

TAXATION / REVENUE

We support a progressive and equitable system of federal taxation only allowing exemptions serving the public interest and which are transparently adopted.

We support an adequate and reliable source of funding for Wyoming towns and counties.

We support removing the age restrictions for the Earned Income Credit for seniors.

JUDICIAL SYSTEM

We support adequate funding for our judicial system at all levels including a full range of treatment options for Wyoming children.

We support the abolition of mandatory minimum sentences.

We support a criminal justice system in which individuals are held accountable for misconduct with due process of law and where the Constitutional rights of the accused are fully upheld.

We support enhancing the options for treatment of substance abuse and alcoholism for citizens of Wyoming in lieu of incarceration.

PROTECTING OUR DEMOCRACY

We embrace the Declaration of Independence proclamation stating governments derive "Their just powers from the consent of the governed". To preserve the integrity of that consent, we endorse the Voting Rights Act and condemn Republican maneuvers in many states to restrict voting. We call for a state law that will require counties to allow voter registration drives in the community outside county offices.

We support all forms and methods of voter participation and the expansion of the right and opportunity to vote.

We support public financing of political campaigns.

We call for the expansion of Wyoming's recall process to allow the voters to remove any local or state official.

We back a constitutional amendment to reverse the ruling of the U. S. Supreme Court in the Citizens United case, which allows corporations to use unlimited financial resources to influence legislation.

We demand full reporting of all political contributions prior to elections and full disclosure of financial interest in governmental and legislative matters.

We support automatically restoring full voting rights to convicted felons upon their having served the imposed sentence and probationary period.

All Wyoming county elective offices should be non-partisan.

PROTECTING OUR CIVIL RIGHTS

We endorse the freedoms embodied in the U.S. Constitution and the Bill of Rights including the right to habeas corpus. Our desires for personal and national security must not trump our commitment to protect individual rights and privacy of our fellow citizens. Surveillance by the government of our private lives must be done only in the confines of constitutional law. Any intrusion authorized by the Patriot Act should be abolished.

PROTECTING OUR PERSONAL RIGHTS

Roe v. Wade is the law of the land. Anti-family planning beliefs should not be forced on society as a whole, nor should access to comprehensive sex education, pregnancy prevention services, or the full range of reproductive health care options, including safe legal abortions, be infringed. Women in every county in Wyoming should be able to choose and have access to those options without harassment.

We support strengthening hate crime legislation and urge harsher penalties for the perpetrators of hate crimes and crimes against children, the elderly, and the developmentally disabled.

No person should be discriminated against based on actual or perceived race, color, ethnicity, national origin, religion or non-religion, age, disability, economic status, political beliefs, sex, gender identity, gender expression, and/or sexual orientation.

We support legislation fully affirming the rights of all people to marry, work, and provide public service to their communities, regardless of gender identity, sexual orientation, or family status. They should have equal protection under the law throughout the United States.

We support the rights of those with terminal illnesses to "death with dignity".

We support a person's ownership of his or her genetic profile.

We condemn the use of torture, including water boarding, in domestic or foreign affairs.

We support the passage of legislation to address the increasing incidence of sexual assault against both men and women in the military. We support changes in Wyoming statutes to eliminate the use of consent as a defense for detention officials who are charged with sexual misconduct.

We support the right of citizens to own firearms and also support the right of citizens, through their elected government, to prohibit the carrying of firearms in specified public venues.

The many deaths caused by the misuse and mishandling of firearms can and must be reduced. In recognition of Wyoming's long history of support for the right to keep and bear arms, we urge all parties involved in the debate over our country's struggle with gun violence to begin a legitimate and constructive dialogue on methods by which we can protect both our safety and our individual rights. We support funding for the CDC to collect data on gun violence and to propose solutions to this problem.

EDUCATIONAL INTEGRITY

We believe the University of Wyoming, Trustees and President, should adhere to the Wyoming Constitution and assure that the University remain independent of political meddling. We support academic freedom in keeping with the citizens expectations that the University is the latent conscience of Wyoming.

We support teaching our children how to think rather than what to think.

We believe in an education system supporting thinking rather than testing, and as such, we support the repeal of No Child Left Behind.

We support an educational system which values the development of each individual, increased funding for all levels of public education, academic freedom within the classroom, and a safe learning environment.

We support the right of all students to participate in any activity at a public school regardless of race, color, sex, sexual orientation, gender expression, religion, age, disability or national origin.

We support safe schools for all students and school personnel including enforcement of comprehensive anti-bullying and tolerance programs.

INTEGRITY IN FOREIGN RELATIONS

We support a foreign policy reflecting and promoting the principles of freedom, human rights, and compassion. We support a collaborative process among nations to affect these principles. We recognize the use of force may be required to protect these fundamental principles only when peaceful international efforts have failed.

We believe the United States should work diplomatically with all countries to advance peace and prosperity. War should be initiated only as a last resort.

We support the closure of the Western Hemisphere Institute for Security Cooperation at Ft. Benning, GA, formerly called "School of Americas".

We support H.R. 808-Dept. of Peacebuilding Act of 2013 which would establish a cabinet level position to direct efforts to support peace and nonviolence as national policy.

SUSTAINABILITY

We recognize sustaining our quality of life requires an increasingly long-term perspective often conflicting with short-term budgets, corporate profits and political agendas. We recognize human well-being is dependent upon the well-being of the earth. Our goal is to nurture, enhance, and develop social, cultural, economic, and physical environments for future generations.

ENERGY POLICY

We support the Wyoming manufacture of alternative, renewable energy resources including solar, wind power, and geo-thermal energy through increased federal, state, and county incentives. Conservation practices must be widely adopted at every level of our society to minimize unnecessary energy consumption and maximize the use of clean energy, low carbon footprint sources. We urge the end of subsidies and tax breaks to corporations producing carbon-based energy products.

CLIMATE CHANGE

We recognize global climate change as caused by human practices. We believe Wyoming should join other states and worldwide efforts to address human-made climate change. We therefore strongly support immediate implementation of actions to increase the use of alternative energy and the development of fossil fuel extraction methods that do not pollute the environment. The country needs to include climate change curriculum based upon scientific principles in our educational system.

SUSTAINABLE ECONOMIES

Energy-resource development should be guided by policies modulating the pace of mineral development to reduce the stress on public infrastructure, social services, schools, housing, workforce training, and the natural environment, and optimizing employment and tax revenues over the lifetime of the resources.

We should identify and nurture opportunities for economic diversification into manufacturing, service-sector, recreation and tourism, alternative-energy, and energy-efficiency industries, looking to a future in which mineral resources are but one of many anchors for our economy.

We support small businesses and family-owned farms and ranches.

SUSTAINABLE NATURAL RESOURCE MANAGEMENT

We value the importance of clean air, land and water, open spaces, abundant wildlife, and wilderness. The conservation and protection of these resources enhance our quality of life and our economy.

We support recreational opportunities such as hunting, fishing, camping and hiking on public lands.

We support stewardship of our national and state parks, monuments, and wildlife refuges, and environmentally responsible public access to public lands, minimizing additional roads in our national parks and forests and maintaining roadless areas.

We support a statewide program with the goal of achieving zero waste by reducing, reusing, and recycling all materials.

We support the strict enforcement of Wyoming and Federal Clean Water and Clean Air Acts, along with funding to support that enforcement to ensure the continued protection and health of our citizens from threats posed by unclean water and polluted air by all causes including fracking.

We reject the idea of "self-audit" by companies potentially responsible for pollution.

We support adequate funding for an independent Department of Environmental Quality free of corporate and political influence.

We believe in protecting Wyoming water rights.

QUALITY OF LIFE

PUBLIC SERVICES

We believe all Wyoming residents should have access to adequate nutrition and affordable housing.

Transportation systems must be funded, enhanced, and supported. A multi-modal approach to transportation is needed including roads, airports, railroads, and a nationwide rapid-train system.

We support funding for public media, the visual, performing, and literary arts and encourage the Wyoming Arts Council to develop additional public/private initiatives to fund and develop local artists.

We support programs to ameliorate the serious problems facing children and families including poverty, mental health needs, violence, health care, and alcohol and substance abuse.

LAW ENFORCEMENT/REGULATION

We support law enforcement in their efforts to provide a safe environment for all Wyoming citizens. We encourage the prevention of domestic violence and abuse and the prosecution of perpetrators.

COMMENDATIONS

We recognize the sacrifices of our military personnel and emergency responders to secure our safety. We are grateful for their dedication and pledge our vigilance that their lives not be jeopardized needlessly. Their services should be appropriately rewarded.

EXHIBIT 19

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

NO. 2014-37

An Inquiry Concerning,

The Honorable Ruth Neely

Municipal Court Judge and Circuit Court Magistrate
Ninth Judicial District Pinedale, Sublette County

C O N F I D E N T I A L

DEPOSITION OF JERAN B. ARTERY
Wednesday, September 16, 2015
9:06 a.m.

Taken in behalf of the Honorable Ruth Neely,
pursuant to Notice, and in accordance with the
applicable Wyoming Rules of Civil Procedure, in the
conference room at the Executive Suites, 1623 Central
Avenue, Cheyenne, Wyoming, before Merissa Racine,
Registered Diplomate Reporter and Notary Public in and
for the County of Laramie, State of Wyoming.

Page 2

1	APPEARANCES	
2		
3	For the Wyoming Commission on Judicial Conduct and Ethics:	DIXON & DIXON 104 South Wolcott Street Suite 600 Casper, WY 82601 BY: MR. PATRICK DIXON and MS. BRITNEY TURNER
4		
5		
6		
7	For the Honorable Ruth Neely:	Alliance Defending Freedom 15100 North 90th Street Scottsdale, AZ 85260 BY: MR. JAMES CAMPBELL MR. DOUGLAS WARDLOW MR. KENNETH Connolly
8		
9		
10	Also Present:	MS. WENDY SOTO
11		
12		
13		
14	INDEX TO EXAMINATION	
15	WITNESS:	PAGE
16	JERAN B. ARTERY	
17	By Mr. Connelly	3
18		
19	INDEX TO EXHIBITS	
20	NO.	PAGE
21	25 Subpoena for Mr. Artery	6
22	26 Article from Wyofile.Com	24
23	27 4/3/14 Twitter Post of Mr. Artery	35
24	28 5/9/12 Blog Post of Mr. Artery	37
25	29 6/9/11 Blog Post of Mr. Artery	40

Page 3

1	P R O C E E D I N G S	
2	JERAN B. ARTERY,	
3	having been first duly sworn, was examined and testified	
4	as follows, to-wit:	
5	EXAMINATION	
6	BY MR. CONNELLY:	
7	Q. Good morning, Mr. Artery.	
8	A. Good morning.	
9	Q. My name is Ken Connelly, and I'm legal counsel	
10	for Alliance Defending Freedom. We're counsel for Judge	
11	Neely in this matter. Can you please state your full	
12	legal name.	
13	A. Jeran Boyd Artery.	
14	Q. Could you spell that, please.	
15	A. Yes. First name Jeran, J-e-r-a-n. Middle name	
16	Boyd, B-o-y-d. Last name Artery, A-r-t-e-r-y.	
17	Q. Have you been deposed before?	
18	A. I have.	
19	Q. Okay. What did that involve?	
20	A. A car accident.	
21	Q. Even though you've been deposed before I'll just	
22	go over a couple of basic ground rules, a few	
23	introductory matters, housekeeping just to remind you of	
24	how these things work. The court reporter will record	
25	my questions and your answers. As a result I'd ask you	

Page 4

1	to make your answers verbal rather than physical with
2	shrugs and gestures, and I'll try to do the same thing.
3	Please wait for me to finish my question before
4	you start your answer. That way we don't step on each
5	other. And I'll, of course, try to do the same, I'll
6	try and wait for you to finish your answer before I ask
7	my next question.
8	If I ever ask a question that's unclear to you,
9	just tell me that you don't understand the question,
10	it's unclear, and I'll try and clarify.
11	A. Okay.
12	Q. If you need a break, just let me know, and what
13	I'll try and do, when I'm finished with a line of
14	questioning, we'll break.
15	A. Okay.
16	Q. But we'll generally plan a break pretty
17	regularly.
18	If you give me an answer and then later think of
19	something that you omitted or that, you know, you've
20	thought of, you can go ahead and come back to me and ask
21	to modify the answer, add something to it.
22	A. Okay.
23	Q. Just let me know. Just a couple of questions for
24	you, sir. Is there any reason why you can't provide
25	your best and most accurate testimony today?

Page 5

1	A. No.
2	Q. Are you currently taking any medications or drugs
3	that might impair your ability to testify today?
4	A. No.
5	Q. Are you currently under any substance that might
6	impair your ability to testify today?
7	A. No.
8	Q. And are you sick at all today?
9	A. I'm not.
10	Q. Have you ever been a party to a lawsuit?
11	A. Yes.
12	Q. And was that the car accident?
13	A. The car accident, it was.
14	Q. Have you ever testified in court?
15	A. Yes.
16	Q. For that same case?
17	A. Yes.
18	Q. And do you understand that you're under oath
19	today?
20	A. I do.
21	Q. And that the proceedings are confidential?
22	A. Yes.
23	Q. And that you may not disclose the nature of these
24	proceedings or the name of the judge?
25	A. I do understand that.

1 Q. Are you represented by counsel today?

2 A. I believe so.

3 MR. DIXON: No. And we need to make that
4 clear; I don't represent you.

5 A. Okay.

6 MR. DIXON: I represent the Commission. And
7 you're entitled to a lawyer if you want one.

8 A. I think I'm fine without counsel.

9 MR. DIXON: I am defending the deposition on
10 behalf of the Commission.

11 A. Okay.

12 MR. DIXON: So to that degree I guess you and
13 I sit on the same side of the table.

14 A. Okay.

15 MR. DIXON: I just want to make sure you know
16 I don't represent you.

17 A. Okay.

18 (Thereupon Deposition Exhibit 25 is marked.)

19 Q. (By Mr. Connelly) Okay. Mr. Artery, I'm handing
20 you what has been marked Deposition Exhibit 25. Do you
21 rec -- I'll give you a second to look through it.

22 Do you recognize that document?

23 A. I do.

24 Q. And what is that document?

25 A. A subpoena that I received, I believe in late

1 August.

2 Q. Okay. Do you remember seeing the personal and
3 confidential cover page?

4 A. Yes.

5 Q. And do you remember reading that?

6 A. Yes.

7 Q. And do you remember understanding it?

8 A. Yes.

9 Q. When you received the subpoena, did you call
10 anyone to talk about it?

11 A. Not immediately. I did call Mr. Dixon a couple
12 of days before the due date, and said, I don't believe
13 that I have any of these requests, what should I do.
14 And he said, If you don't have it, you don't have it.

15 Q. Okay. Why did you call Mr. Dixon?

16 A. Because I didn't know who else I should call.

17 Q. Did you speak to Ms. Soto after receiving the
18 subpoena?

19 A. I did not.

20 Q. How did you know to call Mr. Dixon?

21 A. Because he was my contact. He first informed me
22 when there was a proceeding.

23 Q. Okay. And how did that happen? Was that a phone
24 call?

25 A. It was a phone call.

1 Q. And what did you speak about in the phone call?

2 A. I believe he said that there was going to be a
3 proceeding against a judge, and I might be called to
4 testify, and also ask if I knew a couple that might be
5 willing to testify as well.

6 Q. For this case?

7 A. For this case.

8 Q. Do you know who those people -- who did he ask,
9 who was that couple?

10 A. He asked me if I knew anyone. I said I would
11 think about it and get back to him. And I called back
12 with -- with the names of Carl Oleson and Rob Johnston.

13 Q. And what did you understand Mr. Dixon's request
14 to be about?

15 A. Someone who could potentially testify about the
16 harms that might be imposed on the LGBT community
17 because of the judge's refusal to marry same-sex
18 couples.

19 Q. And where do those gentlemen live?

20 A. Casper.

21 Q. And when did that phone call happen?

22 A. Several months ago.

23 Q. Can you give me an estimate of when you think it
24 might have been, best guess?

25 A. March or April.

1 Q. March or April. What was the result of that once
2 you gave those two names to Mr. Dixon?

3 MR. DIXON: I object to the form of the
4 question.

5 Q. (By Mr. Connelly) What did Mr. Dixon do with
6 those names? Did he contact you again?

7 MR. DIXON: Objection. No foundation.

8 A. Do I answer that?

9 Q. (By Mr. Connelly) Yeah.

10 A. He said, Thank you. There will be no other
11 actions on your part, I'll handle it from here.

12 Q. Okay. So have you spoken to Mr. Dixon since
13 then?

14 A. I believe the only time I spoke to him is when I
15 called and asked about the subpoena.

16 Q. The subpoena?

17 A. Yes.

18 Q. Anything else happen in that conversation after
19 you told him that you didn't think you had any
20 documents?

21 A. Not that I'm aware of.

22 Q. Okay. I just want to direct your attention to
23 page -- well, it's page 2 of the -- it would be this
24 page of the subpoena.

25 A. Sure.

1 Q. I want to ask you about your efforts to locate
2 documents. So it's -- You did not provide any documents
3 in response to the subpoena, correct?

4 A. That's correct.

5 Q. And why didn't you?

6 A. Because to my knowledge these -- these don't
7 exist. Reading through this, I can't recall any
8 diaries, journal, blog entries that were related to this
9 case or e-mails with these individuals that specifically
10 talked about this case.

11 Q. Okay. If you look at No. 3, if you would.

12 A. Uh-huh.

13 Q. That says -- I'll read it and you go ahead and
14 tell me if I've read it correctly. All e-mails,
15 correspondence, letters or other communications between
16 deponent -- that's you -- and Ana Cuprill, Wendy Soto,
17 Steven Smith, Ned Donovan, or Judge Neely, that are in
18 any way related to same-sex marriage, LGBT legal issues
19 or advocacy, Wyoming Equality, or the subject matter --
20 and I'll just leave it there -- of this case. So as you
21 can see, would you agree with me that is broader than
22 just this case?

23 A. Yes, I would agree with you.

24 Q. So is that something you think you might have
25 missed?

1 A. I believe I may have misunderstood that,
2 understanding that -- my understanding was that it was
3 just related to this case.

4 Q. Okay. All right. So let me just ask you a few
5 questions here to guide you through this. Did you
6 attempt to locate documents pertaining to that category
7 or any category, so that category, the broader
8 categories plus this case, did you search your e-mail
9 accounts?

10 A. I did search my e-mail accounts.

11 Q. And how many e-mail accounts do you maintain?

12 A. Two.

13 Q. Is one a work account and one a --

14 A. Up.

15 Q. -- a personal account?

16 A. Two personal, one work.

17 Q. And where are your e-mails stored?

18 A. Just on the e-mail account.

19 Q. So there's no external server?

20 A. That's correct.

21 Q. Okay. How often do you delete your e-mails?

22 A. I try to delete them daily.

23 Q. Now, when you say daily, do you mean junk e-mails
24 or every e-mail?

25 A. Mostly junk e-mail.

1 Q. So personal e-mails might still be in the cache?

2 A. It's possible.

3 Q. Did you delete any e-mails after receiving the
4 subpoena?

5 A. Yes.

6 Q. Did you delete e-mails after receiving the
7 subpoena that you think related to the issues that we
8 spoke about, same-sex marriage, LGBT advocacy, Wyoming
9 Equality or this case?

10 A. Yes. I e-mail about Wyoming Equality every
11 single day.

12 Q. Okay. Did you -- When you conducted a search of
13 your e-mail, did you do a search for keywords?

14 A. Yes.

15 Q. And what were those keywords, if you could let me
16 know.

17 A. Wendy Soto, Ana Cuprill.

18 Q. Okay. Those are names. Did you search for any
19 other words, subjects?

20 A. I did not.

21 Q. Okay. How about paper correspondence, drafts or
22 diaries, did you look through any of those?

23 A. No, I did not.

24 Q. Okay. How about social media; Facebook, Twitter,
25 Instagram?

1 A. I did not. I did not search. I'm not sure I
2 would know how to do a search on Facebook or Twitter
3 regarding past -- other than just roll through the feed.

4 Q. All right. So let me ask you this: Do you
5 realize that by the terms of the subpoena you're legally
6 obligated to conduct these searches and produce
7 documents that are responsive to it?

8 A. I do understand that.

9 Q. And you can be held in contempt for not doing
10 that?

11 A. I do understand that.

12 Q. So going forward, do you understand that you
13 still must conduct the search -- having missed that
14 broad category, that you still must conduct a search for
15 the documents, each of the categories we have laid out
16 in this document.

17 A. Okay.

18 Q. And I have your confirmation that you plan on
19 doing that?

20 A. I will search again, yes.

21 Q. Okay. It's possible that if you produce
22 documents that are responsive to this, that we might
23 need to talk to you again.

24 A. Sure.

25 Q. But we still need those documents. Let me move

1 on to this deposition.

2 What documents did you review in preparation for
3 this deposition?

4 A. I honestly have not reviewed any documents.

5 Q. Okay. Did you sit down and try and recall past
6 events that you think are related to this case?

7 A. Yes. I've spent some time, when I got the
8 subpoena, you know, I did a search on my -- on my e-mail
9 accounts, and I gave it some -- some thought, and so,
10 yes, I did spend time.

11 Q. Did you call anybody in the press after you
12 received the subpoena?

13 A. I did not.

14 Q. Has anyone ever shown you any of the pleadings in
15 this matter, or any materials from this case?

16 A. No.

17 Q. All right. Well, let's start at the beginning, a
18 little background information. Where were you born?

19 A. In Wheatland, Wyoming.

20 Q. And where did you grow up?

21 A. In Wheatland, Wyoming.

22 Q. Just talk basically about your education; high
23 school, college, if you would.

24 A. Yeah. I did kindergarten through high school in
25 Wheatland. After I graduated from high school I went to

1 college for a couple of years in Los Angeles,
2 California; came back to the University of Wyoming, and
3 lived in Laramie for a brief time, moved back to
4 Wheatland, and then have been in Cheyenne for probably
5 the last seven years.

6 Q. Okay. So you live in Cheyenne now?

7 A. That's correct.

8 Q. And are you married?

9 A. I am.

10 Q. And to whom are you married?

11 A. Mike Bleakley.

12 Q. And for how long have you been married to Mike
13 Bleakley?

14 A. We got married 12/13/14.

15 Q. I'm thinking about the years. And where did you
16 get married?

17 A. In Maui.

18 Q. Hawaii?

19 A. Yes.

20 Q. Were you ever married before?

21 A. I was.

22 Q. Okay. To whom were you married before?

23 A. I was married to Maya, Maya Artery. We were
24 married for 16 years while I lived in Wheatland.

25 Q. Okay. Were you married in Wyoming?

1 A. Yes, we were, in Wheatland.

2 Q. What is your sexual orientation?

3 A. I would identify as gay.

4 Q. Okay. Do you have children?

5 A. I do.

6 Q. How many children?

7 A. One; one daughter, two step-kids.

8 Q. Okay. And do they live in the home with you?

9 A. They do not.

10 Q. Do you profess or practice any religion?

11 A. I wouldn't say I profess religion.

12 Q. Do you attend church?

13 A. Occasionally.

14 Q. Okay. Which church? If you attend one church
15 regularly, which one would it be?

16 A. Highlands Presbyterian here in Cheyenne.

17 Q. Do you attend any others or is that --

18 A. Occasionally I'll attend the Unitarian Church,
19 generally when I'm asked to speak.

20 Q. What are you generally asked to speak about at
21 the Unitarian Church?

22 A. About LGBT issues.

23 Q. Just talk to me a little bit about that. Do they
24 request specific things about LGBT issues?

25 A. Generally it's the state of equality in the

1 Equality State, --

2 Q. Okay.

3 A. -- is what I'm asked to speak about.

4 Q. And do you do that -- How often would you say you
5 speak?

6 A. Annually.

7 Q. To churches?

8 A. Yeah.

9 Q. And do you speak to other organizations more
10 frequently?

11 A. Yes.

12 Q. Who would you -- Give me an example of who you
13 speak to, the list of -- if you would.

14 A. I have -- I've spoken to groups at the University
15 of Wyoming. I've spoken at the law school. I have
16 spoken at the -- Every year they have a Matthew Shepard
17 Symposium. I speak at the symposium.

18 I would have to do some digging on the other
19 organizations that I speak to.

20 Q. And if you -- Can you give me an example or a
21 couple of examples of the titles of the talks?

22 A. The talk at the University of Wyoming Law School
23 was when the marriage case was going on, and we were
24 talking about just the process and how that all came
25 about, and what had transpired.

1 Q. And is this pre -- before the Supreme Court
 2 ruling or --
 3 A. It was, yes.
 4 Q. And have you spoken after as well?
 5 A. I have not.
 6 Q. Let's talk a little bit about your work history.
 7 Where do you work now?
 8 A. I work for New York Life Insurance Company.
 9 Q. So you're an insurance agent?
 10 A. I am.
 11 Q. And how long have you done that for?
 12 A. Twenty-one years.
 13 Q. Past jobs?
 14 A. I pretty much joined New York Life right out of
 15 college.
 16 Q. How about community involvement? Are you
 17 involved any civic clubs or charitable endeavors?
 18 A. Wyoming Equality is a 501(C)3.
 19 Q. Okay. Let's talk a little bit about Wyoming
 20 Equality. What's the history of your involvement with
 21 that group?
 22 A. I would -- I would say five or six years ago I
 23 attended a Pride event that Wyoming Equality held that's
 24 called Rendezvous, which is an annual event, and met a
 25 couple of board of directors at the time, and they

1 invited me to attend a board meeting. And I was asked
 2 to serve on the board, and have been on that board
 3 since.
 4 Q. Now, what did -- Who were those board members
 5 originally? Can you remember their names?
 6 A. Yeah. Joe Corrigan was the primary contact,
 7 and --
 8 Q. What was he at the time?
 9 A. He was the board chair.
 10 Q. And so what position did you start out in?
 11 A. Just as an at-large board member.
 12 Q. That progress to something more formal?
 13 A. Yeah. I believe that I was an at-large board
 14 member for two years, and then ran for chairman of the
 15 board, and have served as chairman of the board for, I
 16 believe, the last four years.
 17 Q. How long has Wyoming Equality been in existence?
 18 A. I believe we're coming up on 25 years.
 19 Q. Okay. And if you could give me an idea, what
 20 are -- What are the goals of the group?
 21 A. To enhance the lives of the LGBT community that
 22 live in Wyoming, through social programs, advocacy for
 23 folks in Wyoming who are impacted by sexual orientation
 24 and gender identity issues.
 25 Q. Okay. And how does that play out in the real

1 world? Do you do public advocacy involving LGBT issues?
 2 A. We do.
 3 Q. Talk to me about that. What are the issues?
 4 Give me some issues that you advocate for, the types of
 5 subject matter you would be involved in.
 6 A. We advocate for loving, committed same-sex
 7 couples to be able to enter into marriages. And we
 8 advocate for nondiscrimination protections in the
 9 workplace, housing, public accommodations. And that's
 10 pretty much what's been in the forefront.
 11 Q. Okay. So same-sex marriage, and what you term
 12 are laws that affect the LGBT community --
 13 A. Correct.
 14 Q. -- either in a negative or positive way?
 15 A. Correct.
 16 Q. How does that play out? Does that involve --
 17 talk to me about -- does that involve contact with
 18 government officials? Do you do election work? What
 19 would a board member or volunteers be doing on a daily,
 20 weekly, monthly basis?
 21 A. Occasionally it does involve contact with elected
 22 officials. We are a board of volunteers. We all
 23 volunteer our time. No one's compensated for serving on
 24 the board.
 25 So we try and, again, provide a number of -- of

1 social activities and advocacy to the LGBT community in
 2 Wyoming.
 3 Q. And what are those social activities?
 4 A. We have -- We have camp-outs, we have dances, we
 5 have art shows, we have bingo.
 6 We try -- We try and be creative and change up
 7 social activities.
 8 Q. Let's go specifically to the same-sex marriage
 9 efforts, which -- When did those begin in earnest, would
 10 you say?
 11 A. I would say they began after the 2013 legislative
 12 session.
 13 Q. Okay. And why did they begin in earnest then?
 14 A. We were contacted by a couple of national
 15 organizations that had seen some of the headlines that
 16 came out of the legislative session, and wanted to --
 17 wanted to come to the table and talk about how they
 18 might be of assistance in helping us obtain same-sex
 19 marriage sooner rather than later.
 20 Q. And when you say sooner rather than later, were
 21 you -- When you say the end of the 2013 legislation,
 22 were you involved in legislative efforts to redefine
 23 marriage --
 24 A. Yes.
 25 Q. -- up until that point?

1 A. Yes.

2 Q. And who spearheaded those efforts for Wyoming

3 Equality?

4 A. Myself.

5 Q. Okay. And what did that involve?

6 A. It involved testifying at committee meetings at

7 the Capitol. Advocating. We try and send a monthly

8 newsletter keeping our members informed of what was

9 going on at the Capitol, and how they could be involved

10 in the process if they wanted to be.

11 Q. And at this point who -- who were you in contact

12 with in the government, in government positions to try

13 and get this? Did you have any allies, what you would

14 call allies in the Wyoming legislature for same-sex

15 marriage?

16 A. Yes.

17 Q. Can you give me some of their names?

18 A. I would say representative Cathy Connolly,

19 representatives Dan Zwonitzer, Senator Cale Case.

20 There's a number. If I had a list of the legislators I

21 could certainly probably identify a few more names as

22 well.

23 Q. So you said after the 2013 legislative session --

24 A. Right.

25 Q. -- you had sort of a movement, you had been

1 contacted by a number of national groups?

2 A. Correct.

3 Q. Which groups contacted you?

4 A. HRC, Human Rights Campaign.

5 Q. Okay.

6 A. National Center For Lesbian Rights, Gill

7 Foundation, and Gill Action.

8 Q. Any others you can remember that may have come

9 on -- in other words that may have come on after?

10 A. American Unity Fund.

11 Q. And what -- what was -- what was sort of the

12 decision that was made after the -- Was there something

13 about the 2013 legislative session that made those

14 national groups contact you?

15 A. They contacted us because they -- again, they had

16 seen some of the headlines that came out of Wyoming

17 during that legislative session.

18 Q. When you say -- Sorry to interrupt you.

19 A. Sure.

20 Q. When you say headlines, what was coming out?

21 A. I believe we were working on, in 2013 I believe

22 it was a domestic partnership rights and responsibility

23 bill along with a nondiscrimination bill. And I can't

24 remember if there was a bill that we would identify as

25 an anti-bill. I don't believe there was in 2013 but --

1 Q. When you say an anti-bill, what do you mean?

2 A. A bill that would -- A year or two years before

3 that, I'm not sure exactly when it was, there was a bill

4 that if you had a same-sex marriage or civil union

5 performed legally in a jurisdiction where it was legal

6 and you came to Wyoming, it would be null and void.

7 That's what I would consider an anti-bill.

8 Q. And did that bill pass?

9 A. It did not.

10 Q. But you didn't have one in 2013, according --

11 A. Not that I recall.

12 Q. -- to your recollection?

13 (Thereupon Deposition Exhibit 26 is marked.)

14 Q. Okay. Mr. Artery, I'm handing you what's been

15 marked Deposition Exhibit 26. It's a article from --

16 it's entitled Wyoming Same-sex Marriage Case Rests on

17 State Constitution.

18 I would direct your attention to page 5, if you

19 could go there, please. If you could just read the --

20 read the third and fourth paragraphs to yourself just to

21 review those before I ask you a question. The third and

22 fourth full paragraphs.

23 (Pause.)

24 A. Okay.

25 Q. Now, this article quotes you as saying "After the

1 2013 session when our bills made historic progress but

2 they didn't pass we sat down at the table and had a

3 really frank discussion".

4 Do you think this article's quoting you

5 accurately?

6 A. I do.

7 Q. Okay. Both paragraphs?

8 A. Correct.

9 Q. Okay. So is this what you were talking about,

10 that post 2013 --

11 A. It is.

12 Q. -- sit-down? And this is when the national

13 groups like HRC, NCLR, Gill, contacted you?

14 A. That's correct.

15 Q. And you concluded that the -- that the -- as the

16 second paragraph says, "The litigation is the fastest

17 way. It appeared to us that was the obvious choice."

18 A. Correct.

19 Q. When did that strategy -- Did that strategy begin

20 to take root some time in 2013?

21 A. It did.

22 Q. And do you remember when?

23 A. I would -- I would suspect -- The session

24 generally ends in February or March, and we started

25 conversations with those national groups after the

1 session had ended, and that's -- to the best of my
 2 knowledge that's when we started the process.
 3 Q. And was this the type of things that were
 4 discussed, whether to go legislative or to litigate the
 5 issue?
 6 A. Yes, it is.
 7 Q. And at some point was there a decision made?
 8 A. Yes.
 9 Q. And what was the decision?
 10 A. To litigate.
 11 Q. And was Wyoming -- How was Wyoming Equality
 12 involved in the case?
 13 A. We were asked to find plaintiff couples and to
 14 submit those names to, I would call our team, NCLR, and
 15 then they would -- they would contact those potential
 16 plaintiff couples and see if they were a good fit for
 17 the litigation.
 18 So we provided, I would say, eight to ten names
 19 for potential couples, and talked about what the case
 20 would look like. Decision was made that Wyoming
 21 Equality would also be a plaintiff in the case.
 22 Q. As an organization?
 23 A. As an organization, that's correct.
 24 Q. When would you say the meetings, again, started?
 25 Would you say right after the legislative session?

