

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GERALD LYNN BOSTOCK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO: 1:16-cv-01460-ELR-WEJ
CLAYTON COUNTY,)	
)	
Defendant.)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S
STATEMENT OF UNDISPUTED MATERIAL FACTS**

COMES NOW Clayton County (hereinafter, “the County”), the Defendant in the above-referenced case, and, pursuant to Fed. R. Civ. P. 56 and LR 56.1(C)(1), NDGa., files this, its Response to Plaintiff’s Statement of Undisputed Material Facts.

The County shows this Honorable Court as follows:

I. BACKGROUND

A. The Clayton County Juvenile Court and the Court Appointed Special Advocate Program

1.

Clayton County CASA (“court-appointed special advocate”) is a program within the Child Welfare Division of the Clayton County Juvenile Court. (Bostock Depo. at 72:13–17; Teske Depo. at 50:1–5; Teske Depo. at 45:13–15).

RESPONSE:

Not disputed.

2.

Clayton County CASA coordinated the assignment of court-appointed special advocates to be the “eyes and ears for the judge” and to be advocates for the child in cases of child abuse. (Teske Depo. at 47:3–23; Bostock Depo. at 72:13–23).

RESPONSE:

Not disputed, except that volunteer court-appointed special advocates (hereinafter “Clayton County CASA GAL volunteers”) were also appointed to serve as advocates for the child in cases of child neglect. (Teske Dep., p. 46:7-13; Bostock Dep., pp. 82:13-15, 84:2-7).

3.

CASA volunteers would interview the child and parents, talk to DFCS and social services, and write up reports related to the child’s case before the judge. (Teske Depo. at 48:9–16).

RESPONSE:

Not disputed, but Clayton County CASA GAL volunteers did more than the tasks listed in paragraph 3. Clayton County CASA GAL volunteers would investigate the child’s overall situation, prepare a report and advocate on behalf of

the child in court (if available), which involves interviewing and getting to know the child, interviewing the parents, speaking with social workers, and gathering information about the child, all of which requires an average time commitment of 6-8 hours per week. (Bostock Dep., pp. 47:25 – 48:23, 83:3 – 84:24; Teske Dep., p. 48:9-23).

4.

Judge Steven Teske, now retired, became the chief judge of the Clayton County Juvenile Court in 2011. (Teske Depo. at 20:6–10).

RESPONSE:

Not disputed. The County adds that Judge Teske was appointed as an associate juvenile court judge with the Juvenile Court on July 1, 1999 and as a full juvenile court judge four years later, before becoming Chief Judge in 2011. (Teske Dep., pp. 18:5-17, 19:6-10).

B. Mr. Bostock's Background

5.

Plaintiff Gerald Bostock is a gay male. (Bostock Depo. at 9:7–9).

RESPONSE:

Not disputed.

6.

Plaintiff's sexual orientation was well known during his employment to Juvenile court management. (Teske Depo. at 277:19–25; John Johnson Depo. at 137:21– 138:4; Slay Depo. at 232:6–14)

RESPONSE:

Not disputed. The County adds that Plaintiff's sexual orientation was widely known among Juvenile Court employees in general. (Bostock Dep., p. 9:11-24, 10:3-7, 20 – 11:10, 19:17-23; Slay Dep., p. 232:6-14; Teske Dep., pp. 151:4-14, 276:25 – 277:18; Teske Dep., Exs. 38, at p. PLAINTIFF 001117; 43, at pp. CLAYTON_014192-93; Holland Dep., Ex. 120, at ¶ 6).

7.

Mr. Bostock began working at the Clayton County Juvenile Court in 2001 as the CASA Program Coordinator. (Bostock Depo. at 52:2–53:2).

RESPONSE:

Not disputed.

8.

At some point, there was a reorganization and Child Welfare Services was created. Child Welfare Services combined the Clayton County CASA Program and the Citizen Panel Review. (Bostock Depo. at 53:5–11).

RESPONSE:

Not disputed.

9.

When this reorganization took place, Mr. Bostock was named the Child Welfare Services Coordinator or chief of the Child Welfare Division. (Bostock Depo. at 53:10–11; Teske Depo. at 43:23–44:1).

RESPONSE:

Not disputed. The County adds that this reorganization and increase of job responsibilities, which Plaintiff viewed as a promotion, was at the urging and recommendation of Judge Teske. (Teske Dep., p. 43:18 – 49:1; Bostock Dep., pp. 53:17 – 54:11).

10

In his role as chief of the Child Welfare Division, Mr. Bostock was charged with recruitment, training, and retention of CASA volunteers as well as marshalling and funding recruitment, training, and retention. (Teske Depo. at 82:1–19).

RESPONSE:

Not disputed. However, this does not mean that Plaintiff was authorized to use GAL funds for purposes of Friends of Clayton County CASA, Inc. (hereinafter, “FCCC”) fundraising. (Teske Dep., p. 82-20-25). Also, the Juvenile Court

employed a CASA volunteer recruiter, whose primary duty was to assist with recruiting Clayton County CASA GAL volunteers. (Bostock Dep., p. 76:9-24)

11.

Mr. Bostock reported to Colin Slay, Chief of Staff. (Bostock Depo. at 78:21–23).

RESPONSE:

Not disputed.

12.

Mr. Bostock also reported to John Johnson, the Court Administrator. (John Johnson Depo. at 22:3–5).

RESPONSE:

Not disputed.

13.

Johnson and Slay ultimately reported to now retired Judge Teske. (Teske Depo. at 295:16–18; Johnson Depo. at 99:21–24).

RESPONSE:

The County does not dispute that Mr. Johnson reported to Judge Teske at the time of Plaintiff's termination on June 3, 2013. However, the citations provided do not support the assertion in paragraph 13 that Mr. Slay reported directly to Judge

Teske at the time of Plaintiff's termination on June 3, 2013. At that time, Mr. Slay reported to Mr. Johnson. (Teske Dep., p. 296:1-5; Johnson Dep., p. 99:21-24). Mr. Slay only began to report directly to Judge Teske sometime in 2015 when his chief of staff position was reclassified, and the Juvenile Court underwent a restructuring that resulted in Mr. Slay's reclassified position reporting directly to Judge Teske. (Slay Dep., pp. 56:24 –57:25; Johnson Dep., pp. 99:21 – 100:8).

C. **Background of Friends of Clayton County CASA**

14.

Mr. Bostock also had a role within the Friends of Clayton County CASA ("FCCC") which is a separate 501(c)(3) non-profit organization. (Teske Depo. at 45:2–10).

RESPONSE:

Not disputed. The County adds that Plaintiff's role with FCCC was separate from his responsibilities for the County and the Juvenile Court. (Teske Dep., p. 45:2-10).

15.

The purpose of the FCCC was to help generate funds to support the Clayton County CASA program. (Teske Depo. at 52:3–6).

RESPONSE:

The County does not dispute that one purpose of the FCCC was to help generate funds to support the Clayton County CASA program. The complete purpose of the FCCC is set forth in its by-laws, which provides as follows:

The purpose and mission of the FCCC Board will be to provide ongoing support to the Program Director of the Clayton County CASA organization, increase public awareness of the program, help recruit volunteers, raise funds and assist with volunteer recognition.

(Bostock Dep., Ex. 2, Section I).

16.

