q. Okay. And just to be clear, anyone 12 can send information to the Enforcement Board 13 officials. 14 Correct? To start that process? 15 A. Yes. I mean, we're a public 16 agency. Anybody can send allegations of 17 discrimination at any time. 18 Q. Got it. I'm going to take this 19 document down and show you another document. 20 All right. So let's talk -- let's 21 focus in on this process that the Enforcement 22 Board member uses. So when -- when can the 23 Enforcement Board member file a complaint? 24 A. When can they file a complaint? 25 Q. Yes.</p>	<p style="text-align: right;">76</p> <p>1 Q. Okay. And that section says any 2 member of the -- I think -- or I think it's 3 actually A. Let me refer you to A there. 4 It says, any member of the Human 5 Relations Commission Enforcement who has reason 6 to believe an unlawful practice has occurred may 7 file a complaint. 8 A. Right. But I'm referring to 9 92.09 (B), claims filed with Human Relations 10 Enforcement by individuals should -- and it 11 gives the specific information, as well. 12 Q. Got it. So it has to have that 13 specific information. 14 Correct? 15 A. Uh-huh. (Witness answers in the 16 affirmative.) Yes. 17 Q. So when -- who -- strike that. 18 Has the -- does the Commission give 19 the Enforcement commissioners any guidance on 20 what constitutes a reasonable belief that an 21 unlawful practice has occurred? 22 A. No. You know, once we have 23 received the verified sworn complaint and the 24 initial investigation has occurred, let's say 25 that, for example, that no reasonable cause</p>

<p style="text-align: right;">77</p> <p>1 exists, the only guidance that would be provided 2 is that there is not enough information to 3 substantiate unlawful discrimination. 4 Therefore, no probable cause exists or no 5 reasonable cause exists. That's the only sort 6 of guidance that is given to an Enforcement 7 Board member or anybody, for that matter, that 8 comes in through the door. 9 Q. Got it. So an Enforcement Board 10 member, they determine what information is 11 worthy to file -- to justify filing a complaint 12 or not? 13 A. I don't know if I would call it 14 worthy, they -- they file the information that's 15 in their possession that they know when they 16 file their complaint. 17 Q. Got it. And there is no -- again, 18 there is no -- well, strike that. 19 There's no limit that the 20 Commission puts on when Enforcement Board 21 members may file a complaint. 22 Is that right? 23 A. I'm not sure I understand what you 24 mean by limit, that they can -- what do you mean 25 by limits put on a member of the Enforcement</p>	<p style="text-align: right;">79</p> <p>1 action? 2 MS. HINKLE: Objection to form. 3 A. I'm not aware of any policy like 4 that, no. 5 BY MR. SCRUGGS: 6 Q. Okay. So an Enforcement Board 7 official can do that. 8 Correct? 9 A. If they choose to do so. 10 Q. Got it. So are you familiar with 11 the concept of testers, Mr. Boyd? 12 A. Yes. Oh, yes. Uh-huh. (Witness 13 answers in the affirmative.) 14 Q. So Enforcement Board officials can 15 act as testers. 16 Is that right? 17 A. Well, we actually have testers in 18 the HRC, part-time testers, who do 19 discriminatory testing. 20 Q. Okay. But could Enforcement Board 21 officials also act as testers? 22 A. If they choose to, but again, the 23 HRC is not directing them to do testing work. 24 Q. Okay. Is there any policy that 25 prevents Enforcement Board members from filing a</p>
<p style="text-align: right;">78</p> <p>1 Board. 2 Q. Again, I'm just trying to think -- 3 for example, think of a process when someone 4 emails an Enforcement Board member official -- a 5 member of the Enforcement Board, someone emails 6 a member of the Enforcement Board, I saw this 7 happen in the community, it's then up to that 8 Enforcement Board member to decide whether to 9 file a complaint or not? 10 A. It's in their discretion if they 11 want to do a deeper dive to determine what 12 information that they're receiving to verify -- 13 you know, to justify filing a verified 14 complaint. That's up to the individual. 15 Q. Got it. So there's no policy, for 16 example, that the Commission provides to these 17 members that says you need to gather more 18 information. 19 Is that right? 20 A. Only what's contained in the 21 ordinance, pursuant to the complaint procedure 22 process. 23 Q. Is there any policy preventing 24 Enforcement Board officials from calling up a 25 business to see if they engage in discriminatory</p>	<p style="text-align: right;">80</p> <p>1 complaint based on discriminatory actions they 2 have witnessed taken against someone else? 3 A. Not that I'm aware of. 4 Q. Okay. And I think we mentioned 5 there's no policy that prevents commissioners 6 from filing a complaint based on information 7 they've seen in the news? 8 A. No, no policy that I'm aware of. 9 No. 10 Q. Okay. So that's something that 11 Enforcement Board members could do? 12 A. It's within their discretion if 13 they want to do that. But again, we have the 14 complaint procedure and process that we adhere 15 to. 16 Q. Absolutely. And that process 17 really comes later. Once they file the 18 complaint, that kicks off that process? 19 A. Once an official sworn complaint 20 has been filed. 21 Q. Got it. Is there any policy that 22 prevents Enforcement Board members from filing a 23 complaint based on -- based on seeing 24 discriminatory advertising? 25 A. Not that I'm aware of, no, no</p>

81	<p>1 policy.</p> <p>2 Q. Got it. So an Enforcement Board</p> <p>3 member could see a discriminatory ad, and then</p> <p>4 file a complaint with the Commission.</p> <p>5 Correct?</p> <p>6 A. Pursuant to the procedure, yes.</p> <p>7 Q. Got it. Has the Commission ever</p> <p>8 refused to accept a complaint from an</p> <p>9 Enforcement Board member?</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. Has the Commission ever reprimanded</p> <p>12 an individual commissioner for filing complaints</p> <p>13 without enough information?</p> <p>14 A. Not that I'm aware of.</p> <p>15 Q. Has an Enforcement Board member</p> <p>16 ever filed a complaint?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Do you know how many times?</p> <p>19 A. Not off the top of my head, no.</p> <p>20 Q. Can you tell me about -- are there</p> <p>21 any situations -- can you tell me about the</p> <p>22 situations that you do know about?</p> <p>23 MS. HINKLE: Let me just caution</p> <p>24 the witness to be mindful of the confidentiality</p> <p>25 rules with respect to details of individual</p>	83	<p>1 Q. Four? And so that four as of</p> <p>2 2000 --</p> <p>3 A. 2020, March of 2020 was the last</p> <p>4 time I had dealt with testing cases.</p> <p>5 Q. Got it. And so it could be more,</p> <p>6 could be less today.</p> <p>7 Right?</p> <p>8 A. Correct. Yes.</p> <p>9 Q. And is that the only responsibility</p> <p>10 that these people have is to engage in testing</p> <p>11 activities?</p> <p>12 A. Yes. They engage in testing</p> <p>13 activities and provide the information that they</p> <p>14 received as part of that test to the HRC for the</p> <p>15 HRC to make a determination whether or not cause</p> <p>16 exists to file a sworn complaint for alleged</p> <p>17 discrimination.</p> <p>18 Q. So do the testers themselves file a</p> <p>19 complaint and swear under oath?</p> <p>20 A. No. It's a Commission-generated</p> <p>21 complaint from the Commission itself, based on</p> <p>22 the information we've received from the tester.</p> <p>23 Q. So this -- in a sense, an</p> <p>24 individual Enforcement Board member can file</p> <p>25 complaints, but then also the Commission itself</p>
82	<p>1 complaints.</p> <p>2 A. Yes. The one that I'm aware about</p> <p>3 was filed against an establishment that had</p> <p>4 advertised something on social media that was</p> <p>5 purported to be discriminatory behavior.</p> <p>6 BY MR. SCRUGGS:</p> <p>7 Q. So it was filed against a public</p> <p>8 accommodation?</p> <p>9 A. Yes. Or a business, yes.</p> <p>10 Q. Yeah. And was the basis of that</p> <p>11 complaint an allegation of discrimination by a</p> <p>12 public accommodation?</p> <p>13 A. Yes.</p> <p>14 Q. All right. Let's switch -- I think</p> <p>15 we've talked about the -- the process for the --</p> <p>16 well, let me ask this. You mentioned that HRC</p> <p>17 has its own testers.</p> <p>18 Is that right?</p> <p>19 A. It's compensated testers. They're</p> <p>20 technically employees.</p> <p>21 Q. Okay. How many testers does HRC</p> <p>22 employ?</p> <p>23 A. Currently, I'm not sure. When I</p> <p>24 was the director, we had four. They are all</p> <p>25 part-time.</p>	84	<p>1 can file a complaint.</p> <p>2 Is that right?</p> <p>3 A. Only on information received, yes,</p> <p>4 meaning the tester information that we received.</p> <p>5 Q. And are these full-time positions?</p> <p>6 A. Who?</p> <p>7 Q. The four testers that you employed.</p> <p>8 A. No, these are all part -- they --</p> <p>9 when I was the director, they were all part-time</p> <p>10 positions.</p> <p>11 Q. Okay. And did you always have four</p> <p>12 testers throughout the duration of your tenure?</p> <p>13 A. You mean, as -- when I was</p> <p>14 director?</p> <p>15 Q. Correct.</p> <p>16 A. Yes. Yes.</p> <p>17 Q. Before you were director, do you</p> <p>18 know how many testers the Commission used?</p> <p>19 A. No, I do not.</p> <p>20 Q. Would that be -- would that</p> <p>21 information be located somewhere?</p> <p>22 A. That's personnel information, so</p> <p>23 I'm not clear about the rules behind personnel</p> <p>24 information, but they would be considered Metro</p> <p>25 employees for the time that they were doing the</p>

<p style="text-align: right;">85</p> <p>1 testing with the HRC. So that's -- that's how 2 that information would be gathered. 3 Q. Does the Commission keep a record 4 of how many testers it uses? 5 A. I'm sure they do. That's -- that's 6 a question better suited for the current 7 director. 8 Q. Okay. And these testers, they test 9 across the categories, housing, employment, 10 public accommodations? 11 A. Mostly housing, but yes, across all 12 categories. 13 Q. So just to be clear, they engage -- 14 they can engage in testing activities for public 15 accommodations? 16 A. Yes. 17 Q. And they have, in fact, engaged in 18 testing activities with respect to public 19 accommodations? 20 A. I'm sorry, you weren't clear. What 21 did you say, again? 22 Q. Have these testers engaged in 23 testing activity with respect to public 24 accommodation? 25 A. I'm not sure about recently, but I</p>	<p style="text-align: right;">87</p> <p>1 A. Oh, well, generally, the executive 2 director or assistant director, with the 3 assistance of an admin, may just do blind 4 testing by pulling several properties that are 5 listed, for example, like online, like 6 apartments.com or something like that, pull 7 several properties, give those properties to the 8 tester, then have them go through the -- through 9 the gambit of giving a hypothetical situation to 10 that property. 11 And depending on what the 12 property's answers are, information they 13 received from that property, relay that 14 information back to the executive director, who 15 then makes a determination as to whether or not 16 a formal complaint should come from the 17 information received. 18 Q. How -- does the executive director 19 ever get -- receive information from the news 20 and direct people to engage in testing activity? 21 A. Well, with the situation with the 22 Fourth Street Live that I spoke of, I believe 23 that was news initiated. But again, that was 24 before my tenure, so I can't -- I can't speak to 25 exactly how that process went. But I believe</p>
<p style="text-align: right;">86</p> <p>1 believe they have done so in the past. Again, 2 the majority of their testing is through 3 housing. 4 Q. Okay. What do you remember about 5 the testing activity they engaged in with 6 respect to public accommodation? 7 A. It was before my tenure, but I 8 believe a couple of testers were used for Fourth 9 Street Live, which is an entertainment district 10 here in Louisville, for alleged discriminatory 11 behavior based on race. 12 But again, this has been 15, 16 13 years ago. It's been a long time ago. 14 Q. Okay. Who -- who directs the 15 testers? 16 A. The testers report directly to the 17 assistant director and the director. 18 Q. Okay. Well, how do they determine 19 which entities to engage in testing activity 20 with? 21 A. Who the testers or -- 22 Q. Yeah. Well, does the executive 23 director direct them to engage in certain 24 activities? Do they make up -- does each tester 25 make up their own mind? How does that work?</p>	<p style="text-align: right;">88</p> <p>1 the initial information was received from news 2 media, and then the testers went out and did 3 what they did. 4 Q. Okay. Do -- all right. Let's go 5 back to the process. I think we've talked about 6 how the Enforcement Board members can file a 7 complaint. Why don't you take a look at 92.09 8 or the ordinance, again. And it mentions any 9 person or persons claiming to be aggrieved by an 10 unlawful practice may file a complaint. 11 A. Uh-huh. (Witness answers in the 12 affirmative.) 13 Q. So in that track, any person means, 14 for example, any employee of the Metro 15 Government can file a complaint. 16 Right? 17 MS. HINKLE: Objection to form. 18 A. Any employee of the Metro 19 Government can file a complaint? 20 BY MR. SCRUGGS: 21 Q. Exactly. If they are alleging 22 that -- if they are an aggrieved party? 23 A. Yeah. I mean, as I mentioned 24 earlier, if a person is employed by Metro 25 Government and they feel they've been</p>

<p style="text-align: right;">89</p> <p>1 discriminated against, they are more than free 2 to come file a complaint with the Commission. 3 Q. Got it. So is there any policy 4 that prevents individuals from engaging in 5 testing activity from filing a complaint? 6 A. Individuals such as? 7 Q. Just an individual member of the 8 community. 9 A. Well, I mean, we don't -- we don't 10 take -- we don't do testing with individuals in 11 the community. We only have testers within HRC. 12 So I wouldn't know anything about individuals 13 doing testing, and then bringing that 14 information to the HRC. I've never seen that 15 happen before. 16 Q. Well, is there any policy that 17 prevents an individual person, individual 18 citizen, a private citizen, from going around 19 and engaging in testing activity, and then 20 filing a complaint? 21 A. Well, if the person, for example, 22 is going and looking for an apartment and they 23 feel that they have encountered discrimination 24 based upon inquiries that they've made, they can 25 file a complaint with the agency. But again,</p>	<p style="text-align: right;">91</p> <p>1 that's discrimination, we should investigate 2 that. There's the totality of everything that 3 we've received. 4 THE WITNESS: And Mr. Scruggs, do 5 you think at 12:30 we could take a restroom 6 break, please? 7 MR. SCRUGGS: Yes. I'm almost done 8 with a little section. What about we plow 9 through for five or 10 minutes, and then take a 10 break? Is that okay? 11 THE WITNESS: That's fine. Thank 12 you. 13 BY MR. SCRUGGS: 14 Q. Okay. Have the admin officials 15 ever refused to take a complaint because the 16 information provided was insufficient? 17 A. Not that I'm aware of. 18 Q. There's not been a situation where 19 the admin officials look at a complaint and says 20 this is frivolous, so I'm going to reject it? 21 A. Not that I'm aware of. 22 Q. Okay. That kind of -- that 23 determination is made by the investigation 24 officer. 25 Is that right?</p>
<p style="text-align: right;">90</p> <p>1 the complaint process and the information 2 contained in the complaint process is heavily 3 dependent -- heavily dependent upon the facts 4 and circumstances and evidence that are received 5 by the Commission. 6 So a person unilaterally going out 7 and doing a bunch of testing, and then 8 submitting information to the Commission has 9 never been done before. I'm not aware of 10 anybody ever doing that. 11 Q. Okay. Is there any policy that 12 prevents that? 13 A. Not that I'm aware of, no. 14 Q. So maybe another way of saying that 15 is do Commission officials evaluate complaints 16 of whether a person -- whether a complainant 17 indeed wanted the services they asked for? 18 A. Well, we look at the alleged 19 discrimination that has occurred, whether it's a 20 denial of services or goods or just not even 21 responding like back to a phone call or email or 22 something. There's a whole bunch of facts and 23 information that goes into the complaint 24 process. So it's not one sort of singular fact 25 or circumstance that the Commission says, well,</p>	<p style="text-align: right;">92</p> <p>1 A. Generally in the process of a 2 complaint is determined to be frivolous, the 3 process will bring that out sooner than later. 4 It's not one party that determines something is 5 frivolous, it's the facts and information that 6 determines the frivolous nature of a complaint. 7 Q. So when is the first step at which 8 that determination can be made? 9 A. And it depends. During the initial 10 filing of the complaint, if the investigator or 11 someone feels that the information is 12 insufficient or frivolous or something like 13 that, a discussion is had and we may even 14 involve, you know, legal counsel to determine 15 the frivolous nature of what's been reported in 16 the complaint. 17 Q. Okay. 18 A. There's no real -- there's no one 19 time or period or person that makes that 20 determination. It's -- it's a collective sort 21 of decision. 22 Q. But the intake official doesn't 23 make that determination? 24 A. No, not one person does. No. 25 Q. So in a situation where a complaint</p>

<p style="text-align: right;">93</p> <p>1 is frivolous, the intake officer takes the 2 information, and then that goes to an 3 investigation officer. Can that investigation 4 officer then end the process or does that 5 investigation officer ask the respondent for -- 6 for information? 7 A. Well, in any thorough 8 investigation, if there appears to be some 9 frivolous nature to what's been asserted, 10 usually the investigator would touch base back 11 with the complainant to get clarification on 12 things that have been alleged. 13 Once that information has been 14 gathered, the investigator could either bring it 15 to the executive director or could reach out to 16 legal counsel to ask what their opinion is on 17 what's been purported in the complaint. 18 Q. Okay. Does the Commission accept 19 complaints filed on behalf of testing 20 organizations? 21 A. Not that I'm aware of, no. 22 Q. Are -- are there any penalties 23 associated with someone filing a frivolous 24 complaint? 25 A. No, not that I'm aware of, I mean,</p>	<p style="text-align: right;">95</p> <p>1 to come file a complaint, and then, maybe a few 2 from the Enforcement Board itself. 3 MR. SCRUGGS: Okay. All right. 4 Why don't we let you go to the restroom and I 5 can go to the restroom and take a little break? 6 THE WITNESS: Thank you. 7 THE COURT REPORTER: We're off 8 record. 9 10 * * * 11 (Off the record.) 12 * * * 13 14 THE COURT REPORTER: We're back on 15 the record. 16 17 * * * 18 CONTINUED EXAMINATION 19 BY MR. SCRUGGS: 20 Q. All right. Mr. Boyd, we're back. 21 Just a few kind of clean-up questions, and then 22 we can keep plowing forward. 23 I think we were talking about when 24 an aggrieved party could file a complaint. And 25 if I remember correctly, you mentioned as an</p>
<p style="text-align: right;">94</p> <p>1 besides dismissal of the complaint if it's 2 determined to be frivolous. But there's nothing 3 punitive or anything done to punish that 4 individual for filing a frivolous complaint. 5 Q. Has the Commission actually ever 6 penalized someone for filing a frivolous 7 complaint? 8 A. No, not that I'm aware of. 9 Q. Has there ever been one person who 10 has filed multiple complaints? 11 A. Not that I know of personally, but 12 that doesn't mean it hasn't happened. I mean, 13 the Commission has been in existence for a long 14 time, so there's a possibility that that has 15 occurred. 16 Q. Okay. And which -- who typically 17 files complaints. Is it aggrieved parties, does 18 it come through the human -- the Enforcement 19 Board? Where do complaints typically come from? 20 A. We receive complaints from all 21 different sources. I would say that a majority 22 of our complaints either originate with the 23 EEOC, who then sends us the file, or we have 24 someone walk in off the street or who's made an 25 inquiry over the phone and has been encouraged</p>	<p style="text-align: right;">96</p> <p>1 example a situation when someone -- when a 2 business refuses to accept someone's phone 3 calls. 4 Do you remember that? 5 A. Well, I mean, I remember us sort of 6 throwing various scenarios out where we would 7 take a complaint from someone who felt that they 8 were aggrieved by a practice or something like 9 that, yes. 10 Q. Got it. So in a situation where 11 someone feels aggrieved by a business because 12 that business refuses to accept their phone 13 calls, the Commission would accept that 14 complaint? 15 A. Again, depending on all the facts 16 and information we have. 17 Q. Got it. But that singular fact 18 wouldn't preclude the Commission from accepting 19 that complaint? 20 MS. HINKLE: Objection to form. 21 A. Not necessarily. Again, it's all 22 dependent upon the facts and evidence that we 23 have. 24 Q. Okay. I think we're -- we also had 25 a discussion about when the Enforcement Board</p>

<p style="text-align: right;">97</p> <p>1 members can initiate a complaint or file a 2 complaint. And when an individual files a 3 complaint, not -- not an Enforcement Board 4 official, but when just a person off the street 5 files a complaint, does that complaint ever get 6 referred to the Enforcement Board officials? 7 A. The only time a complaint gets 8 taken to the Enforcement Board is for a 9 reconsideration. A reconsideration is once 10 there's been determined that there's no 11 reasonable or probable cause exists because of 12 alleged discrimination, that person -- the 13 complainant can have that decision revisited by 14 the Enforcement Board, based upon all the 15 information that has been received at that point 16 in time. 17 Once a person takes a 18 reconsideration to the Enforcement Board, no 19 additional information or evidence can be 20 presented to the Enforcement Board. At that 21 time, the Enforcement Board can only make a 22 decision based on the information that has 23 already been made to make that determination 24 initially. 25 Q. So -- but in that reconsideration</p>	<p style="text-align: right;">99</p> <p>1 information we have. If it's just information 2 based upon seeing something on TV and no other 3 additional information has been gathered or no 4 determination has been made based upon the 5 information that has been gathered, and then the 6 executive director at that point in time decides 7 that no reasonable cause exists, it could still 8 go for reconsideration, but the reconsideration 9 would be based upon the information already 10 received. 11 So with the hypothetical that you 12 just provided, more information would be needed 13 in order to determine why reasonable cause was 14 denied in the first place. 15 Q. In this process where I think you 16 mentioned the investigation officials gathering 17 more information, do they ever gather more 18 information from the respondents? 19 A. It depends. Sometimes respondents 20 are told by legal counsel not to say anything. 21 Other times, respondents may provide a slew of 22 information. It just depends on the 23 case-by-case basis. 24 Q. Got it. But before an answer is 25 filed, an investigative official can ask a</p>
<p style="text-align: right;">98</p> <p>1 phase, could the Enforcement Board then decide 2 to file its own complaint, based on the 3 information that was given? 4 A. No. Generally, if the -- if the 5 reconsideration is denied, the case stands on -- 6 the case remains based upon what's -- the 7 decision that's already been made. So if the 8 executive director said no -- no probable cause, 9 no reasonable causes exists, the 10 reconsideration -- Enforcement Board affirms, 11 and then that's the end of that. 12 If in a situation where more 13 evidence or more information comes out regarding 14 that particular complaint or complainant, a new 15 complaint can be filed based upon new 16 information that's been received. 17 Q. Okay. And maybe an example would 18 help. So in a situation where someone files a 19 complaint -- an individual citizen, private 20 citizen files a complaint based on something 21 they see in the news, that complaint isn't 22 sufficient to continue, would that complaint 23 ever go before the Enforcement Board? 24 MS. HINKLE: Objection to form. 25 A. Again, it depends on the</p>	<p style="text-align: right;">100</p> <p>1 respondent to provide information of their own 2 accord? 3 A. Sure. I mean, you can always ask. 4 As far as receiving it, that's a different 5 question, but basically you can always ask, 6 especially for clarification purposes or 7 something like that. But again, the respondent 8 is not obliged to necessarily provide 9 information, especially after receiving legal 10 counsel. 11 Q. So we talked a little bit about 12 testers. And you mentioned that the Commission 13 had these testers for public accommodations. 14 Has the Commission used testers for employment? 15 A. Not that I know of. When I say 16 that, meaning when I was director up until the 17 time that I left the HRC, we did not use testers 18 for employment cases. We used them strictly for 19 housing cases and possible -- well, no, strike 20 that. It was just all housing cases when I was 21 there. 22 Prior to me being there or 23 subsequently, I can't speak to that. 24 Q. Roughly, how many times were 25 complaints filed based on testing with respect</p>

101	<p>1 to housing?</p> <p>2 MS. HINKLE: Objection to form.</p> <p>3 A. Yeah. There -- there was no real</p> <p>4 sort of magic number. I would be speculating to</p> <p>5 say how many cases we ended up getting because</p> <p>6 of a tester case. I mean, we -- I do recall</p> <p>7 that we actually did file complaints based on</p> <p>8 information received from testers, but I can't</p> <p>9 give you an approximation or exaction of what</p> <p>10 that number is.</p> <p>11 Q. You didn't look for that</p> <p>12 information in preparation for your deposition</p> <p>13 today?</p> <p>14 A. Did I look at that information?</p> <p>15 Q. Correct.</p> <p>16 A. No. No, I did not.</p> <p>17 Q. Okay. Now, I think you also</p> <p>18 mentioned that the Commission accepts complaints</p> <p>19 from persons located outside the Metro</p> <p>20 Government area.</p> <p>21 Correct?</p> <p>22 A. Again, it depends on if we have</p> <p>23 jurisdiction over the party that they're filing</p> <p>24 the complaint against, but yes, in the past we</p> <p>25 have taken complaints from people that do not</p>	103	<p>1 A. No, no policy. Again, we strictly</p> <p>2 adhere to the requirements that are outlined in</p> <p>3 92.</p> <p>4 Q. Okay. Or does the Commission have</p> <p>5 any practice that prevents -- that it does not</p> <p>6 accept those type of complaints?</p> <p>7 A. No. No. No practice, no policy.</p> <p>8 Q. All right. Why don't we quickly --</p> <p>9 we've been dancing around the process of the</p> <p>10 complaint. Why don't we just do a little bit</p> <p>11 sequentially, probably would help clarify things</p> <p>12 in my mind. So why don't we kind of go through,</p> <p>13 I guess, the typical process.</p> <p>14 A complaint has been filed. What</p> <p>15 happens next?</p> <p>16 A. I'm going to assume for purposes of</p> <p>17 this question that the complaint has already</p> <p>18 been sworn and signed by the complainant and,</p> <p>19 now, the investigator is looking into the</p> <p>20 complaint. Is that okay?</p> <p>21 So the investigator, through the</p> <p>22 process, looks at all the information that's</p> <p>23 been submitted, including witness information,</p> <p>24 any documents or evidence that was submitted as</p> <p>25 part of the complaint, and notification has been</p>
102	<p>1 reside in Louisville Metro Government -- or</p> <p>2 Louisville -- I'm sorry, or reside in Louisville</p> <p>3 Metro, I should say.</p> <p>4 Q. Got it. So how does the Commission</p> <p>5 handle the situation when someone outside the</p> <p>6 area, outside the Metro area, sees a</p> <p>7 discriminatory ad by a business in the Metro</p> <p>8 area?</p> <p>9 A. Again, that's all dependent upon</p> <p>10 the facts and circumstances. It's not uncommon</p> <p>11 to receive a complaint from someone who does</p> <p>12 not -- who does not reside in Louisville Metro.</p> <p>13 From my knowledge, most complaints, not all</p> <p>14 complaints, that we receive for someone not</p> <p>15 living in Louisville Metro is because they were</p> <p>16 personally aggrieved by the discriminatory</p> <p>17 action -- the alleged discriminatory action.</p> <p>18 I can't recall a situation where</p> <p>19 someone who did not live in Louisville Metro saw</p> <p>20 a discriminatory advertisement or something like</p> <p>21 that and filed a complaint with -- with our</p> <p>22 office, at least when I was there.</p> <p>23 Q. Is there -- does the Commission</p> <p>24 have any policy that prevents it from processing</p> <p>25 that type of complaint?</p>	104	<p>1 sent to the respondent.</p> <p>2 Again, response from the respondent</p> <p>3 is sometimes dependent upon if they get legal</p> <p>4 counsel, because sometimes legal counsel may</p> <p>5 object to something that we've asked them or</p> <p>6 something like that.</p> <p>7 Also in that process is the</p> <p>8 opportunity for what we call conciliation,</p> <p>9 meaning for example, let's say, a landlord</p> <p>10 misunderstood something about an advertisement</p> <p>11 that they put forth. So an effort of</p> <p>12 conciliating the agreement, they agree not to do</p> <p>13 that and to take like training or something like</p> <p>14 that for non-discriminatory advertisement in</p> <p>15 housing.</p> <p>16 Again, this is all through a</p> <p>17 timeline. So once all the information has been</p> <p>18 gathered by the investigator, both from the</p> <p>19 complainant, the witnesses, all evidence</p> <p>20 received. And ultimately, the respondent,</p> <p>21 assuming that they did respond back with</p> <p>22 specific evidence or a statement or something</p> <p>23 like that or an answer, at that point in time</p> <p>24 the information is presented to the executive</p> <p>25 director with a recommendation, but ultimately</p>

<p style="text-align: right;">105</p> <p>1 it's up to the executive director after 2 reviewing the information that's been submitted 3 to make a determination as to whether or not 4 reasonable cause of unlawful discrimination does 5 exist. 6 If reasonable cause does exist, at 7 that point in time a memo is generated by the 8 executive director and signed by the executive 9 director, and then we make a referral to our 10 legal counsel, which is the county attorney's 11 office, to set it for hearing and to do -- and 12 to take further action. 13 Q. And so how is that process 14 different if an Enforcement Board member files a 15 complaint? 16 A. I mean, it's not much different. 17 If it's Enforcement Board generated, the same 18 investigative process takes place, and then the 19 executive director ultimately determines whether 20 or not there is reasonable cause to find that 21 unlawful discrimination has occurred or 22 allegedly has occurred. And then, it goes again 23 with the county attorney, who then will proceed 24 with how to have a hearing on it or how to 25 conciliate the matter.</p>	<p style="text-align: right;">107</p> <p>1 Q. And how does the investigative 2 official determine whether to seek information 3 informally or just to have the respondent file 4 an answer? 5 A. I don't -- there's no real process 6 in that. If an investigator calls a respondent 7 to clarify information or like if the respondent 8 has submitted specific information as to why 9 they did not engage in discriminatory behavior, 10 the investigator is always free to follow up. 11 Again, the process becomes a little 12 bit more complicated when the respondent has 13 gotten legal counsel. But when the respondent 14 has gotten legal counsel, the investigator has, 15 on occasion, spoke with the legal counsel of the 16 respondent, and then received or not received, 17 depending again on the legal representative's 18 decision to provide information. 19 If in the event that there's legal 20 counsel for the respondent that's really kind of 21 giving the investigator sort of a, 22 quote/unquote, tough time about the 23 investigation, the executive director may ask 24 the investigator to call our legal counsel, just 25 so that that communication can happen. Because</p>
<p style="text-align: right;">106</p> <p>1 Q. And is the process any different if 2 the Commission itself files the complaint, 3 based -- for example, based on testing activity? 4 A. No. No. Same process. I mean, 5 again, there's little auspices at the very 6 beginning of the process the way the complaint 7 is generated, but the actual investigative 8 process itself is pretty standard. 9 Q. Okay. So does the investigative 10 officer -- when in this process is it determined 11 that someone file an answer? 12 A. When is it determined in the 13 process when someone files an answer? 14 Q. Yes. When -- I assume that 15 whenever the -- whenever the Commission 16 determines that the respondent must file an 17 answer, they have to mail something to the 18 respondent. 19 Correct? 20 A. Yes, notice of the complaint goes 21 to the respondent -- well, the alleged 22 respondent. Notice of complaint is filed with 23 them and they're given a time period in which to 24 either submit an answer or to at least respond 25 to the allegations.</p>	<p style="text-align: right;">108</p> <p>1 technically, both entities are represented by 2 legal counsel. 3 So from an ethical standpoint, it 4 becomes when should not legal counsel be 5 communicating with legal counsel on a matter, 6 even if it's still a preliminary investigation, 7 things of that sort. 8 So there's that aspect of it, but 9 again, that's dependent upon where we are in the 10 process, if the respondent has even gotten legal 11 counsel and stuff like that. So that's kind of 12 the way that shakes down. 13 But generally, the investigator is 14 left with -- with the duty to review all facts 15 and claims and evidence. There may be 16 opportunities to clarify witness statements, 17 because sometimes witnesses forget things or 18 sometimes a witness may not be 100 percent 19 forthcoming in the information that they want to 20 provide. So it's up to the investigator to 21 ensure the most comprehensive investigation that 22 they can do. 23 Q. What happens if a respondent 24 doesn't -- doesn't file an answer. 25 A. I believe that's a default,</p>

<p style="text-align: right;">109</p> <p>1 pursuant to the process. If they just don't 2 even acknowledge receipt of the complaint itself 3 and don't file any sort of answer or response to 4 what it is that we sent them, if we never have 5 received that, I think after so many days it's 6 technically considered a default and the 7 Commission can proceed as it sees fit. 8 Now, just because a person has been 9 defaulted doesn't necessarily mean that we're 10 going to take action against the respondent. 11 Because again, it's dependent upon whether 12 reasonable cause exists to -- to pursue an 13 unlawful discrimination claim. 14 Q. What penalties or potential -- what 15 potential penalties are associated with a 16 default? 17 A. Depending on if we find that 18 unlawful discrimination has occurred, the 19 penalty section pursuant to the ordinance can be 20 a fine or a stop to the unlawful discriminatory 21 action. 22 Q. And when you say a stop, is that a 23 cease and desist order? 24 A. No, not necessarily a cease and 25 desist. For example, if we go through like a</p>	<p style="text-align: right;">111</p> <p>1 of preliminary investigation within the first 30 2 days. The ordinance itself puts time limits on 3 response times and things like that. I believe 4 we have 100 days or 180 days in order to get 5 something fully investigated and determined. 6 But generally, we try to do that within the 7 first 30 to 45 days, just because, again, when 8 you're dealing with witnesses and outside 9 parties and things of that nature, the sooner to 10 the alleged discriminatory action that we can 11 get the information versus a few months later is 12 our best chance of capturing the evidence that 13 we need to prove the case or even to disprove 14 the case, if we determine that there's been no 15 reasonable cause to find that unlawful 16 discrimination has occurred. 17 Q. Can that 180 days be extended? 18 A. Generally, we would have legal 19 counsel -- we would go to them for a legal 20 opinion on that, because there would -- I 21 believe the ordinance requires some sort of 22 extenuating circumstance where both parties can 23 agree to extend that point in time. And I think 24 the ordinance -- I have it right here -- permits 25 that extension.</p>
<p style="text-align: right;">110</p> <p>1 hearing, even if the respondent has not 2 responded or shown up to the hearing, the 3 hearing officer can order the discriminatory 4 behavior to quit or to end. So -- but no, no 5 cease and desist sort of order, it's just the 6 discriminatory behavior is -- is ordered 7 basically to be stopped, meaning if you continue 8 to advertise this way or you continue to tell 9 certain groups of people that they can't live in 10 this apartment complex or something like that, 11 that action legally has to stop, because you're 12 in violation of the ordinance. 13 Q. Now, I think you mentioned this, 14 but the -- a complainant can be represented by 15 an attorney throughout the process. 16 Is that right? 17 A. Yes, that is correct. 18 Q. And so can a respondent? 19 A. Yes, that is correct. 20 Q. Okay. How -- how long does the 21 typical investigation at the beginning of the 22 process, how long does that typically last? 23 A. Depending on the complexity and 24 severity of what has come to the -- you know, 25 come with the complaint, we try to get this sort</p>	<p style="text-align: right;">112</p> <p>1 Q. Okay. Well, you mentioned -- 2 that's helpful. 3 You mentioned the investigative 4 report. And that is put together by the 5 investigative official. 6 Correct? 7 A. Yes. By the investigator, yes. 8 Q. And that's sent to the executive 9 director? 10 A. Yes. Along with the case file in 11 case the -- in case the director needs to look 12 at something that they saw in the report that 13 they need clarification on. 14 Q. And is the report just a summary of 15 the facts or does it contain a recommendation? 16 A. It's a summary of facts, summary of 17 evidence received, and a recommendation as to 18 whether or not cause exists. Again, the 19 ultimate decision is left with the executive 20 director, so there could be a time where the 21 executive director goes against the 22 recommendation of the investigator. 23 Q. How does the executive director 24 make that probable or no probable cause 25 determination?</p>

113	<p>1 A. Based upon what's required to be 2 proven in the ordinance. So if you're going to 3 have a finding of unlawful discrimination, you 4 have to have the facts and evidence that will 5 support more likely than not that discrimination 6 did occur.</p> <p>7 Q. Does the executive director bring 8 in other people to help make that evaluation?</p> <p>9 A. Just legal counsel and, possibly, a 10 conversation with the investigator that 11 investigated it. So for example, if the 12 investigator kind of went down a path, and then 13 kind of quit and then went somewhere else to 14 explore that path that they didn't go down, the 15 executive director may have a conversation with 16 that person just to say why did you not explore 17 this or was there something there that made you 18 decide to go this way.</p> <p>19 And again, that conversation would 20 be had with legal counsel because, ultimately, 21 that's what will have to be proven at a hearing.</p> <p>22 Q. Could the executive director ask 23 the investigator to get more information?</p> <p>24 A. Yes, they can. Keep in mind, 25 again, we're running up against a deadline. So</p>	115	<p>1 whether or not reasonable cause exists or not 2 that unlawful discrimination occurred.</p> <p>3 Q. Okay. So what happens if the 4 executive director determines no probable cause?</p> <p>5 A. The complainant has the option of 6 asking for a reconsideration with the 7 Enforcement Board, as I mentioned earlier or the 8 complainant can just say, you know, well, thank 9 you, and go about their business, or the 10 complainant can ultimately still get an 11 attorney, private attorney, and pursue a private 12 legal matter outside of the office -- out of the 13 office of HRC.</p> <p>14 Q. Got it. Filing a lawsuit in 15 Jefferson County Court? Is that what you're 16 referring to?</p> <p>17 A. Yes. Or in some instances federal 18 court.</p> <p>19 Q. Got it. But that person could take 20 that route before filing a complaint at all. 21 Is that right?</p> <p>22 A. Yes. Uh-huh. (Witness answers in 23 the affirmative.) They -- anytime in the 24 process they can always lawyer up and file a 25 private action.</p>
114	<p>1 if that's required, that would have to occur 2 relatively quickly. Because at the point that 3 the executive director has the -- has the case 4 file and is making that determination, we're 5 running up against a deadline as set forth in 6 the ordinance.</p> <p>7 Q. Okay. And does the executive 8 director issue a written determination as to 9 probable cause?</p> <p>10 A. It is, but it's the basic finding. 11 There's no -- no -- like there's no facts laid 12 out and there's no evidence laid out, it's just 13 a basic finding of reasonable cause exists in 14 this matter or reasonable cause does not exist, 15 therefore, you know, recommend dismissal.</p> <p>16 Q. Okay. You said that the -- I think 17 the three options before the executive director 18 are probable cause, no probable cause, and then 19 that situation where the executive director asks 20 for more information.</p> <p>21 Is that right?</p> <p>22 A. I mean, in my view, there's really 23 only two, probable cause, no probable cause. If 24 additional information is needed, ultimately, 25 that's going to go towards the decision of</p>	116	<p>1 Q. Okay. So does the Commission issue 2 right-to-sue letters?</p> <p>3 A. We don't. The EEOC does. The EEOC 4 would issue a right-to-sue letter at the 5 conclusion of the investigation whether or not 6 reasonable cause exists or not.</p> <p>7 So there's been instances where the 8 Commission found that no reasonable cause of 9 unlawful discrimination exists and we'll send 10 the file back to the EEOC. The EEOC still has 11 within its discretion to issue a right-to-sue 12 letter because, again, the person has a right to 13 private -- private right of action.</p> <p>14 Q. Okay. What happens if the 15 executive director determines there is probable 16 cause, what's the next step?</p> <p>17 A. At that point in time, notification 18 is again sent out to the parties involved, and 19 then the file and the information is 20 subsequently forwarded to the county attorney's 21 office for, quote/unquote, prosecution or -- or 22 a hearing, adjudication on the matter.</p> <p>23 Q. All right. And is that -- if the 24 executive director determines there is probable 25 cause, does it have to go to trial?</p>

<p style="text-align: right;">117</p> <p>1 A. No. No. They -- the -- well, when 2 we say trial and hearing, I'm using that sort of 3 interchangeably. At any time before a hearing 4 is had, the parties can agree -- can come to an 5 agreement. It doesn't have to necessarily go to 6 a hearing. 7 But procedure-wise, once probable 8 cause is found, to save -- you know, to comply 9 with the timeline of the ordinance, we have to 10 give notification that a hearing is going to 11 occur. And then, during that time period, 12 again, either party can decide that they want to 13 reconcile or conciliate the matter. 14 Q. Are there any formal conciliation 15 efforts made during this period? 16 A. Yeah. Generally during the time 17 period when the investigation is occurring, we 18 do offer conciliations -- a conciliation 19 opportunity, especially for individuals like I 20 mentioned earlier, landlords who were unaware 21 that some action that they had taken violates 22 the ordinance. 23 What we found are some businesses 24 and some individuals don't like to be called 25 discriminatory, so they will look to rectify</p>	<p style="text-align: right;">119</p> <p>1 say legally been made whole. 2 Q. All right. Tell me about the trial 3 process. So assuming it's not conciliated or 4 settled, then it goes to this trial process. 5 Right? 6 A. Yeah. We go through a hearing 7 process. It's my understanding that the hearing 8 process is governed by like the Kentucky Trial 9 Rules and the Kentucky Administrative Rules. Go 10 through the Attorney General's Office to look 11 for a mediator or a hearing officer, whatever 12 you want to call them. You know, evidence is 13 entered, witnesses are interviewed or -- not 14 interviewed, but cross-examined and things like 15 that. 16 And then, at the end of the 17 hearing, the hearing officer makes a 18 determination and a final finding. 19 Q. So is it somewhat like in a 20 courtroom process? Is it similar to that? 21 A. Somewhat similar. I would say 22 during the hearing process some of the more 23 stringent rules around like Civil Procedure 24 aren't necessarily adhered to strictly. I mean, 25 I'm not criticizing the process, the process is</p>
<p style="text-align: right;">118</p> <p>1 whatever the alleged conduct that aggrieved the 2 party to be fixed. Other times, the person 3 doesn't feel that they've done anything, so they 4 will go through the whole process. 5 Q. What are the typical terms of that 6 conciliation? Is it just agreed to stop the 7 discriminatory practice? Is there any -- 8 anything else? 9 A. Depending on the information we 10 have, stopping the discriminatory process or 11 action, excuse me, or taking specific training, 12 especially when it comes to things like fair 13 housing or like in an employment situation, 14 there might be like sexual harassment training 15 or something like that, implicit bias training 16 is another one for individuals who may be 17 discriminated against in the work force. 18 So just depending on what the -- 19 what the charge is or what the alleged 20 discriminatory behavior is within that specific 21 complaint, we will conciliate it based upon 22 what's been alleged. And then, basically, our 23 main charge is to stop the discriminatory 24 behavior, while at the same time ensuring that 25 the complainant has been made -- I guess I can</p>	<p style="text-align: right;">120</p> <p>1 what it is pursuant to Kentucky law, but in 2 order to adjudicate some of these cases in a 3 more efficient and effective manner, sometimes 4 the formalities of like jury selection and stuff 5 like that are -- aren't followed, because it's 6 not a jury trial, it's an administrative 7 hearing, technically. 8 Q. So who prosecutes the complaint at 9 the trial? Is it the complainant? Is it 10 someone else? 11 A. It is the county attorney's office 12 with the assistance of the Human Relations 13 Commission. The complainant, once we get to the 14 hearing level, is technically a witness, even 15 though the complaint has been filed by the 16 complainant. At that point in time, we get the 17 complainant's information and they testify as a 18 witness, as the aggrieved party, and any other 19 witnesses. And then, of course, the 20 cross-examination process and entering of 21 evidence and exhibits and things like that 22 occurs, as well. 23 Q. Got it. So because the city 24 official is the one doing the prosecuting, it's 25 a bit more like a criminal matter than a civil</p>

121	<p>1 matter.</p> <p>2 Is that fair?</p> <p>3 A. No, I would say it's still -- it's</p> <p>4 civil in nature, meaning -- because there's no</p> <p>5 likelihood that someone is going to go to jail</p> <p>6 or anything like that. It's just when we say</p> <p>7 like -- stuff like prosecute the claim, I mean,</p> <p>8 it's an ordinal violation, but in Kentucky, an</p> <p>9 ordinance violation is prosecuted as a civil</p> <p>10 enforcement process.</p> <p>11 Q. And how is the hearing officer</p> <p>12 selected?</p> <p>13 A. Generally, the Attorney General's</p> <p>14 Office will submit names and the parties can</p> <p>15 basically strike names till they agree. Or</p> <p>16 sometimes, the parties, especially if it's</p> <p>17 defense attorneys and the county attorney's</p> <p>18 office, they may just say, hey, let's get party</p> <p>19 so-and-so, because they're really good at this</p> <p>20 or, you know, we -- we both agree to that</p> <p>21 person. But generally, we get names to strike.</p> <p>22 Q. And does the respondent typically</p> <p>23 have a lawyer at this process?</p> <p>24 A. Generally, yes. There have been</p> <p>25 hearings where the respondent, you know, did the</p>	123	<p>1 information. Any sort of legal, like subpoena</p> <p>2 or like interrogatories or something like that</p> <p>3 is done through the county attorney's office.</p> <p>4 Our investigators are not legally trained</p> <p>5 attorneys. They are just, you know, individuals</p> <p>6 whose main charge is to investigate claims.</p> <p>7 So if we needed to do a subpoena or</p> <p>8 something like that or if we needed to do</p> <p>9 interrogatories -- or in some situations, even</p> <p>10 if we have to do a deposition, that's done</p> <p>11 through the county attorney's office.</p> <p>12 Q. And can that be done at the</p> <p>13 investigation phase?</p> <p>14 A. Yes. That's generally when that is</p> <p>15 done. Because again, we need --</p> <p>16 Q. Okay.</p> <p>17 A. We need the most information that</p> <p>18 we can get in order to make a determination.</p> <p>19 Q. But after the executive director</p> <p>20 issues a probable cause determination and the</p> <p>21 matter is set for a hearing --</p> <p>22 A. Uh-huh. (Witness answers in the</p> <p>23 affirmative.)</p> <p>24 Q. -- can -- can there be more</p> <p>25 subpoenas and more document requests in that</p>
122	<p>1 pro se sort of litigation, but at this point in</p> <p>2 the process, usually there is attorneys involved</p> <p>3 on both sides.</p> <p>4 Q. And does the complainant usually</p> <p>5 have an attorney, too?</p> <p>6 A. Sometimes they do, not always. I</p> <p>7 know in some of our more, I guess you could say,</p> <p>8 like egregious cases where, you know, there's</p> <p>9 the likelihood that there's a big award that</p> <p>10 could come out if they took it to a private</p> <p>11 trial or something like that, the complainant</p> <p>12 can have an attorney. But I mean, it's -- it</p> <p>13 just kind of depends on -- again, on the case</p> <p>14 and the person.</p> <p>15 Sometimes the complainant doesn't</p> <p>16 want to pay another attorney, you know, a lot of</p> <p>17 money when they've got the Human Relations</p> <p>18 Commission and the county attorney's office</p> <p>19 representing their interests against unlawful</p> <p>20 discrimination.</p> <p>21 Q. Let me go back. I think I missed</p> <p>22 one thing in that kind of investigation phase.</p> <p>23 Can the investigator send out discovery requests</p> <p>24 or subpoenas?</p> <p>25 A. Generally, it's just a request for</p>	124	<p>1 period?</p> <p>2 A. That would be up to the attorneys</p> <p>3 who are representing the parties in the matter.</p> <p>4 It's up to the attorneys. I don't -- I don't</p> <p>5 know, you know --</p> <p>6 Q. Well, I guess -- so that -- at</p> <p>7 least it's permitted is what -- during that</p> <p>8 right before the hearing.</p> <p>9 Is that right?</p> <p>10 A. Yeah. Again, the hearing follows</p> <p>11 the Kentucky Rules of Civil Procedure and</p> <p>12 administrative hearings. So yes, those</p> <p>13 subpoenas and things like that can be issued</p> <p>14 pursuant to those rules.</p> <p>15 Q. Okay. So after the hearing, when</p> <p>16 the hearing officer makes the decision, does the</p> <p>17 hearing officer make a decision right at the end</p> <p>18 of the hearing, does he take under consideration</p> <p>19 and wait, and then issue a decision? What does</p> <p>20 that look like?</p> <p>21 A. Generally, all of the information</p> <p>22 is taken under advisement, and then the hearing</p> <p>23 officer will issue a written opinion or written</p> <p>24 findings.</p> <p>25 Q. And is that written document, does</p>