1 A. I would say that, yes.
 2 Q. Okay. And who would have been at these meetings?
 3 A. Most generally they were a conference call.
 4 Q. Okay.
 5 A. I do believe that a couple of the meetings,
 6 someone may have attended from Gill Action, just because
 7 they're in Denver and it was an easier commute, but the
 8 folks we were conferencing with at NCLR and ERC, of
 9 course, were in California and Washington, D.C.
 10 Q. Who from -- How many meetings would you say you
 11 had? Were they weekly, monthly?
 12 A. I would say monthly.
 13 Q. Okay. Who from Wyoming Equality would sit in on
 14 those meetings?
 15 A. Generally it would be myself -- You know, these
 16 meetings happened during weekdays, and a lot of our
 17 board members, I would say don't have the flexibility to
 18 attend; you know, they work regular jobs, to attend
 19 these types of calls. We would always announce, the
 20 board, when would have a call-in by anyone who was able
 21 to, but I could not recall specifically who attended
 22 what meetings.
 23 Q. Would -- Can you recall any names of anybody who
 24 had been at any meetings besides you? Who were the
 25 officers -- Let me change the question. Who were the

1 officers at the time?
 2 A. I believe Joe Corrigan would have been co-chair.
 3 I honestly would have to look at the records because I
 4 don't know.
 5 Q. Do you know Wendy Soto?
 6 A. I do know Wendy Soto.
 7 Q. How do you know Wendy Soto?
 8 A. I would say Wendy Soto is my best friend.
 9 Q. How long have you known each other?
 10 A. Five or six years.
 11 Q. How did you meet?
 12 A. I met Wendy when she was campaigning for the
 13 county clerk.
 14 Q. And how often would you say you talk, generally?
 15 A. I would say daily to every other day.
 16 Q. And at that time in 2013, was she the secretary
 17 of Wyoming Equality?
 18 A. She may have been. I don't know.
 19 Q. Do you know if she resigned at some point in
 20 2013?
 21 A. Yeah, that sounds right. I'm not sure of the
 22 exact date but I do know when we -- when I brought to
 23 the board the potential of litigating, Ms. Soto
 24 resigned.
 25 Q. And when do you think that was?

1 A. Probably around the same time when we just
 2 started talking to these national groups.
 3 Q. Okay. But when was -- Was the decision made that
 4 quickly?
 5 A. I'm sorry, the decision?
 6 Q. Well, so you began speaking with the national
 7 groups, I think you said some time after --
 8 A. After the session, correct.
 9 Q. -- the session, so maybe March?
 10 A. Correct.
 11 MR. DIXON: Don't talk over each other. Let
 12 him finish.
 13 Q. (By Mr. Connelly) My fault.
 14 MR. DIXON: It's okay. Everybody does it.
 15 A. Sure.
 16 Q. (By Mr. Connelly) When was the decision -- How
 17 long did it take when you decided to litigate, from the
 18 time you met first, to decide to litigate?
 19 A. From when I first met Wendy?
 20 Q. No, no, from the time you met with the national
 21 groups in March to the time you made the final decision
 22 that litigation was your best bet.
 23 A. My best bet would be a couple of months.
 24 Q. Okay. So when you say Ms. Soto resigned once you
 25 brought the idea of litigation forward, that would

1 probably have been a few months after the discussions
 2 had started with national groups?
 3 A. I don't know. I would guess.
 4 Q. Do you remember if she was at any of the meetings
 5 for the teleconferences with national groups?
 6 A. I don't believe she was but I do not know.
 7 Q. Do you remember updating her as secretary of
 8 Wyoming Equality, with the progress of the discussions?
 9 A. To the extent that she was involved with the
 10 board.
 11 Q. Okay. And you said you spoke daily or every
 12 other day or something like that?
 13 A. Correct.
 14 Q. So would it be safe to assume that would have
 15 been something that would have come up anyway as best
 16 friends?
 17 A. Yeah.
 18 Q. What reason did Ms. Soto give you for resigning
 19 from the board?
 20 A. She viewed this as a potential conflict of
 21 interest, and said she would no longer be able to serve
 22 on the board.
 23 Q. And when you say conflict of interest, be
 24 specific, if you can.
 25 A. I don't remember when exactly Wendy came into

1 this current position, but I remember her saying if
 2 there's going to be any litigation involved I will not
 3 be able to serve on this board.
 4 Q. Okay. When you say "this current position", you
 5 mean the executive director of the Commission on
 6 Judicial Ethics?
 7 A. Yes.
 8 Q. I'd just like to direct you to the front cover of
 9 that article, if you would. When you say there was --
 10 What would the conflict have been, what would the
 11 conflict of interest have been? You said she worked as
 12 the Commission executive director. Do you mean the
 13 case, the litigation?
 14 MR. DIXON: Objection. No foundation.
 15 A. I would say when she resigned we respected her
 16 decision.
 17 Q. (By Mr. Connelly) So, in other words -- but you
 18 understood Ms. Soto to be communicating to you that it
 19 was the litigation, the case itself you decided to bring
 20 forward as Wyoming Equality as a plaintiff, that was a
 21 conflict of interest?
 22 A. That's correct.
 23 Q. Again, if I could direct your attention to the
 24 front page of that article, Exhibit 26. The caption
 25 under that, I'll just go ahead and read it and you let

1 me know if I make any mistakes. "Advocates of same-sex
 2 marriage stand in front of the Wyoming Capitol at a
 3 rally in support of the Courage v. Wyoming court case."
 4 Do you remember when that case was filed?
 5 A. I do not. I would ballpark March.
 6 Q. Of?
 7 A. 2014.
 8 Q. Okay. So this is a picture taken outside. Can
 9 you tell me when this picture was taken to the best of
 10 your recollection?
 11 A. The best of my recollection, it would be shortly
 12 after the litigation was filed.
 13 Q. So some time after March of 2014?
 14 A. I would guess, yes.
 15 Q. Can you let me know who these people are,
 16 starting from the left?
 17 A. Starting from the left is Kate Wright, Lori
 18 Brand, Laura Jackson, Luke Jackson, Jodi Ness, Wendy,
 19 myself, Mike Bleakley.
 20 Q. You don't have -- You can get me the people --
 21 A. Dan Zwonitzer and Mary Throne.
 22 Q. Who are they?
 23 A. Representative Dan Zwonitzer, and Representative
 24 Mary Throne.
 25 Q. And they were back by the podium?

1 A. Correct.
 2 Q. So this is a rally in support of the litigation.
 3 Do you remember the name of the case?
 4 A. Courage vs. Wyoming.
 5 Q. And you estimate this is some time in March of
 6 2014?
 7 A. Yes.
 8 Q. And Ms. Soto was at that rally?
 9 A. Correct.
 10 Q. Can you describe your views for me on same-sex
 11 marriage?
 12 A. Yes. I believe that same-sex couples should be
 13 allowed all the rights and responsibilities that
 14 everyone else is afforded with the protections of
 15 marriage.
 16 Q. Okay. Do you have any religious beliefs about
 17 same-sex marriage?
 18 A. I wouldn't say that I particularly have religious
 19 beliefs about same-sex marriage but I do believe in the
 20 golden rule of treating others the way you would want to
 21 be treated.
 22 Q. Just to go back to that rally, were those
 23 frequent? Did Wyoming Equality organize rallies leading
 24 up to the same-sex marriage cases?
 25 A. Yes, we did.

1 Q. And who organized those rallies?
 2 A. Generally Wyoming Equality.
 3 Q. Okay. Who at Wyoming Equality?
 4 A. Myself.
 5 Q. Okay. Anybody else help you?
 6 A. Yes. Whenever we would have a rally we would
 7 generally publicize it in our newsletter, and folks
 8 would reach out to us to volunteer their time.
 9 Q. Was Wendy Soto one of those people?
 10 A. I would not say that Wendy Soto offered to
 11 organize a rally; no, I would not say that.
 12 Q. How often would you say she attended rallies?
 13 A. I would say if there was a rally in Cheyenne on a
 14 day that she was available to attend, she would attend.
 15 Q. And she attended rallies while she was executive
 16 director of the Commission?
 17 A. Correct.
 18 Q. I just want to confirm one thing. You don't
 19 remember whether Wendy was on any of the calls with the
 20 national litigation groups?
 21 A. I do not remember.
 22 Q. One other question on those litigation groups.
 23 Who was main counsel on those, in those cases, do you
 24 remember?
 25 A. NCLR.

1 memory?
 2 A. Yeah. It looks like a Twitter post.
 3 Q. Was it your Twitter post?
 4 A. Yes.
 5 Q. Do you recall why you made that Twitter post?
 6 A. I -- I don't know exactly what Mozilla does other
 7 than -- than something with web browsing, and at the
 8 time I believe there was an article that the CEO had
 9 made some sort of anti comments and stepped down, or was
 10 forced to resign, and probably was just sharing the news
 11 story.
 12 Q. Okay. But you made a comment that Mozilla stands
 13 up for equality, CEO steps down. Do you remember why
 14 the CEO stepped down?
 15 A. I do not remember.
 16 Q. If I told you he stepped down from pressure put
 17 on him because he had donated to a Prop 8 campaign in
 18 California, --
 19 A. Okay.
 20 Q. -- does that refresh your recollection?
 21 A. Vaguely.
 22 Q. Okay. Just a straight up question then. Do you
 23 believe that people should be fired, forced to step down
 24 for believing that marriage is the union of one man and
 25 one woman?

1 Q. Okay. Do they charge for services, legal
 2 services?
 3 A. They did not.
 4 Q. So it would be safe to assume or to claim they
 5 were pro bono representation?
 6 A. Correct.
 7 Q. Have you heard of Brandon Eich?
 8 A. No.
 9 Q. Have you heard of Mozilla?
 10 A. Mozilla?
 11 Q. Yeah.
 12 A. Is that a web browser?
 13 Q. It's a company that has Fire Fox web browser.
 14 A. Okay.
 15 Q. Have you heard of that?
 16 A. I have heard of them.
 17 Q. Do you remember any social media posts you might
 18 have been involved with with respect to Mozilla?
 19 A. With respect to Mozilla, I do not.
 20 (Thereupon Deposition Exhibit 27 is marked.)
 21 Q. Okay. Mr. Artery, I'm going to hand you what's
 22 been marked Deposition Exhibit 27. I'm going to have
 23 you review that before I ask you a question.
 24 (Pause.)
 25 Q. What is that document? Does that refresh your

1 A. I would say it depends on what their position is.
 2 And by position I mean status with the company, roles,
 3 titles.
 4 Q. Okay. So explain that.
 5 A. If -- If you are in the public spotlight as a
 6 CEO, I believe you're bound by the rules and regulations
 7 and laws of the country.
 8 Q. Does that mean you cannot hold an opinion as to
 9 what marriage is?
 10 A. No.
 11 Q. What is your opinion of those who continue to
 12 believe that marriage is the union of one man and one
 13 woman?
 14 A. I would say I respect the opinions of those who
 15 have deeply held religious beliefs. I have often said
 16 through the marriage campaign that we weren't interested
 17 in forcing any clergy who was not comfortable with
 18 same-sex marriage into performing same-sex marriage.
 19 I believe there are plenty of churches, clergy,
 20 officiants that are willing to officiate same-sex
 21 marriage, and I do believe in freedom of religion.
 22 (Thereupon Deposition Exhibit is marked.)
 23 Q. All right. Mr. Artery, I'm handing you what's
 24 been marked Deposition Exhibit 28. What is this
 25 document? Do you recognize it?

1 A. It looks like a post from my blog.
 2 Q. And what is your blog's title?
 3 A. Out In Wyoming.
 4 Q. And how long -- sorry. How long have you had
 5 this blog?
 6 A. For several years.
 7 Q. Okay. And is it -- Why do you have a blog?
 8 A. I was originally asked to start a blog so that
 9 folks could be updated on what's going on in Wyoming
 10 within regards to the LGBT community.
 11 Q. Just directing your attention to the second
 12 paragraph, I'll go ahead and read that. "North Carolina
 13 passes a constitutional amendment not only banning gay
 14 marriage but also banning the future passage or
 15 possibility of civil unions."
 16 And then down below the next paragraph, "I would
 17 imagine the bigots, haters, MyWatchers, religious freaks
 18 and many tea party members are having a field day with
 19 this."
 20 Who were you referring to when you said, bigots
 21 and haters?
 22 A. I come into contact with -- with many people that
 23 I would identify as bigots and haters. When we testify
 24 at committee meetings, city council meetings, there are
 25 generally individuals who say what I would view as very

1 hateful things, and in my opinion that makes them
 2 hateful and bigoted.
 3 Q. Is it your opinion that anyone who doesn't agree
 4 that marriage can be between anyone other than a man and
 5 a woman is bigot and a hater?
 6 A. I would not say that, no.
 7 Q. Is it your opinion that anyone who does not
 8 facilitate marriages between and a man and man or a
 9 woman and a woman is a hater or a bigot?
 10 A. I would not necessarily say that either.
 11 Q. When you were talking about WyWatchers can you
 12 explain that?
 13 A. I would say WyWatch is probably the counterpart
 14 to Wyoming Equality. I would call them the opposition.
 15 They generally oppose most everything that Wyoming
 16 Equality tries to do.
 17 Q. So you would say -- Are they a public advocacy
 18 group?
 19 A. Yes.
 20 Q. And what would their position on same-sex
 21 marriage be?
 22 A. Would be that marriage is between one man and one
 23 woman.
 24 Q. Okay. And they're lumped in with the bigots and
 25 haters on your blog?

1 A. Yes.
 2 Q. And religious freaks, is that -- can you just
 3 explain that?
 4 A. Yeah. I would say in my opinion a religious
 5 freak is one who tries to impose their religious beliefs
 6 on other people, extremists.
 7 Q. Okay.
 8 (Thereupon Deposition Exhibit 29 is marked.)
 9 Q. Okay, Mr. Artery, I'm placing in front of you
 10 what's been marked Deposition Exhibit 29. I'll give you
 11 a couple of seconds to review that.
 12 (Pause.)
 13 Q. What is that document?
 14 A. This is another blog post.
 15 Q. This is from June 9, 2011?
 16 A. Yes.
 17 Q. The first paragraph I'll just -- again I'll read
 18 that, and you can tell me if I've messed anything up.
 19 "The WyWatch family values pledge was signed by 14
 20 Wyoming legislators in 2010. These legislators promised
 21 to protect and advocate for the precious life of the
 22 unborn --
 23 (Court reporter interrupted.)
 24 Q. "The WyWatch family values pledge was signed by
 25 14 Wyoming legislators in 2010. These legislators

1 promised to protect and advocate for the precious life
 2 of the unborn, marriage between one man and one woman,
 3 and other Judeo Christian principles. The following
 4 legislators signed". And then you list out a bunch of
 5 senators and representatives from Wyoming. Why did you
 6 do that?
 7 A. Because the information was available.
 8 Q. That was how you did it.
 9 A. Right.
 10 Q. Why would you list their names out there on your
 11 blog?
 12 A. So that -- for information, for those who would
 13 be interested in that information.
 14 Q. And what would -- Put it in terms -- if you could
 15 put it in terms, did you list them out as sort of an
 16 advocacy position of Wyoming Equality?
 17 A. I don't know in 2011 if I was chairman of the
 18 board at the time, but I would certainly say this would
 19 be information that people could use to contact
 20 legislators; information for -- just for personal
 21 knowledge.
 22 Q. Okay. Moving down that first page, I'll go ahead
 23 and read again, "In case you were wondering what these
 24 Judeo-Christian principles were, here is a partial
 25 list".

1 I won't read the whole list, but the first two
2 are, "Dignity of human life", and "Marriage, the
3 traditional monogamous family". And then lower down you
4 wrote, "WYWatch is a hate group!" Why did you write
5 that?

6 A. Because I believe WyWatch should be listed as a
7 hate group with Southern Poverty Law Center.

8 Q. You mean with -- on Southern Poverty Law Center's
9 list?

10 A. List of hate groups, yeah.

11 Q. And what makes you say that?

12 A. Because they disseminate false information.

13 Q. Now, you said that right after you listed one of
14 these listed principles, was marriage, the traditional
15 monogamous family. So would it be safe to say that a
16 belief that you believe, that believing the traditional
17 monogamous family makes one a hater or a part of a hate
18 group?

19 A. No, I would not say that. I would say it's the
20 things that WyWatch says that makes them a hate group.

21 Q. And can you give me an example of what they say?

22 A. They say things like, same-sex marriage is going
23 to lead to child molestation; that homosexuals are
24 suffering from psychological ailments; that they're drug
25 users, all infected with HIV, all going to die of anal

1 cancer. These are the things that I hear up at the
2 Capitol when WyWatch folks are testifying. And that's
3 why I think they should be listed as a hate group.

4 Q. Turning your attention to page 2, if you could
5 turn to page 2. You say, "if these values are something
6 you like to teach in the privacy of your own home, fine,
7 whatever, you have a right to do that, but this is not
8 something that should be forced on to Wyoming
9 legislators."

10 You said WyWatch was essentially the opposite of
11 Wyoming Equality?

12 A. Correct.

13 Q. And you engage in public advocacy with
14 representatives and senators in the Wyoming legislature?

15 A. That's correct.

16 Q. Doesn't this statement signify that you don't
17 believe that Wyoming Watch should be able to do that as
18 well?

19 A. No. I wouldn't say that I'm saying that they
20 don't have a right to advocate as well.

21 Q. What did you mean by, when you said that, "This
22 is not something that should be forced on to Wyoming
23 legislators"?

24 A. The -- the misinformation that they often talk
25 about. That's what I would say.

1 Q. When you received the subpoena in this matter did
2 you know who it came from?

3 A. I did not.

4 Q. Did you do any research on Alliance Defending
5 Freedom?

6 A. I did not.

7 Q. Did you have any discussions with Mr. Dixon about
8 Alliance Defending Freedom?

9 A. I don't believe so.

10 Q. If I told that you Alliance Defending Freedom
11 defends cases involving religious liberty and advocates
12 that -- for -- or advocated for state laws that upheld
13 marriages of one man and one woman, what would be your
14 opinion of Alliance Defending Freedom?

15 A. I would say you're on the wrong side of history.

16 Q. Why would you say that?

17 A. Because you're on the wrong side of history.

18 Q. What do you consider the right side of history?

19 A. Equality, civil rights. I feel like the writing
20 is on the wall. The Supreme Court has cleared this up
21 once and for all, and I feel like the history books will
22 be written with groups like -- I'm sorry, what was the
23 name of your group?

24 Q. Alliance Defending Freedom.

25 A. Alliance Defending Freedom, as being on the wrong

1 side of history.

2 Q. Do you believe that the people have a say in
3 defining how marriage is defined?

4 A. I don't believe that a majority should dictate
5 the rights of a minority group.

6 Q. Would it be safe to say that you were impatient
7 of change, and that's why you decided to file the
8 Courage vs. Wyoming case?

9 A. I would say that's fair.

10 MR. CONNELLY: It's probably a good time to
11 take a break.

12 (Recess from 10:03 a.m. until 10:10 a.m.)

13 Q. (By Mr. Connelly) Okay. Mr. Artery, just want
14 to -- Going back on the record. Do you have anything
15 that you remember that you want to change about your
16 testimony or modify coming back in?

17 A. I don't right now, no.

18 Q. That's fine. I just have a couple of questions
19 to follow up on what we talked about earlier before we
20 move on to a couple different categories.

21 You testified earlier you spoke to Mr. Dixon
22 early on in March, and you said it was soon after this
23 case began, about anybody who might have information or
24 about the impact on the LGBT community of a judge who
25 wouldn't do same-sex marriages. Can you talk about why

1 you gave him Mr. Oleson and Mr. Johnson's names?

2 A. I gave them their names because I've known Rob
3 and Carl for a number of years. They were one of our
4 plaintiff couples in *Courage v. Wyoming*. I would call
5 them kind, compassionate, well spoken, and generally
6 good ambassadors for our community.

7 Q. And where did -- did you say they live in Casper?

8 A. Casper.

9 Q. Are they married now?

10 A. Yes.

11 Q. When did they get married, do you recall?

12 A. I don't recall.

13 Q. Was it after the Supreme Court case or after
14 *Guzzo v. Mead*?

15 A. No, it was before.

16 Q. Was it in Wyoming?

17 A. It was Ontario, Canada, I believe.

18 Q. We spoke about Wyoming Equality's push to get
19 same-sex marriage litigated after the legislative
20 session 2013. Was Wyoming Equality involved in same-sex
21 marriage efforts before that?

22 A. Yes.

23 Q. For how long would you say?

24 A. I can't speak to what was done with Wyoming
25 Equality before I became involved with the board, but

1 since I became involved I would say that we absolutely
2 advocated for same-sex marriage, at least since I've
3 been involved with the board.

4 Q. So the entire time you've been involved with the
5 board same-sex marriage has been an advocacy effort?

6 A. Correct, correct.

7 Q. You spoke about your conviction that there are
8 plenty of clergy willing to perform same-sex marriages,
9 and it was not ever Wyoming Equality's position that
10 they should be forced to do so?

11 A. Correct.

12 Q. Do you agree that there are plenty of clergy in
13 Wyoming willing to perform same-sex marriages?

14 A. Yes, I do.

15 Q. And you've lived in Wyoming your whole life?

16 A. That's correct.

17 Q. And you speak at churches regarding LGBT issues?

18 A. That's correct.

19 Q. So you would -- You have personal knowledge then
20 that there are plenty of clergy willing to perform
21 same-sex marriages --

22 A. Yes.

23 Q. -- here in Wyoming?

24 A. Yes.

25 Q. Can you just tell me a little bit about your

1 specific duties as director -- I should say chair of
2 Wyoming Equality?

3 A. I would say as the board chairman, the duties are
4 very broad. Everything from advocating to fund-raising,
5 to keeping our membership and allies informed of
6 developments. I would say as a board chair I wear a lot
7 of hats.

8 Q. And when would you say -- We talked a little bit
9 about Ms. Soto's position as secretary. How did she
10 become secretary of Wyoming Equality?

11 A. I invited her to a board meeting.

12 Q. Okay. When was that?

13 A. I honestly don't recall.

14 Q. Can you give a guesstimate?

15 A. 2011, 2012.

16 Q. Okay.

17 A. I could certainly go through Wyoming Equality's
18 minutes and find specifics.

19 Q. Okay. Did you formally ask her to come on the
20 board at a certain point?

21 A. I did not. Actually I invited her to a board
22 meeting, and I was unable to attend that board meeting
23 and was informed after that meeting that she was -- had
24 been voted in as the secretary. I knew there was a
25 secretary vacancy, and I don't remember who it was that

1 left that position but I would say I was pleasantly
2 surprised when I found out that she was a part of the
3 executive committee of Wyoming Equality.

4 Q. And why was that?

5 A. Because she is -- As I've stated previously,
6 Wendy -- Wendy is my best friend, and I view her as
7 articulate and extremely professional. And as a board
8 chair I'm always looking for -- for individuals that
9 will make Wyoming Equality a topnotch organization, and
10 I felt like Wendy would accomplish that.

11 Q. What would you say some of -- let's -- What would
12 you say her duties were, Ms. Soto's duties were as
13 secretary of Wyoming Equality?

14 A. To take minutes at the meetings, present those
15 minutes at the next meeting for approval. And all of
16 our board members, we look for -- for input, guidance,
17 again, to make the organization a topnotch organization.

18 Q. Okay. Did Ms. Soto assist in any of the -- You
19 talked about social events before. Did she assist in
20 putting together social events for Wyoming Equality?

21 A. I believe so. You know, one of the social events
22 that we do are we hold dances occasionally. And, again,
23 being an organization of volunteers, a lot of times
24 we're shorthanded with people that are willing to take
25 money at the door, and I believe she would help us

1 collect funds for our different events; whether they be
2 dances. I remember her and I, several years ago when we
3 did an art show, helped with food, and just to make the
4 art show a success.

5 Q. Okay. Did Ms. Soto help with fund-raising?

6 A. I would say yes. I would say every board member
7 is asked to help with fund-raising.

8 Q. And why is that?

9 A. Because just like many other charities in
10 Wyoming, we're always -- you know, money is always an
11 issue, and we always want to -- always want to have
12 funds available to do what needs to be done.

13 Q. And you still speak with her, Ms. Soto, about
14 LGBT issues even while she's -- even while she's the
15 executive director?

16 A. Yes.

17 Q. Do you have any commun -- Did you have any
18 communications with Ms. Soto regarding fund-raising
19 while she was the executive director of the Commission?

20 A. I don't recall specifically but I would -- I
21 would venture to say yes.

22 Q. Okay. Did Ms. Soto prepare any press releases
23 for Wyoming Equality while she was the secretary?

24 A. I don't know if she specifically prepared press
25 releases. I would oftentimes prepare any sort of a

1 media statement myself, and then ask other board members
2 to proofread before something was sent to the media.

3 Q. I'm going to hand you what's been previously
4 marked as Deposition Exhibit 5. Do you recognize that?
5 Let me give you a couple seconds to review it.

6 A. Does anyone have a set of reading glasses that I
7 might be able to borrow?

8 MR. DIXON: I wonder if the other copy is
9 better.

10 MR. CONNELLY: That's the original exhibit.

11 MR. DIXON: I thought we had a better copy.

12 A. I apologize, I left my glasses at home.

13 MS. TURNER: Do you want this?

14 (Pause.)

15 A. Do you want me to go through all of these?

16 Q. (By Mr. Connelly) I'm only focussing on the
17 first page. So if you remember, would you just tell me
18 what that is? It appears to be an e-mail from you to
19 Ms. Soto.

20 A. Yeah. I believe this was -- It looks like it was
21 around April, obviously, of 2015. I was getting media
22 inquiries into what was going on within regards to
23 personally being threatened.

24 Q. Where were you being threatened? Was it by phone
25 or . . .

1 A. I would say mainly on social media.

2 Q. And so this e-mail, the top e-mail, Friday, April
3 3rd at 1:31, this looks like an e-mail from you to
4 Ms. Soto on her Gmail account. You said, "Very rough
5 draft, can you help me". What were you seeking help
6 with?

7 A. As I recall I was contacted by K2 Television in
8 Casper, about what was going on on social media, I
9 believe namely Twitter, and it was reported that I was
10 advocating for closing churches that didn't believe in
11 what Wyoming Equality believed. And that made a lot of,
12 I would say Facebook headlines, Twitter headlines, and I
13 began receiving threats, and we felt like we needed to
14 put out some sort of a press release. I don't recall if
15 a press release ever went out or if I just did the
16 interview with K2 News.

17 Q. But this was a request for Ms. Soto to help you
18 with a draft?

19 A. Correct.

20 Q. Do you remember if she helped you?

21 A. I don't remember. I honestly don't remember if
22 we even put out a press release or if I just went and
23 sat down with the television station. Generally when I
24 get media inquiries they're -- they have a deadline for
25 a story and they're wanting to get something out for

1 noon newscast or 5 o'clock newscast, and they generally
2 want to meet as soon as possible. And I don't know if
3 this fell through the cracks. I don't know if we talked
4 about it anymore after this or not.

5 Q. So Ms. Soto -- that follow-on e-mail looks like
6 about five minutes later, 1:36 p.m., said, "I will call
7 you at 10." And three minutes later you wrote back,
8 "This is not for TV news but for a press release."

9 Was it common for Ms. Soto to help you with TV
10 interviews?

11 A. No, not generally.

12 Q. But press releases?

13 A. I would say more so when there was some sort of
14 writing that was involved.

15 Q. I'm going to hand you also now what's been
16 marked, previously marked as Deposition Exhibit 6. It's
17 another small e-mail unfortunately.

18 MR. DIXON: This font ought to be made
19 illegal.

20 MR. CONNELLY: It's good if you want to
21 travel with less paper.

22 MR. WARDLOW: As in our case.

23 MR. DIXON: That's stretching for a silver
24 lining.

25 (Pause.)

1 Q. (By Mr. Connelly) This appears to be an e-mail
2 you forwarded to Ms. Soto regarding the Guzzo v. Mead
3 case; is that correct?

4 A. Correct.

5 Q. And Ms. Soto -- it's a Google mail so we have to
6 go down to the bottom. You wrote to Ms. Soto, "Just
7 FYI, Bestie, time to get you back on the board." And
8 then you forwarded the news about the Guzzo case?

9 A. Um-hum.

10 Q. Which struck down -- or led to the striking down
11 of the Wyoming marriage laws. And she said, "Wow.
12 Okay. Let's talk."

13 Do you remember what happened on that follow-up
14 conversation?

15 A. I believe I was probably fairly persistent in
16 suggesting that she join Wyoming Equality's board again.
17 And Wendy said that she would think about it and get
18 back to me. And a couple weeks later she said she would
19 not be able to join the board, and I think I said that
20 that was too bad.

21 Q. Okay. And just clarification, when you "Just
22 FYI, Bestie", I assume that's an affectionate term, a
23 term of endearment?

24 A. Would refer to best friend, yes.

25 Q. Do you remember why she said she wouldn't be able

1 to join the board?

2 A. No, she would not say.

3 Q. Remind me why you would want her back on the
4 board?

5 A. Because she's intelligent, she's articulate. I
6 would just -- I would consider her a great asset to a
7 board, to a volunteer board that's always looking to
8 strengthen itself.

9 Q. And would it be safe to say that she's dedicated
10 to LGBT causes?

11 A. I would say that, yes.

12 Q. I want to talk a little bit more specifically
13 about this case.

14 A. Okay.

15 Q. When did you first learn of Judge Neely's
16 statement, that her religious views prevented her from
17 performing same-sex marriages?

18 A. I honestly do not know when I first became aware
19 of that.

20 Q. Do you remember whether it was by reading the
21 article that divulged that information or at some other
22 time?

23 MR. DIXON: By Sublette Examiner --

24 Q. (By Mr. Connelly) Sublette Examiner or Pinedale
25 Roundup. Do you know if it was one of those? Did you

1 read that first or did someone tell you about the
2 article?

3 A. I don't believe I read the articles.

4 Q. Okay. Do you remember when you first heard about
5 the article then?

6 A. I do recall finding out about it but, again, I
7 don't believe it was through, through the newspaper
8 article or an online content. In fact, I don't think I
9 have read anything about this other than what's been in
10 the paper. I would say the last month.

11 Q. About the existence of the proceeding?

12 A. Correct.

13 Q. Did you ever read the article -- Have you read
14 the article?

15 A. The one from the Pinedale Examiner?

16 Q. The Sublette Examiner or the Pinedale Roundup.

17 A. I have not.

18 Q. Were you at a Christmas party at Wendy Soto's
19 house in December of 2014?

20 A. Probably.

21 Q. Do you remember when the party was?

22 A. Around Christmas.

23 Q. Some time in December?

24 A. Yes.

25 Q. Had you been to parties at Wendy's house before?

1 A. Yes.

2 Q. How frequently would you say?

3 A. Quarterly.

4 Q. Okay. Was the Christmas party a yearly event,
5 bi-yearly event?

6 A. I think it's generally an annual event.

7 Q. Do you remember who was at the 2014 party?

8 A. Some probably. I remember most people.

9 Q. Can you name who you remember being there? And
10 I'm not asking for an exhaustive list; if you give me 10
11 or 15.

12 A. Let's see, who was there? Obviously my husband,
13 Lori Brand, Ray Brand, Ana Cuprill. If you throw some
14 names at me I could probably say yes or no.

15 Q. Mary Throne?

16 A. Yes, I believe so.

17 Q. Lee Filer?

18 A. I believe so.

19 Q. Mike Bleakley you said?

20 A. Yeah.

21 Q. I can't read that one. Wright, a Mr. or
22 Mrs. Wright?

23 A. Okay. Probably Kate and Gaylan Wright.

24 Q. Let's talk about Ana Cuprill first. How long
25 have you known Ana?

1 A. Several years.

2 Q. Do you remember when you met?

3 A. I would say I got to know Ana very well when we
4 were both delegates at the DNC in Charlotte.

5 Q. Was that in 2012?

6 A. Yes.

7 Q. Was that the first time you met her or did you
8 get to know her better there?

9 A. That's where I got to know her better.

10 Q. And who is Ms. Cuprill?

11 A. Now she is the state party chair of the Wyoming
12 Democratic Party.

13 Q. Do you know what she was back then in 2012, when
14 you were at the DNC?

15 A. I believe she was just a delegate. She may have
16 been in some executive type position with the party but
17 I honestly don't remember.

18 Q. Did Ana Cuprill, at some point during that party,
19 speak to you about the Judge Neely article?

20 A. I don't know if she specifically spoke about the
21 article.

22 Q. Were there other discussions with anybody else
23 about that article at Ms. Soto's party?

24 A. I honestly don't remember.

25 Q. Do you remember speaking to anybody at the party

1 about the article?

2 A. About the article specifically, no.

3 Q. Do you remember suggesting to Ms. Cuprill to
4 bring her concerns about the article to Ms. Soto?

5 A. I may have. I don't -- I do not recall honestly.

6 Q. So you don't recall anything about the article --
7 about the article?

8 A. No.

9 Q. You don't remember?

10 A. I don't.

11 Q. Was there a copy of the article there at the
12 party, do you recall?

13 A. Not that I recall.

14 Q. Was Judge Neely spoken about at the party?

15 A. It's possible.

16 Q. Okay. Do you remember what would have been said
17 about Judge Neely?

18 A. I don't remember if anything was specifically --
19 I don't even remember if Judge Neely's name was
20 mentioned. I know there was some mention about a judge
21 in Pinedale who probably would not perform a same-sex
22 marriage.

