

**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.)	

**PLAINTIFF’S RESPONSES AND OBJECTIONS TO DEFENDANT’S
STATEMENT OF ADDITIONAL MATERIAL FACTS**

COMES NOW Plaintiff Gerald Lynn Bostock, pursuant to Federal Rules of Civil Procedure 56 and Local Rule 56.1(B)(3), and files this, his Response to Defendant’s Statement of Additional Material Facts Demonstrating that Plaintiff’s Motion for Summary Judgment Should be Denied.¹

1.

The Juvenile Court of Clayton County adjudicates cases involving delinquency, abuse and neglect of children and consists of three judges, including a Chief Judge

¹ Plaintiff has deleted Defendant’s argumentative section headings in this response. Plaintiff objects that the headings are not properly stated as statements of fact or supported by citation, are argumentative, have no evidentiary value, and are not otherwise material.

appointed by the judges of the Superior Court of Clayton County. (Teske Dep., pp. 19:23 – 20:3, 46:9 – 47:18).

Response: *Undisputed.*

2.

In managing its case load, the Juvenile Court utilizes court-appointed special advocates, who are trained volunteers (hereinafter referred to as “CASA volunteers” or “CASAs”) and supervised by Juvenile Court employees, to investigate the child’s overall situation, prepare a report and to 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).

Response: *Objected to in part.* The cited evidence does not support the asserted fact that the term “CASA volunteers” extends only to only those individuals who become official court appointed advocates or guardians ad litem. In fact, an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Doc. 132, Bostock Dep. 206:8-21.)

3.

The training of Clayton County CASA volunteers to serve as court-appointed special advocates is a vigorous process, including 40 hours of training (and an additional 8 hours of training to serve as CASAs in custody cases in the Superior Court) following a national curriculum, after which these volunteers are sworn in by a Juvenile Court judge and certified as CASA volunteers. (Bostock Dep., pp. 79:14 - 80:15, 81:15-19, 82:11-17; Teske Dep., p, 48:6-7; Teske Dep., Ex. 3, at p. 2, Section III.A).

Response: *Objected to in part.* The cited evidence does not support the assertion that the term “CASA volunteers” extends only to those individuals who become official court appointed advocates or guardians ad litem. In fact, an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Doc. 132, Bostock Dep. 206:8-21.)

4.

Steve Teske was appointed as an associate juvenile court judge with the Juvenile Court of Clayton County on July 1, 1999, as a full juvenile court judge four years later, and Chief Judge in 2011. (Teske Dep., pp. 18:5-17, 19:6-10).

Response: *Undisputed.*

5.

Judge Teske has co-authored articles on behalf of a national juvenile justice non-profit organization advocating in support of LGBTQ youth because the largest group of homeless children are LGBTQ youth, and Judge Teske agreed with Plaintiff that Title VII should prohibit employment discrimination on the basis of sexual orientation. (Teske Dep., pp. 286:19 – 287:11; Teske Dep., Exhs. 38, at p. PLAINTIFF 001117; 46, 56-57, 78).

Response: *Objected to as immaterial.* Plaintiff objects to the materiality of this paragraph. A fact is “material” only if it is “a legal element of the claim under the applicable substantive law which might affect the outcome of the case.” *Allen v. Tyson Foods, Inc.*, 121 F.3d 642, 646 (11th Cir.1997). The relevant issue is Teske’s actions with respect to Plaintiff’s termination. What he may have said or done on some other occasion with respect to other individuals or issues is irrelevant and immaterial.

6.

Plaintiff became employed with the Juvenile Court in January 2003 as CASA Program Coordinator, and his job title later changed to Child Welfare Services Coordinator, which entailed overseeing the programs of the Juvenile Court that worked with child abuse and neglect victims. (Bostock Dep., pp. 9:25 – 10:1, 53:1-

2, 5-11, 72:20 – 73:1; Teske Dep., p. 43:10 – 44:9, 45:13-15; Johnson Dep., p. 230:10-21).

Response: *Undisputed.*

7.

John Johnson became the Director of Juvenile Court Services (essentially the court administrator for the juvenile court) in 2003, and Colin Slay became Chief of Staff and Plaintiff's immediate supervisor in 2009. (Bostock Dep., p. 3; Johnson Dep., pp. 25:25 – 26:1-20; Slay Dep., pp. 56:14-18, 26:16).

Response: *Undisputed.*

8.

The Friends of Clayton County CASA, Inc. (hereinafter, "FCCC") is a 501(c)(3) non-profit entity formed to provided support to the Clayton County CASA program and its director, increase public awareness of the program, help recruit volunteers and raise funds. (Bostock Dep., pp. 91:3 – 93:5, 104:18 – 105:14; Bostock Dep., Ex. 1, Art. 3; Bostock Dep., Ex. 2, Art. 2, Section 1; Teske Dep., p. 45:8-12).

Response: *Undisputed.*

9.

The Darlin' Duck Derby was the primary fundraiser for the FCCC, which

typically was held on the last Saturday of September, and would entail rubber ducks on a race course with numbers on them purchased by FCCC donors or sponsors, and all money generated by the Duck Derby, as well as from other donations and sponsorships, were placed into an FCCC bank account over which the County had no oversight as to the use of those funds. (Bostock Dep., pp. 21:24, 94:2-4, 98:9-13, 102:3-11).

Response: *Objected to in part as immaterial.* Plaintiff objects to the statement that “the County had no oversight as to the use of those funds” as immaterial because the funds in the FCCC account were raised by a private, non-profit entity and Defendant had no expectation or basis to have any control over such funds. Friends of Clayton County CASA (“FCCC”) is a separate 501(c)(3) non-profit organization. (Teske Depo. at 45:2–10.)

10.

Under the FCCC’s by-laws, any checks, drafts and other demands for money from such account shall be signed by the chairperson or treasurer, except for expenditures of more than \$500 which required both signatures, and thus Plaintiff did not have any spending authority over the FCCC account. (Bostock Dep., pp. 107:5-11, 108:4-10; Bostock Dep., Ex. 2, at p. Clayton-376).

Response: *Objected to.* The cited section of the FCCC’s by-laws do not

support this argumentative conclusion because the by-laws refer to “[c]hecks, drafts and other demands for money” and do not refer to “spending authority.” Additionally, Plaintiff testified in his deposition that he had spending authority over monies that were “considered FCCC monies” which the FCCC board considered to be their monies and were “housed in [a] separate account.” (Bostock Depo. at 107:5–108:21).

11.

The fact that Plaintiff is gay was widely known throughout the Juvenile Court, and Judge Teske, Mr. Johnson and Mr. Slay were aware that Plaintiff is gay within a short period of time after Plaintiff began his employment with the Juvenile Court in January 2003. (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).

Response: *Objected to in part as immaterial.* A fact is “material” only if it is “a legal element of the claim under the applicable substantive law which might affect the outcome of the case.” *Allen v. Tyson Foods, Inc.*, 121 F.3d 642, 646 (11th Cir.1997). Beyond the fact that Teske, Johnson, and Slay—the Juvenile Court

management—knew of Plaintiff’s sexual orientation—and therefore discriminated against him on that basis—what other individuals knew or did not know about Plaintiff’s sexual orientation is irrelevant and immaterial.

12.

Over the years, Plaintiff had introduced his partners (including Keith Sweat, who was Plaintiff’s partner for 12 years, and Paul Holland) to co-workers at the Juvenile Court (including Judge Teske, Mr. Johnson and Mr. Slay) at work and at official FCCC functions such as the Duck Derby fundraiser and related events. (Bostock Dep., pp. 20:1-25, 24:4-11, 27:18 – 28:14, 181:11-12; Slay Dep., p. 232:9-14; Teske Dep., p. 151:6-8; Holland Dep., pp. 15:9-23, 17:24 – 18:4, 26:1-2; Holland Dep., Ex. 120, at ¶¶ 4-5).

Response: *Objected to as immaterial.* A fact is “material” only if it is “a legal element of the claim under the applicable substantive law which might affect the outcome of the case.” *Allen v. Tyson Foods, Inc.*, 121 F.3d 642, 646 (11th Cir.1997). Whether anyone met Plaintiff’s partners is irrelevant and immaterial to the issue of whether Defendant discriminated against Plaintiff.

13.

At least two other Juvenile Court employees, Shawn Black (or Shawn Wooten) and Carol Gossett, were widely known among Juvenile Court employees

(including Judge Teske, Mr. Johnson and Mr. Slay) as being gay. (Bostock Dep., pp. 29:22 – 30:25; Declaration of Colin Slay, at ¶ 3, attached hereto as Exhibit 1; Teske Dep., p. 286:6-8; Declaration of John Johnson, at ¶ 3, attached hereto as Exhibit 2).

Response: *Objected to as immaterial.* Other individuals’ sexual orientations are irrelevant to the issue of whether Defendant discriminated against Plaintiff on the basis of his sexual orientation. Title VII’s focus has always been on the individual. *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1740, 207 L. Ed. 2d 218 (2020) (noting that under Title VII “our focus should be on individuals, not groups”).

14.

Judge Teske, his wife, Plaintiff and his partner (Mr. Sweat) socialized together on many occasions, including attending musicals, going out for dinners, having barbecues and dinners at each other’s homes and other social gatherings, including Plaintiff and his new partner (Paul Holland) attending the wedding for Judge Teske’s daughter. (Bostock Dep., p. 22:1 – 23:5, 19-20; Teske Dep., pp. 161:25 – 162:12; Teske Dep. Ex. 43, at p. Clayton_014192-93).