125	<p>1 it look like a court opinion, almost? Does it 2 have these are the facts, these are the law? 3 A. Yeah. It typically looks like an 4 ALJ opinion, administrative law judge opinion. 5 Q. Okay. And so what can the 6 hearing -- what's the -- what different things 7 can the hearing officer order? 8 A. Pursuant to the ordinance, they can 9 issue a civil fine, of course. And then, they 10 can order a stop to the discriminatory action. 11 Q. I guess let me take it back. So 12 are the options -- are the options probable 13 discrimination and no probable discrimination? 14 Are those the kind of two branches, if you will? 15 A. Well, the probability is determined 16 at the executive level. The final findings and 17 findings of fact are done at the hearing level. 18 So again, the hearing officer can 19 make a determination, well, I find that Party X 20 did discriminate against the complainant, 21 therefore Party X is required to stop engaging 22 in that activity and I hereby award, you know, 23 the complainant \$2,000, for example, something 24 like that. 25 Q. Okay. But basically, the two</p>	127	<p>1 finding -- a finding that discrimination did 2 occur and they can technically reverse the 3 hearing officer's decision. 4 Again, that appeal is based upon 5 the evidence that was submitted at the hearing 6 trial. So for example, if the complainant were 7 to get additional information like after the 8 hearing or the final findings, that information 9 can't be used to appeal the hearing officer's 10 final findings. 11 In other words, the Enforcement 12 Board hears the evidence as is and makes the 13 determination as to why the hearing officer was 14 right or wrong in their final findings. 15 Q. Can the Enforcement Board remand to 16 do the hearing again? 17 A. I am not aware of that. I'm 18 looking at 92.13 -- yeah. Under 92.13, the 19 appeal can be either affirmed, modified, 20 reversed, or remanded after review of the 21 transcript and findings of the hearing officer. 22 Q. Okay. So if there's no probable 23 cause determination, that can be appealed in the 24 Enforcement Board? 25 A. Well --</p>
126	<p>1 subsets are either no discrimination or 2 discrimination? Is there any other option? 3 A. Yeah. It's just a final finding of 4 discrimination occurred, no discrimination -- or 5 no finding of discrimination or a finding of 6 discrimination has occurred. Yes. 7 Q. Okay. And so -- so what type of -- 8 so if there is -- can either -- whether a 9 finding of no discrimination or discrimination, 10 can either of those be appealed? 11 A. Yes. Well, yes. A finding of no 12 discrimination has occurred can be appealed to 13 the Enforcement Board by the complainant, by and 14 through the HRC. Same way as if there is a 15 finding of discrimination, the respondent can 16 appeal through a Circuit Court filing. 17 Q. Got it. So the appeal board is the 18 Enforcement Board. 19 Is that correct? 20 A. That's correct. 21 Q. And what -- what can the appeal 22 board do on appeal? 23 A. Referring to 92.14 under the 24 ordinance, basically the appeal can occur and -- 25 excuse me one sec -- they can -- they can make a</p>	128	<p>1 Q. And -- 2 A. I'm sorry. 3 Q. Go ahead. Let me rephrase. You're 4 right. 5 If there's a -- if there's a ruling 6 of discrimination, that can be appealed to the 7 Enforcement Board. And if there is a ruling of 8 no discrimination, does that -- can that be 9 appealed to the Enforcement Board or does that 10 go to Circuit Court? 11 A. Let's see. Under 92.13, an appeal 12 from the determination of the hearing officer to 13 the appeal panel can be made only by filing with 14 the HRC Enforcement Board. 15 Q. Okay. Well, let me ask you this. 16 Let's -- let's talk about penalties quickly. 17 Let me point you to 92.12 -- 18 92.12(B) where it says, the hearing officer 19 shall either dismiss the complaint on the merits 20 or order the respondent to cease and desist from 21 the prohibited discriminatory practice? 22 Do you see that? 23 A. Yes. 24 Q. So if the hearing officer finds 25 that there -- finds that there is</p>

129	<p>1 discrimination, he has to order the respondent 2 to cease and desist. 3 Is that correct? 4 A. He has to order the respondent to 5 cease and desist the prohibited discriminatory 6 practice. 7 Q. Okay. And then, he can also order 8 affirmative action, as detailed in KRS Chapter 9 344. 10 Is that right? 11 A. I mean, civil -- can you clarify, 12 please? 13 Q. Well, sure. At what -- let me ask 14 you. What can the hearing officer order in 15 terms of penalties? 16 A. Again, the -- the cease and desist 17 of the discriminatory action and a civil fine, 18 which is permissible under Kentucky lawful 19 ordinance violations. 20 Q. How much is a civil fine? 21 A. It depends on the final findings. 22 Like for example, if someone was discriminated 23 against by a landlord and they had to go find 24 another place to live, and they had to incur 25 like additional costs as a result of finding</p>	131	<p>1 Q. Okay. Well, I'm going to put up -- 2 share screen. Okay. I think I'm sharing a 3 screen here -- let's do share. There we go. 4 Okay. I've put up a document on 5 the screen -- 6 A. I only see Section -- 7 Q. Do you see this document? 8 A. Yeah. But I only see Section 1 to 9 2. 10 Q. Yes. Yeah. Sorry. I'm just 11 pointing at the top for now. I'll represent 12 this is Section 344.230, the section referenced 13 there in the ordinance. Okay? 14 A. Okay. 15 Q. And this section, if you -- if you 16 look on here, lists some things that can be 17 ordered. For example, Section 3. 18 A. Uh-huh. (Witness answers in the 19 affirmative.) 20 Q. So I want to just quickly go 21 through what the Metro Commission can order. It 22 can order, as we talked about, a cease and 23 desist order. 24 Correct? 25 A. Yes.</p>
130	<p>1 another place to live, the landlord could be 2 fined those costs. 3 I think there's caps on the amounts 4 as prescribed by law that can be awarded for 5 discriminatory violation. 6 Q. Can a public accommodation be 7 fined? 8 A. Yes. Yes. If there's a finding 9 that discrimination occurred, yes. 10 Q. And it's subject to those caps that 11 you mentioned? 12 A. Yes. Uh-huh. (Witness answers in 13 the affirmative.) 14 Q. Let me -- all right. Let me point 15 you actually to 92.08, Section B(8). 16 A. Did you say B(8). 17 Q. B(8). Section B, then Number 8. 18 All right. This talks about the powers of the 19 Human Relations -- the Enforcement Board. And 20 Section 8 says it has the power to issue 21 affirmative orders that may include, but is not 22 limited to remedies enumerated in KRS 23 344.230(3). 24 Do you see that? 25 A. Yes.</p>	132	<p>1 Q. And it can order compliance -- 2 reporting compliance. 3 Is that right? 4 A. Yes. Yes. 5 Q. Can it order -- Section F there 6 says posting notices in conspicuous places. Can 7 it order that? 8 A. Part of it is cut off by the zoom 9 block. Can you scroll down just a little bit? 10 MS. HINKLE: Jonathan, I can have 11 this printed in about 30 seconds, if you'd let 12 me do that. It's a little difficult to read on 13 the screen here. 14 MR. SCRUGGS: You want me to 15 enlarge. I think I can enlarge here. I mean, 16 you're welcome to print it. 17 MS. HINKLE: Part of the issue is 18 that your zoom box is concealing some of the 19 page. I'll just have it printed. I can 20 literally be back in 15 seconds. 21 MR. SCRUGGS: Okay. 22 MR. CARROLL: The way the different 23 photographs are on the page, it's actually 24 covering up part of the subparagraphs, Jonathan, 25 is what it's doing.</p>

133	1 MR. SCRUGGS: Huh. 2 MR. CARROLL: Depending upon where 3 you are, at times it's actually been over parts 4 of the words. 5 THE WITNESS: Right. 6 MR. CARROLL: At least the way we 7 are here on our screen. Like right now -- right 8 now, part of Paragraph H is actually like 9 overlaid. And you may be different, but on 10 ours, that's the way it's showing up. So you 11 can't read the whole paragraph or subparagraph. 12 MR. SCRUGGS: Oh, got it. 13 (Off-the-record comments.) 14 A. So you said you were referring to 15 344.230, Subsection 3? 16 Q. 344.230, Section 3. 17 A. Okay. 18 Q. Going toward the end there, 19 Subsection F. 20 A. Yes. Posting notices in 21 conspicuous places and the respondent's place of 22 business informed prescribed by the Commission. 23 Q. Yeah. It says the Commission can 24 order that. 25 Correct?	135	1 Commission could order it? 2 A. I'm not 100 percent sure if this -- 3 if it exists. 4 Q. Well, let me go back to the top 5 here. And it mentions -- Number 3, affirmative 6 action ordered under this section may include, 7 but is not limited to -- so besides the things 8 that we've talked about, we've talked about a 9 cease and desist order, a civil penalty, 10 compliance reporting. 11 Is there anything else the 12 Commission can order? 13 A. Well, I -- as it states here, I 14 think there was something about guidance 15 programs or training to staff. So like, for 16 example, if a property manager needs to be 17 trained in unlawful discrimination practices in 18 real estate, that could be ordered that that 19 property manager or the landlord themselves have 20 to take that training within a certain amount of 21 time. 22 Q. Got it. Could the Commission order 23 damages be paid? 24 A. I'm not sure. The civil fines that 25 have been instituted in some cases are
134	1 A. Yes. 2 Q. And what's in those notices? 3 A. It depends on the type of case. 4 Anti-discriminatory notices, for example, like 5 sexual harassment is illegal, listing sexual 6 harassment, it might list those various things. 7 It depends on the type of case that it is. 8 Q. Okay. What about in a public 9 accommodation situation? 10 A. Again, it's all dependent upon what 11 type of case it is. You know, XYZ organization 12 does not discriminate based upon race, so forth 13 and so forth. 14 Q. Let me scroll down there to go to 15 Number 4 at the very end. Can the Commission 16 caused to be published the names of the persons 17 who engaged in unlawful activities? 18 A. Published where? I'm not very 19 familiar with publishing the names of persons 20 who have been determined to engage in unlawful 21 discrimination. 22 Q. Has the Metro Council ever ordered 23 that? 24 A. Not to my knowledge, no. 25 Q. Okay. Do you know if the Metro	136	1 reflective of the damages that the complainant 2 had incurred in that situation, but each case is 3 different. 4 Q. Can the Commission order that the 5 respondent pay costs and attorney fees? 6 A. I believe so, yes. 7 Q. Okay. And that's for public 8 accommodation complaints. 9 Is that correct? 10 A. Or whatever the remedy available is 11 in the ordinance. 12 MR. SCRUGGS: Okay. All right. 13 And let's mark that as Exhibit, I think, 7. 14 (Whereupon, the referred to 15 document was marked as Exhibit 7, 16 and is attached hereto and made a 17 part hereof.) 18 BY MR. SCRUGGS: 19 Q. Okay. All right. Mr. Boyd, let me 20 show you another document. I'll do my best to 21 show this one. You probably have this one with 22 you. It's a copy of your affidavit that you 23 filed. I believe it's the second affidavit, the 24 supplemental affidavit that you filed in this 25 matter. I can point you to Paragraph 4, if I

137	1 didn't mention that. 2 MR. SCRUGGS: And we can mark this 3 as Exhibit 8. 4 (Whereupon, the referred to 5 document was marked as Exhibit 8, 6 and is attached hereto and made a 7 part hereof.) 8 (Off-the-record comments.) 9 BY MR. SCRUGGS: 10 Q. All right. Can you see your 11 affidavit there? 12 A. Yes. You said Paragraph 4? 13 Q. Paragraph 4, that's right. So 14 Paragraph 4 says that, based upon a reasonable 15 inquiry, you found 173 complaints of 16 discrimination based on sexual orientation filed 17 since -- since 2012 and the day of the 18 affidavit. 19 Is that right? 20 A. No. It says 173 complaints based 21 on sexual orientation have been filed since -- 22 it looks like it's 2002 and February of 2020. 23 Q. Okay. How did you -- what was the 24 reasonable inquiry that you did? 25 A. I believe -- this was over a year	139	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
138	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 confidentialities, based upon my advice from	140	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 James [REDACTED], filed 12 an employment discrimination claim based on his 13 sexual orientation against [REDACTED] 14 [REDACTED] out on Dixie Highway. 15 Q. So you see the explanation of the 16 complaint. It looks like the complainant was 17 perceived as being gay. 18 Is that -- 19 A. That's what it says, yes. 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?

<p style="text-align: right;">141</p> <p>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.</p>	<p style="text-align: right;">143</p> <p>1 related case. 2 Q. Okay. Let's go back here. All 3 right. 4 MR. SCRUGGS: Have we marked this 5 affidavit as an exhibit? I think -- we did? 6 THE COURT REPORTER: Yes. That's 7 been marked as Exhibit 8. 8 MR. SCRUGGS: All right. Let's see 9 here. I apologize for -- well, why don't we 10 take a quick break, if you all don't mind. 11 Maybe like a 10-minute break? 12 THE COURT REPORTER: We're off the 13 record. 14 * * * 15 (Off the record.) 16 * * * 17 18 THE COURT REPORTER: Okay. We're 19 back on the record. 20 21 * * * 22 CONTINUED EXAMINATION 23 BY MR. SCRUGGS: 24 Q. All right. Mr. Boyd, I appreciate</p>
<p style="text-align: right;">142</p> <p>1 Q. Let me go back -- 2 THE COURT REPORTER: Were we making 3 that an exhibit? 4 MR. SCRUGGS: That was -- let's go 5 ahead and mark that last exhibit. 6 THE COURT REPORTER: That was 9. 7 MR. SCRUGGS: It was 54, so we'll 8 mark it as -- 9 THE COURT REPORTER: As 9. 10 MR. SCRUGGS: -- as 9. 11 (Whereupon, the referred to 12 document was marked as Exhibit 9, 13 and is attached hereto and made a 14 part hereof.) 15 BY MR. SCRUGGS: 16 Q. All right. Let me go back to 17 sharing of the screen here. So this is back to 18 your affidavit. 19 So for the two complaints that are 20 mentioned, the one in 2012 and 2014, do you know 21 if they were public accommodation, employment, 22 housing, or hate crime? 23 A. Not off the top of my head. Based 24 on the information that you showed me in the 25 2012 case, that appears to be an employment</p>	<p style="text-align: right;">144</p> <p>1 you being patient with me. 2 I'm going to show you another 3 document. Now, can you see that okay? 4 A. Yes. It looks like it's an HRC 5 Advocacy Board meeting minutes -- or agenda, 6 excuse me. 7 Q. Yeah. 8 MR. SCRUGGS: Let's mark that as 9 the next exhibit. 10 THE COURT REPORTER: That will be 11 Exhibit 10. 12 MR. SCRUGGS: 10? Okay. 13 (Whereupon, the referred to 14 document was marked as Exhibit 10, 15 and is attached hereto and made a 16 part hereof.) 17 BY MR. SCRUGGS: 18 Q. All right. So that's Exhibit 10. 19 Now, pointing to the second page -- I'll scroll 20 down to the second page. And it -- these are 21 the meeting minutes. And it mentions that -- 22 the section that mentions Scooter B -- Triple 23 B's Facebook posting. 24 Do you see that? 25 A. Yes.</p>

145	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	147	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?
146	1 violates the ordinance. 2 Q. Okay. So you did? How did you 3 find out about it? 4 A. I was scrolling through social 5 media and there was a lot of chatter on social 6 media about Scooter Triple B's, which is a local 7 pub here in Louisville. And some of the 8 controversial things that they were saying on 9 Facebook, which included we only offer restrooms 10 to the people who were born biologically 11 whatever was one of the posts. And another 12 post, they were saying they had posted like a 13 confederate flag and said something derogatory 14 from a racial standpoint, things like that. 15 So that -- it came through on my 16 radar through looking at -- through social media 17 and seeing some of the hubbub around this 18 particular place, this particular establishment. 19 Q. And you referred it to the 20 Enforcement Board? 21 A. I noted it to the Enforcement Board 22 saying the Enforcement Board should take a look 23 at this and file a formal complaint against the 24 bar for these transgressions -- these alleged 25 discriminatory transgressions.	148	1 Q. In preparation for this deposition. 2 A. No. 3 Q. And was the basis for the complaint 4 just the Facebook post or was there something 5 else? 6 A. The Facebook post initiated our 7 initial inquiry into this. And then, as more 8 information was gathered by the Enforcement 9 chair, the formal complaint was signed against 10 the bar. 11 Q. And was the formal complaint just 12 against the Facebook post or was it something 13 else? 14 A. I -- without seeing the actual 15 formal complaint, I couldn't tell you. Like I 16 said, the Facebook post is what prompted the 17 initial sort of inquiry by the Enforcement 18 chair, who ultimately filed the formal 19 complaint. 20 Q. Okay. Let me show you -- share 21 screen. Okay. Let me -- I'm showing you 22 another document. 23 MR. SCRUGGS: We'll mark this as 24 the next exhibit. 25 THE COURT REPORTER: That will be

149	<p>1 11.</p> <p>2 MR. SCRUGGS: Exhibit 11.</p> <p>3 (Whereupon, the referred to</p> <p>4 document was marked as Exhibit 11,</p> <p>5 and is attached hereto and made a</p> <p>6 part hereof.)</p> <p>7 BY MR. SCRUGGS:</p> <p>8 Q. So is this a picture of the -- of</p> <p>9 the sign that you saw that formed the basis of</p> <p>10 the complaint?</p> <p>11 A. Are you referring to -- from</p> <p>12 Scooter Triple B's?</p> <p>13 Q. Yes.</p> <p>14 A. Yeah. I believe this is what was</p> <p>15 one of the posts on Facebook that were seen.</p> <p>16 Like I indicated, there was also another post</p> <p>17 involving like a confederate flag and racial</p> <p>18 derogatory language, as well.</p> <p>19 Q. And was the basis for the complaint</p> <p>20 for -- was there -- was it just that there was a</p> <p>21 discriminatory sign or were there -- was the</p> <p>22 basis also other discriminatory action?</p> <p>23 A. Well, the discriminatory sign. The</p> <p>24 sign says there's no transgender restrooms here.</p> <p>25 So it wasn't against the sign, it was about the</p>	151	<p>1 scribed by the chair of the Enforcement Board.</p> <p>2 MR. SCRUGGS: Okay. I think we</p> <p>3 marked this sign as the next exhibit.</p> <p>4 Correct? Got it.</p> <p>5 BY MR. SCRUGGS:</p> <p>6 Q. All right. I'm going to show you</p> <p>7 another document here. You'd think I'd be</p> <p>8 getting better at -- quicker at sharing these</p> <p>9 documents.</p> <p>10 Okay. I'm going to show you</p> <p>11 another document. It looks like it's the 2009</p> <p>12 Human Relations Commission Report.</p> <p>13 Is that your understanding?</p> <p>14 A. It looks like that's what appears</p> <p>15 to be on the screen. Again, some of it's</p> <p>16 partially obstructed because of the zoom photos.</p> <p>17 Q. Let's see here. Okay. I'm going</p> <p>18 to take --</p> <p>19 MR. SCRUGGS: Let's mark this as</p> <p>20 the next Exhibit.</p> <p>21 THE COURT REPORTER: 12.</p> <p>22 (Whereupon, the referred to</p> <p>23 document was marked as Exhibit 12,</p> <p>24 and is attached hereto and made a</p> <p>25 part hereof.)</p>
150	<p>1 treatment of customers if you go into the</p> <p>2 establishment. Because there was -- in addition</p> <p>3 to the sign on the Facebook post, there were --</p> <p>4 there were things written by the owner of the</p> <p>5 bar saying something to the effect of we're</p> <p>6 going to strictly enforce this and blah, blah,</p> <p>7 blah, blah, blah.</p> <p>8 So that's -- that's -- without</p> <p>9 seeing the actual complaint, I can't tell you</p> <p>10 exactly what the basis was filled out on the</p> <p>11 complaint, but this sign and subsequent social</p> <p>12 media posts under that by the owner and</p> <p>13 everything like was what prompted an</p> <p>14 investigation into this and why a formal</p> <p>15 complaint was filed.</p> <p>16 Q. Do you know if someone -- do you</p> <p>17 know if Triple B's actually excluded transgender</p> <p>18 people from certain restrooms?</p> <p>19 A. I do not know that, no.</p> <p>20 Q. So you don't know whether the basis</p> <p>21 of the complaint was the discriminatory sign or</p> <p>22 some other action?</p> <p>23 A. Not without seeing the formal</p> <p>24 complaint. I would have to see the formal</p> <p>25 complaint that was actually subscribed -- or</p>	152	<p>1 BY MR. SCRUGGS:</p> <p>2 Q. And I'm going to show you the next</p> <p>3 page here, where it appears to list</p> <p>4 conciliations and settlements, 2008, 2009. And</p> <p>5 in this third line, it mentions, it looks like,</p> <p>6 two situations with McDonalds.</p> <p>7 Do you see that?</p> <p>8 A. Are you referring to Marlatt versus</p> <p>9 McDonalds and Eggers versus McDonalds?</p> <p>10 Q. Yes, correct.</p> <p>11 And it looks like -- let's talk</p> <p>12 about Marlatt versus McDonalds. Do you know</p> <p>13 what the basis of the complaint filed in that</p> <p>14 situation was?</p> <p>15 MS. HINKLE: I'm going to object to</p> <p>16 questions about specific cases for the reasons</p> <p>17 set forth in our recent briefing to Magistrate</p> <p>18 Judge Lindsay. You know, there's a provision in</p> <p>19 the Fairness Ordinance which permits the</p> <p>20 publication of terms of conciliation agreements,</p> <p>21 but that doesn't waive the confidentiality</p> <p>22 restrictions and requirements that apply to the</p> <p>23 rest of the case file, as we've briefed to the</p> <p>24 court.</p> <p>25 MR. SCRUGGS: Okay. I appreciate</p>

157	<p>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</p>	159	<p>1 discrimination. That's what we investigate. We 2 investigate allegations of discrimination 3 pursuant to the ordinance. 4 Q. Got it. And I'm asking allegations 5 about refusal to rent, does that fall -- is that 6 different than allegations about discriminatory 7 terms and conditions? 8 A. No, because you're discriminating 9 against a person because of their protective 10 class. 11 Q. So the discriminatory terms and 12 conditions and privileges, what information 13 would the Commission look at to evaluate whether 14 there are discriminatory terms and conditions 15 and privileges? 16 A. Well, with that particular case, 17 again, I'd have to look at the case file, but as 18 a general answer to your question, terms, 19 conditions, and privileges are services that a 20 facility or a business that would provide to a 21 person -- if they're provided in different terms 22 or under different conditions because of a 23 person's protected class, that's still 24 discrimination in violation of the ordinance. 25 Q. Got it. What about if one of the</p>
158	<p>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</p>	160	<p>1 business policies contains discriminatory terms, 2 conditions, and privileges? 3 A. If it has -- if it's discriminatory 4 and it's in violation of the ordinance, that's 5 discrimination. 6 Q. Got it. All right. 7 MR. SCRUGGS: We marked that as an 8 exhibit. 9 Correct? 10 THE COURT REPORTER: Yes. That was 11 13. 12 MR. SCRUGGS: Got it. 13 BY MR. SCRUGGS: 14 Q. All right. Mr. Boyd, I'm going to 15 hand -- show you another document. You probably 16 have it in your file. It's responses to 17 interrogatories. And I believe that you were 18 the person who signed these. We can look at the 19 last page. 20 A. I'm sorry, did you say this was the 21 first set of interrogatories? 22 Q. Correct, the first set. 23 MR. SCRUGGS: And we can go ahead 24 and mark this as the next exhibit. 25 THE COURT REPORTER: Okay. That's</p>

161	<p>1 14.</p> <p>2 (Whereupon, the referred to</p> <p>3 document was marked as Exhibit 14,</p> <p>4 and is attached hereto and made a</p> <p>5 part hereof.)</p> <p>6 BY MR. SCRUGGS:</p> <p>7 Q. Okay. I'm going to point you to</p> <p>8 Number 3 -- response Number 3 there. You can</p> <p>9 take a moment to read it.</p> <p>10 A. Are you referring to the term Metro</p> <p>11 ordinance? Is that what you're referring to?</p> <p>12 MS. HINKLE: I think he's looking</p> <p>13 at interrogatories.</p> <p>14 THE WITNESS: On, the</p> <p>15 interrogatories. Sorry.</p> <p>16 MS. HINKLE: Yeah. What page is</p> <p>17 that one on, Jonathan?</p> <p>18 THE WITNESS: Page 4.</p> <p>19 MS. HINKLE: Page 4, yeah.</p> <p>20 BY MR. SCRUGGS:</p> <p>21 Q. Yeah, Page 4.</p> <p>22 A. Okay. Yes, sir.</p> <p>23 Q. Okay. Well, first, a</p> <p>24 clarification. The second -- in the answer, the</p> <p>25 second sentence says the basis for this response</p>	163	<p>1 you to repeat your question, again. I'm sorry.</p> <p>2 Q. Sure. So in the response there, it</p> <p>3 says Chelsey Nelson must offer the services set</p> <p>4 forth in Exhibit 2 on the exact same terms and</p> <p>5 conditions for both same-sex weddings and</p> <p>6 opposite-sex weddings. Okay.</p> <p>7 A. Yes.</p> <p>8 Q. Is that the equivalent of saying</p> <p>9 that Chelsey Nelson must offer the same services</p> <p>10 for both same-sex weddings and opposite-sex</p> <p>11 weddings?</p> <p>12 A. Well, what is your definition of</p> <p>13 services? I mean, whatever she purports to do</p> <p>14 as a photography LLC is what she does for</p> <p>15 opposite-sex weddings and same-sex weddings.</p> <p>16 Q. Got it. So whatever she does --</p> <p>17 whatever services she offers for opposite-sex</p> <p>18 weddings, she has to offer for same-sex</p> <p>19 weddings.</p> <p>20 Correct?</p> <p>21 A. Under the ordinance, yes.</p> <p>22 Q. And that criteria is not unique for</p> <p>23 Chelsey Nelson Photography.</p> <p>24 Right?</p> <p>25 That's the same criteria the</p>
162	<p>1 is the refusal would violate the Public</p> <p>2 Accommodations Provision of the Metro ordinance.</p> <p>3 Which provision are you referring to?</p> <p>4 A. Well, we're talking about public</p> <p>5 accommodations, meaning the ability to receive</p> <p>6 the same -- like as we saw on the checklist,</p> <p>7 same goods, services, privileges, all that stuff</p> <p>8 is what would be the accommodations portion.</p> <p>9 Q. Okay. So that's referring to the</p> <p>10 provision that -- denial of services, not</p> <p>11 discriminatory advertising.</p> <p>12 Correct?</p> <p>13 A. I believe so. I'd have to</p> <p>14 double-check the ordinance, but yes.</p> <p>15 Q. Okay. So help me just understand</p> <p>16 the criteria you're using in response. It says</p> <p>17 there that Chelsey Nelson Photography must offer</p> <p>18 the services set forth in Exhibit 2 on the exact</p> <p>19 same terms and conditions for both same-sex</p> <p>20 weddings and opposite-sex weddings.</p> <p>21 So is that the equivalent of saying</p> <p>22 Chelsey Nelson must offer the same services for</p> <p>23 both same-sex weddings and opposite-sex</p> <p>24 weddings?</p> <p>25 A. One second. And I'm going to ask</p>	164	<p>1 Commission applies to all public accommodations.</p> <p>2 A. Right. For discrimination</p> <p>3 purposes.</p> <p>4 Q. Got it. And it's not unique to</p> <p>5 Ms. Nelson's editing -- this particular question</p> <p>6 references editing services. But that same</p> <p>7 criteria applied to her photography services.</p> <p>8 Is that right?</p> <p>9 A. The service -- I'm sorry. Any</p> <p>10 service that she provides.</p> <p>11 Q. Okay. So what facts are you</p> <p>12 relying on about Chelsey Nelson Photography to</p> <p>13 determine that she violates the ordinance?</p> <p>14 MS. HINKLE: Objection to form.</p> <p>15 A. The refusal to offer the services</p> <p>16 to same-sex weddings -- for same-sex weddings,</p> <p>17 in violation of the discriminatory definition of</p> <p>18 what we find in 92.02.</p> <p>19 BY MR. SCRUGGS:</p> <p>20 Q. Well, are you relying on any facts</p> <p>21 about Ms. Nelson's business practices?</p> <p>22 A. Can you be more specific?</p> <p>23 Q. Sure. Are you relying on, for</p> <p>24 example, the amount that she charges for her</p> <p>25 editing service? Is that a factor -- a factor</p>

165	<p>1 you're relying on?</p> <p>2 MS. HINKLE: Objection to form.</p> <p>3 A. It could be if she's -- if she's</p> <p>4 offering those services to opposite-sex couples</p> <p>5 as compared to same-sex couples in a</p> <p>6 discriminatory differentiation fashion.</p> <p>7 Q. Got it. Another way to say it, it</p> <p>8 doesn't matter if Chelsey Nelson were giving</p> <p>9 away those services?</p> <p>10 A. Giving away photography services or</p> <p>11 just giving away services, period?</p> <p>12 Q. Yeah. Yeah. Giving away</p> <p>13 photography services.</p> <p>14 A. If she's giving them away to one</p> <p>15 party and not giving it away to another party,</p> <p>16 is that -- is that what you --</p> <p>17 Q. Yeah.</p> <p>18 A. And what would be the reason for</p> <p>19 her giving away the service to one party and not</p> <p>20 the other? What would be the reason?</p> <p>21 Q. That she objects -- she -- it</p> <p>22 violates her religious beliefs to provide</p> <p>23 photography services for same-sex weddings.</p> <p>24 A. So she would give the service to an</p> <p>25 opposite-sex or -- can we say heterosexual</p>	167	<p>1 same-sex weddings.</p> <p>2 Correct?</p> <p>3 A. If she does not want to run afoul</p> <p>4 of the discriminatory ordinances in Louisville,</p> <p>5 Kentucky, that is correct.</p> <p>6 Q. Got it. So I want you to take a</p> <p>7 look at Question Number 3 there, the actual</p> <p>8 question. And it mentions, you know, for</p> <p>9 example, to those requesting editing services</p> <p>10 for same-sex weddings.</p> <p>11 So does this interrogatory question</p> <p>12 mention the sexual orientation of the person</p> <p>13 requesting those services?</p> <p>14 A. The interrogatory indicates to</p> <p>15 those requesting editing services for same-sex</p> <p>16 weddings as for those requesting editing</p> <p>17 services for opposite-sex weddings. That's what</p> <p>18 the interrogatory says.</p> <p>19 Q. So does it -- it doesn't mention</p> <p>20 the sexual orientation of the person requesting</p> <p>21 the services.</p> <p>22 Correct?</p> <p>23 A. Same-sex, opposite-sex. There's an</p> <p>24 orientation there. If you're a same-sex couple,</p> <p>25 why are you a same-sex couple.</p>
166	<p>1 couple? Is that okay?</p> <p>2 Q. Yeah. She would -- she's giving</p> <p>3 away photography editing services and she'll</p> <p>4 give them away for opposite-sex weddings, but</p> <p>5 not same-sex weddings.</p> <p>6 A. So she's differentiating between</p> <p>7 two groups of people who are protected classes</p> <p>8 under the ordinance. So therefore, she's</p> <p>9 committing discrimination.</p> <p>10 Q. Okay. And does it matter what</p> <p>11 corporate form Ms. Nelson takes, whether she's a</p> <p>12 sole proprietorship or a corporation?</p> <p>13 A. No, because people that commit</p> <p>14 discriminatory acts is prohibited in Louisville,</p> <p>15 Kentucky.</p> <p>16 Q. Okay. So it -- that doesn't</p> <p>17 matter?</p> <p>18 A. No.</p> <p>19 Q. So what I think I hear you</p> <p>20 understanding is whatever service she offers for</p> <p>21 same-sex weddings -- or excuse me. Whatever --</p> <p>22 strike that.</p> <p>23 Whatever services Ms. Nelson offers</p> <p>24 for opposite-sex weddings, whether for free or</p> <p>25 for pay, she must offer those services for</p>	168	<p>1 Q. Well, let me rephrase. A</p> <p>2 photographer -- a heterosexual photographer who</p> <p>3 requests Ms. Nelson to photograph a same-sex</p> <p>4 wedding, but Ms. Nelson declines, what facts are</p> <p>5 you relying on there or how would you evaluate</p> <p>6 that situation?</p> <p>7 MS. HINKLE: Object to the form.</p> <p>8 A. It depends. Is Ms. Nelson acting</p> <p>9 as an agent or as an employee of the</p> <p>10 heterosexual photographer who's doing it or is</p> <p>11 she acting in her own capacity? Because if</p> <p>12 she's acting as an employee of the prior</p> <p>13 photographer, then the photographer is liable</p> <p>14 for the actions of their employees,</p> <p>15 discriminatory actions of their employees. If</p> <p>16 she's acting as a sole proprietor or a</p> <p>17 contractor to this photographer, then she,</p> <p>18 herself, runs afoul of the discriminatory intent</p> <p>19 of the ordinance.</p> <p>20 Q. And that's because that request for</p> <p>21 photography that came from a heterosexual</p> <p>22 photographer was asked -- that request was</p> <p>23 requesting editing services about same-sex</p> <p>24 weddings.</p> <p>25 Correct?</p>

169	<p>1 A. I'm -- I'm not sure I'm 2 understanding what you're asking there. 3 Q. Yeah. So a situation where 4 Ms. Nelson receives -- many of Ms. Nelson's 5 clients are photographers. She edits the 6 photographs of other photographers. 7 A. In what capacity, as a contract or 8 as an employee? 9 Q. As a business -- not as employee or 10 as a contractor, just as a separate business. 11 A. Okay. So she's operating as a 12 separate entity to provide editing services to 13 another photographer? 14 Q. Correct. And she declined to edit 15 photographs of same-sex weddings. 16 A. Uh-huh. (Witness answers in the 17 affirmative.) 18 Q. Is that a violation of the 19 ordinance? 20 A. It's discrimination. She's 21 refusing to engage in business and she's 22 differentiating between same-sex and 23 opposite-sex weddings, which is in violation of 24 the ordinance. Regardless of who asked her, 25 she's still engaging in discrimination.</p>	171	<p>1 complainant who's making that complaint. So if 2 the unequal treatment is predicated or based 3 upon that protected class, that's 4 discrimination. 5 Q. Got it. So the ordinance is more 6 than just actual denial of service. 7 Correct? 8 A. Not necessarily. Denial of 9 services is discrimination in itself, as well. 10 Q. Oh, absolutely. But it prevents 11 from someone getting lesser quality service 12 based on protected class? 13 MS. HINKLE: Objection to form. 14 A. It -- it prohibits someone from 15 getting lesser quality of service because of 16 discriminatory intent based on protected class. 17 Absolutely. 18 BY MR. SCRUGGS: 19 Q. And also, providing slower services 20 based on a discriminatory intent toward a 21 protected class? 22 A. Yeah. Any -- any differentiation 23 in service that's provided that's predicated 24 upon discriminatory intent because of protected 25 class runs afoul of the ordinance.</p>
170	<p>1 Q. All right. And that's because the 2 content of the photographs, one depicts same-sex 3 weddings and the other depicts opposite-sex 4 weddings? 5 A. If she's refusing to edit the 6 same-sex weddings, then yes, that's 7 discriminatory behavior. If she's doing that 8 based upon discriminatory auspices against 9 same-sex couples, then that runs afoul of the 10 ordinance. 11 Q. Even if it's based on the content 12 of the photograph she's asked to edit? 13 A. The content of the photos is that 14 it shows same-sex couples, which she does not 15 want to edit because of whatever beliefs that 16 she holds, which is discrimination -- it's 17 discriminatory behavior. So yes. 18 Q. So I think earlier we talked about 19 terms and conditions. Here's a bit of a 20 different phrase. How does the Commission 21 determine whether a public accommodation has 22 provided the full and equal enjoyment of 23 particular services? 24 A. Dependent upon all facts in 25 evidence and the protected class of the</p>	172	<p>1 Q. Okay. Let me show you another 2 document. Okay. I'm going to show you another 3 document. You might have it in your file. It's 4 the first set of requests for admissions. 5 A. This is what was prepared by 6 counsel? 7 Q. Yes. Yes. 8 MR. SCRUGGS: And we can mark this 9 as an exhibit. 10 THE COURT REPORTER: Okay. It's 11 15. 12 (Whereupon, the referred to 13 document was marked as Exhibit 15, 14 and is attached hereto and made a 15 part hereof.) 16 BY MR. SCRUGGS: 17 Q. Okay. Do you have that? 18 A. Yes, sir. 19 Q. Do you have that document? 20 A. Yes, sir. 21 Q. Okay. Let's go to -- let's go to 22 26, Request for Admission 26. 23 A. Yes. The inquiry as to whether or 24 not Chelsey Nelson Photography, LLC, violates 25 Metro Ordinance 92.05(A) if it maintains a</p>

173	<p>1 policy and practice of photographing</p> <p>2 opposite-sex weddings and not same-sex</p> <p>3 marriage -- weddings?</p> <p>4 Q. That's right. And you might want</p> <p>5 to scan real quickly the response or --</p> <p>6 A. Uh-huh. (Witness answers in the</p> <p>7 affirmative.) Okay.</p> <p>8 Q. It says -- the response admits as</p> <p>9 to practice. How does the Commission determine</p> <p>10 whether there is a discriminatory practice or</p> <p>11 not?</p> <p>12 A. It depends on the action that</p> <p>13 was -- that is considered discriminatory. So</p> <p>14 whatever action a respondent took against a</p> <p>15 particular party that results in differentiation</p> <p>16 of treatment and a discriminatory outcome is a</p> <p>17 practice that was engaged in, whether it's a</p> <p>18 one-time practice or a consistent practice.</p> <p>19 Q. And is that different than a</p> <p>20 policy?</p> <p>21 A. I don't necessarily consider a</p> <p>22 practice a policy.</p> <p>23 Q. Okay. How are they different?</p> <p>24 A. I mean, it depends on the</p> <p>25 organization. As I mentioned before, you could</p>	175	<p>1 MR. SCRUGGS: Okay. Why don't</p> <p>2 we -- this is a good stopping point for us --</p> <p>3 and take a -- maybe a 20-minute break for our</p> <p>4 lunch. Is that okay with you all?</p> <p>5 THE WITNESS: I'm fine -- I'm fine</p> <p>6 with it, yeah.</p> <p>7 MS. HINKLE: That's fine.</p> <p>8 THE COURT REPORTER: We're off the</p> <p>9 record.</p> <p>10</p> <p>11 * * *</p> <p>12 (Off the record.)</p> <p>13 * * *</p> <p>14</p> <p>15 THE COURT REPORTER: We're back on</p> <p>16 the record.</p> <p>17</p> <p>18 * * *</p> <p>19 CONTINUED EXAMINATION</p> <p>20 BY MR. SCRUGGS:</p> <p>21 Q. All right. Mr. Boyd, I'm going to</p> <p>22 show you a document you've already seen before.</p> <p>23 It's just the 30(b)(6) notice. Okay? I'm going</p> <p>24 to scroll down to a topic, Topic Number 20.</p> <p>25 A. Is that on Page 10?</p>
174	<p>1 do something one time and it's a practice. It</p> <p>2 doesn't necessarily make it a policy that you</p> <p>3 did -- that you did it versus if you maintain a</p> <p>4 consistent sort of methodology at doing</p> <p>5 something or the way you do business and if it's</p> <p>6 written down or if you make it very clear it is</p> <p>7 the policy of this organization or this company</p> <p>8 that we will engage in XYZ. To me, that lends</p> <p>9 itself more as policy.</p> <p>10 But regardless, if something is a</p> <p>11 policy or a practice, if it results in</p> <p>12 discriminatory activity or results in</p> <p>13 discriminatory outcome, it's still</p> <p>14 discrimination.</p> <p>15 Q. So does that discriminatory policy</p> <p>16 violate the ordinance?</p> <p>17 A. Absolutely.</p> <p>18 Q. So Ms. Nelson's policy that states</p> <p>19 that she only photographs weddings for</p> <p>20 opposite-sex weddings, that policy violates the</p> <p>21 ordinance.</p> <p>22 Is that correct?</p> <p>23 A. If that's her policy and it -- and</p> <p>24 we're able to demonstrate that based on facts</p> <p>25 and evidence, then yes, that is discrimination.</p>	176	<p>1 Q. Yes, that's correct, 10 and I think</p> <p>2 it goes over to 11.</p> <p>3 A. Okay.</p> <p>4 Q. Okay. So it basically -- this</p> <p>5 topic talks about statistics -- I want to make</p> <p>6 sure I get the right statistics here. Let's see</p> <p>7 here.</p> <p>8 I apologize. Okay. Sorry.</p> <p>9 Actually, why don't you go up to Topic 15, very</p> <p>10 similar to 20. Let's go up to Topic 15.</p> <p>11 Okay. It says -- the topic asks</p> <p>12 for various statistics from 2004 to the present</p> <p>13 about complaints and investigations under the</p> <p>14 Metro ordinance.</p> <p>15 What did you do to prepare for this</p> <p>16 topic for today?</p> <p>17 A. I believe I reviewed several of</p> <p>18 the -- the year-end reviews, like you had shown</p> <p>19 earlier, annual reports, things like that, the</p> <p>20 information that were contained in that -- in</p> <p>21 those documents. I know there's a few that are</p> <p>22 missing, but that's where the compilation of</p> <p>23 stats that I reviewed come from those, those</p> <p>24 annual reports.</p> <p>25 Q. So do you know how many -- since</p>

177	<p>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</p>	179	<p>1 state law. And then, the 2004 ordinance was 2 adopted for the incorporation principles of 3 Louisville Metro Government. 4 Q. Do you know when Jefferson County 5 first passed a Fair Ordinance law? 6 A. No, I'd have to refresh my 7 recollection on that. 8 Q. Or Louisville itself? 9 A. I believe Louisville's was 1999. 10 Q. Okay. I'm going to hand you 11 another -- show you another document. These are 12 your interrogatory responses, the first set. 13 And I'll put it up here when I find it. 14 And I'm pointing to Number 12. 15 A. Is that on Page 14? 16 Q. Yes, that's right. 17 Okay. And you might want to 18 compare 12 to 13 and 14. They're very similar. 19 And the responses are very similar. 20 A. Okay. 21 Q. Okay. So these interrogatories ask 22 for material facts that support Metro's 23 contention that it needs to regulate Chelsey 24 Nelson Photography. And it references -- the 25 answers are very similar. So is Metro relying</p>
178	<p>1 the ordinance, the Metro ordinance. My 2 understanding is it passed in 2004. 3 Is that right? 4 A. That would be the version of the 5 ordinance after incorporation of Metro and 6 County together would be the 2004 ordinance. 7 Q. The 2000 -- okay. So there were 8 two predecessor ordinances. 9 Is that right? 10 A. I know one for sure, which was 11 19 -- I believe '99. I don't know if that one 12 was amended and then ultimately incorporated 13 into the 2004 ordinance. I'd have to 14 double-check. 15 Q. Is that 1999 ordinance -- was that 16 both for Jefferson County and Louisville? 17 A. I believe the '99 ordinance was 18 Louisville -- city Louisville only, not -- not 19 Jefferson County, which was -- at that time, 20 Louisville and Jefferson County were separate 21 governmental entities. 22 Q. Got it. And then, they were -- 23 they combined in 2004, I think. 24 Is that right? 25 A. Incorporation occurred in 2003, via</p>	180	<p>1 on the same set of facts with respect to 2 Ms. Nelson's photography services and editing 3 services? 4 A. Are you -- are you referring to the 5 answers in Question 12 and Question -- or 6 Interrogatory 12 and Interrogatory 13? 7 Q. Correct. 8 A. Yes. I contend that they are the 9 same because, again, it's refusal of service and 10 doing something with discriminatory intent, 11 based upon a protected class. 12 Q. Okay. And that's the same with 14 13 there, too, that talks about her blogging 14 services? 15 A. Well, I would have to differentiate 16 between the blogging service and the editing 17 service and the photography service, because 18 those -- our answer indicates writing blogs, 19 that's sort of conclusory and it's kind of -- 20 it's way more broad. I mean, if it's -- if it's 21 an idea that she intentionally doesn't want to 22 show same-sex weddings as part of her services, 23 that's discriminatory intent. But if she just 24 wants to blog about why she doesn't like 25 same-sex couples, that's another thing.</p>

181	<p>1 So that's where I would kind of 2 make that differentiation between those three. 3 Q. Got it. I understand. But I'm 4 just saying that blogging are part of her 5 services. My understanding is that Metro is 6 relying on the same set of material facts with 7 respect to all those -- the three different 8 categories of activities? 9 A. Yeah. Assuming that it's a service 10 as required under the ordinance -- service as 11 defined under the ordinance and that results in 12 discriminatory impact or discrimination, period, 13 against another protected class. 14 Q. Got it. So you can probably go 15 back to Number 12, probably the most succinct 16 one there. 17 A. Uh-huh. (Witness answers in the 18 affirmative.) 19 Q. And part of the answer refers to 20 the ordinance itself. 21 Do you see that? 22 A. Yeah, the declaration of policy 23 under 92.01? Is that what you're referring to? 24 Q. Yes. Yes. Exactly. Exactly. 25 A. Yeah.</p>	183	<p>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.</p>
182	<p>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</p>	184	<p>1 THE COURT REPORTER: No, that's 2 okay. I noticed he was gone, but then I didn't 3 see him come back in. 4 MR. SCRUGGS: No problem. 5 THE COURT REPORTER: Okay. I think 6 we're good now. 7 BY MR. SCRUGGS: 8 Q. So -- but the -- why don't we turn 9 to 92.01, actually. If we turn to there, that 10 section. I'm going to pull my section up here. 11 So how -- how does that particular 12 preamble -- how does that provide a fact that 13 supports your contention? 14 A. Well, I think the way you're asking 15 me is sort of speculative, because it's a 16 declaration of policy, not a preamble. It's a 17 declaration that we recognize that 18 discrimination exists and has existed in our 19 community for -- for decades, which is the 20 reasoning behind why these laws are passed in 21 the first place. 22 Q. Okay. Sorry. The declaration. So 23 is the declaration providing a rephrase -- is it 24 rephrasing the answer that was given in 25 Interrogatory -- in the response to</p>

185	<p>1 Interrogatory Number 12? 2 MS. HINKLE: Objection to form. 3 A. No, it's answering what we -- what 4 we've contended the whole time, that 5 discrimination should be illegal in our 6 community. 7 BY MR. SCRUGGS: 8 Q. Got it. That's right. And I guess 9 what I'm asking is that declaration of policy, 10 it doesn't indicate incidents of discrimination. 11 Correct? 12 A. It doesn't indicate incidents of 13 discrimination? 14 Q. Yeah. It doesn't contain evidence 15 about discrimination happening? 16 A. It doesn't give actual specific 17 instances of discrimination happening, but 18 again, the declaration of this policy is to 19 prohibit discrimination that has occurred and 20 continues to occur in our jurisdiction. 21 Q. Does -- 22 A. That's the -- 23 Q. Go ahead. 24 A. That's the reason for the law in 25 the first place.</p>	187	<p>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.</p>
186	<p>1 Q. Yes. So this provides -- the same 2 reasons that are stated in the declaration of 3 policy there are the same reasons Metro is 4 attempting to regulate Chelsey Nelson 5 Photography. 6 Correct? 7 MS. HINKLE: Objection to form. 8 A. No, that's incorrect. Again, this 9 declaration of policy gives Metro Government the 10 power and the authority to prohibit 11 discrimination in our community. It's not to 12 pick on Chelsey Nelson Photography, it's to stop 13 discrimination, period. 14 BY MR. SCRUGGS: 15 Q. Got it. And that declaration of 16 policy was various reasons why Metro passed it's 17 ordinance. 18 Correct? 19 A. The reasoning behind discriminatory 20 intent, absolutely. 21 Q. Yes. And it's those same reasons 22 that Metro is relying on as a basis to regulate 23 Chelsey Nelson Photography? 24 MS. HINKLE: Objection to form. 25 A. Again, it's -- it's relying on</p>	188	<p>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</p>