23 Q. Okay. And do you remember who initiated that
24 conversation?

25 A. I don't remember who initiated it.

1 Q. Do you remember who was part of the conversation?

2 A. Most everyone in attendance.

3 Q. And so where would you say the conversation was
4 taking place then?

5 A. In the living room.

6 Q. Okay. Did it stay there mostly?

7 A. That's where most everyone hung out.

8 Q. And what were some of the comments being made?
9 Do you remember who made certain comments?

10 A. I don't remember who made certain comments.

11 Q. Do you remember Ms. Soto saying anything about
12 it?

13 A. I don't remember.

14 Q. Do you remember Ms. Cuprill saying anything about
15 the judge in Pinedale?

16 A. I believe I first became aware of the situation
17 in Pinedale from a conversation with Ms. Cuprill, but I
18 don't recall if it was this Christmas party that
19 initiated it.

20 Q. So it could have been earlier?

21 A. It could have been.

22 Q. And what did you say to Ms. Cuprill when you
23 found out that a judge in Pinedale was not willing to
24 perform same-sex marriages?

25 A. I don't remember what I said specifically but I

1 probably would have suggested -- I don't remember what I
2 said to her specifically.

3 Q. Well, did you suggest that she consult Ms. Soto
4 about her concerns?

5 A. I don't know if I specifically said to consult
6 Ms. Soto. Normally when people come to us with this
7 sort of thing I would say, a couple needs to go apply
8 for a license and then if they're denied, pursue
9 whatever means is necessary.

10 Q. Did you say anything to Ms. Cuprill when you
11 found out about it? Do you remember saying anything?

12 A. I don't remember, no.

13 Q. Do you remember if you spoke to Ms. Soto about
14 what Ms. Cuprill told you about the situation in
15 Pinedale with the judge?

16 A. I don't know if I spoke with Ms. Soto about the
17 conversation with Mrs. Cuprill. I don't believe so.

18 Q. Have you spoken to Ana Cuprill since this matter
19 was initiated in March of 2015?

20 A. Yes, I have spoken to her. I saw her in Jackson
21 Hole a couple weeks ago.

22 Q. Okay. What did you speak about there?

23 A. We were at a Democratic Central Committee
24 meeting.

25 Q. Was that the only time you've spoken to her

1 since?

2 A. Since March?

3 Q. Since the Christmas party. Let's expand the
4 range.

5 A. I may have. I would say I see Ana maybe
6 quarterly to semi-annually at different events.

7 Q. Okay. Have you spoken about this case with her?

8 A. In Jackson we both said we better not talk about
9 this.

10 Q. What date was that, what month did you say that
11 was in?

12 A. It was in August.

13 Q. And why did you say that to each other?

14 A. Because we didn't think we should talk about it
15 with each other.

16 Q. And why was that?

17 A. Because the proceedings were confidential.

18 Q. And so when in August was this?

19 A. I would say mid to late August.

20 Q. So if it was in mid August, that would have been
21 before you received the subpoena, correct?

22 A. It would have been before I received the
23 subpoena.

24 Q. And how did you know at that point that the
25 proceeding was ongoing?

1 A. I believed -- I believe it was a phone call from
2 Pat saying that I was going to get a subpoena.

3 Q. Okay. Do you know how Ms. Cuprill or why --
4 change that. Do you know why Ms. Cuprill went to
5 Ms. Soto?

6 MR. DIXON: Objection. No foundation.
7 Speculation.

8 A. I don't know why she did that.

9 Q. (By Mr. Connelly) Do you know who referred her
10 to Ms. Soto?

11 A. I don't know. I would say Ana's a very
12 intelligent woman and is very capable of figuring things
13 out.

14 Q. Do you remember referring her to Ms. Soto?

15 A. I do not specifically remember referring her to
16 Ms. Soto.

17 Q. Do you know if anyone else at that party referred
18 her to Ms. Soto to speak to about the judge situation in
19 Pinedale?

20 A. Not that I recall.

21 Q. Has anyone told you since then that they told
22 Ms. Cuprill to speak to Ms. Soto?

23 A. No.

24 Q. Has Ms. Soto spoken to you about the case?

25 A. When I first got the call from Mr. Dixon saying

1 that there was going to be a proceeding, I believe I
2 went to Ms. Soto's office and said, Now I understand why
3 you can't join our board.

4 Q. When was this?

5 A. I would say shortly after my phone call with
6 Mr. Dixon.

7 Q. Is this in August or March?

8 A. March.

9 Q. And was that the phone call where he asked you if
10 you knew any LGBT folks who could testify about the harm
11 of a judge not performing same-sex marriages?

12 A. Probably.

13 Q. So when you went to Ms. Soto's office, and you
14 said, I know now why you can't be on the board, what did
15 she say?

16 A. She said, That's correct, and we can't talk about
17 this.

18 Q. So Ms. Soto didn't tell you anything about Ana
19 Cuprill coming to her?

20 A. She did not.

21 Q. Did Mr. Dixon tell you how the case started?

22 A. He did not.

23 Q. Has the Commission sent you any updates on the
24 matters? Did they send you any updates on the matter
25 between March and the time you got a phone call from

1 Mr. Dixon --

2 A. No.

3 Q. -- in August? Did you speak with Mr. Dixon
4 between March and August?

5 A. Not that I recall.

6 Q. What was the follow-up, again, on the two names
7 you gave to Mr. Dixon?

8 A. There was no follow-up. He didn't ask me to
9 follow up with this couple. He said he would take it
10 from there.

11 Q. Do you know if Ana and Ms. Soto are in contact?

12 A. I do not know.

13 Q. Did you speak with Ms. Soto or Mr. Dixon after
14 you received the subpoena?

15 A. Yes.

16 Q. Can you detail those conversations for me? Let's
17 start with Mr. Dixon.

18 A. After I got the subpoena I called Mr. Dixon
19 saying that I didn't think I had any of the
20 requirement -- or the requests that were being made in
21 the subpoena. And he said, if you don't have it, you
22 don't have it.

23 Q. Okay. Did he suggest that you search for it?

24 A. I don't believe so.

25 Q. Let's go to the Ms. Soto conversation. What was

1 the conversation with Ms. Soto?

2 A. I don't believe there was a conversation with
3 Ms. Soto.

4 Q. So you didn't have a conversation with Ms. Soto
5 after receiving the subpoena?

6 A. Not specifically about the subpoena, no.

7 Q. Did Ms. Soto let you know you were going to be
8 subpoenaed?

9 A. She did not.

10 Q. So you said you never read either the Pinedale
11 Roundup or the Sublette Examiner article?

12 A. I don't believe I did, no.

13 Q. Do you know the reporter who wrote that article,
14 meaning Ned Donovan?

15 A. I don't.

16 Q. Never met him. Do you know anybody who has met
17 him?

18 A. I don't think so.

19 MR. CONNELLY: Why don't we take a break
20 here. I think we can finish it up.

21 MR. DIXON: Okay.

22 (Recess from 10:43 a.m. until 10:52 a.m.)

23 Q. (By Mr. Connelly) Okay, Mr. Artery, back on the
24 record. Just a few more questions before we finish.

25 Going back to the August call from Mr. Dixon, did

1 Mr. Dixon call you?

2 A. No.

3 Q. How did that conversation start?

4 A. I called him.

5 Q. When you received the subpoena?

6 A. Correct.

7 Q. Okay. Did you get Mr. Dixon straight away?

8 A. Yes.

9 Q. Okay. What did you say to him?

10 A. I said, I've gotten a subpoena, and the things
11 they're asking for I don't believe I have any of that.
12 What should I do.

13 Q. Did you speak at all about the case?

14 A. I don't believe so.

15 Q. You don't believe so or you know for a fact?

16 A. I don't believe we spoke about the case.

17 Q. Okay. Did Mr. Dixon tell you, speak at all about
18 the confidentiality of the case at that time?

19 A. I'm not sure we spoke about it in August but when
20 we spoke in March he made it very clear that this was to
21 be held in the strictest of confidence.

22 Q. When you did speak in March, how long after that
23 call from Mr. Dixon did you take to visit Ms. Soto?

24 A. I don't recall if it was the same day or the next
25 day but I would say soon.

1 Q. Where did that meeting take place?

2 A. I believe I went to Ms. Soto's office.

3 Q. At the Judicial Commission?

4 A. Correct.

5 Q. Did you have an appointment or do you drop in?

6 A. I probably sent a text saying are you in the
7 office.

8 Q. Okay.

9 A. And would it be a good time to stop by.

10 Q. Back to Mr. Dixon's calls. Did Mr. Dixon call
11 you to tell you you would be receiving the subpoena?

12 A. Yes.

13 Q. When did that call happen?

14 A. Early August, late July.

15 Q. Do you remember what was said in that
16 conversation?

17 A. I believe just a heads up that you will be
18 getting a subpoena.

19 Q. Okay. In -- Did Mr. Dixon --

20 A. I ask if it was from his firm, and he said, no,
21 it would be from the firm representing the other party,
22 or something to that effect.

23 Q. But did you know it was a Judge Neely matter?

24 A. Yes.

25 Q. Okay. Have you met with Wendy Soto at a coffee

1 shop to discuss this case?

2 A. Not to discuss this case.

3 Q. Did you discuss this case at a coffee shop with
4 Ms. Soto?

5 A. I don't know. I don't know if we've talked it at
6 a coffee shop. I had mentioned when I went to her
7 office after my call with Mr. Dixon, she said, we can't
8 talk about this, and I respect her as a professional, to
9 hold this information in confidence.

10 Q. Have you spoken with Ms. Soto in the last week
11 about these upcoming depositions?

12 A. I may have just mentioned that I have to give a
13 deposition.

14 Q. Did Ms. Soto say anything in return?

15 A. I don't specifically recall what she said. She
16 might have said, I know.

17 Q. Okay. Have you spoken to Ms. Soto in the last 24
18 hours?

19 A. I have not. Let me change that. I sent her a
20 text this morning asking for Mr. Dixon's cell number
21 when they were 15 minutes late for breakfast.

22 Q. But not about this particular case?

23 A. No.

24 Q. Did you speak to Mr. Dixon in preparation for
25 this deposition?

- 1 A. I did not.
- 2 Q. During any discussions with Mr. Dixon did you
3 discuss the organization that Judge Neely's counsel is
4 with, Alliance Defending Freedom?
- 5 A. I don't believe so, no.
- 6 Q. You spoke about breakfast. What did that -- What
7 was spoken about there?
- 8 A. When we spoke about me getting the subpoena and I
9 didn't have the information that was -- that was
10 requested in the subpoena, I ask, what should I expect
11 out of this deposition? Are the questions going to be
12 along the lines of the request of the subpoena? I just
13 basically wanted some guidance, and we had decided to
14 have breakfast this morning. And he just said, You
15 know, be prepared for a couple hours of questions, and
16 just answer to the best of your ability, and best advice
17 I can give you is be truthful.
- 18 Q. Did you discuss the case at all?
- 19 A. We did not.
- 20 Q. Just hopping around a little bit as we finish.
21 You mentioned you've been with Ms. Cuprill -- or you and
22 Ms. Cuprill were in North Carolina for the DNC in 2012?
- 23 A. Correct.
- 24 Q. Are you involved in Democratic party politics?
- 25 A. Yes.

- 1 A. I do not know.
- 2 Q. Donna Cay Heinz?
- 3 A. I do not know.
- 4 Q. Leslie Petersen?
- 5 A. I do know Leslie.
- 6 Q. How do you know Leslie?
- 7 A. Through the Democratic party.
- 8 Q. Okay. How long have you known her?
- 9 A. Five or six years.
- 10 Q. When did you meet?
- 11 A. We probably met at the -- at a Nellie Tayloe Ross
12 banquet.
- 13 Q. What's that?
- 14 A. That's a banquet when the legislature is in
15 session, generally held here in Cheyenne, a fund-raising
16 banquet for the party.
- 17 Q. Democratic party?
- 18 A. Yes.
- 19 Q. Did you, in your work or your advocacy efforts in
20 Wyoming Equality, did you have any relationship with
21 Ms. Petersen?
- 22 A. I don't believe so through Wyoming Equality. She
23 has, I believe through the democratic party, supported
24 through donations as far as art items for an auction.
25 She's purchased things that we've donated.

- 1 Q. And you consider yourself a democrat?
- 2 A. Yes, I would.
- 3 Q. Do you know a man named Jay Gilbertz?
- 4 A. Jay Gilbertz, I do not.
- 5 Q. How about Mel Orchard?
- 6 A. I've heard the name Mel Orchard before.
- 7 Q. Do you recall in what connection?
- 8 A. I believe he is an attorney with the Spence Law
9 Firm.
- 10 Q. And do you know him personally?
- 11 A. I do not.
- 12 Q. And did you discuss this case with him?
- 13 A. I have not.
- 14 Q. Scott Ortiz?
- 15 A. I do not know that name.
- 16 Q. Kerstin Connolly?
- 17 A. Kerstin Connolly.
- 18 MR. DIXON: It's Kerstin, spelled like
19 Kerstin, so we know who you're talking about.
- 20 A. Kerstin Connolly, I do not know.
- 21 Q. (By Mr. Connolly) How about Barbara Dilts?
- 22 A. I do not know.
- 23 Q. Mary Flitner?
- 24 A. I don't know.
- 25 Q. Karen Hayes?

- 1 Q. Fund-raisers?
- 2 A. Correct.
- 3 Q. Did you work on her campaign?
- 4 A. I did not work on her campaign.
- 5 Q. Okay. Do you know Judge Wendy Bartlett?
- 6 A. I do not.
- 7 Q. Judge Wade Waldrip?
- 8 A. I do not.
- 9 Q. Judge Norman Young?
- 10 A. I do not.
- 11 Q. Can you recall any discussions with anyone else
12 about this case that we haven't discussed today?
- 13 A. No.
- 14 Q. Do you know Judge Curt Haws?
- 15 A. I do not.
- 16 Q. Do you know Steve Smith?
- 17 A. No.
- 18 (Pause.)
- 19 A. Steve Smith, I'm sorry, is that Ana's husband?
- 20 Q. I believe it is.
- 21 A. I've met him.
- 22 Q. Where did you meet him?
- 23 A. Probably at the Nellie Tayloe Ross banquet.
- 24 Q. How many times would you say you think you've
25 spoken to him?

1 A. Once or twice.

2 Q. So would it be safe to say you know Ana

3 significantly better than Steve?

4 A. Yes, that would be safe to say.

5 MR. CONNELLY: That's all my questions.

6 Thank you.

7 MR. DIXON: Jeran, you're going to have the

8 opportunity to basically proofread this transcript.

9 She'll type it up in a little booklet and she'll get it

10 to you, and, you know, you can make corrections. If she

11 put something down wrong you can make that correction or

12 if you misspoke, you can make a correction.

13 THE DEPONENT: Okay.

14 MR. DIXON: There will be a form that goes

15 along with that. If you have any questions about that

16 call me or Mr. Connelly, and or you can waive that

17 opportunity. I recommend that you read it.

18 THE DEPONENT: Okay.

19 MR. DIXON: Do you want to read it?

20 THE DEPONENT: Not right now.

21 (Off the record discussion.)

22 MR. DIXON: What I would suggest is,

23 Mr. Connelly asked you to revisit the subpoena duces

24 tecum. When she gets it transcribed, so you have

25 exactly what he's looking for in front of you, then you

1 can search what he's requested.

2 THE DEPONENT: That would be great.

3 (Proceedings concluded 11:04 a.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

DEPONENT'S CERTIFICATE

1

2

3

4

5 I, JERAN B. ARTERY, do hereby certify that I have

6 read the foregoing deposition, and that the foregoing

7 transcript and accompanying amendment sheets, if any,

8 constitute a true and complete transcript of my

9 testimony.

10 () No changes () Changes attached

11

12 Signed to and sworn to (or affirmed) before me on

13 this _____ day of _____, 2015, by

14

15 JERAN B. ARTERY - Deponent

16

17

18 _____

19 Notary Public

20 My Commission Expires _____

21

22

23

24

25

REPORTER'S CERTIFICATE

1

2 State of Wyoming)

3 County of Laramie) SS

4

5 I, Merissa Racine, Registered Diplomate Reporter

6 and Notary Public in and for the First Judicial

7 District, State of Wyoming, hereby certify that there

8 came before me, as hereinbefore noted, JERAN B. ARTERY,

9 who was by me duly sworn according to law to give

10 testimony relative to the above-captioned cause; that

11 said testimony and proceedings were reported in

12 stenotype by me; that the foregoing 1 - 77 pages,

13 inclusive, constitute a true, correct, and complete

14 transcript of my stenographic notes as reduced to print

15 by means of computer-aided transcription.

16 I further certify that I am not related to any

17 party herein or their counsel and have no interest in

18 the result of this litigation.

19 Dated this 29th day of September, 2015.

20

21 _____

22 MERISSA RACINE

23 Registered Diplomate Reporter

24

25

EXHIBIT 20



HOME	MAKE A DIFFERENCE	CONTACT
NEWS	MEMBERSHIP	ABOUT US
EVENTS	RESOURCES	SHOP

[MAKE A DONATION](#) [SHOPPING CART](#) \$0.00

[f](#) [Q](#)

About Us

Mission

Wyoming Equality seeks to enhance the lives of lesbian, gay, bisexual, and transgender people in the Equality State by providing: Education, Information, Activities, Support, a Networking System, and an Advocacy System for people impacted by gender and sexual orientation issues.



Services

Wyoming Equality provides the following services for the Wyoming LGBT Community:

1. A monthly newsletter titled the United Voice, with over 3,100 subscribers.
2. An internet website for up-to-date electronic information.
3. A variety of annual social events including Rendezvous, our annual camp-out, a casino night, and dances.
4. Conferences and support groups.
5. Organized political activities of interest to our members.

Please call our office at 307.778.7645.

Membership

Membership in Wyoming Equality is open to any person who seeks to support the lesbian, gay, bisexual, and transgender community in Wyoming, and must be renewed annually. Members will receive notice of general meetings and a newsletter.

Confidentiality

Wyoming Equality never shares our mailing list with anyone under any condition. We mail information to our members in plain envelopes with only our P. O. Box number on the return address.

Organizational Structure

Wyoming Equality has an elected board of volunteer directors responsible for managing the various services, events, and finances. Members are welcome at our general meetings, usually the 2nd Monday of each month. Please call 307.778.7645 for time and location. They also receive a newsletter.

Wyoming Equality is a non-profit organization registered with the State of Wyoming as United Gays and Lesbians of Wyoming, and is recognized as a tax-exempt organization under section 501(c)(3) of the IRS code. Donations to Wyoming Equality are tax deductible to the fullest extent allowed by law.

Board of Directors

Chair

Jeran Artery
jerana@wyomingequality.org
 307.778.7645 Ext. 2

Co-Chair

AJ McDaniel
ajm@wyomingequality.org
 307.778.7645 Ext. 701

Treasurer

Mike Bleakley

[Donate to Wyoming Equality](#)
[Submit a story](#)
[Rendezvous](#)
[Volunteer](#)
[Shop](#)

mikeb@wyomingequality.org
307.778.7645 Ext. 700

Archive of Board Meeting Minutes

[Click Here \(Password Protected\)](#)

Support Wyoming Equality Today!

Momentum is on our side, but we can't let up now! Your donation will help us ensure Wyoming truly lives up to her name as The Equality State!

MAKE A DONATION NOW

Archives

[October 2015](#)

[September 2015](#)

[August 2015](#)

[July 2015](#)

[June 2015](#)

[May 2014](#)

[April 2014](#)

[March 2014](#)

Categories

[Donations](#)

[News](#)

[Staff Updates](#)

About Us

Wyoming Equality seeks to enhance the lives of gay, lesbian, bisexual, and transgender people in the Equality State by providing: Education, Information, Activities, Support, a Networking System, and an Advocacy System for people impacted by gender and sexual orientation issues. Copyright 2014

EXHIBIT 21



Empowering women one girl at a time with
THE POWER OF CHOICE Conference
 The Wyoming Latina Youth Conference, October 15-16, 2015. Cheyenne, Wyoming



Advocates of same-sex marriage stand in front of the Wyoming Capitol at a rally in support of the *Courage v. Wyoming* court case. (Wyoming Unites for Marriage)

Wyoming same-sex marriage case rests on state constitution

by Gregory Nickerson | APRIL 8, 2014

0SHARES 0 0 0 0 0

×0SHARES

On February 27th, two same-sex couples walked into the Laramie County courthouse in Cheyenne to apply for a marriage license. The county clerk rejected their applications, citing

<http://www.wyoFile.com/wyoming-same-sex-marriage-case-rests-on-state-constitution/>



a Wyoming statute that defines marriage as between a man and a woman. With that denial, the two couples joined a lawsuit that had been in the works for months. The resulting complaint, *Courage v. Wyoming*, adds Wyoming to the list of states with court cases challenging the constitutionality of bans on same-sex marriage.

The plaintiffs in *Courage v. Wyoming* are four same-sex couples and Wyoming Equality, a 22-year old organization that advocates for lesbian, gay, bisexual, and transgender issues. Lawyers from Cheyenne, Denver, and the National Center for Lesbian Rights (NCLR) are providing counsel for the case.

"What they are seeking is fair treatment, and the same freedom to marry that other Wyoming residents have," said David Codell, Constitutional Litigation Director for the NCLR.

The ultimate goals of the complaint are for same-sex marriages from other jurisdictions to be recognized in Wyoming, and for same-sex couples to have the freedom to marry in Wyoming, according to Jeran Artery, director of Wyoming Equality.

"My mantra through this whole thing is it's time for Wyoming to truly live up to her name as the Equality State," Artery said. "We have a long tradition of doing the right thing and I have no doubt that we are going to do the right thing in this case as well."

Wyoming's nickname as the Equality State also carries special meaning for the legal team working on this case.

"Wyoming's motto is equal rights," Codell said. "It's called the Equality State. It was the first state to give women the right to vote. It is a state with a long tradition of equality, and we are hopeful that the state courts will understand our couples' cases."

Two of the same-sex couples listed in the complaint are married in other states or countries, and have state government benefits that don't extend to their spouse. The married couples include:

- Cora Courage and Nonie Proffit of Evanston. Courage is Clinical Director at the State Hospital.
- Rob Johnston and Carl Oleson of Casper. Johnston is a former employee of the Wyoming Department of Health who receives a state pension.



The other two couples were denied marriage licenses by the Laramie County Clerk. The unmarried couples included:

- Anne Guzzo and Bonnie Robinson of Laramie. Guzzo is a music professor at the University of Wyoming.
- Ivan Williams and Chuck Killion of Cheyenne. Both work in the private sector.

Wyoming's case is interesting because it is challenging a state law in state court, Codell

explained. Most other cases in litigation involve Federal Court challenges of Defense of Marriage Amendments in state constitutions.

"[Wyoming] is one of the states that remains where we can ask the state Supreme Court to consider whether its own equal protection and due process clauses require them to recognize that same sex couples have the freedom to marry," Codell said.

A state court ruling in support of same-sex marriage in Wyoming would be a positive sign that the state could deal with the issue on its own without waiting for a Federal Court to intervene, according to Codell.

Artery said lawyers on his side aim to get the case advanced to the Wyoming Supreme Court. "We think it would be good if there was ... a state Supreme Court ruling from a state like Wyoming that's viewed as a very conservative state," he said.

Support of same-sex marriage is far from unanimous in Wyoming. Perhaps the most notable among the opposition to the same-sex marriage is Gov. Matt Mead (R). "[As] stated often, my personal belief is marriage is between a man and a woman," Mead said in a press conference. "The Attorney General will obviously defend Wyoming law as it is, and I'm not going to venture a guess as to what the court will do as my track record of that of recent is not that great."

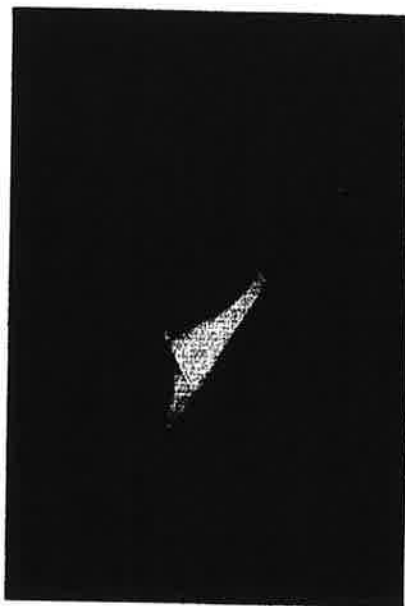
The Wyoming legislature has a number of vocal supporters of the traditional definition of marriage, including Rep. Mark Baker (R-Rock Springs). In the 2013 session he made several comments in floor debate that attracted national media attention and anger from the LGBT community.

Baker says his opposition to same-sex marriage is motivated out of a moral belief and a desire to share his Christian perspective, which he says is motivated by love, not by hate or spite. He says he maintains a civil, cordial, and loving relationship with his own half-sister who is in a same-sex marriage.

"I feel for these individuals and I recognize the circumstances they are in, but I think the people of Wyoming want the definition of the state of marriage to be between a man and a woman," said Rep. Baker. "There are states where people do want [same-sex marriage], but until the atmosphere of the state of Wyoming changes I don't think it is the *right thing* to do, regardless of what I think about it in my heart."

In Baker's view, part of the pursuit of happiness sometimes involves relocating to places where that happiness can best be found. "If you grow up and you are raised next to the beach, and you want to live next to the mountains, you don't ask the government to bring the mountains to you. You go and live where the mountains are," he said. "If they want this so bad they can pursue their happiness in a state that recognizes their marriage."

For Casper resident Rob Johnston, one of the plaintiffs in the case, moving to a place that



accepts same-sex marriage is not an acceptable solution.

"We shouldn't have to travel to Canada to marry. Wyoming is home, and we love this state — that's why we're speaking up," Johnston wrote in a message from Wyoming Unites for Marriage. "In Wyoming, Carl and I are treated as legal strangers. And until all loving couples in our state can share in the freedom to marry, our family is denied the critical protections and respect we deserve every single day."

The legal landscape

At present there are roughly 60 same-sex marriage cases filed in courts around the country. The recent surge in litigation follows on last summer's decision in *United States v. Windsor*, which struck down Section 3 of the federal Defense of Marriage Act.

In that case, a New York woman named Edith Windsor asked the court for relief from \$363,053 in estate taxes owed after the death of her wife Thea Spyer, whom she married in Canada. Recognition of their marriage would have allowed Windsor to receive an estate tax exemption that the IRS normally provides to surviving spouses in heterosexual marriages.

The courts decided in favor of Windsor based on the due process clause and the equal protection clause of the United States Constitution. That put significant energy into new cases seeking recognition of marriage and benefits. Subsequently, cases moved forward in Utah (*Kitchen v. Herbert*), New Mexico (*Griego v. Oliver*), Texas (*De Leon v. Perry*), and Oklahoma (*Bishop v. Oklahoma*). The *Courage v. Wyoming* suit focuses on the same constitutional arguments that prevailed in the 5-4 decision in *United States v. Windsor*.

"It does seem like the dominoes are falling quickly," said Artery. In the past year, nine federal cases in a row have struck down bans against same sex marriage. "[It's] fascinating to watch and it's a great time to be part of this movement because momentum is clearly on our side."

As Wyoming's district court of Laramie County moves to consider *Courage v. Wyoming*, the United States Tenth Circuit Court of Appeals in Denver is preparing to hear same sex marriage cases from Utah and Oklahoma. The Utah case will be heard April 10, and the Oklahoma case would be heard April 17. The rulings will set the precedent for how Federal Courts in the 10th District, which includes Wyoming, will look at same-sex marriage.

Codell noted that the Oklahoma and Utah cases could also be cited in Wyoming state courts. However, they won't necessarily affect the outcome of *Courage v. Wyoming*.

Legislate or litigate?

Since 2011, Wyoming's legislature has considered a variety of bills for and against same-sex marriage and LGBT rights. Legislative votes on the issue make it clear that the state is on the fence on these issues. Lawmakers are not willing to accept same-sex marriage, but neither are they ready to go the route that many other states have gone of further codifying traditional marriage in a constitutional amendment.

"Nationally, I don't think people think of the libertarian streak of Wyoming if you stay out of my business and I'll stay out of yours," Artery said. "We won't be the last state to get

marriage equality. It's because of Wyoming's small government values."

Artery noted that in 2011 the legislature heard two bills against same-sex marriage, neither of which passed. In the 2013 general session, lawmakers heard three bills in favor of same-sex marriage, civil unions, and LGBT non-discrimination. Though none of the bills passed, Artery still thought it significant that no bills against same-sex marriage were introduced.

In the 2014 session, the impasse on LGBT issues continued. Lawmakers voted not to hear a bill for same-sex marriage. They also set aside a bill sponsored by Rep. Gerald Gay (R-Casper) that would clarify that no same-sex marriages from other jurisdictions would be recognized.

"[After] the 2013 session when our bills made historic progress but they didn't pass, we sat down at the table and had really frank discussion," Artery said. "We said, 'Do we continue to pursue legislative means, or do we litigate?' And we consulted with a lot of folks on this, and a lot of national groups, and made the decision to litigate."

"I'm not saying we couldn't get there through the legislature," Artery said. "I think we can, but the question is how fast. The litigation is the fastest way. It appeared to us that that was the obvious choice."

One of the chief criticisms of same-sex court cases is that they can change law without going through the legislative process. Critics say the strategy relies on "activist courts" with judges who "legislate from the bench" to overrule laws supported by the majority of legislators.

"Wyoming joins almost two dozen other states whose marriage amendments have been challenged in court by gay activists seeking to impose their out-of-state marriages on an unwilling population," said Focus on the Family judicial analyst Bruce Hausknecht in a press release.

Within Wyoming, several legislators have urged same-sex marriage proponents to seek a vote of approval from the people at large. "I would admonish the promoters of same sex marriage to get a sponsor, make it a [constitutional] amendment and the people of Wyoming will decide if it is something they want," said Rep. Gay.

That's not an isolated view.

"If this is the direction that these individuals think the state wants to go, then they need to get it out to the people to vote as a whole instead of passing it in the legislature in a glass box," said Rep. Baker.

However, others see an important role for the courts in same-sex cases. Recently several Wyoming Republicans signed onto an Amicus Brief submitted with the Utah case that will be heard by the 10th Circuit Court in Denver. The brief read in part:

"It is the court's duty to set aside laws that overstep the limits imposed by the Constitution ... to ensure that segments of the population are not deprived of liberties that there is no



legitimate basis to deny them."

Those signing onto the brief included former U.S. Senator Alan Simpson (R), Rep. Dan Zwonitzer (R-Cheyenne), Rep. Ruth Ann Petroff (R-Jackson), and Sen. Michael Von Flatern (R-Gillette). Click [here](#) to read the brief.

Codell disagrees that same-sex cases attempt to legislate from the bench.

"The constitution of each state is the highest expression of the will of the people of that state, and when the court enforces the state constitution it is enforcing the will of the people in its highest form," Codell said.



Looking forward

Despite the recent string of federal court rulings, the outcome and the timeline of *Courage v. Wyoming* remains uncertain.

"Once it's in the court you never know what's going to happen until they have come up with their decision," said Rep. Gay, who has introduced bills that support the traditional definition of marriage. "You just can't predict on how the court's going to pick up on something."

"It's anyone's guess when we expect a ruling," Artery said. "If they can get it fast-tracked to the Supreme Court we are still looking at a year."

Gay said it could take even longer.

"I don't think this case is going to go forward in one year," Gay said. "It is going to move as fast as a glacier in Wyoming."

Even with a Supreme Court ruling, the issue of same-sex marriage will persist in Wyoming, perhaps with proponents and opponents alike re-introducing bills in the legislature for further consideration.

"I can guarantee you that either way it goes — in favor of same sex marriage or opposed — there will be a firestorm of opposition to the court's decision, and there will be more legislation to come out of it. But we are not at the point yet," Gay said.

[Read more about the constitutional arguments in *Courage v. Wyoming*...](#)

0SHARES 0 0 0 0 0
x0SHARES

Did You Like This Story?

donate now

About the Author

<http://www.wyofile.com/wyoming-same-sex-marriage-case-rests-on-state-constitution/>



greg@wyofile.com

Gregory Nickerson is the government and policy reporter for WyoFile. He studied history at the University of Wyoming, and writes the Capitol Beat blog. Contact him at greg@wyofile.com or (307) 752-6031. Follow Greg on Twitter at @GregNickersonWY

[Please read WyoFile's commenting policy](#)

8 Responses to *Wyoming same-sex marriage case rests on state constitution*



Tim APRIL 8, 2014 AT 4:40 AM <#>

[REPLY](#) ↩

These anti-gay Representatives like Mark Baker are at best holding back a flood tide and at worst, so blind in their career-oriented opposition to gays being allowed to marry that I compare them to passengers on a boat who stubbornly chose to go down with the ship rather than step on a lifeboat of equal rights. To those Representatives who use "being a Christian" as an excuse to take away the rights of gay people - or prevent them from getting those rights - I say: when was the Christian religion hijacked by anti-gay bigots? I am a Christian and I am not anti-gay. It's not just U.S states that are one by one inevitably endorsing gay marriage. Each year (month?) more and more Christian denominations are choosing to support gay marriage. Pretty soon, how many Christians are going to be left who fight against gay rights?