Response: *Objected to as immaterial.* The issue is what Teske did *to* Mr. Bostock in this case with respect to his termination and Teske’s undisputed statements about why he did it. Whether or not Teske or his spouse socialized on

some occasions with Mr. Bostock and his partner is irrelevant and immaterial to this issue.

15.

Plaintiff admits that neither Judge Teske, Mr. Johnson (other than one alleged comment by Mr. Johnson in 2003 about Plaintiff not caring if female employees were interested in him), Mr. Slay, nor any other juvenile court employee made any negative comments to him about him being gay. (Bostock Dep., pp. 10:23 – 11:10, 12:12-17, 13:8-17, 14:8-15, 16:18-21).

Response: *Objected to.* The cited evidence does not support the assertion that no “other juvenile court employee made any negative comments to him about him being gay.” 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. 13:8–22). Mr. Bostock testified about this comment in response to a question from Defendant’s counsel asking “Did Mr. Johnson ever say anything else to you along these lines that you interpreted as less than friendly regarding your sexual orientation.” (Bostock Depo. 13:5-15.) Additionally, Mr. Bostock learned from FCCC Board Member Sandra Henderson that Jeff Turner, the Chairman of the Clayton County Board of Commissioners made a comment to the effect that he was uncomfortable being

around Mr. Bostock because of Mr. Bostock's sexuality. (Bostock Depo. 17:1-21.)

Regarding Teske, the cited evidence refers to Teske's diary entries which contain negative comments regarding Plaintiff's sexuality.

16.

Before 2007, in custody disputes pending in the Superior Court, the Superior Court would appoint a guardian ad litem (hereinafter, "GAL") to represent the child(ren) at the expense of the parents, and the GAL would typically be an attorney. (Bostock Dep., pp. 125:14 – 126:1.

Response: *Undisputed.*

17.

Because the Superior Court judges were having difficulty getting GAL's 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, 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).

Response: *Undisputed.*

18.

To formalize the agreement, the Chief Judge of the Superior Court at the time (Matthew O. Simmons), the Chief Judge of the Juvenile Court at the time (K. Van Banke) and Plaintiff, as Clayton County CASA Program Coordinator, signed a Memorandum of Understanding (“MOU”) in 2007, which provided that the Superior Court would charge a \$500 administrative fee (to be paid equally by both parties) in child custody cases, and that (as suggested by Plaintiff) these fees would be made payable to FCCC, care of Plaintiff. (Teske Dep., Ex. 3, p. 2, Section II; Teske Dep., pp. 53:4-16, 55:17-19, 166:5-21; Slay Dep., p. 24:13-15).

Response: *Objected to in part.* The cited evidence does not support the assertion that “the Superior Court” would charge a \$500 administrative fee. Rather, it states that “Clayton County CASA” would charge a \$500 administrative fee. (Teske Depo., Ex. 3, Doc. 138-1 at 114). The checks for these monies were payable to Friends of Clayton County CASA – a private non-profit corporation - and not to the court or any other Clayton County department or entity. (Teske Depo. Ex. 3.) Further, disputed and the evidence does not support the assertion that this arrangement was at Plaintiff’s suggestion. Plaintiff testified that the Clayton County Superior Court judges wanted the money to go to the FCCC in order to

bypass county finance. (Bostock Depo. at 128:9–13).

19.

The MOU, which also explained in detail the duties and responsibilities of a CASA volunteer, provided that the FCCC would be “the recipient of the administrative fee and will use the fee to fund volunteer recruitment, training and retention,” and thus, consistent with the purpose of the MOU (see paragraphs 17-18 above), these administrative fees were to be used only for the recruitment, training and retention of Clayton County CASA volunteers serving as *guardians ad litem* (hereinafter “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).

Response: *Objected to.* The MOU speaks for itself and does not limit the use of the fees only to the recruitment, training and retention of Clayton County CASA guardians ad litem. (Bostock Depo. Ex. 4.) Thus, this citation does not support the asserted fact. Plaintiff testified that the administrative fee could be used to recruit “a CASA volunteer,” “in-kind services,” “sponsorships and donors,” and other aspects of recruitment as “a relationship-building process.” (Bostock Depo. at

120:10–121:7). Defendant’s citations to the depositions of Teske, Slay, and Johnson also do not support the asserted fact because none of those individuals were signatories of the MOU. (Bostock Depo. Ex. 4.) Mr. Bostock testified that an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.)

20.

The FCCC Board wanted the money generated from the administrative fees to be placed into a separate account (hereinafter referred to as “the GAL account”), over which it did not have any authority or oversight, and the MOU did not govern the expenditure of the FCCC’s fundraising money, which was deposited into the FCCC’s separate bank account. (Bostock Dep., pp. 127:11 – 128:5, 129:7-12; Teske Dep., pp. 78:24 – 79:5; Crawford Dep., pp. 27:24 – 28:7, 44:3 – 45:8, 110:21-24, 112:9-13; 155:13 – 156:2, 161:4-21; Crawford Dep., Ex. 2, at p. CLAYTON 000849).

Response: *Objected to in part.* The citations do not support the assertion that it was FCCC Board’s desire not to have authority or oversight over the GAL account. Indeed, Plaintiff testified that the FCCC Board wanted to have separate

accounts “for record-keeping purposes.” (Bostock Depo. at 130:10–13). Plaintiff testified that the Clayton County Superior Court judges wanted the money to go to the FCCC in order to bypass county finance. (Bostock Depo. at 128:9–13). Plaintiff does not dispute that the MOU did not govern the FCCC’s money that was brought in through its fundraising efforts.

21.

Plaintiff asserted in his deposition that the MOU authorized the expenditure of GAL funds on FCCC fundraising activities such as the Duck Derby, recruiting volunteers to work at the Duck Derby, recruiting volunteers to work at other fundraising events and recruiting FCCC donors and sponsors -- even though the exclusive focus of the MOU is Clayton County CASA GAL volunteers, and the MOU makes no reference to the Duck Derby or other fundraising endeavors. (Bostock Dep., pp. 120:15 – 121:2 – 124:6, 157:17-25; Bostock Dep., Ex. 3).

Response: *Objected to in part.* The record citation to Bostock Ex. 3 does not support any contention asserted in this paragraph. Further, none of the cited evidence supports the contention that “the exclusive focus of the MOU is Clayton County CASA GAL volunteers.” The MOU does not limit the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as court appointed advocates or guardians ad litem. (Bostock Depo. Ex. 4.)

The phrase “volunteer recruitment, training, and retention” contemplates “other services that might benefit the CASA program” including “in-kind services,” “sponsorships and donors,” and other aspects of recruitment as “a relationship-building process.” (Bostock Depo. at 120:10–121:7). An individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.)

22.

Plaintiff asserted in his deposition that money from the GAL account and money from the FCCC account could be spent for the same purposes, with the convenience that he would not need approval from the FCCC Board for expenditures from the GAL account. (Bostock Dep., pp. 136:20 – 137:4).

Response: *Objected to in part.* Nothing in the cited evidence supports the argumentative characterization of use of money from the GAL account as “convenient.” Indeed, Defendant’s citation includes Plaintiff’s counsel objection to the form of this question at Plaintiff’s deposition. (Bostock Depo. at 137:3). Further, Plaintiff testified in response that any expenditure would have to be “related to recruitment, training, and retention” and that he submitted GAL account statements to both the FCCC Board and court administration on a monthly basis as part of the controls in place for the account. (Bostock Depo. 137:5-7; 139:24-140:4.) Plaintiff

does not dispute that money from the GAL account and money from the FCCC account could be spent for some overlapping purposes. Plaintiff also does not dispute that expenditures from the GAL account did not require prior FCCC Board approval. Such expenditures would, however, be subject to review through the monthly statements Plaintiff submitted to the FCCC Board and court administration. (Bostock Depo. 139:24-140:4.)

23.

Plaintiff testified that the FCCC Board Treasurer initially approved reimbursements for expenditures from the GAL account but eventually gave Plaintiff discretionary spending authority over the GAL account (but not over the FCCC's main account), and Plaintiff was given a debit card for the GAL account. (Bostock Dep., pp. 111:4-6, 129:4-6, 131:11-14, 132:13-19).

Response: *Objected to in part.* The cited evidence does not support the assertion that Plaintiff had “discretionary” spending authority over the GAL account. Plaintiff testified that “when that money started coming into the account, I was going through the treasurer initially with any reimbursements for expenditures. So they were providing oversight, and they continued to provide oversight even once they established that they would give me the spending authority with that money.” (Bostock Depo. 111:4-10.)

24.

No individual ever became a Clayton County CASA GAL volunteer because of Plaintiff taking him or her out to lunch or dinner. (Bostock Dep., p. 157:9-12).