189	<p>1 than I would.</p> <p>2 Q. And how many complaints have you</p> <p>3 received last year?</p> <p>4 A. Same. The new director would know</p> <p>5 that more than I would. I'd have to go back and</p> <p>6 double-check that.</p> <p>7 Q. Do you know that -- whether</p> <p>8 Louisville received any complaints this year?</p> <p>9 A. I'm going to assume, yes.</p> <p>10 Q. Well, I don't want you to assume.</p> <p>11 Do you know?</p> <p>12 A. I don't know. Again, the current</p> <p>13 director can tell you how many, if any, we have</p> <p>14 received this year.</p> <p>15 Q. Okay. So besides the policy -- the</p> <p>16 declaration of policy and those documents and</p> <p>17 the complaints that Louisville has received, are</p> <p>18 you relying on any other facts to support this</p> <p>19 contention?</p> <p>20 A. I mean, we look at occurrences of</p> <p>21 events that are happening in our community,</p> <p>22 whether a complaint comes out of those events or</p> <p>23 not. Looking at the temperature of our</p> <p>24 community with respect to race relations, gender</p> <p>25 relations, any other protected class that's</p>	191	<p>1 transgender restrooms or we don't cater to</p> <p>2 transgender individuals. The attitudes and</p> <p>3 actions of individuals in this community that</p> <p>4 exclude people, intolerable. So that's why we</p> <p>5 enforce this ordinance.</p> <p>6 Q. Got it. So the -- the complaints</p> <p>7 that you receive, you're relying on.</p> <p>8 Correct?</p> <p>9 A. Partly, yes, in addition to other</p> <p>10 things like I just mentioned.</p> <p>11 Q. And information of those complaints</p> <p>12 is contained in the case files.</p> <p>13 Is that right?</p> <p>14 A. Complaints that we have received,</p> <p>15 yes. Absolutely.</p> <p>16 Q. Got it. And are you relying --</p> <p>17 beyond the complaints and the case files, are</p> <p>18 you relying on -- you mentioned incidents. What</p> <p>19 other incidents are you relying on beyond the</p> <p>20 complaints and case files?</p> <p>21 A. Relying on to do what, to continue</p> <p>22 the work that we're doing?</p> <p>23 Q. No. To -- in response to this</p> <p>24 question, as the basis for regulating Chelsey</p> <p>25 Nelson Photography.</p>
190	<p>1 included in the ordinance.</p> <p>2 Again, when we spoke earlier about</p> <p>3 the Advocacy Board, those are some of the things</p> <p>4 that are brought to our attention is that these</p> <p>5 things are occurring in our community and that</p> <p>6 we need to address them as a Human Relations</p> <p>7 Commission.</p> <p>8 So I mean, there's a number of</p> <p>9 factors that go into the importance of our work.</p> <p>10 One discrimination complaint is too many in our</p> <p>11 community. So that's why we continue to do this</p> <p>12 work. We're not necessarily relying on one</p> <p>13 declaration, one policy, we're looking at the</p> <p>14 totality of things that come into our -- our</p> <p>15 attention and come through our door that we need</p> <p>16 to address as a city.</p> <p>17 Q. So what incidents in the community</p> <p>18 is Metro relying on to support its need to</p> <p>19 regulate Chelsey Nelson Photography?</p> <p>20 A. Again, there's numerous ones.</p> <p>21 Q. Okay. What -- let's start. What</p> <p>22 incidents are those?</p> <p>23 A. Again, as you saw like, for</p> <p>24 example, in the Scooter Triple B's case,</p> <p>25 allegations of someone saying we don't offer</p>	192	<p>1 A. Again, strong compelling interest</p> <p>2 to prevent discrimination. That's what we're</p> <p>3 relying on. That information comes from the</p> <p>4 various sources I just listed to you.</p> <p>5 Q. Okay. So I believe you listed the</p> <p>6 complaints that were filed, you listed the case</p> <p>7 files. Anything else?</p> <p>8 A. Legislative history that we just</p> <p>9 referred to, incidents that we're seeing occur</p> <p>10 like in news feeds and the information that's</p> <p>11 provided to like our -- our Advocacy Board and</p> <p>12 other advocates. And then, again, the general</p> <p>13 temperature of the community based upon things</p> <p>14 that have occurred in our community, race-based,</p> <p>15 gender-based, whatever.</p> <p>16 Q. Sir, are you referring to incidents</p> <p>17 of race discrimination as a basis for the need</p> <p>18 to regulate Chelsey Nelson Photography?</p> <p>19 A. Any discrimination, race-based or</p> <p>20 otherwise. Any discrimination is bad</p> <p>21 discrimination.</p> <p>22 And I'm sorry, I'm getting some</p> <p>23 feedback from something. I can barely hear you.</p> <p>24 Q. Can you hear me there?</p> <p>25 A. Yeah.</p>

193	<p>1 Q. Sorry about that.</p> <p>2 Okay. So it does reference a</p> <p>3 specific range of documents in here, as we noted</p> <p>4 before. Have you reviewed those documents for</p> <p>5 preparation for this deposition?</p> <p>6 A. Are you referring to the</p> <p>7 legislative history?</p> <p>8 Q. Yes, document Louisville Metro</p> <p>9 1 through 1,166.</p> <p>10 A. Yes. I've perused these. I</p> <p>11 haven't memorized them or anything, but yes,</p> <p>12 I've looked through these. Yes.</p> <p>13 Q. Okay. Now, the legislative</p> <p>14 history, for example, contains testimony at</p> <p>15 Commission meetings and whatnot or City Council</p> <p>16 meetings. Have you done anything to verify --</p> <p>17 have you done anything to verify that the</p> <p>18 incidents described in the legislative history</p> <p>19 actually occurred?</p> <p>20 A. No. They speak for themselves.</p> <p>21 Q. Have you done anything to verify</p> <p>22 when those incidents occurred?</p> <p>23 A. No. Same answer.</p> <p>24 Q. And so you don't know if they, in</p> <p>25 fact, occurred or did not occur.</p>	195	<p>1 Q. Okay. Now, the document I'm</p> <p>2 showing you, it appears to be a section of a</p> <p>3 report created by the Fairness Campaign,</p> <p>4 starting on Page 465 -- Louisville Metro</p> <p>5 Bates-stamped 465.</p> <p>6 Okay. Did you review this document</p> <p>7 starting on 465?</p> <p>8 A. Briefly. Yes, briefly.</p> <p>9 MR. SCRUGGS: We can mark this as</p> <p>10 the next exhibit.</p> <p>11 THE COURT REPORTER: Okay. It will</p> <p>12 be 16.</p> <p>13 (Whereupon, the referred to</p> <p>14 document was marked as Exhibit 16,</p> <p>15 and is attached hereto and made a</p> <p>16 part hereof.)</p> <p>17 BY MR. SCRUGGS:</p> <p>18 Q. It's a rather long document, but</p> <p>19 I'm going to point you to -- now, go to Page</p> <p>20 Bates-stamped 496.</p> <p>21 MS. HINKLE: Jonathan, he's got a</p> <p>22 binder and hard copy in front of him, but it's</p> <p>23 not a Bates-stamped version.</p> <p>24 MR. SCRUGGS: Okay.</p> <p>25 MS. HINKLE: How many -- how many</p>
194	<p>1 Correct?</p> <p>2 A. I have no reason to believe that</p> <p>3 they didn't occur, but no, I cannot prove that</p> <p>4 they occurred or did not occur.</p> <p>5 Q. All right. Let me show you another</p> <p>6 document in that legislative history. I</p> <p>7 apologize about that. Let me show you a</p> <p>8 document here. I'm going to show you some</p> <p>9 documents from that legislative history.</p> <p>10 Now, Mr. Boyd, also, in that</p> <p>11 legislative history, do you remember seeing</p> <p>12 newspaper articles?</p> <p>13 A. I believe so, yes.</p> <p>14 Q. Did you do any -- did Metro do any</p> <p>15 research to indicate whether the incidents</p> <p>16 referred to in the newspaper article -- in the</p> <p>17 newspaper articles, whether the incidents in</p> <p>18 those newspaper articles occurred?</p> <p>19 A. You mean at the time that those</p> <p>20 articles were written or currently?</p> <p>21 Q. Either.</p> <p>22 A. I -- no, currently, I don't -- I do</p> <p>23 not know when those articles were written if</p> <p>24 anybody from Metro would have looked into those</p> <p>25 claims, because I wasn't at Metro at that time.</p>	196	<p>1 pages is the exhibit that you've just marked?</p> <p>2 MR. SCRUGGS: It's pretty -- pretty</p> <p>3 lengthy, because the report is pretty long.</p> <p>4 It's 87 pages. And I've got it on the screen.</p> <p>5 You should be able to see it.</p> <p>6 MS. HINKLE: Yeah. It's just hard</p> <p>7 to orient yourself, you know, with seeing</p> <p>8 snippets like that. Is it just Tab 3 of the</p> <p>9 binder that you've marked? That's the first --</p> <p>10 MR. SCRUGGS: Yeah, Tab 3.</p> <p>11 MS. HINKLE: Okay. So Kendall,</p> <p>12 that's everything behind this.</p> <p>13 THE WITNESS: Fairness Campaign?</p> <p>14 MS. HINKLE: Uh-huh.</p> <p>15 THE WITNESS: Okay. And some of</p> <p>16 the newspaper articles.</p> <p>17 MS. HINKLE: We've got the</p> <p>18 clippings, yeah.</p> <p>19 THE WITNESS: Yeah. Okay.</p> <p>20 BY MR. SCRUGGS:</p> <p>21 Q. So I'm going to go to what is my</p> <p>22 Page 496, Louisville Metro Bates stamped 496.</p> <p>23 MS. HINKLE: Mr. Scruggs, are you</p> <p>24 going to ask him about this table with the case</p> <p>25 numbers?</p>

197	199
<p>1 MR. SCRUGGS: Yeah. It's a chart, 2 I guess you could say, with statistics. 3 MS. HINKLE: Could you flip back so 4 that it's horizontal? 5 MR. SCRUGGS: Yeah. 6 MS. HINKLE: That way, we can just 7 make sure we've got the same thing pulled up. I 8 believe we do. 9 MR. SCRUGGS: Absolutely. Let me 10 zoom out first, and then I will -- 11 BY MR. SCRUGGS: 12 Q. Okay. Do you see this chart? 13 A. Yes, I do. 14 Q. And is this a -- again, is this 15 part of the report that the Fairness Campaign 16 presented to Jefferson County? 17 A. This is what appears to be 18 statistics for a course of nine years by the 19 Fairness Campaign showing discrimination based 20 on sexual orientation and gender identity. 21 Q. Okay. Does Metro know how this 22 information was gathered? 23 A. No. 24 Q. Has Metro taken any steps to verify 25 the accuracy of these numbers?</p>	<p>1 page -- so this looks like a description of 2 various allegations by year. Do you know if 3 these allegations refer to the prior chart? 4 A. I -- I do not know, because the 5 chart doesn't reflect the names or the incidents 6 that these occurred. I don't know how this 7 chart and this information -- how it was put 8 together. So I'm -- based on what's here and 9 the discrimination cases based on sexual 10 orientation and gender identity were incidents 11 that were reported to the Fairness Campaign and 12 taken into consideration as to why these laws 13 are necessary. 14 Q. Got it. So for example, let me 15 refer you to Metro Page 500, which is a few 16 pages down. And you can look at the E numbers 17 might help guide you. It's incident PA98001. 18 A. Social worker fired for outing. Is 19 that what you're referring to? 20 Q. No. No, I think it's probably 21 further down. So 98001, it's under a category 22 called public accommodation. 23 A. Okay. 24 Q. It's entitled transsexual denied 25 personal ad.</p>
198	200
<p>1 A. Currently, no. I don't know about 2 when this information was initially presented to 3 Metro by the Fairness Campaign. 4 Q. So Metro has no basis to know 5 whether these statistics are true or false? 6 A. We have no basis to -- to question 7 whether or not these events actually happened or 8 not. These were presented by the Fairness 9 Campaign in furtherance of passing a Fairness 10 Ordinance. 11 Q. And so do you have any basis to 12 prove that these statistics are true? 13 A. Do I have any basis to prove that 14 these are true? 15 Q. Yes. 16 A. Just the fact that they were 17 reported to us in support of the passage of an 18 ordinance. 19 Q. Do you have any basis to prove that 20 the underlying incidents occurred? 21 A. Outside of what's been shown here, 22 no. 23 Q. No? Let me skip down a few -- or 24 let me rotate. 25 So the next part, which is the next</p>	<p>1 A. Uh-huh. (Witness answers in the 2 affirmative.) 3 Q. Now, does Metro have any 4 information to determine whether this incident 5 actually occurred? 6 A. No, not to my knowledge. 7 Q. Do you know what an LEO personal 8 is? 9 A. Yes. LEO was a local newspaper 10 here. It was more of a non-traditional format. 11 I think it was only offered like weekly instead 12 of daily. And it -- it just -- it catered to a 13 different sort of readership, a younger 14 readership and things like that. It was called 15 LEO Weekly, I believe. 16 Q. Okay. And you mentioned -- you 17 said it was a newspaper. 18 Is that right? 19 A. Yes. That's -- I don't know if 20 it's still in circulation or if it's just a 21 website now, but it was a newspaper at one point 22 in time. 23 Q. And -- and so my understanding from 24 this allegation is that a male to female 25 transsexual called to ask a personal ad be</p>

201	<p>1 placed and they didn't do it with the word 2 transsexual. 3 Is that correct -- or is that your 4 understanding? 5 A. Yeah. That's what's alleged here 6 in the Public Accommodations Research of the 7 Fairness Campaign. 8 Q. How did that incident support 9 Metro's need to regulate Chelsey Nelson 10 Photography? 11 A. Again, this is discrimination based 12 upon a protected status, what is now considered 13 a protected status. Why differentiate someone 14 who is identified as transsexual, which is part 15 of gender identity a personal ad when they're 16 paying for that service and they were denied, in 17 essence, that service. 18 Q. So how is that discrimination when 19 she was allowed to run the ad? 20 A. Because she wasn't allowed to run 21 the ad using the language and the word 22 transsexual, which is what she is. It's denying 23 her her -- her makeup, it's denying her her 24 biology, it's denying her who she is -- or he 25 is, whatever, you know, they identify as. It's</p>	203	<p>1 A. It supports the need that we need 2 to address discrimination against people. 3 That's what it does. Again, it demonstrates the 4 need for this sort of ordinance for these sort 5 of laws. 6 Q. Got it. So you can kind of scroll 7 down a bit. It goes on with a list of these 8 incidents, really from starting -- or these 9 allegations, starting at my Page 497 through 10 521. 11 And I don't necessarily want to go 12 through all of them, but again, Mr. Boyd, for 13 any of these, has Metro done any investigation 14 whether they, in fact, occurred? 15 A. To my knowledge, no. 16 Q. Does Metro know when these 17 incidents occurred -- or these allegations 18 described occurred? 19 A. To my -- to my knowledge, no. 20 We're -- we're presented the information as was 21 prepared by the Fairness Campaign. 22 Q. Got it. Let me point you to 23 PA9601. 24 MS. HINKLE: What year is that one 25 under, Jonathan?</p>
202	<p>1 not allowing them to be -- 2 Q. So declining to run that particular 3 word, that's an incidence of discrimination? 4 A. Yeah, because the word is, again, 5 part of a protected class. 6 Q. Got it. So the -- the subject is 7 about the protected class? That's what makes it 8 significant? 9 A. Yeah. Because again, that's what 10 that person's makeup is. That person's gender 11 identify as a -- as a protected class under the 12 ordinance should be protected. And so that runs 13 afoul of the ordinance. Again, it's 14 discrimination against a person who identifies 15 as transsexual and not being able to identify as 16 who they truly are. 17 Q. So would this allegation be enough 18 to rise to a level of probable cause under the 19 Metro ordinance? 20 A. Speculative, because we would need 21 more facts and evidence. 22 Q. Okay. But it's enough to support 23 the need to regulate Chelsey Nelson Photography. 24 Is that right? 25 MS. HINKLE: Objection to form.</p>	204	<p>1 THE WITNESS: Here it is. 2 MS. HINKLE: Okay. 3 MR. SCRUGGS: '96. 4 A. Public accommodation. 5 BY MR. SCRUGGS: 6 Q. Yeah, public accommodation. So 7 this one involves an allegation about something 8 happening at a Catholic school? 9 A. Uh-huh. (Witness answers in the 10 affirmative.) 11 Q. How does this allegation support 12 Metro's contention that it needs to regulate 13 Chelsey Nelson Photography? 14 MS. HINKLE: Objection to form. 15 A. Yeah. So when you look at this 16 situation, again, without knowing all the facts 17 and information to give rise to a possible hate 18 crime, again, there's no definitive saying that 19 discrimination occurred, but at the same time, 20 these are things that give us the power to 21 investigate these type of incidents, to prevent 22 people from getting harmed because of someone's 23 prejudicial beliefs. 24 Q. Got it. So am I -- there's no 25 denial of service in this allegation.</p>

205	1 Is that correct? 2 A. Again, not knowing all the 3 information that was in this situation on its 4 face, it doesn't look like a denial of service; 5 however, it still looks like discriminatory 6 behavior. 7 Q. And this is something that the 8 Commission today would investigate. 9 Is that correct? 10 A. Absolutely. 11 Q. And the basis for that would be -- 12 it would be a potential hate crime? 13 A. Again, it would depend on the 14 facts and information that was presented to us. 15 I mean, is there a continuing pattern of a 16 secretary treating this lady's children at this 17 school differently because of their mom's sexual 18 orientation. So it would be a totality of 19 information that we would receive, not just 20 based upon the fact that she used hateful 21 language under her breath. 22 Q. So it could be a public 23 accommodation violation. 24 Is that correct? 25 A. Again, it depends on the facts and	207	1 just a little bit -- actually, excuse me, I'm 2 going to scroll the first one, if I can control 3 my scrolling. It says is the Fair -- Fairness 4 Amended really necessary. Yes, as demonstrated 5 by numerous independent studies and Courier 6 public surveys. 7 Do you see that? 8 A. Yes. 9 Q. Do you know what studies that is 10 referring to? 11 A. No. The individuals that put this 12 document together would have been the one that 13 would have examined those studies and public 14 surveys from the Courier Journal. 15 Q. Got it. So do you know how those 16 studies and surveys were conducted? 17 A. No, I do not. 18 Q. Do you know whether those studies 19 or surveys obtained any accurate information? 20 A. I don't have any reason to believe 21 that they didn't contain accurate information, 22 but again, it's up to the people who conducted 23 that survey. 24 Q. But you do not know whether those 25 surveys reflect accurate information -- or
206	1 information that we would receive from the 2 complaining party. 3 MR. SCRUGGS: Have we admitted this 4 document into evidence? I forgot. 5 THE COURT REPORTER: Yes. That's 6 16. 7 MR. SCRUGGS: Okay. 8 BY MR. SCRUGGS: 9 Q. Let me put up another document. 10 Okay. This looks like to me to be another 11 section of that report submitted by the Fairness 12 Campaign. 13 MR. SCRUGGS: We can go ahead and 14 mark this as the next exhibit. 15 THE COURT REPORTER: 17. 16 (Whereupon, the referred to 17 document was marked as Exhibit 17, 18 and is attached hereto and made a 19 part hereof.) 20 BY MR. SCRUGGS: 21 Q. I'm going to point you to what's on 22 my Page 710. And it's a Q and A Executive 23 Summary. 24 A. Yeah. 25 Q. Okay. I'm going to scroll down	208	1 excuse me, strike that. 2 Metro does not know whether those 3 surveys contain accurate information? 4 A. No. 5 Q. Are you relying on those surveys 6 and studies as a basis to regulate Chelsey 7 Nelson Photography? 8 MS. HINKLE: Objection to form. 9 A. These particular surveys? 10 BY MR. SCRUGGS: 11 Q. The studies and surveys mentioned 12 here in this document. 13 A. If it was the foundation for the 14 laws that exist today, then yes. But that is 15 not the only thing we're relying on. 16 Q. Got it. But you don't know, in 17 fact, if those studies or surveys are true. 18 Correct? 19 A. I don't know if they're false 20 either, but -- no. 21 Q. All right. Let's go back to 22 Interrogatory Number 12. I'm sharing that with 23 you here. 24 Again, this is the same 25 interrogatory and contention we looked at

209	<p>1 before. And it references some of -- it 2 references that date -- that document range. 3 Is Metro aware of any actual 4 incidents of discrimination in -- referenced in 5 those documents that it is relying on? 6 MS. HINKLE: Objection to form. 7 A. I don't know. I mean, I don't know 8 who from Metro would have that information 9 currently or who at Metro is relying on that 10 data currently. 11 BY MR. SCRUGGS: 12 Q. But to your knowledge, beyond what 13 we've talked about, the documents and that date 14 range, I think you mentioned complaints earlier, 15 to your knowledge is Metro relying on any 16 studies or other surveys to support its need to 17 regulate Chelsey Nelson Photography? 18 MS. HINKLE: Objection to form. 19 A. No, we're relying on continuous 20 discrimination that occurs in our city, as I 21 mentioned before. I'm not aware of any other 22 studies or statistics that demonstrate what you 23 just asked. 24 Q. Let's see here. Let me ask you 25 about one of the questions -- or the response</p>	211	<p>1 on to support that contention? 2 A. I just told you, if you've ever 3 been called a racial slur, you'd been denied 4 somewhere to live, or you've been told that you 5 can't work somewhere because of who you love, 6 that's the facts that I'm relying on. Those are 7 the sort of cases that come through our door 8 which produces those results you just -- that 9 you just spoke of. 10 Q. And let me -- so we saw that chart 11 earlier, but let me ask you this. In your 12 experience, does the Commission receive more 13 employment and housing complaints than public 14 accommodation complaints? 15 A. I'd have to look at the actual 16 numbers. 17 Q. You don't know off the top of your 18 head, roughly, who -- which -- whether the 19 Commission receives more employment complaints 20 during your -- than public accommodation 21 complaints? 22 A. I'd have to look at the actual 23 numbers, because I don't want to give you 24 misinformation. 25 Q. Let me show you a document -- go</p>
210	<p>1 there. It says, yes, governments have a 2 compelling state interest in ridding out all 3 forms of discrimination that create social 4 strife, cause humiliation, and produce economic 5 inefficiency. 6 Now, is that stating that all forms 7 of discrimination create social strife, cause 8 humiliation, and produce economic inefficiency? 9 A. Oh, yes. Absolutely. 10 Q. Okay. So regardless of which 11 protected category? 12 A. It doesn't matter. Discrimination 13 is discrimination. It causes social strife, 14 humiliation, and produces economic inefficiency. 15 Regardless of how minute it is, it still 16 produces those things. 17 Q. And a single incident of 18 discrimination produces those things. 19 Is that correct? 20 A. Yes, it does. 21 Q. And what -- what facts are you 22 relying on for that contention? 23 A. Have you ever been called a racial 24 slur? 25 Q. No, but what facts are you relying</p>	212	<p>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?</p>

213	<p>1 Q. Yes.</p> <p>2 A. Yes.</p> <p>3 Q. And it applies regardless of the</p> <p>4 protected qualification.</p> <p>5 Correct?</p> <p>6 A. I don't understand. What do you</p> <p>7 mean by protected qualification?</p> <p>8 Q. Sorry. Protected -- protected</p> <p>9 classification.</p> <p>10 A. I mean, as a protected</p> <p>11 classification, that's -- that's defined by the</p> <p>12 ordinance. Is that what you're asking?</p> <p>13 Q. Yeah. Yes.</p> <p>14 A. I mean, the protected classes that</p> <p>15 are outlined in the ordinance are those that we</p> <p>16 protected in these four areas pursuant to the</p> <p>17 ordinance.</p> <p>18 Q. Got it. So the -- again, Metro's</p> <p>19 interest in prohibiting discrimination on the</p> <p>20 basis of each of those protected classifications</p> <p>21 is the same?</p> <p>22 A. Yes. Strong and compelling. Yes.</p> <p>23 Absolutely.</p> <p>24 Q. Okay. And Metro can't -- you know,</p> <p>25 I think you mentioned earlier the one instance</p>	215	<p>1 A. Yes. Yes.</p> <p>2 Q. Okay. Well, Section A there says</p> <p>3 it basically prohibits discrimination and public</p> <p>4 accommodations on the ground of race, color,</p> <p>5 religion, national origin, disability, sexual</p> <p>6 orientation, and gender identity.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. But it doesn't prohibit</p> <p>10 discrimination on the basis of age, does it?</p> <p>11 A. In the ordinance, it doesn't appear</p> <p>12 that age is covered.</p> <p>13 Q. Is discrimination on the basis of</p> <p>14 age in public accommodations cause economic</p> <p>15 inefficiencies?</p> <p>16 A. If they occur, then yes.</p> <p>17 Q. Does discrimination on the basis of</p> <p>18 age cause humiliation?</p> <p>19 A. Yes.</p> <p>20 Q. But the ordinance doesn't forbid</p> <p>21 that.</p> <p>22 Correct?</p> <p>23 A. In its current form, no.</p> <p>24 Q. And that fact doesn't prevent Metro</p> <p>25 from accomplishing the other goals of this</p>
214	<p>1 of discrimination creates those problems that we</p> <p>2 talked about.</p> <p>3 Correct?</p> <p>4 A. Are you referring to the strife and</p> <p>5 humiliation and -- and the economic</p> <p>6 inefficiencies? Yes?</p> <p>7 Q. Yes.</p> <p>8 A. Yes. One incident, all of that.</p> <p>9 Q. And Metro can't afford to make one</p> <p>10 exception to an incidence of discrimination.</p> <p>11 Correct?</p> <p>12 A. There's no -- there's no public</p> <p>13 policy reason or justification as to why we</p> <p>14 would permit discrimination against anyone in</p> <p>15 our community.</p> <p>16 Q. Got it. Let me show you a copy of</p> <p>17 an ordinance. I'll pull that up here. I'm</p> <p>18 having trouble with zoom here. I'll share --</p> <p>19 okay. I want to -- here's a copy of the</p> <p>20 ordinance, again. Let's go down to the public</p> <p>21 accommodation section.</p> <p>22 A. What's the section number on that?</p> <p>23 Q. It's 95 -- or sorry, 92.05. That's</p> <p>24 the public accommodation section. Do you have</p> <p>25 that?</p>	216	<p>1 ordinance.</p> <p>2 Is that correct?</p> <p>3 A. Well, the fact that age is not a</p> <p>4 protected class?</p> <p>5 Q. Correct.</p> <p>6 A. It does not stop us from enforcing</p> <p>7 the ordinance, no.</p> <p>8 Q. Does it -- well, let me -- let's go</p> <p>9 down to actually Section C of this section. So</p> <p>10 Section C prohibits sex discrimination on the</p> <p>11 basis -- by restaurants, hotels, motels, or</p> <p>12 government-funded facilities.</p> <p>13 A. Yes, based on gender.</p> <p>14 Q. So that section doesn't regulate</p> <p>15 photography studios.</p> <p>16 Correct?</p> <p>17 A. Is it a facility that's supported</p> <p>18 directly or indirectly by government funds?</p> <p>19 Q. No.</p> <p>20 A. So if it doesn't meet -- if it</p> <p>21 doesn't fall within the criteria, then the</p> <p>22 ordinance doesn't prohibit it, then.</p> <p>23 Q. So does sex discrimination by</p> <p>24 photography studios cause economic</p> <p>25 inefficiencies?</p>

217	<p>1 A. Yes.</p> <p>2 Q. It does? And does -- let me pause</p> <p>3 here -- or pause my -- stop sharing.</p> <p>4 Does sex discrimination by</p> <p>5 photography studios undermine an individual's</p> <p>6 personal dignity?</p> <p>7 A. Yes.</p> <p>8 Q. But Metro allows that activity.</p> <p>9 Correct?</p> <p>10 A. Allows --</p> <p>11 MS. HINKLE: Objection to form.</p> <p>12 A. Allows discrimination based upon</p> <p>13 gender from photography activities? I don't see</p> <p>14 that here in the 92.05. I don't see where</p> <p>15 that's -- where that's listed here.</p> <p>16 BY MR. SCRUGGS:</p> <p>17 Q. So it doesn't forbid sex</p> <p>18 discrimination by photography studios?</p> <p>19 A. Repeat that, again. You're --</p> <p>20 that's not making any sense.</p> <p>21 Q. Sure. 92.05(C) regulates hotels --</p> <p>22 the listed entities. That list did not include</p> <p>23 photography studios.</p> <p>24 Correct?</p> <p>25 A. Unless it's supported directly or</p>	219	<p>1 of?</p> <p>2 Q. Sure. Well, we talked about that</p> <p>3 section that didn't apply to photography studios</p> <p>4 regarding sex. So I'm just trying to under --</p> <p>5 explain that difference.</p> <p>6 A. I don't know. I don't know why</p> <p>7 this was passed on this form.</p> <p>8 Q. Let me go back and -- back to the</p> <p>9 ordinance, again, in that same section, 92.05.</p> <p>10 And 92.05 is the section that prohibits</p> <p>11 discriminatory advertising -- 92.05(B)?</p> <p>12 A. Yes. And other communications.</p> <p>13 Q. And it -- yes. And it prohibits</p> <p>14 discriminatory advertising on the basis of race,</p> <p>15 color, religion, national origin, disability,</p> <p>16 sexual orientation, and gender identity.</p> <p>17 So this section doesn't prohibit</p> <p>18 discriminatory advertising on the basis of sex.</p> <p>19 Is that correct?</p> <p>20 A. On sex, yes. We look at sex</p> <p>21 through gender identity, though, that can</p> <p>22 possibly be incurred. So if I identify --</p> <p>23 Q. I'm talking about biological. I'm</p> <p>24 talking about biological sex.</p> <p>25 A. If I identify as man or woman,</p>
218	<p>1 indirectly by government funds.</p> <p>2 Q. That's right. So does sex</p> <p>3 discrimination -- so -- strike that.</p> <p>4 So Metro allows sex discrimination</p> <p>5 by photography studios if they're not supported</p> <p>6 by government funds?</p> <p>7 MS. HINKLE: Objection to form.</p> <p>8 A. Under C, yes. Under 92.05(C), yes.</p> <p>9 BY MR. SCRUGGS:</p> <p>10 Q. Are there any facts Metro is</p> <p>11 relying on to explain that distinction?</p> <p>12 A. Not that I'm aware of.</p> <p>13 MS. HINKLE: Object to the form.</p> <p>14 A. Not that I'm aware of.</p> <p>15 BY MR. SCRUGGS:</p> <p>16 Q. Let's see here. So which -- what</p> <p>17 information -- how has -- strike that.</p> <p>18 What information is Metro relying</p> <p>19 on to determine which actions of discrimination</p> <p>20 to restrict and which actions to allow?</p> <p>21 MS. HINKLE: Objection to form.</p> <p>22 A. I don't think -- I don't think</p> <p>23 we're necessarily relying on any information. I</p> <p>24 mean, can you kind of clarify your question as</p> <p>25 to what part of the ordinance you're speaking</p>	220	<p>1 that's my gender identify, biological or not</p> <p>2 that's what I identify as.</p> <p>3 Q. Absolutely. I understand that.</p> <p>4 But that section doesn't prohibit discriminatory</p> <p>5 signs that do not discriminate on the basis of</p> <p>6 gender identity, but do discriminate on the</p> <p>7 basis of sex?</p> <p>8 A. I guess if the facts and evidence</p> <p>9 support it, then quite possibly, yes.</p> <p>10 Q. Let me show you another</p> <p>11 interrogatory -- well, one document. And this</p> <p>12 time it's Number 15.</p> <p>13 A. You're still referring to the first</p> <p>14 set of interrogatories?</p> <p>15 Q. I am. Go to Page -- Page 15.</p> <p>16 A. Okay.</p> <p>17 Q. Okay. This interrogatory asks</p> <p>18 for -- included it asks for alternatives that</p> <p>19 Metro considered instead of regulating</p> <p>20 Chelsey Nelson Photography. What alternative</p> <p>21 means did Metro consider?</p> <p>22 MS. HINKLE: Objection to form.</p> <p>23 A. I mean, the legislative history</p> <p>24 shows a history of debate around this -- around</p> <p>25 this issue, which concluded in the existing</p>

221	<p>1 ordinance as you see today. 2 BY MR. SCRUGGS: 3 Q. Do you know where in the 4 legislative history it talks about alternatives 5 to passing the ordinance? 6 A. No. No, I do not. 7 Q. Do you know, for example, if Metro 8 considered a voluntary certification program 9 instead of passing this ordinance? 10 MS. HINKLE: Objection to form. 11 A. Voluntary certification to 12 discriminate? 13 BY MR. SCRUGGS: 14 Q. No. A voluntary certification 15 program to provide services regardless of 16 protected classification. 17 A. I'm not aware of any such programs. 18 Q. So do you know if Metro considered 19 those programs? 20 A. I do not know. 21 Q. Did Metro consider -- we looked at 22 how the statute didn't regulate photography -- 23 photography studios with respect to sex. Did 24 Metro ever consider not regulating photography 25 studios with respect to sexual orientation?</p>	223	<p>1 THE COURT REPORTER: Back on the 2 record. 3 * * * 4 CONTINUED EXAMINATION 5 BY MR. SCRUGGS: 6 Q. All right. Mr. Boyd, let me show 7 you, again, your interrogatory responses. 8 A. Is that what we're going back to, 9 Interrogatory Number 1? 10 Q. Number 12, again. All right. 11 Again, this is asking for material facts that 12 support the Metro's interest. 13 Mr. Boyd, are you aware of -- is 14 Metro aware of any facts regarding allegations 15 of discrimination by photography studios that it 16 is relying on? 17 A. For any sort of discrimination? 18 Q. For any sort of discrimination. 19 A. Not by photography -- not by 20 photography studios, no. 21 Q. What about videography studios? 22 A. No. 23 Q. Or bakers? 24 A. Just the case out in Colorado.</p>
222	<p>1 A. I do not know that. 2 Q. Got it. Let's see here. Now, the 3 injunction in this lawsuit has been in place 4 for, I think, roughly about a year. Since that 5 injunction went into place, has Metro seen an 6 increase in complaints on the basis of 7 discrimination? 8 MS. HINKLE: Objection to form. 9 A. I would have to do a comparison of 10 number of complaints received this -- during 11 this period as compared to prior to the 12 injunction that was put in place. 13 BY MR. SCRUGGS: 14 Q. So you don't know? 15 A. No. 16 MR. SCRUGGS: Let me take another 17 10-minute break, and then we can come back and 18 go for some more. All right? 19 THE COURT REPORTER: We're off the 20 record. 21 * * * 22 (Off the record.) 23 * * * 24 25</p>	224	<p>1 Q. Got it. But in -- in the 2 Louisville area? 3 A. Not that I'm aware of, no. 4 Q. Or florists? 5 A. Did you say florists? 6 Q. Florists. 7 A. Not that I'm aware of, no. 8 Q. Let me -- let's see here. Let me 9 show you the 30(b)(6) notice again. I'll share 10 that with you. 11 A. Which page are we on? 12 Q. We're on Page 7 of the notice, on 13 Topic 13. 14 A. It appears that these are cases 15 that were pulled out of prior annual reports, 16 which I think we referred to earlier in the 17 deposition that involved groups like Lexington 18 Fair Housing Council and the Human Relations 19 Commission and other groups brought against 20 other respondents. 21 Q. Okay. What did you do to prepare 22 for that topic? 23 A. Well, as I indicated earlier, when 24 I did the 2020 affidavit, the 2012 and 2014 25 cases, I had reviewed once we were able to</p>

229	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	231	1 will go off. 2 3 4 * * * 5 (Witness Excused.) 6 * * * 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
230	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	232	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 19 WITNESS MY SIGNATURE this 26th day of 20 May, 2021. 21 My commission expires July 21, 2022. 22 23 /s/ Jessica T. Ross 24 JESSICA TAYLOR ROSS 25 Court Reporter Notary Public, State At Large Notary ID 602031 PG/lt

**COMPLAINT OF DISCRIMINATION**

**MAIL OR DELIVER TO:**

Louisville Metro Human  
Relations Commission  
745 West Main Street, Suite 251  
Louisville, KY 40202

**PLEASE RESPOND TO THIS COMPLAINT**

---

NAME

TELEPHONE NUMBER

---

STREET ADDRESS

CITY

STATE

ZIP CODE

---

WAS THE DISCRIMINATION IN . . . (CHECK ONE)

- Employment     Housing     Public Accommodations     Hate Crimes

BECAUSE OF . . . (CHECK ONE)

- Race     Age     National Origin     Sexual Orientation     Gender Identity  
 Sex     Handicap     Retaliation     Religion     Other
- 

Who discriminated against you? Give name and address of employer, labor organization, employment agency, apprenticeship committee, licensing agency, public accommodation, real estate broker or lender or apartment manager.

LIST ALL:

NAME

TELEPHONE NUMBER

---

STREET ADDRESS

CITY

STATE

ZIP CODE

---

AND (OTHER PARTIES, IF ANY)

---

THE ACTUAL DATE OF THE MOST RECENT  
DATE OF ALLEGED DISCRIMINATION:

MONTH

DAY

YEAR

**LOUISVILLE METRO  
HUMAN RELATIONS COMMISSION**

**COMPLAINT OF DISCRIMINATION**

---

EXPLANATION OF YOUR COMPLAINT

The Complainant believes these actions are because of (state basis), which is in violation of Louisville Metro Amended Ordinance, No. 193, Series 2004.

---

I SWEAR OR AFFIRM THAT I HAVE READ THE ABOVE CHARGE OF ALLEGED DISCRIMINATION AND THAT IT IS TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

\_\_\_\_\_  
SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

MY COMMISSION EXPIRES ON \_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC



This is an official Louisville Metro Government Form

# Louisville Metro Human Relations Commission

## General Discrimination Complaint Form

The Human Relations Commission uses this form to gather basic information about your complaint of discrimination. Upon submitting this form, an Intake Officer will call to interview you further about your experience in order to initiate your formal complaint for processing. If we are unable to take your complaint, we will provide you with referrals to the agencies best suited to your needs.

Name \*

First

Last

Phone Number \*

 -  - 

###

###

####

Email Address

Type of Discrimination: \*

- Housing Discrimination
- Employment Discrimination
- Public Accommodation/Disability Discrimination
- Hate Crime

Based on which Protected Class \*

- Color
- Disability
- Familial Status
- Gender Identity
- National Origin
- Race
- Religion
- Sex
- Sexual Orientation
- Age (Employment only, 40+)

When did the most recent event occur? \*

 /  / 

MM

DD

YYYY

CNP MSJ 00779

What happened? \*

Describe what happened most recently.

Where did the event happen? \*

Street Address

Address Line 2

City

Postal / Zip Code

State / Province / Region

Country

Who caused the harm? \*

Enter the name and contact information of the person who caused the harm, to the best of your knowledge.

Desired outcome:

How would you like to see the harm resolved?

Best time to reach you:

- Morning
- Afternoon

Submit

# Louisville Metro Human Relations Commission

## Public Accommodation Intake Questionnaire

Date of Inquiry:			
Walk In <input type="checkbox"/>	Telephone <input type="checkbox"/>	Referral <input type="checkbox"/>	
Statute of Limitations (action must have occurred within 180 days)			
Date of Recent Action:			
Filing			
Local <input type="checkbox"/>	Federal <input type="checkbox"/>	EEOC Only <input type="checkbox"/>	
Complainant Information			
Name:			
Address:			
City:	State:	Zip Code:	
Phone:	Home:	Cell:	
Email:			
Protected Class			
<input type="checkbox"/> Color			
<input type="checkbox"/> Disability	Mental <input type="checkbox"/>	Physical <input type="checkbox"/>	Name of disability:
<input type="checkbox"/> Gender Identity			
<input type="checkbox"/> Housing			
<input type="checkbox"/> National Origin	Declared National Origin:		
<input type="checkbox"/> Race	Declared Race:		
<input type="checkbox"/> Religion	Declared Religion:		
<input type="checkbox"/> Sex			
<input type="checkbox"/> Sexual Orientation			
Harm			
Denial of Goods <input type="checkbox"/>			
Denial of Services <input type="checkbox"/>			
Denial of Facilities <input type="checkbox"/>			
Denial of Privileges <input type="checkbox"/>			
Denial of Advantages <input type="checkbox"/>			
Denial of Accommodations <input type="checkbox"/>			
Respondent Information			
<b>Respondent #1</b>			
Name:			
Address:			
City:	State:	Zip Code:	
Type of Business: What was denied:			
<b>Respondent #2</b>			
Name:			
Address:			
City:	State:	Zip Code:	
Agency Contact	<input type="checkbox"/> Yes	<input type="checkbox"/> No	



**LOUISVILLE METRO HUMAN RELATIONS COMMISSION**

***ADVOCACY BOARD MEETING***

**OFFICIAL CALL AND AGENDA**

**Tuesday, June 9, 2020**

**9:00 A.M.**

- **ROLL CALL**
- **MINUTES**
  - ◇ **March 2020**
- **EXECUTIVE DIRECTOR'S REPORT**
- **COMMITTEE REPORTS**
- **PROTEST/POLICE TACTICS STATEMENT**
- **POLICE CHIEF'S STATEMENT &  
CITIZENS REVIEW WORK GROUP**
- **OLD BUSINESS**
- **NEW BUSINESS**
- **ADJOURNMENT**

**MISSION**

of the Louisville Metro Human Relations Commission is to promote unity, understanding and equal opportunity among all people of Metro Louisville and to eliminate all forms of bigotry, bias and hatred from the community.

**LOUISVILLE METRO HUMAN RELATIONS COMMISSION**

**ADVOCAC MEETING MINUTES**

**March 2, 2020**

The advocacy board meeting of the Louisville Metro Human Relations Commission was held Monday, March 2, 2020, at 9:00 a.m. at the Louisville Metro Human Relations Commission.

**CALL TO ORDER**

Commissioner Chair Reginald Lass called the meeting to order at 9:00 a.m.

**ROLL CALL**

**PRESENT:** Commissioners David Ilgood (*phone*), Reginald Lass (*phone*), Angelica Matos (*phone*), and Iyiragira, Endolyn Earce (*phone*), Heather Williams (*phone*), and Ann Wilson.

**ABSENT:** Commissioners Victor Ddie (*excused*), Olivia Leit, and R. Thuratterson (*excused*).

**MINUTES**

Commissioner David Ilgood moved to accept the February minutes as presented, Commissioner Ann Wilson seconded. Motion passed with none opposed or abstained.

**EXECUTIVE DIRECTOR'S REPORT – Kendall Boyd**

- Chief of Equity Kellie Watson Chief Kellie Watson has been nominated as a candidate for the position of Mayor in the upcoming election. You can vote for her at <https://www.todaysomanno.com>. Voting is open until March 31st. You can vote once each day up through the date the polls are closed, March 31st. She is listed in the Political category.
- Chelsey Nelson Photography LLC, and Chelsey Nelson Lawsuit The Department of Justice is weighing in on the lawsuit and has filed a statement of interest in federal court. Kendall communicated that he does not know the Department of Justice's interest at this time. He noted that he has given some affidavits on behalf of the Commission to the County Attorney who is representing us. He also communicated that if the Board has a specific question, they can contact the County Attorney's office.
- Scooter's Triple B's Facebook Posting of "No Transgender Restroom" Kendall communicated the posting was on the bar's Facebook page several weeks ago which indicated that they do not offer transgender restrooms. Kendall noted that he talked with the Enforcement Chair and a formal complaint was signed against the bar. The owners of the bar has thirty days to respond. Kendall said that he has not heard anything, however, they did take down the transgender Facebook posting.
- Louisville Metro Human Resources New Director Mrs. Bernestine Booth Henry has been appointed as the Director of Human Resources, she has worked in HR since 2015. So that Mrs. Booth Henry is in the director's role, Ms. Watson will have more time to focus on the energy project and bias training.
- Staffing We will have two administrative assistant/secretaries start this week, one today and the other tomorrow.
- HUD Fair Housing Training Fern Oatley has completed HUD training and is now certified.
- Jewish Federation of Louisville Trip to Israel There were constructive conversations and events during the trip which we will continue to build upon.



CNP MSJ 00785

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, et al.,**

**Defendants.**

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**Case No. 3:19-cv-851-BJB-CHL**

**DEFENDANTS' OBJECTIONS AND RESPONSES TO  
PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Defendants Louisville/Jefferson County Metro Government, Louisville Metro Human Relations Commission – Enforcement, Louisville Metro Human Relations Commission – Advocacy, Kendall Boyd, in his official capacity as (former) Executive Director of the HRC, Marie Dever, Kevin Delahanty, Charles Lanier, Sr., Laila Ramey (former member), William Sutter, Ibrahim Syed, and Leonard Thomas, in their official capacities as members of the Louisville Metro Human Relations Commission-Enforcement (collectively, “Defendants”), by counsel, pursuant to Federal Rules of Civil Procedure 26 and 33, hereby provide their objections and answers to the First Set of Interrogatories served by the Plaintiffs Chelsey Nelson Photography LLC and Chelsey Nelson (collectively, “Plaintiffs” or “Chelsey Nelson”), as follows:

**DEFINITIONS USED HEREIN**

1. The term “Commission” refers to the Louisville Metro Human Relations Commission or its authorized representative. As the context requires, “Commission” may refer to

2. Do you contend that Chelsey Nelson Photography LLC must offer the exact same terms as set forth in its Wedding Celebration Services Agreement (attached as Exhibit 1) under the heading “Services, Products, Schedule and Storage” to those requesting photography services for same-sex weddings as for those requesting photography services for opposite-sex weddings? If so, identify the basis for your response. If not, identify the basis for your response, and which terms Chelsey Nelson Photography LLC may decline to offer in response to requests for same-sex engagement or wedding photographs even when she offers those same services for opposite-sex weddings.

**Answer:**

Chelsey Nelson Photography LLC must offer the services set forth on Exhibit 1 on the exact same terms and conditions for both same-sex weddings and opposite-sex weddings. The basis for this response is that the refusal to offer the same terms and conditions to both same-sex and opposite-sex couples would violate the Public Accommodations Provision of the Metro Ordinance.

3. Do you contend that Chelsey Nelson Photography LLC must offer the exact same terms as set forth in its Boutique Editing Services Agreement (attached as Exhibit 2) under the heading “Services, Products, Schedule and Storage” to those requesting editing services for same-sex weddings as for those requesting editing services for opposite-sex weddings? If so, identify the basis for your response. If not, identify the basis for your response, and which terms Chelsey Nelson Photography LLC may decline to offer in response to requests for editing same-sex wedding photographs.

**Answer:**

Chelsey Nelson Photography LLC must offer the services set forth on Exhibit 2 on the exact same terms and conditions for both same-sex weddings and opposite-sex weddings. The basis for this response is that the refusal to offer the same terms and conditions to both same-sex and opposite-sex couples would violate the Public Accommodations Provision of the Metro Ordinance.

4. Do you contend that Chelsey Nelson Photography LLC and Chelsey Nelson may not decline to attend or participate in a same-sex wedding ceremony with prayers and a pronouncement of the marriage if they would attend or participate in an opposite-sex wedding ceremony with prayers and a pronouncement of the marriage? Identify the basis for your response.

**Objection/Answer:**

position is that Louisville Metro's interest in prohibiting discrimination on grounds sexual orientation is as compelling and as important as the interest in prohibiting discrimination on the basis of race. *See* Transcript, p. 68 ("I don't think there's any principle[d] basis to distinguish how compelling is the state interest in rooting out invidious racial discrimination versus evaluating how compelling is a state or local government's interest in eradicating invidious discrimination against sexual orientation.").

12. Do you contend that you have a compelling interest in requiring Chelsey Nelson Photography LLC and Chelsey Nelson to provide paid photography services for same-sex weddings if she provides paid photography services for opposite-sex weddings? If so, state all material facts that support your contention.

**Answer:**

Yes. Governments have a compelling state interest in rooting out all forms of discrimination that create social strife, cause humiliation, and produce economic inefficiency. Louisville Metro and its predecessor entities adopted the ordinance to address invidious discrimination against LGBTQ people. Pursuant to Fed. R. Civ. P. 33(d), Defendants refer to the Declaration of Policy in the Metro Ordinance (§ 92.01) and documents Bates stamped LOU METRO 00001-1166.

13. Do you contend that you have a compelling interest in requiring Chelsey Nelson Photography LLC and Chelsey Nelson to provide paid editing services for photographers photographing same-sex weddings if she provides paid editing services for photographers photographing opposite-sex weddings? If so, state all material facts that support your contention.

**Answer:**

*See* Answer to Interrogatory No. 12.

14. Do you contend that you have a compelling interest in requiring Chelsey Nelson Photography LLC and Chelsey Nelson to write blogs celebrating same-sex weddings as part of her paid photography services if she writes blogs celebrating opposite-sex weddings as part of her paid photography services? If so, state all material facts that support your contention.

**Objection/Answer:**

Defendants object to this Interrogatory on the grounds that the phrase “blogs celebrating opposite-sex weddings” is conclusory and argumentative. Defendants also object as this interrogatory seeks information regarding a hypothetical situation and therefore seeks irrelevant information not likely to lead to the discovery of admissible evidence. Notwithstanding these objections and subject thereto, the Public Accommodations Provision requires Plaintiffs to provide the same services to same-sex and opposite-sex couples. The Public Accommodations Provision does not dictate the content of Plaintiffs’ blogs. Subject to these objections and qualifications, Defendants refer to the Answer to Interrogatory No. 12.

15. Do you contend that the least restrictive means to achieve any government interest is to require Chelsey Nelson Photography LLC and Chelsey Nelson to provide paid photography services for same-sex weddings when she already provides paid photography services for opposite-sex weddings? If so, identify all material facts that support your contention, including all other alternative means you considered, when you considered those alternative means, and why you concluded those alternative means were ineffective.

**Answer:**

Yes. The Metro Ordinance cannot accomplish its important and compelling purpose of preventing discrimination if a significant segment of the population is permitted to discriminate on grounds of a sincere religious belief.

16. Do you contend that the least restrictive means to achieve any government interest is to require Chelsey Nelson Photography LLC and Chelsey Nelson to provide paid editing services for photographers photographing same-sex weddings when she already provides paid editing services for photographers photographing opposite-sex weddings? If so, identify all material facts that support your contention, including all other alternative means you considered, when you considered those alternative means, and why you concluded those alternative means were ineffective.