The FCCC helped to recruit volunteers for the CASA program and to secure funds to retain the volunteers for the program. (Crawford Depo. at 17:12–16).

RESPONSE:

Not disputed. However, there are CASA-related activities undertaken by FCCC that are not associated with the Juvenile Court. (Teske Dep., p. 49:14-21).

17.

Sabrina Crawford was the Board Chair of FCCC from 2005 to 2013. (Crawford Depo. at 15:3–16:22).

RESPONSE:

The County does not dispute that Ms. Crawford was the Chair of the FCCC Board in 2013. However, the citations provided do not support the remaining

assertions contained in paragraph 17. Ms. Crawford merely testified that she was Chair of the FCCC Board for a majority of the time that she served on the FCCC Board from 2005 until 2013. (Crawford Dep., p. 15:18-22).

II. THE MEMORANDUM OF UNDERSTANDING

18.

In late 2007, the Clayton County Superior Court and the Clayton County CASA Program entered into an agreement for the generation of funds for the purpose of recruitment, training, and retention of CASA volunteers. (Teske Depo. at 51:21–24).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 18, and the County disputes the assertions contained therein to the extent they suggest that the Memorandum of Understanding (“MOU”) was simply a fundraising tool for the Juvenile Court’s CASA program. The purpose of the MOU was to assist Superior Court judges who were having difficulty getting a guardian ad litem (“GAL”) appointed when needed because the parties often could not afford the expense of an attorney serving as a GAL. Superior Court Judge Deborah Benefield approached Judge Teske with the idea of the Superior Court utilizing a Juvenile Court employee to serve as a GAL in custody cases and supervise volunteer GALs in custody cases,

in exchange for charging the parties a \$500 administrative fee to be used for “volunteer recruitment, training and retention,” which would be a more cost-effective and affordable way for appointing a GAL to advocate on behalf of children in Superior Court custody dispute cases. (Teske Dep., pp. 52:8 – 53:3, 153:3-10; Bostock Dep., p. 126:12 – 127:9; Slay Dep., p. 115:5-15; Teske Dep., Ex. 3, p. 2, Section II).

19.

In late 2007, a Memorandum of Understanding (“MOU”) was entered between the Superior Court of Clayton County and Clayton County CASA which commemorated this agreement and indicated that Clayton County CASA would receive a \$500 administrative fee when the Superior Court appointed a Clayton County CASA employee to serve as a guardian ad litem. (Teske Depo at 52:8– 53:3).

RESPONSE:

The County does not dispute that the Juvenile Court and the Superior Court signed the MOU in late 2007 and that Plaintiff also signed the MOU as CASA Program Coordinator for the Juvenile Court. The County also does not dispute that Clayton County CASA would receive a \$500 administrative fee when the Superior Court issued an Order for appointment of a GAL. However, the Order issued by the Superior Court was for the appointment of a Clayton County CASA GAL volunteer,

not for the appointment of a Juvenile Court employee. (Teske Dep., Ex. 3, Sections IV.A, B(1-3)). The Clayton County CASA GAL volunteer appointed by the Superior Court was supervised by a Juvenile Court employee dedicated to the supervision of these volunteers in Superior Court cases, and this supervisor is referred to in the MOU as the “Special Assistant”. (See, e.g., Teske Dep., Ex. 3, Sections V.B.1-2; Teske Dep., pp. 52:14-17, 153:3-10; Slay Dep., pp. 114:24 – 115:16). This volunteer supervisor also was responsible for deciding which Clayton County CASA GAL volunteer to assign to a particular case. (Teske Dep., Ex. 3, Section V.B.1-2).

20.

This money collected pursuant to the MOU was paid to “Friends of Clayton County CASA, Inc., Care of Gerald Bostock, Program Coordinator of CASA” (the “GAL account”). (Teske Depo. at 53:23–54:14; Teske Depo., Plaintiff’s Exhibit 3 at 2).

RESPONSE:

Not disputed.

21.

Under the MOU, Mr. Bostock was authorized to use these funds “to fund volunteer recruitment, training, and retention” of CASA volunteers. (Teske Depo. at 54:18–21; Teske Depo., Exhibit 3 at 2).

RESPONSE:

Not disputed. The County adds that Judge Teske defined “CASA volunteers” as those “[w]ho have been trained and certified and taken an oath.” (Teske Dep., p. 48:4-7). The MOU likewise defines CASA volunteers as those “who serve as advocates for children under both a Clayton County Superior Court Order and a Clayton County Juvenile Court Order.” (Teske Dep., Ex. 3, p. 1). Thus, these administrative fees were to be used only for the recruitment, training and retention of Clayton County CASA volunteers serving as *guardians ad litem* (“Clayton County CASA GAL volunteers”), not for FCCC fundraising or marketing purposes, or for the recruitment, training and retention of other types of volunteers. (Teske Dep., Ex. 3, p. 2, Section II; *id.* at pp. 2-7, Sections III-V; Teske Dep., pp. 54:16-21, 82:2-5, 194:19-24; Slay Dep., pp. 75:19 – 76:12, 135:20 – 136:2; Johnson Dep., p. 238:12-21).

22.

This directive in the MOU for how the fees are to be used is not specific. (Slay Depo. at 74:9–17).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 22. Mr. Slay merely testified that the MOU did not itemize specific types of expenses as

appropriate or inappropriate, such as the purchase of alcohol or sponsoring sports teams. (Slay Dep., p. 74:9-17).

23.

The FCCC had two accounts: their own and a GAL account. (Teske Depo. at 124:20–22).

RESPONSE:

Not disputed.

24.

The \$500 collected under the MOU went into the GAL account. (Bostock Depo. at 98:23–99:22).

RESPONSE:

Not disputed.

25.

The GAL account was overseen by the Friends of Clayton County CASA board. (Teske Depo. at 154:1–3; Crawford Depo. at 117:7–23).

RESPONSE:

The citations provided do not support the assertions set forth in paragraph 26, and the County disputes the assertions contained therein. Ms. Crawford merely testified that she could have reviewed bank statements for the GAL account if she

wanted to do so. (Crawford Dep., p. 117:7-23). As Judge Teske clarified in his errata sheet (attached hereto as Exhibit 1), the GAL account was not overseen by the FCCC Board. Ms. Crawford likewise testified that the FCCC had no oversight authority over the GAL account or over how GAL funds were spent because the GAL funds did not belong to the FCCC. (Crawford Dep., pp. 27:24 – 28:7, 44:3 – 45:11, 110:21-24, 112:9-13; 155:13 – 156:2, 161:4-21; Crawford Dep., Ex. 2, at p. CLAYTON 000849).

26.

Mr. Bostock reported to the FCCC board concerning the use of these funds and on a regular basis made the bank account records available to the board with explanation for all expenditures. (Crawford Depo. at 18:4–14; Bostock Depo. at 140:6–141:1).