Response: *Objected to.* The evidence does not support the asserted fact. In the cited portion of his deposition, Plaintiff testified merely that he could not think of anyone who became a CASA volunteer after taking them to lunch or dinner. Indeed, the context in which this cited testimony occurs—in which Plaintiff testified directly that his recruiting efforts of paying for someone’s meal were “certainly” successful, (Bostock Depo. at 157:4–8)—indicates that Defendant’s selective citation cannot reasonably be interpreted to support this asserted fact. Further, in response to the question “On any of the occasions when you did pay for someone's meal, not for the purpose of retention but for the purpose of trying to recruit them to become a CASA volunteer, did that ever work?” Plaintiff responded, “I would certainly say yes.” (Bostock Depo. 157:4-8.) Further, the phrase “volunteer recruitment, training, and retention” contemplates “other services that might benefit the CASA program” including “in-kind services,” “sponsorships and donors,” and other aspects of recruitment as “a relationship-building process.” (Bostock Depo. at 120:10–121:7). An individual could volunteer for the CASA program in multiple

ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.) Plaintiff also provided Teske with detailed information concerning pledges, donations, and volunteers for training he secured from these recruiting efforts. (Doc. 132-11, Bostock Dep. Ex. 10.) At a reception in Birmingham, Mr. Bostock secured verbal commitments for three CASA sponsorships. (Bostock Decl. ¶ 6) Additionally, at this reception, a team member committed to going through the training process to become a court appointed advocate. (Bostock Decl. ¶ 6.) Due to the timing of Mr. Bostock's termination, these verbal agreements were not consummated before he was terminated. (Bostock Decl. ¶ 7.) Further, the team member who had committed to going through the training process to become a court appointed advocate refused to do so following Mr. Bostock's termination out of support for Mr. Bostock. (Bostock Decl. ¶ 7.)

25.

At one point during Plaintiff's tenure, a juvenile court employee discovered nude photographs of men on Plaintiff's County-issued computer, and 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).

Response: *Objected to as immaterial.* There is no issue in this case that this earlier alleged incident had anything to do with Plaintiff's termination. It is therefore immaterial and irrelevant. Further, Plaintiff testified that, prior to the incident regarding the nude photographs, David Santiago was in Plaintiff's office on Plaintiff's computer and that Plaintiff suspected that Santiago put those photographs on his computer. (Bostock Depo. at 256:20–258:1).

26.

At another point, several employees complained about Plaintiff being a harsh supervisor and creating a hostile environment, but Judge Teske concluded that Plaintiff's management style could be corrected with further training, that Plaintiff should not be terminated, and that a written warning prepared by Mr. Johnson concerning this issue should be removed from Plaintiff's personnel file. (Teske Dep., pp. 42:12 – 43:9; 155:5 – 160:14).

Response: *Objected to as immaterial.* There is no contention in this case that this earlier alleged incident had anything to do with Plaintiff's termination. It is

therefore immaterial and irrelevant.

27.

The previous Juvenile Court Chief Judge, Judge Banke, instructed Mr. Johnson not to include negative comments about Plaintiff in his performance evaluations, and so Mr. Johnson submitted performance evaluations for Plaintiff that were higher than what he thought was warranted, especially in the categories of management and interpersonal relations. (Johnson Dep., pp. 235:21 – 238:6).

Response: *Objected to as immaterial.* There is no issue in this case that this earlier alleged incident had anything to do with Plaintiff's termination. It is therefore immaterial and irrelevant. Further, the cited evidence does not support the assertion that Mr. Bostock's performance evaluations were higher than what was warranted because portions of the cited testimony show that that Plaintiff "did a good job." (Johnson Depo. 237:14-21.) Further, Johnson only identified two categories of areas in which he alleged Plaintiff "struggled." (Johnson Depo. 237:14-21.)

28.

Although Mr. Johnson instructed Plaintiff sometime in late 2011 to provide him with bank statements for the GAL account, and for Mr. Slay to review them, there were some months when Plaintiff did not do so or delayed in providing them;

Mr. Slay did not know what he was looking for; and Mr. Johnson (who also believed that a professional should review the bank statements) had concerns about some of the expenses in the bank statements. (Johnson Dep., pp. 84:21 – 85:6, 16-18, 101:6-16, 116:25 – 117:3, 121:7-9, pp. 144:18-22, 176:16-23, errata sheet; Slay Dep., p. 92:12-23, 100:3-8, 18 – 101:3, 103:4-20).

Response: *Objected to in part.* Nothing in the citations to the record indicate that bank statements were ever delayed. Slay testified that he received the statements “most of the time” and that he never wrote up or disciplined Plaintiff regarding any alleged missing statements. (Slay Depo. 92:8-93:6.) Mr. Bostock provided 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). Slay generally found Mr. Bostock’s explanations for expenditures appropriate. (Slay Depo. at 99:5–9).

29.

When Mr. Johnson questioned Plaintiff about some of the expenditures in the bank statements, Plaintiff told him it was none of his business, but Mr. Johnson did not attempt to discipline Plaintiff for this because of the previous occasions where the Juvenile Court judges precluded him from taking any disciplinary action with

respect to Plaintiff. (Johnson Dep., pp. 101:8-16, 24 – 102:18).

Response: *Objected to as immaterial* to the issues presented in Plaintiff’s motion. Further, Plaintiff disputes that he ever told Johnson that anything related to the bank statements was “none of your business.” (Bostock Declaration at ¶ 4).

30.

On January 17, 2013, Shawn Black, a Juvenile Court employee whose employment had just ended, sent an email to Mr. Johnson (who then gave it to Judge Teske and Mr. Slay) asserting that Plaintiff was engaging in misconduct, including that (1) “Duck Derby and GAL funds are spent to buy alcohol, lunches for staff that he chooses to hang with”; and (2) GAL funds “have been used to move Gerald’s furniture during the courthouse move, paying for him to treat people to lunch, removing a boot from his car because he parked illegally, many other things that should not be included in charity money expenditures.” (Teske Dep., Ex. 19; Johnson Dep., p. 99:13-18).

Response: *Objected to in part.* Plaintiff does not dispute that this email was sent to John Johnson or that it was given to Teske and Slay. Plaintiff disputes the truth of the matters asserted in this email because it is inadmissible hearsay and because they were not contained in the findings of the audit report. (Teske. Depo Exhibit 10).

31.

Leading up to 2013, the County's Internal Audit Department was making a concerted effort to identify under-the-radar cash accounts maintained by County departments or department employees, about which the Internal Audit Department and the County's Finance Department were not aware, because such accounts were viewed as a liability risk for the County. (Merritt Dep., pp. 25:2 – 26:4).

Response: *Objected to in part.* Plaintiff does not dispute that the County's Internal Audit Department began auditing departments to identify accounts that the Finance Department was not aware of. Plaintiff objects to the characterization of these accounts as "under-the-radar" or as "cash accounts" because it is argument and not supported by the record.

32.

Accordingly, when Ms. Merritt spoke to Mr. Johnson about the upcoming scheduled audit of the Juvenile Court, she asked Mr. Johnson if there were any bank accounts being maintained by juvenile court employees other than the bank account maintained by the clerk of the Juvenile Court, and Mr. Johnson informed her of a petty cash account he was maintaining, as well as the GAL account that Plaintiff was maintaining. (Merritt Dep., p. 59:10-23; Johnson Dep., pp. 87:22 – 88:16, 222:14-22; Slay Dep., p. 96:10-17).

Response: *Undisputed.*

33.

When Mr. Johnson told Ms. Merritt that he had concerns about the GAL account, including the fact that money was being kept in drawers, Ms. Merritt made the decision to speak with Mr. Bostock for 10-15 minutes on April 23, 2013. (Merritt Dep., p. 60:8-24).

Response: *Objected to in part.* Plaintiff does not dispute that Merritt spoke with Plaintiff for 10 or 15 minutes. The assertion that this conversation happened on April 23, 2013 is not, however, supported by the citation. Plaintiff also does not dispute that John Johnson told Merritt that money was kept in drawers but disputes that any money that was kept in drawers was for the GAL account or represented GAL monies because it is not supported by the citation. Instead, the money was a small amount that had been generated from sales of Chick-fil-A biscuits. (Bostock Deposition at 141:13–142:24).

34.

Ms. Merritt asked Plaintiff standard questions, such as where money is stored, how is it stored, how long it is stored and who has access to it; Plaintiff's responses to these questions were concerning to her; and Ms. Merritt sent an email to Mr.

Johnson and Judge Teske on April 23, 2013 recommending a full audit of the GAL account because of the “red flags” that had been raised based on her short conversation with Plaintiff. (Merritt Dep., pp. 61:2 – 63: 13, 65:19 – 66:4, 12-20, 70:12-19, 23-25 – 71:9; Merritt Dep., Ex. 92).

Response: *Objected to* to the extent this assertion is intended to suggest Merritt had concerns with the use of the GAL funds for any expenditures because the cited evidence does not support such an assertion. Rather, the cited evidence shows that Merritt’s concerns were based on there being more than one individual taking in money or having access to where checks or cash were kept. (Merritt Depo. 61:14-63:13; Ex. 92.)

35.

It was necessary to obtain authorization from Judge Teske and from the Chairman of the Board of Commissioners, Jeff Turner, to conduct a full audit of the GAL account in the near future; otherwise, the full audit would have been scheduled for later after other audits already scheduled had been completed. (Merritt Dep., pp. 27:10-24, 64:13 – 64:8; Merritt Dep., Ex. 92).

Response: *Undisputed.*

36.

Chairman Turner authorized the full audit of the GAL account, and Judge

Teske authorized the full audit of the GAL account based on Ms. Merritt's recommendation, the email from Mr. Black alleging that Plaintiff was not spending the GAL funds appropriately, Ms. 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, 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; Declaration of Steven C. Teske, at ¶ 4, attached hereto as Exhibit 3; Merritt Dep., Ex. 110).

Response: *Objected to as argumentative legal conclusion*, to the extent that this assertion implies that these alleged reasons were the true or only reasons for the audit because that is a legal issue to be determined in this case. In fact, on April 30, 2013, John Johnson wrote a memo to Stacey Merritt, Head of Internal Audits, stating in part that the Juvenile Court administration did not have “any direct oversight authority” with respect to the GAL account, requesting an audit of the GAL account and specifically questioning 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.) Moreover, Johnson told Ms. Moore at the beginning of

the audit that Mr. Bostock was gay. (Moore Depo. at 37:11–19).