**Answer:**

*See Answer to Interrogatory No. 15.*

17. Do you contend that the least restrictive means to achieve any government interest is to require Chelsey Nelson Photography LLC and Chelsey Nelson to write blogs celebrating same-sex weddings as part of her paid photography services when she already writes blogs celebrating opposite-sex weddings as part of her paid photography services? If so, identify all material facts that support your contention, including all other alternative means you considered, when you considered those alternative means, and why you concluded those alternative means were ineffective.

**Answer:**

*See Answer to Interrogatory No. 15.*

Respectfully submitted,

MIKE O'CONNELL  
JEFFERSON COUNTY ATTORNEY

/s/ David S. Kaplan  
John F. Carroll  
Jason D. Fowler  
Assistant Jefferson County Attorneys  
531 Court Place, Ste. 900  
Louisville, Kentucky 40202  
(502) 574-6321  
[john.carroll2@louisvilleky.gov](mailto:john.carroll2@louisvilleky.gov)  
[jason.fowler@louisvilleky.gov](mailto:jason.fowler@louisvilleky.gov)

David S. Kaplan  
Casey L. Hinkle  
KAPLAN JOHNSON ABATE & BIRD LLP  
710 W. Main Street, 4<sup>th</sup> Floor  
Louisville, KY 40202  
(502)-416-1630  
[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)  
[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)

*Counsel for Defendants*

**VERIFICATION**

I, Kendall Boyd, believe, based on a reasonable inquiry, that the foregoing answers to interrogatories are true and correct to the best of my knowledge, information and belief but not necessarily fully of my own knowledge and so verify under penalty of perjury.

January 25, 2021

/s/ Kendall Boyd  
Kendall Boyd

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, et al.,

Defendants.

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Case No. 3:19-cv-851-BJB-CHL

**DEFENDANTS' RESPONSES TO  
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS**

Defendants Louisville/Jefferson County Metro Government, Louisville Metro Human Relations Commission – Enforcement, Louisville Metro Human Relations Commission – Advocacy, Kendall Boyd, in his official capacity as (former) Executive Director of the HRC, Marie Dever, Kevin Delahanty, Charles Lanier, Sr., Laila Ramey (former member), William Sutter, Ibrahim Syed, and Leonard Thomas, in their official capacities as members of the Louisville Metro Human Relations Commission-Enforcement (collectively, “Defendants”), by counsel, pursuant to Federal Rule of Civil Procedure 26 and 36, for their objections and responses to the First Set of Requests for Admissions served by Plaintiffs Chelsey Nelson Photography LLC and Chelsey Nelson (collectively, “Plaintiffs” or “Chelsey Nelson”), state as follows:

**GENERAL OBJECTIONS**

1. Defendants object to Plaintiffs’ First Set of Requests for Admissions as needlessly and unreasonably duplicative and therefore unduly burdensome and harassing.
2. Defendants object to the requests as abusive for utilizing a discovery tool intended

color, religion, national origin, disability, sexual orientation or gender identity.

Request for Admission No. 25: Please admit or deny whether, according to you, Chelsey Nelson Photography LLC violates Metro Ordinance § 92.05(B) by maintaining the policy described in § 2.3(e) of its operating agreement attached as Exhibit 7.

Objection/Response: Defendants object that the use of “maintaining” is too vague and ambiguous to allow Defendants to admit or deny this request. Defendants further object to the extent it seeks a legal conclusion based on hypothetical facts unrelated to the facts of this case. Subject to these objections, Defendants further respond that Metro Ordinance § 92.05(B) does not regulate the content of Chelsey Nelson Photography LLC’s operating agreement. Metro Ordinance § 92.05(B) prohibits Chelsey Nelson Photography LLC from directly or indirectly publishing, circulating, issuing, displaying, mailing, or publishing a written, printed, oral or visual communication, notice, or advertisement, which indicates that Chelsey Nelson Photography LLC’s goods and services will be refused, withheld, or denied an individual on account of his/her race, color, religion, national origin, disability, sexual orientation or gender identity.

Request for Admission No. 26: Please admit or deny whether, according to you, Chelsey Nelson Photography LLC violates Metro Ordinance § 92.05(A) if it maintains a policy and practice of photographing opposite-sex weddings, not same-sex weddings.

Objection/Response: Defendants object that the use of “maintains a policy” is too vague and ambiguous to allow Defendants to admit or deny that part of this request. Subject to that objection, Defendants further respond that Metro Ordinance § 92.05(A) does not regulate the content of Chelsey Nelson Photography LLC’s policies. Metro Ordinance § 92.05(A) prohibits Chelsey Nelson Photography LLC from denying an individual the full and equal enjoyment of Chelsey Nelson Photography LLC’s goods and services on the ground of race, color, religion,

national origin, disability, sexual orientation or gender identity. Notwithstanding these objections and subject thereto, admit with respect to “practice.”

Request for Admission No. 27: Please admit or deny whether, according to you, Chelsey Nelson Photography LLC violates Metro Ordinance § 92.05(B) if it maintains a policy and practice of photographing opposite-sex weddings, not same-sex weddings.

Objection/Response: Defendants object that this request presents an incomplete hypothetical that makes it impossible to apply Metro Ordinance § 92.05(B). Defendants restate their general objection and citation to legal authority with respect to hypothetical requests for admission. Subject to these objections, Defendants further respond that Metro Ordinance § 92.05(B) prohibits Chelsey Nelson Photography LLC from directly or indirectly publishing, circulating, issuing, displaying, mailing, or publishing a written, printed, oral or visual communication, notice, or advertisement, which indicates that Chelsey Nelson Photography LLC’s goods and services will be refused, withheld, or denied an individual on account of his/her race, color, religion, national origin, disability, sexual orientation or gender identity.

Request for Admission No. 28: Please admit or deny whether, according to you, Chelsey Nelson Photography LLC violates Metro Ordinance § 92.05(A) if it maintains a policy and practice of editing photographs of opposite-sex weddings, not same-sex weddings.

Objection/Response: Defendants object that the use of “maintains a policy” is too vague and ambiguous to allow Defendants to admit or deny that part of this request. Subject to that objection, Defendants further respond that Metro Ordinance § 92.05(A) does not regulate the content of Chelsey Nelson Photography LLC’s policies. Metro Ordinance § 92.05(A) prohibits Chelsey Nelson Photography LLC from denying an individual the full and equal enjoyment of Chelsey Nelson Photography LLC’s goods and services on the ground of race, color, religion,

information, or belief after reasonable inquiry to admit or deny this request.

Request for Admission No. 56: Please admit or deny whether, according to you, a place of public accommodation supplying paid photography services to the general public violates Metro Ordinance Metro Ordinance § 92.05(A) if it provides the same photography services for opposite-sex and same-sex weddings.

Response: Deny.

Request for Admission No. 57: Please admit or deny whether, according to you, a place of public accommodation supplying paid photography editing services to the general public violates Metro Ordinance Metro Ordinance § 92.05(A) if it provides the same photography editing services for opposite-sex and same-sex weddings.

Response: Deny.

Request for Admission No. 58: Please admit or deny whether, according to you, a place of public accommodation supplying blogging services as part of its paid photography services to the general public violates Metro Ordinance Metro Ordinance § 92.05(A) if it provides the same blogging services for opposite-sex and same-sex weddings as part of its paid photography services.

Response: Deny.

Respectfully submitted,

MIKE O'CONNELL  
JEFFERSON COUNTY ATTORNEY

/s/ Casey L. Hinkle  
John F. Carroll  
Jason D. Fowler  
Assistant Jefferson County Attorneys  
531 Court Place, Ste. 900  
Louisville, Kentucky 40202  
(502) 574-6321  
[john.carroll2@louisvilleky.gov](mailto:john.carroll2@louisvilleky.gov)  
[jason.fowler@louisvilleky.gov](mailto:jason.fowler@louisvilleky.gov)

David S. Kaplan  
Casey L. Hinkle  
KAPLAN JOHNSON ABATE & BIRD LLP  
710 W. Main Street, 4<sup>th</sup> Floor  
Louisville, KY 40202  
(502)-416-1630  
[dkaplan@kaplanjohnsonlaw.com](mailto:dkaplan@kaplanjohnsonlaw.com)  
[chinkle@kaplanjohnsonlaw.com](mailto:chinkle@kaplanjohnsonlaw.com)

*Counsel for Defendants*



## 3. The Need for Anti-Discrimination Legislation

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### 3.1 Summary

### 3.2 Why a Legal Remedy is Needed: Two Local Cases **Anti-Gay Cases Rejected by the Courts.**

### 3.3 Can I Get a Witness: Victims of Discrimination Testify **A summary of sexual orientation discrimination as presented at a Listening hosted by the National Conference, September 3, 1997.**

### 3.4 Discrimination in the News **Newspaper Accounts of Sexual Orientation and Gender Identity Discrimination.**

### 3.5 Years of Discrimination **A Summary of Discrimination Cases Reported to the Fairness Campaign.**

### 3.6 The Call for Fairness ***The Courier-Journal*, Jesse Jackson and Martha Barnette: Some Editorials for Fairness.**

### 3.7 The Fairness Experience in Other Communities ***All Politics Is Local: Analyzing Local Gay Rights Legislation*, Kenneth D. Wald, James W. Button and Barbara A. Rienzo, The National Gay and Lesbian Task Force Policy Institute, 1997.**

Fairness Campaign												
Statistics of Discrimination Reports Based on Sexual Orientation & Gender Identity												
1990 - February 1999												
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total	
Employment	2	4	2	4	10	6	10	18	11	3	70	
Housing			2	1		1	1	4			9	
Public Accommodations					2	3	1	1	3	2	12	
Hate Crimes			2	5	9	2	7	8	15	1	49	
<b>Total</b>	<b>2</b>	<b>4</b>	<b>6</b>	<b>10</b>	<b>21</b>	<b>12</b>	<b>19</b>	<b>31</b>	<b>29</b>	<b>6</b>	<b>140</b>	

and his driving time - all things he never mentioned previously. A scale operator accused him of having a radar detector. Although this accusation was unfounded, it cost the victim 2 days work. When he accidentally dropped a lift and damaged it, the boss used the false accusation as a basis to fire him.

**E98010**

**Custodial Worker Denied Overtime Opportunity**

Patti had worked at a local package delivery service for several years as a custodian. She was under a doctors care for sex reassignment surgery and management was aware of her situation. Patti had previously been assigned to use a specific bathroom with a locked door after receiving threats not to use the women's restroom. Overtime was being offered to all of the employees. Patti wanted to take advantage of the opportunity. Her supervisor informed her however that since "her bathroom" was located in one part of the building and they couldn't guarantee her overtime hours in that area, she would not be allowed to work overtime.

**E98011**

**Lesbian Treated With Bias, Resigned Her Position**

"Mary" worked as a supervisor at UPS and was out to her co-workers as a lesbian. She began dating a woman that worked in her department which is against company policy. She knew, however, of many male supervisors who dated women in their departments and were never reprimanded for it.

**Public Accommodations**

**PA98001**

**Transsexual Denied Personal Ad**

A male to female transsexual called to report that the LEO personals would not accept her ad if the word transsexual was used. She had to use an alternative word.

**PA98002**

**Transsexual Student Denied Access To Bathroom**

After attending 1/4 of a semester, Angela was told by the night student advisor at a local business college that she'd have to use the men's room. Angela explained her need as a pre-operative transsexual to live as a woman and sought a meeting with the Dean to discuss the situation. The Dean provided a separate bathroom that was 10 minutes away from the classrooms. Angela asked for a backup restroom closer to classes and was refused. She dropped out of school with a 4.0 GPA.

**PA98003**

**Disabled Lesbian Refused Transportation**

Sapphire had been using the same disabled transportation service for 5 years. As a student at U of L she came out as a lesbian and began wearing t-shirts and buttons expressing "gay pride". The drivers began asking questions like, "Are you ever getting married?" Sapphire complained to the management when one of the drivers groped her, but he said he could not avoid sending the driver. Sapphire scheduled her new semester schedule 2 months ahead of time to accommodate the transportation company. They called and said they had a new contract that precluded them transporting her in afternoon hours. The owner avoided the question when she asked what contract he was referring to. He referred her to another transportation company and said they would not be able to transport her. Sapphire asked a friend who lives in the same area and goes to U of L also to call and schedule an afternoon appointment. When he called, they scheduled him immediately.

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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, PLAINTIFFS  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	1 APPEARANCES 2 3 COUNSEL FOR PLAINTIFFS: 4 Jonathan A Scruggs, Esq , AZ Bar No 030505 5 Bryan D Neihart, Esq , AZ Bar No 035937 6 Hailey Vrdolyak, Esq 7 (Via Zoom videoconference) 8 ALLIANCE DEFENDING FREEDOM 9 15100 N 90th Street 10 Scottsdale, Arizona 85260 11 Telephone: (480)444-0020 12 Email: jscruggs@adfllegal.org 13 bneihart@adfllegal.org 14 15 COUNSEL FOR DEFENDANT, LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT: 16 17 Casey L Hinkle, Esq 18 David Kaplan, Esq 19 (Via Zoom videoconference) 20 KAPLAN JOHNSON ABATE AND BIRD, LLP 21 710 W Main Street, 4th Floor 22 Louisville, Kentucky 40202 23 Telephone: (502) 416-1630 24 Email: chinkle@kaplanjohnsonlaw.com 25 dkaplan@kaplanjohnsonlaw.com
2	4
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 KENDALL BOYD 16 MAY 26, 2021 17 18 19 20 21 22 23 24 25	1 2 APPEARANCES 3 4 COUNSEL FOR DEFENDANT, LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT: 5 6 Jason D Fowler, Esq 7 John Carroll, Esq 8 (Via Zoom videoconference) 9 ASSISTANT JEFFERSON COUNTY ATTORNEYS 10 531 Court Place, Suite 900 11 Louisville, Kentucky 40202 12 Telephone: (502)574-6321 13 Email: jason.fowler@louisvilleky.gov 14 john.carroll2@louisvilleky.gov 15 16 17 18 19 20 21 22 23 24 25

5	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: right;">PAGE</p> <p>5</p> <p>6 Color picture of deponent 2</p> <p>7 Appearances 3</p> <p>8 Index 5</p> <p>9 Exhibits 6</p> <p>10 Stipulations 7</p> <p>11 Introduction 8</p> <p>12 Examination by Mr. Neihart 10</p> <p>13 Examination by Mr. Carroll 157</p> <p>14 Examination by Mr. Neihart 160</p> <p>15</p> <p>16 Court Reporter's Certificate 162</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	7	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">S T I P U L A T I O N S</p> <p>5</p> <p>6 The remote deposition of KENDALL BOYD,</p> <p>7 was taken pursuant to Notice via Zoom</p> <p>8 videoconference, on Wednesday, May 26, 2021;</p> <p>9 said deposition to be used in accordance with</p> <p>10 the Federal Rules of Civil Procedure.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: right;">PAGE</p> <p>5</p> <p>6 Exhibit 1 13</p> <p>7 (Resume)</p> <p>8 Exhibit 2 75</p> <p>9 (Conciliation Agreement example)</p> <p>10 Exhibit 3 116</p> <p>11 (Fairness Campaign documents)</p> <p>12 Exhibit 4 117</p> <p>13 (Sign)</p> <p>14 Exhibit 5 136</p> <p>15 (Interrogatory Responses)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	8	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">I N T R O D U C T I O N</p> <p>5</p> <p>6 THE COURT REPORTER: Okay. We're</p> <p>7 on the record. My name is Jessie Ross, the</p> <p>8 court reporter. I'm reporting remotely today</p> <p>9 from Louisville, Kentucky via Zoom</p> <p>10 videoconference.</p> <p>11 Counsel, please state your name and</p> <p>12 whom you represent, and let us know who else is</p> <p>13 present with you.</p> <p>14 MR. NEIHART: Good morning. My</p> <p>15 name is Bryan Neihart. I'm appearing on behalf</p> <p>16 of the plaintiff, Chelsey Nelson Photography,</p> <p>17 LLC and Chelsey Nelson. Here in the room with</p> <p>18 me is Jonathan Scruggs and joining by Zoom video</p> <p>19 is Hailey Vrdolyak.</p> <p>20 MS. HINKLE: Good morning. This is</p> <p>21 Casey Hinkle on behalf of the defendants. In</p> <p>22 the room with me is John Carroll, and I believe</p> <p>23 Jason Fowler is joining by Zoom video.</p> <p>24 THE COURT REPORTER: I'll now ask</p> <p>25 the witness, can you please state your full name</p> <p>for the record?</p> <p>THE WITNESS: Yes. Kendall,</p>

<p style="text-align: right;">65</p> <p>1 the complaint, and why are they seeking remedy</p> <p>2 in our office because again, the ordinance</p> <p>3 requires claiming to be aggrieved by unlawful</p> <p>4 discrimination.</p> <p>5 Q. And so if the organization itself</p> <p>6 is claiming to be aggrieved, how would you</p> <p>7 handle that situation?</p> <p>8 A. Same answer again. Who in the</p> <p>9 organization was aggrieved by the unlawful</p> <p>10 discrimination because that's what we would have</p> <p>11 to demonstrate in a hearing, and that's what we</p> <p>12 have to demonstrate under the law. That someone</p> <p>13 suffered unlawful discrimination because of a</p> <p>14 protected class.</p> <p>15 Q. Okay. Now, you also mentioned that</p> <p>16 you rely on, you know, whether the act meets the</p> <p>17 definition of discrimination in the ordinance.</p> <p>18 How do you go about -- how do you go about</p> <p>19 making that determination?</p> <p>20 A. Through the investigative --</p> <p>21 through the investigative process, we have to</p> <p>22 gather specific facts and evidence to show that</p> <p>23 discrimination actually occurred pursuant to the</p> <p>24 definition in the ordinance.</p> <p>25 Q. Okay. And what definition are you</p>	<p style="text-align: right;">67</p> <p>1 Correct?</p> <p>2 That would be discrimination.</p> <p>3 Correct?</p> <p>4 A. If the sole reason for not calling</p> <p>5 them back within that particular time was</p> <p>6 because of their religious affiliation, then</p> <p>7 technically, that could meet the definition of</p> <p>8 discrimination.</p> <p>9 Q. Okay. And you said if -- if that</p> <p>10 was solely, what other factors would go into</p> <p>11 that analysis?</p> <p>12 A. Again, what was the reasoning, what</p> <p>13 is the legitimate nondiscriminatory reason why</p> <p>14 you would not have called this group back as</p> <p>15 compared to other groups. Did you run low on</p> <p>16 manpower, did you lose their phone numbers, what</p> <p>17 was the legitimate nondiscriminatory reason why</p> <p>18 you would not have called this group back as</p> <p>19 compared to this group when you had the same set</p> <p>20 of information in your hands.</p> <p>21 Q. Okay. And when you say legitimate</p> <p>22 nondiscriminatory factors, what do you mean by</p> <p>23 that?</p> <p>24 A. Well, again, legitimate</p> <p>25 nondiscriminatory reason -- like, I just gave</p>
<p style="text-align: right;">66</p> <p>1 referring to?</p> <p>2 A. I believe -- if you look at 92.02</p> <p>3 definitions, which is discrimination.</p> <p>4 Q. Okay. So then what factors do you</p> <p>5 consider -- did you consider when making that</p> <p>6 determination as to discrimination?</p> <p>7 A. What's outlined here in the</p> <p>8 definition, exclusion, restriction, segregation,</p> <p>9 limitation, refusing, denying, or any other</p> <p>10 active practice of differentiation of treatment.</p> <p>11 Q. Right. So that's -- like,</p> <p>12 differentiation or preference in treatment, how</p> <p>13 would you go about determining that?</p> <p>14 A. Well, we see two similarly situated</p> <p>15 parties, one of which meets the -- the protected</p> <p>16 class definition and is treated different than</p> <p>17 another similarly situated party because of that</p> <p>18 protected class.</p> <p>19 Q. Okay. And so that might go to like</p> <p>20 a businesses. So for example, if a -- if a</p> <p>21 business had a practice of calling everyone --</p> <p>22 all prospective customers back within 24 hours</p> <p>23 but waited a week to call back prospective</p> <p>24 customers that were of a particular religion,</p> <p>25 that would violate the ordinance.</p>	<p style="text-align: right;">68</p> <p>1 the example, maybe we lost the call list for</p> <p>2 this group but not this group. I mean, there's</p> <p>3 -- there's a ton of facts and information that</p> <p>4 have to go into making that determination.</p> <p>5 That's why we do the investigations.</p> <p>6 Q. Okay. And what are some -- what</p> <p>7 are some legitimate nondiscrimination factors</p> <p>8 that could, you know, lead you to conclude no</p> <p>9 probable cause in a certain situation?</p> <p>10 MS. HINKLE: Objection to form.</p> <p>11 MR. CARROLL: Asked and answered</p> <p>12 too. This is --</p> <p>13 A. So I mean, for example, again, this</p> <p>14 is all speculation because it depends on the --</p> <p>15 the cases that come through the door. But for</p> <p>16 example, let's say Bryan and Kendall work at a</p> <p>17 law firm. Kendall shows up late every day and</p> <p>18 has been disciplined for several times, but</p> <p>19 Bryan shows up on time, and does his work, and</p> <p>20 does everything as -- as is required.</p> <p>21 Ultimately, Kendall's terminated</p> <p>22 from that law firm for constant -- for being</p> <p>23 constantly tardy and not turning in a good work</p> <p>24 product. Kendall goes and files a</p> <p>25 discrimination complaint saying Bryan is White,</p>

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1 Kendall is Black, and he was -- he was fired  
 2 from the law firm. Well, you were fired from --  
 3 from the law firm for a legitimate,  
 4 nondiscriminatory reason. You're always tardy  
 5 and your work product was horrible, not because  
 6 you're African-American.  
 7 BY MR. NEIHART:  
 8 Q. Okay.  
 9 A. A legitimate nondiscriminatory  
 10 reason.  
 11 Q. Okay. And you mentioned also, for  
 12 example, if the -- if the -- if a public  
 13 accommodation was too busy to return the phone  
 14 call, that could be a reason not to -- that  
 15 could be a legitimate nondiscriminatory reason.  
 16 A. I didn't say the reason. I said  
 17 that would be a factor. That's not the sole  
 18 reason that would -- there would be other  
 19 factors and reasonings that would have to --  
 20 we'd have to examine in order to make that  
 21 discrimination determination. It's not just  
 22 based upon one thing or a handful of things. We  
 23 look at everything in totality based upon the  
 24 facts and evidence that we received as part of  
 25 an investigation.

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1 Q. Okay. How would you handle a  
 2 situation where, you know, someone requests a  
 3 service from a public accommodation that the  
 4 public accommodation doesn't offer to anyone?  
 5 Would that be a legitimate, nondiscriminatory  
 6 reason to refuse the service?  
 7 A. I'm not sure I understand that --  
 8 that question. That -- that's total speculation  
 9 because again, in a situation like that, we  
 10 would have to look at all the facts and  
 11 information that was presented to us. I -- I  
 12 can't speak on something that could  
 13 hypothetically happen.  
 14 Q. Okay. So let's -- how -- what  
 15 would you -- how would you handle a situation  
 16 where, you know, a same sex couple comes to a  
 17 senior -- a high school senior, you know,  
 18 photographer who takes portraits of high school  
 19 seniors exclusively.  
 20 And the photographer said, I'm  
 21 sorry, I can't photograph your same sex wedding.  
 22 Would that be a violation of the ordinance? Or  
 23 would that be a legitimate, nondiscriminatory  
 24 reason to refuse the same sex -- refuse to  
 25 photograph the same sex wedding?

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1 A. It depends.  
 2 Q. Okay. What does it depend on?  
 3 A. Again, all facts and evidence.  
 4 We'd have to look at everything that we received  
 5 from the complainant and the respondent as to  
 6 why the public accommodation was denied. If it  
 7 was based upon the protect- -- the person's  
 8 protected class, that's discrimination.  
 9 Q. And what if it was denied because  
 10 the photographer only photographs high school  
 11 senior portraits?  
 12 A. Again, I'm not going to get into  
 13 splitting hairs. That's a legal determination  
 14 that would need to be made at a hearing. If  
 15 they can prove that it was a legitimate,  
 16 nondiscriminatory reason, that's up to the fact  
 17 finder or if the parties agreed to that.  
 18 Q. Okay. But it could be a  
 19 legitimate, nondiscriminatory reason, depending  
 20 on the facts.  
 21 A. Maybe.  
 22 Q. Okay. And we kind of mentioned  
 23 this, but the -- okay, so you made -- during  
 24 your time as the executive director, you made  
 25 reasonable cause determination as to employers,

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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,

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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.

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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

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1 point.  
2 THE WITNESS: Okay. All right.  
3 Thank you.  
4 MR. NEIHART: Thank you.  
5 (Whereupon, the referred to  
6 document was marked as Exhibit 2,  
7 and is attached hereto and made a  
8 part hereof.)  
9 \* \* \*  
10 (Off the record.)  
11 \* \* \*  
12  
13 THE COURT REPORTER: We're back on  
14 the record.  
15 \* \* \*  
16 EXAMINATION  
17 BY MR. NEIHART:  
18 Q. Welcome back, Mr. Boyd. Right  
19 before we took a break, we were talking about  
20 that definition of discrimination.  
21 A. Yes.  
22 Q. Yeah, 92.02. Is that the  
23 definition that the Commission uses to determine  
24  
25

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1 whether a discriminatory act has occurred by an  
2 employer or a public accommodation?  
3 A. It's this definition. And then of  
4 course, when you go to the other parts of 92, it  
5 explains, for example, for -- like, under 92.03,  
6 unlawful -- unlawful practices in connection  
7 with housing -- if you go to 92.03(O)1, they  
8 provide additional discrimination definition as  
9 well. So it depends on, you know, the type of  
10 discrimination that's being alleged, and then  
11 there's other factors pursuant to the ordinance  
12 that we have to utilize in order to make that  
13 legal determination.  
14 Q. Okay. So, like, in 92.03, it says,  
15 you know, yeah, 92.03 (A), refuse to sell,  
16 purchase, exchange, et cetera?  
17 A. Right.  
18 Q. So that would be an additional  
19 indication of a discriminatory act in addition  
20 to kind of that definition under 92.02, right?  
21 A. Correct.  
22 Q. So, like, 92.03 basically  
23 incorporates the definition of discrimination in  
24 92.02 and then adds additional things that can  
25 -- that could also be considered discrimination,

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1 right?

2 A. Yeah, it -- it looked at -- it

3 appears to add additional factors that are

4 connected to housing as to what would give the

5 indication that discriminatory behavior is

6 occurring. So for example, affecting the sale,

7 purchase, exchange, rental, so forth and so

8 forth.

9 Q. Right. And you can tell that

10 something affects the -- let me see -- so you

11 can tell that something affects the sale, for

12 example, if a housing provider used differential

13 -- differential treatment with respect to

14 someone?

15 A. Yeah, based upon protected class,

16 yes.

17 Q. Right. And that would be imported

18 from -- that would be imported basically from

19 92.02, right?

20 A. Yeah. The discriminatory behavior

21 based upon the definition. So, like, to your

22 point, exclusion, restriction, limitation,

23 differentiation in preference and treatment,

24 yes, all of that taken in totality.

25 Q. Right. So that's kind of the --

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1 that -- 92.02 kind of provides the standard for

2 determining discrimination in those different

3 areas.

4 Is that right?

5 A. Yes. Yes. In addition to what's

6 required under the different section of the

7 ordinance, yes.

8 Q. Yeah. Okay. So we also talked

9 about the -- the Fairness Campaign. I think you

10 mentioned that the Fairness Campaign is a LGBT

11 advocacy group?

12 A. Yes. That's my understanding.

13 Q. Okay. Do you work with -- during

14 your time as the executive director, did you

15 work with the Fairness Campaign?

16 A. What do you mean by worked with?

17 Q. Did you regularly communicate with

18 them?

19 A. We had -- we had communications

20 based upon just various things that may have

21 arisen in the -- in the conduct of our

22 operations. So for example, I believe every

23 late May or June before COVID, there was the --

24 what do you call it?

25 It was, like, a parade that was

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1 here in Louisville, and the Fairness Campaign,

2 oftentimes, would call and say do any of your

3 members want to participate in the parade. I

4 think it was called a Pride parade or something

5 like that here in Louisville. It wasn't

6 mandatory or anything like that, of course.

7 If you didn't want to go, you

8 didn't have to. But since we were -- since we

9 are a human advocacy group, they would partner

10 with us on things like that. But again, HRC is

11 -- kept its activities very separate than any

12 other advocacy organization.

13 Q. Okay. And you mentioned the -- the

14 Pride parade, what types of things did the Pride

15 parade promote?

16 A. Just fairness and equity for LGBT

17 individuals and for all persons.

18 Q. Okay. And -- so they promoted

19 equity for all persons as well?

20 A. Oh, yes, absolutely.

21 Q. And did members of the Commission

22 participate in that -- that parade during your

23 time as the executive director?

24 A. Yeah, in their own capacities.

25 Again, they -- they chose to participate however

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1 they wanted to participate. For example, the

2 HRC did not have, like, a float or anything in

3 the parade, but if you wanted to walk in the

4 parade in your individual capacity, like, I

5 walked in the parade in my individual capacity.

6 Q. Okay. And when you walked in the

7 parade, were you aware of -- did you know other

8 people that were in the parade as well?

9 A. Yes. Uh-huh.

10 Q. And were some of the people that

11 marched in the parade -- I'm assuming some of

12 the people that marched in the parade were, you

13 know, members of the LGBT community?

14 A. Yes.

15 Q. And some people that march in the

16 parade might be what would be considered like an

17 ally of the LGBT community, meaning they

18 themselves might be heterosexual, might support

19 pro-LGBT causes.

20 Is that right?

21 A. Ally, or friend, or just standing

22 up for basic human rights.

23 Q. Right. So they could -- so people

24 could be in that parade that, you know, just

25 wanted to support the cause?

<p style="text-align: right;">81</p> <p>1 A. Yeah. Cause for freedom and -- and 2 equity, yes. 3 Q. Okay. Okay. So how would you 4 handle a situation as the executive director 5 where the Fairness Campaign -- well, let me 6 backup. What was the name of the parade? 7 A. Again, I think it was called the 8 Louisville Pride Parade or Kentucky Pride 9 Parade. I can't remember the exact name. It 10 was just a Pride parade. 11 Q. Okay. Was the parade -- it was 12 just that -- it was just a Pride parade, meaning 13 it wasn't a float, like a Pride float in a 14 bigger parade? 15 A. I'm sorry, repeat that again. 16 Q. Yeah. Let me ask that better. The 17 Pride parade that you're referring to, that was 18 its own independent parade. It wasn't like a 19 separate float in a different parade? 20 A. Yes. That's -- that was my 21 understanding, yes. 22 Q. Okay. Okay. So how would you 23 handle a situation where the Fairness Campaign 24 comes into a -- a T-shirt print store and asks 25 the printer to design a shirt that says,</p>	<p style="text-align: right;">83</p> <p>1 A. It depends. 2 MS. HINKLE: Objection. Form. 3 BY MR. NEIHART: 4 Q. Okay. What does it depend on? 5 A. Again, it depends on what the 6 denial was based on. Again, we have to look at 7 all the facts and information that we were 8 received. We're not going to make unilateral 9 decisions just because the person is 10 heterosexual, that they can't be the victim of 11 gender orientation or LGBT discrimination in our 12 community. 13 There are other factors that we 14 have to look into. Are you still treating this 15 person different because of their association 16 with -- with sexual orientation or did the 17 provider assume this person was LGBT, and 18 therefore, they committed discrimination against 19 this person on the basis that they thought this 20 person was LGBT. I mean, there's a whole lot of 21 factors that go into this. There's not one 22 unilateral way we make a decision around this. 23 Q. Okay. And so you mentioned that 24 the ordinance protects people who are 25 discriminated against because of their</p>
<p style="text-align: right;">82</p> <p>1 Celebrate Gay Pride, for that parade. And the 2 owner declines, how would you go about handling 3 that situation? 4 MS. HINKLE: Objection to form. 5 A. It depends. If the organizer or 6 the person who made their request came in and 7 filed a complaint, then we would investigate 8 that complaint to the determination -- if that 9 refusal meets the definition of discrimination, 10 and then, you know, see the complaint through 11 thoroughly and then attempt to adjudicate the 12 complainant. 13 BY MR. NEIHART: 14 Q. Okay. And what factors would you 15 look at to consider whether that refusal 16 violated the ordinance? 17 A. Was the refusal or denial based 18 upon a person's protected class, which I'm 19 assuming in this hypothetical you're talking 20 about sexual orientation -- an objection to 21 sexual orientation. 22 Q. Okay. What if a -- what if the 23 person on behalf of the Fairness Campaign was 24 heterosexual and asked for that shirt, would 25 that make a difference in your analysis?</p>	<p style="text-align: right;">84</p> <p>1 association with someone from a protected class? 2 A. I said, was this person 3 discriminated against because of what -- well, 4 yeah, in essence, what you said, just 5 association, but the discrimination occurred 6 because of their association with the protected 7 class and the assumption that -- that the 8 discrimination occurred because of that 9 association. You're treating two similarly 10 situated people different because of a person's 11 protected class. 12 Q. Okay. So just to be clear that if 13 -- if -- you know, if someone in this situation, 14 if -- if the -- if a heterosexual person comes 15 in and the -- and requests the shirt and is 16 denied because the T-shirt company associates 17 that heterosexual individual with the LGBT 18 community, that could be a basis for a probable 19 cause determination or at least enough to 20 initiate a complaint? 21 MS. HINKLE: Objection to form. 22 A. Yes. They can come file a 23 complaint. 24 BY MR. NEIHART: 25 Q. Okay. Okay. Now, what if the</p>

<p style="text-align: right;">85</p> <p>1 denial was based on, you know, the T-shirt owner 2 just objected to the T-shirt saying, Celebrate 3 Gay Pride? 4 A. Same ans- -- 5 MS. HINKLE: Objection to form. 6 A. -- same answer. I mean, again, 7 there's no cookie cutter approach to 8 discrimination. If you commit a discriminatory 9 act, it will be investigated by the HRC and 10 adjudicated appropriately based upon the 11 information and evidence that we received on the 12 basis of that complaint. 13 Q. Okay. And what if during the 14 course of that investigation of the complaint, 15 the investigator determined that the sole reason 16 the T-shirt printer didn't print that T-shirt 17 was because, you know, he objected to the 18 message, celebrate Gay Pride? 19 MS. HINKLE: Objection. Incomplete 20 hypothetical. 21 A. All right. Counsel noted the 22 objection, incomplete hypothetical. That's not 23 enough information to make that sole 24 determination. It's -- 25</p>	<p style="text-align: right;">87</p> <p>1 investigation happened and the sole basis, the 2 only reason for the denial was I don't want to 3 create a shirt that says, Celebrate Gay Pride. 4 How would -- how would you go about making that 5 determination? 6 A. And the same answer. I mean, if -- 7 if the sole reason is to deny someone a service 8 because of an LGBT status, that lends itself to 9 discriminatory behavior, so we would adjudicate 10 that case. 11 Q. Okay. So in -- in your mind is -- 12 is objecting to the -- the phrasing, Celebrate 13 Gay Pride, equivalent to denying someone a 14 service based on sexual orientation? 15 A. Yes. I mean, in the same way that 16 you would refuse to rent an apartment to someone 17 because they're dating a person outside of their 18 race. Same thing. 19 Q. Would an objection to the message 20 of the shirt be a legitimate nondiscriminatory 21 reason like we talked about earlier to deny the 22 service? 23 MS. HINKLE: Objection to form. 24 A. Yeah. That's going deep into the 25 weeds again. I won't answer that based upon</p>
<p style="text-align: right;">86</p> <p>1 BY MR. NEIHART: 2 Q. What other information would you 3 need? 4 A. Again, I would look at the totality 5 of the circumstances. You're -- you're 6 objecting to the print on the T-shirt because of 7 -- for whatever reason, so are you denying the 8 service? I mean, there's a whole analysis that 9 goes into it. It also brings up legal questions 10 that we would take to our county attorney as 11 well. So again, I can't answer that question 12 fully without knowing all the facts and evidence 13 that would be presented in that particular 14 situation. 15 Q. Okay. Not -- what type of legal 16 questions come to your mind when you're 17 answering that question? 18 A. Again, does the -- to your point, 19 does this person meet the protected class 20 definition as pursuant to the ordinance, did the 21 actual discrimination occur, so forth and so 22 forth. Those are the questions we would want to 23 be clear about before we're making the 24 determination. 25 Q. And let's say the -- the</p>	<p style="text-align: right;">88</p> <p>1 there had to be more evidence and facts that 2 would have to support that analysis. I can't 3 make a unilateral analysis based upon what 4 you're just saying right here, hypothetically. 5 BY MR. NEIHART: 6 Q. So you mentioned you would 7 investigate whether it was, you know, based on a 8 protected class. How would you go about making 9 that determination in this situation? 10 A. In a protected class? 11 Q. Yeah. 12 A. Again, the initial intake form has 13 the protected class information at the beginning 14 of it. The investigator would do a deeper dive 15 as to, you know, is it -- is this based on race 16 or is it based on sexual orientation, religion. 17 The investigator would get -- would gather all 18 the information that they would need to make the 19 determination as to what the protected class 20 discrimination or what the protected class is 21 and what discrimination occurred as a result of 22 that protected class status. 23 Q. Okay. And what type of information 24 could -- would the investigator need to gather 25 in that situation?</p>

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1 MS. HINKLE: Objection to form.  
 2 A. Depends on what the protected class  
 3 determination is. I mean, if you look at me,  
 4 Kendall Boyd, and I'm making an allegation of  
 5 discrimination based on race, well, Mr. Boyd  
 6 what are you? I'm an African-American male.  
 7 Therefore, that's what I'm alleging. So I mean,  
 8 it -- it's an analysis that has to be done  
 9 through the investigative process.  
 10 BY MR. NEIHART:  
 11 Q. And again, it's kind of a "because  
 12 of" inquiry. Isn't it?  
 13 A. I didn't understand your question.  
 14 Say it again, please.  
 15 Q. It's kind of, you know, was the  
 16 person denied the service because of their  
 17 protected class?  
 18 A. Right. That sort of inquiry and  
 19 that determination is made through the  
 20 investigative process.  
 21 Q. Okay. And when you're looking at  
 22 the because of, what types of things are you  
 23 looking at?  
 24 A. Again, biological makeup, you  
 25 question the complainant, you know, why do you

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1 feel that this is XYZ sort of discrimination,  
 2 those sort of questions.  
 3 Q. Okay. Would you consider the  
 4 content of the shirt in that situation as  
 5 providing a basis for a probable cause  
 6 determination?  
 7 A. It could be used as evidence, yes.  
 8 Q. And so that would -- the -- the  
 9 content of the shirt would play a factor into  
 10 your analysis?  
 11 A. Possibly, yes. Again, depending on  
 12 what the person's alleging, yes.  
 13 Q. And if the shirt said, Celebrate  
 14 Gay Pride, that would be a factor in your  
 15 analysis of -- of sexual orientation  
 16 discrimination?  
 17 A. Yes. If the refusal to print that  
 18 is because of a hatred or disdain or  
 19 discriminatory intent towards a person of LGBT  
 20 status.  
 21 Q. Okay. All right. I'm going to  
 22 share my screen here. Can you see that, the  
 23 screen? Mr. Boyd, I'll scroll down to the  
 24 bottom so you can see what I'm talking about.  
 25 Can you see the -- can you see the screen,

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1 Mr. Boyd?  
 2 A. Yes.  
 3 Q. And we talked about this yesterday.  
 4 This is the Fairness Campaign's report that we  
 5 discussed, and I'm looking specifically at  
 6 PA98001. Do you see that?  
 7 A. Yes. About the LEO personal ad?  
 8 Q. Yeah. That's right, and we talked  
 9 about that, so I won't -- a little bit, but so  
 10 let me just ask you a couple of questions on  
 11 this. So we had mentioned that -- and you had  
 12 said, I think, yesterday, that this could  
 13 potentially, you know, support a complaint or a  
 14 probable cause finding under the ordinance?  
 15 A. Essentially, yes. I'm sorry, go  
 16 ahead.  
 17 MS. HINKLE: That's all right.  
 18 A. Potentially, yes.  
 19 BY MR. NEIHART:  
 20 Q. And what factors go into that  
 21 analysis, that answer?  
 22 A. All the information that the  
 23 complainant, who in this situation appears to be  
 24 a transsexual, who is denied public  
 25 accommodation based upon the transsexual status

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1 because of the -- utilizing the word  
 2 transsexual. So we would have to do a  
 3 comprehensive analysis as did the refusal to  
 4 print end -- end up being a discriminatory  
 5 action based upon that person's protected class  
 6 of being transsexual.  
 7 Q. And we talked about yesterday that  
 8 the newspaper was -- you know, could be  
 9 considered a public accommodation if it's  
 10 offering advertisements in the back of paper,  
 11 right?  
 12 A. Yeah. I mean, I -- I'd have to go  
 13 back and look at the ordinance portion that we  
 14 were talking about under public accommodation.  
 15 Q. If the newspaper offered personal  
 16 ads in the back of its -- back of its newspaper  
 17 to the general public, would that be a public  
 18 accommodation?  
 19 A. Again, I'd have to go back and look  
 20 at the ordinance again because when we did this  
 21 portion yesterday, we were going along with the  
 22 ordinance around public accommodations, so I'd  
 23 have to refresh the public accommodations  
 24 portion of the ordinance to accurately answer  
 25 that question.

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1 Q. Okay. Well, we talked about it  
2 yesterday, so I'll skip -- skip to the next one.  
3 And so some of this -- some of these facts,  
4 these two sentences, you can determine that  
5 there is a possible violation of the ordinance.  
6 A. Possible, yeah.  
7 Q. And the -- it says that the -- she  
8 had to use an alternative word. Why would that,  
9 you know, potentially violate the -- the Metro  
10 ordinance?  
11 A. Well, again, you're treating  
12 someone different because of their protected  
13 class. Would we require someone who is  
14 African-American to say Black instead. I mean,  
15 there's -- there's other factors that go into  
16 it. Like, for example, the communication that  
17 came from LEO. What was their justification for  
18 saying use this alternative word? That's  
19 discriminatory behavior.  
20 Q. If they're objection to using --  
21 I'll strike that.  
22 Okay. So this -- what if the --  
23 what if the -- how would you handle a situation  
24 where someone called to report that the LEO  
25 would not accept ads if the word transsexual was

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1 used, but, you know, we didn't know if the  
2 person asking for the ad was transsexual. Would  
3 that affect your analysis?  
4 MS. HINKLE: Objection. Calls for  
5 speculation.  
6 A. You know, I mean, that -- again,  
7 that depends on what the information that we  
8 received, what will be LEO's response. I mean,  
9 these are personal ads, so it's a personal ad  
10 for dating and things like that. What would be  
11 the objection to using transsexual if the person  
12 paying for the ad places it in LEO, and LEO  
13 doesn't want to utilize that word? What would  
14 be the reason behind that? That's what we'd  
15 have to get to the bottom of.  
16 BY MR. NEIHART:  
17 Q. What if they just didn't like the  
18 word?  
19 A. They didn't like the word  
20 transsexual?  
21 Q. Right.  
22 A. Period? In a LEO ad -- in a LEO  
23 personal ad?  
24 Q. Yeah.  
25 A. Again, we would want to know why --

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1 why don't you like the word transsexual to go in  
2 a LEO personal ad of all places.  
3 Q. Okay. And what if they wanted to  
4 -- they -- they wanted to use the word  
5 transgender instead?  
6 A. Again --  
7 MS. HINKLE: Objection.  
8 A. -- that -- that's -- it depends. I  
9 mean, what would -- what would be the difference  
10 and what would be the reasoning behind that?  
11 BY MR. NEIHART:  
12 Q. All right. I'm going to take this  
13 down. Okay. Mr. Boyd, I'm just going to  
14 reference 92.05 in the ordinance.  
15 A. Yes. The public accommodations  
16 portion?  
17 Q. Yeah. And specifically, I want to  
18 direct your attention to 92.05 (B).  
19 A. Okay.  
20 Q. Okay. You're done reading it?  
21 A. I mean, yeah. I mean, I -- I can  
22 reference it back if I need to, but yes.  
23 Q. Okay. Okay. So this -- the way I  
24 kind of read this section, it basically has two  
25 kind of clauses. One is, you know, it's

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1 unlawful to indicate something that -- indicate  
2 that someone will be refused -- that a service  
3 will be refused, withheld, or denied. Do you  
4 see that?  
5 A. Yes.  
6 Q. Okay. And then -- and then later  
7 on, it also, you know, prohibits publications of  
8 things that indicate that someone's person or  
9 presence or patronage is on -- objectionable,  
10 unwelcome, unacceptable, undesirable. Do you  
11 see that?  
12 A. Yes. At the very end of the  
13 paragraph?  
14 Q. Yeah. At the end of the paragraph  
15 there, yeah.  
16 A. Uh-huh. (Witness answers in the  
17 affirmative.)  
18 Q. Okay. And so just so we're on the  
19 same page, I kind of, in my mind, think about  
20 the first clause as the denial clause and then  
21 the second clause as, like, the unwelcome  
22 clause, okay?  
23 A. Okay.  
24 Q. Okay. So what process does -- or  
25 did you use while you were at Metro -- the Metro

<p style="text-align: right;">97</p> <p>1 Human Relations Commission, to determine whether 2 a public accommodation has published a 3 communication that indicates services will be 4 denied on account of the classification 5 specified here. 6 A. I mean, again, it's somewhat 7 speculative because it depends on what the 8 complaint was that we received and why the 9 person felt that it was a violation of this 10 public accommodations clause, that something was 11 mailed or published or whatever. So it -- it 12 depends on the information we received. 13 I mean, was it -- was there an 14 e-mail that was sent out, was it a general 15 advertisement, and was it, you know, I mean, I 16 don't -- I don't know. I can't speak to -- in 17 general, but I mean, it depends on the 18 information received when the person makes their 19 complaint. 20 Q. Okay. So one of the things that 21 you would consider would be the type of 22 communication? 23 A. I mean, I just -- I'm sorry. Go 24 ahead. 25 Q. Yeah, sorry. So one of the things</p>	<p style="text-align: right;">99</p> <p>1 A. So in receiving what type of 2 communication it was, looking at the person's 3 protected class within this particular 4 provision, and what was the actual 5 discriminatory outcome, if any. So, again, 6 making that total analysis, there's a number of 7 factors that go into it. 8 In addition to, like I said, any 9 other evidence received, any witness testimony. 10 I mean, who witnessed the actual published or 11 circulation? Was this sent to other parties? 12 What other parties sent this and not other 13 parties? I mean, it -- it just depends on the 14 circumstances, it depends on the facts, and it 15 depends on the evidence. 16 BY MR. NEIHART: 17 Q. Right. And in making that 18 determination specifically as to the denial 19 clause, whether something is refused, withheld 20 or denied, how do you, you know, go about making 21 that determination? 22 A. That it was actually refused, 23 withheld or denied because of that person's 24 protected class. 25 Q. Okay. So you would evaluate --</p>
<p style="text-align: right;">98</p> <p>1 that you consider is like the form of the 2 communication, like, was it an e-mail, was it an 3 advertisement, was it a -- a blog post? That 4 would -- that would be potential things that 5 you'd consider. 6 A. Well, in making the publication, 7 circulation, display or whatever analysis. Not 8 -- not necessar- -- kind of like the, you know, 9 time manner methodology, like, how was this 10 published to where it would indicate that there 11 was a violation of 92.05 that occurred? 12 Q. Right. Okay. And would that also 13 include things like, you know, not only 14 advertise -- not only, like, written documents, 15 but also potentially verbal statements? 16 A. Yeah. I mean, it's -- it's 17 considered an oral communication, so yeah, the 18 totality of everything that we've received in a 19 complaint. 20 Q. Right. Yeah. And so let's go to 21 that next. What types of things would you look 22 at when you're looking at the totality of the 23 circumstances to make that determination? 24 MS. HINKLE: Objection to form. 25 Calling for speculation.</p>	<p style="text-align: right;">100</p> <p>1 evaluate the content of the advertisement or the 2 statement or whatever? 3 A. Yeah. That resulted in the 4 discriminatory action. 5 Q. Beyond the statement itself, I 6 mean, what else would you look at? 7 MS. HINKLE: Objection to form. 8 Calls for speculation. 9 A. Again, what -- after this 10 publication had -- had occurred, what was 11 denied, why was it denied, who received the 12 benefit, who did not receive the benefit? I 13 mean, again, that whole analysis is done. 14 BY MR. NEIHART: 15 Q. Okay. And does -- when you were at 16 the Commission, did they have any written 17 guidance on how to enforce this provision? 18 A. No. We -- from a legal standpoint, 19 we rely on the advice of our county attorney to 20 make a legal argument as to why this provision 21 may have been violated. 22 Q. Okay. But there was no -- and 23 those legal determinations would be, you know, 24 incorporated into a probable cause or no 25 probable cause determination, right?</p>