Patrick APRIL 8, 2014 AT 7:28 AM <#>

[REPLY](#) ↩

I appreciate the story, the only one in the Wyoming (or national) press to discuss the particulars of this case. NCLR has a record of being successful in their litigation and of choosing their battles very shrewdly. This will be an interesting case to watch.

Baker and Gay's fact-challenged homophobic ranting has attracted lots of press attention but their views don't explain much about the direction this issue is taking in the state. Gay and Baker are among the least effective Wyoming legislators; I can't recall either of them seeing a full House vote on a bill they sponsored. In contrast, two proposals to improve the civil status of LGBT families were put to a full vote in both houses in the 2012 session and were defeated by relatively slim margins. Legislators in the state are seeing this issue differently today than they did ten years ago. It would be interesting to see how others in the WyLeg see this issue and how (or whether) their views have evolved.

**Paul** APRIL 8, 2014 AT 8:12 AM #[REPLY](#) ↩

So, if I have a different opinion I am a bigot? How open minded of you.

**Wayne** APRIL 8, 2014 AT 8:00 PM #[REPLY](#) ↩

Unfortunately, for Wyoming, there exists something known as the Supremacy Clause which our founding fathers were smart enough to insert into the US Constitution. It matters not what the state constitution provides or how it is interpreted, nor does it matter how many misguided, uninformed citizens voted for the ban, the pertinent question is whether the ban violates the Equal Protection Clause of the United States Constitution, NOT Wyoming's constitution. Further, when a state Supreme Court considers a federal question, it must apply FEDERAL LAW and precedent, not some rinky-dink Wyoming law.

**Emil** APRIL 9, 2014 AT 11:45 AM #[REPLY](#) ↩

It's time "equality" was properly defined and used in it's proper context. "Having the same privileges, status or rights" is only fair if it has "the same capability, quantity or effect as another." Same-sex marriage does not have the same effect as classic marriage, so to artificially declare them equal would, by definition, be unfair. It's unfair to deprive a child of either a mother or a father.

**Tim** APRIL 9, 2014 AT 11:16 PM #[REPLY](#) ↩

@Paul. If you hold views that hold others back, then the answer is "yes".

**Patrick** APRIL 10, 2014 AT 1:47 PM #[REPLY](#) ↩

Emil brings up a good point. I agree that giving things the same name doesn't make them the same. I'm struggling to understand what all these terms mean.

What's "classic marriage"? What's "traditional marriage"? Given that both Jeran Artery and Mark Baker would lay claim to "traditional" marriage, I'm not sure I understand why WyoFile chose to associate the term with one rather than both or neither. And given that no-fault divorce has made modern civil marriage anything but traditional, I can't help but remark at the confusion these terms provoke.

**Lonny Roseland** MAY 2, 2014 AT 5:16 PM #[REPLY](#) ↩

I was thinking Wyoming would be the best place for me to move to but after reading this article, I think South Dakota would be a better choice! I current live in godless

Minnesota where the damn Democrats force evil Legislation upon its citizens! I was hoping Wyoming due to it's ruralness would be a safehaven for Bible believing Christians like me! "Same-sex Marriage" is a promotion of SODOMY the sin for which Yahweh burned up Sodom and Gomorrah. I believe punishment from Yahweh is coming to cities/states that promotes Sodomy and I need to get to a safe place like the biblical man called "Lot" did! I was hoping Wyoming would be a good place to avoid Yahweh's wrath, but now I am thinking South Dakota is better! Here is some bible verses to ponder LEV 18:22, LEV 20:13, Rom 1:26-28, Jude 7 — Also the Anti-Messiah is coming soon and Yeshua said to "Flee to the Mountians" so I thought Wyoming would fit the bill! verse MATT 24:15-16

Leave a Reply

Name *

Email *

Website

City *

State of Residence *

Wyoming

Comment

submit comment

Related Articles

EXHIBIT 22

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

An inquiry concerning)
The Honorable Ruth Neely) No. 2014-27
Municipal Court Judge and)
Circuit Court Magistrate)
Ninth Judicial District)
Pinedale, Sublette County)

CJCE'S ANSWER TO INTERROGATORIES

COMES NOW the Commission on Judicial Conduct and Ethics, by and through its attorney Patrick Dixon, and answers Judge Neely's Interrogatories as follows. This response is in accordance with the Wyoming Rules of Civil Procedure and the standards of practice in Wyoming, and not necessarily any instruction or definition propounded by counsel.

GENERAL OBJECTION: The Commission objects to the Judge's Interrogatories *in toto* on the grounds that Rule 22(a) of the Rules Governing the Commission on Judicial Conduct and Ethics provides, in material part:

(a) Proceedings - Unless otherwise permitted by these rules, or unless revealed in public documents or a public hearing, all proceedings before the Commission and all information, communications, materials, papers, files, and transcripts, written or oral, received or developed by the Commission in the course of its work, shall be confidential. No member of the Commission or its staff and no employee or agent of the Commission, disciplinary counsel and disciplinary counsel's staff, no attorney, and no testifying witness shall disclose such proceeding, information, communications, materials, papers, files, or transcripts, except in the course of official duty or as otherwise authorized by these rules. Any violation of the provision for confidentiality shall constitute an act of contempt and be punishable as such.

Subject to this objection, the Commission responds as follows:

INTERROGATORY NO. 1: Describe in detail what actions, omissions, beliefs, or statements attributable to Judge Neely justify the Commission's conclusion in

Paragraph B(2) of its Notice that "Judge Neely's stated position with respect to same sex marriage precludes her from discharging the obligations of the above-cited Canons and Rules of Judicial Conduct, not just with respect to the performance of marriage ceremonies, but with respect to her general duties as Municipal Court Judge."

ANSWER: The following statements made by or attributed to Judge Neely justify the allegations set forth in Paragraph B(2) of the Notice:

From the December 11, 2014 Sublette Examiner Article:

"I will not be able to do them," referring to same sex marriages.

"When law and religion conflict, choices have to be made."

From Judge Neely's February 7, 2015 response to the Commission on Judicial Conduct and Ethics:

"My conscience, formed by my religious convictions, will not allow me to solemnize the marriage of two men or two women were I ever asked to do so."

"And as I explained in my letter to the Committee, my inability to solemnize the marriage same sex unions does not arise from any prejudice or bias against people, but rather from my sincerely held religious beliefs about marriage."

"But my religious convictions will not allow me to officiate at same sex ceremonies."

Additional Statements made to Ned Donovan and not published:

"There's [sic] legal issues in life, and there's moral issues in life and they don't always match. So for me my moral issues supersede the legal issues and so I'm not saying it's wrong because legally it's correct, legally it's right, but morally I'm not able to."

"I am required to do them because I am a [circuit court] magistrate."

"Gently, I would like people not to know that I can't do them. I would gently direct them to Steve Smith, I would gently tell them I'm not available that day."

These statements, made both publicly and privately demonstrate a willingness on the part of Judge Neely to subordinate the law of the land to her own individual religious beliefs. Whether or not Judge Neely believes that she is prejudiced or biased against the LGBT community, these statements evidence the opposite. At a minimum, they create a perception of partiality, bias and arbitrariness.

INTERROGATORY NO. 2: Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 1 and supply all facts in support of that conclusion.

ANSWER: As it applies to Judge Neely's actions and comments described in the preceding response, the key terms in Canon 1 are "impartiality" and "impropriety and the appearance of impropriety." Whether or not based upon religious convictions, Judge Neely's words and actions demonstrate a lack of impartiality toward a segment of our society. That a judicial officer would perform her duties for the benefit of one class of person and not another goes beyond the appearance of impropriety.

Judge Neely chose to make her feelings on this matter openly public in a newspaper of local circulation. A reasonable member of society could easily conclude that if Judge Neely is unwilling to recognize and accept the legally established rights of LGBT individuals as it relates to marriage, she may also be less than impartial in the application of the law and upholding the other legal rights of LGBT individuals in other proceedings before her which are unrelated to marriage. This appearance of partiality and impropriety exists even if Judge Neely elects not to perform any other judicial functions as a magistrate and carries over to her position as a municipal judge.

INTERROGATORY NO. 3: Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 1.1 and supply all facts in support of that conclusion.

ANSWER: Judge Skavdahl's ruling in the United States District Court of *Guzzo v. Mead*, 2014 WL 5317797 (D.Wyo.2014), subsequently affirmed by the United States Supreme Court is that all persons, regardless of sexual orientation are entitled to the same right to be married. The Commission understands that Judge Neely's sole reason for appointment as Circuit Court Magistrate is to perform marriage ceremonies. The fact that Judge Neely is unwilling to perform ceremonies for one class of individuals while remaining willing to perform marriage ceremonies for another class demonstrates a selective application or interpretation of the law. Moreover Rule 2.3 prohibits a Judge in the performance of her judicial duties from manifesting a bias or prejudice based upon sexual orientation. This Rule makes no exception for members of the Missouri Synod of the Lutheran church. Judge Neely's words and actions clearly demonstrate bias or prejudice towards members of the LGBT community.

As previously stated, reasonable members of society can conclude that if Judge Neely is unwilling to recognize and accept the established legal rights of LGBT individuals as it relates to marriage, she may also less than impartial in the application of the law and upholding the other legal rights of LGBT individuals in other proceedings before her which are unrelated to marriage, including her rulings and application of the law in her position as a municipal judge.

INTERROGATORY NO. 4: Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 1.2 and supply all facts in support of that conclusion.

ANSWER: See the Commission's answer to the preceding interrogatories. Rule 1.2 is an amplification of Canon 1.

INTERROGATORY NO. 5: Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 2 and supply all facts in support of that conclusion.

ANSWER: See the Commission's answer to the preceding interrogatories. Again, the key term in Canon 2, as applied here is impartiality. Judge Neely's statements demonstrate a lack of impartiality toward the LGBT community. Rule 2.1 dictates that a judge's personal and extrajudicial activities subordinate to her judicial duties. In this case Judge Neely has given precedence to her religious beliefs.

INTERROGATORY NO. 6: Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 2.2 and supply all facts in support of that conclusion.

ANSWER: See the Commission's answer to the preceding interrogatories. This Rule speaks to the performance of "all duties" not just those the Judge elects to or feels comfortable in performing.

INTERROGATORY NO. 7: Describe in detail how the actions, omissions, beliefs, or statements alleged in response to Interrogatory 1 constitute a violation of the Wyoming Code of Judicial Conduct Canon 2.3 and supply all facts in support of that conclusion.

ANSWER: See the Commission's answer to the preceding interrogatories. Rule 2.3(c) specifically prohibits a judge from showing bias or prejudice based upon sexual orientation.

INTERROGATORY NO. 8: Identify each form of discipline that the Commission plans to seek or believes is warranted by the allegations in the Notice or in response to Interrogatories Nos. 1 through 7, and for each form of discipline identified, state the basis for the Commission's belief that it is warranted in this proceeding.

ANSWER: The Investigatory Panel of the Commission has made no decision with respect to the appropriate form of discipline. That is the function of the Adjudicatory Panel and after a finding of misconduct, by the full Commission. However, the Investigatory Panel has authorized counsel to enter into a stipulated disciplinary agreement whereby Judge Neely resigns from all judicial offices. This proposal has been rejected by Judge Neely. In the meantime, counsel for the Commission will recommend to the Adjudicatory Panel, if a finding of misconduct is made, that findings and recommendations be forwarded to the Wyoming Supreme Court calling for a public censure and removal from all judicial offices. Counsel believes that this recommendation is warranted because (1) Judge Neely's words and actions demonstrate an unwillingness to perform her duties impartially, (2) a willingness to disregard the rulings of a higher court, (3) bias or prejudice against a class of individuals, (4) because of the public nature of Judge Neely's comments, and (5) because Judge Neely had been specifically directed by her supervising Judge that her opinions were not judicially appropriate and not to make them known publicly. In this regard, factors (C), (D), (E) and (F), as set forth in Rule 8(d)(2) are implicated.

INTERROGATORY NO. 9: Identify the members of the Investigatory Panel in this proceeding.

ANSWER: The members of the Investigatory Panel are as follows: Kerstin Connolly, Presiding Officer, Karen Hayes, Leslie Petersen, Jay Gilbertz and the Honorable Wade E. Waldrip. When the matter initiated, Julie Tiedeken was a member of the Investigatory Panel. However, her term expired in March, 2015 and she was replaced by Mr. Gilbertz.

INTERROGATORY NO. 10: Identify and describe in detail all government interests that would be served by removing Judge Neely from her circuit magistrate position, as sought by the Commission in this proceeding, and explain in detail how removing Judge Neely from that position would serve each identified government interest.

ANSWER: The public interests to be served are clearly outlined by the Canons of Judicial Ethics, and following Rules as outlined in Paragraph B.1 of the Notice. The comments to each respective Canon or Rule amplify the public interests and are incorporated herein. Counsel believes, and will argue to the Adjudicatory Panel that any sanction that does not include complete removal from judicial office will have the effect of condoning Judge Neely's words and conduct, and will cast the Wyoming judiciary and judicial disciplinary system in disrepute will tarnish the reputation of the State of Wyoming as the Equality State.

There is a compelling state and societal interest in a fair and impartial judiciary that applies and honors the Rule of Law which affords all members of society, regardless of standing or condition the same application of law as other members of society. This is a foundation of the legal system of the United States of America and the State of Wyoming. This interest is embodied by the Cannons of Judicial Conduct which require impartiality and prohibit bias both in fact and by conduct that lends itself to the appearance of partiality or bias.

INTERROGATORY NO. 11: Identify and describe in detail all government interests that would be served by removing Judge Neely from her municipal town judge position, as sought by the Commission in this proceeding, and explain in detail how removing Judge Neely from that position would serve each identified government interest.

ANSWER: See the Commission's answer to the preceding interrogatories. Having publicly stated a discriminatory attitude toward the LGBT community, it appears that Judge Neely cannot impartially pass judgment on civil or criminal matters that come before her on the Municipal Bench. Whether or not that is, in fact true, that will certainly be the perception held by a portion of society as a result of Judge Neely's publicly expressed position on these issues.

INTERROGATORY NO. 12: Identify by name, address, and telephone number all persons with knowledge of any facts asserted in the Notice and all persons likely to have discoverable information about those facts, and with respect to each identified person, describe the facts or subjects of which he or she has, or likely has, knowledge.

ANSWER: In addition to those persons identified in the Commission's Rule 11 disclosure statement, the following persons have knowledge and/or discoverable information:

Please see the Commission's Rule 11 Disclosures and Supplemental Disclosures.

INTERROGATORY NO. 13: Identify by name, address, and telephone number all persons with whom the Commission or any of its representatives or agents have

communicated about the subject matter of this proceeding or the allegations in the Notice; for each person identified, provide the date of each communication with that person, the identify of all persons involved in each referenced communication, the place and mode of each referenced communication, and a summary of the information communicated.

ANSWER: This interrogatory is objected to as calling for the disclosure of attorney work product. Without waiving the objection, the Commission's Executive Director, Wendy Soto, communicated with Ana Cuprill at a Christmas party in mid-December regarding the newspaper articles in Sublette County. The Commission has communicated in writing with Judge Neely and Judge Haws, which written communications are produced in response to Request for Production of Documents. Some time around March 1, Ms. Soto spoke by phone with Kurt Twitty, an investigator with the Washington Commission. She did not discuss the instant complaint but asked for general information on the ethical implications of same sex marriage. Any other communication with any witness or potential witness has been oral, done by counsel, or by Ms. Soto at the direction of counsel. The Commission objects to the disclosure of the latter communications on the grounds of attorney work product.

INTERROGATORY NO. 14: Describe in detail how the Commission learned about the conversation between Ned Donovan and Judge Neely that is referenced in Paragraphs A(4) and (5) of the Notice; as part of that description, include the date on which the Commission's representatives or agents first became aware of that conversation, and identify the source of that information.

ANSWER: Some time between December 11, 2014 and December 22, 2014, Wendy Soto hosted a Christmas party at her home. Ana Cuprill was a guest at the party.

During conversation, Ms. Cuprill informed Ms. Soto of the newspaper articles which had appeared in Sublette County and expressed or intimated her belief that this was improper on the part of a judicial officer. Ms. Soto then requested that Ms. Cuprill document the conversation at the Christmas party with an email, which email has been produced in response to Request for Production of Documents. The email attached one of the newspaper articles. Thereafter, of course, the Commission made inquiries to both Judge Neely and Judge Haws.

INTERROGATORY NO. 15: Describe in detail the contents of all communications between any of the Commission's representatives or agents and Ned Donovan or any other individual alleged to have knowledge of the conversation between Ned Donovan and Judge Neely that is referenced in Paragraphs A(4) and (5) of the Notice, identify all persons involved in those communications, and provide the place and mode of those communications.

ANSWER: This is objected to as calling for attorney work product. Without waiving the objection, Judge Neely is directed to the Commission's Supplemental Rule 11 Disclosures and response to Request for Production No. 5.

INTERROGATORY NO. 16: Identify and describe in detail every instance since the ruling in *Guzzo v. Mead*, 2014 WL 5317797 (D.Wyo.2014), when a same-sex couple in Wyoming could not access a state judge, judicial official, or magistrate willing to perform their wedding ceremony.

ANSWER: This interrogatory is objected to as not being reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, the

Commission has no information one way or the other whether a same sex couple has been unable to access an official to perform a wedding ceremony.

INTERROGATORY NO. 17: Identify and describe in detail all complaints alleging sexual-orientation discrimination that have been filed with the Commission; include in that description an explanation of the allegations, the investigation, and the final disposition by the Commission or the Wyoming Supreme Court.

ANSWER: This interrogatory is objected to as calling for confidential information, as being unduly burdensome and oppressive, and as not being reasonably calculated to lead to the discovery of admissible evidence. Without waiving the objection, there have been no such complaints since June 1, 2012. It is conceivable that such complaints have been made in the past, however, it would be unreasonably burdensome to require the Commission to review every record generated since its inception in order to respond to this Interrogatory, particularly where the Commission would be precluded from responding per Rule 22.

INTERROGATORY NO. 18: Identify all persons that the Commission anticipates calling as a witness in the hearing in this proceeding, and provide a summary of each person's anticipated testimony.

ANSWER: No determination has been made as to who will be called as a witness. Counsel should anticipate that any individual disclosed in the Commission's Rule 11 disclosures, or in response to these Interrogatories may be called as a witness.

INTERROGATORY NO. 19: Identify every person consulted concerning the preparation of answers to these Interrogatories and the accompanying Request for

Production of Documents and Requests for Admission; for each person identified, describe his or her relationship to the Commission and the subject matter of the communication.

ANSWER: In addition to counsel and his staff, Wendy Soto, Kerstin Connolly, presiding officer of the I-Panel and Jay Gilbertz, panel member assisted in the preparation of these answers.

INTERROGATORY NO. 20: For each Request for Admission that is denied, describe in detail the reason for the denial and all facts and details supporting the denial.

ANSWER: Please see each specific response to the Requests for Admission.

INTERROGATORY NO. 21: Identify and describe each and every fact that the Commission believes tends to refute or undermine the responses or affirmative defenses in Judge Neely's Answer.

ANSWER: Please see the Commission's response to Interrogatories 1-7. The Canons of Judicial Ethics make no exception or exemption for members of the Missouri Synod of the Lutheran Church, or any other religious faith for that matter. Neither is counsel aware of any legal ruling that holds that a judicial officer's constitutional rights trump her obligation to perform her official duties impartially, apply the law of the jurisdiction and refrain from discriminatory actions or conduct directed at a class of individuals.

DATED this 27 day of July, 2015.

Patrick Dixon
Patrick Dixon (Wyo. Bar #5-1504)
104 S. Wolcott, Suite 600
Casper, Wyoming 82601
(307) 234-7321
(307) 234-0677 (facsimile)
Disciplinary Counsel

VERIFICATION

STATE OF WYOMING)
) ss.
COUNTY OF SHERIDAN)

I, Jay Gilbertz, as the acting Presiding Officer of the I-Panel of the Commission of Judicial Conduct and Ethics, being first duly sworn upon oath, state that I have read the foregoing Answers to Interrogatories and that the statements contained therein are true to the best of my information, knowledge and belief.

Dated this 27th day of July, 2015.

Jay Gilbertz
Jay Gilbertz

SUBSCRIBED and SWORN to before me by Jay Gilbertz, this 27th day of July, 2015.

March 20, 2019

[Signature]
NOTARY PUBLIC



CERTIFICATE OF SERVICE

I, Patrick Dixon, do hereby certify that on the 27 day of July, 2015, I served the above and foregoing ***CJCE's Answer to Interrogatories*** by placing a true and correct copy in the United States mail, duly postmarked and addressed to:

Herbert K. Doby
Attorney at Law
P.O. Box 130
Torrington, Wyoming 82240

James A. Campbell
Kenneth J. Connelly
Douglas G. Wardlow
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260

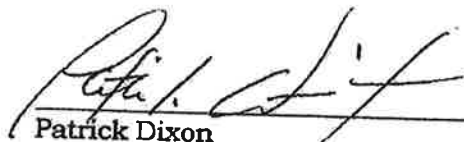

Patrick Dixon

EXHIBIT 23



Wendy Soto <wendy.soto@wyboards.gov>

Judicial conduct: Pinedale Municipal Judge Ruth Neely and same sex marriage
1 message

Ana Cuprill <amcuprill@gmail.com>
To: wendy.soto@wyboards.gov

Mon, Dec 22, 2014 at 12:21 PM

Dear Ms. Soto,

2014-28

Attached is a copy of the newspaper article regarding Pinedale's municipal judge who admits she will not be performing same-sex marriages based on her religious views. The reporter Ned Donovan works for the Sublette Examiner and Pinedale RoundUp and can be reached for more information at 307-367-2123

Best regards,
Ana Cuprill
Pinedale, Wyoming



http://www.subletteexaminer.com/v2_news_articles.php?heading=0&page=72&story_id=3424

Pinedale judge will not marry same-sex couples

Modified: Thursday, Dec 11th, 2014
BY: Ned Donovan

PINEDALE - Since Oct. 21, following a judicial ruling in Laramie that brought equal marriage to the "Equality State," same-sex couples in Wyoming have been able to get married. As a result, marriage licenses were issued around the state, and this weekend Sublette County will have its first wedding under the new rules. Municipal Judge Ruth Neely, Pinedale town judge for more than 20 years, however, has indicated she will be unable to perform same-sex marriages if asked.

"I will not able to do them," Neely told the Examiner. "We have at least one magistrate who will do same-sex marriages but I will not be able to."

All judges are required to marry those who meet the legal requirements, unless there is a scheduling conflict or other problem. In those cases, prospective couples will be referred to other magistrates.

But Neely's inability to perform the marriages has nothing to do with her schedule but, rather, her religious beliefs.

"When law and religion conflict, choices have to be made. I have not yet been asked to perform a same-sex marriage," Neely said.

Neely's role as a magistrate who can perform marriages is separate from her position as the Pinedale municipal judge, according to Pinedale Mayor Bob Jones.

"As the town judge, she does not perform marriages, that is not part of the description of the work of a town judge ... [Performing marriages] is something she took on herself years ago to try and ... provide more services to the town," Jones told the Examiner. "In terms of whether she will do that as the town judge, which is what she is hired to do for us, it's kind of a non-player."

If an issue arose of a marriage being denied by Neely, Jones indicated he will bring it before the council but not before that occurs.

"Until we have a problem I don't see any point in creating a problem," Jones said.

So far, according to Neely and Jones, no requests have been made, but a citizen may bring up the issue in a Pinedale Town Council public meeting.

"If there's one person that I know would swallow hard and do what the law said, it would be Ruth Neely," Jones said. "I want to be very clear I have all the faith in the world that if a case unrelated to this ... came before her, [and] ... she did not think she could be morally fair, I have every, every expectation, as well as I know her, that she would recuse herself before taking that case and enforcing her morals."

According to the National Center for Lesbian Rights (NCLR), who represented plaintiffs in the Wyoming equal marriage case, a judge refusing to marry a same-sex couple could become a constitutional problem.

"Public officials should serve all members of the public, and they shouldn't discriminate against couples based on their personal beliefs," NCLR senior staff attorney Chris Stoll told the Examiner. "If a public official selectively chooses not to marry a particular group of people, that potentially raises constitutional concerns under the equal protection clause."

Neely, however, was clear that this does not stop any same-sex couple in Pinedale from getting married in the town.

"All magistrates are required to perform weddings," Neely said. "And any couple, regardless of gender, can call any magistrate and any judge and see if that judge can fit them into their personal schedule."

EXHIBIT 24



Wendy Soto <wendy.soto@wyboards.gov>

Fwd: Judicial conduct: Pinedale Municipal Judge Ruth Neely and same sex marriage

1 message

Wendy Soto <wendy.soto@wyboards.gov>
To: Julie Tiedeken <jtiedeken@mtslegal.net>

Mon, Dec 22, 2014 at 1:59 PM

Julie,

Today I received the forwarded email. When you have are viewed the article and have a few minutes please call me so we can discuss whether to set up an I panel to discuss a possible own motion matter.

Thank you.

Wendy J. Soto
Executive Director
Commission on Judicial Conduct and Ethics
PO Box 2645
Cheyenne WY 82003
Telephone 307-778-7792
Cell 307-421-3247
Fax 307-778-8689
wendy.soto@wyboards.gov
http://judicialconduct.wyo.gov

CONFIDENTIALITY NOTICE: The information contained in this message and any attachment is legally privileged and confidential information intended on for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any release, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the author immediately by replying to this message and delete the original message entirely from your computer.

Thank you.

----- Forwarded message -----

From: Ana Cuprill <amcuprill@gmail.com>
Date: Mon, Dec 22, 2014 at 12:21 PM
Subject: Judicial conduct: Pinedale Municipal Judge Ruth Neely and same sex marriage
To: wendy.soto@wyboards.gov

Dear Ms. Soto ,

Attached is a copy of the newspaper article regarding Pinedale's municipal judge who admits she will not be performing same-sex marriages based on her religious views. The reporter Ned Donovan works for the Sublette Examiner and Pinedale RoundUp and can be reached for more information at 307-367-2123

Best regards,
Ana Cuprill
Pinedale, Wyoming



http://www.subletteexaminer.com/v2_news_articles.php?heading=0&page=72&story_id=3424

Pinedale judge will not marry same-sex couples

Modified: Thursday, Dec 11th, 2014

BY: Ned Donovan

PINEDALE - Since Oct. 21, following a judicial ruling in Laramie that brought equal marriage to the "Equality State," same-sex couples in Wyoming have been able to get married. As a result, marriage licenses were issued around the state, and this weekend Sublette County will have its first wedding under the new rules. Municipal Judge Ruth Neely, Pinedale town judge for more than 20 years, however, has indicated she will be unable to perform same-sex marriages if asked.

"I will not be able to do them," Neely told the Examiner. "We have at least one magistrate who will do same-sex marriages but I will not be able to."

All judges are required to marry those who meet the legal requirements, unless there is a scheduling conflict or other problem. In those cases, prospective couples will be referred to other magistrates.

But Neely's inability to perform the marriages has nothing to do with her schedule but, rather, her religious beliefs.

"When law and religion conflict, choices have to be made. I have not yet been asked to perform a same-sex marriage," Neely said.

Neely's role as a magistrate who can perform marriages is separate from her position as the Pinedale municipal judge, according to Pinedale Mayor Bob Jones.

"As the town judge, she does not perform marriages, that is not part of the description of the work of a town judge ... [Performing marriages] is something she took on herself years ago to try and ... provide more services to the town," Jones told the Examiner. "In terms of whether she will do that as the town judge, which is what she is hired to do for us, it's kind of a non-player."

If an issue arose of a marriage being denied by Neely, Jones indicated he will bring it before the council but not before that occurs.

"Until we have a problem I don't see any point in creating a problem," Jones said.

So far, according to Neely and Jones, no requests have been made, but a citizen may bring up the issue in a Pinedale Town Council public meeting.

"If there's one person that I know would swallow hard and do what the law said, it would be Ruth Neely," Jones said. "I want to be very clear I have all the faith in the world that if a case unrelated to this ... came before her, [and] ... she did not think she could be morally fair, I have every, every expectation, as well as I know her, that she would recuse herself before taking that case and enforcing her morals."

According to the National Center for Lesbian Rights (NCLR), who represented plaintiffs in the Wyoming equal marriage case, a judge refusing to marry a same-sex couple could become a constitutional problem.

"Public officials should serve all members of the public, and they shouldn't discriminate against couples based on their personal beliefs," NCLR senior staff attorney Chris Stoll told the Examiner. "If a public official selectively chooses not to marry a particular group of people, that potentially raises constitutional concerns under the equal protection clause."

Neely, however, was clear that this does not stop any same-sex couple in Pinedale from getting married in the town.

"All magistrates are required to perform weddings," Neely said. "And any couple, regardless of gender, can call any magistrate and any judge and see if that judge can fit them into their personal schedule."

**BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS
STATE OF WYOMING**

An inquiry concerning)
The Honorable Ruth Neely)
Municipal Court Judge and)
Circuit Court Magistrate)
Ninth Judicial District)
Pinedale, Sublette County)

COMMISSION ON JUDICIAL CONDUCT
AND ETHICS
Official Record
FILED
Date: 10/30/15
Wendy J. Soto
Wendy J. Soto

**INDEX OF SUPPORTING MATERIALS FOR THE HONORABLE RUTH NEELY'S
MOTION FOR SUMMARY JUDGMENT**

VOL. II

Index of Supporting Materials
for the Honorable Ruth Neely's Motion for Summary Judgment

<u>Exhibit No.</u>	<u>Document Title</u>
	Affidavit of Kenneth J. Connelly
1	Pinedale Municipal Code, Chapter 23
2	Town of Pinedale, Wyoming, Municipal Court & Judge, Duties
3	Transcript of the Deposition of the Honorable Curt Haws
4	2008 Circuit Court Magistrate Appointment Letter for Judge Neely
5	Wyoming Statutes Section 5-9-212
6	Wyoming Statutes Section 20-1-106
7	Transcript of the Deposition of Wendy Soto
8	Transcript of the Deposition of Stephen Smith
9	Commission's Response to Judge Neely's Requests for Admission
10	Transcript of the Deposition of the Honorable Ruth Neely
11	Lutheran Church, Missouri Synod, News and Information— <i>Upholding Marriage: God's Plan and Gift</i>
12	<i>Guzzo v. Mead</i> , 2014 WL 5317797 (D. Wyo. Oct. 17, 2014)
13	<i>Guzzo v. Mead</i> , Docket No. 47, No. 2:14-cv-00200-SWS (D. Wyo. October 21, 2014)
14	1/17/15 Email from Judge Haws to Wendy Soto with Letter Attachment
15	Transcript of the Deposition of Ana Cuprill
16	Commission's Supplemental Rule 11(b) Disclosures
17	12/11/14 Email from Judge Haws to Colleagues
18	Wyoming Democratic Party Platform
19	Transcript of the Deposition of Jeran Artery
20	Wyoming Equality Mission Statement
21	4/8/14 WyoFile Article
22	Commission's Answers to Interrogatories

23	12/22/14 Email from Ana Cuprill to Wendy Soto attaching Sublette Examiner Article
24	12/22/14 Email from Wendy Soto to Julie Tiedeken
25	Transcript of the Deposition of Julie Tiedeken
26	12/22/14 Email from Wendy Soto to Investigatory Panel Members
27	Transcript of the Investigatory Panel's 1/6/15 Teleconference
28	1/12/15 Letter from the Commission to Judge Haws and Judge Neely
29	Transcript of the Investigatory Panel's 2/18/15 Teleconference
30	Wyoming Lawyers for Marriage
31	3/2/15 Letter from Investigatory Panel Acting Presiding Officer Karen Hayes to Commission Chair Kerstin Connolly
32	Notes of Wendy Soto
33	3/3/15 Email from Kurt Twitty to Wendy Soto
34	Notice of Commencement of Formal Proceedings
35	Verified Answer
36	Amended Notice of Commencement of Formal Proceedings
37	Motion to Dismiss
38	Notice of Confession
39	Order Dismissing Amended Claims
40	Verified Amended Answer
41	United Church of Christ, <i>Equal Marriage Rights for All</i>
	Affidavit of Ruth Neely
42	Pictures from Weddings performed by Judge Neely
43	List of 2013 and 2014 Sublette County, WY Marriage Licenses
44	12/1/08 Letter from Chief Justice Barton Voigt to Judge Neely
45	Trent Kynaston, <i>A Bad Situation Turned Good</i>
46	Wedding Script
47	Sublette Examiner Year in Review Photo
48	Current Magistrates and Contact Information List

49	12/9/14 Sublette Examiner Article
50	12/11/14 Online Sublette Examiner Article
51	12/23/14 Sublette Examiner Article
52	1/5/15 Email from Judge Neely to Ronda Munger
53	1/6/15 Letter from Judge Neely to Judicial Ethics Advisory Committee
54	1/29/15 Letter from John Burman to Judge Neely
55	1/30/15 Pinedale Roundup Article
56	2/7/15 Letter from Judge Neely to the Commission
	Affidavit of Bob Jones
	Affidavit of Miriam Carlson
	Affidavit of Ralph E. Wood
	Affidavit of Sue Eversull
	Affidavit of Sharon Stevens
	Affidavit of Kathryn Anderson
	Affidavit of Reverend Kevin Rose
	Affidavit of Stephen Crane

EXHIBIT 25

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS

STATE OF WYOMING

NO. 2014-37

An Inquiry Concerning,

The Honorable Ruth Neely

Municipal Court Judge and Circuit Court Magistrate
Ninth Judicial District Pinedale, Sublette County

C O N F I D E N T I A L

DEPOSITION OF JULIE TIEDEKEN
Tuesday and Wednesday, September 15 & 16, 2015
2:53 p.m.