RESPONSE:

The citations provided do not support the assertions set forth in paragraph 26, and the County disputes the assertions contained therein. Ms. Crawford merely testified that she could have reviewed bank statements for the GAL account if she wanted to do so. (Crawford Dep., p. 117:7-23). Moreover, Plaintiff did not testify in the cited passage that he provided the FCCC Board with explanations for his expenditures from the GAL account. Plaintiff merely testified that he made the bank

statements available at FCCC Board meetings. (Bostock Dep., pp. 139:24 – 140:11). Furthermore, Plaintiff admitted that he is unaware of any occasion when an FCCC Board member actually reviewed the bank statements for the GAL account during an FCCC Board meeting. (Id., pp. 139:24 – 140:21). Although Plaintiff testified that the treasurer of the FCCC Board initially handled all reimbursements from the GAL account, the decision was made to hand spending authority over the GAL account to Plaintiff, and the Board issued him a debit card for the GAL account. (Bostock Dep., pp. 107:25 – 108:6, 129:4-6, 133:23 – 134:17). At that point, it was within Plaintiff's sole discretion to determine whether GAL funds could be used to pay for a particular expense on the ground that it was for the recruitment, training and retention of volunteers, with little or no actual oversight from the FCCC Board as stated above. (Id. at pp. 137:10 – 138:15).

III. Review of Bank Statements

27.

In late 2011 or early 2012, Mr. Bostock began providing annotated copies of bank statements from the GAL account to Mr. Johnson and Mr. Slay for their review. (Slay Depo. at 92:12–18; John Johnson Depo. at 84:21–24 to 86: 14).

RESPONSE:

The County does not dispute that in late 2011 or early 2012, Plaintiff began providing bank statements for the GAL account to Mr. Johnson and Mr. Slay to review. However, many entries on these bank statements did not include annotations, and there were a number of months for which Plaintiff did not provide a bank statement for the GAL account. (Slay Dep., pp. 99:11-12, 100:18 – 101:3; Johnson Dep., errata sheet).

28.

Colin Slay reviewed the bank statements and generally found Mr. Bostock's explanations for expenditure appropriate. (Slay Depo. at 99:5–9).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 28. Mr. Slay testified that there were often line items that did not include any explanations by Plaintiff for the expenses contained in the bank statements, and that as to the explanations Plaintiff did provide, “nothing flew off the page as inappropriate.” (Slay Dep., p. 99:5-12). Mr. Slay added that his review of the bank statements was very cursory – “almost pass through” – and that he did not know what he was looking for in reviewing these bank statements or “have a whole lot of understanding of how that all functioned.” (Slay Dep., p. 100:3-8).

29.

Johnson also reviewed them. (John Johnson Depo. at 84:21–24 to 86:14)

RESPONSE:

The County does not dispute that Mr. Johnson reviewed the bank statements provided by Plaintiff. The County notes, however, that a number of bank statements were missing, and Johnson had concerns about many of the expenses set forth in the bank statements he did receive. (Slay Dep., pp. 100:18 – 101:3; Johnson Dep., pp. 84:21 – 85:6, 16-18, 101:6-16, 116:25 – 117:3, 121:7-9, 144:18-22, 176:16-23; Johnson Dep., Ex. 94; Johnson Dep., errata sheet, pp. 86:2-4, 123:8-13).

IV. The Softball League and Non-Discriminatory Audit

30.

In or around December 2013, Mr. Bostock began participating in the Hotlanta Softball League - a gay men's sports league. (Bostock Depo. at 177:1–14).

RESPONSE:

Not disputed.

31.

Mr. Bostock recruited members of the league to volunteer for CASA or to sponsor events. (Bostock Depo. at 198:20–22; 201:19–24).

RESPONSE:

The County does not dispute that Plaintiff recruited members of the softball league to sponsor fundraising events, but he did not successfully recruit any league members or members of his softball team to become Clayton County CASA GAL volunteers. (Teske Dep., Ex. 81, ¶ 10; Bostock Dep., pp. 206:6 – 207:6; Teske Dep., pp. 140:22 – 142:6, 144:11-14; Slay Dep., p. 75:2-16).

32.

Mr. Bostock also secured FCCC sponsorships from certain league members. (Bostock Depo. at 201:19–24).

RESPONSE:

Not disputed. The County adds that it was improper for Plaintiff to use GAL funds to fundraise for the FCCC. (See the County’s response to paragraph 21).

33.

Additionally, Mr. Bostock sought and received approval from Friends of Clayton County CASA Board Chair, Sabrina Crawford, to use funds from the GAL account to partially fund the purchase of t-shirts for the team which bore the Clayton County CASA logo, along with logos of other sponsors. (Bostock Depo. at 274:8–20; Bostock Depo., Ex. 17; Teske Depo. at 130:16–20.)

RESPONSE:

The statements contained in paragraph 33 are not relevant to the issues presented in Plaintiff's Motion, and in any event, the County disputes the assertions contained in paragraph 33. The alleged views of an FCCC Board members are not relevant because they do not reflect official FCCC Board action taken by a majority vote of 8-10 FCCC Board members at the time approving the use of GAL funds to sponsor Plaintiff's softball team. (Crawford Dep., pp. 15:23 – 16:1). Also, Ms. Crawford did not "approve" Plaintiff's use of GAL funds to sponsor his softball team because the FCCC Board did not have the authority to approve the expenditure of GAL funds because the GAL funds did not belong to the FCCC. Crawford Dep., pp. 27:24 – 28:7, 44:3 – 45:11, 110:21-24, 112:9-13; 155:13 – 156:2, 161:4-21; Crawford Dep., Ex. 2, at p. CLAYTON 000849). Regardless, Judge Teske, was more than entitled to reach his own conclusion that sponsoring Plaintiff's Atlanta-based softball team was an improper use of GAL funds. (Teske Dep., pp. 169:1-7, 308:3-14; Merritt Dep., Ex. 10, at p. 6).

34.

On April 30, 2013, John Johnson wrote a memo to Stacey Merritt, Head of Internal Audits, with Slay and Teske copied on the memo, requesting an audit of the GAL account. (John Johnson Depo., Exhibit 94).

RESPONSE:

The County does not dispute that Johnson wrote a memo to Ms. Merritt on April 30, 2013. The citations provided, however, do not support the remaining assertions contained in paragraph 34, and the County disputes the remaining assertions contained therein. Nothing in the referenced memo reflects that Mr. Johnson copied Judge Teske or Mr. Slay on it. Further responding, Ms. Merritt recommended a full audit of the GAL account on April 23, 2013 based on “red flags” and the “risk of inappropriate actions” that emerged based on her short interview of Plaintiff earlier that day. (Merritt Dep., pp. 61:2 – 63: 13, 65:19 – 66:4, 12-20, 70:12-19, 23-25 – 71:9; Merritt Dep., Ex. 93). Judge Teske had approved the audit by April 29, 2013, and Mr. Johnson submitted his request for approval of the audit to the Clayton County Board of Commissioners Chairman, Jeff Turner, on April 29, 2013. (Merritt Dep., Ex. 92; Teske Dep., pp. 135:15-19, 136:25 – 137:11; Teske Dep. Ex. 44; Declaration of Steven C. Teske (Doc. 136-4), at ¶ 5). The referenced memo identified Johnson’s areas of concern with Plaintiff’s expenditures from the GAL account that he wanted Merritt to address in the upcoming audit. (Johnson Dep., Ex. 94).

35.

This memo from Johnson specifically questioned expenditures at “adult/alternative bars” which Johnson testified meant gay bars or alleged “gay friendly” establishments. (John Johnson Depo. at 130:6–21; Ex. 94.).