101	<p>1 A. As far as the findings of probable 2 cause or no probable cause, that legal -- that 3 legal advice would be, of course, utilized in 4 making that determination absolutely. 5 Q. Right. So and -- but there's no 6 actual written policy on how to interpret this 7 provision? 8 A. No. There's no written policy, no. 9 Q. The case-by-case determination, is 10 that what you're saying? 11 A. Case-by-case determination, pretty 12 much, yes. 13 Q. Okay. And so the way to determine 14 then whether something -- and I'm just talking 15 about the denial clause right now, the way to 16 determine whether something violates that 17 provision would be to look at, you know, the 18 probable cause determinations to see what type 19 of statements do or do not violate the 20 ordinance, right? 21 A. Well, not -- not the statement. 22 Again, it would be the statement plus the 23 denial. It's not just we're looking at the 24 statement. We're looking at the statement made 25 in conjunction with denial of the service or</p>	103	<p>1 that says, you know, Catholics not welcome here. 2 Would that statement by itself violate 92.05? 3 MS. HINKLE: Objection to form. 4 A. Again, with knowing more 5 information, that's -- that's totally 6 speculative. Anyone who saw that and wants to 7 file a complaint because they were -- they're 8 being discriminated against because of their 9 religious affiliation can file the complaint, 10 and we would investigate the complaint 11 thoroughly. 12 BY MR. NEIHART: 13 Q. Would that -- if your investigation 14 revealed that the sign says, you know, Catholics 15 not welcome here, would that be enough to 16 support a probable cause determination for that, 17 you know, based on 92.05 (B)? 18 A. It's possible. Again, all the 19 information we would need to make that 20 determination. 21 Q. What other facts would you need to 22 make that determination? 23 A. Well, you know, as we've talked 24 about over the last half-hour, you know, was 25 this person treated differently because of their</p>
102	<p>1 whatever is prohibited -- excuse me, is 2 prohibited under the ordinance. 3 Q. Okay. Did you ever provide any 4 training on -- to your staff when you were the 5 executive director about what might violate 6 92.05 (B)? 7 A. No. 8 Q. Okay. Let's stick with this -- 9 this denial clause. If someone -- if an 10 employer, for example, posted a -- you know, a 11 job advertisement that said looking for high 12 qualified candidates, but Jews need not apply, 13 would that violate 92.05? Does that by itself 14 violate 92.05, that statement? 15 MS. HINKLE: Objection to form. 16 A. Again, without -- without all the 17 information, I wouldn't be able to make that 18 determination. When you said employer, first 19 thing that I thought of was also the employment 20 discrimination aspect of the ordinance as well. 21 BY MR. NEIHART: 22 Q. Okay. Well, let's say that that's 23 true. Let's talk about public accommodations 24 and the -- all the facts that you know are -- 25 public accommodation has this sign out front</p>	104	<p>1 religious faith? When they walked in the door, 2 what sort of complaint are they seeking to file? 3 I mean, when we're talking about 4 this being published, you know, there's a sign 5 outside. So there's a public sign, so does that 6 equate to what's in the ordinance? I mean, that 7 comprehensive analysis would have to be done. I 8 -- I can't make probable cause determinations 9 based upon the hypotheticals that you're 10 providing. I would need more information. 11 Q. What if the person's -- someone 12 comes up to the restaurant -- let's say it's a 13 restaurant that has this sign, sees the sign, 14 turns around, and walks away because they felt 15 that, you know, they would be denied if they 16 walked in, would that be enough to file a 17 complaint? 18 A. Absolutely. 19 Q. Okay. And then after that 20 complaint would be filed, you would investigate 21 -- investigate that complaint under 92.05(B)? 22 A. Yes, most likely. I mean, again, 23 that's a legal question. We would have to 24 exhaust all avenues of what provisions of the 25 ordinance were violated.</p>

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105	<p>1 Q. And so, in other words, the person</p> <p>2 could file a complaint without actually walking</p> <p>3 into the store. If they saw the sign and felt</p> <p>4 turned away by the sign, that would be enough</p> <p>5 for at least filing a complaint?</p> <p>6 A. Sure.</p> <p>7 Q. Okay. Let's talk about what we've</p> <p>8 named the unwelcome clause here. This one, I</p> <p>9 want to focus on this language, objectionable,</p> <p>10 unwelcome, unacceptable, undesirable. Do you</p> <p>11 see that?</p> <p>12 A. You're still referring to 92.05</p> <p>13 (B), the last sentence?</p> <p>14 Q. Yeah, that's right. Yeah, the last</p> <p>15 five words, including or.</p> <p>16 A. Okay.</p> <p>17 Q. Okay. So what process does the</p> <p>18 Commission use to determine whether a public</p> <p>19 accommodation has published a communication that</p> <p>20 indicates someone's patronage or presence is</p> <p>21 objectionable, unwelcome, unacceptable, or</p> <p>22 undesirable?</p> <p>23 MS. HINKLE: Objection to form.</p> <p>24 A. We would have to look at the</p> <p>25 content of that publish- -- of that publication</p>	107	<p>1 of the Commission, what types of factors would</p> <p>2 the investigator use to try to understand or</p> <p>3 apply those terms?</p> <p>4 A. I mean, again, depending on what</p> <p>5 the complaint -- complainant is -- is alleging,</p> <p>6 and the information, and facts, and evidence</p> <p>7 that we received as a result of the</p> <p>8 investigation.</p> <p>9 Q. And what types of evidence would</p> <p>10 you be looking for to find a determination of</p> <p>11 violation of this section?</p> <p>12 MS. HINKLE: Objection to form.</p> <p>13 A. You know, your kind is not welcome</p> <p>14 here or we don't like you people or I mean, it</p> <p>15 just -- it really just depends. Again, there's</p> <p>16 no cookie cutter approach to how we would</p> <p>17 enforce this ordinance or any other provisions</p> <p>18 of the ordinance. It just really depends upon</p> <p>19 totality of everything that we've received.</p> <p>20 There's --</p> <p>21 BY MR. NEIHART:</p> <p>22 Q. Okay.</p> <p>23 A. -- sorry, there's something on our</p> <p>24 screen that they've got to take care of.</p> <p>25 Q. Okay.</p>
106	<p>1 and the way that's -- you know, how it's been</p> <p>2 communicated to say that these protected classes</p> <p>3 are objectionable, unwelcome, unacceptable, or</p> <p>4 undesirable.</p> <p>5 BY MR. NEIHART:</p> <p>6 Q. Yeah. And what types of things</p> <p>7 would go into that analysis?</p> <p>8 A. What the basic definitions of</p> <p>9 objectionable, unwelcome, unacceptable, or</p> <p>10 undesirable are. You know, if the person</p> <p>11 publishes something like that, saying that this</p> <p>12 protected class is undesirable in my</p> <p>13 establishment or at this location, then they</p> <p>14 made it very clear that that person is not</p> <p>15 welcome.</p> <p>16 Q. When you say the definition of</p> <p>17 those words, does -- does the Commission have</p> <p>18 any specific guidance on the definition of those</p> <p>19 words?</p> <p>20 A. No.</p> <p>21 Q. Is it more of a kind of you know it</p> <p>22 when you see it situation?</p> <p>23 A. Possibly.</p> <p>24 Q. So when Commission -- when you were</p> <p>25 involved -- when you were the executive director</p>	108	<p>1 A. Thanks. Sorry</p> <p>2 Q. Okay. That's okay. Okay. And has</p> <p>3 the -- so kind of how does -- so, you know, I</p> <p>4 mentioned the two different clauses, the denial</p> <p>5 clause and the unwelcome clause. How does the</p> <p>6 Commission go about determining which clause has</p> <p>7 been violated?</p> <p>8 MS. HINKLE: Objection to form.</p> <p>9 A. You know, again, the same answer,</p> <p>10 facts, evidence we receive. It's quite possible</p> <p>11 that both could be -- have been violated in the</p> <p>12 same action. You know, it just depends.</p> <p>13 BY MR. NEIHART:</p> <p>14 Q. Yeah. So it's possible that one</p> <p>15 can be violated and not the other?</p> <p>16 A. Yeah. It's possible, yeah.</p> <p>17 Q. So, like, something could make</p> <p>18 someone feel unwelcome but not actually totally</p> <p>19 refuse, withhold, or deny the service, for</p> <p>20 example?</p> <p>21 A. Well, I mean -- I mean, possible,</p> <p>22 yeah. I mean, again, that's speculative based</p> <p>23 upon the facts and evidence.</p> <p>24 Q. Yeah. I'm just trying to figure</p> <p>25 out how they -- how they interact with each</p>

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1 other. So it sounds like, though, I understand  
 2 what you're saying. Are you aware of any  
 3 situations where the Commission found that a  
 4 statement violated the denial clause but not the  
 5 unwelcome clause?  
 6 A. No.  
 7 Q. Are you familiar with any  
 8 situations where the Commission determined that  
 9 a statement violated the unwelcome clause but  
 10 not the denial clause.  
 11 A. I want to say 15 or 20 years ago,  
 12 probably about 15 years ago, there's a venue  
 13 here called Fourth Street Live, which includes,  
 14 like, bars and restaurants and things like that,  
 15 and there wasn't an actual finding, but there  
 16 was a discussion around being unwelcome because  
 17 of a dress code, which it was having a disparate  
 18 impact on African-American patrons.  
 19 And so there was a strong  
 20 discussion around this dress code, basically  
 21 saying, these people are undesirable, these  
 22 people are unwelcome, these people are  
 23 objectionable based on -- based on the way they  
 24 are dressed. And so there was actual -- a  
 25 community dialogue around that, and some of

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1 those policies at Fourth Street Live were  
 2 changed because of that dialogue, but I don't  
 3 think there was ever an actual complaint filed  
 4 on that.  
 5 Q. Okay. And that was based on the --  
 6 on the dress code?  
 7 A. Yes. That was my understanding,  
 8 yes.  
 9 Q. Did that involve -- do you know  
 10 where that dress code was posted?  
 11 A. I believe it was posted at the  
 12 entrance. Fourth Street Live is a -- is an open  
 13 sort of area, so it -- it reminds me sort of  
 14 like a strip -- like a strip mall. It's an old  
 15 mall that they gutted and they just made  
 16 restaurants and bars into it. And so there's an  
 17 outside portion and there's an inside portion.  
 18 In order to get in, you have to go  
 19 through the outside gates where there are  
 20 security guards and then that's -- I believe  
 21 that's where the dress code was posted, right  
 22 there where the security guards that were  
 23 checking IDs were.  
 24 Q. Okay. So that was a situation  
 25 where certain members of -- did you say the

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1 African-American community --  
 2 A. Yes.  
 3 Q. -- felt -- felt unwelcome because  
 4 of the dress code sign?  
 5 A. Not just unwelcome, unaccepted and  
 6 undesirable.  
 7 Q. And do you know how the Commission  
 8 found out about that dress code?  
 9 A. I don't. I know it was a big news  
 10 item, like, on the -- on the media news, so I'm  
 11 going to assume they probably got word that way,  
 12 but I don't know exactly how the Commission got  
 13 word of it.  
 14 Q. Okay. That was before your time  
 15 with the --  
 16 A. Yes.  
 17 Q. -- you know what -- strike that.  
 18 A. I want to say that's, like, 2005 or  
 19 something like that. It's been a while.  
 20 Q. Let me pull up another document  
 21 here. Can you see this sign?  
 22 A. Yes.  
 23 Q. Before we get to this sign, I'll  
 24 ask you a couple of questions. We mentioned  
 25 Scooter's Triple B's case yesterday. You

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1 remember that?  
 2 A. Yes.  
 3 Q. And I just wanted to ask you a  
 4 couple of follow-up questions. You presented  
 5 this case at -- at the advocacy board meeting?  
 6 A. I didn't present the case. I  
 7 brought the situation to the -- to the  
 8 enforcement board attention. I didn't -- I  
 9 didn't present a case. I -- I took a  
 10 screenshot. I think I have that photo. And  
 11 then I think I have another screenshot from  
 12 social media, of like a Confederate flag and  
 13 some other derogatory language that was being  
 14 used by the bar, and I took it to the  
 15 enforcement board as part of my executive report  
 16 to the enforcement board to bring it to their  
 17 attention. I never presented a case to the  
 18 board.  
 19 Q. Yeah. And I'm sorry, I -- I  
 20 shouldn't have said that. I mean, you discussed  
 21 the board -- you discussed this incident with  
 22 the board at the -- at the board meeting?  
 23 A. Yes. That's correct.  
 24 Q. And during the course of that  
 25 discussion, you mentioned the Scooter's Triple

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1 B's name, the name of the bar?  
 2 A. I said this is -- this was posted  
 3 on their Facebook page and it has been shared  
 4 all throughout social media.  
 5 Q. Okay. And you kind of talked  
 6 about, you know, why you were concerned with the  
 7 case?  
 8 A. Yeah. Well, not just my concern,  
 9 but there were concerns throughout the community  
 10 at the sort of dialogue that was being promoted  
 11 by the -- by the establishment and that this  
 12 could give rise to discriminatory behavior,  
 13 amongst other things, so I felt it was the duty  
 14 of the enforcement board and the Commission to  
 15 look into the matter.  
 16 Q. Okay. And -- so you talked about  
 17 the specifics of those Facebook posts that you  
 18 had looked at?  
 19 A. Yeah, I believe -- I believe at the  
 20 time when I discussed it with the enforcement  
 21 board, in addition to the photos, there was  
 22 language from the actual bar itself, like, you  
 23 know, we don't discriminate, we -- we're just  
 24 rebel -- rebels. I can't remember exactly what  
 25 it said, but they were giving justification to

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1 the photos that they were posting on social  
 2 media which included that photo you had just put  
 3 up there prior.  
 4 Q. Okay. And you also -- you have --  
 5 do you have those Facebook posts you're  
 6 referencing?  
 7 A. No. That was a couple of years  
 8 ago. It's quite possible that the photos might  
 9 be saved in that -- in that Scooter Triple B's  
 10 file, the investigative file, but I -- I do not  
 11 have those photos any longer, no.  
 12 Q. Okay. So all that -- all that  
 13 would be -- but, all those documents would be in  
 14 that -- that case file?  
 15 A. Quite possibly, yes.  
 16 Q. And so do you -- what exactly did  
 17 you tell the board about the situation?  
 18 A. Again, I reiterated that, you know,  
 19 our job in Louisville, Kentucky is to prevent  
 20 discrimination, and what was presented there was  
 21 very troublesome and could lead to  
 22 discriminatory behavior against patrons. In  
 23 addition, the dialogue that it created on social  
 24 media, there were a lot of individuals on both  
 25 sides of that debate who were using very scary

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1 language in enforcing that or using scary  
 2 language to confront that.  
 3 For example, I think one of the  
 4 comments under the Facebook posts said, that's  
 5 right. Tell them no trannys. And then they  
 6 used the F word to describe LGBT individuals.  
 7 And then there was other dialogue about, you  
 8 know, we should all go in there and fill Scooter  
 9 Triple B's with LGBT individuals to see if he  
 10 would serve us. He knows us.  
 11 Kind of a dialogue back-and-forth.  
 12 And so to -- not necessarily to avert that  
 13 situation, but to look into the discriminatory  
 14 intent of what's implied in that sign, I told  
 15 the enforcement board it's a good idea for us to  
 16 look into this, to do an investigation to see if  
 17 there's actual discrimination occurring because  
 18 by law, we can prevent that discrimination.  
 19 Q. Okay. And you -- when you were  
 20 presenting or when you were discussing this with  
 21 the board, did anyone else have feedback? Did  
 22 anyone else say anything about this case?  
 23 A. I mean, from the feedback that I  
 24 recall was mostly like the human reaction, like,  
 25 oh my gosh, I can't believe, you know, somebody

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1 actually posted this or, you know, what are they  
 2 trying to do, what are they trying to get out of  
 3 this, why would somebody post this on their  
 4 social media page, so forth and so forth.  
 5 Q. And those are the reactions of the  
 6 Commission members that you remember?  
 7 A. Just the people in the room,  
 8 Commission members, I believe we had several  
 9 employees from HRC that sit in on the  
 10 enforcement board meetings as well.  
 11 Q. So let me -- let me share my screen  
 12 here.  
 13 MR. NEIHART: Could we please mark  
 14 this? I think it's Exhibit -- Exhibit 4, maybe.  
 15 THE COURT REPORTER: Did you want  
 16 to make the -- we have 1 and 2, and then is the  
 17 Fairness Campaign document an exhibit or not?  
 18 MR. NEIHART: Yeah, I'm sorry.  
 19 Mark that as Exhibit 3, please. And then this  
 20 will be Exhibit 4?  
 21 THE COURT REPORTER: Exactly.  
 22 (Whereupon, the referred to  
 23 document was marked as Exhibit 3,  
 24 and is attached hereto and made a  
 25 part hereof.)

117	1 (Whereupon, the referred to 2 document was marked as Exhibit 4, 3 and is attached hereto and made a 4 part hereof.) 5 BY MR. NEIHART: 6 Q. Yeah, sorry about that. So 7 Mr. Boyd, we mentioned this yesterday, but this 8 was one of the signs that you saw that prompted 9 your discussion with the board. 10 Correct? 11 A. Yes, that's correct. 12 Q. Okay. Now, just taking the sign, 13 what -- what prompted in your mind, you know, 14 following up with this sign or why did you think 15 this sign might have potentially warranted 16 investigation? 17 A. Because it appears to publish or 18 basically circulate the idea that transgender 19 individuals were not going to be welcome in that 20 establishment because, there's no transgender 21 restrooms, quote/unquote, as the sign purports. 22 So that shows that transgender individuals are 23 undesirable, unwelcome in that establishment. 24 Q. So in your mind, that kind of 25 triggered 92.05 (B), the unwelcome clause?	119	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
118	1 A. I mean, well, I mean, it just 2 triggered discrimination. So I felt we needed 3 to use our ordinance to enforce against that 4 type of exclusion if it's occurring. So I mean, 5 to your point, 92.05 would be the public 6 accommodation section that would most likely 7 address that sort of discrimination. But I 8 mean, we would look at the ordinance, do a 9 holistic approach, more holistic approach, 10 making sure that there's other part -- portions 11 of the ordinance that are not violated as a 12 result of that. 13 Q. Right. So just looking at this 14 sign by itself, you don't necessarily know 15 whether there would be probable cause to support 16 a finding that this violated the unwelcome 17 clause? 18 A. Correct. We -- again, when we 19 looked into this particular situation, we did an 20 investigation to see what other sort of 21 information we could pull out to ensure that 22 this was or was not occurring. 23 Q. Did you say when we did that 24 investigation? 25 A. I'm sorry, what?	120	1 able to prove so. 2 Q. All right. So determining whether 3 a sign violates the unwelcome clause is really 4 fact dependent you would say? 5 A. Absolutely. Just like any other 6 discrimination complaint. 7 Q. All right. And it's also -- it 8 takes kind of legal conclusions to be able to 9 determine whether the sign violates the law? 10 A. Legal conclusion and legal analysis 11 in addition to facts and evidence. 12 Q. All right. So you can just -- you 13 can just rely on -- I mean, you basically have 14 to have -- be a lawyer to kind of know what the 15 sign, whether it violates the law or not -- the 16 unwelcome clause, or at least have input from a 17 lawyer. 18 MS. HINKLE: Objection to form. 19 A. Yeah. I mean, you don't have to be 20 a lawyer to interpret the -- the ordinance. It 21 just -- it's simple to have a legal analysis and 22 a legal opinion to ensure that we're following 23 the correct legal processes to enforce the 24 ordinance. 25

121	<p>1 BY MR. NEIHART: 2 Q. Right. But just looking at this -- 3 this particular sign, you've mentioned that it 4 would require factual and legal analysis to 5 determine whether it violated the law? 6 A. That's correct. 7 Q. And obviously, you have a lot of 8 experience with interpreting and enforcing the 9 ordinance, right? 10 A. Yes. 11 Q. And you were -- you were a part -- 12 you prosecuted the ordinance on behalf of the 13 Commission? 14 A. Prior, yes. 15 Q. And you've taught in classes on 16 constitutional law? 17 A. Not just constitutional law -- 18 intro to American government, not just 19 constitutional law. 20 Q. All right. And I was referring to 21 your classes at the community college was -- you 22 know, we talked about you teach classes on 23 American government, including constitutional 24 law and civil rights? 25 A. Yes. Yes.</p>	123	<p>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</p>
122	<p>1 Q. And you obviously have a law degree 2 and have been a successful lawyer? 3 A. Yes. 4 Q. And -- and you sitting here today 5 just looking at the sign, you can't tell whether 6 this violates the unwelcome clause or not? 7 A. No. 8 Q. You need more information. 9 A. Not with the sign by itself, no. 10 Q. Okay. So with all that experience, 11 how would you expect the business owner of this 12 bar to be able to know whether the sign violates 13 the unwelcome clause or not? 14 MS. HINKLE: Objection to form. 15 A. I don't know. I'm not in the 16 business owner's mind. If the business owner, 17 he or she, whoever it is, doesn't feel it's 18 discriminatory, then that's their opinion. 19 However, what's purported here on this sign 20 gives rise to discriminatory exclusion because 21 of, quote/unquote, there's no transgender 22 restrooms. I mean, to make these sort of 23 statements indicates a disdain or distaste for 24 the fact that there's transgender restrooms or 25 else you wouldn't say something like that.</p>	124	<p>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,</p>

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1 eviction that she felt was unwarranted. There  
 2 was a number of different things that occurred  
 3 that she felt was based on her race.  
 4 Q. Okay. Now, I'm kind of moving to  
 5 the time that you were executive director. Were  
 6 you in -- did you review findings of fact and  
 7 conclusions of law that were produced from the  
 8 hearings?  
 9 Let me ask you differently. Did  
 10 you kind of -- when there was a hearing, did you  
 11 kind of follow -- did you kind of track that  
 12 hearing as the executive director?  
 13 A. Like, if a hearing were to occur?  
 14 Q. Yeah.  
 15 A. Yeah, I mean, it really depended  
 16 on, like, you know, if a hearing occurred and  
 17 let's say, quote/unquote, we won, then I would  
 18 follow back up with the county attorney as to  
 19 what are possible next steps, you know, does the  
 20 party plan to appeal, have we received, like,  
 21 notice of an appeal or something like that from  
 22 the -- from the other party. You know, if,  
 23 quote/unquote, we lost, what's -- what's our  
 24 next steps, things like that.  
 25 Q. Okay. So yeah, as the executive

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1 director, you were generally aware of hearings  
 2 going on and their outcomes?  
 3 A. Oh, yeah. Yeah, absolutely.  
 4 Q. Okay. Okay. So at -- during your  
 5 -- in your current position as equity officer,  
 6 are you -- do you do the same thing with, you  
 7 know, managing the Commission?  
 8 A. No. No, I -- I leave that to the  
 9 executive director.  
 10 Q. Okay. So you mentioned the two  
 11 cases that you remember when you were a  
 12 prosecutor, do you recall any cases involving  
 13 hearings as executive director?  
 14 A. Not -- not at the top of my head,  
 15 no.  
 16 Q. How many cases went to hearings  
 17 when you were the executive director?  
 18 A. I don't know. I'd have to go back  
 19 and look.  
 20 Q. Was it less than ten?  
 21 A. Again, I don't know. I don't -- I  
 22 don't want to speculate or guess.  
 23 Q. And those -- I mean, if you had the  
 24 hearing records in front of you, that would be  
 25 helpful for you to testify about what happened

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1 or, you know, what didn't happen in those cases,  
 2 right?  
 3 A. I mean, I wouldn't have been  
 4 involved in the hearing as executive director.  
 5 I would only have been involved once the hearing  
 6 was over with because I would not have been a  
 7 witness to what was going on.  
 8 The investigator and the county  
 9 attorney would have worked out the witness  
 10 information. So even if I had the cases in  
 11 front of me, that wouldn't refresh -- refresh my  
 12 recollection on what happened in a hearing  
 13 because I wasn't present at the hearings.  
 14 Q. I'm going to pull up another  
 15 document here. Okay. So Mr. Boyd, I think you  
 16 probably have this in front of you. This is,  
 17 Defendants' Objections and Responses to  
 18 Plaintiffs' First Set of Interrogatories. You  
 19 have that document in front of you?  
 20 A. I'm looking for it now.  
 21 Q. Okay.  
 22 A. Okay. Yes, I see what you're  
 23 referring to now.  
 24 Q. Okay. So let me go to -- it's the  
 25 answer to Interrogatory Number 2.

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1 A. Would that be on Page 4?  
 2 Q. Yes, it would.  
 3 A. Yes, I believe we talked about this  
 4 in detail yesterday.  
 5 Q. We talked about number 3, this is  
 6 number 2.  
 7 A. Okay. Yes.  
 8 Q. Okay. And -- so I'm just -- and  
 9 before I get into this, you signed these  
 10 interrogatories?  
 11 A. Yes. With -- under advice of legal  
 12 counsel, yes.  
 13 Q. Right. And so you reviewed these  
 14 documents before you signed it, I'm assuming?  
 15 A. Yes.  
 16 Q. Okay. So it says, Chelsey Nelson  
 17 Photography must offer the services set forth on  
 18 Exhibit 1 on the exact same terms and conditions  
 19 for both same sex and opposite sex weddings. Do  
 20 you see that?  
 21 A. Yes.  
 22 Q. And so what do you mean by exact  
 23 same terms and conditions?  
 24 A. What I mean is refusal to offer  
 25 that service because of a couple of same-sex

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1 status or LGBT status shows a differentiation of  
 2 treatment because of that protected status. So  
 3 therefore, that's why we contend Chelsey Nelson  
 4 should offer those services.  
 5 Q. Right. And I'm -- I'm just asking  
 6 what do you mean specifically by exact same  
 7 terms and conditions?  
 8 A. By providing the actual photography  
 9 service that she offers for weddings.  
 10 Q. So how does -- how do you go about  
 11 determining whether a public accommodation  
 12 offers, you know, the exact same terms and  
 13 conditions regardless of protected  
 14 characteristics?  
 15 MS. HINKLE: Objection to form.  
 16 A. Well, -- I mean, there's a lot more  
 17 to that. Assuming that a complaint has come in,  
 18 is that what you mean? Like, assuming that the  
 19 complaint has been filed alleging  
 20 differentiation in treatment because of LGBT  
 21 status?  
 22 BY MR. NEIHART:  
 23 Q. Yeah, I'm just asking what you mean  
 24 by -- yeah, I'm just asking how you go about  
 25 determining whether a public accommodation has

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1 denied exact same terms and conditions.  
 2 A. Goes back to what we talked about  
 3 in 92.05, refusal to provide this service,  
 4 making someone undesirable, unwelcome because  
 5 you refuse to offer the service because of their  
 6 protected class.  
 7 Q. Okay. Well, let me ask -- let me  
 8 -- let me go to the second sentence here. It  
 9 says, the couples would violate the public  
 10 accommodation provision of the Metro ordinance.  
 11 Is that -- are you referring there to 92.05 (A)  
 12 and 92.05 (B) or just one or the other?  
 13 A. I believe it's the whole provision.  
 14 Q. Okay.  
 15 A. Can you give me one second? I have  
 16 to take -- I've got to answer a text real quick,  
 17 but, you know, like, one second.  
 18 Q. Oh, sure. Do you want to take a  
 19 break?  
 20 A. No, just one second. I'm sorry. I  
 21 didn't -- I thought we would be done by now, so  
 22 -- sorry.  
 23 Q. Okay. That's all right. Are you  
 24 okay?  
 25 A. Yeah. Yeah.

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1 Q. So you -- you just mentioned that  
 2 with this reference to the public accommodations  
 3 provision would include 92.05 (A) and 92.05 (B),  
 4 right?  
 5 A. Yeah, et al. Yeah, uh-huh.  
 6 Q. And so -- so my question -- and you  
 7 had mentioned that not offering the exact same  
 8 -- same terms and conditions might violate the  
 9 unwelcome clause. Explain to me how you'd go  
 10 about determining whether exact same terms and  
 11 conditions and not offering those would violate  
 12 92.05 (A)?  
 13 MS. HINKLE: Objection to form, and  
 14 asked and answered.  
 15 THE WITNESS: By providing the same  
 16 analysis that I've referenced during this whole  
 17 deposition, by receiving information as to why  
 18 the refusal of services occurred, and looking at  
 19 all the information that was exchanged between  
 20 the complainant and respondent as to why -- as  
 21 to why that denial occurred, and looking at the  
 22 requirements of the ordinances -- of the  
 23 ordinance, that, for example, says undesirable,  
 24 unwelcome, refusal, things like that.  
 25 It would be a whole comprehensive

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1 analysis that would be done based upon the  
 2 investigation of the initial refusal which the  
 3 complaint is based upon.  
 4 MR. NEIHART: Okay. Oh, and I'm  
 5 sorry. Could we mark that as Exhibit 5.  
 6 (Whereupon, the referred to  
 7 document was marked as Exhibit 5,  
 8 and is attached hereto and made a  
 9 part hereof.)  
 10 THE WITNESS: Excuse me. Can I ask  
 11 -- are we going to be much longer? Because it's  
 12 one o'clock here, and I haven't eaten yet, so if  
 13 we're going to be much longer, I'd like to see  
 14 if we could get something to eat and maybe  
 15 resume a little bit later.  
 16 MR. NEIHART: Yeah. Let's -- let's  
 17 -- this is a great time for breaks. Let's do  
 18 that. And I don't have -- I don't -- expecting  
 19 a ton longer, but it's probably enough that if  
 20 you're -- you're hungry now, I'd rather have a  
 21 break now, and then get back, and we can finish  
 22 it up.  
 23 THE WITNESS: Okay. That's fine.  
 24 MR. NEIHART: Thank you.  
 25 THE WITNESS: Thank you.

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1

2 \* \* \*

3 (Off the record.)

4 \* \* \*

5

6 THE COURT REPORTER: We are back on

7 the record.

8

9 \* \* \*

10 EXAMINATION

11 BY MR. NEIHART:

12 Q. Okay. Welcome back, Mr. Boyd. I

13 hope you had a nice break. So earlier we talked

14 about -- you were mentioning the Triple Scooter

15 B's [sic] situation. You mentioned that sign

16 that we discussed, and then you also mentioned

17 that there was, like, some Facebook posts or

18 some social media posts about a Confederate

19 flag?

20 A. Yeah, if I recall, some people

21 shared some posts or pictures from inside the

22 establishment that had a Confederate flag

23 emblazoned, like, on the wall or something like

24 that.

25 Q. Okay. So how did you find out

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1 about -- just kind of walk me through that. Did

2 you -- how did you find out about then?

3 A. About Scooter Triple B's in general

4 or...

5 Q. I'm sorry, about the -- about the

6 Confederate flag.

7 A. It's kind of one of those things,

8 like, through social media, you see somebody

9 post something and then it's tagged to somebody

10 else, and -- and so I kind of just went through

11 that. I wasn't intentionally looking for

12 anything.

13 I just happened to come across a

14 post, so I clicked on the post, and then started

15 just kind of going through the various posts,

16 and then I just came across the picture of the

17 flag inside of the establishment.

18 Q. Okay. And it was like a picture

19 that someone else had taken from inside?

20 A. Yeah. I believe so, yeah.

21 Q. Okay. Was there any, like,

22 comments about -- from that post?

23 A. If I recall, the comments that were

24 underneath the posts may have been something,

25 like, you know, racist much, you know,

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1 quote/unquote, with a question mark. Or I

2 guess, black people aren't -- aren't allowed

3 here, just various generic sort of comments to

4 the actual picture itself.

5 I don't recall if anybody said

6 anything actually to the original person that I

7 think posted it. So like I said, it was a

8 generic post that was shared amongst a number of

9 different people.

10 Q. And the -- the post of the

11 Confederate flag, that was just the -- just the

12 flag itself inside the restaurant?

13 A. Yeah, if I recall, I think it was

14 just a post of the flag itself and that was kind

15 of it, yeah.

16 Q. Like, the -- did the post indicate

17 where it was from?

18 A. Scooter Triple B's, the

19 establishment.

20 Q. And you may have already said this,

21 sorry if I missed it. Did the -- that post --

22 what did that post say that had -- what was the

23 text of that post of the Confederate flag

24 picture?

25 A. What was the intent of the post?

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1 Q. I'm sorry, what did the text of

2 that post say?

3 A. Oh, I -- I truly don't remember.

4 Q. Okay. And so we mentioned that you

5 brought this to the attention of the Advocacy

6 Board during those meeting minutes?

7 A. The Enforcement Board, during my --

8 Q. Oh, that was enforcement?

9 A. Uh-huh, yeah, during my executive

10 director's report.

11 Q. Okay. I'm sorry. Yeah, so the

12 Enforcement Board and so why did you bring the

13 enforcement -- why did you bring this flag to

14 the attention of the Enforcement Board?

15 A. Well, it wasn't just the flag. It

16 was the post of the flag in addition to the sign

17 we had just discussed about the transgender

18 restrooms. I'd taken all that information

19 together and just said, basically, I think we

20 have a problem here at this location because

21 here are some social media posts about this

22 location here in Louisville that's purportedly

23 making -- you know -- that purportedly has all

24 this stuff, you know, emblazoned inside their

25 establishment.

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1 There's a Confederate flag on one  
 2 wall. There's a sign about transgender  
 3 restrooms and being politically correct and all  
 4 this other stuff inside the establishment, so --  
 5 and I think earlier in the deposition I'd said  
 6 something to the effect of, I think even on  
 7 scooper -- Scooter Triple B's website, people  
 8 were commenting below that sign saying, yeah --  
 9 you know, F PC, F, you know -- F gay people,  
 10 and, you know, forget trannies and all that  
 11 stuff.  
 12 So I just -- to me it was a problem  
 13 because it was creating an environment in our  
 14 community that we needed to address as a human  
 15 rights advocacy organization.  
 16 Q. Okay. And did you think that the  
 17 Confederate flag inside the Triple Scooter B's  
 18 violated any -- violated the Metro ordinance?  
 19 MS. HINKLE: Objection to form.  
 20 A. I wouldn't go as far to say it  
 21 violated. I think it just kind of raised a  
 22 question as to what's -- what's going on here.  
 23 Again, when you couple that with the sign inside  
 24 of the establishment, it just -- it raised a red  
 25 flag to me. Being a human rights advocate, I

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1 just felt it was something that the Commission  
 2 should take a closer look at.  
 3 BY MR. NEIHART:  
 4 Q. Okay. So the flag and the sign  
 5 kind of made you think that the Enforcement  
 6 Board should take a closer look at it?  
 7 A. Yes.  
 8 Q. And -- and was that -- and what  
 9 part of the ordinance made you thought that it  
 10 warranted taking a closer look at, what section?  
 11 A. I didn't really point to a  
 12 particular section of the ordinance. I just  
 13 pointed at the photos and some of the comments  
 14 from social media page that we need to, you  
 15 know, formalize a complaint to do a further  
 16 investigation to determine if any parts of the  
 17 ordinance were violated.  
 18 It could be employment, it could be  
 19 housing, it could be public accommodation. I  
 20 mean -- we just -- we didn't have enough  
 21 information to say we need to look at this part  
 22 of the ordinance. We need to look at everything  
 23 in totality to make a determination if an  
 24 ordinal violation had occurred.  
 25 Q. If you weren't sure if the sign --

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1 or if you weren't sure if the flag violated the  
 2 ordinance, then why did you bring it to the  
 3 attention of the Enforcement Board?  
 4 A. Because again, of the -- the  
 5 temperature of the post itself and a lot of the  
 6 anger, and angst, and everything like that, that  
 7 comments below the posts were creating. Because  
 8 if it's creating an environment to where people  
 9 are going to either frequent this establishment  
 10 because of that reason or frequent this  
 11 establishment to kind of put a thumb of the eye  
 12 of the owners, something like that, it's  
 13 creating an environment where someone could  
 14 potentially get hurt or something like that, and  
 15 this is something again, we need to address as a  
 16 community because on its face, it appears to be  
 17 discriminatory.  
 18 Q. Were you kind afraid that the sign  
 19 or the Confederate flag were creating, like, an  
 20 unwelcome environment?  
 21 A. Possibly, yeah.  
 22 Q. And did you think --  
 23 A. For promoting a -- I'm sorry.  
 24 Q. Go ahead.  
 25 A. Or it was promoting an unwelcoming

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1 community as well.  
 2 Q. Okay. And what's the difference  
 3 between creating an unwelcome environment or  
 4 unwelcoming community?  
 5 A. I mean, again, as human rights  
 6 advocates, we want to welcome all people to feel  
 7 welcome in Louisville, whether you're visiting  
 8 or where you live, work, and play here.  
 9 And so if these things are being  
 10 passed around on social media as to here's  
 11 what's going on in Louisville, you've got an  
 12 establishment that's, you know, celebrating a  
 13 Confederate flag and a sign about transgender  
 14 restrooms, you know, what are people going to  
 15 think about our community if we don't at least  
 16 stand up and take a look at this. So that's --  
 17 that was my reasoning for saying let's take a  
 18 closer look at this.  
 19 Q. And the -- and so just by looking  
 20 at the Confederate flag inside of the Scooter  
 21 Triple B's, I think you mentioned possibly yes,  
 22 possibly no, it was unwelcoming. And you can't  
 23 -- you couldn't tell just by looking at -- just  
 24 by knowing that a Confederate flag was posted  
 25 inside of a public accommodation, whether there

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1 was a violation?  
 2 A. Yeah. No, you can't tell that  
 3 there was a violation of the ordinance from --  
 4 with respect to unwelcoming and publishing,  
 5 like, as we've discussed this afternoon. But  
 6 again, the history of the symbol itself,  
 7 utilization of the symbol nowadays by  
 8 individuals and groups who purport white  
 9 supremacy and anti-Semitism or anti-Black or  
 10 anti-immigrant or -- or whatever, brings --  
 11 brings to light serious questions about what's  
 12 the intent here? What is this group trying to  
 13 say?  
 14 Q. Right. And so knowing whether a  
 15 particular flag might violate the unwelcome  
 16 clause would also require kind of knowing the  
 17 history of the flag?  
 18 A. Sorry, repeat that again now.  
 19 Q. You mentioned that, you know, the  
 20 -- the history of the flag was part of that  
 21 analysis of, you know, making the possibility  
 22 that the flag would make someone feel  
 23 unwelcoming. So does the history and context of  
 24 a particular flag, for example, go into the  
 25 analysis of whether something is -- violates the

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1 unwelcome clause?  
 2 MS. HINKLE: Objection to form.  
 3 A. Well, I didn't say just the  
 4 history. I said the history and utilization of  
 5 the flag.  
 6 BY MR. NEIHART:  
 7 Q. Right. Right. So that -- so both  
 8 the history and utilization kind of goes into  
 9 the analysis of whether something violates the  
 10 unwelcome clause?  
 11 A. It could, again, depending on the  
 12 basis of the complaint and the information that  
 13 we received.  
 14 Q. Right. And so someone would have  
 15 to know, for example, the history of a  
 16 particular flag to know whether it might violate  
 17 the unwelcome clause?  
 18 MS. HINKLE: Objection to form.  
 19 Calls for speculation.  
 20 A. Yeah. I -- I mean, not  
 21 necessarily. Again, when the flag was posted on  
 22 Facebook, on social media, like I said, some of  
 23 the comments below it inferred, you know, that  
 24 discrimination possibly was occurring because of  
 25 -- again, I think somebody said -- you know,

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1 racist much, quote/unquote, racist much with the  
 2 question mark. And, I guess Black people aren't  
 3 allowed here. That sort of rhetoric was  
 4 occurring with respect to the photo of the flag  
 5 inside the establishment.  
 6 BY MR. NEIHART:  
 7 Q. And so let me just ask a simple  
 8 question. The context of a statement or a flag  
 9 or something matters in the unwelcome clause  
 10 analysis, right?  
 11 A. Depending on the complaint and  
 12 situation, possibly, yes.  
 13 Q. Yeah. I mean, nobody talked about  
 14 this, but it's basically just a case-by-case  
 15 analysis.  
 16 A. Yes.  
 17 Q. Some statements might have a  
 18 history behind them or some flags might have a  
 19 history behind them and some might not.  
 20 A. Possibly, again, case-by-case  
 21 basis, it just really depends.  
 22 Q. Really depends. And so would you  
 23 have just -- would you have brought this to the  
 24 attention of the Enforcement Board if you had  
 25 just seen the Confederate flag post?

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1 A. Again, it depends.  
 2 Q. Well, that was -- what does it  
 3 depend on? You know, assuming everything else  
 4 was the same, but except that you only saw the  
 5 Confederate flag posting, would you have brought  
 6 that to the attention of the Enforcement Board?  
 7 A. I mean, it's quite possible.  
 8 Again, it would depend on the context in which  
 9 the flag was being demonstrated via the post.  
 10 Again, there were quite a number of people on  
 11 the -- on the social media posts expressing  
 12 concerns as to, is this what we are going to see  
 13 if we walk into this establishment.  
 14 You know, if I'm a person of color  
 15 or if I'm Jewish or something like that, and we  
 16 walk into this establishment and we see this,  
 17 what is -- what is the -- what is being conveyed  
 18 to us as are we welcome, are we undesirables?  
 19 You know, what is the purpose of having this  
 20 flag in a -- in an eating establishment or a bar  
 21 establishment if I'm going there to have a meal  
 22 or have a drink?  
 23 Q. Right. And so assuming, let's say  
 24 that everything was the exact same with regard  
 25 to the Confederate flag posts that you saw,

149	<p>1 would that by itself have caused you to bring it 2 to the attention of the Enforcement Board? 3 A. Again, possibly, yeah. Again, for 4 this, I would have to go back and look at the 5 social media posts and everything like that to 6 make that exact determination. But again, it's 7 -- it raised a flag based on the context that I 8 saw it in on social media, which is why, again, 9 I took all of that information to the 10 Enforcement Board. 11 Q. Right. Okay. Let's go to 12 Interrogatory 12, and this is Page 14 of the 13 Louisville's responses to interrogatories. 14 A. This is the first set of 15 interrogatories? 16 Q. That's correct, yes. 17 A. You said Page 12? 18 Q. Yes, sir. Number, question and -- 19 12 on Page 14, sorry. 20 A. Yes. I think we -- we had a 21 detailed conversation about this yesterday as 22 well. 23 Q. Right. Right. And I don't want to 24 rehash that, but my point was just, you agree 25 that governments have a compelling interest in</p>	151	<p>1 inefficiency. 2 Q. Right. So the -- so the flag by 3 itself causes those things? 4 A. Sure. Yes. 5 Q. Okay. So if the flag by itself 6 causes social strife, humiliation, and economic 7 inefficiency, then why couldn't you determine 8 that just the -- the flag by itself violated the 9 ordinance? 10 A. Because again, if we're talking 11 about a compelling state interest in routing out 12 all forms of discrimination that creates social 13 strife, causes humiliation, and produces 14 economic efficiency, those are -- to prove an 15 ordinal violation is a legal conclusion. 16 So it would do the ordinance 17 injustice if we wouldn't support an ordinal 18 violation without the facts, and information, 19 and evidence needed to support such a violation 20 of the ordinance. 21 Q. Right. And you said the flag by 22 itself causes social strife, humiliation, 23 economic inefficiency, right? 24 A. Yeah. Yes. 25 Q. So why do you need additional facts</p>
150	<p>1 routing out all forms of discrimination that 2 creates social strife, cause humiliation, and 3 produce economic inefficiency? 4 A. Yes. 5 Q. Yeah, we talked about it yesterday, 6 and that applies to, you know, employers, 7 housing accommodations, public accommodations, 8 and hate crime situations? 9 A. Yes. What the ordinance covers, 10 yes. 11 Q. All right. And that applies to all 12 forms of discrimination, right? 13 A. Yes. Yes. Yes. 14 Q. And even -- even a single instance 15 of discrimination is -- needs to be corrected? 16 A. Absolutely. 17 Q. Okay. So we mentioned that -- you 18 mentioned that, the history of the Confederate 19 flag, based on that history and how it's 20 unfortunately being used today, don't you think 21 that some -- don't you think that seeing that 22 flag causes humiliation? 23 A. I think it causes all of the above, 24 humiliation, social strife and the intent behind 25 that utilization can cause economic</p>	152	<p>1 to find out if the flag violates the ordinance? 2 A. Because the standard under the 3 ordinance isn't social strife causes humiliation 4 or produces economic efficiency. That -- the 5 discrimination definition and the standards that 6 are outlined in the ordinance don't incur these. 7 Social strife can be incurred without having an 8 ordinal violation. 9 Q. Okay. Right. So the -- the 10 ordinance doesn't cover all instances of social 11 strife, humiliation, or economic inefficiency, 12 right? 13 A. Yeah, that's not what we're 14 purporting here though. 15 Q. Right. And I understand the 16 ordinance itself doesn't. So there's situations 17 that cause humiliation that aren't covered by 18 the ordinance. 19 A. Say the last part again? 20 Q. Sure. There are situations that 21 cause humiliation, for example, that aren't 22 covered by the ordinance, right? 23 A. Yeah, and there may be even 24 situations that cause social strife, 25 humiliation, and produce economic efficiencies</p>

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1 that are not discriminatory, too.  
 2 Q. Right. Right. And so if they're  
 3 not discriminatory, then they wouldn't be  
 4 covered by the ordinance.  
 5 A. Right. Yeah. Right.  
 6 Q. And so -- and so an action can be  
 7 -- can cause humiliation without being  
 8 discriminatory under the ordinance?  
 9 A. I didn't say under the ordinance.  
 10 I just said nondiscriminatory, period. For  
 11 example, if, like in high school, when young  
 12 kids are playing around and somebody gets their  
 13 pants pulled down, they got pantsed by another  
 14 person, that's humiliation, but that's not  
 15 necessarily discrimination.  
 16 Q. Right. And there's lots of  
 17 instances like that?  
 18 A. Right, that are nondiscriminatory.  
 19 Q. Right. And by nondiscriminatory,  
 20 they also, therefore, wouldn't violate the  
 21 ordinance?  
 22 A. Yeah. Possibly, yeah. I mean,  
 23 again, it's -- we'd have to look at whoever is  
 24 filing the complaint and what is being alleged  
 25 in the complaint. Doesn't mean that -- the

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1 absence of this doesn't necessarily mean that  
 2 discrimination hasn't occurred either.  
 3 Q. Yeah. Right. My point is just  
 4 that there's some instances that cause  
 5 humiliation that don't violate the ordinance.  
 6 A. Yeah. As with anything in life,  
 7 yes, absolutely.  
 8 Q. And same thing with social strife  
 9 and things that produce economic inefficiencies.  
 10 There's things that cause those but don't  
 11 violate the ordinance.  
 12 A. Yes.  
 13 Q. And those types of things happen  
 14 probably every day.  
 15 A. Possibly, yeah.  
 16 Q. And so --  
 17 A. Now, whether they're discriminatory  
 18 or not is another question though. If these --  
 19 social strife, humiliation and public -- or  
 20 excuse me, produce economic inefficiency, if  
 21 these occur every day, whether or not they're  
 22 discriminatory is dependent upon if someone has  
 23 filed a complaint or if there's been a finding  
 24 of discrimination as a result of these things  
 25 occurring.