Taken in behalf of the Honorable Ruth Neely,
pursuant to Notice, and in accordance with the
applicable Wyoming Rules of Civil Procedure, in the
conference room at the Executive Suites, 1623 Central
Avenue, Cheyenne, Wyoming, before Merissa Racine,
Registered Diplomate Reporter and Notary Public in and
for the County of Laramie, State of Wyoming.

APPEARANCES

1
2
3 For the Wyoming Commission on Judicial Conduct and Ethics: DIXON & DIXON
4 104 South Wolcott Street
5 Suite 600
6 Casper, WY 82601
7 BY: MR. PATRICK DIXON
8 and
9 MS. BRITNEY TURNER

7 For the Honorable Ruth Neely: Alliance Defending Freedom
8 15100 North 90th Street
9 Scottsdale, AZ 85260
10 BY: MR. JAMES CAMPBELL
11 MR. DOUGLAS WARDLOW
12 MR. KENNETH CONNELLY

13 Also Present: MS. WENDY SOTO

INDEX TO EXAMINATION

14 WITNESS: PAGE
15 JULIE TIEDEKEN
16 By Mr. Campbell 3

INDEX TO EXHIBITS

18 NO.		PAGE
19 20	30(B)(6) Notice of Deposition of Wyoming Commission	3
20 21	2/7/15 Response of Judge Neely	50
21 22	3/23/15 Letter From Mr. Burman	54
22 23	Transcript of 2/18/14 Meeting	57
23 24	CJCE's Answer to Interrogatories	59
24 25	Order on the Motion For Protective Order	88
25 26	CJCE's Response to Requests For Admission	109

PROCEEDINGS

JULIE TIEDEKEN,

1
2
3 having been first duly sworn, was examined and testified
4 as follows, to-wit:

EXAMINATION

BY MR. CAMPBELL:

7 Q. Please state your name and spell it for the
8 record.

9 A. Julie Tiedeken. That's J-u-l-i-e,
10 T-i-e-d-e-k-e-n?

11 Q. Ms. Tiedeken, my name is Jim Campbell. I'm one
12 of the attorneys that represents the respondent, Judge
13 Ruth Neely in this case. Thank you for making yourself
14 available for this deposition. You're here as the
15 commission's representative pursuant to Rule 30(B)(6),
16 correct?

17 A. Correct.

18 (Thereupon Deposition Exhibit 20 is marked.)

19 Q. Ms. Tiedeken, I'm handing you a copy of what has
20 been marked Deposition Exhibit 20. This is a copy of
21 respondent's Rule 30(B)(6) Notice of Deposition. Have
22 you seen this document before today?

23 A. I have seen this.

24 Q. You're an attorney, correct?

25 A. I am.

1 Q. Understanding you're an attorney I'll keep the
2 introductory comments very brief because I'm sure you
3 know how depositions work. But just a few reminders.
4 Let's do our best to make sure that our exchanges are
5 verbal and to avoid hand gestures and head nods and
6 things like that.

7 Let's also do our best not to talk over each
8 other. Wait for me to finish my question before you
9 respond, and I will try to wait for you to finish your
10 response before I ask a follow-up question.

11 If you don't understand a question that I ask at
12 any point please ask me to clarify it and I'm happy to
13 do that. If you need a break, let me know, and when I
14 finish that line of questioning I'm happy to have you
15 take a break.

16 At any time if you think of something that you'd
17 like to change about your prior testimony, feel free to
18 stop me and interject that and we can make sure to keep
19 the record as accurate as possible.

20 So does all of that sound fair to you?

21 A. Yes.

22 Q. Is there any reason why you can't provide your
23 best and most accurate testimony today?

24 A. No.

25 Q. Are you currently taking any medication or other

1 substance that might impair your ability to testify
2 today?

3 A. No.

4 Q. This case is currently pending before the Wyoming
5 Commission on Judicial Conduct and Ethics pursuant to
6 the commission's rules. These proceedings are
7 confidential. Are you aware that these proceedings are
8 confidential?

9 A. I am aware.

10 Q. What did you do to prepare for this deposition
11 today?

12 A. I reviewed the constitutional provisions with
13 regard to the Commission on Judicial Conduct and Ethics.
14 I reviewed the commission's rules. I reviewed portions
15 of the Code of Judicial Conduct. I reviewed the
16 transcript that I believe you provided to counsel for
17 the commission of the I Panel meetings.

18 I reviewed interrogatory responses that the
19 commission had sent to you, and the initial disclosures.

20 I reviewed the complaint and answer in this
21 matter. I spoke with Ms. Soto to refresh my
22 recollection of the procedures she follows in appointing
23 members to the I Panel and A Panel. I think that's
24 about it. That's all I can recall at this moment.

25 Q. You reviewed a lot of stuff to prepare for this

1 deposition. How long have you practiced law?

2 A. Thirty-four years.

3 Q. During --

4 A. Roughly.

5 Q. During the entire time that you practiced law
6 have you practiced here in the state of Wyoming?

7 A. I have.

8 Q. Do you know approximately how many attorneys are
9 licensed in Wyoming?

10 A. I do not know that number.

11 Q. When did you first become involved working with
12 the commission? And by commission I mean the Commission
13 on Judicial Conduct and Ethics.

14 A. I was appointed by the Wyoming Bar Association to
15 the commission in, I believe it was March of 2009. And
16 I think I misspoke. I was recommended for appointment
17 by the Wyoming Bar Association, and then I think the
18 Governor actually appoints me, if I'm remembering that
19 procedure correctly.

20 Q. And you said March 2009?

21 A. Yes.

22 Q. And as best you can recall, you're appointed by
23 the Wyoming State Bar and you're -- Well, let's do it
24 this way. As best you can recall you're appointed by
25 the state bar?

1 A. Correct.

2 Q. And then what is the Governor's involvement?

3 A. I think the Governor might confirm the
4 appointment. I'm not sure I'm correct on that. I'd
5 have to review that provision. I can't remember off the
6 top my head. I know the state bar appointed me.

7 Q. When you were first appointed to the commission
8 in March of 2009, what was your position?

9 A. I was a member of the commission. I was an
10 attorney member of the commission.

11 Q. How long -- How long did you hold that position
12 as an attorney member of the commission?

13 A. Until March of 2015.

14 Q. Why did you stop holding that position in March
15 of 2015?

16 A. My term was up. I had just completed my second
17 term.

18 Q. So are the terms of the attorney members of the
19 commission three years apiece?

20 A. Yes. All members serve a three-year term.

21 Q. So not just attorney members but also citizen
22 members and judge members, correct?

23 A. Correct.

24 Q. What was the process for going from your first
25 term as an attorney member to your second term? Did you

1 have to be renominated?

2 A. Yes.

3 Q. I should say reappointed is the term to use.

4 A. Reappointed.

5 Q. And you were reappointed by the state bar?

6 A. I was.

7 Q. Is there a reason that you're aware of why you
8 weren't appointed again in March of 2015?

9 A. The rules provide that you may serve two terms.

10 Q. What has been your involvement with the
11 commission since your term as a member ended?

12 A. Until this proceeding, none.

13 Q. And by "this proceeding", do you mean
14 specifically preparing for this deposition?

15 A. Correct. Being asked to act as a Rule 30(B)(6)
16 witness in this proceeding.

17 Q. Did you ever serve as the chair of the
18 commission?

19 A. I did.

20 Q. What years did you serve as the chair on the
21 commission?

22 A. I was the chair from March of 2014 to March of
23 2015.

24 Q. How did it come to be that you became the chair?

25 A. I was elected the chair at our annual meeting.

1 Q. Who were you elected by?

2 A. The other members of the commission.

3 Q. Does the commission change its chair every year?

4 A. No. I believe there have been some chairs that
5 have served a two-year term.

6 Q. What were your responsibilities as the chair of
7 the commission?

8 A. I would say the main responsibility was to
9 preside over meetings of the full commission, and as
10 chair I could issue subpoenas for any panel proceeding.
11 I was involved in representing the commission at the
12 budget meeting in front of the legislature.

13 If a matter came up with -- in which the
14 executive director needed guidance or a question she
15 typically would contact me. The executive director
16 reported her vacation time to me. I signed checks,
17 vouchers. I shouldn't say I signed checks. I signed
18 vouchers and reports with regard to budgeting, paying of
19 bills. Those are the main things I can remember.

20 Q. So did you effectively serve as the supervisor of
21 the executive director?

22 A. No, I was not. I wouldn't say I was her
23 supervisor. I would say she was supervised by the
24 commission as a whole.

25 Q. But you specifically reviewed things related to

1 payroll, is that what you said?

2 A. Her vacation time and payroll.

3 Q. You mentioned that one of your duties as the
4 chair was to preside over full meetings of the
5 commission?

6 A. Yes.

7 Q. Can you describe for me what those meetings were?

8 A. We -- We had two meetings a year with the full
9 commission, one in the spring and one in the fall. And
10 then during the time that I was on the commission we
11 actually had some other full meetings of the commission
12 but it was before I was the chair.

13 Q. What are the purposes of those meetings?

14 A. Just to conduct the business of the commission.

15 Q. So is it fair to say that they weren't
16 specifically focused on a particular matter involving
17 allegations against a judge, it was more generally about
18 the work that the commission does?

19 A. That's fair.

20 Q. Where did these meetings take place?

21 A. Different locations throughout Wyoming. We
22 rotated.

23 Q. Is it just a one-day meeting?

24 A. Yes, just a one-day meeting.

25 Q. Did the commission provide any training for its

1 members during these meetings?

2 A. During the annual meeting itself -- semi annual
3 meeting?

4 I would not characterize any of the meetings as
5 ones where there was training conducted.

6 Q. In your role as chair of the commission, did you
7 have any responsibilities regarding the selection of
8 I Panels?

9 A. I did not.

10 Q. How about regarding the selection of A Panels?

11 A. No.

12 Q. As the former chair of the commission, you have
13 knowledge of all of the commission's procedures; is that
14 correct?

15 A. Yes, to some extent. Obviously I was not on
16 every A Panel and I Panel, and would not have knowledge
17 of the particular procedures followed in a particular
18 matter but generally I'm familiar with the procedures.

19 Q. How many total commissioners or how many total
20 members are on the commission?

21 A. Twelve. I hope that's right. I should have
22 counted. I think three judges, three attorneys and six
23 lay people.

24 Q. That was my next question. You mentioned before
25 that you were appointed by the Wyoming Bar to your

1 position --

2 A. Correct.

3 Q. -- on the commission? Is that how all the other
4 members of the commission are appointed or how they come
5 to be members of the commission?

6 A. No.

7 Q. What is the process by which a judge becomes a
8 member of the commission?

9 A. The district judge's group appoints two of the
10 judges for the commission, and a circuit judge's group
11 appoints one judge from their membership to the
12 commission.

13 Q. As far as lawyers, the Wyoming State Bar appoints
14 the lawyers; is that correct?

15 A. Correct.

16 Q. What's the procedure for non-lawyers? How do
17 they become members of the commission?

18 A. They're appointed by the Governor.

19 Q. Is there any requirement of a political party
20 breakdown?

21 A. No.

22 Q. As best you know, does the governor have any
23 constraints on the ability to appoint the nonlawyer
24 members of the commission?

25 A. Not that I'm aware of.

1 Q. Does the commission provide training for its
2 members?

3 A. Yes.

4 Q. Can you describe for me the types of training
5 that the commission provides?

6 A. New members are provided with materials to
7 review, and the opportunity to attend a nationwide
8 conference for such commissions.

9 Q. Do you know the name of the nationwide
10 commission?

11 A. Oh, geeesh, it's changed in the last year or two,
12 and I don't recall it. I can't recall it but most -- I
13 think most states belong to the nationwide organization.

14 Q. You also mentioned that -- Well, first, let me
15 finish that. I think you said that all commission
16 members are provided with an opportunity to attend that
17 national conference?

18 A. Yes.

19 MR. DIXON: Counsel?

20 MR. CAMPBELL: Yes.

21 MR. DIXON: I get this is background and you
22 guys are trying to educate yourself about the
23 Commission, and I'm willing to give some latitude about
24 that but it's really not within the scope of the
25 designation what you're talking about.

1 MR. CAMPBELL: Well, I think it does fall
2 within the designation of some of these allegations but
3 I'm not going to camp here forever.

4 MR. DIXON: I'm not going to argue about it.

5 MR. CAMPBELL: Sure.

6 Q. (By Mr. Campbell) You mentioned that commission
7 members are provided an opportunity to attend this
8 national conference. Are commission members required to
9 attend that?

10 A. No, they're not required. It's not required.

11 Q. You also mentioned commission members are
12 provided with materials?

13 A. Yes.

14 Q. Can you describe for me what those materials are?

15 A. Copy of the Wyoming constitutional provisions
16 relating to the Commission, the commission's rules, the
17 Code of Judicial Conduct, and material from the national
18 organization which gives some explanation and guidance
19 on such commissions.

20 Q. Are there any training sessions that all members
21 of the Commission are required to attend?

22 A. No.

23 Q. The Commission receives formal complaints against
24 judges, correct?

25 A. It does.

1 Q. Is an I Panel automatically convened every time
2 the Commission receives a formal complaint?

3 A. Just to verify, when you are referring to a
4 formal complaint, are you referring to a verified
5 complaint?

6 Q. That is what I am referring to, yes.

7 A. Yes. Yes, an I Panel is convened whenever there
8 is a verified complaint received by the Commission.

9 Q. Can the Commission initiate its own
10 investigations or formal proceedings against a judge on
11 its Own Motion?

12 A. Yes.

13 Q. Who decides whether to initiate the commission's
14 Own Motion procedure?

15 A. An I Panel would make that decision.

16 Q. Who decides whether to convene the I Panel to
17 have the discussion of whether to initiate a Own Motion
18 procedure?

19 A. If information comes to the Commission which may
20 be something the Commission may want to move forward on
21 its Own Motion, an I Panel's convened, and the I Panel
22 makes the decision.

23 Q. And who convenes that I Panel?

24 A. The executive director would convene the I Panel,
25 but typically the executive director would first contact

1 the presiding officer, advise the presiding -- not
2 presiding -- the Commission chair -- Let me start over,
3 I think I misspoke about halfway through there.

4 Typically the executive director would contact the
5 Commission chair and say, I received this information,
6 what should I do. And then the chair would make the
7 decision to go forward and convene an I Panel if it was
8 appropriate under the rules.

9 Q. Can the executive director unilaterally initiate
10 Own Motion procedures?

11 A. No.

12 Q. Can the executive director unilaterally call for
13 an I Panel to consider whether to initiate Own Motion
14 procedures?

15 A. I've never seen that happen, no.

16 Q. So as you said before, the practice is for the
17 executive director to talk to the chair, and the chair
18 to instruct the executive director to convene an I Panel
19 to discuss whether to pursue an Own Motion proceeding;
20 is that correct?

21 A. That's the procedure that's been followed, yes.

22 Q. In your six years working on the Commission, how
23 many commission proceedings are you aware of that the
24 Commission initiated on its Own Motion?

25 A. You know, I don't have the count but several; you

1 know, several. I would say more than three or four.
2 And just to -- three or four that I was aware of. If I
3 wasn't on the I Panel I may not have been aware of it.

4 Q. Although you indicated earlier that in order for
5 the executive director to convene an I Panel, in order
6 to consider whether to pursue Own Motion procedures,
7 that the practice is to consult the chair; is that
8 correct?

9 A. Right. But I was only chair for one of my six
10 years. I think your question was during my six years
11 how many Own Motions were convened, and so for five of
12 those years I wouldn't have been the chair and would not
13 have been aware unless I was on the I Panel, that an Own
14 Motion I Panel had been convened.

15 Q. What are the considerations that the Commission
16 takes into account when deciding whether to initiate an
17 Own Motion proceeding?

18 A. The current rule uses the language -- Do you mind
19 if I refer to it because I can't remember off the top of
20 my head.

21 The I Panel -- It's Rule 7(b). When the I Panel
22 becomes aware of information from any source that it
23 deems reasonably reliable on matters concerning alleged
24 disability, judicial misconduct, criminal misconduct or
25 civil misconduct falling within the jurisdiction of the

1 Commission. And that is the criteria to commence
2 investigations on Own Motion.

3 Q. And just so that the record reflects that
4 Ms. Tiedeken is looking at a copy of the Commission's
5 rules, correct?

6 A. Correct.

7 Q. So is it fair so say that if the Commission, in
8 considering whether to initiate its Own Motion
9 proceeding, determines that there's a possibility of a
10 rules violation, that that is enough to initiate its Own
11 Motion proceeding?

12 A. No, that's not fair to say. The word possible
13 isn't a word that's used in the rule. There's got to be
14 a determination that you've become aware of information
15 from any source that is deemed reasonably reliable on
16 matters concerning alleged disability or judicial
17 misconduct, criminal misconduct, civil misconduct
18 falling within the jurisdiction of the Commission.

19 Q. But it's enough that there's just a reasonable --
20 I forget the exact language, but that the language
21 itself -- it's enough that there's a violation of the
22 code, it doesn't have to be a particular violation of
23 the code? In other words, if the I Panel considers it
24 to be a potential violation of the code that's enough to
25 initiate Own Motion proceedings?

1 A. Well, you'd have to receive information from a
2 source that's deemed reasonably reliable on matters
3 concerning an alleged violation. So you're not -- when
4 you convene the I Panel to investigate you're not making
5 a determination that there's been a violation. It's
6 just you received information on an alleged violation
7 and you're going to make -- you've made a decision,
8 let's investigate it.

9 Q. What are the duties of an I Panel?

10 A. In what respect?

11 Q. So once an I Panel is convened what's the
12 responsibility of the I Panel, what is their initial
13 job?

14 A. Initially I think the function of the I Panel,
15 once it's been convened -- it depends on the purpose of
16 the -- why the I Panel's been convened. If it's been
17 convened to determine whether the I Panel should proceed
18 on its Own Motion, then the function of the I Panel is
19 to make a determination, as we've discussed, whether
20 there's information from a reliable -- reasonably
21 reliable source on matters that come within the
22 jurisdiction of the Commission, and then make a
23 determination as to whether they should move forward
24 with an investigation. So in that instance that would
25 be the initial function.

1 Q. Who selects an I Panel for a particular matter?

2 A. Under our rules of procedure the executive
3 director appoints I Panel members.

4 Q. Is the selection random?

5 A. No. Under the rules the selection is -- The
6 selection, I think the word used is rotates. I think
7 the word in the rule is rotate so you can even out the
8 workload so that, for example -- and -- number one, and,
9 number two, there needs to be at least one individual
10 from each category of commission membership on an
11 I Panel, so there must be at least one attorney, one
12 judge, and one member of the public on an I Panel.
13 Those are the main criteria. And then by the rules --
14 and then I think the executive director tries to take
15 into account if there's an attorney practicing in front
16 of a particular judge, trying to avoid appointment, or a
17 judge that's in the same judicial district with a
18 particular judge, try to avoid that.

19 Q. May a commission member be on both the I Panel
20 and the A Panel of the same matter?

21 A. No.

22 Q. What are the duties of the presiding officer of
23 the I Panel?

24 A. The presiding officer on the I Panel calls to
25 order meetings and presides over the meeting of the

1 I Panel.

2 Q. Any other additional duties that they have as the
3 presiding officer?

4 A. The presiding officer typically is the one that
5 signs off on letters that are sent out as part of the
6 investigation. Those are the main duties. Helps draft
7 the letters. If there's a letter of correction, the
8 presiding officer may assist with drafting of the letter
9 of correction.

10 Q. Does the Commission engage in an investigation
11 every time it convenes the I Panel?

12 A. No.

13 Q. How does the Commission determine whether to do
14 an investigation?

15 A. The I Panel convenes and makes a determination to
16 go forward with an investigation.

17 Q. Are there specific criteria they consider in
18 determining whether to conduct an investigation?

19 A. Yes.

20 Q. What are those criteria?

21 A. The I Panel scrutinizes the complaint or the
22 information provided from the reliable source to
23 determine whether it falls within the jurisdiction of
24 the Commission, whether it's a violation of the code --
25 you know, there's an allegation that there's a violation

1 of the Code of Judicial Conduct, or civil or criminal --
2 you know, all of the factors I previously stated.

3 Q. Sure.

4 A. And if there's a finding by the I Panel, that,
5 no, this does not fall within our jurisdiction, then
6 there's no investigation.

7 Q. What are the ways in which the I Panel engages in
8 investigation?

9 A. It depends on the facts of the matter.

10 Q. What are some of the ways that past I Panels
11 you've been a part of have engaged in an investigation?

12 A. Made inquiries of the judge, made further inquiry
13 of the complaining party, made inquiries of witnesses.
14 We have obtained transcripts of -- transcripts or
15 digital recordings of hearings or matters before judges.

16 We've made inquiries of witnesses. Those are the
17 only ones that come to mind at the moment.

18 Q. Who -- Who does the work of carrying out the
19 investigation?

20 A. When you -- I guess I need some clarification.

21 What do you mean by, carry out the work?

22 Q. So you identified a number of things. You might
23 send an inquiry to a judge, you might reach out to a
24 judge and get a copy of a hearing or a transcript.

25 Who -- Who does that work to reach out and get that

1 information?

2 A. The executive director could do that work at the
3 direction of the I Panel and with the assistance of the
4 I Panel, or there have been times when the I Panel has
5 hired counsel to investigate.

6 Q. Has the Commission ever hired an investigator to
7 investigate?

8 A. You know, I don't know. While I have been on the
9 Commission I am only aware of counsel being hired to act
10 as an investigator.

11 Q. Would you say that it's typical for an I Panel to
12 hire counsel to engage, to act as an investigator?

13 A. No.

14 Q. As part of an investigation does the Commission
15 or its representatives normally solicit help from
16 another state commission on Judicial Conduct and Ethics?

17 MR. DIXON: Objection, form of the question.

18 A. I'm unclear on -- on what you mean by solicit
19 help. Can you clarify that?

20 Q. (By Mr. Campbell) Sure. Does the Commission
21 normally contact representatives from other states'
22 commissions and ask questions about how they're
23 interpreting the code? Is that a normal practice that
24 the Commission engages?

25 MR. DIXON: Object to the form of the

1 question.

2 A. I don't -- I wouldn't say it's a normal practice
3 but I think it's happened on occasion where, in
4 particular, we've had questions about the code and
5 interpretation on different matters.

6 I know we have contacted the national
7 organization and their executive director some time.
8 After we've made an inquiry we'll send out inquiries by
9 e-mail or letter to other states and say, okay, Wyoming
10 has this issue, what have you guys found. And then
11 gather up the information and provide it to us. And
12 likewise, I think she has -- the executive director of
13 the national organization has asked us to respond
14 similarly when another state is asking for information
15 on a particular matter. And so there is some sharing
16 between organizations that all belong to this national
17 organization.

18 Q. (By Mr. Campbell) Is that typical in a case or
19 is that more infrequent?

20 A. I think it's an infrequent happening but it does
21 happen on occasion if there's a question that comes up
22 that's new, different.

23 Q. Why can't a member of an I Panel also be a member
24 of an A Panel in the same matter?

25 A. Our rules prohibit the membership of an I Panel

1 member to also sit on the A Panel.

2 Q. Why do the rules prohibit that?

3 A. The reasoning behind it, in my view it is to
4 preserve the integrity of the A Panel who is going to be
5 acting as judge, should not be involved in investigation
6 of the complaint and making decision whether to go
7 forward with the prosecution of it.

8 Q. So the Commission members that are making the
9 adjudicatory recommendation should not be involved in
10 the investigation, is that what you're saying?

11 A. No. I think -- I don't know if that's exactly
12 what I said but I think it's to preserve the integrity
13 of the A Panel who's acting as the adjudicatory or judge
14 in the matter.

15 Q. And part of preserving the integrity of the
16 A Panel is to make sure that they're not also engaging
17 in the investigation; is that correct?

18 A. Yeah. They're not part of the I Panel.

19 Q. If an I Panel believes that a code violation may
20 have occurred at some point it issues a notice of
21 commencement of formal proceedings; is that correct?

22 A. No, that's not necessarily the standard. The
23 standard is if an I Panel believes that there's
24 reasonable cause, it has reasonable cause to find that
25 there's been a violation, then it can recommend that it

1 proceed to an A Panel.

2 Q. So that --

3 A. To formal proceeding.

4 Q. So that's the decision that the I Panel must
5 make, whether -- whether -- go ahead.

6 A. It can make that decision, yes, among other
7 options.

8 Q. Does the Commission issue a formal reasonable
9 cause determination?

10 A. Not as you've stated it. In fact, I don't know
11 what you mean by formal reasonable cause determination.

12 Q. You said that they have to determine whether
13 there's reasonable cause in order to convene an A Panel;
14 is that right?

15 A. I think that's the standard in the rules, if I'm
16 remembering.

17 Q. And so I'm just asking, do they prepare a
18 separate document that says, we hereby find reasonable
19 cause?

20 A. No. No.

21 Q. In deciding whether to convene an A Panel must
22 the decision of the I Panel be unanimous?

23 A. No.

24 Q. Have you ever been involved in an I Panel where
25 the decision to convene an A Panel wasn't unanimous?

1 A. Me personally? No, I don't believe I have.

2 Q. Are you aware of any others that maybe you
3 weren't personally on but you have knowledge of?

4 A. No.

5 Q. Does the I Panel disband as soon as it decides to
6 convene an A Panel?

7 A. No.

8 Q. When does the I Panel for a particular matter
9 finally disband?

10 A. The terminology disband is not used in our rules,
11 but the I Panel does continue throughout the proceeding
12 and can be involved with regard to settlement
13 discussions.

14 Q. You mentioned that one of the reasons that the
15 I Panel stays intact, if you will, is to engage in
16 potential settlement discussions?

17 A. Correct.

18 Q. Are there any other reasons or any other ways in
19 which the I Panel might get involved past the time that
20 they decide to appoint an A Panel?

21 A. Yes.

22 Q. What are those?

23 A. If there's been a settlement and the judge does
24 not comply with the settlement, the I Panel may get
25 involved in enforcing the settlement. That's one

1 example.

2 Q. Anything else you can think of?

3 A. If new information becomes available the I Panel
4 may investigate the new information.

5 Q. Are you aware of that ever happening?

6 A. Yes.

7 Q. So you're aware of a situation where after an
8 I Panel decided to convene an A Panel, subsequently more
9 information came to light that was brought to the
10 I Panel to consider what to do; is that correct?

11 A. That's correct.

12 Q. Is it typical for the Commission to engage in
13 settlement negotiations with an accused judge?

14 A. When you talk about the Commission, are you
15 talking about the Commission as a whole?

16 Q. How about the same question but only change it
17 from commission to a representative of the Commission.
18 Is it typical for a representative of the Commission to
19 engage in settlement discussions with an accused judge?

20 A. A couple of things. Do you mean -- Can you
21 clarify? When you talk about a representative of the
22 Commission, are you talking about individually or on
23 behalf of, for example, an I Panel? And when you're
24 talking about an judge, are you talking about a judge
25 who has had a formal complaint filed against him or her?

1 Q. Once a formal complaint has been filed, is it
2 typical for the Commission, someone from the Commission
3 to engage in settlement discussions with a judge?

4 A. And just, again, I need you to clarify. When you
5 say someone from the Commission, do you mean on behalf
6 of an I Panel or on behalf of and A Panel or do you --
7 are you talking about individually on their own?

8 Q. Anything that you're aware of. In other words,
9 if you're going to say, yes, it is typical for this
10 person to engage in this settlement discussion but they
11 do it on behalf of the I Panel, then that's what I'm
12 asking. I'm asking is there anyone who you would
13 consider a representative of the Commission that engages
14 in settlement discussions?

15 A. It's typical, after a judge has been formally
16 charged, for settlement negotiations to take place, and
17 many times the judge's counsel will engage in settlement
18 discussion with counsel for the -- the Commission. Or
19 if the judge is not represented by counsel the judge may
20 initiate settlement discussions with someone acting on
21 behalf of the I Panel or the I Panel may initiate
22 settlement discussions with a judge that's unrepresented
23 on behalf of an I Panel.

24 Q. So it sounds -- and I want to see if I can
25 summarize this. It sounds like based on what you said,

1 that sometimes disciplinary counsel can -- will engage
2 in settlement discussions with a judge who has had
3 formal charges filed against them; is that correct?

4 A. Or -- Or counsel for the judge. Disciplinary
5 counsel may engage in discussions with the judge -- a
6 judge who's unrepresented about settlement, or
7 disciplinary counsel may engage in discussions with
8 counsel for a judge, and that happens often.

9 And, additionally, if disciplinary counsel has
10 not been retained an individual on behalf of the I Panel
11 may engage in discussions.

12 Q. So when you say an individual -- Strike that.
13 When you say an individual on behalf of I Panel, do you
14 mean a specific member of that I Panel or someone else?

15 A. Member of the I Panel.

16 Q. Who selects the A Panel?

17 A. The executive director appoints the A Panel
18 according to the rules.

19 Q. Are members of the A Panel randomly selected?

20 A. No.

21 Q. Is it the same criteria you referenced before in
22 selecting members of the I Panel?

23 A. Yes. Well, it's not the same criteria as the
24 A Panel. Some of the criteria is the same. You must
25 have one person from each category of the membership on

1 the Commission. There has to be an attorney, a judge
2 and a member of the public. The selection is done by,
3 you know -- in order, trying to balance out the load of
4 work. The rules provide that the attorney must act as
5 the presiding officer of the A Panel. And no member of
6 the I Panel can be on the A Panel.

7 Q. So you indicated that the rules require that the
8 attorney member must be the presiding officer of the
9 A Panel?

10 A. Yes, that's what our rules provide.

11 Q. So the judge member cannot be the presiding
12 official on the A Panel?

13 A. That's correct.

14 Q. What are the duties of the presiding officer of
15 the A Panel?

16 A. To conduct -- to preside over the hearing, rule
17 on objections, sign subpoenas, to hold pretrial
18 conferences, to rule on discovery disputes. Those are
19 some that come to mind.

20 Q. Can the presiding officer of the A Panel address
21 some matters unilaterally without consulting the other
22 members of the A Panel?

23 A. Yes.

24 Q. What are those matters?

25 A. The presiding officer can sign a subpoena without

1 permission from the other members of the A Panel. Can
2 make determinations on discovery disputes. Can hold,
3 you know, scheduling -- scheduling pretrial conferences
4 if it's deemed necessary. Those kinds of things.

5 Q. I'm assuming that --

6 A. Non-substantive matters.

7 Q. So one of the things that a presiding officer of
8 the A Panel cannot do unilaterally is to issue a
9 recommendation to the full commission; is that correct?

10 A. Correct.

11 Q. When does the Commission typically hire
12 disciplinary counsel for a specific matter?

13 A. Disciplinary counsel can be hired for
14 investigatory purposes for the I Panel. Disciplinary
15 counsel can be hired to file a complaint to the A Panel.

16 Q. So those are two typical times that disciplinary
17 counsel --

18 A. Those are two typical times.

19 Q. Anything else you can think of?

20 A. Those are the two that come to mind as I'm
21 sitting here.

22 Q. So it's fair to say disciplinary counsel can be
23 hired to assist the -- strike that. So it's fair to say
24 that disciplinary counsel can be hired to assist the
25 I Panel?

1 A. Correct.

2 Q. Who hires disciplinary counsel?

3 A. The I panel typically makes the recommendation to
4 hire disciplinary counsel.

5 Q. Is there a list of potential disciplinary counsel
6 that the I Panel consults?

7 A. Yes. We have typically had one or two people
8 that we've used as disciplinary counsel.

9 Q. So the Commission has typically only had one or
10 two people that it uses as --

11 A. Right. People have changed over the years, but,
12 yes.

13 Q. So one or two at a time, is that what you're
14 saying?

15 A. Yes. We usually have a list before two people
16 that we use as disciplinary counsel.

17 Q. So then the same attorney isn't hired for all
18 contested matters?

19 A. Correct.

20 Q. Is a Notice of Commencement of Formal Proceedings
21 automatically issued every time an A Panel is convened?

22 A. Yes.

23 Q. Does the Commission hold a hearing for every
24 matter in which a Notice of Commencement of Formal
25 Proceedings is issued?

1 A. No.

2 Q. How are some of the other ways that those matters
3 are resolved short of hearing?

4 A. They're settled so you don't have a hearing.

5 Q. Any other way you can think of aside from
6 settlement?

7 A. There's one occasion where it may have been
8 resolved due to death of the judge so it didn't go
9 forward.

10 Those are the only -- Those are the only options
11 that I can think of.

12 Q. To your knowledge has the Commission ever
13 resolved a contested matter through summary judgment
14 motions rather than a hearing?

15 A. I don't recall anything ever being resolved
16 through summary judgment motion. I'm not aware of any
17 if there were.