37.

On the way to a golf tournament with Carol Gossett and Griffin Shirley on April 29, 2013, Ms. Gossett inquired about what was going on with Plaintiff, and Judge Teske commented that would be difficult for Plaintiff to keep his job after the upcoming audit. (Teske Dep., pp. 135:15-19, 136:25 – 137:11; Teske Dep. Ex. 44; Teske Decl., ¶ 5).

Response: *Objected to* as irrelevant and immaterial for purposes of the issues presented by Plaintiff’s motion. Further, Plaintiff testified that Griffin Shirley told him that Teske said “he was going to get rid of” Plaintiff. (Bostock Depo. 266:2-7).

38.

On April 30, 2013, Mr. Johnson gave Ms. Merritt a memorandum delineating the concerns he had with Plaintiff’s use of the GAL account and which he wanted to be explored during the audit, including the use of GAL funds on alcohol, and before the beginning the audit, Mr. Johnson spoke with Leslie Moore, an associate internal auditor at the time, and told her that he was concerned that Plaintiff was not using the GAL funds properly. (Merritt Dep., Ex. 93; Moore Dep., pp. 26:16-19, 27:4-17).

Response: *Objected to in part.* The cited evidence only shows that John Johnson gave a memo to Chairman Turner, that he found “some things” the auditors should know about, that he wanted to “compile a list of activities” for the auditors to look into, and that Moore met with Johnson before the audit began. The cited evidence does not support any facts concerning what were the contents of the memo or what concerns Johnson communicated to Moore or the auditors. In fact, on April 30, 2013, John Johnson wrote a memo to Stacey Merritt, Head of Internal Audits, stating in part that the Juvenile Court administration did not have “any direct oversight authority” with respect to the GAL account, requesting an audit of the GAL account and specifically questioning 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.) Moreover, Johnson told Ms. Moore at the beginning of the audit that Mr. Bostock was gay. (Moore Depo. at 37:11–19).

39.

During the audit, Ms. Moore interviewed Plaintiff, Ms. Gossett, and Deborah Stinson, who was a member of the FCCC Board, and when appropriate, Ms. Moore asked Plaintiff follow-up questions. (Moore Dep., pp. 12:18-23, 14:16-18, 15:2 – 16:4, 31:6-25, 47:15 – 48:17, 70:5-15).

Response: *Objected to in part.* Plaintiff objects to the characterization of

follow-up questions as being asked “when appropriate” because it is not supported by the record. Specifically, Moore merely testified that she asked Plaintiff follow-up questions at some point during the audit. (*See Moore Depo.* At 48:5-8).

40.

Ms. Moore conducted the audit at the Juvenile Court and reviewed bank statements for the GAL provided by Plaintiff and made notations on some of them. (Moore Dep., pp. 34:5-15; Declaration of Leslie Moore, at ¶ 4 & Ex. A thereto, at pp. CLAYTON 014006, 014011, 014017, 014019, 014022, 014025, 014027, 014034, 014049, 014051, 014054, 014074, 014076, 014082, 014086, 014092), attached hereto as Exhibit 4).

Response: *Undisputed.*

41.

When Ms. Moore noticed that there were a number of missing bank statements and missing receipts, she asked Plaintiff for the missing bank statements and receipts (per her standard practice), but she did not receive the missing bank statements or receipts from Plaintiff. (Moore Dep., pp. 17:4-22, 18:13-25 and errata sheet; Merritt Dep., p. 116:2-4, 14-18).

Response: *Objected to.* Nothing in the citations to the record indicates that Moore asked Plaintiff for the missing bank statements and receipts. Instead, Moore

testified that she did not have any recollection of asking Plaintiff if he could get the records that were missing. (Moore Depo. at 19:1-4). Nothing in Moore's errata sheet amends this testimony.

42.

When Ms. Moore noticed on the bank statements establishments that she did not recognize where Plaintiff spent GAL funds, she looked them up on the internet to find out more about them and where they were located, printed out their websites, and she also looked up Plaintiff's softball league (which had an Atlanta address) on the internet to find out more about it. (Moore Dep., pp. 65:3 -- 66:22; Moore Dep., Exs. 82-84; Merritt Dep., pp. 108:1-10, 156:12-21; Moore Decl., ¶ 4 & Ex. A, at pp. CLAYTON 013935, 013940-43, 014020).

Response: *Objected to* as argumentative and unsupported by the record to the extent the statement is intended to argue that Moore only looked up and printed out information. The audit file contains printouts from the websites of certain Midtown Atlanta area restaurants including a hand drawn circle around language identifying one establishment as "Atlanta[']s] First and ONLY Gay Sports Bar" and highlighting of the language "Atlanta's favorite neighborhood gay bar and restaurant" for another establishment. (Docs. 137-5, 137-6, and 137-7, Moore Dep.

Exs. 82, 83, 84.)

43.

Ms. Merritt also reviewed the bank statements and other information that Ms. Moore had gathered, discussed the audit with Ms. Moore as it was ongoing, and reviewed and made minor revisions to the audit report that Ms. Moore prepared. (Merritt Dep., pp. 22:12 – 24:4, 92:9 – 93:8, 20-25, 106:24 – 107:10; Merritt Dep., Exs. 82-84, 112).

Response: *Undisputed.*

44.

The audit found that the Child Welfare Services Coordinator (Plaintiff) is the primary custodian of the GAL account, processes payments and reimbursements, writes checks, and makes deposits, that the moneys collected are kept in a locked drawer inside of a locked office until deposited, and that Plaintiff's activities with the GAL funds "is a direct violation of separation of duties." (Merritt Dep., Ex. 10, at pp. 2-3; Merritt Dep., p. 136:3-23).

Response: *Objected to in part.* The cited evidence does not support the assertion that all of Plaintiff's activities with respect to GAL funds was a violation of separation of duties. Instead, the cited report stated that "[i]deally there should be one or a limited number of employees who are authorized to process

disbursements, separated by a person designated to make deposits.” (Moore Depo. Ex. 10.) Moore testified that separation of duties means “you have one person receiving funds . . . another person who may do reconciliation of the funds. And you may have another person that actually deposits the funds.” (Moore Depo 71:23-72:5.) Moore agreed that having one person do all of these things was not illegal but was just not the best accounting practice. (Moore Depo. 73:2-6.) The report also questioned on this issue Plaintiff’s writing himself two reimbursement checks but Moore never asked Plaintiff about the checks and could not recall whether she asked the FCCC Board about them. (Moore Depo. 19:8-20:14.; Bostock Decl. ¶ 3.) In fact, the FCCC Board had approved in advance Mr. Bostock’s writing the checks to reimburse him for out of pocket expenses he incurred. (Bostock Decl. ¶ 3.)

45.

The audit recommended that all GAL administrative fees be deposited with the Clerk of the Juvenile Court, and this change was made even while the audit was ongoing. (Merritt Dep., Ex. 10, at p. 2; Merritt Dep., pp. 134:21 – 135:1; Teske Dep., pp. 56:9-15, 184:7-10-11, 187:7-9, 20-25; Teske Dep., Ex. 59; Slay Dep., Ex. 36; Slay Dep., p. 168:21-25).

Response: *Undisputed.*

46.

Although most GAL fund expenses and anticipated expenses should be discussed at FCCC Board meetings (per FCCC Board member Deborah Stinson), the audit concluded that “there is very little oversight concerning the day-to-day and weekly expenditures made from this account” by Plaintiff, who had discretionary spending authority over the GAL account, including a debit card for this account. (Merritt Dep., Ex. 10, at p. 2; Merritt Dep., p. 127:10-19).

Response: *Objected to in part.* The citation to Merritt’s deposition at page 127 does not support the statement. The citation to page 2 of the audit report also does not support the statement as the quoted portion appears on page 3 of the report. Beyond that, Plaintiff objects as unsupported and argumentative any inference made from this portion of the audit report that Plaintiff did not discuss GAL fund expenses and anticipated expenses at FCCC Board meetings or that concerns over a lack of oversight over the day-to-day expenditures were ever made known to Plaintiff. (*See* Bostock Depo. at 139:24-141:1). Rather, Plaintiff submitted GAL account statements to both the FCCC Board and court administration on a monthly basis as part of the controls in place for the account. (Bostock Depo. 137:5-7; 139:24-140:4.) Expenditures were subject to review through the monthly statements Plaintiff submitted to the FCCC Board and court administration. (Bostock Depo. 139:24-140:4.)

47.

Although the audit encompassed transactions from February 2011 to April 2013, the audit noted that bank statements were missing for January 2011, May 2012, June 2012, July 2012, September 2012 and October 2012, and noted that “[m]issing bank statements give way to . . . speculation of impropriety,” and that “[l]ack of an audit trail should be considered a red flag to management.” (Merritt Dep., Ex. 10, at pp. 2, 4).

Response: *Objected to in part.* Plaintiff does not dispute that the information in this statement appears in the audit report. Plaintiff disputes that there was any impropriety or any cause for a red flag because the cited record evidence only supports the fact that these items were the speculation of the auditors. Moore could not recall whether she ever asked the FCCC Board for copies of the statements. (Moore Depo. 18:9-12, 19:8-20:14.) Additionally, the audit report contains mistakes from which a reasonable jury could conclude that speculation of impropriety in this audit is unreliable. (*E.g.*, Moore Depo. at 77:1-11; 80:9-22; 81:12-25; 83:1-25).