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1 But to your point, these things can  
 2 occur without discrimination. Again, it just  
 3 depends on information that we've received that  
 4 someone has actually filed a complaint, that  
 5 someone is alleging discrimination based upon a  
 6 protected class. That's all -- that analysis  
 7 has to be done by our office.  
 8 Q. Right. And so yeah -- and so just  
 9 to put a bow on it, the fact that a sign or  
 10 statement causes humiliation isn't enough by  
 11 itself to support a violation of the ordinance.  
 12 A. Possibly. Yes. I mean, in an  
 13 investigation that may be all the information  
 14 that we get, and we could still possibly find  
 15 probable cause.  
 16 Q. Last little bit here. Could you  
 17 please go to interrogatory question and response  
 18 Number 10, which starts on Page 10?  
 19 A. Okay. It appears interrogatory  
 20 addressing the transcript that involved  
 21 permissible speech and violations of the denial  
 22 clause and of the Metro ordinance and of the  
 23 Civil Rights Act and et cetera?  
 24 Q. Right. And then -- and so -- and  
 25 you see the recorded statement there. It says,

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1 nothing preventing a restaurateur who had  
 2 opened up his restaurant -- this is according to  
 3 transcript, opened up his restaurant to Black  
 4 people from saying, you know what, I don't  
 5 believe in mixed race marriages. Do you see  
 6 that?  
 7 A. The actual interrogatory question  
 8 itself?  
 9 Q. Yeah.  
 10 A. Uh-huh. (Witness answers in the  
 11 affirmative.)  
 12 Q. Okay. And so then your response  
 13 was at the bottom here on page -- begins on the  
 14 bottom of Page 11.  
 15 A. About different possible scenarios  
 16 and hypotheticals based on statements and other  
 17 factors?  
 18 Q. Yeah, that's right. So there's --  
 19 you know, there's some -- so you basically say  
 20 there's possible hypothetical scenarios in which  
 21 a restaurant owner could make the quoted  
 22 statement and some scenarios where the statement  
 23 would violate the unwelcome clause?  
 24 A. I think possibly. I mean, again,  
 25 it's dependent on all the information that we

157	<p>1 have from that particular scenario or 2 hypothetical.</p> <p>3 Q. Right. And so my point is just 4 that sitting there today, knowing what that 5 statement is referenced in Question 10, you 6 can't say whether that statement does or does 7 not violate the unwelcome clause?</p> <p>8 A. No. And as I've indicated before, 9 for me to make that determination without having 10 done a thorough investigation and making a 11 conclusory legal analysis, it does not do favors 12 to the ordinance, nor does it help with our 13 intent to prevent discrimination in our 14 community.</p> <p>15 MR. NEIHART: I have no further 16 questions.</p> <p>17 18 * * *</p> <p>19 EXAMINATION</p> <p>20 BY MR. CARROLL:</p> <p>21 Q. I have just a few questions, 22 Mr. Boyd. At the time that the subject 23 complaint was filed by Chelsey Nelson 24 Photography, LLC and Chelsey Nelson, do you 25 remember what your position was with Metro</p>	159	<p>1 that you ever -- once you sat down, did you read 2 the complaint?</p> <p>3 A. Yeah, I read it with legal counsel.</p> <p>4 Q. Okay. And at that time, was that 5 the first time you'd ever heard the name Chelsey 6 Nelson?</p> <p>7 A. Yes.</p> <p>8 Q. Had you ever heard that -- before 9 that time, had you ever heard the name Chelsey 10 Nelson Photography, LLC?</p> <p>11 A. No.</p> <p>12 Q. At t that time you were the 13 executive director, did you happen to ask other 14 folks in the -- at H -- at the -- where you were 15 working, if they had ever heard of Chelsey 16 Nelson?</p> <p>17 A. Like, in passing conversation but 18 not like in a formal conversation.</p> <p>19 Q. And to your knowledge, do you 20 remember if anyone else had even heard of 21 Chelsey Nelson before?</p> <p>22 A. Not to my knowledge. Not that I 23 remember.</p> <p>24 Q. Do you ever have any recall at all 25 of ever receiving any e-mails or complaints from</p>
158	<p>1 Government at that time?</p> <p>2 A. I believe I was still the executive 3 director of Human Relations Commission for 4 Louisville, Kentucky.</p> <p>5 Q. Okay. And prior to the filing of 6 the complaint, had you ever heard the name 7 Chelsey Nelson before?</p> <p>8 A. No.</p> <p>9 Q. Had you ever spoken to her?</p> <p>10 A. Not that I know of, no.</p> <p>11 Q. Had you ever heard of the business 12 Chelsey Nelson Photography, LLC at the -- before 13 the filing and the complaint in this case?</p> <p>14 A. No.</p> <p>15 Q. Did you know anything about the 16 business, Chelsey Nelson Photography LLC, prior 17 to the filing of the complaint in this case?</p> <p>18 A. No.</p> <p>19 Q. When the complaint was actually 20 filed in this case, did you happen to receive 21 ultimately a copy of the complaint which 22 actually names you as a defendant?</p> <p>23 A. Yes. Through our legal counsel, 24 yes.</p> <p>25 Q. Okay. And was that the first time</p>	160	<p>1 Chelsey Nelson prior to the time that she filed 2 this complaint?</p> <p>3 A. No. You mean to the HRC or to 4 myself?</p> <p>5 Q. Yes, to the HRC.</p> <p>6 A. No.</p> <p>7 Q. Had you ever -- to your knowledge, 8 had you ever received any complaints from anyone 9 else about the way that Chelsey Nelson 10 Photography, LLC or Chelsey Nelson individually 11 ran that business?</p> <p>12 A. No. No.</p> <p>13 MR. CARROLL: That's all the 14 questions that I have.</p> <p>15 16 * * *</p> <p>17 EXAMINATION</p> <p>18 BY MR. NEIHART:</p> <p>19 Q. Mr. Boyd, one follow-up question, 20 before you had seen the Facebook post about 21 Scooter's Triple B, had you heard of them?</p> <p>22 A. Not -- no -- not that I recall, no.</p> <p>23 Q. That didn't prevent you from 24 bringing it to the attention of the Enforcement 25 Board?</p>

161

1           A.    What, not hurting -- not having  
2 heard of them?  
3           Q.    Right. You still brought that to  
4 the -- you still brought Scooter Triple B's to  
5 the attention of the Enforcement Board?  
6           A.    Yeah, once it was brought to my  
7 attention as to what they were doing in the  
8 community.  
9           MR. NEIHART: All right. No  
10 further questions.  
11           THE COURT REPORTER: Any re-cross?  
12           MR. CARROLL: No, ma'am.  
13           THE COURT REPORTER: Okay. Then we  
14 will go off the record.  
15           MR. NEIHART: Okay.  
16  
17  
18                   \* \* \*  
19           (Witness Excused.)  
20                   \* \* \*  
21  
22  
23  
24  
25

162

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 31st day of  
19 May, 2021.  
20                   My commission expires July 21, 2022.  
21  
22                   /s/ Jessica T. Ross  
23                   JESSICA TAYLOR ROSS  
24                   Court Reporter  
25                   Notary Public, State At Large  
                  Notary ID 602031  
  
V/JR



CNP MSJ 00826

1	3
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, PLAINTIFFS  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	1 2 APPEARANCES 3 4 COUNSEL FOR PLAINTIFFS: 5 6 Jonathan A. Scruggs, Esq., AZ Bar No. 030505 7 Bryan D. Neihart, Esq., AZ Bar No. 035937 8 (Via Zoom videoconference) 9 ALLIANCE DEFENDING FREEDOM 10 15100 N. 90th Street 11 Scottsdale, Arizona 85260 12 Telephone: (480)444-0020 13 Email: jscruggs@adfllegal.org 14 bneihart@adfllegal.org 15 16 COUNSEL FOR DEFENDANT, LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT: 17 18 Casey L. Hinkle, Esq. 19 (Via Zoom videoconference) 20 KAPLAN JOHNSON ABATE AND BIRD, LLP 21 710 W. Main Street, 4th Floor 22 Louisville, Kentucky 40202 23 Telephone: (502) 416-1630 24 Email: chinkle@kaplanjohnsonlaw.com 25
2	4
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 APPEARANCES 3 4 COUNSEL FOR DEFENDANT, LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT: 5 6 Jason D. Fowler, Esq. 7 John Carroll, Esq. 8 (Via Zoom videoconference) 9 ASSISTANT JEFFERSON COUNTY ATTORNEYS 10 531 Court Place, Suite 900 11 Louisville, Kentucky 40202 12 Telephone: (502)574-6321 13 Email: jason.fowler@louisvilleky.gov 14 john.carroll2@louisvilleky.gov 15 16 17 18 19 20 21 22 23 24 25
VERNA GOATLEY MAY 27, 2021	

5	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: center;">P A G E</p> <p>5</p> <p>6 Color picture of deponent 2</p> <p>7 Appearances 3</p> <p>8 Index 5</p> <p>9 Exhibits 6</p> <p>10 Stipulations 7</p> <p>11 Introduction 8</p> <p>12 Examination by Mr. Neihart 10</p> <p>13 Examination by Ms. Hinkle 142</p> <p>14 Examination by Mr. Neihart 146</p> <p>15</p> <p>16 Court Reporter's Certificate 150</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	7
6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: center;">P A G E</p> <p>5</p> <p>6 Exhibit 1 62 (HRC Quarterly Newsletter April 2021)</p> <p>7</p> <p>8 Exhibit 2 62 (Online Discrimination Complaint Form (3))</p> <p>9 Exhibit 3 63 (2015-2017 HRC Annual Report)</p> <p>10</p> <p>11 Exhibit 4 67 (Advocacy Board Minutes 4/12/21)</p> <p>12 Exhibit 5 78 (Enforcement Board Minutes 4/13/21)</p> <p>13</p> <p>14 Exhibit 6 102 (Advocacy Board Minutes 6/9/20)</p> <p>15 Exhibit 7 115 (Scooter's Triple B's sign)</p> <p>16</p> <p>17 Exhibit 8 133 (Goatley Affidavit)</p> <p>18 Exhibit 9 142 (Photograph)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	8
5	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">S T I P U L A T I O N S</p> <p>5</p> <p>6 The remote deposition of VERNA GOATLEY, was taken pursuant to Notice via Zoom 7 videoconference, on Thursday, May 27, 2021; said 8 deposition to be used in accordance with the 9 Federal Rules of Civil Procedure.</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	7
6	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p style="text-align: center;">I N T R O D U C T I O N</p> <p>5</p> <p>6 THE COURT REPORTER: We're on the 7 record. My name is Jessie Ross, the court 8 reporter. I'm reporting remotely today from 9 Louisville, Kentucky, via Zoom videoconference. 10 Counsel, please state your name and 11 whom you represent, and let us know the names of 12 anyone else present with you.</p> <p>13 MR. NEIHART: Good morning. My 14 name is Bryan Neihart. I'm appearing on behalf 15 of the plaintiffs, Chelsey Nelson Photography, 16 LLC, and Chelsey Nelson. Here in the room with 17 me is Jonathan Scruggs.</p> <p>18 MS. HINKLE: And good morning. 19 This is Casey Hinkle for the defendants in this 20 matter. And in the room with me is John 21 Carroll, and I believe Jason Fowler is also 22 participating by Zoom.</p> <p>23 THE COURT REPORTER: Okay. I will 24 now ask the witness, can you please state your 25 full name for the record?</p> <p>THE WITNESS: My name is Verna Goatley.</p>	8

21	<p>1 process?</p> <p>2 A. Yes. I supervise the intake</p> <p>3 process.</p> <p>4 Q. That would include like the</p> <p>5 investigation process for complaints?</p> <p>6 A. I have to supervise the</p> <p>7 investigators, also.</p> <p>8 Q. And that would include supervising</p> <p>9 and signing off on conciliation agreements?</p> <p>10 A. Yes. I have to sign off on those</p> <p>11 conciliation agreements.</p> <p>12 Q. And that would include, you know,</p> <p>13 making reasonable cause determinations.</p> <p>14 Right?</p> <p>15 A. I can't answer that.</p> <p>16 Q. Do you make reasonable cause or</p> <p>17 probable cause determinations about complaints</p> <p>18 that have been failed, I mean, that there is or</p> <p>19 is not reasonable cause?</p> <p>20 A. I don't make the final decision.</p> <p>21 The decision is made at the investigator. I</p> <p>22 just review the -- what the investigator has</p> <p>23 inputted.</p> <p>24 Q. Okay. So you -- so the</p> <p>25 investigator makes the reasonable cause</p>	23	<p>1 A. As a matter of fact, I had new</p> <p>2 staff that even has started in the department</p> <p>3 this week and I have given them the policy</p> <p>4 manual to review and, also, different --</p> <p>5 different manuals that I received in my HUD and</p> <p>6 EEOC training for them to review.</p> <p>7 Q. And the policy manuals that you</p> <p>8 mentioned, is that a Commission policy manual?</p> <p>9 A. No. It's Louisville Metro's policy</p> <p>10 and procedure manual for human resources.</p> <p>11 Q. Okay. Now, going back to my</p> <p>12 questions about the probable cause, you have the</p> <p>13 authority to override the investigator officer</p> <p>14 to make that probable cause determination?</p> <p>15 A. I don't feel I have that right to</p> <p>16 override the investigator. That's why we sit</p> <p>17 down and have a discussion.</p> <p>18 Q. So the discussion is a back and</p> <p>19 forth discussion and, by the end of that time,</p> <p>20 you've kind of both agreed what to do?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. But then -- and then,</p> <p>23 ultimately, you sign off and approve that</p> <p>24 decision?</p> <p>25 A. Can you repeat what you just said?</p>
22	<p>1 determination, and then you agree -- you just</p> <p>2 agree with that determination?</p> <p>3 A. We need to discuss it, but the</p> <p>4 investigator makes the decision and I sign off</p> <p>5 on the decision after the discussion.</p> <p>6 Q. Okay. Does your supervision of the</p> <p>7 staff involve trainings?</p> <p>8 A. Sometimes.</p> <p>9 Q. Okay. What types of trainings have</p> <p>10 you done for the staff?</p> <p>11 A. Let me think. I'm trying to think</p> <p>12 of one off the top -- if we have a new procedure</p> <p>13 or a policy that comes from our human resource</p> <p>14 department or something about the operation of</p> <p>15 the office, I consider that a training that we</p> <p>16 do in a -- with a meeting with the staff.</p> <p>17 Q. Okay. And have you -- what types</p> <p>18 of procedures have you instituted since you've</p> <p>19 become the executive director?</p> <p>20 A. Nothing outside of basic office</p> <p>21 operations. I just followed through with the</p> <p>22 procedures that were already in place in the</p> <p>23 department.</p> <p>24 Q. Okay. So have you led any</p> <p>25 trainings on these procedures?</p>	24	<p>1 Q. Yeah. Then, ultimately, you sign</p> <p>2 off on and approve the probable cause</p> <p>3 determination decision?</p> <p>4 A. Yes.</p> <p>5 Q. All right. Okay. And does the</p> <p>6 Commission have contracts with HUD and the EEOC?</p> <p>7 A. Yes, we do.</p> <p>8 Q. And as the executive director, are</p> <p>9 you responsible for ensuring compliance with</p> <p>10 those contracts?</p> <p>11 A. That's part of my job</p> <p>12 responsibility.</p> <p>13 Q. Okay. Now, since you -- since you</p> <p>14 started with the Commission in 2019, has the</p> <p>15 Commission written annual reports?</p> <p>16 A. No.</p> <p>17 Q. When was the last annual report</p> <p>18 that was written?</p> <p>19 A. Prior to me coming to the</p> <p>20 department, I don't know the date offhand.</p> <p>21 Q. Okay. Did -- has the Commission</p> <p>22 produced any other publications since you've</p> <p>23 been working as the assistant director or</p> <p>24 executive director?</p> <p>25 A. We started back the newsletter in</p>

29

1 Q. All right. And you can confirm  
2 that as I'm scrolling down. Let me know if I'm  
3 going too fast. I'm just going to get to the  
4 bottom here.  
5 Okay. So can you see this section  
6 that says how to file a discrimination  
7 complaint?  
8 A. Yes.  
9 Q. Okay. And it says if you would  
10 like -- the first sentence there says if you  
11 would like to file a complaint of illegal  
12 discrimination with the Human Relations  
13 Commission, please call us and speak with one of  
14 our intake officers?  
15 A. Yes.  
16 Q. Okay. So what does the -- that  
17 conversation with the intake officers typically  
18 include?  
19 A. Who, what, when, where, and why.  
20 Q. So it's a fact-gathering phone  
21 call?  
22 A. Yes.  
23 Q. And can that -- can that phone call  
24 then be the complaint that's filed with the  
25 Commission?

30

1 A. That phone call turns into a  
2 document that is filed with the Commission.  
3 Q. Okay. So the person can file a  
4 formal complaint by calling in and the intake  
5 officer recording the who, what, when, where,  
6 why, what happened?  
7 A. Yes.  
8 Q. Okay. And then, the -- the next  
9 sentence says that our new -- it says or use or  
10 new online complaint form and we will contact  
11 you.  
12 Do you see that?  
13 A. Yes.  
14 Q. When did the online complaint  
15 process start?  
16 A. Prior to me coming to the  
17 department.  
18 Q. So that would have started while  
19 Mr. Boyd was the executive director?  
20 A. It could have started with him or  
21 before him, I'm not sure. But it was already in  
22 place when I came to the department.  
23 Q. Okay. So by 2019, this process was  
24 in place?  
25 A. Yes.

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1 Q. All right. At -- at the latest?  
2 A. Can you repeat what you're asking?  
3 Q. Right. You started -- you said it  
4 was in place when you joined the Commission in  
5 July of 2019. So it was at least -- the  
6 Commission at least had an online complaint  
7 system prior to July 2019, at some point?  
8 A. Yes.  
9 Q. And has that online complaint  
10 process continued for the entire time that  
11 you've been the -- with the Commission?  
12 A. We've always -- since I've been  
13 there, we've always had an online process.  
14 Q. Okay. And the Commission plans to  
15 continue to use that online process to receive  
16 complaints?  
17 A. To receive complaints, yes.  
18 Q. Okay. And why -- why does the --  
19 the Commission have online complaint process?  
20 A. To make it convenient for a person  
21 wanting to file a complaint to do so at their  
22 leisure.  
23 Q. Okay. And why is that important to  
24 make filing a complaint convenient?  
25 A. Being a service organization, we

32

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

33

1 the question?

2 MR. NEIHART: Sure. I'm sorry.

3 BY MR. NEIHART:

4 Q. So it could be that 100 of -- it

5 could be that 100 percent of the complaints are

6 filed through this online complaint process?

7 A. No, it's not 100 percent.

8 Q. Is it -- it could be that 90

9 percent of the complaints are filed through the

10 online complaint process?

11 MR. CARROLL: Objection, asked and

12 answered.

13 Go ahead. Tell him the best you

14 can, as far as whether you have an approximation

15 or not.

16 A. I don't have an approximation. I

17 would have to -- I would have to look that up.

18 If you want that info, I can get it.

19 BY MR. NEIHART:

20 Q. Okay. So it could be 90 percent,

21 then, you just don't know?

22 A. I don't know.

23 Q. Okay. So yes, it -- so my question

24 is it could be 90 percent, yes or no?

25 A. The majority of our complaints are

34

1 taken by people calling in.

2 Q. Okay. How many of the

3 complaints -- what percentage of the complaints

4 are taken by people calling in?

5 A. Explain what you're asking me.

6 Q. You -- you just said that the

7 majority of the complaints are from call-ins.

8 My question is approximately what percentage of

9 the complaints that you receive are received

10 from phone calls?

11 MR. CARROLL: Objection, asked and

12 answered. She's already told you she doesn't

13 know a percentage.

14 MR. NEIHART: Well, she just -- she

15 just said that the majority are phone calls and

16 that's a percentage, so that's what I'm asking.

17 MR. CARROLL: What is it you don't

18 get? She said the majority. She doesn't know a

19 percentage.

20 MR. NEIHART: Counsel, just state

21 your objection, and then I'll go back to my

22 question.

23 MR. CARROLL: I don't know that

24 there is a question.

25 MR. NEIHART: Jessie, could you

35

1 read the pending question, please?

2 (Whereupon the court reporter read

3 the previous question.)

4 A. Most of the complaints we receive

5 come from phone calls. I can't give a

6 percentage because I don't know offhand. I will

7 do the research and get back with you if that's

8 something you want me to do.

9 BY MR. NEIHART:

10 Q. Well, I'm not trying to belabor the

11 point. My point is that you just said the

12 majority of the calls are phone calls. And so

13 I'm just trying to ask, you know, if there is a

14 percentage. Majority seems to suggest to me

15 that 51 percent and so that's what I'm asking.

16 A. Under oath, I won't give a

17 percentage. I would just say majority.

18 Q. Ms. Goatley, do you have a copy of

19 the fairness ordinance in front of you, the

20 Metro ordinance?

21 MS. HINKLE: I can get one out.

22 Give me one second.

23 MR. NEIHART: Thank you.

24 BY MR. NEIHART:

25 Q. And I'll direct your attention to

36

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.

<p style="text-align: right;">41</p> <p>1 complaint. 2 BY MR. NEIHART: 3 Q. Right. So if someone calls in to 4 the office and has a -- has a complaint, 5 something happened to them, they give the office 6 this information, the office determines that it 7 has jurisdiction over the complaint, then it 8 sends the -- the complaint to the responding 9 party. 10 Right? 11 A. If the communication that is given 12 to the intake person is valid within our 13 jurisdiction, then we will process the -- the 14 communication as a complaint and the documents 15 are sent to the complainant and the respondent 16 to let them know that a -- a charge has been 17 communicated to our office. 18 Q. Okay. Could you now go to 19 92.09(D), please? And let me know when you're 20 finished reading it. 21 A. Okay. 22 Q. Okay. So -- so does -- is it the 23 Commission's process that once a complaint is 24 filed, the -- once a formal complaint is filed, 25 the investigation automatically begins? In</p>	<p style="text-align: right;">43</p> <p>1 get legal counsel? 2 A. Offhand, I can't remember what all 3 the letter has in it. 4 Q. Okay. Is it a long letter? 5 A. The letter includes the information 6 about the charge and instructions on how to 7 respond back to the office. 8 Q. Okay. And what do the instructions 9 on responding back to the office include, based 10 on what you remember? 11 A. Offhand, I can't tell you. 12 Q. Okay. But it -- but you 13 mentioned -- well, strike that. 14 All right. Let me share my screen 15 here. Can you see this screen, Ms. Goatley? 16 A. Yes. 17 Q. Okay. And is this -- it says 18 Louisville Metro Human Relations Commission 19 General Discrimination Complaint form? 20 A. Yes. 21 Q. Can you see it? 22 A. Yes. 23 Q. Okay. So we were talking about 24 that online complaint form. Is this the online 25 complaint form that you were talking about?</p>
<p style="text-align: right;">42</p> <p>1 other words, once the complaint is filed, the 2 Commission is required to investigate that 3 complaint? 4 A. If the communication received is 5 taken in as a complaint, then we have the 6 obligation to send the notification to the 7 complainant and respondent. 8 Q. Right. And then -- and then, 9 the -- you also have an obligation then to begin 10 the investigative process. 11 Right? 12 A. That is the beginning of the 13 investigative response, because we sent 14 communication to the respondent. 15 Q. Okay. And what does the 16 communication to the respondent say? 17 A. Basically, it gives an outline of 18 the -- of the charge and asks for them to 19 respond back to us about the allegation within a 20 time period. 21 Q. Okay. Does it explain the 22 consequences of failure to respond? 23 A. That is part of the communication 24 in the letter that is sent to -- 25 Q. Okay. And does it advise them to</p>	<p style="text-align: right;">44</p> <p>1 A. Yes. 2 Q. Okay. And let me scroll down here. 3 The -- do you see where it says where did the 4 events happen? 5 A. Yes. 6 Q. Why does this online form ask for 7 where did the event happen? 8 A. It's part of the preliminary who, 9 what, when, where, why. 10 Q. Okay. And how is the information 11 about where the event happened used? 12 A. It depends on what information is 13 given. 14 Q. Okay. What do you mean by that? 15 A. If it's a housing complaint, we 16 need to know where was the -- where did it 17 happen. 18 Q. Okay. And why is it important for 19 you to know where the event happened? 20 A. That's part of who the -- of the 21 respondent. For example, if it's a housing, 22 then we need to know who is the property owner. 23 Q. Okay. So this -- this gives you 24 information about the responding party? 25 A. Yes.</p>

53

1 time to reach you portion?  
 2 A. Asking for is it okay to contact  
 3 the person -- get a good time that the person  
 4 can respond back.  
 5 Q. Is it to make communications with  
 6 the complaining party more convenient?  
 7 A. Yes.  
 8 Q. All right. Going back to the top  
 9 of this document, do you see it says name, phone  
 10 number, and email address?  
 11 A. Yes.  
 12 Q. And is that information used to be  
 13 able to communicate with the complainant in  
 14 multiple ways?  
 15 A. Yes.  
 16 Q. All right. And once this online  
 17 complaint is filed, does that begin the  
 18 investigation process?  
 19 A. No.  
 20 Q. Okay. And why not? What happens  
 21 next?  
 22 A. The intake -- the intake  
 23 administrator will contact the complainant to  
 24 get more detailed information.  
 25 Q. Okay. And then what happens after

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1 that?  
 2 A. That's when it is discussed among  
 3 the team about pursuing further.  
 4 Q. Okay. And then, what happens after  
 5 it's discussed?  
 6 A. If the inquiry is taken as a  
 7 complaint, then we would start the -- the office  
 8 would start the process of sending out the  
 9 necessary documents for signature and, also,  
 10 sending out the communication to the respondent.  
 11 Q. Okay. Do you need a break? Are  
 12 you doing okay?  
 13 A. I'm good.  
 14 Q. Okay. Could you go to Section  
 15 92.09(A)? And let me know when you're finished  
 16 reading it.  
 17 A. Okay.  
 18 Q. Okay. Do you see where it says any  
 19 person or persons claiming to be aggrieved?  
 20 A. Yes.  
 21 Q. Okay. What is your understanding  
 22 of person or persons who can file a complaint?  
 23 A. Since it's a local ordinance, I  
 24 would say it's a local person.  
 25 Q. I mean, does it include --

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1 individuals can file complaints.  
 2 Right?  
 3 A. Right.  
 4 Q. Okay. And can organizations file  
 5 complaints? Do you know?  
 6 A. That's one I haven't had come  
 7 across my desk, so I would have to ask about  
 8 that.  
 9 Q. Are you familiar with the Lexington  
 10 Fair Housing Council?  
 11 A. I'm familiar with their office.  
 12 Q. Okay. Where is their office  
 13 located? Do you know?  
 14 A. I don't know the physical location,  
 15 no.  
 16 Q. Is it in Louisville?  
 17 A. It's in Lexington, Kentucky.  
 18 Q. And that's outside of Jefferson  
 19 County?  
 20 A. Yes.  
 21 Q. Okay. And are you familiar with  
 22 the annual reports that the Commission has  
 23 published in the past?  
 24 A. I'm familiar that I have seen them.  
 25 Q. Okay. What -- what does the

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1 Lexington Fair Housing Council do?  
 2 A. As our office, they process fair  
 3 housing complaints.  
 4 Q. Okay. So the Lexington Fair  
 5 Housing Council has filed complaints with the  
 6 Commission before?  
 7 MS. HINKLE: Objection to form.  
 8 MR. NEIHART: Okay. I'll rephrase.  
 9 BY MR. NEIHART:  
 10 Q. Has the Lexington Fair Housing  
 11 Council filed complaints with the Commission  
 12 before?  
 13 A. To my knowledge, I'm not aware of  
 14 that.  
 15 Q. Okay. And what is the purpose --  
 16 do you know what the purpose of the Lexington  
 17 Fair Housing Council is?  
 18 A. Basically, to -- to investigate  
 19 fair housing complaints in their jurisdiction.  
 20 Q. Do you know how they investigate  
 21 fair housing complaints in their jurisdiction?  
 22 A. I don't know their process, no.  
 23 Q. Okay. Now, going back to those  
 24 annual reports, are you aware that those annual  
 25 reports have conciliation agreements contained

<p style="text-align: right;">61</p> <p>1 believe that this conciliation agreement did not 2 happen? 3 A. I can't speak of something that 4 happened before I was a part of the department. 5 Q. Right. I'm not asking that. I'm 6 asking you, sitting here today, have no reason 7 to believe that this conciliation agreement did 8 not happen. 9 Right? 10 A. I don't know. 11 Q. Based on the Commission's typical 12 designations of cases, it looks like Lexington 13 Fair Housing Council was the complaining party. 14 Is that right? 15 A. That's what it looks like. 16 Q. Okay. 17 MR. NEIHART: I'm sorry, Jessie, I 18 think I don't have that one marked as an 19 exhibit, but the other three documents I 20 introduced, could you mark as Exhibit 1, Exhibit 21 2, and Exhibit 3? 22 THE COURT REPORTER: Yeah. So let 23 me make sure we're talking about the same 24 documents. 25 MR. NEIHART: Okay. Sorry about</p>	<p style="text-align: right;">63</p> <p>1 MR. NEIHART: And then, I didn't 2 have this marked as an exhibit. 3 THE COURT REPORTER: Okay. So that 4 was -- so Number 3 will be the HRC 2015 to '17 5 annual report? 6 MR. NEIHART: That's right, yeah. 7 (Whereupon, the referred to 8 document was marked as Exhibit 3, 9 and is attached hereto and made a 10 part hereof.) 11 THE COURT REPORTER: Okay. Got 12 them. I've got those three so far. 13 MR. NEIHART: Yeah. And actually, 14 I think now would be a good time for a break. 15 So if everyone is okay with that, let's take a 16 10-minute break. 17 THE COURT REPORTER: Sure. That's 18 fine with me. 19 MR. NEIHART: Okay. 20 THE COURT REPORTER: We're off the 21 record. 22 * * * 23 (Off the record.) 24 * * * 25</p>
<p style="text-align: right;">62</p> <p>1 that. 2 THE COURT REPORTER: That's okay. 3 So we kind of briefly discussed her resume, but 4 did you want that to be an exhibit or not? 5 MR. NEIHART: No. 6 THE COURT REPORTER: Okay. So not 7 the exhibit. So I have -- hang on, let me get 8 back to my notes. I have the HRC quarterly 9 newsletter. 10 MR. NEIHART: Yes. So that would 11 be Exhibit 1. 12 (Whereupon, the referred to 13 document was marked as Exhibit 1, 14 and is attached hereto and made a 15 part hereof.) 16 THE COURT REPORTER: Okay. And 17 then, I've got the discrimination complaint 18 form. 19 MR. NEIHART: Yeah. That's 20 Exhibit 2. 21 (Whereupon, the referred to 22 document was marked as Exhibit 2, 23 and is attached hereto and made a 24 part hereof.) 25 THE COURT REPORTER: Okay.</p>	<p style="text-align: right;">64</p> <p>1 * * * 2 CONTINUED EXAMINATION 3 BY MR. NEIHART: 4 Q. Welcome back, Ms. Goatley, I hope 5 you had a nice break. 6 A little while ago, we were talking 7 about the newsletters that the Commission 8 publishes. 9 Do you remember that? 10 A. Yes. 11 Q. And those are the quarterly 12 newsletters that the Commission publishes? 13 A. Yes. 14 Q. And I think I saw something like 15 one was published in January, one was published 16 in April? 17 A. Yes. 18 Q. Okay. And who reviews those 19 newsletters? 20 A. Pardon me? 21 Q. Who reviews -- excuse me. Who 22 reviews those newsletters? 23 A. Myself and, then, the person that 24 created it and, then, my other administrative 25 person. It's about three of us that review it.</p>

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1 Q. Okay. And who ensures that the  
2 information contained in those newsletters is  
3 accurate?  
4 A. Between the -- the group of us, we  
5 do.  
6 Q. Okay. And you want to make sure  
7 that all the information contained in the  
8 newsletter is accurate and correct.  
9 A. Yes.  
10 Q. Right?  
11 Okay. Let me pull up another  
12 document. Okay.  
13 Do you see -- I'm going to scroll  
14 up to the top here. Do you see the -- this is  
15 the Commission newsletter that we talked about  
16 from April?  
17 Do you see that?  
18 A. Yes.  
19 Q. Okay. And I can scroll down, but  
20 this is -- I'll represent this is the same  
21 newsletter we just -- we talked about a little  
22 bit ago.  
23 All right. I'm going to the  
24 bottom. Now, on this -- under how to file a  
25 discrimination complaint, do you see that second

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1 sentence in the first paragraph? It says or use  
2 our new easy-to-use online complaint form.  
3 A. Yes.  
4 Q. Okay. And you reviewed this  
5 document to make sure that it was accurate  
6 before it was published?  
7 A. Yes.  
8 Q. Okay. I thought before that your  
9 testimony was that the online complaint form had  
10 been in existence prior to your -- well, let me  
11 back up. This is from April 2021.  
12 Correct?  
13 A. Right.  
14 Q. Okay. And I thought your testimony  
15 earlier was that the online complaint process  
16 had been in place before your tenure as the  
17 executive director?  
18 A. Yes, it has.  
19 Q. Okay. So then, why does this  
20 document use the word new?  
21 A. The document has been changed. The  
22 prior form that was online was a pdf form that a  
23 person would have to download and print, and  
24 then write out all the information, and then  
25 upload it and submit it if they wanted to do

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1 online or mail it in.  
2 Q. Okay.  
3 A. And we changed over the form to a  
4 WuFoo form that a person can get to whether  
5 they're on a computer or an iPad or a cell  
6 phone.  
7 Q. Okay. And so -- and so people were  
8 able to submit information online before your  
9 tenure -- tenure as the executive director?  
10 A. Yes.  
11 Q. Okay. And why did you change the  
12 form? Was it to make it more convenient for  
13 people to use?  
14 A. Yes.  
15 Q. Okay. All right. I'm going to  
16 share another document with you, Ms. Goatley.  
17 MR. NEIHART: And please mark this  
18 as the next exhibit, please.  
19 THE COURT REPORTER: Sure. This  
20 will be 4.  
21 (Whereupon, the referred to  
22 document was marked as Exhibit 4,  
23 and is attached hereto and made a  
24 part hereof.)  
25 MR. NEIHART: Okay. Thank you.

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1 BY MR. NEIHART:  
2 Q. Okay. Do you see this document,  
3 Ms. Goatley?  
4 A. Yes.  
5 Q. Okay. And this is the Advocacy  
6 Board's televideo meeting minutes, it looks  
7 like?  
8 A. Yes.  
9 Q. Okay. I'm going to scroll down --  
10 I'm scrolling -- okay. So on this last page, it  
11 says Page 5, March 1st, 2021.  
12 Do you see that date?  
13 A. Yes.  
14 Q. Did you attend this meeting?  
15 A. I believe I was there, yes.  
16 Q. Okay. All right. So it says --  
17 under Enforcement Board, it says in the second  
18 sentence, a lot of the complaints have been  
19 housing complaints that have been generated by  
20 the housing testers who are calling people.  
21 Do you see that?  
22 A. Yes.  
23 Q. Okay. What is a tester?  
24 A. Can you repeat your question?  
25 Q. Yes. Is a tester someone that

<p style="text-align: right;">69</p> <p>1 poses as a customer or potential tenant? 2 A. Yes. 3 Q. Okay. And how many customers does 4 the -- or excuse me, how many testers does the 5 Commission currently employ? 6 A. Three. 7 Q. Okay. And are they full-time or 8 part-time employees? 9 A. Part-time. 10 Q. Okay. Has the Commission always 11 employed three testers during your tenure as the 12 executive director or the assistant director? 13 A. In my tenure with the Commission, 14 we have employed testers. I'm not exactly sure 15 how many were on board when I first came to the 16 department, but we currently have three. 17 Q. Okay. So it could have been more 18 than three when you came on board? 19 A. It could have been. 20 Q. Okay. So who makes the -- so this 21 says that -- well, strike that. 22 Who makes the decision about who 23 the testers call? 24 A. One of my current staff members has 25 that responsibility.</p>	<p style="text-align: right;">71</p> <p>1 with respect to this testing program or is 2 that -- with respect to this testing program? 3 A. I supervise her for all her daily 4 duties. 5 Q. Okay. Have you ever talked to her 6 about the testing program? 7 A. Yes. 8 Q. Okay. And what did the two of you 9 talk about with respect to the testing program? 10 A. The process of the testers, because 11 she has direct communication with them. 12 Q. So what did you talk about with 13 respect to the process of testing? 14 A. Well, I had to learn the process, 15 because I was not aware about it until I came to 16 the department. 17 Q. Okay. And what did you learn about 18 the process when you talked to her? 19 A. Besides that we have them and how 20 they go about doing what they -- how we come up 21 with the -- the assignments for the testers. 22 Q. Okay. And so how do the 23 assignments get developed for the testers? 24 A. Ms. Calhoun randomly selects 25 scenarios for the testers to follow.</p>
<p style="text-align: right;">70</p> <p>1 Q. Okay. And are the places that 2 testers call just randomly selected? 3 A. Yes. 4 Q. Okay. And how do -- how do the 5 testers go about randomly selecting places to 6 call? 7 A. That is -- that process is done 8 by -- the office personnel person does that. 9 They give them the assignments. 10 Q. And do you know how they come up 11 with the assignments? 12 A. Being I haven't sat in that chair 13 to do that, no. I haven't had any training on 14 that. 15 Q. And as your job as the executive 16 director, it's your responsibility to supervise 17 that program? 18 A. The direct supervision of that 19 program is done by a staff person. 20 Q. Okay. What is his or her name? 21 A. Diniah Calhoun. 22 Q. Okay. And do you supervise Diniah 23 Calhoun? 24 A. Yes. 25 Q. Okay. And do you supervise her</p>	<p style="text-align: right;">72</p> <p>1 Q. I'm sorry, you cut out a little 2 bit. Could you repeat that? 3 A. Ms. Calhoun comes up with the 4 scenarios for the testers to follow -- 5 Q. Okay. 6 A. -- as well as the properties. 7 Q. And how does she come up with those 8 scenarios? 9 A. From guidance that she was trained 10 on in doing that position. 11 Q. Okay. And so when these testers 12 are randomly calling places, they're likely 13 places that they've never heard of before. 14 Right? 15 A. Yes. 16 Q. How many calls have the testers 17 generated during your time at the Commission? 18 A. Without looking at documentation, I 19 don't know the number. 20 Q. Okay. Do you have a ball park 21 idea? 22 A. No, I don't. 23 Q. Okay. So it could be thousands of 24 calls? 25 A. From what I understand from</p>

73	<p>1 Ms. Calhoun, she gives the assignments to the</p> <p>2 testers and they make the calls. So they --</p> <p>3 Q. Do you know how many calls --</p> <p>4 A. I'm not sure how many -- the number</p> <p>5 of inquiries that they are given on a weekly</p> <p>6 basis.</p> <p>7 Q. Okay. But they're given new places</p> <p>8 to call every week?</p> <p>9 A. Yeah. They are required to do an</p> <p>10 inquiry on a weekly basis.</p> <p>11 Q. Do they do more than one inquiry</p> <p>12 per week?</p> <p>13 A. I would have to check with</p> <p>14 Ms. Calhoun, because I'm not that familiar with</p> <p>15 the day-to-day process on that.</p> <p>16 Q. Okay. Do you remember anything</p> <p>17 else about your conversation with Ms. Calhoun as</p> <p>18 you were exploring the tester program?</p> <p>19 A. Well, the conversation was how did</p> <p>20 it even come into existence and -- and where we</p> <p>21 are today with it.</p> <p>22 Q. Okay. And so how did the tester</p> <p>23 program come into existence?</p> <p>24 A. My understanding, it was from some</p> <p>25 funds from HUD that they started the program.</p>	75	<p>1 there's no written policy that you know that</p> <p>2 prohibits the Commission from using testers with</p> <p>3 respect to public accommodations?</p> <p>4 A. Our testers only test housing.</p> <p>5 Q. But there's no policy that</p> <p>6 prohibits them from testing public</p> <p>7 accommodations?</p> <p>8 A. We are only charged to do housing</p> <p>9 for familiar status, service animals, and</p> <p>10 emotional support animals. That's all we have</p> <p>11 tested on currently.</p> <p>12 Q. Okay. Right. But there's nothing</p> <p>13 that prohibits you from testing beyond that.</p> <p>14 Correct?</p> <p>15 A. No, that's all we are charged to</p> <p>16 testing at this time. And I don't know if</p> <p>17 that's because of HUD or what, but that's all.</p> <p>18 Q. Well, you said the current testing</p> <p>19 budget is from the Metro Government.</p> <p>20 Correct?</p> <p>21 A. They are paid from Metro Government</p> <p>22 as paid Metro part-time employees.</p> <p>23 Q. Right. And so there's nothing that</p> <p>24 prohibits them from that budgetary allocation</p> <p>25 from testing other entities?</p>
74	<p>1 And as the funding was no longer available, that</p> <p>2 the current director wanted to continue the</p> <p>3 process. And so that's where it was built into</p> <p>4 the budget.</p> <p>5 Q. Okay. So the testers are now a</p> <p>6 specific line item from the Louisville Metro</p> <p>7 Government for the Commission's operation?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And when did that -- when</p> <p>10 did -- when did the testers transition to being</p> <p>11 funded by the Louisville Metro Government?</p> <p>12 A. I'm not sure of that date. It was</p> <p>13 before I came to the department.</p> <p>14 Q. Was it during Mr. -- you mentioned</p> <p>15 Mr. Boyd. Was it during his tenure as the</p> <p>16 executive director?</p> <p>17 A. I'm not sure.</p> <p>18 Q. And there's nothing in the -- the</p> <p>19 ordinance or the Commission's policies that</p> <p>20 prohibit it from using testers, I'm assuming,</p> <p>21 since you use them.</p> <p>22 Is that correct?</p> <p>23 A. As far as I know, there is nothing</p> <p>24 that prohibits us from doing that.</p> <p>25 Q. Okay. And there's nothing that --</p>	76	<p>1 A. We are only servicing what I had --</p> <p>2 what I had previously said for housing under the</p> <p>3 familiar status and the emotional support and</p> <p>4 the service animals.</p> <p>5 Q. Okay. How do you know you are only</p> <p>6 charged with that type of testing?</p> <p>7 A. That's all that we've -- that's</p> <p>8 all, since I've been there, that they have ever</p> <p>9 tested for and said that that's what they were</p> <p>10 charged with testing. Now, I don't know the</p> <p>11 history of the testing program, so I don't know</p> <p>12 how and who they were testing, you know, before</p> <p>13 when they first started the program.</p> <p>14 Q. Okay. So when you were saying what</p> <p>15 you have been charged to do, you're saying</p> <p>16 that's what's been done in the past.</p> <p>17 Right?</p> <p>18 MS. HINKLE: Objection to form.</p> <p>19 BY MR. NEIHART:</p> <p>20 Q. You can answer the question.</p> <p>21 A. Oh, well, again, when I came to the</p> <p>22 department, I'm just following with the</p> <p>23 procedure that -- that was in place when I came</p> <p>24 to the department. I have not made any changes</p> <p>25 to the process.</p>

<p style="text-align: right;">77</p> <p>1 Q. Right. And you've never been told 2 by anyone that you cannot use testers for public 3 accommodations. 4 Right? 5 A. I haven't asked the question. 6 Q. Okay. And as -- in your position 7 as the executive director, you're familiar with 8 the Commission's policies. 9 A. Yes. 10 Q. Right? 11 That's one of your job 12 responsibilities is to know what the policies 13 are? 14 A. Correct. 15 Q. And you're not aware -- and having 16 reviewed those policies, there's no policy that 17 says you cannot use testers for public 18 accommodations? 19 A. I haven't seen a policy that 20 outlines any of what you're asking. 21 Q. Okay. And Ms. Goatley, the 22 Enforcement and the Advocacy Boards have 23 monthly -- approximately monthly meetings. 24 Is that right? 25 A. Correct.</p>	<p style="text-align: right;">79</p> <p>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.</p>
<p style="text-align: right;">78</p> <p>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</p>	<p style="text-align: right;">80</p> <p>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.</p>

<p style="text-align: right;">81</p> <p>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</p>	<p style="text-align: right;">83</p> <p>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?</p>
<p style="text-align: right;">82</p> <p>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</p>	<p style="text-align: right;">84</p> <p>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?</p>

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1 gets investigated, the investigator writes a  
 2 final report.  
 3 Correct?  
 4 A. Yes. There is a final report that  
 5 has to be communicated.  
 6 Q. And then, that report goes to you  
 7 to find probable cause or no probable cause?  
 8 A. That's done at the investigator  
 9 level.  
 10 Q. But you approve probable cause or  
 11 no probable cause determinations?  
 12 A. I sign off with the investigator.  
 13 Q. Okay. So is, basically, whatever  
 14 the investigator concludes is what you adopt?  
 15 A. Yes.  
 16 Q. Has there ever been a situation  
 17 where you didn't approve the conclusions of the  
 18 investigator?  
 19 A. No.  
 20 Q. Okay. So you -- you would say your  
 21 review is pretty minimal?  
 22 MS. HINKLE: Objection to form.  
 23 A. Can you repeat the question?  
 24 BY MR. NEIHART:  
 25 Q. Would you say that your review of

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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.

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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

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1 them at that time.  
 2 Q. Okay. So what types of things are  
 3 you reviewing for when you're speaking with the  
 4 investigator?  
 5 A. The who, what, when, where, why,  
 6 and how the conclusion was -- was come to.  
 7 So --  
 8 Q. Okay. And in that why analysis,  
 9 what types of things do you think about?  
 10 A. Well, in getting all the  
 11 information together, you -- I'm looking at how  
 12 it -- how it's applicable to the rulings of the  
 13 law with either HUD or EEOC.  
 14 Q. Okay. And what about public  
 15 accommodations?  
 16 A. It would be the same type of  
 17 review.  
 18 Q. Well, the HUD or the EEOC law  
 19 wouldn't apply to public accommodations.  
 20 Right?  
 21 A. I don't understand what you're  
 22 asking.  
 23 Q. I'm asking you how do you determine  
 24 reasonable cause as to public accommodations?  
 25 What types of things are you looking for? What

93	<p>1 factors do you consider?</p> <p>2 A. I would have to have the rule book</p> <p>3 in front of me in order to quote any of it.</p> <p>4 Q. Is there a rule book for making</p> <p>5 those determinations?</p> <p>6 A. It's not really what -- I'm sorry</p> <p>7 to say a rule book, it's the different statutes.</p> <p>8 Because we --</p> <p>9 Q. Okay.</p> <p>10 A. -- quote those in our conclusions.</p> <p>11 We have to quote which one of the rulings that</p> <p>12 it applies -- the decision applies to.</p> <p>13 Q. And when you say rulings, you mean</p> <p>14 like the ordinance?</p> <p>15 A. No. I'm talking about the -- the</p> <p>16 statutes of HUD or EEOC, those kind of things.</p> <p>17 Q. Okay. And --</p> <p>18 A. Or if you're referring to the local</p> <p>19 ordinance, then it would be the ordinance.</p> <p>20 Q. Okay. And so when you're</p> <p>21 consulting the local ordinance, how do you</p> <p>22 determine if a -- if an activity violates the</p> <p>23 ordinance?</p> <p>24 A. If the actions that is</p> <p>25 communicated -- that's in the communication is</p>	95	<p>1 A. If a person -- if the -- if the</p> <p>2 inquiry or the communication stated that they</p> <p>3 were restricted from or denied or any of those</p> <p>4 kind of things.</p> <p>5 Q. So would you look at whether a</p> <p>6 public accommodation has a policy that</p> <p>7 differentiates between persons?</p> <p>8 MS. HINKLE: Objection to form.</p> <p>9 A. Can you clarify what you're asking?</p> <p>10 BY MR. NEIHART:</p> <p>11 Q. Sure. Would one of the factors</p> <p>12 that go into your analysis of whether the public</p> <p>13 accommodation has engaged in discrimination</p> <p>14 would be the types of policies that it</p> <p>15 maintains?</p> <p>16 MS. HINKLE: Objection to form.</p> <p>17 A. I guess -- when we are looking at</p> <p>18 an inquiry and someone is saying that they have</p> <p>19 been discriminated upon -- against, then we have</p> <p>20 to see what actions were taken to cause -- that</p> <p>21 has caused that discrimination. So we're</p> <p>22 looking at whatever actions, physical -- whether</p> <p>23 it was physical, was it verbal, was it a sign</p> <p>24 posted or something like that.</p> <p>25 Q. Okay. So for example, if a</p>
94	<p>1 against what the ordinance says, then that's how</p> <p>2 the determination is made.</p> <p>3 Q. Okay. So how do you determine</p> <p>4 if -- if the statement or an action is actually</p> <p>5 against the ordinance?</p> <p>6 A. I don't understand what you're</p> <p>7 asking me.</p> <p>8 Q. Yeah. Maybe it would be helpful to</p> <p>9 look at the ordinance itself. Would you go to</p> <p>10 92.02, please? And let me know when you're</p> <p>11 there.</p> <p>12 MS. HINKLE: She's turned to the</p> <p>13 section, Bryan. Is there a specific definition</p> <p>14 you'd like her to review?</p> <p>15 MR. NEIHART: Oh, I'm sorry. Yeah.</p> <p>16 BY MR. NEIHART:</p> <p>17 Q. Under the discrimination</p> <p>18 definition.</p> <p>19 A. Okay.</p> <p>20 Q. Okay. So for example, how would</p> <p>21 you go about making the determination that a</p> <p>22 public accommodation practice differentiation or</p> <p>23 preference in the treatment of the persons?</p> <p>24 What types of things would you be looking at to</p> <p>25 make that determination?</p>	96	<p>1 restaurant had a policy that said we don't serve</p> <p>2 Jewish people, would that violate the ordinance?</p> <p>3 MS. HINKLE: Objection to form,</p> <p>4 incomplete hypothetical.</p> <p>5 MR. NEIHART: Let me rephrase the</p> <p>6 question.</p> <p>7 BY MR. NEIHART:</p> <p>8 Q. If a restaurant had a policy that</p> <p>9 said we don't serve Jewish people, would that</p> <p>10 rise to the level of a probable cause</p> <p>11 determination?</p> <p>12 MS. HINKLE: Objection to form.</p> <p>13 A. The restaurant has the right to put</p> <p>14 up whatever they want, but is it right, no.</p> <p>15 BY MR. NEIHART:</p> <p>16 Q. Right. If the -- if the restaurant</p> <p>17 had a policy of not serving Jewish people, would</p> <p>18 that rise to the level of probable cause?</p> <p>19 MS. HINKLE: Objection to form.</p> <p>20 A. That's a form of discrimination.</p> <p>21 BY MR. NEIHART:</p> <p>22 Q. Okay. And by that's a form of</p> <p>23 discrimination, you mean the policy would be a</p> <p>24 form of discrimination?</p> <p>25 MS. HINKLE: Objection to form.</p>

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1 A. I don't understand what you're  
2 asking me to say.  
3 BY MR. NEIHART:  
4 Q. If the restaurant had a policy of  
5 not serving Jewish people, that policy would be  
6 a form of discrimination.  
7 Right?  
8 A. Yes.  
9 Q. Okay. I'm going to pull up another  
10 document.  
11 How are you doing, Ms. Goatley, for  
12 lunch? I probably have a little while longer,  
13 though it would make sense if -- if you wanted  
14 to take -- if you wanted to be at a stopping  
15 point now. I know it's a little bit late --  
16 late for you.  
17 MS. HINKLE: It's up to you, Verna.  
18 THE WITNESS: Let's take a lunch.  
19 MR. NEIHART: Okay.  
20 THE COURT REPORTER: We're off the  
21 record.  
22  
23 \* \* \*  
24 (Off the record.)  
25 \* \* \*

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1 THE COURT REPORTER: We're back on  
2 the record.  
3  
4 \* \* \*  
5 CONTINUED EXAMINATION  
6 BY MR. NEIHART:  
7 Q. Welcome back from your break,  
8 Ms. Goatley. I hope you had a nice lunch.  
9 A. Thank you.  
10 Q. Let's see. Earlier, before the  
11 break, you mentioned that the Commission's  
12 charge for testing was with respect to housing,  
13 with respect to familiar status, and some  
14 other -- and some other status.  
15 Do you remember that?  
16 A. Uh-huh. (Witness answers in the  
17 affirmative.)  
18 Q. And by charge, do you mean that was  
19 the practice that was in existence when you came  
20 to the Commission?  
21 A. Yes.  
22 Q. All right. And to your knowledge,  
23 there's nothing that prohibits the Commission  
24 from using testers for public accommodations in  
25 the future.