18 Q. Have you been involved in a contested matter that
19 went to a hearing?

20 A. Yes.

21 Q. After the hearing does the Commission request
22 post hearing briefing from the parties?

23 A. I don't know if that's ever been done. I think
24 it could be an option.

25 Q. Can you describe for me the -- Well, please

1 describe for me the ultimate decision that the A Panel
2 issues? In other words, is it a recommendation, is that
3 what you would describe it? And can you give me a
4 general feel for what that final ruling of the A Panel
5 is?

6 A. If I can --

7 Q. Sure --

8 A. -- review the wording in the rules, I believe it
9 is referred to as a recommendation. They would be
10 governed by Rule 8.

11 Q. Try Rule 16.

12 (Pause.)

13 A. Rule 16 would govern the final adjudication which
14 allows for a dismissal if the panel by majority vote
15 fails to find judicial misconduct, criminal misconduct,
16 civil misconduct, or disability by clear and convincing
17 evidence, then the proceedings can be dismissed.

18 If a adjudicatory panel by vote majority vote
19 finds judicial misconduct, criminal misconduct, civil
20 misconduct or disability by clear and convincing
21 evidence, then the adjudicatory panel sets forth and
22 transmits its finding to the entire commission for
23 disposition.

24 The terminology in the rules is not
25 recommendation. The word recommendation is not used.

1 Q. So for purposes of the deposition I'm just going
2 to call it the A Panel's determination, and just so that
3 you know what I'm talking about, I'm talking about their
4 final decision, whatever it is by majority vote.

5 A. By clear and convincing evidence.

6 Q. That's right.

7 A. Correct.

8 Q. So once the A Panel arrives at its determination
9 does the judge -- Let me start that over. Once the
10 A Panel comes to a conclusion by majority vote that it
11 believes a violation of the code has occurred, does the
12 judge have an opportunity to object to the A Panel's
13 decision before the full commission rules?

14 A. Yes.

15 Q. Does the full commission hold another hearing?

16 A. No. The rules provide, and that would be Rule 16
17 D, you know, provides the judge is not entitled to a
18 full evidentiary hearing before the full commission but
19 the judge has the right to appear at the judge's sole
20 election in person, through counsel or in writing in
21 front of the full commission.

22 Q. Just so the record's clearing in Rule 16,
23 subsection (e), it does talk about the Commission making
24 a recommendation. So your recollection was right, the
25 rule -- the word recommended is in Rule 16(e)?

1 A. Well, you were asking me if the adjudicatory
2 panel made a recommendation. This rule provides -- it's
3 talking about the Commission making a recommendation.

4 Q. So that's the final commission decision that's a
5 recommendation to the Wyoming Supreme Court?

6 A. Correct.

7 Q. Does every member of the Commission vote on the
8 full commission determination?

9 A. Yes.

10 Q. Does that include all members of the A Panel?

11 A. Yes.

12 Q. Does that include all members of the I Panel?

13 A. Yes, with -- to both of those questions with one
14 caveat, if there's someone that has recused themselves,
15 and that does occur occasionally.

16 Q. What are some of the reasons a commission member
17 might recuse themselves?

18 A. A personal relationship with the judge would be a
19 reason.

20 Q. Anything else you can think of?

21 A. Family relationship with the judge. A matter
22 where there probably would be an appearance of
23 impropriety with the Commission.

24 Q. So Wyoming Rule of Judicial Conduct 2.11 talks
25 about disqualification and recusal. Are those factors

1 that commission members might take into consideration as
2 guidance when deciding whether to recuse themselves from
3 a matter?

4 A. 2.11 is talking about a judge having a bias or
5 prejudice concerning a party, and so you're talking
6 about a commission member who may have a personal bias
7 or prejudice against the judge, is that what you're
8 asking me?

9 Q. I'm saying is it something that the Commission
10 members might use as guidance in deciding whether they
11 need to recuse from a particular matter?

12 A. Well, 2.11 doesn't apply to commission members
13 but some of these factors in here, where it says a judge
14 shall disqualify himself or herself in any proceeding in
15 which the judge's impartiality might reasonably be
16 questioned, I think a commission member likewise would
17 disqualify themselves from participating in a proceeding
18 in which their impartiality might reasonably be
19 questioned. So that's one example. So some of these
20 factors may be considered.

21 Q. When the full commission sends its recommendation
22 to the Wyoming Supreme Court, does it provide the judge
23 with notice of that before sending its recommendation to
24 the Supreme Court?

25 A. I want to say yes but I don't know the answer to

1 that question. I'd have to look at the rule.

2 Q. No need to consult the rule. We've reviewed it.
3 I'm asking based on your experience, if you recall --

4 A. I don't recall.

5 Q. -- when a case has progressed to that point?

6 A. I don't recall.

7 Q. Can you please identify for me some of the
8 purposes underlying the Code of Judicial Conduct?

9 MR. DIXON: No, that's not on the list.
10 That's not one of these that said we're going to talk
11 about.

12 Q. (By Mr. Campbell) Is one of the purposes of the
13 Code of Judicial Conduct to protect the public?

14 MR. DIXON: Counsel, we're not going to talk
15 about it. This is not part of the order and she's not
16 going to go into it, so. . .

17 Q. (By Mr. Campbell) Rule -- Item No. 1 in -- Well,
18 I'll direct your attention to Exhibit 20 that we gave to
19 you earlier, which is the Rule 30(B)(6) notice. And on
20 schedule A, specifically the first category we've
21 mentioned, the purposes served by the Code of Judicial
22 Conduct.

23 MR. DIXON: It's not on the list authorized
24 by the hearing officer.

25 MR. CAMPBELL: It's not on the list excluded

1 by the hearing officer.

2 MR. DIXON: We are not going to address that,
3 period. Don't argue with me, don't waste anymore time
4 on the question. I instruct the witness not to answer
5 any questions relative to subpoena duces tecum point
6 No. 1.

7 MR. CAMPBELL: Do you want to indicate the
8 basis for your objection, specifically --

9 MR. DIXON: No.

10 MR. CAMPBELL: -- grounded in the protective
11 order?

12 MR. DIXON: No. Specifically the protective
13 order. I'm not going to argue with you, counsel. You
14 want to make an argument, make it to Mel Orchard or save
15 it for the Wyoming Supreme Court.

16 MR. CONNELLY: We should probably at least
17 get on the record what your specific objection is within
18 the protective order.

19 MR. DIXON: My specific objection -- I have
20 made my objection. It's clear that this topic has not
21 been authorized by the hearing officer as a proper
22 subject of discovery.

23 Q. (By Mr. Campbell) All right. We'll mark that
24 and move on. When did you first learn about the article
25 in the Sublette Examiner discussing Judge Neely's

1 religious --

2 MR. DIXON: That's not in the designation,
3 unless you have a specific point in the designation you
4 can point to.

5 MR. CAMPBELL: In the designation I just
6 referenced, Exhibit No. 20?

7 MR. DIXON: Yep.

8 MR. CAMPBELL: All of the Commission -- sure,
9 the second to last bullet point, "All of the
10 Commission's allegations against Judge Neely in this
11 matter."

12 MR. DIXON: Very good. Go ahead.

13 Q. (By Mr. Campbell) When did you first learn about
14 the article in the Sublette Examiner discussing Judge
15 Neely's religious beliefs about same-sex marriage?

16 A. Are you asking me for the date?

17 Q. I'm saying -- No. I'm saying when did -- Do you
18 recall getting a copy of the article? Do you recall
19 where you received it? Did somebody call you up on the
20 phone, tell you about it? I'm not asking for the
21 specific day, I'm asking for the circumstances
22 surrounding it.

23 A. I received an e-mail from the Commission's
24 executive director, and she had forwarded to me an
25 e-mail that she had received from a member of the public

1 with the article attached. And she had asked me to give
2 her a call. That's when I first got notice of the
3 article in the newspaper.

4 Q. This Exhibit No. 21 is a document that you
5 produced to us earlier today. It's the e-mail from
6 Ms. Soto to Ms. Tiedeken, so that's why I don't have
7 extra copies for you.

8 MS. TURNER: I think that's already
9 designated as an exhibit.

10 Oh, it's Exhibit 8, isn't it?

11 MR. CAMPBELL: Let's go off the record while
12 we sort it out.

13 (Off the record discussion.)

14 Q. (By Mr. Campbell) Let's go back on the record.
15 So just to clarify, I had a document marked as a new
16 exhibit but it turns out that we had already marked that
17 document, it is Deposition Exhibit 8.

18 So in lieu of the document that I marked, I am
19 now handing you what we previously marked Deposition
20 Exhibit 8.

21 Is this the e-mail that you referred to in your
22 prior answer, where you mentioned that Ms. Soto
23 forwarded an e-mail to you?

24 A. Yes.

25 Q. Did Ms. Soto indicate to you why she sent this

1 e-mail to you as opposed to any other commission member?

2 A. She didn't indicate in this e-mail why.

3 Q. Did she tell you why --

4 A. Yes.

5 Q. -- in your communication with her?

6 A. Pardon me for interrupting. Yes, she did tell
7 me.

8 Q. What did she say?

9 A. She contacted me because I was the Commission
10 chair.

11 Q. So following this e-mail did you and Ms. Soto
12 have a conversation about this?

13 A. Yes.

14 Q. Was it a conversation over the phone?

15 A. Yes.

16 Q. Please describe for me what you all discussed
17 during that conversation.

18 A. I indicated that I had received her e-mail, and
19 that I thought an I Panel should be convened to review
20 the information we had received from Ms. Cuprill with
21 the attached newspaper article, to determine whether
22 this is something we should investigate on our Own
23 Motion. And I asked her to impanel an I Panel.

24 Q. Why did you ask her to convene an I Panel?

25 A. Because we had received information from a member

1 of the public that included the newspaper article, which
2 had public statements by Judge Neely, which had been
3 published in the newspaper with regard to whether she
4 would perform same-sex marriages. And I thought that
5 was -- and the article indicated that she would not --
6 or she would refuse to perform same-sex marriages, and
7 there's a quote, When law and religion conflict, choices
8 have to be made." And, I have not yet been asked to
9 perform a same-sex marriage but if I'm asked I won't
10 perform one. And so I thought this was something that
11 an I Panel should take a look at and see if we want to
12 go forward on our Own Motion, to see if there was --
13 this was a matter that pertained to the Code of Judicial
14 Conduct.

15 Q. So were you concerned that what Judge Neely said
16 might violate the Code of Judicial Conduct?

17 A. I was concerned.

18 Q. And what specifically about what she said
19 concerned you?

20 A. The refusal to perform same-sex marriages while
21 agreeing to perform marriages for couples of the
22 opposite sex.

23 Q. So if she had just refused to do all weddings
24 would that have caused you less concern?

25 MR. DIXON: Asks for speculation.

1 A. Maybe but if one of her required functions was to
2 perform marriages, that still would have caused me some
3 concern.

4 Q. (By Mr. Campbell) What if she just had
5 discretionary authority to perform weddings but wasn't
6 required to, would that have impacted your analysis?

7 MR. DIXON: Objection. Based on facts not in
8 evidence.

9 A. I don't know. I don't know. I don't think I was
10 thinking about it in that much detail during that
11 initial conversation. I had just read the article and I
12 thought, this is a matter that should be discussed by an
13 I Panel.

14 Q. (By Mr. Campbell) And you testified earlier that
15 you as the chair of the Commission had the authority to
16 ask the executive director to convene an I Panel?

17 A. Yes.

18 Q. During your conversation with Ms. Soto did you
19 discuss who should be on the I Panel?

20 A. Only that since I had read the article, that I
21 would be appointed as the attorney because there's only
22 three attorneys, and you want to save somebody for the
23 A Panel if it goes forward. So I do think we discussed
24 that I would be on the panel.

25 Q. Do you recall discussing anyone else who should

1 be on the panel?

2 A. I don't recall if we discussed who else would be
3 on the panel.

4 Q. In suggesting that you should be on the panel --
5 Strike that. When you indicated that you should be on
6 the panel, was Ms. Soto required to then put you on the
7 panel?

8 A. I don't think I characterized it as me requiring
9 that I be put on the panel. I think she and I discussed
10 that I would be appointed to the panel as the attorney
11 member because I had read the article. It was a mutual
12 discussion. I don't think I was directing her to put me
13 on. I think we just both discussed at that point, well,
14 you've read the article. And I can't remember if I
15 didn't have a case, if we discussed the caseload at that
16 point. I think the main reason I was put -- my
17 recollection is the main reason I was put on the I Panel
18 is because I had read the article.

19 Q. The I Panel decided to take up the Neely matter
20 on its Own Motion; is that correct?

21 A. That's correct.

22 Q. After your conversation with Ms. Soto she sent an
23 e-mail to all of the letters -- to all the members of
24 the I Panel; is that correct?

25 A. Yes, to my recollection that is correct. An

1 e-mail with our disposition form, yes.

2 Q. And you responded with a disposition form
3 indicating that you thought that the I Panel should meet
4 and discuss this, correct?

5 A. I requested a conference call. That's part of
6 our procedure. You can vote, you know, to dismiss
7 automatically. And I wanted to have a conference call
8 to discuss it.

9 Q. In terms of an investigation in the Neely matter,
10 the I Panel decided to send a letter to Judge Neely and
11 Judge Haws asking for more information about the
12 situation; is that correct?

13 A. That's correct.

14 Q. Aside from sending that letter, what other
15 investigation did the Commission engage in regarding the
16 Neely matter?

17 A. That's the only thing I recall at this point that
18 we did.

19 Q. In the conference call that the I Panel had,
20 initial conference call to discuss the Neely matter, one
21 of the topics of conversation was the possibility of
22 commencing formal proceedings against Judge Haws. Do
23 you remember that?

24 A. You know, I didn't recall it but I read the
25 transcript yesterday that you had transcribed of that,

1 that I Panel conference call and I did see that in
2 there, that that was discussed.

3 Q. What steps did the Commission take to consider
4 whether to commence proceedings against Judge Haws?

5 A. My memory is that after we received Judge Haws'
6 response to the inquiry, that no steps were taken.

7 Q. Why didn't the Commission take anymore steps at
8 that point?

9 A. I don't recall anyone on the I Panel believing
10 that steps should be taken after we received his
11 response.

12 Q. Why was that?

13 A. I don't think that anyone believed that there was
14 reasonable cause -- Well, I guess I need to go back.
15 When you say take steps, do you mean investigate
16 misconduct on our Own Motion, or proceed forward with a
17 complaint? I guess what are you talking about, what
18 steps?

19 Q. You said you didn't do anything after you
20 received his letter, and I'm just indicating, why didn't
21 you do anything else -- or I'm asking, why didn't do you
22 anything else?

23 A. No one brought that up as a possibility. And in
24 my own mind, after I got his letter, I didn't bring it
25 up because I didn't think that there was reasonable

1 cause to believe he had violated the Code of Judicial
2 Conduct.

3 Q. Do you want to take a quick break --

4 A. No.

5 Q. -- or keep going?

6 MR. DIXON: I would like a break.

7 MR. CAMPBELL: Let's take a break.

8 (Recess from 4:08 p.m. until 4:13 p.m.)

9 Q. (By Mr. Campbell) Go back on the record. We
10 were talking a little bit about the first telephone
11 conference that the I Panel had regarding the Neely
12 case. Following that there was a second I Panel
13 telephone conference. During that conference the
14 I Panel decided to refer the matter to an A Panel; is
15 that correct?

16 A. Correct.

17 Q. Did you agree with that decision?

18 A. I did.

19 Q. Why?

20 A. I felt there was reasonable cause to believe that
21 there had been a violation of the Code of Judicial
22 Conduct.

23 Q. And is it related specifically to what Judge
24 Neely said about her inability due to her religious
25 beliefs to perform same-sex marriages?

1 A. It was based on the newspaper article and Judge
2 Neely's response letter to the Commission, and also
3 Judge Haws' response letter to the Commission.

4 Q. What specifically about Judge Neely --

5 A. And just one more thing.

6 Q. Sure.

7 A. I mentioned the newspaper article but not just
8 what she said but that she publicized her views.

9 Q. What specifically about Judge Neely's and Judge
10 Haws' response caused you to think that convening an
11 A Panel was warranted?

12 A. Do you have the responses handy? I could take a
13 look at them. I can't remember what they said off the
14 top of my head.

15 MR. CAMPBELL: Let's go off the record.

16 (Thereupon Deposition Exhibit 21 is marked.)

17 Q. (By Mr. Campbell) Go back on the record. I'm
18 handing you what we've marked as Deposition Exhibit 21.
19 It's a copy of Judge Neely's response to the
20 Commission's inquiry.

21 (Pause.)

22 Q. What about --

23 A. What's your question then?

24 Q. What about Judge Neely's response caused you to
25 believe that you should impanel an A Panel?

1 A. Her statement that she had been appointed by
2 Judge Crow to act as a magistrate for circuit court to
3 perform marriages. Her statement that when Ned Donovan
4 called her in December he identified himself as being
5 with the Pinedale Roundup, one of the two local
6 newspapers and she should -- and her statement that she
7 should have recognized that her comments might be
8 published.

9 Judge Neely's statement that she would not be
10 able to perform the marriage of two men or two women
11 were she asked to do so. Her statements that she wanted
12 to continue to marry individuals who were not of the
13 same-sex. Those were the main thing in her letter that
14 contributed to my decision to refer the matter to an
15 A Panel, but as I stated I also relied on Judge Haws'
16 letter.

17 Q. One thing that Judge Haws said in his letter is
18 that he had since suspended Judge Neely from performing
19 marriages. Do you recall that?

20 A. I'd have to see the letter. I recall the wording
21 a little bit differently. I'd like to refresh my memory
22 and see if that's the wording in his letter.

23 Q. Let the record reflect that Ms. Tiedeken has been
24 handed a copy of Deposition Exhibit 12.

25 (Pause.)

1 A. Is your question whether Judge Haws stated in his
2 letter that he suspended Judge Neely?

3 Q. Well, I had just asked if you recalled that
4 statement in the letter?

5 A. After refreshing my recollection by looking at
6 Judge Haws' January 17, 2015 letter, I do recall that he
7 stated he had suspended Judge Neely.

8 Q. So even though Judge Neely was no longer
9 authorized to perform weddings you still felt that the
10 Commission should commence formal proceedings against
11 her?

12 A. Yes.

13 Q. And why is that?

14 A. Part of the discussion that took place on the
15 I Panel, as I recall, was that Judge Neely's refusal to
16 follow the law and refusal to marry a class of
17 individuals showed potential bias or prejudice that
18 could affect her acting as a judge period, not just as a
19 circuit court magistrate empowered to perform weddings.

20 Q. And in what way did Judge Neely indicate that she
21 was unwilling to follow the law?

22 A. She was -- would refuse to marry a same-sex
23 couple.

24 Q. And in your opinion that's a refusal to follow
25 the law?

1 A. Yes.

2 Q. Who selected the A Panel in this matter?

3 A. Our executive director, Ms. Soto.

4 Q. Were you involved in that selection at all?

5 A. No, I was not.

6 Q. Are you aware of anyone else other than Ms. Soto
7 being involved in that process?

8 A. No.

9 Q. When the I Panel decided to refer the matter to
10 an A Panel it then chose to hire disciplinary counsel,
11 correct?

12 A. Correct.

13 Q. When deciding to refer this matter to an A Panel,
14 did the I Panel ever check to see whether there was
15 guidance from the Judicial Ethics Advisory Committee?

16 A. No.

17 Q. Why not?

18 A. The advisory committee rules provide that they
19 will not provide an opinion if something in front of the
20 CJCE.

21 Q. But my question is, at the time you were
22 considering whether to commence formal proceedings
23 against Judge Neely why didn't you check to see whether
24 the Judicial Ethics Advisory Committee had an opinion on
25 this matter?

1 A. One, I knew they would not provide an opinion
2 while the matter was pending in front of us. And, two,
3 their opinion would be advisory but it would not be
4 binding on the Commission, if there was an opinion.

5 Q. So in your opinion it didn't matter whether the
6 Judicial Ethics Advisory Committee had an opinion on
7 this, you still thought -- you would have still thought
8 that this warranted commencing formal proceedings?

9 A. Yes.

10 (Thereupon Deposition Exhibit 22 is marked.)

11 Q. I'm handing you what has been marked Deposition
12 Exhibit 22. This is a letter from the Judicial Ethics
13 Advisory Committee to Mr. Dixon, discussing essentially
14 this case. Attached to that letter to Mr. Dixon was a
15 letter that the Judicial Ethics Advisory Committee
16 committee sent to Judge Neely, dated January 29, 2015.
17 The first sentence of that letter to Judge Neely says,
18 "Thank you for your request for an advisory opinion on a
19 complex ethical issue."

20 Do you agree that this case raises a complex
21 ethical issue?

22 A. Well, I'd have to know what Mr. Burman meant by
23 ethical issue, so I really can't comment. I'm not sure
24 what he means by that.

25 Q. But I'm asking you if you think this case

1 involves a complex ethical issue?

2 A. Complex ethical issue?

3 Q. A complex ethical issue of judicial ethics.

4 MR. DIXON: You're asking her now for her
5 personal opinion?

6 MR. CAMPBELL: I'm asking for her personal
7 opinion.

8 A. I'm going to have to say, no, I don't personally,
9 just speaking for myself.

10 Q. (By Mr. Campbell) In this case did the
11 Commission reach out to commissions from other states
12 and ask if they had ever dealt with this issue?

13 MR. DIXON: Objection, foundation.

14 A. At any time? You know --

15 Q. (By Mr. Campbell) At any time after December
16 22nd.

17 A. I believe I think I saw something in discovery
18 responses but that's -- I became aware of it in the
19 discovery responses. It looked like there was something
20 that had been provided from another commission. And I
21 can't recall what it was, to be honest. And I'm not --
22 I wasn't -- That wasn't one of the areas I was asked to
23 research and become familiar with as a 30(B)(6) witness
24 so I really can't answer that.

25 Q. So in your opinion this case is a pretty easy

1 case of judicial ethics? It's a clear there's a clear
2 violation of judicial ethics here?

3 A. You know, when you use the word ethics I'm not --
4 I'm not sure what you refer to. I think there is a
5 clear violation of the Code of Judicial Conduct, yes.

6 Q. And do you think that Judge Neely might have
7 valid constitutional defenses to the claims that were
8 brought against her?

9 A. You're asking for a legal opinion. I have not
10 been asked to give opinion, haven't researched valid
11 legal defenses as part of my Rule 30(B)(6). And I'm
12 assuming that's something you're going to bring in front
13 of the A Panel and they'll take a look at that but I
14 haven't been asked to research that so I haven't done
15 that.

16 Q. So you don't have an opinion on that?

17 A. No, I don't have an opinion.

18 Q. Did the Commission or representative of the
19 Commission ever have settlement discussions with Judge
20 Neely as part of these proceedings?

21 A. I was not asked to research that either, and I
22 don't know.

23 Q. So you have no knowledge about that?

24 A. I have no knowledge of settlement discussions.

25 Q. As a settlement do you think Judge Neely should

1 have been able to resign from both of her positions,
2 both her position as a circuit court magistrate and a
3 position as a municipal judge?

4 MR. DIXON: Just a second. You need to point
5 me to some part of the designation that Ms. Tiedeken is
6 qualified to answer that question.

7 MR. CAMPBELL: Two, the second bullet point,
8 how the Commission conducts its business.

9 MR. DIXON: No, that's not something
10 Mr. Orchard has permitted to inquire into and we're not
11 going to go there.

12 MR. CAMPBELL: Off the record.

13 (Off the record discussion.)

14 MR. CAMPBELL: So then, are you going to
15 answer the question or are you instructing her --

16 MR. DIXON: I'm instructing the witness not
17 to answer the question.

18 MR. CAMPBELL: Let's go off the record for a
19 second.

20 (Off the record discussion.)

21 (Thereupon Deposition Exhibit 23 is marked.)

22 Q. (By Mr. Campbell) I'm handing you a copy of have
23 we've marked as Deposition Exhibit 23. It's a
24 transcript of the teleconference that the I Panel had in
25 this matter on February 18, 2015. I'd like to direct

1 your attention to page 6. Towards the bottom of the
2 page there is statement attributed to you talking about
3 settlement discussions.

4 A. Yes.

5 Q. Is it fair to say that you told your fellow
6 I Panel members that you would be opposed to settlement
7 if it comes up?

8 A. No, that's not fair.

9 MR. DIXON: Go ahead.

10 Q. (By Mr. Campbell) It's not fair?

11 A. No. I said I would be somewhat opposed to
12 allowing the judge to resign as a settlement if that
13 comes up because of the newspaper story, because she
14 went public.

15 Q. Did the I Panel ever ask any other representative
16 of the Commission to explore settlement discussions with
17 Judge Neely?

18 A. I don't know. I was not asked to research that
19 as part of the Rule 30(B)(6) so I don't know the answer
20 to that question.

21 Q. So you don't have any knowledge about the I Panel
22 asking disciplinary counsel or anyone else to discuss
23 settlement issues?

24 A. I have -- I have no knowledge of settlement
25 discussions, period.

1 Q. You have no knowledge of settlement discussions
2 in this case?

3 A. No, I don't. And, you know, if that was on the
4 list I would have researched but it wasn't on the list
5 so I didn't research it.

6 (Thereupon Deposition Exhibit 24 is marked.)

7 Q. I'm handing you what we've marked as Deposition
8 Exhibit 24. It's a copy of the Commission's answer to
9 the interrogatories in this case.

10 In response -- you indicated that you reviewed
11 this document in preparation for this deposition,
12 correct?

13 A. I did review this. I skimmed it.

14 Q. In response to Interrogatory No. 3, in the first
15 paragraph, it states that, "The Commission understands
16 that Judge Neely's sole reason for appointment as
17 Circuit Court Magistrate is to perform marriage
18 ceremonies."

19 A. Yes, I see that.

20 Q. What is the basis for that statement?

21 A. I believe Judge Haws' letter is probably the
22 basis for that statement, where it's stated, if I'm
23 recalling his letter that I just reviewed a minute ago,
24 that he had appointed Judge Neely to perform marriage
25 ceremonies.

1 Q. Are there any other documents you're aware of
2 that support that statement?

3 A. No. Well, that, and I think Judge Neely said
4 that in her letter. I think I they both said that, that
5 she had been appointed to perform marriage ceremonies.

6 Q. Did you first meet the Commission's executive
7 director, Wendy Soto, as part of your job working with
8 the Commission?

9 A. No.

10 Q. When did you first meet Ms. Soto?

11 A. Oh, man, I had met her quite a few years before
12 she applied for the job when she was working, I believe,
13 as a legal assistant for a law firm in town. I had met
14 her before but it had been quite a few years before she
15 applied for the job.

16 Q. You don't recall when that was though?

17 A. Boy, if I'm recalling, it would have been in the
18 timeframe of -- I have a memory that it was when I was
19 with a prior firm, so it would have been before '91 but
20 that is just to the best of my recollection.

21 Q. Did you attend Ms. Soto's Christmas party in
22 December of 2014?

23 A. No, unh-unh, I did not.

24 Q. Have you and Ms. Soto ever worked on projects
25 together outside of the Commission?

1 A. No.

2 MR. DIXON: Counsel, how is this germane to
3 the designation?

4 MR. CAMPBELL: It's a few questions on
5 background.

6 MR. DIXON: Yeah. Well, I don't think it's
7 germane.

8 Go ahead.

9 A. No, unless in that way earlier timeframe we ever
10 worked on anything together. That would have been years
11 ago.

12 Q. (By Mr. Campbell) But nothing that you could
13 think of right now?

14 A. No. I have a memory that Wendy was a legal
15 assistant for a law firm, and I met her, and I might
16 have -- I was the attorney for Community Action at that
17 time, and I think she might have been on the Community
18 Action board. I just have a vague memory that I met her
19 back then years ago.

20 Q. May a circuit court magistrate decide not to
21 perform any marriages at all?

22 A. You mean as a matter of law? My understanding is
23 that that is one of the duties of a circuit court
24 magistrate, is to perform weddings, so I would answer
25 that, no, based on my understanding of the law.

1 Q. Are you certain about that or is that --

2 A. That's my understanding of the law.

3 Q. May a circuit court magistrate decline to perform
4 a marriage because she'll be out of town when the couple
5 wants to get married?

6 A. You know, that's something I haven't researched,
7 and I wouldn't know if --

8 MR. DIXON: I think that's --

9 A. What the Commission's response to that is --

10 MR. DIXON: May be beyond the scope of the
11 designation.

12 A. At first I would say probably, yes.

13 Q. (By Mr. Campbell) May a circuit court magistrate
14 decline to perform a marriage because she's too busy?

15 MR. DIXON: Counsel, that's beyond the scope
16 of the designation.

17 MR. CAMPBELL: It is not.

18 MR. DIXON: Listen. It's beyond the scope of
19 the designation.

20 MR. CAMPBELL: It is not.

21 MR. DIXON: And I'm going to assume that if
22 you have stopped asking questions that are within this
23 designation, that you are done, and we're going to
24 leave, okay?

25 MR. CAMPBELL: It's not beyond the scope of

1 the designation.

2 MR. DIXON: Point to the bullet point.

3 MR. CAMPBELL: Any allegations --

4 MR. DIXON: No, no.

5 MR. CAMPBELL: -- in the proceedings.

6 MR. DIXON: There's nothing in here about
7 your defenses. She's not designated to testify to your
8 defenses or your position in this case. She's
9 designated to testify to the allegations of the
10 complaint. So you're beyond that. So I'm not going to
11 let her answer that question.

12 MR. CAMPBELL: One of the things that the
13 protective order identifies is specifically the bullet
14 points that remain that we can ask about, and it talks
15 about whether the Commission has applied the Code of
16 Conduct in a manner that discriminates based on
17 viewpoint or content in violation of Judge Neely's
18 constitutional rights. So I'm trying to explore whether
19 the Commission is applying the code in a way that
20 discriminates based on viewpoint.

21 MR. DIXON: We're not going to do this. You
22 did it with Ms. Soto and you're not going to do it with
23 this witness. We're not going to answer these
24 questions. You gave us a specific designation. This
25 woman has come here in good faith to answer those

1 questions. So confine your -- and if you're done with
2 those, we'll leave, or you can call Mel Orchard, I don't
3 care.

4 MR. CAMPBELL: Let's take a quick break.

5 (Recess from 4:45 p.m. until 4:49 p.m.)

6 Q. (By Mr. Campbell) Go back on the record.
7 Deposition Exhibit 24 is a copy of the Commission's
8 Answers to the Interrogatories in this case?

9 A. Correct.

10 Q. Specifically Interrogatory No. 2 asserts as an
11 allegation in the second paragraph, it talks about what
12 a reasonable member of society could conclude about
13 Judge Neely's partiality or impartiality?

14 MR. DIXON: Second line of the second
15 paragraph?

16 MR. CAMPBELL: Yes.

17 A. I see that line.

18 Q. (By Mr. Campbell) I'll also add that is an
19 allegation in the Commission's Notice of Commencement of
20 Formal Proceedings.

21 What is the Commission's basis for that
22 assertion, that Judge Neely, because of her statement
23 about same-sex marriage now has an appearance of
24 partiality towards LGBT citizens?

25 A. Her refusal to follow the law with regard to a

1 class of individuals that is gay or lesbian individuals.

2 Q. And as you testified earlier, when you say her
3 refusal to follow the law, it's your opinion that by
4 declining to perform same-sex marriages, that that
5 violates the law?

6 A. I think it violates the law and violates the Code
7 of Judicial Conduct with regard to bias and prejudice
8 based on sexual orientation.

9 MR. DIXON: Off the record.

10 (Off the record discussion.)

11 Q. (By Mr. Campbell) Who has the Commission
12 consulted for its conclusion that a reasonable person
13 would question Judge Neely's impartiality towards LGBT
14 citizens on legal issues not related to the
15 solemnization of marriage?

16 A. What are you talking about?

17 Q. I'm talking about what we talked about before.
18 In other words, there's this allegation throughout this
19 case, that the Commission claims that Judge Neely has an
20 appearance of partiality towards LGBT citizens. So I'm
21 asking, who has the Commission consulted for that
22 conclusion, that there is a appearance of partiality
23 towards members of the LGBT community?

24 A. Well, with regard to the I Panel discussions,
25 there was a discussion amongst the members, that her

1 refusal to marry same-sex couples violated Rule 2.3 of
2 the Code of Judicial Conduct which prohibits bias based
3 on sexual orientation, and it was -- and there was also
4 discussion about whether she could be impartial and
5 follow the law in her other judicial functions. And
6 that was one of the main bases for the motion to refer
7 the matter to the A Panel.

8 Q. So has the Commission or the I Panel consulted
9 anyone for that conclusion, or is that just the
10 conclusion that the five members of the I Panel came to
11 in this case, about the appearance of partiality?

12 A. The I Panel didn't consult with -- I guess I
13 don't understand your question. The I Panel during its
14 deliberations and meetings didn't consult with any
15 outside members before referring it to the A Panel
16 except for -- as part of its investigation, the letters
17 sent to Judge Neely and Judge Haws.

18 Q. Has the Commission consulted with anyone in the
19 LGBT community about this appearance of partiality?

20 A. The I Panel did not. Now, since the A Panel has
21 been convened, I don't know, and I wasn't asked to
22 research that so I don't know.