RESPONSE:

Not disputed. The County adds that Mr. Johnson’s concerns with these expenses (as well as with other expenses) were that they appeared to be personal in nature and did not appear to be proper use of the GAL funds. (Johnson Dep., Ex. 94, item 2)).

36.

This memo also specifically referenced Mr. Bostock’s softball team. (Johnson Depo. Ex. 94.)

RESPONSE:

Not disputed. The County adds that Mr. Johnson’s concerns with the expenses associated with Plaintiff’s softball team (including the Birmingham reception) were that they appeared to be personal in nature, created at least the appearance of a conflict of interest by Plaintiff, and did not appear to be proper use of the GAL funds. (Johnson Dep., Ex. 94, item 2)).

37.

Johnson testified that the “concerns” he listed in his memo, which included the softball team and the gay bars were concerns that he, Slay, and Teske had. (Johnson Depo. 129:22-130:1).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 37. The referenced memo included a myriad of concerns, and Mr. Johnson did not testify in the cited excerpt that Judge Teske or Mr. Slay specifically were concerned about the softball team or the gay bars.

38.

On May 1, 2013, Teske wrote a memo to County Chairman Jeff Turner requesting a formal audit of the GAL account. (Teske Depo. at 183:17–184:17.)

RESPONSE:

Not disputed.

39.

Teske ordered the audit only after Mr. Bostock began participating in the Hotlanta Softball League and recruiting CASA volunteers and sponsors in the Midtown area of Atlanta. (Teske Depo. at 183:17–184:17; Johnson Depo. 129:22-130:1; Johnson Depo. Ex. 94.)

RESPONSE:

The citations provided do not support Plaintiff's assertion that Judge Teske's decision to approve the audit was related to the asserted activities described in paragraph 39. Moreover, Plaintiff did not recruit any Clayton County CASA GAL volunteers in the Midtown area of Atlanta through his participation in the softball league or as a result of Plaintiff taking someone to lunch, dinner or a bar. (See the County's Response to paragraph 31; Bostock Dep., p. 157:9-12). Furthermore, Judge Teske authorized the full audit of the GAL account based on Ms. Merritt's recommendation on April 23, 2013 that a full audit was warranted, a January 2013 email from former Juvenile Court employee Shawn Black alleging that Plaintiff was not spending the GAL funds appropriately, Juvenile Court employee Carol Gossett's previous statement to him during a swearing-in ceremony for CASA volunteers that there were not sufficient funds in the GAL account to pay for the usual amenities for these new CASA volunteers even though she had collected almost \$15,000 in administrative fees for the GAL account, and Mr. Slay's recommendation that it would be preferable for a professional accountant to review the bank statements for the GAL account that he had been reviewing. (Teske Dep., pp. 201:6-23, 203:9 – 204:2, 206:2-12, 218:17-23; Slay Dep., p. 122:4-20; 236:20-22; Teske Decl., ¶ 4; Teske Dep., Ex. 19; Merritt Dep., Ex. 110).

40.

At the beginning of the audit, John Johnson told Leslie Moore, the assistant director of internal audit, that Mr. Bostock was gay, even though his sexual orientation was not relevant to the audit. (Moore Depo. at 26:23–27:11; 37:11– 19).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 40. Mr. Johnson mentioned to Ms. Moore that Plaintiff previously had some inappropriate “gay stuff” on his computer. (Moore Dep., pp. 37:24 – 38:2). This was in reference to an incident where nude photographs of men were discovered on Plaintiff’s County-issued computer, after which Mr. Johnson recommended that Plaintiff be terminated, but the Chief Judge of the Juvenile Court at the time, Judge Banke, decided that, if Plaintiff did not engage in any additional misconduct, the write-up of this incident and the photographs themselves would be shredded, and the photographs and write-up were shredded two years later. (Johnson Dep., pp. 28:20 – 32:11, 33:10-13, 34:10-20; Bostock Dep., pp. 256:17-258:8, 259:15-22). Mr. Johnson mentioned that incident to Ms. Moore and the fact that Plaintiff was not disciplined for it because he was upset that it appeared that Plaintiff was being protected by the Juvenile Court judges from any accountability for his actions, and the nude photograph incident was just one example of such lenient treatment of

Plaintiff.¹ (Second Declaration of Leslie Moore, at ¶¶ 4-5, attached hereto as Exhibit 2; Moore Dep., p. 39:3-17).

41.

Johnson did not tell Moore, who conducted the audit, that Mr. Bostock had been providing him GAL bank account statements over the last couple of years and that he had been reviewing them. (Moore Depo. at 28:2–29:1).

RESPONSE:

The assertions contained in paragraph 41 are not relevant to the issues presented in Plaintiff’s Motion. In any event, if Ms. Moore had been aware that Plaintiff had been providing Mr. Johnson GAL bank statements, this would not have changed the findings of the audit or the outcome of the audit. (Declaration of Leslie Moore (Doc. 136-5), ¶ 5). Moreover, in his April 30, 2013 memo to Ms. Merritt, Mr. Johnson repeatedly conveyed to her that he had been reviewing bank statements for the GAL account provided by Plaintiff and even attached some of them. (Johnson Dep., Ex. 94, items 2 and 9).

¹ Judge Banke also instructed Mr. Johnson not to include any negative comments in Plaintiff’s performance evaluations. (Johnson Dep., pp 236:21 – 237:11). In addition, Judge Teske removed from Plaintiff’s personnel file a written warning prepared by Mr. Johnson in April 2005 arising out of complaints from several employees about Plaintiff being a harsh supervisor and creating a hostile environment. (Teske Dep., pp. 42:12 – 43:9; 155:5 – 160:14).

42.

Ms. Moore testified that it would have been important for her to know this information “because the reason for [Johnson] coming to us about the audit was that there was lack of oversight, and he didn't know what the funds were being spent on” and that “if [Johnson] had been keeping tabs . . . on the bank statements, then that doesn't make sense to me.” (Moore Depo. at 29:2–12).

RESPONSE:

The assertions contained in paragraph 42 are not relevant to the issues presented in Plaintiff's Motion. In any event, if Ms. Moore had been aware that Plaintiff had been providing Mr. Johnson GAL bank statements, this would not have changed the findings of the audit or the outcome of the audit. (Moore Decl., ¶ 5). Moreover, in his April 30, 2013 memo to Merritt, Johnson repeatedly conveyed to her that he had been reviewing bank statements for the GAL account provided by Plaintiff and even attached some of them. (Johnson Dep., Ex. 94, items 2 and 9).

43.

Ms. Moore interviewed Mr. Bostock and found him to be cooperative and forthcoming. (Moore Depo. at 14:16–15:1).

RESPONSE:

Not disputed. However, when Ms. Moore realized that there were bank statements and receipts missing and asked Plaintiff to provide them, he did not do so. (Moore Dep., pp. 17:4-22, 18:13-25 and errata sheet; Merritt Dep., p. 116:2-4, 14-18).

44.

Ms. Moore did not ask any member of Friends of Clayton County CASA for books and records concerning the GAL account and had no answer as to why she did not do so. (Moore Depo. at 18:2–20:14).