48.

The audit found that, from February 2011 to April 2013, a total of \$5,510.42 in GAL funds (not including the expenditures contained in the six months of missing

bank statements) was spent on “Miscellaneous” expenses, which included retail store purchases such as Lowes, Home Depot and other expenses. (Merritt Dep., Ex. 10, at p. 4).

Response: *Objected to in part.* Plaintiff does not dispute that the information in this statement appears in the audit report but it is immaterial and irrelevant to the issues presented in Plaintiff’s motion. Further, the cited record evidence only supports the fact that this categorization of the expenses was the interpretation of the auditors. Plaintiff disputed that these expenses should have been considered “Miscellaneous” as opposed to falling within the categories of “Staff/Volunteer Reimbursement” or “Recruitment, Training, Retention.” (See Bostock Depo. at 120:15-121:24).

49.

The audit found that, from February 2011 to April 2013, a total of \$3,495.48 in GAL funds (not including the expenditures contained in the six months of missing bank statements) was spent on “Recruitment, Training, Retention,” that all or almost all of the “Recruitment, Training, Retention” expenses incurred in 2011 (100%) and 2012 (98%) were for meals and entertainment, and that 57% of the “Recruitment, Training, Retention” expenses incurred during the first four months of 2013 were for meals and entertainment. (Merritt Dep., Ex. 10, at pp. 4-5).

Response: *Objected to in part.* Plaintiff does not dispute that the information in this statement appears in the audit report but it is immaterial and irrelevant to the issues presented in Plaintiff's motion. Plaintiff further disputes that these expenses were properly characterized. The cited record evidence only supports the fact that this categorization of the expenses was the interpretation of the auditors.

50.

The audit found that many of the meals and entertainment expenses for "Recruitment, Training, Retention" consisted of "lunch and dinner meetings at restaurants and bars," that many of these restaurants and bars "were located outside the Clayton County area," that "details of the disbursements were missing from many of the actual transactions" and that "there was evidence of GAL funds being expensed on alcoholic beverages at restaurants, bars, and package stores." (Merritt Dep., Ex. 10, at p. 5).

Response: *Objected to* as immaterial and irrelevant to the issues presented in Plaintiff's motion.. Further, Plaintiff disputes that details of the disbursements were, in fact, missing for many of the transactions. Rather, the auditors did not make proper efforts to secure those details. (*See Moore Depo. at 19:5-22*).

51.

The audit recommended that the GAL account be reconciled on a monthly basis to “prevent any misuse of funds” and that “[s]trict guidelines regarding meals and entertainment should be initiated and enforced by all managing parties; especially disbursements concerning alcohol.” (Merritt Dep., Ex. 10, at p. 5).

Response: *Undisputed.*

52.

The audit also found that Plaintiff used GAL funds to sponsor a softball team, (of which he is a member) that is a part of the Hotlanta Softball League (HSL) out of the city of Atlanta, and that the expenses incurred with this sponsorship included a reception held in Birmingham, Alabama. (Merritt Dep., Ex. 10, at p. 6).

Response: *Undisputed.*

53.

The audit concluded that (1) “sports league sponsorships do not fall within the current intentions of the GAL account”; (2) if the Chief Judge decides that such expenditures are acceptable, the MOU should be amended accordingly; (3) any CASA-sponsored sports leagues should be based in Clayton County; and (4) any standard operating procedures developed should require written requests and authorization for all sponsorships. (Merritt Dep., Ex. 10, at pp. 6-7).

Response: *Objected to in part.* Plaintiff does not dispute that the information

in this statement appears in the audit report.. Plaintiff objects as unsupported by the record citations any inference that the sponsorship of the Hotlanta Softball League was an illegitimate expenditure of the GAL account. (Moore Depo. at 81:19-23). Plaintiff also objects as unsupported by the citations any inference that Plaintiff was under any obligation to seek explicit approval from Teske for using GAL funds to sponsor the Hotlanta Softball League. (Moore Depo. at 81:19-82:10). Indeed, the auditors knew that Plaintiff received approval of this expenditure from the FCCC Board members who controlled these funds. (Moore Depo. at 82:7-10; 83:1-8.)

54.

The auditors in this instance 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, at ¶ 4, attached hereto as Exhibit 5; Moore Decl., ¶ 8).

Response: *Objected to.* Nowhere in the audit report does it say that Plaintiff engaged in misconduct. (Doc. 137-3, Moore Dep. Ex. 10.) The cited portion of Merritt's deposition does not support the statement; it merely states that the auditors typically kept names out of audit reports. Paragraph four of Merritt's declaration is

inadmissible because it is inconsistent with her deposition testimony in which she stated that she did not have evidence of impropriety and merely speculated that misconduct was occurring. (Merritt Depo. at 141:9-142:13). Paragraph eight of Moore's declaration is inadmissible because it is inconsistent with her deposition testimony in which she admitted in numerous instances that she did not explore reasonable, alternate explanations or otherwise thoroughly investigate. (Moore Depo. at 17:18-20:14; 24:18-23; 36:3-18; 49:8-22). Merritt also testified that when she presented the findings of the audit, she did not accuse Plaintiff of wrongdoing. (Merritt Depo. at 100:15–17). Paragraph eight of Moore's declaration is inconsistent with her deposition testimony in which she admitted in numerous instances that she did not explore reasonable, alternate explanations or otherwise thoroughly investigate. (Moore Depo. at 17:18-20:14; 24:18-23; 36:3-18; 49:8-22). Moore also testified that the given reason for the audit—lack of oversight—did not make sense if John Johnson was overseeing the accounts by reviewing bank statements. (Moore Depo. at 28:21-30:1; John Johnson Depo. at 84:21-85:21). Additionally, Moore testified that she was surprised when Plaintiff was terminated because her problem was with the accounting procedures rather than misconduct. (Moore Depo. at 84:3-13).

55.

Ms. Merritt and Ms. Moore met with Mr. Johnson and Ms. Slay for about an hour on May 23, 2013, summarized for them the findings and recommendations of the audit, gave them a copy of the audit report, and also gave a hard copy of the audit report to Judge Teske and Judge Benefield. (Moore Dep., pp. 41:1-9, 42:3 – 43:8; Merritt Dep., pp. 99:1-9, 100:5-10, 105:4-6; Merritt Dep., Exs. 96, 113; Slay Dep., p. 63:21-25, 131:6-14; Slay Dep., Ex. 20; Johnson Dep., pp. 254:17 – 255:17).

Response: *Undisputed.*

56.

It is not the typical practice of the Internal Audit Department to recommend personnel action by County departments, 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; Teske Dep., pp. 255:22-24, 256:7-11; Johnson Dep., p. 257:14-17).

Response: *Undisputed.*

57.

Soon thereafter, Judge Teske, Mr. Slay and Mr. Johnson met with Renee Bright (the County's Human Resources Director), Ms. Moore and Ms. Merritt to discuss the audit report, and Judge Teske and Ms. Bright agreed that Judge Teske would prepare written questions for Plaintiff to answer so that Plaintiff would have an opportunity to respond to the findings of the audit before any personnel decision was made. (Teske Dep., pp. 76:7-20; Slay Dep., pp. 143:20 – 144:1; Slay Dep., Ex. 20, at p. 2; Moore Dep., pp. 43:9 – 44:8, 45:20 – 46:12; Merritt Dep., pp. 33:7 – 34:12, 105:9 – 106:4).

Response: *Objected to in part as unsupported.* Teske provided certain written questions to Plaintiff, but Defendant never gave Plaintiff an opportunity to review the audit report and thus Plaintiff did not know and could not respond to the findings of the audit. (Bostock Depo. at 282:7–13).

58.

On May 28, 2013, Plaintiff received a written memorandum from Mr. Johnson instructing Plaintiff to respond by May 31, 2013 to 10 questions prepared by Judge Teske relating to the findings of the audit, including (1) Plaintiff's purchases at retail stores, such as Best Buy, Lowes and Home Depot; (2) the six months of missing bank statements identified in the audit; (3) the many charges at restaurants and bars

outside Clayton County; and (4) Plaintiff's sponsorship of his softball team, including a reception in Birmingham, Alabama. (Teske Dep., Ex. 80; Bostock Dep., Ex. 9; Bostock Dep., p. 197:24-25; Johnson Dep., p. 141:2-9).

Response: *Undisputed.*

59.

On May 31, 2013, Plaintiff submitted to Mr. Johnson his written responses to Judge Teske's written questions regarding the findings of the audit, which Mr. Johnson and Mr. Slay brought to Judge Teske, and in response to Judge Teske's written questions regarding expenses from retail stores, Plaintiff identified expenses from Home Depot and other stores relating to the Duck Derby, including construction of the race course and tower. (Teske Dep., Ex. 81, ¶ 1; Teske Dep., pp. 189:22 – 190:1, 238:2-6; Teske Dep., Ex. 81; Bostock Dep., Ex. 10; Bostock Dep., p. 203:13-17; Johnson Dep., p. 141:10-19).

Response: *Objected to as immaterial.* Teske did not consider expenses related to the construction of the race course and tower for the Duck Derby in deciding to terminate Plaintiff. Teske announced to the entire juvenile court staff that he terminated Plaintiff because of his sponsorship of the gay softball team. (Doc. 135, Shelley Johnson Depo. at 41: 1–5). He also falsely told Sabrina Crawford that he terminated Plaintiff because he misused or stole between \$14,000 and \$17,000 and

specifically referenced expenditures at gay bars and in sponsoring the softball team. (Doc. 133, Crawford Depo. at 39:16–44:8).