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1 Correct?  
2 MS. HINKLE: Asked and answered.  
3 A. I would have to look at the statute  
4 that brought the testers in in order to make  
5 that determination.  
6 Q. What statute are you referring to?  
7 A. No, I would have to look at the --  
8 the instructions about the testers before I  
9 could make that determination.  
10 Q. What instructions are you referring  
11 to?  
12 A. I'm referring to the documents that  
13 they have about the testing program.  
14 Q. And who has those documents?  
15 A. I would see what the office has, as  
16 far as documents of the testing program.  
17 Q. Does the office have documents as  
18 to the testing program?  
19 A. I would have to research that. I'm  
20 still trying to get my feet on a foundation with  
21 the different processes of the office.  
22 Q. And so you don't know if those  
23 documents exist?  
24 A. No, I haven't -- I haven't been  
25 privy to those documents as of yet.

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1 Q. And part of your responsibility as  
2 the executive director is to be aware of the  
3 Commission's policies?  
4 A. Yes. But as I said, I'm still in a  
5 training program -- training mode of the  
6 position.  
7 Q. You joined the Commission as  
8 assistant director in 2019?  
9 A. Yes.  
10 Q. Has anyone ever told you that you  
11 can't use testers for public accommodations?  
12 MS. HINKLE: Objection, asked and  
13 answered.  
14 A. I haven't -- I haven't been told  
15 that.  
16 BY MR. NEIHART:  
17 Q. Okay.  
18 (Off-the-record comments.)  
19 BY MR. NEIHART:  
20 Q. Is there anyone -- who in the  
21 office would know if such a policy -- if such a  
22 document exists as to testers?  
23 A. If any documentation exists, it  
24 would be Diniyah Calhoun.  
25 Q. Does -- would Mr. Boyd know about

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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.

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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.)

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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.

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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.

109	111
<p>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</p>	<p>1 A. If we had a person that came to us 2 with a complaint, we would have to address the 3 complaint. 4 BY MR. NEIHART: 5 Q. Right. I'm asking you sitting here 6 today, is there anything about this sign that 7 rises to the level of a probable cause 8 determination? 9 MS. HINKLE: Objection to form. 10 A. Can you clarify what you're asking 11 me? 12 Q. We talked about probable cause 13 determinations before. Do you remember that? 14 As the executive director, you approve probable 15 cause determinations? 16 A. Yes. 17 Q. Is there anything from this sign 18 that would have you as a commissioner believe -- 19 or as the executive director believe that a 20 probable cause -- that this sign rises to a 21 probable cause determination? 22 MS. HINKLE: Objection to form. 23 A. I would need more information in 24 order to make that determination. 25 * * *</p>
110	112
<p>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.</p>	<p>1 BY MR. NEIHART: 2 Q. Okay. What about just seeing this 3 sign, would it be worthy of additional 4 investigation, in your opinion? 5 A. If a complainant brought it to our 6 attention, I would say I would want a response 7 from a respondent about it. 8 Q. Right. But just you looking at 9 this sign itself, do you think that it's worthy 10 of being investigated? 11 A. It depends on where the sign was 12 posted. 13 Q. Right. Just looking at the sign 14 itself, though, there's nothing from the sign 15 itself, regardless of where it was posted, that 16 would lead you to investigate the accommodation 17 posting this sign? 18 A. I would need -- 19 MS. HINKLE: Objection to form. 20 A. I would need more information about 21 it before I could make that determination. 22 BY MR. NEIHART: 23 Q. So you can't tell just by looking 24 at this sign whether it warrants additional 25 investigation?</p>

113	<p>1 A. I would need more -- I would need 2 to have more information about it. 3 Q. Okay. What type of information 4 would you need? 5 A. I'd be looking at where it was 6 posted, who was around, was there any witnesses. 7 Q. All right. And why would you look 8 at that information? 9 A. Because if this sign was in 10 someone's private home, I can't -- I can't -- I 11 can't get on somebody for something that they 12 have in the privacy of their home, in the 13 privacy of their space. 14 Q. Okay. Would the location of the 15 sign at a public accommodation matter? 16 A. I would need more information in 17 order to make that determination. 18 Q. I'm just asking -- you mentioned -- 19 you mentioned part of the factor you would need 20 is where the sign was hung. I'm asking why the 21 location of the sign matters if it was hung in a 22 public accommodation? 23 A. I would still need more information 24 about the public accommodation to make that 25 determination.</p>	115	<p>1 Q. Right. But in your -- in your 2 capacity as the executive director, would this, 3 seeing a sign at the front of a restaurant, 4 cause you to begin an investigation? 5 A. Personally, no. Someone would have 6 to make the complaint. 7 Q. Okay. I'll take this down. Thank 8 you. 9 THE COURT REPORTER: Did you want 10 to make that an exhibit or no? 11 MR. NEIHART: I'm sorry? 12 THE COURT REPORTER: Did you want 13 to make that an exhibit? 14 MR. NEIHART: Oh, I'm sorry. Yes, 15 please. 16 THE COURT REPORTER: Okay. So that 17 will be Number 7. 18 (Whereupon, the referred to 19 document was marked as Exhibit 7, 20 and is attached hereto and made a 21 part hereof.) 22 BY MR. NEIHART: 23 Q. Okay. We previously talked about 24 the -- some of the factors that you use to make 25 probable cause determinations, some of the</p>
114	<p>1 Q. Yeah. Well, I'm just asking -- you 2 mentioned -- I'm asking you for more 3 information. You just mentioned where was one 4 of the factors that you would consider. And I'm 5 just asking why does where suppose to matter? 6 If it's posted in the entrance as opposed to 7 somewhere else, does that make a difference? 8 A. No. 9 Q. Okay. So the location of the sign 10 doesn't matter? 11 A. It depends on -- it's a lot of 12 determinants in order whether it would matter or 13 not. 14 Q. Okay. Like what else? 15 A. I don't know. 16 Q. And have you -- 17 A. I would just have to gather as much 18 information as I can in order to make a more 19 direct opinion about it. 20 Q. Okay. And what if the sign was 21 posted at the front door of the restaurant, 22 would that lead you to conclude that it should 23 be investigated? 24 A. If a person -- if an individual 25 wanted to make a complaint.</p>	116	<p>1 things that you discuss with the investigators. 2 Right? 3 A. Right. 4 Q. And we talked about part of your 5 job responsibilities as the executive director 6 is to approve probable cause determinations? 7 A. Correct. 8 Q. And you've sat in on and 9 participated in many probable cause 10 determinations since you've been with the 11 Commission? 12 A. Yes, I have. 13 Q. Okay. And we also had talked about 14 how a restaurant declining to serve people -- 15 declining to serve Jewish people rose to the 16 level of a probable cause determination. 17 Do you remember that? 18 MS. HINKLE: Objection to form. 19 A. Okay. 20 BY MR. NEIHART: 21 Q. Do you remember that conversation 22 that we had about that? 23 A. I remember you asking me some 24 questions about that. 25 Q. Okay. That's what I mean.</p>

117	1 So how would you handle a situation 2 where a T-shirt printer declined to print a 3 T-shirt that says God bless gay marriage? 4 MS. HINKLE: Objection to form. 5 A. Are you asking if we had a case of 6 something like that? 7 BY MR. NEIHART: 8 Q. No. I'm asking how would you 9 handle a situation -- a complaint that was filed 10 alleging that a T-shirt printer declined to 11 print a T-shirt that says God bless gay 12 marriage? 13 MS. HINKLE: Objection to form. 14 A. Mr. Neihart, in any of those cases 15 that you are quoting about, I would have to see 16 all sides of -- of the case, being the 17 complainant's complaint and the respondent's 18 communication from it in order to make a 19 determination. 20 BY MR. NEIHART: 21 Q. Okay. So what types of things 22 would you be looking for as far as information 23 from the complainant and information from the 24 respondent? 25 A. We ask the complainant to supply us	119	1 could be how it was communicated to the 2 complainant. 3 Q. What I'm asking is what if the 4 T-shirt printer declined to print the shirt just 5 because the content of the shirt was God bless 6 gay marriage. How would that factor into the 7 analysis? 8 MS. HINKLE: Objection to form. 9 A. In my thinking, they wouldn't print 10 a T-shirt if they didn't have a -- would you say 11 a template or whatever. They are -- so if they 12 had that template in their store, then that 13 means that they are going to print a T-shirt 14 that says that. 15 BY MR. NEIHART: 16 Q. What if the T-shirt printer was 17 asked to design the T-shirt, would the fact that 18 the T-shirt printer declined to design the 19 T-shirt because it said God bless America -- 20 excuse me, God bless gay marriage, would you 21 consider that? 22 MS. HINKLE: Objection to form. 23 A. That's their right to refuse 24 business. You have a right to refuse business. 25 * * *
118	1 with whatever evidence that they have, if they 2 have witnesses of the occurrence. 3 Q. Uh-huh. 4 A. If they have any pictures, if they 5 have any voicemail, emails, text messaging, 6 any -- any kind of communication about it. 7 And then, the respondent is able to 8 give their side of the story as to what may have 9 transpired and whatever documentation that they 10 have or whatever communication that they give 11 us. 12 Q. So would you -- you would consider 13 all the information that is provided to you? 14 A. Yes. That's our job to consider 15 all information provided. 16 Q. Okay. And so if that information 17 included that the denial was because of the 18 content of the shirt, that would be something 19 that you would consider? 20 A. If that's part of the information 21 provided, it will be considered. 22 Q. Okay. And how would the content of 23 the shirt play a factor in your analysis? 24 A. If a complainant has complained 25 about the content of a shirt or something, it	120	1 BY MR. NEIHART: 2 Q. Do you agree that Ms. Nelson had 3 the right to refuse business? 4 MS. HINKLE: Objection to form. 5 A. Ms. Nelson has the right to do 6 whatever. 7 Q. Okay. Do you agree that Ms. Nelson 8 has the right to refuse to photograph same-sex 9 weddings? 10 A. It's -- Ms. Nelson has the right to 11 do whatever she wants with her business. 12 Q. So Ms. Nelson has the right to 13 refuse to photograph same-sex weddings? 14 A. She has the right to decline any 15 business that she chooses to decline. 16 Q. And if Ms. Nelson chooses to 17 decline a business because -- if Ms. Nelson 18 declines to take a photograph because she 19 objects to the content of the message, that's 20 her constitutional right? 21 MS. HINKLE: Objection to form. 22 A. Can you clarify how you are asking 23 me about her right? 24 BY MR. NEIHART: 25 Q. Let me rephrase -- let me rephrase

121	<p>1 the question.</p> <p>2 Do you think -- do you think it</p> <p>3 causes any problems in the community if</p> <p>4 Ms. Nelson declines to photograph same-sex</p> <p>5 weddings?</p> <p>6 MS. HINKLE: Objection to form.</p> <p>7 A. I don't have enough knowledge to</p> <p>8 say that -- to make that determination.</p> <p>9 BY MR. NEIHART:</p> <p>10 Q. But you think that she has the</p> <p>11 right to decline to photograph same-sex</p> <p>12 weddings?</p> <p>13 MS. HINKLE: Objection to form.</p> <p>14 A. Ms. Nelson has the right to run her</p> <p>15 business the way she wants to run her business.</p> <p>16 That's her constitutional right to run her</p> <p>17 business.</p> <p>18 BY MR. NEIHART:</p> <p>19 Q. Okay. And do you think that</p> <p>20 Ms. Nelson exercising those constitutional</p> <p>21 rights causes any problems in Louisville?</p> <p>22 MS. HINKLE: Objection to form and</p> <p>23 calls for speculation.</p> <p>24 MR. NEIHART: I'll rephrase the</p> <p>25 question.</p>	123	<p>1 Q. Okay. Well, let me think about --</p> <p>2 I'll rephrase it.</p> <p>3 Do you think Ms. Nelson should have</p> <p>4 the freedom to decline to photograph same-sex</p> <p>5 weddings?</p> <p>6 MS. HINKLE: Objection to form.</p> <p>7 A. I can't make the determination how</p> <p>8 Ms. Nelson should run her business.</p> <p>9 BY MR. NEIHART:</p> <p>10 Q. Do you think she should have the</p> <p>11 freedom to decline to photograph same-sex</p> <p>12 weddings if she so chooses?</p> <p>13 MS. HINKLE: Objection to form and</p> <p>14 asked and answered.</p> <p>15 A. I can't make the determination how</p> <p>16 Ms. Nelson should run her business.</p> <p>17 Q. Okay. Ms. Goatley, during your</p> <p>18 time as the executive director, have any cases</p> <p>19 gone to a hearing?</p> <p>20 A. Pardon me?</p> <p>21 Q. During your time as the assistant</p> <p>22 director or the executive director, have any</p> <p>23 cases gone to a hearing?</p> <p>24 A. No.</p> <p>25 Q. Okay. Are you -- are you familiar</p>
122	<p>1 BY MR. NEIHART:</p> <p>2 Q. To your knowledge, does Ms. Nelson</p> <p>3 exercising her constitutional rights cause any</p> <p>4 problems in Louisville?</p> <p>5 MS. HINKLE: Objection to form and</p> <p>6 calls for speculation.</p> <p>7 A. I really don't have enough</p> <p>8 knowledge about Ms. Nelson and her business to</p> <p>9 make that determination at this time.</p> <p>10 BY MR. NEIHART:</p> <p>11 Q. Sorry. Thanks for being patient.</p> <p>12 Do you think that Ms. Nelson should</p> <p>13 have the constitutional right to run her</p> <p>14 business as she sees fit?</p> <p>15 MS. HINKLE: Objection to form and</p> <p>16 calls for speculation and lacks foundation.</p> <p>17 MR. NEIHART: I'll rephrase the</p> <p>18 question.</p> <p>19 BY MR. NEIHART:</p> <p>20 Q. I'm sorry. I'm not going to</p> <p>21 rephrase the question. Can you answer the</p> <p>22 question that I asked you?</p> <p>23 A. I'm trying to understand what it is</p> <p>24 that you're asking me. Can you clarify what</p> <p>25 question you want me to answer?</p>	124	<p>1 with the Commission's process for organizing its</p> <p>2 files?</p> <p>3 A. Not thoroughly.</p> <p>4 Q. You're not thoroughly aware of how</p> <p>5 the Commission organizes its complaints?</p> <p>6 A. You asked me how they organize</p> <p>7 their files. No, I --</p> <p>8 Q. And by files, I mean the -- like</p> <p>9 investigative or the case files. Are you</p> <p>10 familiar with the Commission's process for</p> <p>11 organizing those documents?</p> <p>12 A. I am not aware of the desk duty of</p> <p>13 the file organization.</p> <p>14 Q. So you're -- do you know if the</p> <p>15 files are in hard copy or electronic copy?</p> <p>16 A. Our files are in hard copy.</p> <p>17 Q. Do you know how they're organized?</p> <p>18 A. No.</p> <p>19 Q. How do you know that they're</p> <p>20 organized only in hard copy, then?</p> <p>21 A. We have hard copy files and we</p> <p>22 upload certain information in a software system.</p> <p>23 All information that's in the hard copy file is</p> <p>24 not uploaded to the systems.</p> <p>25 Q. Okay. What information is loaded</p>

125	<p>1 up into the digital file?</p> <p>2 A. The requirements of either the EEOC</p> <p>3 or the -- or the HUD office.</p> <p>4 Q. Okay. And what do those</p> <p>5 requirements include?</p> <p>6 A. I can't -- I -- I don't know.</p> <p>7 Q. You don't -- you don't know the HUD</p> <p>8 or the EEOC's filing requirements?</p> <p>9 A. No, I don't.</p> <p>10 Q. You're not aware of those in any</p> <p>11 way?</p> <p>12 A. No.</p> <p>13 Q. Does the Commission organize its</p> <p>14 public accommodation case files electronically?</p> <p>15 A. I would have to ask my staff.</p> <p>16 Q. So sitting here today, the public</p> <p>17 accommodations case files may be organized</p> <p>18 electronically, they may not be, you don't know?</p> <p>19 A. I don't know.</p> <p>20 Q. You mentioned the Commission</p> <p>21 receives documents via email and by online</p> <p>22 submissions. Are those kept electronically?</p> <p>23 A. I don't know.</p> <p>24 Q. Do the investigators keep hard</p> <p>25 copies of files that they're investigating on</p>	127	<p>1 A. I haven't followed up on archives,</p> <p>2 so I don't know what their procedures are on</p> <p>3 them.</p> <p>4 Q. Are you familiar, generally, with</p> <p>5 archive's procedures?</p> <p>6 A. No.</p> <p>7 Q. Do you have any idea about any of</p> <p>8 the archive's procedures?</p> <p>9 A. No.</p> <p>10 Q. Do you know how long it takes to</p> <p>11 retrieve documents from archives?</p> <p>12 A. It could take a couple of days to a</p> <p>13 couple of weeks.</p> <p>14 Q. Ms. Goatley, earlier you said that</p> <p>15 Ms. Nelson should be able to run her business as</p> <p>16 she -- as she sees fit. Do you think the</p> <p>17 Government should tell her how to run her</p> <p>18 business?</p> <p>19 MS. HINKLE: Objection to form.</p> <p>20 A. We can't tell Ms. Nelson how to run</p> <p>21 her business.</p> <p>22 BY MR. NEIHART:</p> <p>23 Q. And do you think the Government</p> <p>24 should be able to force Ms. Nelson to photograph</p> <p>25 same-sex weddings?</p>
126	<p>1 their desk?</p> <p>2 A. Yes.</p> <p>3 Q. Do you know how many case files</p> <p>4 that they maintain on their desk at any time?</p> <p>5 A. No.</p> <p>6 Q. Do you know what these case files</p> <p>7 include?</p> <p>8 A. No.</p> <p>9 Q. How long after an investigation --</p> <p>10 what happens after -- strike that.</p> <p>11 After an investigation is</p> <p>12 concluded, how long do the case files remain in</p> <p>13 the office?</p> <p>14 A. I don't know what the time limit is</p> <p>15 that we keep them on site before we take them to</p> <p>16 archives.</p> <p>17 Q. Is it a couple of years?</p> <p>18 A. I'm not certain.</p> <p>19 Q. So it could be five years?</p> <p>20 A. I'm not certain the exact time of</p> <p>21 keeping them on site before we archive them. I</p> <p>22 do know they stay in archive for 10 years.</p> <p>23 Q. Okay. What happens after 10 years?</p> <p>24 A. They are destroyed.</p> <p>25 Q. So -- and that happens every year?</p>	128	<p>1 MS. HINKLE: Objection to form.</p> <p>2 A. We're not in a position to tell</p> <p>3 Ms. Nelson how to run her business.</p> <p>4 BY MR. NEIHART:</p> <p>5 Q. And if the Government is forcing</p> <p>6 Ms. Nelson to photograph same-sex weddings, the</p> <p>7 Government is not in that business, because that</p> <p>8 would be unjust, wouldn't it?</p> <p>9 MS. HINKLE: Objection to form.</p> <p>10 A. I can't answer that question.</p> <p>11 BY MR. NEIHART:</p> <p>12 Q. Are you familiar with the</p> <p>13 contract -- the work share contracts that HUD</p> <p>14 and the EEOC have with the Commission?</p> <p>15 A. I'm familiar.</p> <p>16 Q. Have you read those contracts</p> <p>17 before?</p> <p>18 A. Yes, I have.</p> <p>19 Q. Now, earlier you mentioned that the</p> <p>20 case files have case numbers. How are those</p> <p>21 case numbers assigned?</p> <p>22 A. I would have to ask my staff person</p> <p>23 how those are assigned.</p> <p>24 Q. So you don't know how the case</p> <p>25 numbers are assigned?</p>

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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

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1 can certify them as a diverse business  
 2 establishment.  
 3 Q. Okay. And then -- and then, what  
 4 does the -- what does the -- what do you do with  
 5 that information? Do you publish that  
 6 somewhere?  
 7 A. If an applicant is certified by our  
 8 office, we do have a database that it is  
 9 populated into.  
 10 Q. Okay. And is that database  
 11 available to the public?  
 12 A. Yes, it is.  
 13 Q. And then, how is that database made  
 14 available to the public?  
 15 A. Via Louisville Metro's website.  
 16 Q. And does the -- other than putting  
 17 the list on the website, does the Government do  
 18 anything else to promote these businesses?  
 19 A. Individually -- we don't do  
 20 business promotion.  
 21 Q. Okay. Can the businesses put some  
 22 sort of certification on their website that it's  
 23 been certified by the Government?  
 24 A. Yes. A vendor that has our  
 25 certification is able to use -- utilize that in

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1 their marketing material.  
 2 Q. Okay. And are you aware if  
 3 businesses frequently use that in their  
 4 marketing materials?  
 5 A. Some do.  
 6 Q. Okay. Do you think this -- the  
 7 certification program is effective?  
 8 A. What do you mean by is it  
 9 effective?  
 10 Q. Is it effective in promoting those  
 11 vendors that you described that are allowed to  
 12 be certified?  
 13 A. Well, when a company is looking to  
 14 do business with a diverse business that is a  
 15 database that they can retrieve information to  
 16 locate those type of businesses.  
 17 Q. Okay. And do you think this  
 18 program helps those businesses?  
 19 MS. HINKLE: Objection to form and  
 20 foundation.  
 21 A. It's a tool that they can use for  
 22 their business in doing business.  
 23 Q. Are you aware of specific  
 24 businesses that have used -- used this program?  
 25 A. What do you mean am I aware?

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1 Q. Let me rephrase the question.  
 2 Do -- do you know how many  
 3 businesses have been certified through this  
 4 process?  
 5 A. We carry a database of about 230  
 6 and so businesses.  
 7 Q. And any business that is certified  
 8 can be added to that database?  
 9 A. Any business that goes through our  
 10 process can be added to that database.  
 11 Q. Okay. Ms. Goatley, have you heard  
 12 the phrase that a picture is worth 1,000 words?  
 13 A. Yes.  
 14 Q. All right. What does that phrase  
 15 mean to you?  
 16 MS. HINKLE: Objection to form.  
 17 A. I guess it means it's a vision of  
 18 what is -- of what you see.  
 19 BY MR. NEIHART:  
 20 Q. So in essence, it communicates  
 21 something about what the photographer sees?  
 22 MS. HINKLE: Objection to form.  
 23 A. That's an individual's opinion.  
 24 BY MR. NEIHART:  
 25 Q. Are you -- you mentioned that it

141	<p>1 communicates something about what the person 2 sees. I'm just -- what do you mean by that? 3 A. As an individual, what I see. 4 Q. Ms. Goatley, can you see this 5 photograph I've posted here? 6 A. Yes. 7 Q. Okay. What does this -- what does 8 this photograph -- does this photograph convey 9 any message to you? 10 A. It's a wedding of a -- of a male 11 and a female. 12 Q. Okay. What else can you tell 13 about -- what else can you tell about the 14 wedding by looking at this photograph? 15 A. That they -- it's part of the 16 ceremony and exchange of a gesture. 17 Q. Do you think the photograph 18 communicates a message of celebration? 19 A. Yes. I said a man and a woman, but 20 I meant a couple. It's a picture of a couple at 21 a celebration. 22 Q. Okay. And do you think it 23 communicates the message that this marriage 24 between this man and this woman should be 25 celebrated, as well?</p>	143	<p>1 A. Correct. 2 Q. Is the information received by 3 telephone or through the online complaint form 4 put into a written complaint by the Commission? 5 A. If the initial communication is 6 taken in as an actual complaint, then we do put 7 it on a form. 8 Q. A complaint form? 9 A. A complaint form that is signed off 10 by -- by the complainant. 11 Q. Okay. And in instances where the 12 first call or report of the discrimination comes 13 by the telephone or through an online system, 14 how do you get the complainant's signature on 15 the complaint? 16 A. We ask that they come into the 17 office and bring a picture identification to 18 sign off on it. And it's notarized by office 19 staff. 20 Since we've had COVID, we have been 21 asking if the people -- we would send out the 22 form to the complainant via registered or 23 certified mail, and then they would have to get 24 it signed and notarized. If they don't have a 25 way to notarize the form, then we -- when they</p>
142	<p>1 MS. HINKLE: Objection to form. 2 A. That's -- I mean, personally, it's 3 a -- it's a picture of celebration of two 4 individuals that are celebrating a moment -- an 5 occasion. 6 MR. NEIHART: I have no further 7 questions. Thank you. 8 (Whereupon, the referred to 9 document was marked as Exhibit 9, 10 and is attached hereto and made a 11 part hereof.) 12 * * * 13 EXAMINATION 14 BY MS. HINKLE: 15 Q. Ms. Goatley, I have just a few 16 questions for you to follow up on some of the 17 things you discussed with Mr. Neihart. 18 A. Okay. 19 Q. Earlier today in your testimony, 20 you mentioned that some complaints of 21 discrimination are first communicated to the 22 Commission by telephone or through the 23 Commission's online complaint form. 24 Right? 25</p>	144	<p>1 mail it back, they'd have to mail us a copy of 2 their picture ID and we will notarize it in the 3 office. 4 Q. Okay. And was that a temporary 5 procedure, it was just during the COVID 6 pandemic? 7 A. That part, yes. 8 Q. And is the purpose of the 9 complainant signing the complaint to verify that 10 the allegations of discrimination are true? 11 A. They are acknowledging that they -- 12 everything that they submit to us is true on 13 their side. 14 Q. Ms. Goatley, do you recall ever 15 being involved in any discrimination complaint 16 or investigation involving public accommodation? 17 A. I -- I don't remember myself 18 personally being involved. I know we have had a 19 situation come into the office about public 20 accommodation that I have referred to the County 21 Attorney's Office on how to handle that 22 situation. 23 Q. Are you an attorney, Ms. Goatley? 24 A. No. 25 Q. Do you have any legal training?</p>

149  1 anything. 2 Q. So there was no formal complaint in 3 that situation? 4 A. It was not a formal complaint. 5 MR. NEIHART: Okay. I have no 6 further questions. 7 THE COURT REPORTER: Ms. Hinkle, do 8 you have anything else? 9 MS. HINKLE: No, thank you. I 10 think we can go off the record. 11 12 13 * * * 14 (Witness Excused.) 15 * * * 16 17 18 19 20 21 22 23 24 25	150  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 22 /s/ Jessica T. Ross 23 JESSICA TAYLOR ROSS 24 Court Reporter 25 Notary Public, State At Large Notary ID 602031  PG/lt
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## Human Relations Commission Quarterly Newsletter

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# HUMAN RELATIONS COMMISSION

### From the Director



As we move into the second quarter of 2021, people are adjusting to how they live their daily lives during a pandemic. The weather is getting warmer, Louisville is slowly showing signs of reopening, and JCPS is returning to a schedule of in-person classes. As more people are getting vaccinated the COVID-19 numbers are lowering but people are still being advised to wear their mask and social distance.

This month of April 2021 we celebrate the 53rd Anniversary of U.S. Fair Housing Act of 1968. Newly appointed Secretary of U.S. Housing and Urban Development, Marcia L. Fudge gave a statement commemorating National Fair Housing Month. In her statement she announced the theme of the occasion for 2021 which is "Fair Housing: More Than Just Words," which reflects the Biden-Harris Administration's commitment to advancing equity in housing and the importance of increasing public awareness of everyone's right to fair housing.

Although the Fair Housing Act became law in 1968, today our nation is still experiencing major challenges with discrimination and equality for all people. Let us remember as we move forward and adapt to the "new normal", give support to all efforts presented to decrease the barriers for a more equitable community.

**Verná Goatley, Executive Director, Louisville Metro Human Relations Commission**

### What is the Human Relations Commission (HRC)?

The Louisville Metro HRC is granted both the legal authority and responsibility to investigate claims of illegal discrimination in Jefferson County, and to enforce anti-discrimination law in housing, employment, public accommodations, and hate crimes.

In order to increase the visibility of businesses owned by people belonging certain protected classes: minority, women, and disabled business owners can certify their businesses with Metro through the HRC. In March of last year, we began issuing reciprocal certifications to local LGBT-owned businesses that are already certified with national organizations. We also monitor compliance with businesses that are awarded contracts with Metro Government.

We also promote civic activities and work to make them accessible, and to foster unity and understanding between diverse groups of people. Our goal is to ensure equitable opportunity and life outcomes for everyone in Louisville.

The HRC staff takes discrimination complaints from everyday people just like you. If you have questions about a recent discrimination event you have experienced, or if you are not sure whether something that happened illegal discrimination, we are here to help.

Call us at 502-574-3631 or email [hrc@louisvilleky.gov](mailto:hrc@louisvilleky.gov).



## HUMAN RELATIONS COMMISSION

your professional experience. Metro has approximately 100 boards in many areas of interest including business and economic development, land planning, parks and recreation, and public health and safety. Learn more about boards & commissions, and the application process at: <https://louisvilleky.gov/government/mayor-greg-fischer/boards-and-commissions-list>



### Human Relations Advocacy Board Vacancy

The Human Relations Commission Advocacy Board has one vacancy it would like to fill with a youth interested in making a difference in our community.

The Advocacy Board shall endeavor to promote and secure mutual understanding and respect among all economic, social, religious, ethnic, and social groups in the metropolitan area, and shall act as conciliator in controversies involving intergroup and interracial relations. The Human Relations Commission-Advocacy shall cooperate with federal, state, and other local agencies in efforts to develop harmonious intergroup and interracial relations, and shall endeavor to enlist the support of civic, religious, labor, industrial, and commercial groups, and civic leaders dedicated to the improvement of human relations and elimination of discriminatory practices.

This board is comprised of 10 members appointed by Mayor Greg Fischer with the approval of Metro Council, and appointees serve a term of 3 years. If you're interested in applying for this board position, please visit: <https://louisvilleky.gov/government/mayor-greg-fischer/boards-and-commissions-list> and search for Human Relations Commission.

### Never Miss a Metro Council Meeting

Virtual Metro Council meetings have given the public more opportunity to see our local government at work, and to get involved. Keep an eye on the [meeting schedule](#) and never miss the discussion topics that are important to you. Members of the public can also request to speak at a meeting. Meetings are broadcast live on the [Louisville Metro Council Facebook page](#).

## Did you Know?



Did you know you can file two kinds of public accommodation complaints with the Human Relations Commission?

If you find any government building, public walkway, parking accommodations, etc., owned by the city that needs a disability/accommodation review, we can take that complaint for you [here](#), and we will refer your complaint to the appropriate Metro agency.

We also take public accommodation discrimination complaints. Some examples: a restaurant that refuses to serve a guest who is wearing a religious headscarf; a grocery store denies a person entry because the customer requires a service animal to navigate the aisles; or, a retail business that does not provide handicapped parking for its patrons.

Denying someone services isn't always illegal, but it *is* illegal if the denial of services is based on your race, color, sex, national origin, religion, and disability. In Louisville, sexual orientation and gender identity are protected in public accommodations under the Fairness Ordinance.

Finally, if you make a complaint of discrimination, retaliation against you for making the complaint and/or participating in an investigation is also illegal.

## How to file a Discrimination Complaint

If you would like to file a complaint of illegal discrimination with the Human Relations Commission, please call us at 502-574-3631 and speak with one of our Intake Officers. Simply tell us your story, and be ready with details and dates about the incident. Or, use our new, easy-to-use, online complaint form, and we will contact you.

In order to eliminate illegal discrimination, it is necessary to enforce the laws in place that protect our civil rights. If you're unsure if something you've experienced was discrimination, give us a call. We are happy to answer your questions, and if we cannot help, we will refer to you the appropriate agencies that can.

### FILING A DISCRIMINATION COMPLAINT ACT IMMEDIATELY



**Louisville Metro Human Relations Commission**  
745 W. Main Street, Ste. 251  
Louisville, KY 40202  
502-574-3631

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Visit our website: <https://louisvilleky.gov/government/human-relations-commission>



This is an official Louisville Metro Government Form

# Louisville Metro Human Relations Commission

## General Discrimination Complaint Form

The Human Relations Commission uses this form to gather basic information about your complaint of discrimination. Upon submitting this form, an Intake Officer will call to interview you further about your experience in order to initiate your formal complaint for processing. If we are unable to take your complaint, we will provide you with referrals to the agencies best suited to your needs.

Name \*

First Last

Phone Number \*

 -  - 

### ### ####

Email Address

Type of Discrimination: \*

- Housing Discrimination
- Employment Discrimination
- Public Accommodation/Disability Discrimination
- Hate Crime

Based on which Protected Class \*

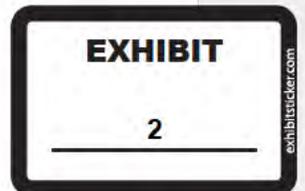
- Color
- Disability
- Familial Status
- Gender Identity
- National Origin
- Race
- Religion
- Sex
- Sexual Orientation
- Age (Employment only, 40+)

When did the most recent event occur? \*

 /  / 

MM DD YYYY

CNP MSJ 00854



What happened? \*

Describe what happened most recently.

Where did the event happen? \*

Street Address

Address Line 2

City

Postal / Zip Code

State / Province / Region

Country

Who caused the harm? \*

Enter the name and contact information of the person who caused the harm, to the best of your knowledge.

Desired outcome:

How would you like to see the harm resolved?

Best time to reach you:

- Morning
- Afternoon

**LOUISVILLE METRO HUMAN RELATIONS COMMISSION**

*ADVOCACY BOARD TELE-VIDEO MEETING*

**OFFICIAL CALL AND AGENDA**

**Monday, April 12, 2021**

**9:00 A.M.**

- **ROLL CALL**
- **MINUTES**
  - ◇ **March 2021**
- **EXECUTIVE DIRECTOR'S REPORT**
- **COMMITTEE REPORTS**
  - ◇ **Communication**
  - ◇ **Cross-Cultural**
  - ◇ **Disability/Public Accommodation**
  - ◇ **Education**
  - ◇ **Housing/Hate Crimes**
  - ◇ **Strategic Planning**
- **OLD BUSINESS**
- **NEW BUSINESS**
- **ADJOURNMENT**



**MISSION**

of the Louisville Metro Human Relations Commission is to promote unity, understanding and equal opportunity among all people of Metro Louisville and to eliminate all forms of bigotry, bias and hatred from the community.

**LOUISVILLE METRO HUMAN RELATIONS COMMISSION**  
**ADVOCAC MEETING MINUTES**  
**March , 202**

The advocacy board meeting of the Louisville Metro Human Relations Commission was held Monday, March , , at a.m. at the Louisville Metro Human Relations Commission's web tele video.

**CALL TO ORDER**

Commissioner Chair Reginald Lass called the meeting to order at a.m.

**ROLL CALL**

**PRESENT:** – Commissioners David Ilgood, Beth Clingaman, Kristian Udeon, Victor Ddie (*phone*), Reginald Lass, Angelica Matos, Endolyn Earce, and Heather Williams.

**ABSENT:** – Commissioner Adiyiragira.

**ENFORCEMENT:** – Commissioners Udeon Evin Elahanty, Marie Ever, Leslie Aust, Charles Lanier (*phone*), and Leonard Thomas.

**MINUTES**

Commissioners Kristian Udeon moved to accept the February minutes as presented, Commissioner Beth Clingaman seconded. Motion passed with none opposed or abstained.

**EXECUTIVE DIRECTOR'S REPORT – Verná Goatley**

- Staffing – The two vacant investigator positions have been posted. We are currently waiting for next steps from Human Resources for selection of candidates.
- Courier Journal Article: Messer Construction and Beecher Terrace Project – There seem to be some discrepancies with some of our minority businesses that are working on the project. We have followed up and have gotten some feedback of an answer. Bern communicated that there is an upcoming meeting this week that she will be involved in which she will be able to ask additional questions to learn what is going on.
- April Fair Housing Month – For Fair Housing month, the Commission will
  - Co sponsor a forum – The Commission will Co sponsor with the Metropolitan Housing Coalition in joint partnership with the League of Women Voters for a Fair Housing forum.
  - Billboard advertising – Maloney outdoor advertising will begin posting the Commission's Fair Housing billboards beginning March 1<sup>st</sup>. The Fair Housing billboard advertising is being funded by the U.S. Department of Housing and Urban Development ("HUD") grant.
- Procurement Task Force – Bern communicated that the task force has started calculating data on different organizations of possible procurement opportunities and trying to put summary to the data as to how we will move forward as well as what are our next steps in engaging more vendors in the process.
- Chelsey Nelson Photography v. LMG Litigation Update – We have had some follow up meetings about the litigation. The County Attorney's office is in the discovery phase and will be doing updates on the litigation. Bern communicated that she will keep the board updated as she learns more about what is going to happen in the discovery phase of the litigation.

age ive – March ,  
dvocacy oard Minutes

**ENFORCEMENT BOARD** *continuation*

Chair Marie ever communicated ith the nforcement oard, things have been going ell. lot of the complaints have been housing complaints that have been generated by the housing testers ho are calling people. hey are having to do ith people charging e tra for service animals and the familial status complaints relating to capacity ith children.

“ he Commission staff continues to do a lot of or on housing cases and it seems to be going ell. e are pleased to hear that the Commission is hiring ne investigators, it sounds li e the process is on trac because no they are greatly needed.”

Chair lass than ed the oard for attending and communicated that he ill let them no hen a meeting is scheduled.

**ADJOURNMENT**

Commissioners Heather illiams and avid llgood moved to ad ourn Commissioners endolyn earce and ngelica Matos seconded. Meeting ad ourned at a.m.

Respectfully ubmitted,

iniah Calhoun  
dministrative ssistant

**LOUISVILLE METRO HUMAN RELATIONS COMMISSION**

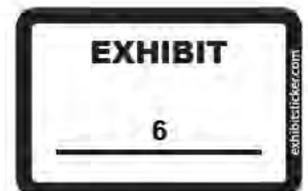
***ADVOCACY BOARD MEETING***

**OFFICIAL CALL AND AGENDA**

**Tuesday, June 9, 2020**

**9:00 A.M.**

- **ROLL CALL**
- **MINUTES**
  - ◇ **March 2020**
- **EXECUTIVE DIRECTOR'S REPORT**
- **COMMITTEE REPORTS**
- **PROTEST/POLICE TACTICS STATEMENT**
- **POLICE CHIEF'S STATEMENT &  
CITIZENS REVIEW WORK GROUP**
- **OLD BUSINESS**
- **NEW BUSINESS**
- **ADJOURNMENT**



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## LOUISVILLE METRO HUMAN RELATIONS COMMISSION

### ADVOCACY MEETING MINUTES

March 2, 2020

The Advocacy Board meeting of the Louisville Metro Human Relations Commission was held Monday, March 2, 2020, at 9:00 a.m. at the Louisville Metro Human Relations Commission.

#### CALL TO ORDER

Commissioner Chair Reginald Glass called the meeting to order at 9:05 a.m.

#### ROLL CALL

**PRESENT:** 7 – Commissioners David Allgood (*phone*), Reginald Glass (*phone*), Angelica Matos (*phone*), Gad Niyiragira, Gwendolyn Pearce (*phone*), Heather Williams (*phone*), and Dawn Wilson.

**ABSENT:** 3 – Commissioners Victor Eddie (*excused*), Olivia Kleitz, and Dr. Arthur Patterson (*excused*).

#### MINUTES

Commissioner David Allgood moved to accept the February minutes as presented, Commissioner Dawn Wilson seconded. Motion passed with none opposed or abstained.

#### EXECUTIVE DIRECTOR'S REPORT – Kendall Boyd

- Chief of Equity Kellie Watson – Chief Kellie Watson has been nominated as Woman of the Year in the Today's Woman magazine. You can vote for her at [www.todayswomannow.com/maw](http://www.todayswomannow.com/maw). Voting is open until March 20<sup>th</sup>. You can vote once each day up through the date the polls are closed, March 20<sup>th</sup>. She is listed in the "Political" category.
- Chelsey Nelson Photography LLC, and Chelsey Nelson Lawsuit – The Department of Justice is weighing in on the lawsuit and has filed a statement of interest in federal court. Kendall communicated that he does not know the Department of Justice's interest at this time. He noted that he has given some affidavits on behalf of the Commission to the County Attorney who is representing us. He also communicated that if the Board has a specific question(s), they can contact the County Attorney's office.
- Scooter's Triple B's Facebook Posting of "No Transgender Restroom" – Kendall communicated the posting was on the bar's Facebook page several weeks ago which indicated that they do not offer transgender restrooms. Kendall noted that he talked with the Enforcement Chair and a formal complaint was signed against the bar. The owners of the bar has thirty (30) days to respond. Kendal said that he has not heard anything, however, they did take down the transgender Facebook posting.
- Louisville Metro Human Resources New Director – Mrs. Earnestine Booth-Henry has been appointed as the Director of Human Resources, she has worked in HR since 2012. Now that Mrs. Booth-Henry is in the director's role, Ms. Watson will have more time to focus on the Synergy Project and Bias training.
- Staffing – We will have two (2) Administrative Assistant/Intake Officers start this week, one today and the other tomorrow.
- HUD Fair Housing Training – Verná Goatley has completed HUD training and is now certified.
- Jewish Federation of Louisville Trip to Israel – There were constructive conversations and events during the trip which we will continue to build upon.



CNP MSJ 00861



CNP MSJ 00862

**EXHIBIT**  
**9**

exhibitsticker.com

## Bryan Neihart

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**From:** English, Chaz (KYOAG) <chaz.english@ky.gov>  
**Sent:** Friday, June 25, 2021 8:45 AM  
**To:** Julie Peterson  
**Cc:** Bryan Neihart  
**Subject:** RE: Records Request  
**Attachments:** Records.pdf

**\*EXTERNAL\***

Dear Mr. Neihart:

This letter shall constitute the Office of the Attorney General's response to your open records request pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884. We received your request on June 14, 2021. Therefore, this response complies with Senate Bill 150. 2020 Ky. Acts ch 73 § 1(8)(a).

After a diligent search, the Office has located 102 pages of records that are responsive to your request. However, your request covers potentially more documents that are in storage; therefore, additional time is necessary to search for those records. KRS 61.872(5). Pursuant to KRS 61.872(5), the requested records are being compiled at 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601 and the earliest date that the records will be available is 4:00 p.m. EDT, on July 9, 2021. If the records are available prior to that date, they will be produced at the earliest possible opportunity.

If you wish to appeal this response you may do so by filing a complaint with the Office of the Attorney General's Open Records/Open Meetings Appeals Branch, The Capitol, 700 Capitol Avenue, Suite 118, Frankfort, Kentucky 40601 pursuant to KRS 61.880(2), or by filing an original action in Franklin Circuit Court under KRS 61.882. If you first appeal to the Attorney General but are dissatisfied with the Attorney General's decision, you may further appeal to Circuit Court pursuant to KRS 61.880(5).

Sincerely,



**Charles A. English**

Assistant Attorney General | Office of Civil & Environmental Law

Office of the Kentucky Attorney General

700 Capital Avenue | Suite 118 | Frankfort, Kentucky 40601

(502) 696-5340 | [Chaz.English@ky.gov](mailto:Chaz.English@ky.gov)

Follow the Attorney General's Office @KYOAG  

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**From:** Julie Peterson <[REDACTED]>  
**Sent:** Monday, June 14, 2021 5:32 PM  
**To:** KYOAG Open Records <KYOAGOR@ky.gov>  
**Cc:** Bryan Neihart <[REDACTED]>  
**Subject:** Records Request

**\*\*CAUTION\*\* PDF attachments may contain links to malicious sites. Please contact the COT Service Desk [ServiceCorrespondence@ky.gov](mailto:ServiceCorrespondence@ky.gov) for any assistance.**

Dear Mr. English,

Please see the attached letter from Bryan D. Neihart. The original was mailed to you via certified mail today. Thank you for your assistance.

Julie Peterson  
Legal Assistant to Bryan D. Neihart

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Julie Peterson  
Legal Assistant II



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

June 14, 2021

*Via Certified Mail and Email*

Chaz English  
Assistant Attorney General  
Attn: Records Custodian  
700 Capitol Avenue, Suite 118  
Frankfort, Kentucky 40601

Re: *Open records requests for complaints introduced at hearings and final decisions involving the Louisville/Jefferson County Metro Human Relations Commission*

Dear Mr. English,

Pursuant to Kentucky law governing open records requests (Kentucky Revised Statute § 61.870, et seq.), I write to request copies of all records or portions thereof pertaining to or including the following for complaints and final decisions for hearings that have occurred from January 1, 2011 to December 31, 2019:

- all complaints of discrimination in employment, housing, and public accommodations originally filed with the Louisville/Jefferson County Metro Human Relations Commission that were introduced at a hearing presided over by a hearing officer with the Administrative Hearings Branch of the Office of the Attorney General; and
- all final decisions reached by a hearing officer with the Administrative Hearings Branch of the Office of the Attorney General for complaints of discrimination in employment, housing, and public accommodations originally filed with the Louisville/Jefferson County Metro Human Relations Commission.

This request is also being made pursuant to OAG 85-5, 98-ORD-186, 98-ORD-192, and 99-ORD-20 which confirm that if a complaint has progressed to a hearing, “the complaint which would normally be introduced at the hearing, and the subsequent decision of the Commission would all be subject to public inspection under the Open Records Law.”

Chaz English  
Assistant Attorney General  
June 14, 2021  
Page 2

If any of the requested documents are not within your custody or control, please notify me of that fact before forwarding my request to any other agency and notify me of the name and location of the custodian to whom I should direct my request.

Please note that I agree to pay any reasonable fees not exceeding \$100.00 that are permitted by law for the processing of this request. If you anticipate the fees will exceed \$100.00, please notify me by email before processing this request. After completing the processing of this request, please provide a receipt itemizing the charges associated with this request.

The law states that you must, within three working days, produce the requested materials or provide an explanation for why you cannot fulfill the request. If you believe that my request fails to reasonably describe the records requested, or if you cannot fulfill my request for some other reason, please contact me as soon as possible at my email address, [bneihart@adflegal.org](mailto:bneihart@adflegal.org), so that I can address your concerns.

Finally, if possible, please provide the requested documents in an electronic format (e.g. pdf) to me by email ([bneihart@adflegal.org](mailto:bneihart@adflegal.org)). If that is not possible, you can mail the requested documents to this address:

15100 N. 90th Street  
Scottsdale, Arizona 85260

Thank you for your attention in this matter. Should you have any questions or concerns, please do not hesitate to contact me via email.

Respectfully Submitted,

*s/ Bryan D. Neihart*

**COMMONWEALTH OF KENTUCKY  
LOUISVILLE AND JEFFERSON COUNTY  
METRO HUMAN RELATIONS COMMISSION  
COMPLAINT NO. C00-H0108  
ADMINISTRATIVE ACTION NO. 11-LMHR-0238**

MARY [REDACTED]

PETITIONER

vs.

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND FINAL ORDER OF DISMISSAL**

VIOLA STENGER

RESPONDENT

\* \* \* \* \*

On October 27, 2011, a hearing was held in this case at the offices of Office of the Jefferson County Attorney, 531 Court Place, Louisville, KY. Kendall Boyd, Louisville and Jefferson County Metro Human Relations Commission (“the Commission”) appeared as counsel for the Petitioner, Mary [REDACTED]. Shayla Johnson and Arthur Crosby appeared as counsel for the Lexington Fair Housing Council. The Respondent, Viola Stenger, appeared without counsel. She was advised of her right to counsel, which she waived. Hearing Officer Michael Head, Assistant Attorney General, Administrative Hearings Branch, Office of the Attorney General, conducted the hearing. The hearing was recorded by court reporter.

At the beginning of the hearing, the parties stipulated that William Stenger is deceased and should be dismissed from this action.