RESPONSE:

The assertions contained in paragraph 44 are not relevant to the issues presented in Plaintiff's Motion. When Ms. Moore realized that there were bank statements and receipts missing and asked Plaintiff to provide them, he did not do so. (Moore Dep., pp. 17:4-22, 18:13-25 and errata sheet; Merritt Dep., p. 116:2-4, 14-18). Moreover, the FCCC did not have its own office space at the time of the audit, and all of FCCC's books and records were being maintained at the Juvenile Court under the purview of Plaintiff. (Slay Dep., pp. 250:14 – 251:21, 42:13-18; Bostock Dep., p. 140:2-4, 22-24).

V. **Judge Teske’s Focus on Mr. Bostock’s Misconduct**

45.

On June 3, 2013, the day Mr. Bostock was fired Teske wrote in his diary his justification for firing Gerald Bostock, stating that Mr. Bostock had used GAL funds to “sponsor[] his gay softball team in a gay Atlanta softball league.” (Teske Depo. at 168:11–169:1; Teske Depo., Exhibit 43 at 10; Johnson Depo. Ex. 17).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 45, and the assertions contained in paragraph 45 do not accurately reflect what Judge Teske wrote in his diary. Judge Teske wrote in his diary (among other things) that Plaintiff “has been using GAL funds that are dedicated to the recruitment of Clayton County CASA volunteers, their training and retention ... to sponsor his softball team in a gay softball league in Atlanta.” (Teske Dep., Ex. 43, at p. CLAYTON_014201). Judge Teske also wrote in his May 31, 2013 diary entry that the fact that Plaintiff’s softball team was gay and that it played in a gay softball league was not what concerned him. (Id.).

46.

Teske further wrote in his diary that Mr. Bostock had used GAL funds for “meals with friends (former boyfriends—he is gay) and to sponsor a softball team

in a gay softball league in Atlanta.” (Teske Depo. at 170:3–8; Teske Depo., Exhibit 43 at 10).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 45, and the assertions contained in paragraph 45 do not accurately reflect what Judge Teske wrote in his diary. In his diary, Judge Teske, wrote (among other things) that Plaintiff “has been using GAL funds that are dedicated to the recruitment of Clayton County CASA volunteers, their training and retention for meals with friends (former boyfriends – he is gay) and to sponsor his softball team in a gay softball league in Atlanta.” (Teske Dep., Ex. 43, at p. CLAYTON_014201). Judge Teske considered Plaintiff’s teammates on his softball team as being Plaintiff’s friends. (Teske Decl., ¶ 6).

47.

In his deposition, Teske admitted that he had no evidence that Mr. Bostock was having lunch with former boyfriends. (Teske Depo. at 175:6-8.)

RESPONSE:

The assertions contained in paragraph 47 do not reflect the entirety of Judge Teske’s testimony on this topic. Judge Teske clarified later in his deposition that the reference to Plaintiff using GAL funds to have meals with former boyfriends may

have been based on something someone might have told him or information that someone may have shared with him, but he does not now remember what he was told or by whom, but that this is not something he would have written in his diary without receiving information creating this suspicion. (Teske Dep., pp. 298:1 – 299:19). As it turns out, Plaintiff did use GAL funds for meals with at least one current or former boyfriend, Yhon Sanchez, and Plaintiff spent GAL funds on several occasions for meals at a restaurant (F.R.O.G.S.) where Mr. Sanchez was the manager. (Holland Dep., Ex. 120, at ¶¶ 11-14; Teske Dep., Ex. 81, ¶ 7, at pp. Clayton_014128-29).

48.

Teske also wrote in his diary that Mr. Bostock was “buying meals for potential sponsors in Midtown Atlanta—the gay district of Atlanta.” (Teske Depo.176:24 - 177:1, Exhibit 43 at 11).

RESPONSE:

Not disputed. Judge Teske correctly understood that Midtown Atlanta was an area known at the time to be one where many members of the gay community lived and where many businesses that catered to a predominately gay clientele operated. (Teske Dep., p. 171:17-18; Holland Dep., pp. 15:5-8; Holland Dep., Ex 120, at ¶¶ 3, 8, 10). This reality also is reflected by Judge Teske’s personal experiences

socializing with Plaintiff and his partner at gay restaurants and nightclubs in the Midtown Atlanta area. (Teske Dep., pp. 180:22 – 181:19, 182:24 – 183:1; Teske Decl., ¶ 3). Furthermore, owners and operators of establishments in Midtown Atlanta that catered to a predominantly gay clientele would refer to Midtown Atlanta as the “Gayborhood,” which was a marketing term commonly used at the time in advertising directed toward the gay community. (Holland Dep., Ex. 120, at ¶ 10; Merritt Dep., Ex. 82).

49.

The audit did not find that Mr. Bostock used GAL funds for meals with former boyfriends. (Moore Depo. at 53:24–54:2).

RESPONSE:

The assertions contained in paragraph 49 are not relevant to the issues presented in Plaintiff’s Motion.

50.

The audit did not conclude that recruiting efforts within the gay community meant that Mr. Bostock was spending money on his own interests. (Moore Depo. at 64:6–16).

RESPONSE:

The assertions contained in paragraph 50 are not relevant to the issues presented in Plaintiff's Motion.

51.

As part of his justification, Teske also wrote that expenditures for the softball league and for meals in Midtown Atlanta created an "appearance that because [Mr. Bostock] is gay he is spending money on his own interests." (Teske Depo. at 176:23-177:1-6; 168:11-169:1; Teske Depo., Exhibit 43 at 11).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 51, and the assertions contained in paragraph 51 do not accurately reflect what Judge Teske wrote in his diary. In his diary, Judge Teske wrote (among other things), "It's not the gay thing that upsets me – it's that the appearance that because he is gay he is spending money on his own interests – that's a conflict." (Teske Dep., Ex. 43, at p. CLAYTON_14202). In his previous diary entry of May 31, 2013, Judge Teske similarly wrote with respect to Plaintiff's sponsorship of his softball team, "Its not the 'gay' aspect of it, but the personal gain." (*Id.* at p. CLAYTON_14201).

52.

Teske was suspicious of Mr. Bostock's spending in Midtown "because [Mr. Bostock] is gay" and Teske considered Midtown "the gay district of Atlanta." (Teske Depo. at 176:25-177:13; Teske Depo., Exhibit 43 at 11).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 52, and the assertions contained in paragraph 52 do not reflect all of Judge Teske's testimony on this issue. Judge Teske testified that Plaintiff's sexual orientation was one of a number of factors – including that it was incredulous to Judge Teske that Plaintiff could be spending money in Midtown Atlanta recruiting Clayton County CASA GAL volunteers to serve far away in Clayton County and that many bank records were missing – that led him to conclude that Plaintiff was using GAL funds to pursue personal interests. (Teske Dep., pp. 177:22 – 178:21, 182:3-23). Further responding, Judge Teske correctly understood Midtown Atlanta as being an area where many members of the gay community lived and operated businesses catering to a predominantly gay clientele. (See the County's response to paragraph 48).

53.

Teske factored Mr. Bostock’s sexual orientation into his conclusion that Mr. Bostock was spending money on “personal things” when he spent money in Midtown Atlanta. (Teske Depo. at 182:3–25).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 62. Judge Teske testified that Plaintiff’s sexual orientation was one of a number of factors – including that it was incredulous to Judge Teske that Plaintiff could be spending money in Midtown Atlanta recruiting Clayton County CASA GAL volunteers to serve far away in Clayton County and that many bank records were missing – that led Judge Teske to conclude that Plaintiff was using GAL funds to pursue personal interests, which was only one of the reasons why he decided to terminate Plaintiff. (Teske Dep., pp. 177:22 – 178:21, 182:3-23).