60.

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 restaurant and bar expenses, most of which did not relate to the training, recruitment or retention of Clayton County CASA GAL volunteers, but rather related to marketing, awareness and fundraising endeavors and events for FCCC, Georgia CASA and the Metro Atlanta CASA Collaborative, including (1) the Duck Derby (FCCC); (2) Georgia CASA Luncheon and Fashion Show; (3) the Metro Atlanta CASA 5K Superhero Run at Piedmont Park; and (4) Georgia CASA Luncheon and Preview Party. (Teske Dep., Ex. 81, ¶ 7; Bostock Dep., pp. 143:4-11, 144:11 – 146:8).

Response: *Objected to in part.* Plaintiff does not dispute that the listed items appear in Plaintiff’s written response. However, the cited evidence does not support any characterization of these items as “marketing, awareness and fundraising endeavors” as separate from “training, recruitment or retention of Clayton County CASA GAL volunteers.” Additionally, the cited evidence does not support any implication that MOU limits the use of the fees only to the recruitment, training and

retention of Clayton County CASA volunteers serving as guardians ad litem. Plaintiff testified that training, recruitment, and retention included aspects of the “relationship-building process,” (Bostock Depo. at 120:15–121:11), and the items listed in this statement reasonably fall within that definition. Further, Plaintiff objects to Defendant’s use of the term “CASA GAL volunteers” as unsupported to the extent Defendant is attempting to imply that only those individuals who become official court appointed advocates are CASA volunteers. Mr. Bostock testified that an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.) The MOU does not limit the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as guardians ad litem. (Bostock Depo. Ex. 4.)

61.

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 (included meals with Yhon Sanchez, whom Plaintiff began dating sometime around April 2011 that were in close proximity to where Plaintiff was living from at least

early 2011 through April 2012, and 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, 29:8-22, 30:1 – 31:9; Holland Dep., Ex. 120, at ¶¶ 8-9, 12-14; 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).

Response: *Objected to in part.* Plaintiff does not dispute that Plaintiff's written responses identify expenses from F.R.O.G.S., Cowtippers, Woofs, Blakes on the Park, and Joe's on Juniper. Plaintiff objects to the assertion that he was living in close proximity to these locations because the cited portions of the record do not support such an inference. The cited evidence indicates that Plaintiff would regularly stay the night at an individual's townhome "towards the end" of their relationship which would be "all of 2012." (Bostock Depo. at 71:11–22), and only F.R.O.G.S. and Joe's on Juniper are associated with dates during or prior to 2012 in paragraph seven of Plaintiff's written responses. Disputed and objected to as argumentative to the extent Defendant suggests there is anything improper in Plaintiff engaging in recruitment activities at any of these establishments or this location. 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). Johnson testified that 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). And 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). Further objected to as immaterial and irrelevant with respect to the allegation regarding Yhon Sanchez as this was not information Teske had when making the termination decision. (Teske Depo. at 175:6-8) (Teske admitting that he had no evidence that Mr. Bostock was having lunch with former boyfriends).

62.

In response to Judge Teske’s written questions as to why it was appropriate for GAL funds to be used to sponsor Plaintiff’s softball team, including the Birmingham reception, Plaintiff primarily responded that this sponsorship was intended to secure potential sponsors for the Darlin’ Duck Derby, generate ticket sales for the Duck Derby, to put Clayton County CASA in contention for a charitable donation from the softball league the following year, and general public awareness of the Clayton County CASA program. (Teske Dep., Ex. 81, ¶ 10).

Response: *Objected to.* The citation does not support this characterization of Plaintiff’s written response which states that “recruit[ing] potential volunteers” was among the goals of the sponsorship. Plaintiff’s written response otherwise

consistently references recruitment efforts associated with the sponsorship.

63.

Although Judge Teske asked Plaintiff to identify any Clayton County CASA GAL volunteers recruited through Plaintiff's use of GAL funds to sponsor the softball team and the Birmingham reception, Plaintiff did not identify any such volunteers, but rather identified two volunteers for a Georgia CASA fundraising event and one volunteer who assisted with a "marketing campaign" for Clayton County CASA and other metro Atlanta CASA programs. (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).

Response: *Objected to.* Plaintiff disputes that Teske asked Plaintiff to identify "any Clayton County CASA GAL volunteers" because that characterization is not supported by the record citations. Question 10 of Teske's memo asked, "Did you recruit any *volunteers for Clayton County CASA* directly as a result of this sponsorship?" and demanded "an explanation how the expenditures incurred in Birmingham AL are associated with the recruitment, training, and retention of *CASA volunteers* in Clayton County GA." (Teske Depo., Ex. 81 at ¶ 10) (emphasis added). This question does not mention "GAL volunteers." Plaintiff also objects to the assertion that the two identified individuals do not qualify as "Clayton County

CASA GAL volunteers” because that assertion is not supported by the cited evidence. Further, at the event in Birmingham, Mr. Bostock secured verbal commitments for three CASA sponsorships. (Bostock Decl. ¶ 6.) Additionally, at this reception, a team member committed to going through the training process to become a court appointed advocate. (Bostock Decl. ¶ 6.) The individual who was to begin the CASA application process stopped doing so after Mr. Bostock was fired due to his support of Mr. Bostock. (Bostock Dep. 207:6-208:14.) Further, due to the timing of Mr. Bostock’s termination, the verbal commitments were not consummated before he was terminated. (Bostock Decl. ¶ 7.)

64.

Judge Teske was the ultimate decision-maker who made the decision to terminate Plaintiff, although he did confer with Judge Benefield, who agreed with the decision to terminate Plaintiff. (Teske Dep., p. 44:10-15, 24 – 45:1; Teske Decl., ¶ 8; Johnson Dep., p. 141:20-24, 180:9-11; Slay Dep., p. 61:6-7).

Response: *Objected to in part.* Plaintiff does not dispute that Teske was the ultimate decision-maker. Plaintiff disputes that Judge Benefield agreed with the decision because all cited evidence to support this statement is inadmissible hearsay.

65.

Judge Teske reviewed Plaintiff’s written responses to his written questions

and then decided to terminate Plaintiff because he concluded that most of the expenses from the GAL account were not being used to recruit, train and retain Clayton County CASA GAL volunteers as required by the MOU, but rather for other purposes, such as assisting FCCC with its fundraising endeavors, which Judge Teske characterized as “taking from Peter to pay Paul.” (Teske Dep., pp. 81:12-19, 88:11-13, 120:17-22; 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).

Response: *Objected to.* The issue of why Teske terminated Plaintiff is the central, disputed legal issue in this case and this asserted fact is merely argument. Therefore, this assertion does not comply with the provisions set out in Local Rule 56.1(B)(1). Moreover, the cited evidence does not support any implication that the MOU limits the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as guardians ad litem. Further, Teske admitted under oath that Mr. Bostock’s sexual orientation was a “contributing factor” in his decision to terminate Mr. Bostock. (Doc. 141, Teske Dep. 177:22-178:20). Teske also admitted that his alleged “suspicions” of Mr. Bostock’s spending to recruit and retain volunteers for the CASA program - the entire basis of the audit - were “because [Mr. Bostock] is gay.” (Teske Depo. at 176:23-177:1–6; 168:11-169:1; Teske Depo., Exhibit 43 at 11.) 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). Teske also testified that any restaurant in the Midtown area is to him “suspicious” for being a gay restaurant. (Teske Depo. at 207:21–208:2). Teske also admitted he had no evidence that the lunches Plaintiff had in Midtown Atlanta were with former boyfriends. (Teske Depo. at 174:17–8).

66.

Judge Teske concluded that most of the expenses incurred by Plaintiff using GAL funds at restaurants and bars in Atlanta were not for recruiting, training or retaining Clayton County CASA GAL volunteers to serve miles away in Clayton County, especially in light of the fact that Plaintiff could not identify any Clayton County CASA GAL volunteers he had successfully recruited as a result of these expenses. (Teske Dep., pp. 120:3-16, 208:16-19, 211:19-24, 212:19-22).

Response: *Objected to.* The issue of why Teske terminated Plaintiff is the central, disputed legal issue in this case and this asserted fact is merely argument. Therefore, this assertion does not comply with the provisions set out in Local Rule 56.1(B)(1). Moreover, the cited evidence does not support any implication that the MOU limits the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as guardians ad litem. Moreover, Teske

admitted under oath that Mr. Bostock's sexual orientation was a "contributing factor" in his decision to terminate Mr. Bostock. (Teske Dep. 177:22-178:20). Teske also admitted that his alleged "suspicions" of Mr. Bostock's spending to recruit and retain volunteers for the CASA program - the entire basis of the audit - were "because [Mr. Bostock] is gay." 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). Plaintiff objects to Defendant's use of the term "CASA GAL volunteers" to the extent Defendant is attempting to imply without evidentiary support that only those individuals who become official court appointed advocates are CASA volunteers. Mr. Bostock testified that an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.) The MOU does not limit the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as court appointed advocates or guardians ad litem. (Bostock Depo. Ex. 4.)

67.

Judge Teske also concluded that Plaintiff's use of GAL funds to sponsor an Atlanta softball team, including the Birmingham reception, was not for recruiting,

training or retaining Clayton County CASA GAL volunteers to serve miles away in Clayton County, especially in light of the fact that Plaintiff could not identify any Clayton County CASA GAL volunteers he had successfully recruited as a result of the softball team sponsorship. (Teske Dep., pp. 169:1-7, 308:3-14).