23 Q. One of the allegations in this case is that Judge
24 Neely has an appearance of partiality towards members of
25 the LGBT community. So I'm asking you what is the basis

1 for that claim? And I'm -- and you gave me an answer to
2 that, and now I'm asking you, did the Commission at all
3 consult anyone from the LGBT community about that
4 conclusion?

5 A. And my answer is with regards to the I Panel, the
6 actions of the I Panel before referring it to the
7 A Panel, no.

8 Q. And other than that, are you aware of anything
9 else the Commission has done to consult with a member of
10 the LGBT community about this?

11 A. I'm not aware one way or another if there's
12 anything since referral to the A Panel because I went
13 off the Commission in March of 2015, and I was not asked
14 to research that issue as part of my Rule 30(B)(6)
15 testimony. So I don't know if, since I went off the
16 Commission, if anybody's consulted with the -- and
17 you're calling it the LB --

18 Q. I believed I called it members of the LGBT
19 community.

20 A. LGBT community. And I had to look that term up
21 earlier. That's lesbian gay --

22 Q. -- bi-sexual and transgender, I think.

23 A. I don't know one way or another if any member of
24 that community was consulted.

25 Q. Has the Commission talked with anyone who knows

1 Judge Neely personally about her supposed bias against
2 members of the LGBT community?

3 A. When you say talk, no member of the I Panel
4 talked to anyone that knew Judge Neely personally before
5 the referral to the A Panel.

6 Q. Has the Commission consulted any litigant who has
7 appeared before Judge Neely in court?

8 A. The members of the I Panel did not consult with
9 any litigants who had appeared before Judge Neely before
10 referring it to the A Panel.

11 Q. And outside of that context of the I Panel,
12 you're not aware of any other instance in which the
13 Commission has consulted with litigants who have
14 appeared before Judge Neely?

15 A. I am not aware of the Commission consulting with
16 litigants before -- who appeared before Judge Neely, but
17 I have not researched that issue because I was not
18 asked, and it's not part of your Rule 30(B)(6) notice
19 for me to testify about contacts made with litigants.

20 Q. But one of the things you were asked to testify
21 about are the allegations that the Commission has made
22 in this matter, and one of the allegations that the
23 Commission has made in this matter is that Judge Neely
24 has showed an appearance of partiality towards members
25 of the LGBT community, so that's the basis for these

1 questions.

2 A. I understand what you're saying but I don't think
3 that follows as a basis for the question -- the prior
4 question.

5 MR. CAMPBELL: Could we go off the record?
6 (Off the record discussion.)

7 Q. (By Mr. Campbell) I've handed you -- back on the
8 record. I've handed you a copy of Deposition Exhibit
9 17. It's a copy of the Amended Notice of Commencement
10 of Formal Proceedings in this matter. Have you seen
11 this document before?

12 A. I believe I skimmed this document.

13 Q. I'd like to ask you to review paragraph 10.

14 (Pause.)

15 Q. Before asking you a question about paragraph 10
16 I'd like to ask, did the I Panel vote to amend the
17 notice in this case?

18 A. I don't know.

19 MR. DIXON: She wouldn't know.

20 A. Okay. So you want me to review this first?

21 Q. (By Mr. Campbell) Well, no. I just said before
22 I was going to ask you a question about paragraph 10,
23 but let me ask you a few questions. Do you know if the
24 I Panel knows about this amended complaint?

25 A. I don't know one way or another.

1 Q. Do you know if the A Panel knows about this

2 Amended Complaint?

3 A. I don't know one way or another.

4 Q. Are you prepared to testify about the allegations
5 in that Amended Complaint?

6 A. I am aware that this paragraph 10 allegation was
7 made, and I am aware generally of the reasoning for that
8 allegation.

9 Q. So are you prepared to testify regarding that?

10 A. Yes, I think I am prepared. I have to listen to
11 your questions first. If there's a question I'm not
12 prepared to testify about I'll tell you, but I am
13 prepared generally to testify about paragraph 10.

14 Q. What about the ADF organization referred to in
15 paragraph 10 causes the Commission to consider it as,
16 quote, an organization that discriminates and advocates
17 for the discrimination of persons based upon sexual
18 orientation?

19 A. The cite is, See <http://www.adflegal.org>.

20 Q. So anything other than the home page for that
21 organization, is there anything else that causes the
22 Commission to arrive at that conclusion?

23 A. Also there's some citations at the bottom of page
24 4 of the Exhibit 17.

25 Q. Have you --

1 A. And other citations within paragraph 10.

2 Q. Have you reviewed any of those citations?

3 A. I have not.

4 Q. I'm guessing you're going to refer me to the
5 citation to the website at the end of the sentence but
6 what about ADF causes the Commission to consider it an
7 organization that, quote, "Actively pursues a political
8 agenda that includes opposing marriage equality." End
9 quote?

10 A. I would have to refer you to the citations within
11 paragraph 10 and the bottom of page 4.

12 Q. So your -- you are the Commission's 30(B)(6)
13 witness to testify about all the allegations that the
14 Commission has made in this case, correct?

15 A. Correct.

16 Q. And when I ask you for the basis for the
17 allegations in paragraph 10, is it fair to say that the
18 only basis for those allegations are the websites that
19 are cited there?

20 A. Well, you're asking me a different question now.
21 You asked before, what is the basis for the statement
22 that this is an organization that discriminates and
23 advocates for the discrimination of persons based on
24 sexual orientation. Now you're asking me about the
25 whole paragraph?

1 Q. Yes.

2 A. Let me reread the paragraph and see if there's
3 anything else.

4 I think one of the basis -- one of the reasons
5 this paragraph is contained in the complaint is the fact
6 that ADF solicits support for its political agenda on
7 its websites and solicits donations in support of its
8 political causes, and there's a concern that it's a
9 political organization.

10 Q. And what is the basis for the belief that ADF is
11 a political organization?

12 A. The fact that it solicits for its website and
13 solicits donations for its politic causes and allows
14 viewers to share, through Facebook, ADF's political
15 message.

16 Q. So nothing aside from the words you just read to
17 me in paragraph 12?

18 A. No, that's all that I know about at this point.

19 Q. Are you familiar with an organization known as
20 the ACLU, the American Civil Liberties Union?

21 A. I've heard of it. I'm not familiar, I can't say
22 I'm familiar with it.

23 Q. Is it the Commission's position that any
24 organization that solicits support for a political
25 agenda on its website cannot represent a judge in

1 proceedings before the Commission?

2 A. I haven't researched that issue, whether any --
3 any -- Restate your question. I think I lost it while I
4 was thinking about my answer.

5 Q. Is it the Commission's position that any
6 organization that solicits support for its political
7 agenda is prohibited from representing a judge in a
8 matter before the Commission?

9 MR. DIXON: Under the Code of Ethics?

10 Q. (By Mr. Campbell) Under the Code of Ethics.

11 A. It's the position of the Commission that it may
12 support a belief that -- that it may be a violation of
13 the Code of Judicial Conduct because it gives the
14 appearance that a judge can be influenced by a political
15 group, and which would be a violation -- and I can't
16 remember the code provision off the top of my head. I
17 can find it if you want me to find that for you.

18 And so I think that's the concern, that if there
19 was a political party paying for a judge's attorney's
20 fees in a matter in front of the Commission, that the
21 judge may be influenced by that political organization
22 improperly, to favor their position over somebody else's
23 position.

24 Q. In your answer you focus a lot on political
25 organization. And you've indicated that it's the

1 Commission's belief that ADF is a political
2 organization.

3 If the Commission were to learn that ADF is a
4 nonprofit legal advocacy group that doesn't engage in
5 politics, would that affect the Commission's allegation
6 in paragraph 10?

7 A. It may. And that's, I think, an issue that's
8 probably before the A Panel to be considered.

9 Q. In your experience with the Commission has the
10 Commission ever issued an Amended Notice of Commencement
11 of Formal Proceedings without consulting with the
12 I Panel?

13 A. Let me think. I don't know.

14 Q. You're not familiar with that ever happening?

15 A. I don't know if it has ever happened.

16 Q. In your experience, and your knowledge, are you
17 aware of that ever happening?

18 A. Of matters in which I have been involved in on an
19 I Panel that then went to an A Panel, has there ever
20 been an Amended Notice filed without notice to the
21 I Panel?

22 Q. (Nods head.)

23 A. I don't know. I can't recall --

24 Q. So --

25 A. -- if it has or hasn't.

1 Q. So you're not aware of that ever happening?

2 A. No, I can't recall if that has ever happened.

3 Q. Back to the Notice Amended. In footnote 1 on
4 page 4, there's a book referenced. What is it about the
5 book reference in footnote 1 that causes the Commission
6 to consider the book itself to be quote unquote,
7 antigay?

8 A. I don't know.

9 Q. Have you ever read the book?

10 A. I have not.

11 Q. Are you aware if anyone on the Commission has
12 ever read the book?

13 A. I am not aware one way or another.

14 Q. In your opinion -- Strike that. In your opinion
15 can disciplinary counsel amend the Notice of
16 Commencement of Formal Proceedings unilaterally without
17 consulting the I Panel?

18 A. I'd have to look at the rules. Let me take a
19 look at that real quick.

20 Well, the -- The Rule 8(b) states that
21 disciplinary counsel has an obligation to timely
22 supplement the allegations made against the judge
23 contained in the notice as discovery and additional
24 information becomes available.

25 So, yes, our rules provide that the disciplinary

1 counsel has that obligation.

2 Q. And that's based on your reading of the rules?

3 A. Yes.

4 Q. Do you -- Would you consider that to be an open
5 question or at least -- Would you consider that to be an
6 open question if I told you that in Rule 5 of the
7 Commission's rules it says that disciplinary counsel
8 shall have the duty and authority to file and prosecute
9 formal proceedings when directed to do so by an
10 investigatory panel?

11 MR. DIXON: Objection. It's argumentative.
12 Asks for a legal conclusion.

13 A. When you say, would you consider that an open
14 question, what is "that" that you're referring to?

15 Q. (By Mr. Campbell) Would you consider the
16 question of whether disciplinary counsel can amend the
17 Notice of Commencement of Formal Proceedings without
18 consulting the I Panel?

19 A. And you refer to rule what, 5?

20 Q. Rule 5, Rule 5(d).

21 A. Let me take a look at that.

22 (Pause.)

23 A. I do not believe that Rule 5(d) prohibits a
24 disciplinary counsel from amending a Notice of
25 Commencement of Formal Proceedings when allegations made

1 against a judge contained in the notice need to be
2 supplemented as discovery and additional information
3 becomes available.

4 Q. Back to paragraph 10 of the Amended Notice. I'd
5 like to ask you a question about that. There's
6 discussions about what the ADF organization engages in,
7 and so in light of those allegations I'm curious whether
8 the Commission considers it inappropriate for a judge to
9 affiliate with an organization that, quote, "Advocates
10 for the right of people to freely live out their faith."
11 End quote?

12 A. I need a clarification with regard to the wording
13 "affiliate with". What do you mean by that?

14 Q. Well, Rule 3.6, which is referenced on page 6 of
15 the Amended Notice.

16 A. Of the Code of Judicial Conduct.

17 Q. Rule 3.6 of the Code of Judicial Conduct, which
18 that rule is quoted on page 6 of the Amended Notice,
19 talks about in the title, Affiliation With
20 Discriminatory Organizations.

21 A. Okay. And what was your question?

22 Q. Does the Commission consider it inappropriate for
23 a judge to affiliate with an organization that advocates
24 for the right of people to freely live out their faith?

25 A. If -- Yes, but with a proviso. If a judge is a

1 member of the organization that practices discrimination
2 based on the basis of race, sex, gender, religion,
3 national origin, ethnicity or sexual orientation.

4 Q. So you said yes, and yes would mean that the
5 Commission considers it inappropriate for a judge to
6 affiliate with an organization that advocates for the
7 right of people to freely live out their faith?

8 A. If that organization -- if the judge is a member
9 of that organization and the organization practices
10 invidious discrimination on the basis of race, sex,
11 gender, religion, national origin, ethnicity or sexual
12 orientation.

13 Q. Does the Commission consider it inappropriate for
14 a judge to affiliate with an organization that, quote,
15 "advocates for religious liberty", end quote, which is
16 language used in the paragraph 10 of the Amended Notice?

17 A. Yes, if that -- if the judge has a membership in
18 that organization and it practices invidious
19 discrimination on the basis of race, sex, gender,
20 religion, national origin, eth -- how do you pronounce
21 that word -- ethnicity or sexual orientation.

22 Q. So according to your answer, if a judge wasn't a
23 member in one of those organizations, then the
24 Commission wouldn't consider it inappropriate for the
25 judge to affiliate with them?

1 MR. DIXON: Object to form.

2 A. Well, there's another subparagraph, B, that also
3 applies.

4 Q. (By Mr. Campbell) So then you're saying it isn't
5 a requirement that the judge be a member in order to
6 violate that rule in the Commission's opinion?

7 A. Now I'm totally lost on your question.

8 Q. Before you said that, yes, it would be
9 inappropriate if, and then you read the language of the
10 rule that said, if the judge was a member of the
11 organization. And I asked you, is membership in an
12 organization required. And you said, no, there's
13 another part of the rule. So what I'm now asking you
14 is, is membership a requirement, in the Commission's
15 opinion, to violate this rule?

16 MR. DIXON: Objection. Asks for a legal
17 conclusion.

18 A. No. Membership is not a requirement because the
19 rule has a subparagraph B, and I can read it to you or
20 you can read it, Rule 3.6(b).

21 Q. (By Mr. Campbell) One of the other allegations
22 in paragraph 10 is that Alliance Defending Freedom
23 solicits support and donations for the work that it
24 does. So my question to you is, does the Commission
25 consider it inappropriate for a judge to affiliate with

1 an organization that solicits support or donations for
2 legal goals?

3 A. Well, you have not correctly cited the language
4 in paragraph 10. It says, The ADF solicits support for
5 its political agenda on its website, and solicits
6 donations for the support of its political causes.

7 Q. Okay.

8 A. And so you use the word, work that it does, so,
9 you know, I don't think your question is a fair
10 question.

11 Q. Okay. So my question to you is, does the
12 Commission consider it inappropriate for a judge to
13 affiliate with an organization that solicits support or
14 donations for furthering public interest legal goals?

15 A. Now you're using public interest legal goals, and
16 I don't know, can you define public interest legal goals
17 for me? And then I'd have to take a look at the --

18 Q. Sure.

19 A. -- Code of Judicial Conduct and see if that is a
20 violation.

21 Q. Before we talked about, I said, is it a violation
22 for a judge to affiliate with an organization that
23 advocates for religious freedom, so let me -- let me
24 combine those two questions. Does the Commission
25 consider it inappropriate for a judge to affiliate with

1 an organization that solicits support or donations for
2 religious freedom, in order to advocate for religious
3 freedom?

4 A. I'm sorry, was that a question?

5 Q. Yes. Does the Commission consider it
6 inappropriate for a judge to affiliate with an
7 organization that solicits support to fund its advocacy
8 for religious freedom?

9 A. Well, it depends. You know, religious freedom is
10 kind of a broad couple of words, and I think the problem
11 is if the organization is one that practices
12 discrimination on the basis of race, sex, gender,
13 religion, national origin, ethnicity or sexual
14 orientation. If your religious freedom -- if your
15 religion says, okay, people, you know -- my religion is
16 people who are black should not marry people who are
17 white, or people of the same-sex should not marry, and
18 you are seeking political -- or funds to support that
19 political agenda, that's different than just you saying
20 religious freedoms. So I think the question is a little
21 broader than that under the rules of judicial conduct,
22 under the Code of Judicial Conduct. The inquiry is
23 broader than that.

24 Q. So based on your testimony, if the organization
25 has views about marriage, whether it's same-sex marriage

1 or interracial marriage, in addition to advocating for
2 religious freedom, that's a relevant factor in deciding
3 whether its inappropriate for a judge to affiliate with
4 that group?

5 A. I think it is, and whether they -- and whether
6 the organization practices the discrimination. For
7 example, we don't allow people of a certain race to be a
8 member of our organization. We don't allow a certain
9 gender to be a member of our organization. We don't
10 allow people with a sexual orientation to be a member of
11 our organization. That's how I interpret Rule 3.6.

12 Q. And how does Alliance Defending Freedom violate
13 that provision?

14 A. The allegation in the complaint is that it
15 supports, solicits support for the political agenda, in
16 support of discriminating against persons based on
17 sexual orientation, and including opposing marriage
18 equality.

19 Q. Aside from those facts, you have no other basis
20 for that allegation?

21 A. You know, the basis I have is what's stated in
22 paragraph 10.

23 Q. So you mentioned before, that religious freedom
24 is a vague word. So if the group does that and solicits
25 money for that and also engages in racial

1 discrimination, then you would consider it to be
2 inappropriate for a judge to affiliate with that group,
3 right?

4 A. Yes. I think it would be a violation of the Code
5 of Judicial Conduct for a judge to hold a membership in
6 a group that discriminates based on race, sex, gender,
7 religion, national origin, ethnicity or sexual
8 orientation.

9 Q. What if an organization advocated for religious
10 freedom but did not discriminate on any of those bases
11 that you read in Rule 3.6?

12 MR. DIXON: I'm going to object.

13 A. I don't know.

14 MR. DIXON: Speculative.

15 A. I don't know. I'd have to take a look at it and
16 see.

17 Q. (By Mr. Campbell) What facts do you need to know
18 in order to answer it?

19 A. Can members of any race, sex, gender, religion
20 national origin, ethnicity or sexual orientation be a
21 member of that organization?

22 Q. My question assumed that they don't discriminate.
23 I said what if an organization advocates but does not
24 discriminate on any of those grounds, would the
25 Commission consider it appropriate for a judge to

1 affiliate with that?

2 A. Well, you asked me what factors I would consider,
3 and that's one of the things, can anyone be a member no
4 matter your sexual orientation, no matter your race,
5 your sex, your gender and so on.

6 Q. Right, but the question -- That's not the
7 question I just asked you. The question I just asked
8 you is if an organization advocated for religious
9 freedom, and raised money for religious freedom, but
10 didn't discriminate on any of the grounds on Rule 3.6,
11 would the Commission consider it appropriate for a judge
12 to affiliate with that group?

13 A. Well, like I said, 3.6(b) goes on beyond
14 affiliation and says a judge shall not use the benefits
15 or facilities of the organization. A judge shouldn't
16 attend events, so it goes beyond that. And then it's
17 talking about invidious discrimination on one or more
18 basis. So it's -- you know, I think you have to look at
19 both sections of -- and Rule 3.6, and I think the
20 comment 1 is pretty insightful. "A judge's public
21 manifestation of approval of invidious discrimination on
22 any basis gives rise to the appearance of impropriety
23 and diminishes public confidence in the integrity and
24 impartiality of the judiciary."

25 So I think the Commission would want to look at

1 that before it determined whether a judge's conduct
2 violated the Code of Judicial Conduct.

3 Right now you're talking in just generalities. I
4 think each case -- you'd have to look at the facts of
5 each case.

6 Q. I disagree that I'm talking in generalities but
7 fair enough.

8 In paragraph -- I'm sorry, page 6 of the Amended
9 Notice, the Commission alleges that Judge Neely has
10 violated Rule 3.6. Please explain the basis for the
11 Commission's claim that Judge Neely has violated this
12 rule.

13 MR. DIXON: I think -- I think the paragraph
14 speaks for itself.

15 Q. (By Mr. Campbell) Paragraph 2 on page 6,
16 indicates that Judge Neely has affiliated with ADF by
17 retaining three of its attorney as her counsel in this
18 case; is that correct?

19 A. That's not what -- Well --

20 Q. Paragraph 2 on page 6.

21 A. Pardon me, I was looking at the wrong paragraph.
22 Okay.

23 No, I think you've misstated what the paragraph
24 states.

25 Q. That -- does that paragraph identify how Judge

1 Neely has affiliated with Alliance Defending Freedom?

2 A. The paragraph does not state how she has
3 affiliated other than engagement. Basically it says,
4 Judge Neely's stated position with respect to same-sex
5 marriage and her subsequent engagement of James A.
6 Campbell, Kenneth J. Connolly, Douglas G. Wardlow of the
7 Alliance Defending Freedom organization and her
8 affiliation with the Alliance Defending Freedom
9 organization precludes her from discharging her
10 obligations of the above-cited canons, rules of judicial
11 conduct, not just with respect to the performance of
12 marriage ceremonies but with respect to her general
13 duties as a municipal court judge.

14 Q. So how has Judge Neely affiliated with Alliance
15 Defending Freedom?

16 A. I don't know the answer to that question, other
17 than --

18 Q. There's an allegation in that paragraph you read
19 which is paragraph 2 of the Amended Complaint that says
20 that Judge Neely -- it's referring to Judge Neely and
21 says, and, quote, "Her affiliation with the Alliance
22 Defending Freedom organization", close quote. And I'm
23 asking you, how has Judge Neely affiliated with that
24 organization, and your response is you don't know?

25 A. I do not how she's affiliated with the

1 organization. And I don't know if that's something
2 that's come out in discovery or not.

3 Q. Is it the Commission's position that Judge Neely
4 holds membership in the Alliance Defending Freedom
5 organization?

6 A. I do not know.

7 Q. Is it the Commission's position that Judge Neely
8 uses the facilities of Alliance Defending Freedom, which
9 is one of the words used in Rule 3.6 that you read to me
10 earlier?

11 A. I don't know if she's used the facilities of the
12 organization. I don't know the answer to that question.

13 Q. It seems to me that you don't have any knowledge
14 to testify about these allegations.

15 A. Not those direct --

16 MR. DIXON: Is that a question?

17 A. I don't know the answers to those questions.

18 MR. CAMPBELL: So we would request that the
19 Commission produce someone that can answer these
20 allegations.

21 MR. DIXON: Request all you want.

22 What's your thought about winding up for the
23 evening?

24 MR. CAMPBELL: I'm not ready to end for the
25 evening yet. If you want to produce someone else that

1 has knowledge about these issues --

2 MR. DIXON: I'm not going to produce anyone
3 else.

4 MR. CAMPBELL: Let's go off the record.

5 (Off the record discussion.)

6 (Recess from 5:30 p.m. until 5:34 p.m.)

7 MR. DIXON: I think we want to recess for the
8 evening. Julie's available for tomorrow.

9 MR. CAMPBELL: Okay.

10 (Off the record discussion.)

11 (Proceedings recessed 5:34 p.m. on Tuesday, September
12 15, and reconvened Wednesday, September 16, 2015,
13 beginning at the hour of 11:26 a.m.)

14 (Thereupon Deposition Exhibit 30 is marked.)

15 Q. (By Mr. Campbell) I'm handing you a copy of what
16 has been marked as Deposition Exhibit 30. It's the
17 Order On The Motion For Protective Order in this case
18 regarding this 30(B)(6) deposition. I realized that we
19 talked about that order a lot throughout this deposition
20 and it wasn't an exhibit, so I just wanted to mark it
21 and make it part of the record. And that way we have
22 something refer to should we need to.

23 I'd like to hand you a copy now of what has
24 previously been marked Deposition Exhibit 17. It's a
25 copy of the Amended Notice of Commencement of Formal

1 Proceedings in this matter. I'd like to specifically
2 direct your attention to page 5. At the bottom there's
3 a reference to Rule 2.4. After you had a second to look
4 at that, let me know and I'll ask you a question.
5 (Pause.)

6 Q. Please explain the basis for the Commission's
7 claim that Judge Neely has violated Rule 2.4.

8 A. The Amended Notice of Commencement of Formal
9 Proceedings does not allege that Judge Neely violated
10 those provisions. It alleges that the following
11 provisions are implicated by the facts recited above.

12 Q. So then is it the position -- is it the
13 Commission's position that Judge Neely has not violated
14 Rule 2.4?

15 A. No, it's the Commission's position that 2.4 is
16 implicated by the facts recited above.

17 Q. So in your opinion has the Commission taken the
18 position that Judge Neely has violated Rule 2.4?

19 A. The Commission hasn't taken the position that
20 Judge Neely's violated any provision of the Code of
21 Judicial Conduct. That is to be determined in the
22 upcoming A Panel hearing. So I would say, no, there
23 hasn't been a determination at this point.

24 Q. So the Commission has not taken a position on
25 whether Judge Neely has violated the provisions

1 mentioned in the Amended Notice, the provisions of
2 judicial conduct?

3 A. No. I think the I Panel's burden is to find if
4 there's reasonable cause to believe the violation
5 occurred, and I don't think that's the exact language of
6 the rule but we discussed that rule yesterday. I don't
7 think the Commission -- the Commission as a whole has
8 taken a position that there's been a violation at this
9 point because we have not completed the A Panel process.

10 Q. So what is the basis for the I Panel's conclusion
11 that Judge Neely has -- that there's a reasonable
12 probability that Judge Neely has violated Rule 2.4?

13 A. Well, reasonable probability isn't the standard,
14 and the --

15 Q. It was the term you used so I used it too.

16 A. The Amended Notice of Commencement has an
17 additional paragraph which was added after the I Panel
18 findings, and it talks about provisions of the Wyoming
19 Judicial Code of Conduct being implicated.

20 Q. Why is Rule 2.4 implicated in this case?

21 A. Because Judge Neely is being represented, and her
22 defense is being provided by the Alliance Defending
23 Freedom, and so that potentially implicates whether
24 Judge Neely is being influenced by that organization.

25 Q. How does that potentially -- How does that

1 potentially indicate that Judge Neely is being
2 influenced by that organization?

3 A. Well, I think the question arises as to whether
4 her defense is being paid for by that organization, and
5 if so, is she going to feel some pressure to -- to fall
6 into line with the goals of that organization or to
7 conform her views to the views of the organization.

8 Q. What evidence does the Commission have that Judge
9 Neely will be pressured to fall into line with the views
10 of the Alliance Defending Freedom organization?

11 A. Just the obvious, that her defense is being
12 provided by the organization.

13 Q. Anything else other than the fact that Judge
14 Neely's defense is being provided by Alliance Defending
15 Freedom?

16 A. That's all I know of at this point, and I don't
17 know what -- and I think discovery's incomplete but I
18 think the fact that her defense is being provided is the
19 main fact I'm aware of.

20 Q. Subsection (C) of that rule says, "A judge shall
21 not convey or permit others to convey the impression
22 that any person or organization is in a position to
23 influence the judge."

24 In the Commission's opinion has Judge Neely
25 conveyed the impression that a person or organization is

1 in a position to influence her?

2 A. I think the fact that Judge Neely has accepted
3 representation from the -- I'll call it ADF if I might
4 just for purposes of shortening the testimony; conveys
5 the impression that that organization is in a position
6 to influence her, and there was an article in the
7 Cheyenne newspaper, front page of the Cheyenne newspaper
8 that I did see that quoted the organization Alliance --
9 and I don't remember the quotes but indicated that the
10 organization was representing her, and I don't know if
11 Judge Neely approved that press release, or -- I don't
12 know if it was a press release. I remember it being an
13 article, but if Judge Neely knew that that was going to
14 be part of the front page -- front page of the newspaper
15 in Cheyenne, and she may have permitted others to convey
16 the impression that the ADK [sic] was in a position to
17 influence her because they were representing her in this
18 action.

19 Q. So the basis for the Commission's belief that
20 Judge Neely has conveyed the impression that a person or
21 organization is in a position to influence her is the
22 fact that Alliance Defending Freedom represents her; is
23 that correct?

24 A. That and the fact that there was a front-page
25 article in the Cheyenne newspaper in which ADK --

1 Q. It's ADF.

2 A. Where am I getting the K? I'm so bad. ADF.

3 Q. That's okay.

4 A. ADF was representing her interests, and if she,
5 in fact, permitted that front page article, then -- then
6 I think it would fall under subsection (C).

7 Q. Based on your testimony, the Commission's concern
8 is that perhaps Judge Neely has allowed ADF to convey
9 the impression that they're in a position to influence
10 her because of this article that appeared in the
11 Cheyenne newspaper?

12 A. That and the fact that they're providing a
13 defense for her, yes.

14 Q. Are you familiar with the ACLU, the Americans
15 Civil Liberties Union?

16 A. You know you asked me that question yesterday and
17 my answer's the same. I heard of it but I wouldn't say
18 I'm familiar with it.

19 Q. The ACLU is a nonprofit legal advocacy group that
20 represents people pro bono, free of charge. Would the
21 Commission have the same concern if Judge Neely were
22 represented by the ACLU?

23 A. I don't know. I'd need more facts.

24 Q. What facts would you need?

25 A. Like I said, I'm not familiar with the ACLU, and

1 I would probably need more facts about the ACLU. And
 2 you're asking if the Commission would have concerns.
 3 This is not a subject that is set forth in Deposition
 4 Exhibit 30, so I have not researched whether the
 5 Commission would have an issue with that so I can't
 6 answer on behalf of the Commission.

7 Q. But it is a topic that's identified in the Rule
 8 30(B)(6) notice, specifically all allegations in the
 9 case. And I'm asking you about the allegations in the
 10 Amended Complaint.

11 A. Well, your question was, would the Commission
 12 have concerns about the ACLU, and that's not a topic in
 13 the Notice of Commencement of Formal Proceedings, nor is
 14 it a topic in the order on the Motion For Protective
 15 Order, so I have not researched whether the Commission
 16 would have issues with the ACLU.

17 Q. We were talking about Rule 2.4, and subsection
 18 (B) of that rule says, "A judge shall not permit family,
 19 social, political financial, or other interests or
 20 relationships to influence the judge's judicial conduct
 21 or judgment."

22 In the Commission's opinion has Judge Neely
 23 permitted any social, political, financial or other
 24 interest to influence her judicial conduct or judgment?

25 A. I don't know if she has permitted that but I

1 think that rule is implicated by the fact that she is
 2 being defended by ADF, and may have accepted the cost of
 3 defense from ADF.

4 Q. Is there any other basis upon which that rule is
 5 implicated, any other facts?

6 MR. DIXON: At this time?

7 A. With regard to paragraph -- Just with regard to
 8 paragraph 10 or with regard to that rule in connection
 9 with other allegations of the notice of formal
 10 proceedings?

11 Q. (By Mr. Campbell) Specifically are there any
 12 other reasons why the Commission believes that that
 13 subsection (B) of Rule 2.4 is implicated here?

14 A. In this matter?

15 Q. In this matter.

16 A. Okay. Judge Neely expressed in her letter to the
 17 I Panel that her religious beliefs would not permit her
 18 to perform same-sex marriages, and so I would say
 19 paragraph (B) applies to that statement. She is
 20 allowing her other interests to influence her judicial
 21 conduct.

22 (Ms. Soto entered the deposition).

23 Q. And what category of interest would that fall
 24 under Rule 2.4 (B)?

25 A. Religious interest or her church affiliation,

1 and/or her church affiliation.

2 Q. Is that one of the prohibited interests mentioned
 3 in Rule 2.4, subsection (B)?

4 A. Not one of the specifically mentioned. It would
 5 fall under the "or other interests or relationships"
 6 category.

7 Q. Any other ways in which the Commission believes
 8 that Judge Neely violated or has done something to
 9 implicate Rule 2.4, subsection (B)?

10 A. Not that I can think of at this point.

11 Q. You indicated during your testimony yesterday
 12 that one of the concerns you as an I Panel member have
 13 with Judge Neely, is that she stated her beliefs about
 14 same-sex marriage publicly. Do you recall that?

15 A. I do recall that.

16 Q. Other than the statements that Judge Neely
 17 allegedly made during the conversation between her and
 18 Ned Donovan, the local reporter in Pinedale, does the
 19 Commission know of any other instances in which Judge
 20 Neely spoke to any reporter about her religious beliefs
 21 regarding same-sex marriage?

22 A. Justice Haws mentioned in his letter that Judge
 23 Neely told him that there were other articles which had
 24 been published quoting her, and I don't know if those
 25 other articles were based on the same conversation with

1 Mr. Donovan or not. That would be the only other
 2 information I'd have, is what was stated in Judge Haws'
 3 letter.

4 Q. Nothing else other than that?

5 A. That's -- That's the only information I have on
 6 that. Well, and, you know, I mentioned that there was
 7 an article about Judge Neely that I saw on the front of
 8 the Cheyenne newspaper, and I do believe that quoted
 9 Judge Neely as -- they had called her and I believe she
 10 was quoted in that article. And I don't remember what
 11 she said off the top of my head, other than I think she
 12 did say she would not perform same-sex marriages.

13 Q. That's your recollection of the article?

14 A. Yeah. And I'd have to see the article.

15 Q. So you're not sure if that's what she said?

16 A. I'm not sure if that's what she said, true.

17 Q. Other than the statements that Judge Neely
 18 allegedly made during the conversation between her and
 19 Ned Donovan, the local reporter in Pinedale, does the
 20 Commission know of any other instance in which Judge
 21 Neely spoke publicly about her religious beliefs
 22 regarding same-sex marriage?

23 A. Potentially to the Cheyenne newspaper reporter.
 24 That would be the only other one I know of.

25 Q. And nothing else other than those?

1 A. Other than those, those are the only ones I know
2 of.

3 Q. Judge Neely's religious conflict with performing
4 same-sex marriages became public when she responded to
5 an inquiry from Ned Donovan, a local reporter in
6 Pinedale, correct?