54.

Teske considered all expenditures at restaurants or bars in Midtown Atlanta to be “suspicious” because the restaurants in Midtown Atlanta could be a “gay restaurant” or a “gay bar.” (Teske Depo. at 207:21–208:2).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 54. Judge Teske merely testified that one would need to gather additional information to determine whether a restaurant or bar in Midtown is one that is thought to be a gay restaurant or bar. (Teske Dep., pp. 207:14 – 208:2). Further responding, in response to Judge Teske’s written questions instructing Plaintiff to explain the numerous restaurant and bar expenses outside of Clayton County, Plaintiff identified numerous expenses from restaurants and bars in the Midtown Atlanta area that catered primarily to a gay clientele, including F.R.O.G.S., Cowtippers, Woofs, Blakes and Joe’s on Juniper. (Teske Dep., Ex. 81, ¶ 7; Holland Dep., pp. 15:5-8, 30:1 – 31:13; Holland Dep., Ex. 120, at ¶¶ 8-9; Moore Dep., Exs. 82-84; Moore Decl., ¶ 4 & Ex. A thereto, at pp. CLAYTON_013935, 013940-42, 013950, 014020; Bostock Dep., pp. 28:15-21, 70:12 – 71:22; Teske Dep., p. 89:12-17).

55.

Teske admitted that when Mr. Bostock spent money on softball uniforms from the GAL account, Mr. Bostock consulted with the people who have oversight on the account and received authorization for that expenditure. (Teske Depo. at 195:12–196:1).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 55. Judge Teske testified that, while Plaintiff consulted with the FCCC about the softball team sponsorship and to his knowledge, the FCCC Board approved this expenditure, Plaintiff should have consulted with him as Chief Judge of the Juvenile Court about this use of GAL funds. (Teske Dep., p. 195:4-16). Moreover, the FCCC Board did not “approve” the use of GAL funds to sponsor Plaintiff’s softball team, and the FCCC Board did not have oversight over the GAL account. (See the County’s response to paragraph 25; see also Teske Dep., errata sheet).

56.

Leslie Moore, the assistant director of internal audit, did not consider it an inappropriate use of the GAL funds to take people to lunch and try to recruit them. (Moore Depo. at 25:20–23).

RESPONSE:

The assertions contained in paragraph 56 are not relevant to the issues presented in Plaintiff’s Motion. Regardless, as stated in the audit, the problem from Ms. Moore’s standpoint was that many of the restaurants at which Plaintiff expended GAL funds purportedly to “recruit” Clayton County CASA GAL volunteers were

located outside Clayton County. (Merritt Dep., Ex. 10, at p. 5; Moore Dep., p. 56:1-9).

57.

There was no restriction in the MOU with respect to Mr. Bostock recruiting or training in Midtown Atlanta. (John Johnson Depo. at 98:16–20).

RESPONSE:

The assertions contained in paragraph 57 are not relevant to the issues presented in Plaintiff's Motion. As Plaintiff admitted in his responses to Judge Teske's written questions, many of Plaintiff's expenses at restaurants and bars in Midtown Atlanta were not for the purpose of recruiting Clayton County CASA GAL volunteers, as required by the MOU, to serve miles away in Clayton County, but rather were for other purposes, such as assisting FCCC with its fundraising endeavors. (Teske Dep., Ex. 81, ¶ 7; Teske Dep., pp. 81:12-19, 88:11-13, 120:3-22; 140:22 – 142:6, 144:11-14, 192:15 – 193:4, 208:16-19, 211:19-24, 212:19-22; Slay Dep., p. 148:5-16).

58.

Slay stated that engaging in a recruiting event at a gay bar would not be an improper use of funds. (Slay Depo. at 114:1–5).

RESPONSE:

The assertions contained in paragraph 58 are not relevant to the issues presented in Plaintiff's Motion, and the citations provided do not support the assertions contained in paragraph 58. Mr. Slay testified that engaging in a recruiting event at a gay bar would not "in and of itself" be an improper use of FCCC funds. (Slay Dep., p. 114:1-5). Mr. Slay was not asked in the cited excerpt whether such an expense would be an improper use of GAL funds.

59.

The audit report did not state that Mr. Bostock engaged in any wrongdoing nor did it suggest he should be disciplined in any manner. (Moore Depo. at 8:12–9:2; 84:24–85:4).

RESPONSE:

The assertions contained in paragraph 59 are not relevant to the issues presented in Plaintiff's Motion. In any event, it is not the typical practice of the Internal Audit Department to recommend personnel action by County departments (or even to include names of employees in audit reports), and, consistent with that practice, Ms. Merritt and Ms. Moore did not make any recommendations as to what, if any, disciplinary action should be taken against Plaintiff as a result their findings in the audit and left this decision up to the Juvenile Court administration. (Merritt

Dep., pp. 28:11-16, 100:11-25, 115:5-10; Moore Dep., p. 8:12-21; Teske Dep., pp. 255:22-24, 256:7-11; Johnson Dep., p. 257:14-17). Nevertheless, the auditors concluded that Plaintiff had engaged in misconduct with respect to the GAL account, and the changes recommended by the auditors were intended to prevent such misconduct from occurring again in the future. (Merritt Dep., p. 115:5-15; Declaration of Stacey Merritt (Doc. 136-7), at ¶ 4; Moore Decl., ¶ 8).

VI. Conclusion of the Audit and Non-Discriminatory Termination

60.

On June 3, 2013, Teske instructed John Johnson to terminate Mr. Bostock. (Teske Depo. at 137:18–138:2).

RESPONSE:

Not disputed.

61.

Teske was the ultimate decision maker concerning Mr. Bostock's termination. (Teske Depo. at 44:13–15).

RESPONSE:

Not disputed.

62.

Teske admitted Mr. Bostock’s sexuality was a “contributing factor” in Teske’s decision to terminate Mr. Bostock. (Teske Depo. 177:22-178:20.)

RESPONSE:

The citations provided do not support the assertions contained in paragraph 62. Judge Teske testified that Plaintiff’s sexual orientation was one of a number of factors – including that it was incredulous to Judge Teske that Plaintiff could be spending money in Midtown Atlanta recruiting Clayton County CASA GAL volunteers to serve far away in Clayton County and that many bank records were missing -- that led him to conclude that Plaintiff was using GAL funds to pursue personal interests, which was only one of the reasons why he decided to terminate Plaintiff. (Teske Dep., pp. 177:22 – 178:21, 182:3-23). Judge Teske testified that one of the reasons he terminated Plaintiff was that he was “highly suspicious that [Plaintiff’s] up there [in midtown Atlanta] doing personal, more so than business stuff.” (Id. at p. 178:7-9). When Plaintiff’s counsel asked Judge Teske if, by “personal,” he meant “gay stuff,” Judge Teske said “it doesn’t matter whether you’re gay [or] you’re straight.” (Id. at p. 178:10-12).

63.

Teske admitted that he believed that because Mr. Bostock was recruiting in Midtown that he was actually engaging in gay-related activity and not serious CASA related activity. (Teske Depo. 177:22- 178:4).