Ms. [REDACTED], who is disabled and receives SSDI, filed a housing discrimination complaint alleging Ms. Stenger refused to rent Ms. [REDACTED] an apartment because she did not rent to people who receive “disability.” Ms. Stenger denies the allegation. Ms. [REDACTED] seeks lost rent, and vehicle and moving expenses totaling \$1500, and emotional damages.

The Petitioner called six witnesses to testify: Mary [REDACTED] Petitioner; Nicholas Valenzuela, a Commission compliance officer; Linda Holland, a Commission compliance officer; Meka Davis, Assistant Director of the Lexington Fair Housing Council; Latonya Davis, a Lexington Fair Housing Council tester; and Vickie Readus, a Lexington Fair Housing Council tester. The Respondent, Viola Stenger, called three witnesses on her behalf: herself; Katherine Stenger, Respondent's daughter; and Barbara Stenger, Respondent's daughter. The parties offered six exhibits, all of which were introduced into the record and considered by the Hearing Officer in making his decision in this case.

After considering the record as a whole, based on a preponderance of the evidence, and for the reasons stated in more detail hereafter, the Hearing Officer ORDERS that the Louisville and Jefferson County Metro Human Relations Commission charges against the Respondent, Viola Stenger are DISMISSED.

#### **FINDINGS OF FACT**

1. On November 19, 2009, the Petitioner, Mary [REDACTED], filed a U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, housing discrimination complaint against the Respondent, Viola Stenger, alleging on July 15, 2009, Ms. Stenger refused to rent her an apartment because Ms. Stenger "did not rent to people who receive disability." Hearing Exhibit 2 ("HE 2").

2. At all relevant times, Ms. [REDACTED] was disabled. Ms. [REDACTED] testified that she suffered from degenerative disc disease, diabetes, depression, and anxiety. She received Social Security Disability Income as a result of her condition. Ms. Stenger did not contest Ms. [REDACTED]'s testimony about her disabilities.

3. The Respondent owns several properties, each having multiple apartments that she rents. She operates her rental business together with her two daughters. Transcript of Hearing p. 248 and (“TH 248”). At least one of her daughters helps “with business practices.” *Id.*

4. Ms. Stenger is elderly<sup>1</sup>, and she also is confined to a wheelchair. Her examination at the hearing revealed she frequently interprets questions incorrectly and speaks without allowing another person to finish talking. Her answers also frequently were rambling or non sequitur. Ms. Stenger also displayed a temperament that can best be described as feisty and confrontational. It would be easy for someone to take offense at her seemingly confused and brusque manner and, at first meeting, to think that she was being difficult when, perhaps, that was not her intention.

Ms. ██████████'s Allegations

5. In her complaint, Ms. ██████████ alleges that on July 15, 2009, when seeking to rent an apartment from Ms. Stenger, she told Ms. Stenger that she was disabled and received Social Security Disability Income, and that Ms. Stenger answered that she “does not rent to people who receive Disability.” HE 2.

6. At the hearing, Ms. ██████████ testified in more detail. Ms. ██████████ said Ms. Stenger said she had an apartment available. Ms. ██████████ testified Ms. Stenger asked where she was employed, and that she answered she was not employed, but that she received “Social Security disability.” TH 34. Ms. ██████████ testified Ms. Stenger then asked if Ms. ██████████

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<sup>1</sup> No one established Ms. Stenger’s age. One daughter testified she had been in the rental property business for thirty years since she was 19, making her approximately 49 years old. During a prehearing conference, Ms. Stenger told the Hearing Officer she was in her 70s. The proof supported this assertion.

██████████ because Ms. ██████████ received disability income, although Ms. Stenger's rental history after the date of the alleged discrimination has less inferential value.

15. The Commission's compliance officer also believed that Ms. Stenger only began renting to disabled people after Ms. ██████████'s complaint. TH 81. Ms. Stenger's lists show this is not correct.

#### Commission's Use of "Testers"

16. The Commission uses testers who act like a complainant to "test" a person suspected of discrimination. In this case, the Commission sent two testers to speak with Ms. Stenger. The first tester did not discover that Ms. Stenger engaged in the kind of discriminatory conduct with which Ms. Stenger is charged. The second tester provided equivocal proof of discrimination.

17. The first tester spoke with Ms. Stenger by phone. When she told Ms. Stenger she was disabled, Ms. Stenger asked what kind of disability she had because, Ms. Stenger said, "Both of the apartments are upstairs." TH 113. When the tester said going upstairs would not be a problem, Ms. Stenger agreed to have someone meet her so she could look at the apartment.

18. When the tester went to look at the apartment, she was met by Ms. Stenger's daughter. The tester asked for an application. Ms. Stenger's daughter responded that the tester should not submit an application if she hadn't made up her mind because it would cost \$25 to submit the application and the money was non-refundable. TH 117. This conversation corroborates Ms. Stenger's and her daughter's testimony that they asked people about their income to determine whether it was advisable for them to pay the \$25 non-refundable fee to file an application.

19. The first tester did not tell Ms. Stenger or her daughter that she received Social Security or SSI or SSDI, or that she was on “disability.”

20. The second tester also first spoke with Ms. Stenger by phone. Ms. Stenger said she had two one-bedroom apartments available.

21. Ms. Stenger told her she would have to submit to a criminal background check and that she had to have a full-time job. The tester testified she responded, “Well, that hurts me because I’m on SSDI.” The tester testified Ms. Stenger responded, “I don’t even know what SSDI is. I don’t fool with that. . . . What do you do?” The tester testified she responded that she didn’t work and she said again, “I’m on SSDI.” The tester testified Ms. Stenger again said, “I don’t know what that is. I don’t even fool with that.” TH 132. The tester said she did not explain what SSDI was because Ms. Stenger said she had to have “a full-time job.” The second tester said she felt Ms. Stenger discriminated against her because “I did not have a job.”

22. The second tester did not go to look at either of the two one-bedroom apartments Ms. Stenger had available.

23. One of Ms. Stenger’s daughters testified that the second tester’s testimony was completely false because the tester would not have talked with her mother. The tester would have talked with her, and she denied the tester’s testimony about the conversation. TH 258–59.

#### Analysis

24. This case presents two factual questions central to Ms. [REDACTED]'s allegations and the Commission's charges of discrimination, namely, did Ms. [REDACTED] say the exact words to Ms. Stenger that she testified to or did she use an acronym, and did Ms. Stenger understand Ms. [REDACTED] to say she received income from Social Security disability? These questions must be

answered in order to determine whether Ms. Stenger refused to rent to Ms. [REDACTED] knowing Ms. [REDACTED]'s income came from her disability. For the reasons that follow, the proof is not sufficient to resolve these issues in Ms. [REDACTED]'s favor.

25. Ms. [REDACTED] testified that she told Ms. Stenger her income was from "Social Security disability." TH 34. She also testified that Ms. Stenger specifically asked whether Ms. [REDACTED] was receiving Social Security because she was 62 or because of her disability, and that Ms. [REDACTED] explained it was due to her disability. *Id.* This testimony is stronger support for the discrimination charge than if Ms. [REDACTED] said merely that she received "SSDI." Ms. [REDACTED]'s testimony is suspiciously detailed given all the other proof.

26. For instance, Ms. Stenger, in fact, has rented to numerous people who receive Social Security payments, before and after the alleged encounter with Ms. [REDACTED]. Nothing explains why Ms. Stenger would single out Ms. [REDACTED] to deny her housing when Ms. Stenger rented to so many people whose income was from the same source.

27. Also suspect is Ms. [REDACTED]'s testimony that Ms. Stenger said her lawyer told her not to rent to people who receive Social Security because Ms. Stenger could not collect rent deficiencies from Social Security. This supposed advice is, again, strongly contradicted by Ms. Stenger's rental history. It is also contradicted by Ms. Stenger's numerous complaints in the pre-hearing process that she could not afford an attorney and by the fact that she appeared at the hearing without an attorney. The proof does not support Ms. [REDACTED]'s testimony about Ms. Stenger's statements about legal advice.

28. The Hearing Officer rejects Ms. Stenger's daughter's denial that the second tester talked with her mother. The tester's testimony was believable, at least in its general outline.

29. Accepting that the testers did speak with Ms. Stenger, their testimony does not tip the balance for Ms. [REDACTED]. This is because, unfortunately, neither tester told Ms. Stenger explicitly that her income was from “Social Security disability payments.” In talking with Ms. Stenger, only the second tester referred to Social Security income. But she said only that her income was from “SSDI.” This testimony is equivocal proof supporting Ms. [REDACTED]’s allegations because the tester says Ms. Stenger responded, “I don’t know what SSDI is,” and “I don’t know what that is.”<sup>2</sup> If Ms. [REDACTED] said only that she received SSDI, the tester’s testimony means Ms. Stenger may not have known what she was talking about.

30. The Commission’s counsel was incredulous that Ms. Stenger did not know what SSDI was because Ms. Stenger listed on her renter history exhibit that some of her renters received Social Security disability payments. TH 198–99. But Ms. Stenger testified that she doesn’t know what SSDI because she didn’t ask those renters what they meant. TH 199. It is not clear whether Ms. Stenger was talking about when she prepared the list or when she first received verification of income from her renters receiving Social Security disability payments. It is hard to believe that Ms. Stenger did not know what SSDI referred to when she prepared the renter history list for the Commission. But it is at least possible, based on the testimony of the second tester, that Ms. Stenger didn’t know what SSDI meant at the time she spoke with Ms. [REDACTED]. Additionally, when applicants provided proof of their income, those who received Social Security disability payments would have provided a writing that identified the source as “Social Security” or “Social Security disability income,” not “SSDI.” It is also possible Ms. Stenger did

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<sup>2</sup> Even this testimony is not unequivocal. Did Ms. Stenger say the first time, “I don’t know what SSDI is,” or did she say both times, “I don’t know what that is?” Unfortunately, the Commission does not have its testers record their conversations with discrimination suspects, which these days would be a rather simple matter.

### **FINAL ORDER**

Based on the stipulation of the parties, IT IS HEREBY ORDERED that William Stenger is DISMISSED as a named respondent in this case. Based on the findings of fact and conclusions of law, IT IS FURTHER ORDERED that the Housing Discrimination Complaint of Mary [REDACTED] against Viola Stenger is DISMISSED.

### **NOTICE OF APPEAL RIGHTS**

Pursuant to Section 92.13 of the Louisville-Jefferson County Metro Code:

An appeal from a determination of the Hearing Officer to the Appeal Panel can be made only by filing with the Human Relations Commission-Enforcement, a notice of appeal. The service of such filing shall be made within 30 days after the service of the Hearing Officer order. The notice of appeal shall specify the Hearing Officer errors and the relief sought by the appeal. A brief may be filed within 30 days of the notice of appeal. A reply brief may be filed within 30 days of service of the appellant's brief.

The Appeal Panel shall either affirm, modify, reverse or remand after a review of the transcript, briefs, and the findings and orders of the Hearing Officer. The Human Relations Commission-Enforcement shall serve a copy of its final order on each affected respondent and individual complainant. The Appeal Panel has the discretion to request oral argument.

Pursuant to Section 92.14 of the Louisville-Jefferson County Metro Code:

Any respondent or complainant aggrieved by a final order of the Commission, or any complainant aggrieved by the final order of dismissal of his or her complaint by the Commission, may obtain a review of such order in the Jefferson Circuit Court by filing with the Clerk of the Court, within 30 days after service on him or her of the order, a written petition in duplicate praying that such order be modified or set aside, and by serving a duplicate copy of the petition on the Commission. The Commission shall then cause to be filed in the Court a certified transcript of the record in the proceedings before it, including the pleadings, testimony and order.

SO ORDERED this \_\_\_\_ day May, 2012.

---

MICHAEL HEAD  
HEARING OFFICER  
ADMINISTRATIVE HEARINGS BRANCH  
OFFICE OF THE ATTORNEY GENERAL  
1024 CAPITAL CENTER DR., STE. 200  
FRANKFORT, KENTUCKY 40601-8204  
(502) 696-5442  
(502) 573-1009 - FAX

**CERTIFICATE OF SERVICE**

I hereby certify that the original of this ORDER was mailed this \_\_\_\_\_ day of May,

2012, by first-class mail, postage prepaid to:

ROTONIA SANFORD  
LOUISVILLE & JEFFERSON CO METRO  
HUMAN RELATIONS COMMISSION

[REDACTED]

for filing; and a true copy was sent by first-class mail, postage prepaid, to:

MARY [REDACTED]

[REDACTED]

VIOLA STENGER

[REDACTED]

SHAYLA JOHNSON  
LEXINGTON FAIR HOUSING COUNCIL

[REDACTED]

KENDALL BOYD  
ASST CO ATTY  
JEFFERSON CO ATTORNEY=S OFC

[REDACTED]

\_\_\_\_\_  
DOCKET COORDINATOR

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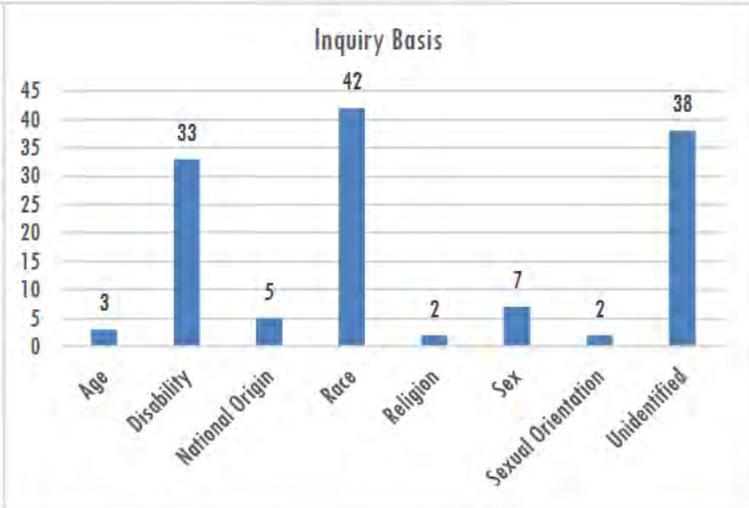
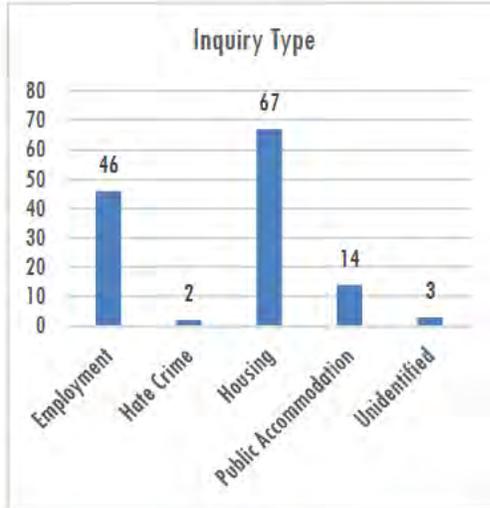
# LOUISVILLE METRO HUMAN RELATIONS COMMISSION

## ANNUAL REPORT JULY 2017 — JUNE 2018

*"Alone we can do so little; together we can do so much."*

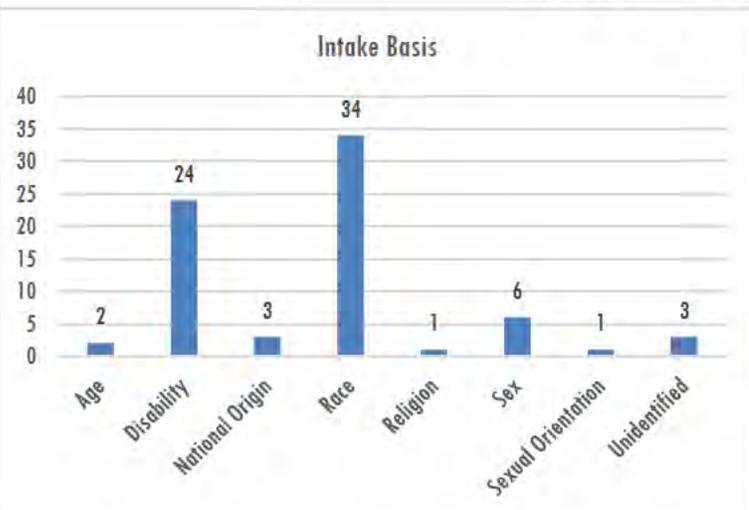
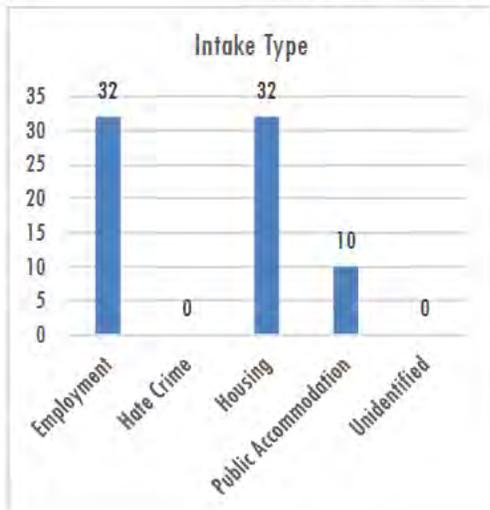


# INQUIRIES/INTAKE



Inquiries	
<b>Type</b>	<b>Total</b>
Employment	46
Hate Crime	2
Housing	67
Public Accommodation	14
Unidentified	3
<b>Basis</b>	<b>Total</b>
Age	3
Disability	33
National Origin	5
Race	42
Religion	2
Sex	7
Sexual Orientation	2
Unidentified	38
<b>Grand Total</b>	<b>132</b>

Intakes	
<b>Type</b>	<b>Total</b>
Employment	32
Hate Crime	0
Housing	32
Public Accommodation	10
Unidentified	0
<b>Basis</b>	<b>Total</b>
Age	2
Disability	24
National Origin	3
Race	34
Religion	1
Sex	6
Sexual Orientation	1
Unidentified	3
<b>Grand Total</b>	<b>74</b>



# COMPLAINTS

Complaints Filed					
	Employment	Public Accommodations	Housing	Hate	Total
Race	23	3	5	0	31
Sex	8	1	3	0	12
Disability	6	2	15	0	23
National Origin	1	1	1	0	3
Sexual Orientation	1	0	0	0	1
Gender Identity	0	0	0	0	0
Color	0	0	0	0	0
Religion	1	1	0	0	2
Age	9	0	0	0	9
Familial Status	0	0	3	0	3
Retaliation	4	0	1	0	5
<b>TOTAL</b>	<b>53</b>	<b>8</b>	<b>28</b>	<b>0</b>	<b>89</b>

Complaints Closed					
	Employment	Public Accommodations	Housing	Hate	Total
Race	36	3	11	0	50
Sex	28	0	2	0	30
Disability	14	4	16	0	34
National Origin	4	1	0	0	5
Sexual Orientation	7	0	0	0	7
Gender Identity	1	1	0	0	2
Color	0	0	0	0	0
Religion	1	0	0	0	1
Age	11	0	0	0	11
Familial Status	0	0	6	0	6
Retaliation	8	0	0	0	8
<b>TOTAL</b>	<b>110</b>	<b>9</b>	<b>35</b>	<b>0</b>	<b>154</b>

Results					
	Employment	Public Accommodations	Housing	Hate	Total
No Probable Cause	48	6	15	0	69
Probable Cause	2	0	2	0	4
Settlements	4	0	3	0	7
Administrative	10	1	1	0	12
Judicial Dismissals	0	0	0	0	0
Withdrawals	6	0	2	0	8
Hearings	0	0	0	0	0
Litigation	0	0	0	0	0
<b>TOTAL</b>	<b>70</b>	<b>7</b>	<b>23</b>	<b>0</b>	<b>100</b>

# CONCILIATIONS

## Housing

### **Louisville Metro Human Relations Commission-Enforcement Board v. PJC Development, LLC**

Basis: Disability

Action: Discriminatory Terms, Conditions, Privileges

Agreement: Respondent agrees not to charge a pet deposit or any fees for service animals or emotional support animals and Respondent also agrees to familiarize the Fair Housing Act

### **Ida Adato v. The Park at Hurstbourne**

Basis: Disability

Action: Denying Reasonable Accommodation

Agreement: Respondent agrees to make a handicap parking space near Complainant's apartment

### **Susan Dake v. Donard Park Condominium Association, Inc.**

Basis: Race

Action: Discriminatory terms, conditions, privileges, or services and facilities

Withdrawal: Parties have reached a private settlement

### **Michael Mattingly v. Highlands Court Apartments**

Basis: Disability

Action: Denial of Reasonable Accommodation

Withdrawal: Parties reached a private settlement

### **Andrea Moore v. The Housing Partnership, Inc.**

Basis: Disability

Action: Denial of Reasonable Accommodation

Agreement: Respondent agrees to add another handicap-designated parking spot near Complainant's residence at Respondent's property

# CONCILIATIONS

## Employment

### **Zipporah Smith v. Conifer Health Solutions**

Basis: Disability

Action: Termination

Withdrawal: Parties have reached a private settlement

### **Robert Johnson v. Sports and Social Club**

Basis: Sexual Orientation

Action: Harassment

Administrative Closure: Parties have reached a private settlement

### **Jerry Hibbard v. Certicell**

Basis: Disability

Action: Failure to hire

Administrative Closure: Parties reached a settlement

### **Latonya Bobo v. Popeye's Louisiana Kitchen**

Basis: Sex

Action: Termination/Harassment (Employment)

Withdrawal: Parties reached a private settlement

## Public Accommodation

### **Emma Wallace v. Natural Nails**

Basis: Disability

Action: Reasonable Accommodation

Administrative Closure: Parties reached a private settlement



HUMAN  
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2018 / 2019

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# COMPLAINTS FILED

	EMPLOYMENT	PUBLIC ACCOMMODATION	HOUSING	HATE CRIME	TOTAL
RACE	23	3	5	0	31
SEX	8	1	3	0	12
DISABILITY	6	2	15	0	23
NATIONAL ORIGIN	1	1	1	0	3
SEXUAL ORIENTATION	1	0	0	0	1
GENDER IDENTITY	0	0	0	0	0
COLOR	0	0	0	0	0
RELIGION	1	1	0	0	2
AGE	9	0	0	0	9
FAMILIAL STATUS	0	0	3	0	3
RETALIATION	4	0	1	0	5
<b>TOTAL</b>	<b>53</b>	<b>8</b>	<b>28</b>	<b>0</b>	<b>89</b>

# COMPLAINTS CLOSED

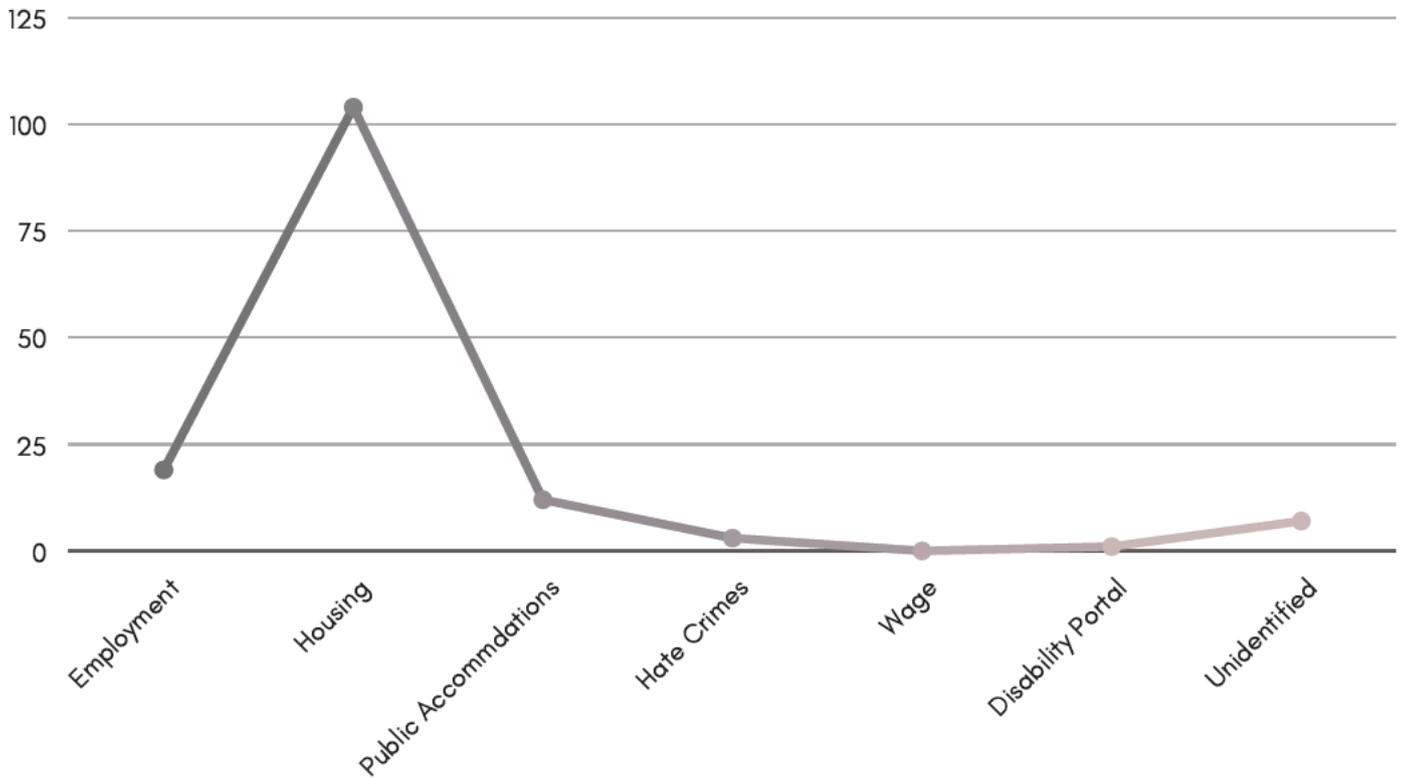
	EMPLOYMENT	PUBLIC ACCOMMODATION	HOUSING	HATE CRIMES	TOTAL
RACE	36	3	11	0	50
SEX	28	0	2	0	30
DISABILITY	14	4	16	0	34
NATIONAL ORIGIN	4	1	0	0	5
SEXUAL ORIENTATION	7	0	0	0	7
GENDER IDENTITY	1	1	0	0	0
COLOR	0	0	0	0	0
RELIGION	1	0	0	0	1
AGE	11	0	0	0	11
FAMILIAL STATUS	0	0	6	0	6
RETALIATION	8	0	0	0	8
<b>TOTAL</b>	<b>110</b>	<b>9</b>	<b>35</b>	<b>0</b>	<b>154</b>

# RESULT DATA

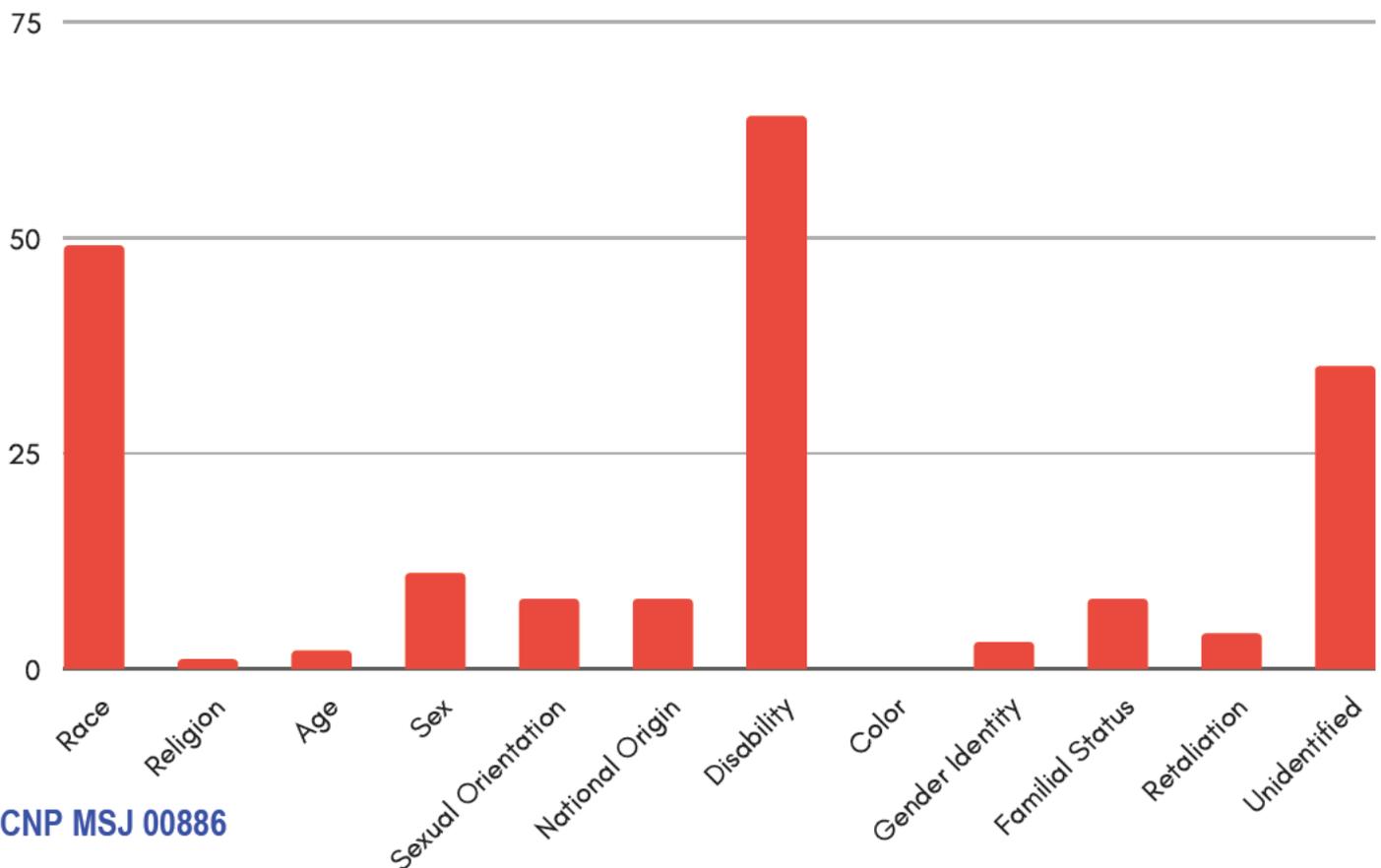
	EMPLOYMENT	PUBLIC ACCOMMODATION	HOUSING	HATE CRIMES	TOTAL
NO PROBABLE CAUSE	48	6	15	0	69
PROBABLE CAUSE	2	0	2	0	4
SETTLEMENTS	4	0	3	0	7
ADMINISTRATIVE	10	1	1	0	12
JUDICIAL DISMISSAL	0	0	0	0	0
WITHDRAWALS	6	0	2	0	8
HEARINGS	0	0	0	0	0
LITIGATION	0	0	0	0	0
TOTAL	9	0	0	0	9

\*\* SOME COMPLAINTS ALLEGE MORE THAN ONE BASIS OF DISCRIMINATION. THEREFORE, THE TOTAL NUMBER OF COMPLAINTS FILED DOES NOT EQUAL THE TOTAL NUMBER OF BASSES FOR COMPLAINTS FILED

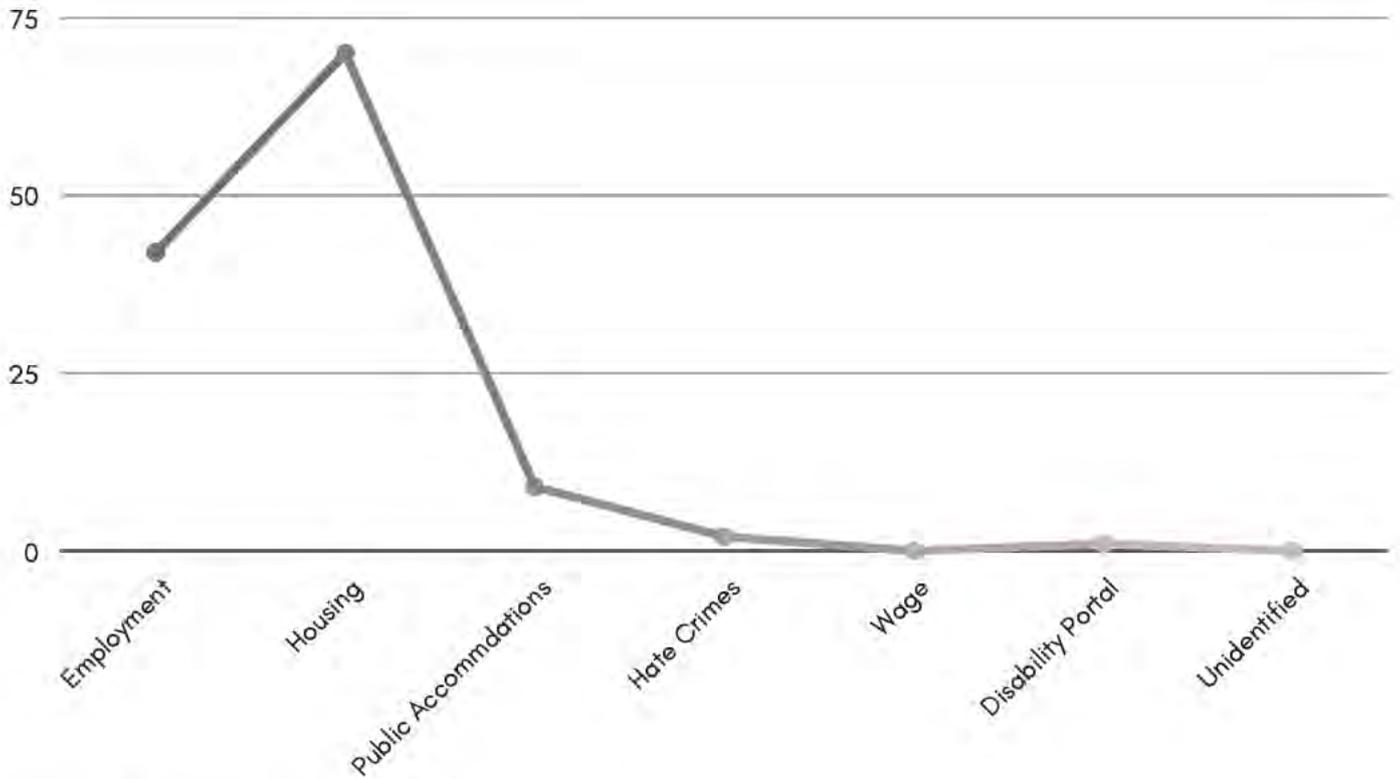
### INQUIRY TYPE



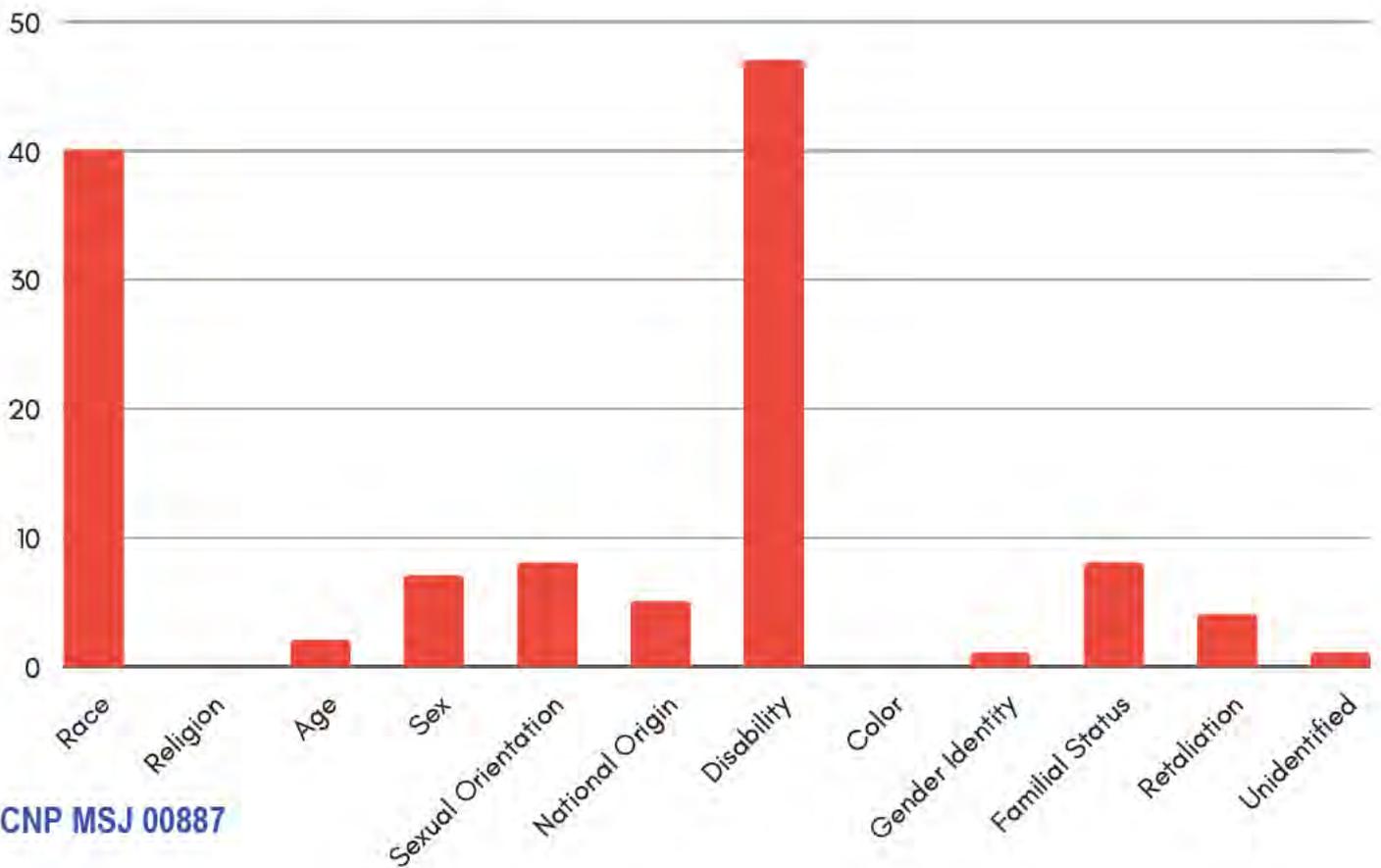
### INQUIRY BASIS



### INTAKE TYPE



### INTAKE BASIS



**EMPLOYMENT  
CONCILLIATIONS**

SARAH CISSELL VS. SOUTHSIDE CHRISTIAN CHILDCARE \$1,000.00  
BASIS: SEX  
ACTION: FAILURE TO HIRE

STACY MERRITT VS. HUMANA \$19, 500.00  
BASIS: SEX  
ACTION: TERMINATION

JENNIFER LUVISI VS. LOWE'S RESPONDENT AGREES TO HIRE COMPLAINANT PART-TIME  
AND NOT DISCRIMINATE AGAINST DISABLED INDIVIDUALS  
BASIS: DISABILITY  
ACTION: TERMINATION

TREY RUNYON ON BEHALF OF GABRIELLE RUNYON VS. KENTUCKY KINGDOM, LLLP  
RESPONDENT AGREES TO HIRE COMPLAINANT IN A RETAIL POSITION AND RESPONDENT  
WILL ALSO CONDUCT TRAINING ON AMERICANS WITH DISABILITIES ACT (ADA)  
BASIS: DISABILITY  
ACTION: FAILURE TO HIRE

CAROLYN KEITH VS. MCKESSON CORPORATION \$5,400.00  
BASIS: DISABILITY  
ACTION: SUSPENSION/TERMINATION



**PUBLIC ACCOMMODATION  
CONCILLIATIONS**

FREIDA WARD VS. COURIER JOURNAL  
RESPONDENT AGREES TO PLACE COMPLAINANT'S PAPER ON THE PORCH AND ALSO  
AGREES NOT TO DISCRIMINATE AGAINST DISABLED PERSONS IN THE FUTURE  
BASIS: DISABILITY  
ACTION: REASONABLE ACCOMMODATION



**HOUSING  
CONCILLIATIONS**

JOSHUA BURKHART VS. WELLSRING II DBA AMITY APARTMENTS  
RESPONDENT AGREES TO REIMBURSE COMPLAINANT \$300.00 ONCE COMPANION ANIMAL  
VERIFICATION FORM IS SIGNED AND RETURNED. RESPONDENT ALSO AGREES NOT TO  
CHARGE A FEE TO ANY TENANT ONCE COMPANION ANIMAL FORM IS SIGNED  
BASIS: DISABILITY  
ACTION: REASONABLE ACCOMMODATION

**HOUSING  
CONCILIATIONS (CONT.)**

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. SCHICKLI PROPERTIES, LLP  
RESPONDENT AGREES NOT TO CHARGE A PET DEPOSIT OR ANY PET FEES FOR SERVICE ANIMALS AND OR EMOTIONAL SUPPORT ANIMALS. RESPONDENT ALSO AGREES TO FAMILIARIZE ALL STAFF WITH THE FAIR HOUSING ACT  
BASIS: DISABILITY  
ACTION: REASONABLE ACCOMMODATION

MARY FOSTER V. WAYSIDE CHRISTIAN MISSION  
RESPONDENT AGREES TO AMEND PERMANENT SUPPORTIVE HOUSING LEASE TO PERMIT "MYRTLE" TO REMAIN ON THE RESIDENTIAL PREMISES  
BASIS: DISABILITY  
ACTION: DISCRIMINATORY TERMS, CONDITIONS, PRIVILEGES, OR SERVICES AND FACILITIES

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. EDWIN B. KORESSEL AND ANGELA M. KORESSEL  
RESPONDENT AGREES TO NOT CHARGE A PET DEPOSIT OR ANY PET FEES FOR SERVICE ANIMALS OR EMOTIONAL SUPPORT ANIMALS. RESPONDENT ALSO AGREES TO FAMILIARIZE STAFF WITH THE FAIR HOUSING ACT  
BASIS: DISABILITY  
ACTION: DISCRIMINATORY TERMS, CONDITIONS, PRIVILEGES, OR SERVICES AND FACILITIES & FAILURE TO MAKE REASONABLE ACCOMMODATION

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. 2 EE'S, LLC  
RESPONDENT AGREES NOT TO CHARGE A PET DEPOSIT OR ANY PET FEES FOR SERVICE ANIMALS OR EMOTIONAL SUPPORT ANIMALS. RESPONDENT ALSO AGREES TO FAMILIARIZE STAFF WITH THE FAIR HOUSING ACT  
BASIS: DISABILITY  
ACTION: FAILURE TO MAKE REASONABLE ACCOMMODATION

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. MAGNOLIA PARK PARTNERS  
RESPONDENT AGREES TO REVIEW INFORMATION REGARDING OCCUPANCY STANDARDS, FAMILIAL STATUS, AND SERVICE ANIMALS AND ALSO AGREES NOT TO REQUIRE A PET FEE FOR SERVICE ANIMALS  
BASIS: DISABILITY/FAMILIAL STATUS  
ACTION: FAILURE TO MAKE REASONABLE ACCOMMODATION

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. SCHEMPP REALTY AND MANAGEMENT, INC.  
RESPONDENT AGREES TO OBTAIN INSURANCE THAT WOULD COVER SERVICE ANIMALS WITHOUT EXCEPTION OR DENY AVERAGE BASED ON BREED, NOT TO REFUSE RENTAL BECAUSE OF BREED OF THE SERVICE ANIMAL AND TO FAMILIARIZE THEMSELVES WITH THE FAIR HOUSING ACT  
BASIS: DISABILITY  
ACTION: DISCRIMINATORY TERMS, CONDITIONS. PRIVILEGES OR SERVICES AND FACILITIES

**HOUSING  
CONCILIATIONS (CONT.)**

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. YAZDAN INVESTMENTS, LLC  
RESPONDENT AGREES TO ALLOW SERVICE ANIMALS OR EMOTIONAL SUPPORT ANIMALS AND NOT CHARGE A PET DEPOSIT OR ANY PET FEES AND FAMILIARIZE STAFF WITH THE FAIR HOUSING ACT  
BASIS: DISABILITY  
ACTION: DISCRIMINATORY TERMS, CONDITIONS, PRIVILEGES, OR SERVICES AND FACILITIES

WILLIAMS-OVERSTREET, ANGELA RAIN TREE V. MEADOWS SECTIONS 6 AND 7 MAINTENANCE ASSOCIATION, INC.  
RESPONDENT AGREES TO ALLOW THE COMPLAINANT'S DISABLED MOTHER TO PARK IN FRONT OF HER HOUSE 3 DAYS A MONTH FOR A YEAR.  
BASIS: DISABILITY  
ACTION: DISCRIMINATORY TERMS, CONDITIONS, PRIVILEGES, OR SERVICES AND FACILITIES

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. TPE, LLC  
RESPONDENT AGREES TO FAMILIARIZE STAFF ON THE FAIR HOUSING ACT AS WELL AS THE POLICIES OF USAGE OF EMOTIONAL SUPPORT ANIMALS AND SERVICE ANIMALS.  
RESPONDENT AGREES IN THE FUTURE NOT CHARGE A PERSON OR PERSONS FOR THE USAGE OF AN EMOTIONAL SUPPORT ANIMAL OR SERVICE ANIMAL  
BASIS: DISABILITY  
ACTION: DISCRIMINATION IN TERMS AND CONDITIONS/PRIVILEGES RELATING TO RENTAL

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. VESTA DERBY OAKS, LLC  
RESPONDENT AGREES TO TAKE TRAINING ANNUALLY AND REPORT TRAINING ATTENDEES FOR THE NEXT THREE YEARS AS NEEDED.  
BASIS: FAMILIAL STATUS  
ACTION: DISCRIMINATORY REFUSAL TO RENT AND NEGOTIATE FOR RENTAL

LOUISVILLE METRO HUMAN RELATIONS COMMISSION-ENFORCEMENT BOARD V. NEW PLAN 117 CHARLESTOWN OF DOUGLASS HILL APARTMENTS  
RESPONDENT AGREES TO TAKE HUD CERTIFIED TRAINING AND REPORT PERSONNEL ATTENDANCE  
BASIS: FAMILIAL STATUS  
ACTION: DISCRIMINATION IN TERMS AND CONDITIONS/PRIVILEGES RELATING TO RENTAL

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## File a Discrimination Complaint

To help eliminate unlawful discrimination in Louisville Metro, the Human Relations Commission investigates complaints of unfair treatment based on race, color, religion, national origin, sex, familial status, disability, age, sexual orientation, and gender identity through enforcement of employment, housing, public accommodation, and bias-related crime laws.

Please contact us at 502-574-3631 if you believe you have experienced, or are a victim of:

- Employment Discrimination
- Housing Discrimination
- Public Accommodation/Disability Discrimination
- Hate Crime

Or, complete our [general form](#). Email the form to [hrc@louisvilleky.gov](mailto:hrc@louisvilleky.gov), or mail it to:

**Louisville Metro Human Relations Commission**  
**745 W. Main St., Suite 251**  
**Louisville, KY 40202**

For Disability Discrimination complaints, you may also complete the [Disability-Accessibility Complaint Portal](#), which streamlines disability-related accessibility complaints for Louisville Metro.

The Human Relations Commission will serve as the preferred starting point for complaint evaluations, assessments, and processing, including complaint referral to appropriate agencies when necessary. We'll contact you as soon as we've received the form, or please feel free to call us at (502) 574-3631. **Our office is currently closed to the public due to Covid-19.**

*Please note: completion of the attached form is not a formalized discrimination complaint. We will assist you with the formal complaint process. All pre-signed complaints will undergo review and are subject to approval by our agency.*

CNP MSJ 00891

**Learn More in our Informational Brochures**

- Persons are protected under local ordinance, and substantially-equivalent federal law, where applicable, because of race, color, religion, national origin, sex, age (40+, employment only), familial status (housing only), disability, sexual orientation, and gender identity.
  - **Fair Housing:** Know your rights for buying, selling, renting, financing, or insuring housing.
    - [Fair Housing \(2020\): English pdf](#)
    - [Multilingual Brochures](#)
  - **Employment:** Your guide to reporting employment discrimination.
    - [Employment Discrimination \(2019\): English pdf](#)
  - **Public Accommodation:** Your guide to reporting public accommodation discrimination.
    - [Public Accommodation Discrimination \(2019\): English pdf](#)
- Persons are protected under local ordinance, in tandem with the federal Hate Crimes Statistics Act, because of race, gender, religion, ethnicity, disability or health related condition, sexual orientation, and gender identity. See [Louisville Metro Amended Ordinance No. 193, Series 2004 \(PDF\)](#) (a/k/a Chapter 92 of the Louisville Metro Code of Ordinances)
  - **Hate Crimes:** Know Your Protections.
    - [Hate Crimes \(2019\): English pdf](#)
- View our Investigation complaint process.
  - [Human Relations Commission complaint investigation process \(PDF\)](#)
- Conciliation or Negotiated Settlement
  - Complainants and Respondents in a discrimination or bias-related crime complaint can also engage in conciliation negotiations to resolve a complaint voluntarily without legal determinations on the merits of complaints. Such resolutions can be agreed to in a formal, written [conciliation agreement \(PDF\)](#).



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