Response: *Objected to.* The issue of why Teske terminated Plaintiff is the central, disputed legal issue in this case and this asserted fact is merely argument. Therefore, this assertion does not comply with the provisions set out in Local Rule 56.1(B)(1). Moreover, Teske admitted under oath that Mr. Bostock's sexual orientation was a "contributing factor" in his decision to terminate Mr. Bostock. (Teske Dep. 177:22-178:20); Teske also admitted that his alleged "suspicions" of Mr. Bostock's spending to recruit and retain volunteers for the CASA program - the entire basis of the audit - were "because [Mr. Bostock] is gay." Plaintiff objects to Defendant's use of the term "CASA GAL volunteers" to the extent Defendant is attempting to imply that only those individuals who become official court appointed advocates are CASA volunteers. Mr. Bostock testified that an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.) And Mr. Bostock provided Teske with detailed information concerning pledges, donations, and volunteers for training he secured from his recruiting efforts. (Bostock Dep. Ex.

10.) The MOU does not limit the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as guardians ad litem. (Bostock Depo. Ex. 4.) Further, Plaintiff testified that he developed many relationships with people who did not live in Clayton County that would have resulted in new CASAs had he not been terminated. (Bostock Depo. at 173:14–175:6).

68.

In addition, Judge Teske believed that the use of GAL funds to sponsor the softball team improperly was a personal benefit to Plaintiff in that he enhanced his credibility and prestige with team members by providing teammates with a T-shirt with the Clayton County CASA logo on it at no expense and a free reception in Birmingham. (Teske Dep., p. 169:8-13).

Response: *Objected to.* The issue of why Teske terminated Plaintiff is the central, disputed legal issue in this case and this asserted fact is merely argument. Therefore, this assertion does not comply with the provisions set out in Local Rule 56.1(B)(1). Moreover, Teske's issue with Plaintiff's sponsorship of the softball team was because it was a public expression of Plaintiff's identity as a gay man. (Bostock Depo. at 218:23–219:4; Shelley Johnson Depo. at 41:1–5; Crawford Depo. at 44:3–45:8). Teske admitted under oath that Mr. Bostock's sexual orientation was a

“contributing factor” in his decision to terminate Mr. Bostock. (Teske Dep. 177:22-178:20); Teske also admitted that his alleged “suspicions” of Mr. Bostock’s spending to recruit and retain volunteers for the CASA program - the entire basis of the audit - were “because [Mr. Bostock] is gay.” Further, Plaintiff testified that he developed many relationships with people who did not live in Clayton County that would have resulted in new CASAs had he not been terminated. (Bostock Depo. at 173:14–175:6).

69.

Similarly, Judge Teske suspected that, based on a number of factors – including the fact that the audit found that there were a number of missing bank statements and that it was incredulous to him that Plaintiff could be recruiting individuals in midtown Atlanta to become Clayton County CASA GAL volunteers in Clayton County -- some of the restaurant and bar expenses paid for with GAL funds may have been for his own personal interests (such as meals with his softball team teammates) and not for business-related purposes; but regardless, even if none of the restaurant and bar expenses were for personal interests, most of them were still outside the scope of the MOU because they were not for the training, recruitment and retention of Clayton County CASA GAL volunteers, and thus Judge Teske would

have terminated Plaintiff on this ground alone. (Teske Dep., pp. 177:7 – 178:21, 181:25 – 182:17; Teske Decl., ¶¶ 6-7).

Response: *Objected to.* The issue of why Teske terminated Plaintiff and whether he would have terminated Plaintiff on grounds besides his sexual orientation is the central, disputed legal issue in this case and this asserted fact is merely argument. Therefore, this assertion does not comply with the provisions set out in Local Rule 56.1(B)(1). Further, the alleged statement of fact violates this Court’s rules that statements be concise and limited to a single set of facts. Further, Teske admitted under oath that Mr. Bostock’s sexual orientation was a “contributing factor” in his decision to terminate Mr. Bostock. (Teske Dep. 177:22-178:20); Teske also admitted that his alleged “suspicions” of Mr. Bostock’s spending to recruit and retain volunteers for the CASA program - the entire basis of the audit - were “because [Mr. Bostock] is gay.” Plaintiff objects to Defendant’s use of the term “CASA GAL volunteers” to the extent Defendant is attempting to imply that only those individuals who become official court appointed advocates are CASA volunteers. Mr. Bostock testified that an individual could volunteer for the CASA program in multiple ways beyond just becoming a court appointed special advocate or guardian ad litem. (Bostock Dep. 206:8-21.) And Mr. Bostock provided Teske with detailed information concerning pledges, donations, and volunteers for training

he secured from his recruiting efforts. (Bostock Dep. Ex. 10.) The MOU does not limit the use of the fees only to the recruitment, training and retention of Clayton County CASA volunteers serving as guardians ad litem. (Bostock Depo. Ex. 4.) Further, Plaintiff testified that he developed many relationships with people who did not live in Clayton County that would have resulted in new CASAs had he not been terminated. (Bostock Depo. at 173:14–175:6).

70.

Mr. Slay and Mr. Johnson agreed with Judge Teske’s decision to terminate Plaintiff’s employment because they concluded that Plaintiff had used GAL funds for purposes that were not for the recruitment, retention and training of Clayton County CASA GAL volunteers, and if the auditors had been called upon to decide what personnel action to take, they would have terminated Plaintiff for this reason as well. (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; Johnson Decl., ¶ 4; Slay Decl., ¶ 4; Merritt Decl., ¶ 5; Moore Decl., ¶ 9).

Response: *Objected to as immaterial.* The after-the-fact statements of these four individuals is immaterial because Teske was the undisputed decision-maker. Moore’s statement in her declaration also contradicts her deposition testimony that she was “surprised” to learn that Mr. Bostock had been terminated (compare Doc.

136-5 ¶ 9 with Moore Dep. 84:3-5) and as such her declaration should be disregarded and treated as inadmissible. Although Moore now states she was surprised because Johnson had previously told her Mr. Bostock had been treated leniently in the past (doc. 136-5 ¶ 10), she did not give this reason at her deposition when asked why she was surprised (Moore Dep. 84:6-13) and as such her declaration should be disregarded and treated as inadmissible. For Merritt, she admitted that her conclusions of impropriety were based on speculation. (Merritt Depo. at 141:9–142:13).

71.

As Plaintiff was well aware, the County prohibited the use of County funds to purchase alcohol, and the FCCC prohibited the use of its funds for the purchase of alcohol, but Plaintiff asserted that it was permissible to use the GAL funds to purchase alcohol if it was related to the recruitment, training or retention of a volunteer. (Bostock Dep., pp. 89:2-6, 90:11-24; Slay Dep., p. 21:20-22; Johnson Dep., p. 179:7-12 and errata sheet; Merritt Dep., pp. 81:17 – 82:3, 84:14-16, 86:8-19; Crawford Dep., pp. 46:19 – 47:1, 128:20-25, 132:13-14).

Response: *Objected to in part.* Undisputed that it was permissible to use the GAL funds to purchase alcohol if it was related to the recruitment, training,

or retention of a volunteer. Objected to, however, to the extent Defendant is arguing that the GAL funds were spent improperly because the cited evidence does not support that assertion. Under the MOU, checks for GAL fees were payable to Friends of Clayton County CASA – a private non-profit corporation - and not to the court. (Doc. 134-1, Johnson Dep. Ex. 3.) Thus, the funds at issue were not “court funds” “or county funds” (Doc. 134, Johnson Dep. 178:5-179:15.) Nothing in the MOU contains any prohibition on use of these different funds for alcohol. Nor did anyone tell Plaintiff he could not do so, including Mr. Johnson, who had been reviewing for three years receipts that reflected in part the purchase of alcoholic beverages as part of the recruitment, training, and retention expenditures. (Johnson Dep. 137:6-16.) Objected to that the FCCC “prohibited use of its funds for alcohol” because the cited evidence merely shows that many FCCC events had sponsors that would only cover food expenses and not alcohol purchases. Crawford testified that where sponsor restaurants had provided food, “they would have a set menu, and if anybody wanted to buy anything in addition, you know, they would be responsible in addition to the drinks” and that “we paid multiple times for alcohol at events” when individuals did not pay their tab. (Crawford Depo. 128:8-25; 130:19-20.) Further, Ms. Crawford found Plaintiff’s expenditures to be consistent with the MOU. (Crawford Depo. 61:10-62:6.) Additionally, 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 annotated explanations for expenditures. (Crawford Depo. at 18:4–14; Bostock Depo. at 140:6–141:1).

72.

Judge Teske, Mr. Johnson, Mr. Slay and the auditors concluded that, because the funds deposited into the GAL account pursuant to the MOU were generated from fees charged by the Superior Court, that the County’s prohibition on the use of alcohol applied to the GAL funds, and that Plaintiff’s use of the GAL funds for alcohol was not permissible under the MOU. (Teske Dep., pp. 54:13-14, 79:7-11; Slay Dep., pp. 22:2-3, 12, 27:15-25, 30:13-15, 124:23-24, 141:4-18; Johnson Dep., pp. 177:23 – 178:4, 238:12-19; Johnson Dep., Ex. 94; Merritt Dep., pp. 86:8-25, 117:13 – 118::24; Moore Decl., ¶ 7).