RESPONSE:

The citations provided do not support the assertions contained in paragraph 63. Judge Teske testified that it was incredulous to him that Plaintiff could be spending money in Midtown Atlanta recruiting Clayton County CASA GAL volunteers to serve far away in Clayton County and that many bank records were missing, which led him to conclude that Plaintiff was using GAL funds to pursue personal interests. (Teske Dep., pp. 177:22 – 178:21, 182:3-23).

64.

Before Teske terminated Mr. Bostock, Teske and Slay visited Crawford at her car dealership and Teske told her that he was going to terminate Mr. Bostock. (Teske Depo. at 59:17–60:2; 67:1–7).

RESPONSE:

Not disputed.

65.

At this meeting, Teske told Crawford that Mr. Bostock had misused, mishandled, mismanaged, or stolen between \$14,000 and \$17,000 and that he had proof in the form of bank statements. (Teske Depo. at 68:17–69:4; Crawford Depo. at 39:8– 41:18).

RESPONSE:

The assertions contained in paragraph 65 are not relevant to the issues presented in Plaintiff’s Motion, and the assertions contained in paragraph 65 did not reflect the entirety of Ms. Crawford’s testimony, and the County disputes the assertions contained therein. Ms. Crawford clarified later in her deposition that she could not recall if Judge Teske had accused Plaintiff of “stealing” from the GAL account, but that Judge Teske told her that Plaintiff “was using the GAL funds to pay for things that he should not have been using the GAL funds for.” (Crawford Dep., p. 103:1 – 104:5). Moreover, Judge Teske did not tell Ms. Crawford that Plaintiff “stole”, misused, mishandled or mismanaged between \$14,000 and \$17,000, and he did not reference the bank statements. (Teske Dep., pp. 69:21 – 72:4). Judge Teske told Ms. Crawford that an audit of the GAL account had been conducted, and that Plaintiff had mishandled or misused funds in the GAL account. (Id. at pp. 69:21 – 70:11 15-18). The audit found that between \$14,000 and \$15,000

had been collected in the GAL account, and that a substantial amount of those funds had been expended. (Id. at p. 71:12-22; Merritt Dep., Ex. 10, at p. 4).

66.

Crawford's review of the bank statements that were allegedly proof of Mr. Bostock misusing or stealing between \$14,000 and \$17,000 did not reveal any evidence of such alleged misuse. (Crawford Depo. at 41:19–24).

RESPONSE:

The assertions contained in paragraph 66 are not relevant to the issues presented in Plaintiff's Motion. Regardless of Ms. Crawford's views, Judge Teske, Mr. Johnson, Mr. Slay and the auditors concluded that Plaintiff did misuse GAL funds. (Teske Dep., pp. 81:12-19, 88:11-13, 120:3-22; 140:22 – 142:6, 144:11-14, 169:1-13, 192:15 – 193:4, 208:16-19, 211:19-24, 212:19-22, 308:3-14; Slay Dep., p. 148:5-16; Slay Dep., pp. 37:10-24, 61:21 – 62:3, 135:12-19, 141:4-18, 148:17—149:13; Johnson Dep., pp. 238:12-21, 239:5-7, 263:7-10, pp. 276:17 – 277:11; Declaration of John Johnson (Doc. 136-3), at ¶ 4; Declaration of Colin Slay (Doc. 136-2), at ¶ 4; Merritt Dep., Ex. 10; Merritt Dep., p. 115:5-15; Merritt Decl., ¶ 4; Moore Decl., ¶ 8).

67.

Teske also told Crawford that Mr. Bostock has used some CASA funds to sponsor a softball team in a “gay softball league.” (Teske Depo. at 75:19–76:24).

RESPONSE:

The County does not dispute that Judge Teske told Ms. Crawford that Plaintiff had used GAL funds to sponsor Plaintiff’s softball team. However, the citations provided do not support the assertion that Judge Teske told Ms. Crawford during this meeting that Plaintiff had used GAL funds to sponsor a “gay” softball team.

68.

Crawford was aware of Mr. Bostock using funds to sponsor the softball team and thought it was a good idea. (Crawford Depo. at 44:7–15).

RESPONSE:

The assertions contained in paragraph 68 are not relevant to the issues presented in Plaintiff’s Motion. Regardless, the County does not dispute that Ms. Crawford was aware that Plaintiff was using GAL funds to sponsor the softball team. However, the citations provided do not support the remaining assertions contained in paragraph 68. Ms. Crawford merely testified that she did not disagree with Plaintiff’s use of GAL funds to sponsor Plaintiff’s softball team. (Crawford Dep., p. 44:3-14).

69.

When Crawford objected to Teske's decision to terminate Mr. Bostock, Teske slammed his hand down on her desk and loudly said "But it was at a gay bar." (Crawford Depo. at 43:13–23).

RESPONSE:

The County disputes the assertions contained in paragraph 69. Judge Teske denies that he made the statements asserted in paragraph 69 and denies that he slammed his hands down on Ms. Crawford's desk during this meeting. (Teske Dep., pp. 73:2-12, 15-20, 25 – 74:8, 77:20-25). The meeting between Judge Teske, Mr. Slay and Ms. Crawford on May 31, 2013 was amicable. (*Id.* at pp. 59:19-22, 74:10-13; Slay Dep., pp 111:15 – 112:5). Judge Teske, Deborah Stinson (the Assistant Clerk of the Juvenile Court at the time) and Ms. Crawford had a telephone conference on a speaker phone sometime after Plaintiff's termination to discuss other issues. (Teske Dep., pp. 57:16 – 58:17, 61:3-16, 73:18-19, 77:24 – 78:6; Crawford Dep., p. 56:7-14). During this telephone conference, Ms. Crawford and Judge Teske got into an argument, during which Ms. Crawford told Judge Teske, "I don't work for you, and you may talk to your employees like this, but you will not talk to me this way," after which Judge Teske slammed in his hand on Ms. Stinson's desk next to the speaker phone and told Ms. Crawford that if he had been her boss,

he would have fired her. (Teske Dep., pp. 73:18-19, 130:3-25; Crawford Dep., p. 56:7-14).

70.

Teske held a meeting with the entire juvenile court staff to notify them of Mr. Bostock's termination. (Teske Depo. at 103:6–11; John Johnson Depo. at 215:22–217:22).

RESPONSE:

Not disputed, except that not all Juvenile Court employees were present for this impromptu meeting. (Teske Dep., pp. 101:13 – 102:5).

71.

At this meeting Teske specifically stated Mr. Bostock was terminated because he misappropriated funds in sponsoring the gay softball team and that the court would not tolerate that type of behavior. (Shelley Johnson Depo. at 40:16–41:5).

RESPONSE:

The County disputes the assertions contained in paragraph 71. Plaintiff's use of GAL funds to sponsor his softball team was not the only example of him mishandling or mismanaging the GAL account that Judge Teske identified during this meeting. Judge Teske went through the findings of the audit with the Juvenile Court staff, including the Birmingham reception and the unaccounted-for meals in

Atlanta. (Teske Dep., pp. 102:12 – 103:20). Ms. Johnson also admitted that Judge Teske mentioned during the staff meeting that Plaintiff's softball team was located in Atlanta. (Shelly Johnson Dep., p. 70:8-11).

72.

John Johnson found the meeting in which Teske announced Mr. Bostock's termination and the reasons for it inappropriate because personnel matters are generally kept private. (John Johnson Depo. at 217:5–22).

RESPONSE:

The assertions contained in paragraph 71 are not relevant to the issues presented in Plaintiff's Motion. Regardless, Judge Teske called this impromptu staff meeting because he had been contacted the previous afternoon by a reporter for a local television news station regarding Plaintiff's termination, and Judge Teske thus knew that the news station was going to broadcast a story about Plaintiff's termination on the news that evening. Judge Teske did not want employees to find out about Plaintiff's termination for the first time on the evening news. (Teske Dep., pp. 102:22 – 103:5, 107:1-4, 108:22 – 109:10).

73.

At the meeting during which Johnson carried out the termination, Mr. Bostock told Johnson that he knew what the meeting was about, and Johnson responded, “This is not because you’re gay.” (Bostock Depo. at 13:8–22).

RESPONSE:

The assertions contained in paragraph 73 are not relevant to the issues presented in Plaintiff’s Motion, and the County disputes the assertions contained in paragraph 73. Mr. Johnson denies making the statement alleged in paragraph 73. (Johnson Dep., pp.244:22 – 245:1, 11-14). Moreover, when Mr. Johnson and Mr. Slay met with Plaintiff on June 3, 2013 to inform him of his termination, Plaintiff had already decided that his termination was because of his sexual orientation, and thus Plaintiff contends that he told them, “I know what this is about.” (Bostock Dep., pp. 13:16-22, 64:21 – 65:10, 69:14-20, 287:7-11). Thus, even accepting Plaintiff’s version of events as true, Mr. Johnson correctly surmised that Plaintiff was thinking that he was being terminated because of his sexual orientation.

74.

Mr. Bostock never saw a copy of the audit report before he was terminated. (Bostock Depo. at 282:7–13).

RESPONSE:

The assertions contained in paragraph 74 are not relevant to the issues presented in Plaintiff's Motion. In any event, Plaintiff was given a memorandum prepared by Judge Teske summarizing the relevant findings of the audit and instructing Plaintiff to provide answers to questions prepared by Judge Teske based on the findings of the audit. (Teske Dep., Ex. 80; Bostock Dep., Ex. 9; Bostock Dep., p. 197:24-25; Johnson Dep., p. 141:2-9). Plaintiff submitted responses to Judge Teske's questions on May 31, 2013, and Judge Teske reviewed Plaintiff's responses before making the final decision to terminate Plaintiff. (Teske Dep., Ex. 81; Teske Dep., pp. 190:6-10, 208:3-19).

Respectfully submitted,

FREEMAN MATHIS & GARY, LLP

/s/ Jack R. Hancock

Jack R. Hancock

Georgia Bar No. 322450

William H. Buechner, Jr.

Georgia Bar No. 086392

Michael M. Hill

Georgia Bar No. 770486

Counsel for Clayton County

100 Galleria Parkway, Suite 1600
Atlanta, Georgia 30339
Telephone: (770) 818-0000
Facsimile: (770) 937-9960
jhancock@fmglaw.com
bbuechner@fmglaw.com
mhill@fmglaw.com

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the within and foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S STATEMENT OF UNDISPUTED MATERIAL FACTS** has been prepared in compliance with Local Rule 5.1(B) in 14-point Times New Roman type face.

This 25th day of April, 2022.

/s/ Jack R. Hancock

Jack R. Hancock

Georgia Bar No. 322450

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the within and foregoing **DEFENDANT'S RESPONSE TO PLAINTIFF'S STATEMENT OF UNDISPUTED MATERIAL FACTS** with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the following counsel of record:

Thomas J. Mew, IV
Edward D. Buckley
Andrew Beal
Buckley Beal LLP
600 Peachtree Street, NE, Suite 3900
Atlanta, GA 30308

This 25th day of April, 2022.

/s/ Jack R. Hancock

Jack R. Hancock
Georgia Bar No. 322450

Video Deposition

311

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

ERRATA PAGE

Civil Action No. 1:16-cv-01460-WLR-WEJ
CASE CAPTION: GERALD LYNN BOSTOCK vs. CLAYTON COUNTY
DEPONENT: STEVEN V. TESKE
DATE: October 4, 2021

I, the undersigned, do hereby certify that I have read, or have had read to me, the transcript of my testimony, and that:

- 1) There are no changes noted.
- 2) The following changes are noted:

Pursuant to Rule 30(e) of the Federal Rules of Civil Procedure and/or the Official Code of Georgia Annotated § 9-11-30(e), any changes in form or substance which you desire to make shall be entered upon the deposition with a statement of the reasons given for making them. To assist you in making any such corrections, please use the form below. If additional pages are necessary, please furnish same and attach them to this sheet.

PAGE 154	LINE 1-10	CHANGE	<i>I misspoke, the Friends of CASA Board oversees the FCCC account and the Ambassadors Behind CASA account, not the GAL Account.</i>
PAGE 175	LINE 14-18	CHANGE	<i>The answer "No" remains true provided that the "former boyfriend" is being recruited to become a CASA volunteer to work foster child cases in Clayton County</i>
PAGE	LINE	CHANGE	

Video Deposition

312

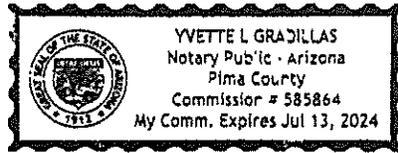
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAGE	LINE	CHANGE


 STEVEN X. TESKE

Sworn to and subscribed before me,
 This the 23rd day of November, 2021.

Notary Public *Yvette L. Gradillas*
 My commission expires: 7/13/2024



**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

GERALD LYNN BOSTOCK,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION
)	NO: 1:16-cv-01460-ELR-WEJ
CLAYTON COUNTY,)	
)	
Defendant.)	

SECOND DECLARATION OF LESLIE MOORE

1.

My name is Leslie Moore. I have personal knowledge of the facts set forth in this Declaration and know them to be true and correct. I am over the age of eighteen years old, am suffering no disabilities, and am competent to execute this Declaration.

2.

I am currently the Assistant Director of Internal Audit for Clayton County (“the County”). In 2013 I was in associate internal auditor for the County.

3.

In May 2013, I conducted an audit of the Guardian Ad Litem (“GAL”) bank account owned by Friends of Clayton County CASA, Inc. (“FCCC”) and maintained by Gerald Bostock.

4.

Before beginning the audit, I spoke with John Johnson regarding background information in connection with the upcoming audit. During this conversation, Mr. Johnson told me that he felt that Mr. Bostock had been receiving favorable treatment from the Juvenile Court judges and that, in his opinion, they had not been holding Mr. Bostock accountable for his actions. It appeared to me that this upset Mr. Johnson.

5.

During this conversation, Mr. Johnson mentioned an incident where “gay stuff” was found on Mr. Bostock’s County-issued computer, and that the Juvenile Court judges did not take any disciplinary action against Mr. Bostock as a result of this conduct. Mr. Johnson mentioned this incident as an example of what he believed to be unduly lenient treatment of Mr. Bostock.

Pursuant to 28 U.S.C. § 1746, by my signature below, I declare, under penalty of perjury, that the foregoing is true and corrected. Executed on April 22, 2022.



Leslie Moore