Response: *Objected to.* Any alleged conclusions by John Johnson, Slay, or the auditors are immaterial because Teske was the sole decisionmaker regarding Plaintiff’s termination. If funds from the GAL account were used for recruitment, training, or retention of a volunteer, money spent to reimburse an alcohol purchase could be reimbursed through the GAL account. (Bostock Depo. at 90:11–24). Under the MOU, checks for GAL fees were payable to Friends of Clayton County CASA – a private non-profit corporation - and not to the court. (Johnson Dep. Ex. 3.) Thus,

the funds at issue were not “court funds” “or county funds” (Johnson Dep. 178:5-179:15.) Nothing in the MOU contains any prohibition on use of these different funds for alcohol. Further Moore also testified that the MOU did not restrict the use of the GAL account funds regarding recruiting, training, or retentions events where alcohol was consumed. (Moore Depo. at 24:3–9). The auditors also could not find information regarding a restriction on purchasing alcohol for events designed to retain or recruit volunteers during their audit. (Merritt Depo. at 81:21–82:3; 86:20–25). Additionally, Teske did not believe that funds from the GAL account could not be used for alcohol purchases because he directed Mr. Bostock to use Friends of Clayton County CASA funds to pay the bar tab with the credit card tied to the GAL funds, (Bostock Depo. at 135:1–8), and Teske paid for alcoholic beverages with money from the Casey Foundation Grant which was County money, (Bostock Depo. at 89:11–23). Finally, Teske, Slay, and Johnson did not believe that funds from the GAL account could not be used for alcohol purchases because they were aware of and approved instances where GAL funds were used to pay for alcohol purchases. (Bostock Depo. Exhibit 3, Doc. 142-1 at 393). The cited evidence regarding Teske’s conclusions regarding the funds deposited into the GAL account pursuant to the MOU only concern how he thought of the FCCC to be the physical custodians of the funds. Thus, the cited evidence does not support the assertion.

73.

Judge Teske wrote about the audit and the difficult decision he made to terminate Plaintiff in his personal diary, in which he acknowledged that Plaintiff is gay, but reiterated that he did not have any concerns about Plaintiff being gay. (Teske Dep., Ex. 43, at pp. CLAYTON 014200 – CLAYTON 014203).

Response: *Objected to in part.* Undisputed that Teske wrote in his diary about terminating Plaintiff. Objected to, however, that Plaintiff’s sexual orientation was not a “concern” for Teske or that Teske simply “acknowledged” Plaintiff was gay because the cited evidence does not support that assertion. The cited portion of Teske’s diary consistently mentions Mr. Bostock’s sexual orientation nearly every time that he is mentioned and makes several unwarranted inferences—that his spending at restaurants was with former boyfriends and that Midtown Atlanta is the gay district of Atlanta—which show that Ms. Bostock’s sexual orientation was a concern for him. (Teske Depo. Ex. 43.) 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 – 177:6; 168:11-169:1; Teske Depo., Exhibit 43 at 11.)

74.

Plaintiff was replaced by Ms. Gossett, who also is gay, and whom Judge Teske

had to beg to take the job because she was looking to retire. (Teske Dep., pp. 136:2-3, 204:10-13, 286:2-8).

Response: *Objected to in part.* Plaintiff does not dispute that Carrol Gossett replaced Plaintiff. Plaintiff objects to as immaterial Gossett's sexual orientation as a gay woman because the claims in this case are based on discrimination against Plaintiff for his sexual orientation as a gay man and for his public participation in perceived "gay-related" activities.

75.

Although Plaintiff contends that several subsequent audits relating to the Juvenile Court reported problems for which the wrongdoer was not terminated, the Juvenile Court administration concluded that (1) grant funds were being properly applied to the employees and positions identified in the audits identified by Plaintiff; (2) one of the audits identified by Plaintiff addressed the actions of a former employee; (3) another audit and related email identified by Plaintiff addressed the need for the new Child Welfare Coordinator to reconcile bank statements on a monthly basis; and (4) the remaining audits identified by Plaintiff addressed issues relating to the first year of a grant. (Bostock Dep., pp. 65:24 – 67:25; Slay Decl., ¶¶ 5-21 & Exhs. A-G thereto).

Response: *Objected to in part.* This statement violates this Court's rules by

not being limited to a single set of facts. To the extent that the Court considers all of the factual statements set forth in this paragraph, Plaintiff responds to them separately.

First, Plaintiff does not dispute that several audits relating to the Juvenile Court reported problems for which the wrongdoer was not terminated. Specifically, Plaintiff identified three audits in the cited deposition testimony: (1) the Juvenile Justice Incentive (“JJI”) Grant handled by Kendra Stevens, (2) the Forward Promise Grant² handled by Sheryl Teske, and (3) the Victims of Crime Act (“VOCA”) Grant handled by Sheryl Teske and Angela Martin. (Bostock Depo. at 65:24–66:14).

Second, while it is material what the Juvenile Court administration concluded following these three audits, Plaintiff disputes the materiality of Slay’s opinion which does not constitute the Juvenile Court administration’s conclusions because Slay was simply one person who was part of the Juvenile Court administration.

Third, Plaintiff disputes Slay’s statements regarding these audits because they conflict with the express findings of the respective audits (and thus are not supported by the cited evidence) or are immaterial. Regarding the JJI, Slay’s declaration explains the actions that were taken in response to the adverse findings of the

² In Plaintiff’s deposition transcript, this grant is called the “Ford Promise Grant.” (E.g., Bostock Depo. at 66:6).

auditors. (Slay Declaration at ¶¶ 6–7). However, Slay’s declaration does not dispute that that audit found that “the system in place to protect the Juvenile Justice Incentive Grant funds [was] poorly developed and implemented” or that Kendra Stevens was not terminated as a result of these adverse findings.

Regarding the Forward Promise Grant, Slay’s declaration seeks to distance the involvement of the Juvenile Court in the services offered by the System of Care, (Slay Declaration at ¶¶ 13–14), seeks to explain Slay’s and Judge Teske’s disagreement with the conclusions of the audit, *id.* at ¶¶ 15–16, and describes the corrective action taken as a result of the audit, *id.* at ¶¶ 16–21. However, Slay’s declaration does not dispute that the audit found issues with the administration of the Forward Promise grant, that the audit found that a “Juvenile Court Officer” whose “salary and fringe benefits” were being improperly paid by the grant. (Slay Declaration, Ex. G, Doc. 136-2 at 44), and even admits that “[t]he Juvenile Court had the responsibility for financial administration of the grant.” *Id.* at ¶ 13.

Regarding the VOCA, Plaintiff disputes Slay’s conclusion “that the use of VOCA grant funds to pay the salary and benefits for this position was appropriate,” (Slay Declaration at ¶ 8), as unsupported by the evidence because it directly contradicts the findings of the VOCA audit which states that “none of [the employee’s] salary should be charged against the grant,” (Slay Declaration, Exhibit

B, Doc. 136-2 at 21). Slay's Declaration also cites to a July 2015 supplemental audit, (Slay Declaration at ¶ 9), but this supplemental audit is not attached to the declaration.

Additionally, despite a voluminous citation to two deposition pages, seventeen paragraphs of a declaration, 34 pages of attached exhibits, nothing in the cited materials relates to the actions of a former employee and this assertion is unsupported.

Also, it is immaterial that some issues identified with the administration of a grant happened in the first year.

Finally, Plaintiff objects that many of the audits referenced in Slay's declaration are not mentioned in the cited portion of Plaintiff's deposition testimony: the Georgia CASA Grant, (Slay Declaration at ¶ 10), the GAL account (Slay Declaration at ¶ 11), the bank account maintained by the Clerk of the Juvenile Court (Slay Declaration at ¶ 12) is not identified in Plaintiff's deposition testimony.

Respectfully submitted this 25th day of May, 2022.

BUCKLEY BEAL, LLP

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LR 7.1(D) FONT COMPLIANCE CERTIFICATION

The undersigned counsel certifies that the foregoing was prepared using Times New Roman 14-point font in accordance with Local Rule 5.1 of the United States District Court for the Northern District of Georgia.

This 25th day of May 2022.

By: /s/ Thomas J. Mew
Thomas J. Mew
Georgia Bar No. 503447

**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.)	

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2022, I electronically filed the **PLAINTIFFS’ RESPONSES AND OBJECTIONS TO DEFENDANT’S STATEMENT OF MATERIAL FACTS AS TO WHICH THERE EXISTS NO GENUINE ISSUE TO BE TRIED** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to all counsel of record.

By: /s/ Thomas J. Mew
Thomas J. Mew
Georgia Bar No. 503447

4. Mr. Johnson testified that he sought to ask me about one or more expenditures in the GAL account and that I told it was none of his business. This is not true. I made no such statement to him.

5. The informal reception in Birmingham for the softball team on which I played was approved in advance by FCCC Board Member Guy Alexander. Mr. Alexander had previously intended to host the event in Atlanta but was unable to do so. He suggested having the reception in Birmingham since everyone would be gathered there for a tournament and he approved my doing so.

6. At this event in Birmingham, I secured verbal commitments for three CASA sponsorships. Additionally, at this reception, a team member committed to going through the training process to become a court appointed advocate.

7. Due to the timing of my termination, these verbal agreements were not consummated before I was terminated. Further, the team member who had committed to going through the training process to become a court appointed advocate refused to do so following my termination out of support for me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 25th day of April 2022

DocuSigned by:
Gerald Bostock
6225E90EE39C483...

Gerald L. Bostock