7 A. That's my understanding.

8 Q. Judge Neely did not initiate communications with
9 Mr. Donovan to disclose her religious conflicts, did
10 she?

11 A. I don't know if she initiated that call.

12 Q. She might have initiated the call?

13 A. I don't know one way or the other whether she
14 initiated the call.

15 Q. As a member of the I Panel in this case, would
16 that fact matter to you?

17 A. I don't think that would matter to me as a member
18 of the I Panel.

19 Q. Why not?

20 A. Because I think the result was the same whether
21 she initiated the call or Mr. Donovan initiated the
22 call. She made her views public, and she indicated in
23 her letter to the I Panel that she should have known
24 that it would be published.

25 Q. One of the Commission's allegations in this case

1 claims that Judge Neely either violates or implicates
2 various rules of judicial conduct that require judges to
3 conduct themselves impartially; is that correct?

4 A. The notice of formal proceedings does not use the
5 word violate, it uses the word implicates, so that's not
6 correct.

7 Q. Has the I Panel taken a position on whether Judge
8 Neely has violated any of the rules mentioned in the
9 Amended Notice?

10 A. The I Panel took the position that there's
11 reasonable cause to believe that -- and I'd have to look
12 at the rule's terminology so I'm not misspeaking. The
13 I Panel found there was reasonable cause to support a
14 finding that the judge engaged in judicial misconduct
15 and violated the Code of Judicial Conduct.

16 Q. But the I Panel did not conclude that Judge Neely
17 has violated those provisions?

18 A. No. The I Panel concluded that there was
19 reasonable cause to support a finding that she engaged
20 in judicial misconduct.

21 Q. One of the Commission's allegations in this case
22 is that Judge Neely -- Let me start that over again.
23 One of the Commission's allegations in this case is that
24 Judge Neely implicates various rules, specifically the
25 rules referenced in the Amended Notice, that require

1 judges to conduct themselves impartially; is that
2 correct?

3 A. Yes.

4 Q. Other than performing marriages, are there any
5 other matters that Judge Neely has indicated she cannot
6 perform impartially?

7 A. Whether Judge Neely has indicated? No.

8 Q. Does the Commission have any evidence indicating
9 that if Judge Neely had before her a litigant who was
10 married to a person of the same-sex, that she would
11 refuse to recognize that that person is legally married?

12 A. Has Judge Neely indicated that -- You're asking
13 me if Judge Neely has indicated that one way or another?

14 Q. Does the Commission have any reason to believe
15 that Judge Neely has taken that position?

16 A. The fact that -- I think Judge Neely's letter by
17 inference may lead the Commission to believe that to be
18 the case because she said -- she's used terminology I
19 think -- Let me look at her letter again. Let me just
20 make sure I'm not misspeaking. What exhibit was
21 that, 8?

22 Not 8.

23 Q. Twenty-one.

24 (Pause.)

25 A. Okay. Will you reask your question, please?

1 Q. Sure. I'll change it slightly. Hopefully make
2 it clear. Has Judge Neely indicated that if she had a
3 litigant before her who was married to a person of the
4 same-sex, that she would refuse to recognize the fact
5 that that person was legally married?

6 A. She has not indicated that directly in those
7 words, to my knowledge.

8 Q. To your knowledge has any representative of the
9 Commission ever spoken with Ned Donovan? Ned Donovan is
10 the reporter in Pinedale that I referenced.

11 A. And your question, has a member of the Commission
12 spoken to Ned Donovan?

13 Q. We can go with that question. Has a member of
14 the Commission ever spoken with Ned Donovan, to your
15 knowledge?

16 A. I don't know.

17 Q. Have you spoken with Ned Donovan?

18 A. I have not.

19 Q. Do you know if any representative or agent of the
20 Commission has spoken with Ned Donovan?

21 MR. DIXON: Objection. Foundation.

22 A. I'm not sure. I thought I saw something in
23 discovery that might have indicated that, and I can't
24 remember if it was discovery from you or from us. So I
25 don't know.

1 Q. (By Mr. Campbell) As a member of the I Panel did
2 you ever consider sending a letter or otherwise,
3 reaching out to Ned Donovan and asking him questions?

4 A. I did not consider that.

5 Q. Do you know if any of the other members of the
6 I Panel -- Well, let's ask it this way. Did any of the
7 other members of the I Panel indicate to you that they
8 were considering that?

9 A. No.

10 Q. Why didn't you consider that?

11 A. We determined to send a letter of inquiry to
12 Judge Neely and to Judge Haws, and after we got their
13 responses we felt we had adequate information.

14 Q. Handing you a copy of what we've previously
15 marked as Deposition Exhibit 19. It's the Commission's
16 supplemental Rule 11(b), Supplemental Rule 11(b)
17 Disclosures. Attached to those disclosures are what
18 appear to be, and what the disclosures themselves
19 identify as notes from Ned Donovan?

20 A. I think that's what I remembered seeing in the
21 discovery, yeah.

22 Q. Have you -- So it's your recollection that you
23 saw these notes during discovery in this case?

24 A. I did. As I previously indicated I did review
25 the discovery that had been provided, and when you asked

1 me if anyone had spoke to Ned Donovan, I was recalling
2 these notes. And I couldn't remember if it was produced
3 by the Commission or by you. It appears it was produced
4 by the Commission.

5 Q. Did you see those notes prior to discovery in
6 this case?

7 A. No.

8 Q. Did you as a member of the I Panel receive a copy
9 of those notes?

10 A. No.

11 Q. How did the Commission receive those notes?

12 A. I don't know.

13 Q. At the end of a contested proceeding before the
14 Commission, the Commission recommends discipline that it
15 believes the Wyoming Supreme Court should impose; isn't
16 that correct?

17 A. Yes.

18 Q. Are you aware whether the Commission has ever
19 recommended that a judge be removed from his or her
20 position as a judge?

21 MR. DIXON: And what you're talking about is
22 a formal recommendation forwarded to the Supreme Court
23 under the rules?

24 MR. CAMPBELL: Correct.

25 A. And you're saying ever in the history of the

1 Commission?

2 Q. (By Mr. Campbell) Obviously realizing that your
3 knowledge is your knowledge, so, yes, I'm asking if you
4 know if it's ever happened.

5 A. You know, I don't -- I would say, no. I don't --
6 I don't know that that's occurred. I don't know one way
7 or another if that's occurred or not. I'm remembering
8 one situation but I don't think it came about as a
9 result of a formal recommendation to the Supreme Court.

10 Q. So you can't remember any instance in which the
11 Commission has formally recommended at the end of
12 contested proceedings that a judge be removed?

13 A. I can't recall such an instance.

14 Q. And you served on the Commission for six years,
15 right?

16 A. I did.

17 Q. So it's rare for the Commission to recommend that
18 a judge be removed from office?

19 A. Yes.

20 MR. DIXON: Are you on bullet point 11? Are
21 you talking about the history of judicial discipline?

22 MR. CAMPBELL: Correct.

23 MR. DIXON: At some point in this I need to
24 make a little bit of a record.

25 MR. CAMPBELL: Okay.

1 MR. DIXON: Whenever it is convenient to your
2 examination.

3 MR. CAMPBELL: Sure. If you'd like to make a
4 record on that point, that's fine.

5 MR. DIXON: We provided to you this document
6 in discovery, and I'm going to refer to this as the
7 matter involving county Judge B.S. When we produced
8 that, both Ms. Soto and I were of the understanding and
9 belief that this was a public record. This dated back
10 to 1994, and I have -- individually I knew this judge
11 and had a clear memory. Everybody in this state knew
12 exactly what had had happened, but I will tell you that
13 the Supreme Court has since informed us their position
14 is this is a confidential, nonpublic document. So just
15 so you know.

16 MR. CAMPBELL: So we'll treat it as such.

17 MR. DIXON: That's what I'm asking. Go
18 ahead.

19 Q. (By Mr. Campbell) Is the Commission aware of any
20 instance since October of 2014, which is when same-sex
21 marriage became legal in the State of Wyoming, where a
22 same-sex couple was not able to find a judge or other
23 authorized agent to perform their marriage?

24 A. I don't know.

25 Q. So you say you don't know. So are you --

1 A. I don't.

2 Q. Have you ever heard of a situation where that's

3 happened, where a same-sex couple could not find someone

4 to solemnize their marriage?

5 A. Since what date?

6 Q. Since same-sex marriage became legal in Wyoming.

7 A. I have not heard of such a situation.

8 Q. Have you had any communications with anyone who

9 is not an agent or representative of the Commission

10 about this matter?

11 A. No, other than you.

12 Q. Have you had any communications with members of

13 the press about this matter?

14 A. No.

15 Q. Handing you a copy of what we have previously

16 marked as Deposition Exhibit 24. It's a copy of the

17 Commission's Answers to Interrogatories in this matter.

18 I'd like to specifically direct your attention to

19 Interrogatory 13. Please take a second to review that,

20 and I'll ask you a question about it.

21 (Pause.)

22 A. Okay.

23 Q. The second to last sentence says, "Any other

24 communication with any witness or potential witness has

25 been oral, done by counsel, or by Ms. Soto at the

1 direction of counsel."

2 And specifically the first part of that talks

3 about communications with witnesses or potential

4 witnesses, and that communication being done orally.

5 Are you aware of any of those communications that the

6 Commission has had with potential witnesses?

7 A. I'm not.

8 Q. The Commission issued a press release in this

9 case, correct?

10 A. I have not seen a press release in this case. I

11 saw in the front page article that was in the Cheyenne

12 newspaper, I believe the Commission was quoted as saying

13 there was an investigation. There was a small, like one

14 line quote in there. I don't recall seeing a press

15 release. So if there's -- one's been issued, I'm

16 unaware of it.

17 Q. Are you familiar with the Commission issuing a

18 press release in a case previously?

19 A. Yes. It's happened previously.

20 Q. When the Commission did that in previous

21 instances, did it have to get approval from certain

22 members of the Commission before releasing the press

23 release?

24 A. Did the Commission have to get approval from

25 certain people, you mean outside the members of the

1 Commission?

2 Q. Did the Commission have to get -- In order to

3 issue a press release must there be approval from some

4 members of the Commission?

5 A. Yes.

6 Q. Which members of the Commission?

7 A. You know, I can't recall. I can recall two

8 instances where I think there were press releases, and I

9 can't recall if the matter was at the I Panel or A Panel

10 stage, so I can't recall.

11 Q. Does the Commission know how the existence of

12 these proceedings became public?

13 A. The only thing I'm aware of is the Cheyenne

14 newspaper article.

15 MR. DIXON: I think that's -- I have a form

16 objection to the question but I'm not going to make it.

17 Q. (By Mr. Campbell) I'm sorry, what was your

18 answer?

19 A. The only public notice of these proceedings that

20 I have seen was the Cheyenne newspaper article.

21 Q. And as far as you know the Commission doesn't

22 know how the existence of these proceedings became

23 public?

24 A. I don't know. I don't -- And I don't know if the

25 Commission knows, and I haven't researched that issue.

1 (Thereupon Deposition Exhibit 31 is marked.)

2 Q. I'm handing you a copy of what has been marked

3 Deposition Exhibit 31. It's the Commission's response

4 to the Requests For Admissions sent to it in this

5 matter.

6 Please take a second to review the Response to

7 Request For Admission No. 1, and when you're done I'll

8 ask you a question about it.

9 (Pause.)

10 A. Yes.

11 Q. In light of this, is it correct to say that one

12 of the factors involved in this charge of misconduct

13 includes Judge Neely's, quote, "unwillingness to

14 acknowledge that her words and conduct violate the Code

15 of Judicial Conduct", end quote?

16 A. Yes.

17 Q. In what ways has Judge Neely been unwilling to

18 acknowledge that her words and conduct violate the Code

19 of Judicial Conduct?

20 A. Let me pull up her letter again, which is Exhibit

21 21, correct?

22 MR. DIXON: Yes. I'm going to make a

23 foundation objection here too. There may be information

24 that's not within this witness' knowledge.

25 A. Judge Neely stated in her letter to the I Panel

1 that she "had informed Mr. Donovan that I will not be
2 able to solemnize same sex unions due to my religious
3 convictions regarding marriage".

4 She also stated, "My conscience, formed by my
5 religious convictions, will not allow me to solemnize
6 the marriage of two men or two women were I ever asked
7 to do so." And she states again, "my religious
8 convictions will not allow me to officiate at same sex
9 ceremonies."

10 Those are comments that she made in her letter to
11 the I Panel, and she does not acknowledge that the
12 refusal to conduct same-sex marriages is a violation of
13 the Code of Judicial Conduct. And we asked her
14 specifically to comment on Rule 2.3, and she was silent
15 with regard to the provision that provides that there
16 should not be any -- Let me get it out here -- by words
17 or conduct manifest bias or prejudice, based upon sexual
18 orientation.

19 And then I have also seen a letter that she wrote
20 to request an advisory opinion, and I cannot remember
21 all of the details of that letter, but I do believe that
22 the gist of that letter was she does not believe she's
23 violated the Code of Judicial Conduct. And I'd also
24 point to the statement in her letter to the
25 Commission -- or to the I Panel of the Commission, that

1 Rule 2.11 indicates that if a judge's impartiality were
2 to be reasonably questioned, he or she must disqualify
3 himself or herself.

4 The way I interpret that comment is that Judge
5 Neely's taking a position that her refusal to perform
6 same-sex marriages would be allowed pursuant to Rule
7 2.11.

8 Q. Anything else you can think of?

9 A. That's all I can think of.

10 Q. So as we've been discussing, the Commission has
11 indicated that one of its concerns is Judge Neely's
12 unwillingness to acknowledge that her words and conduct
13 violate the Code of Judicial Conduct, right?

14 A. Say that again, I'm sorry.

15 Q. One of the concerns that the Commission has
16 identified is its belief that Judge Neely has been
17 unwilling to acknowledge that her words and conduct
18 violate the Code of Judicial Conduct, correct?

19 A. Correct.

20 Q. But you previously testified earlier today that
21 the I Panel hasn't even concluded whether Judge Neely
22 violated the Code of Judicial Conduct, correct?

23 A. The I Panel has not determined that, correct.

24 Q. Has anyone else in the Commission determined that
25 Judge Neely has violated the Code of Judicial Conduct?

1 A. No. That's still pending in front of the
2 A Panel. Obviously disciplinary counsel is taking a
3 position in this matter that there was a violation, and
4 you're taking a position that there was not a violation,
5 and that's the decision that's before the A Panel.

6 Q. How can the Commission fault Judge Neely for
7 being unwilling to acknowledge that her words and
8 conduct violate the Code of Judicial Conduct when the
9 Commission itself hasn't yet determined whether her
10 words and conduct violate the Code of Judicial Conduct?

11 MR. DIXON: Question's argumentative.

12 A. Well, I think that's obviously the position of
13 disciplinary counsel in presenting his case to the
14 A Panel, will be that she violated the Code of Judicial
15 Conduct and she should recognize that.

16 Q. (By Mr. Campbell) Is Judge Neely's decision to
17 defend herself in this matter one of the ways in which
18 she has been unwilling to acknowledge that her words and
19 conduct violate the Code of Judicial Conduct?

20 A. You know, I am not privy to all ways the defense
21 is going forward. I've been provided some documents,
22 and have viewed some things and have skimmed a few
23 things so I really can't say one way or the other. And
24 I don't have enough information, I guess, to answer that
25 question.

1 Q. If Judge Neely, after receiving the formal notice
2 of -- I'm sorry, strike that. If Judge Neely, after
3 receiving the Notice of Commencement of Formal
4 Proceedings, had resigned from all her positions and had
5 decided not to fight this, then would the Commission
6 still believe that she was unwilling to acknowledge that
7 her words and conduct violate the Code of Judicial
8 Conduct?

9 MR. DIXON: Objection. Asked and answered.
10 Asks for speculation.

11 A. I don't know. That would be something that would
12 have to be considered.

13 Q. (By Mr. Campbell) If Judge Neely volunteered to
14 stop performing all weddings, would the Commission still
15 pursue these formal proceedings against her?

16 A. I don't know.

17 Q. Do you have a position on that as a member of the
18 I Panel?

19 A. I'm no longer a member of I Panel. I can give
20 you a position as a former member. What was your
21 question again?

22 Q. Sure. If Judge Neely volunteered to stop
23 performing all weddings, would the Commission still
24 pursue these formal proceedings against her?

25 A. My -- personally, speaking not on behalf of the

1 Commission but on behalf, as a former member of the
2 I Panel, would not agree to stop the proceedings, would
3 not vote to stop the proceedings.

4 Q. Why not?

5 A. Because I think her public statements and refusal
6 to perform same-sex marriages implicates bigger issues,
7 and that is whether she is biased and prejudiced
8 against gay or lesbian individuals, and whether -- and
9 whether the public perceives that she is biased against
10 gay and lesbian individuals such that there is an
11 appearance of impropriety and an appearance of bias, so
12 that all of her duties as a municipal judge are
13 implicated.

14 Q. So I think this is clear from your answer, but if
15 Judge Neely volunteered to stop performing all weddings,
16 then the Commission would still pursue the charges
17 against her specifically as a municipal judge, correct?

18 A. I don't think my answer implicated that. What I
19 said, as a former member of the I Panel, personally I
20 would not vote to approve dismissal of the proceeding.
21 I said the Commission would --

22 Q. You're right.

23 A. The Commission would have to decide.

24 Q. I'm sorry about that. Let me reask the question
25 then. As a member, as a former member of the I Panel,

1 it's your position that if Judge Neely had volunteered
2 to stop all weddings, you still think that the
3 Commission should go forward with the claim specifically
4 against Judge Neely as a municipal judge?

5 A. Well, correct, and as a magistrate to the circuit
6 court. She's under suspension now. If she says, well,
7 I just won't perform marriages, she's still a magistrate
8 of the circuit court.

9 Q. If Judge Neely stopped performing all weddings
10 she would be treating same-sex couples and opposite sex
11 couples the same for purposes of performing marriages,
12 correct?

13 A. Yes.

14 Q. If prior to the legalization of same-sex marriage
15 in Wyoming, a circuit court magistrate told a reporter
16 that she would stop performing all weddings until
17 same-sex couples were allowed to marry, do you think
18 that that would warrant the Commission in convening an
19 I Panel and looking into that situation?

20 MR. DIXON: Objection. Asks for speculation.

21 A. Say the question again.

22 Q. Could you read that back.

23 (The question on line 14 was read back.)

24 A. Yes.

25 Q. (By Mr. Campbell) Why?

1 A. I think that sort of public expression would
2 warrant convening an I Panel, and looking into whether
3 we should pursue some disciplinary action on our Own
4 Motion.

5 Q. And if you were a member of that I Panel what
6 would your position be?

7 A. Well, first of all, I don't know, I'd have to
8 look through the rules.

9 MR. DIXON: Asks for speculation. It's not a
10 proper question.

11 A. I'd have to look at the rules, and I'd have to
12 listen to my fellow I Panel members and get their
13 thoughts, yeah.

14 Q. (By Mr. Campbell) If a judge, due to deeply held
15 beliefs, whether religious or otherwise, objected to the
16 death penalty and recused herself from a case involving
17 that issue, do you think that the Commission should
18 convene an I Panel and look into that situation?

19 MR. DIXON: Can you point us to a part of the
20 notice that you're addressing? We're not here to answer
21 hypothetical questions. It's improper for the
22 Commission to answer hypothetical questions.

23 A. Did you instruct me not to answer then?

24 MR. DIXON: Let him respond to my
25 objection --

1 A. Okay.

2 MR. DIXON: -- and then I think that's how I
3 need to treat this.

4 MR. CAMPBELL: Specifically we have
5 identified all allegations that the Commission has made
6 in this case -- Let me -- just let me make my --

7 MR. DIXON: I --

8 MR. CAMPBELL: Let me -- just let me state
9 it.

10 MR. DIXON: I haven't said a word. I can
11 shake my head.

12 MR. CAMPBELL: We have identified all
13 allegations that the Commission has made in this case,
14 and in the order on the motion for a protective order,
15 the presiding officer of the A Panel acknowledged that
16 one of the things that we can get into is whether the
17 Commission has applied the Code of Conduct or plans to
18 apply the Code of Conduct in a manner that discriminates
19 based on viewpoint.

20 So what I'm exploring is whether the
21 Commission is being consistent in the way, or whether
22 it's singling out people with viewpoints like Judge
23 Neely's.

24 MR. DIXON: Right, but the problem I have is
25 with -- I mean if you want to ask, has such and such

1 thing happened in the past and what did the Commission
2 do about that, that's fair game, but to ask a
3 hypothetical example based on no -- no facts, as to what
4 a commission in the future might do, is improper. And,
5 frankly, the Commission shouldn't be saying things like
6 that. We don't give prospective opinions. That's what
7 the -- what's it called, the advisory --

8 MR. CAMPBELL: The Judicial Ethics Advisory
9 Committee.

10 MR. DIXON: The Commission can do that. So I
11 mean you're really putting us in a difficult position
12 with this examination. And I really think that unless
13 Mel tells me she can answer those questions, we can't
14 answer them.

15 Q. (By Mr. Campbell) So has the Commission ever had
16 a situation where a judge recused themselves from a case
17 and the Commission has then instituted formal
18 proceedings against them for their decision to recuse
19 themselves?

20 A. Not to my knowledge. I don't know one way or
21 another.

22 Q. Has the Commission considered that it sends a
23 strong message of exclusion of people of faith by taking
24 the position in this matter, that those people cannot be
25 judges if they believe marriage is a union of a man and

1 a woman?

2 MR. DIXON: Excuse me, I didn't get the first
3 part of the question. Sorry.

4 (The question on page 118, line 22 was read back.)

5 MR. DIXON: I think the question's
6 argumentative. Probably better saved for the hearing,
7 but you can answer whether the Commission considered
8 that or an I Panel.

9 A. I don't think that was part of the I Panel
10 discussion, and you're talking about just somebody
11 believes that. We were discussing, not so much whether
12 we should go forward because of Judge Neely's beliefs,
13 but because of her refusal to perform same-sex
14 marriages.

15 Q. (By Mr. Campbell) And her refusal to perform
16 same-sex marriages, it was based on her religious
17 beliefs about marriage, right?

18 A. That's what she has said, yes.

19 Q. Has the Commission considered at all the message
20 that it sends to people of faith by the positions it's
21 taking in this case?

22 A. That wasn't something that was discussed with
23 regard to people of faith; just the public in general,
24 which includes people of faith.

25 Q. So did the Commission specifically consider the

1 message that it sends to religious people by the
2 positions that it takes in this case?

3 A. Not religious people in particular, just the
4 public as a whole.

5 Q. We talked a little bit yesterday about how at the
6 end of a contested proceeding before the Commission,
7 that the Commission issues a final recommendation to the
8 Wyoming Supreme Court, correct?

9 A. Just very briefly. You didn't ask me too much
10 about that.

11 Q. But you remember we talked about it?

12 A. I remember there was a question or two on that,
13 yes.

14 Q. Which is why I'm bringing it back up today.

15 A. Okay.

16 Q. Must the final recommendation of the Commission
17 be a unanimous decision?

18 A. Let me take a look. I think I know the answer.

19 (Pause.)

20 A. Our rules provide for majority vote of the entire
21 commission with regard to recommendations.

22 Q. So if the vote was, for instance, seven to five,
23 would the recommendation that goes to the Wyoming
24 Supreme Court indicate that the vote of the Commission
25 was seven-five, or dissent -- well, just leave it at

1 that. In other words, are dissenting votes noted when
2 the recommendation is sent to the Wyoming Supreme Court?

3 A. I don't know.

4 Q. During your six years on the Commission were you
5 ever involved in a proceeding that went all the way
6 through a contested matter and finally resulted in a
7 commission recommendation to the Wyoming Supreme Court?

8 A. No.

9 Q. In your six years --

10 A. No.

11 Q. -- you never had that happen?

12 A. No, not me personally.

13 Q. But doesn't every member of the Commission vote
14 on that final recommendation?

15 A. Unless someone has recused themselves from the
16 case.

17 Q. But unless that happens every member votes on
18 that final recommendation?

19 A. Correct.

20 Q. And in your six years you've never had one that
21 proceeded to a final recommendation?

22 A. Not me personally.

23 Q. Do you recall one that happened during your six
24 years that you had to recuse yourself from?

25 A. Yes.

1 Q. Do you recall more than one?
 2 A. No.
 3 Q. Just one?
 4 A. Yes.
 5 Q. Did you review any materials or consult with
 6 anyone, other than your counsel, between the end of your
 7 deposition yesterday and the beginning of your
 8 deposition today, specifically pertaining to this
 9 deposition?
 10 A. Did I review anything? Yes. I reviewed that
 11 Cheyenne front page article which I had seen previously
 12 because I couldn't remember all the details. I took a
 13 quick look at that.
 14 Q. What prompted you to review that article?
 15 A. Your questions about, I want to say ADK.
 16 Q. It's ADF.
 17 A. ADF. I remember the ADF was mentioned in that
 18 article, and I wanted to make sure I recalled in
 19 particular what was said --
 20 Q. When you saw --
 21 A. -- or refresh my memory on what was said.
 22 Q. When you saw that article did you just see it as
 23 a member of the public reading the paper?
 24 A. Just got my morning paper and read it, yes.
 25 Q. So it wasn't sent -- the article wasn't sent to

1 you from somebody on the Commission?
 2 A. No, I just read it. I get the paper daily and I
 3 read it.
 4 Q. Other than reviewing that article between the end
 5 of the deposition last night and the beginning today,
 6 did you read anything else?
 7 A. The only other thing I did is I went on the ADF
 8 website because you asked me if I had ever been on the
 9 website, and I did go on there, and I clicked on a
 10 couple of things but I got distracted with a couple
 11 meetings I had this morning so I didn't have a chance to
 12 look at it in much detail, but I did look at that.
 13 Q. That's the first time you've been to ADF's
 14 website?
 15 A. Yes.
 16 Q. What did you review on the website?
 17 A. I clicked on -- I can't remember what the
 18 different things are that you can click on but one of
 19 them seemed to suggest that ADF would provide legal
 20 services and attorneys for people fighting certain
 21 issues that ADF is interested in, including opposing
 22 same-sex marriage. And another one seemed to be --
 23 There was another issue that I saw, and I can't remember
 24 sitting here because I just quickly reviewed it before I
 25 got distracted by something else. I clicked on that.

1 I saw that there was some information about
 2 students and college, information for attorneys.
 3 Q. Anything else you can recall?
 4 A. Just -- No, but quite a bit of material on the
 5 fact that ADF opposes same-sex marriage.
 6 Q. Anything else specifically you recall about that?
 7 A. And -- No, just that. And, you know, there was a
 8 thing, a red thing you could click on to send donations
 9 to ADF.
 10 Q. What was your impression about ADF after
 11 reviewing the website?
 12 A. That ADF seeks contributions to litigate and
 13 fight politically same-sex marriage.
 14 Q. Did it specifically say that ADF engages
 15 politically?
 16 A. That was the impression I got from reading the
 17 materials asking for donations. And they talk about
 18 litigation. Yeah, I did get the impression that there
 19 might be some political, like lobbying and things like
 20 that going on.
 21 Q. Did the website specifically say that or was that
 22 your impression?
 23 A. That was the impression I got from what I read.
 24 And like I said, it was a quick read.
 25 MR. CAMPBELL: Take a quick break.

1 A. Sure.
 2 MR. CAMPBELL: Go off the record.
 3 (Recess from 12:30 p.m. until 12:34 p.m.)
 4 Q. (By Mr. Campbell) Go back on the record. Did
 5 the I Panel in this case make a determination that
 6 there's reasonable cause to support a finding that Judge
 7 Neely has violated Rule 2.4, which is one of the rules
 8 referenced in the Amended Notice?
 9 A. I don't recall that Rule 2.4, that number, was
 10 specifically mentioned in our discussions, but generally
 11 we did discuss the fact that Judge Neely's religious
 12 beliefs should not influence her judicial conduct, that
 13 is same-sex marriage or the performance of same-sex
 14 marriages. So just in general we did discuss that,
 15 which is part of this rule but we didn't mention, I
 16 don't think, the number 2.4. I recall in my request for
 17 a conference call I mentioned Rule 2.3, and then I just
 18 said, and other rules in general. I didn't mention any
 19 of rules by number. And I can't remember if Judge
 20 Waldrip -- I remember his comments, and I don't recall
 21 that he mentioned any rule numbers but just the concepts
 22 of the Code of Judicial Conduct in general;
 23 impartiality, non-bias, appearance of impropriety, that
 24 kind of thing.
 25 Q. Are you aware if, at some time after you were no

1 longer a member of the I Panel, that that panel made a
2 determination that there's reasonable cause to support a
3 finding that Judge Neely violated Rule 2.4?

4 A. After I went off the I Panel I have not been
5 present at any I Panel meetings nor have I reviewed any
6 of their tapes, so I do not know what they did.

7 Q. So in preparation for this deposition you did not
8 review any materials about what the I Panel has done
9 since you left the Commission?

10 A. No. And, in fact, I thought that was one of the
11 issues that Mr. Orchard had indicated could not be
12 discussed in this motion. You know, he had said in his
13 order, the factors for deciding whether to file a notice
14 of commencement has already been disclosed. No further
15 discovery on the subject is warranted. So I did not
16 think I was supposed to research that area, and so I
17 didn't.

18 Q. One of the items in the Rule 30(B)(6) notice was
19 all of the Commission's allegations in this case, and
20 these are allegations that the Commission has made in
21 its Amended Notice, so that's why I'm following up with
22 that.

23 A. Yeah, maybe I misunderstood the order, but I
24 thought you had a hearing in front of Mr. Orchard, and
25 that he had articulated what in particular could be gone

1 into in a Rule 30(B)(6), and I was provided with that
2 order.

3 And I thought the reasoning of the I Panel, and
4 decisions of the I Panel wasn't one of those areas, and
5 so I did not make any attempt to listen to tapes of
6 other I Panel meetings after I went off the I Panel in
7 March of 2015.

8 Q. The motion -- I'm sorry, the order on the Motion
9 For Protective Order has said that the factors for
10 deciding whether to file a notice of commencement has
11 already been disclosed in the advisory panel's recorded
12 proceedings, so no further discovery on that subject is
13 warranted, but I'm not asking for the factors. What I'm
14 asking for is just, if the I Panel made a determination
15 that there's reasonable cause to support a finding that
16 Judge Neely violated Rule 2.4?

17 A. I disagree. I would say that is certainly a
18 factor, and it is not provided for in this order. And
19 as I said, I didn't -- for that reason I didn't research
20 it, and I don't know. I didn't listen to any further
21 tape recordings of meetings.

22 MR. CAMPBELL: That's all I have.

23 MR. DIXON: You want to read it?

24 THE DEPONENT: Should I read and sign? Yeah,
25 I guess I'll read and sign.
(Proceedings concluded 12:40 p.m.)

DEPONENT'S CERTIFICATE

1
2
3 I, JULIE TIEDEKEN, do hereby certify that I have read
4 the foregoing deposition, and that the foregoing
5 transcript and accompanying amendment sheets, if any,
6 constitute a true and complete transcript of my
7 testimony.

8 () No changes () Changes attached
9
10

11 Signed to and sworn to (or affirmed) before me on
12 this _____ day of _____, 2015, by

13
14 JULIE TIEDEKEN - Deponent
15

16
17 _____
18 Notary Public

19 My Commission Expires _____
20
21
22
23
24
25

REPORTER'S CERTIFICATE

1
2 State of Wyoming)
3 : SS
4 County of Laramie)
5

6 I, Merissa Racine, Registered Diplomate Reporter
7 and Notary Public in and for the First Judicial
8 District, State of Wyoming, hereby certify that there
9 came before me, as hereinbefore noted, JULIE TIEDEKEN,
10 who was by me duly sworn according to law to give
11 testimony relative to the above-captioned cause; that
12 said testimony and proceedings were reported in
13 stenotype by me; that the foregoing 1 - 129 pages,
14 inclusive, constitute a true, correct, and complete
15 transcript of my stenographic notes as reduced to print
16 by means of computer-aided transcription.

17 I further certify that I am not related to any
18 party herein or their counsel and have no interest in
19 the result of this litigation.

20 Dated this 28th day of September, 2015.

21 _____
22 MERISSA RACINE
23 Registered Diplomate Reporter
24
25

DEPONENT'S CERTIFICATE

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

I, JULIE TIEDEKEN, do hereby certify that I have read the foregoing deposition, and that the foregoing transcript and accompanying amendment sheets, if any, constitute a true and complete transcript of my testimony.

() No changes Changes attached

Julie Tiedeken

Signed to and sworn to (or affirmed) before me on this 15th day of Oct., 2015, by

Julie Tiedeken

JULIE TIEDEKEN - Deponent

Carrie Selfridge

Notary Public

My Commission Expires 7-6-19



Carrie Selfridge
NOTARY PUBLIC

My Commission Expires: 7-6-19



EXHIBIT 26



Wendy Soto <wendy.soto@wyboards.gov>

2014-27 Own Motion

1 message

Wendy Soto <wendy.soto@wyboards.gov>

Mon, Dec 22, 2014 at 5:40 PM

To: Kerstin Connolly <kerstin.connolly@wyo.gov>, Karen Hayes <khay3618@aol.com>, Leslie Petersen <leslie.petersen@wyoming.com>, Julie Tiedeken <jtiedeken@mtslegal.net>, Wade Waldrip <wew@courts.state.wy.us>

Dear Panel Members,

Attached you will find an email dated 12/22/14 forwarding a newspaper article. The email quotes the text of the article and the online version has been printed and attached. I spoke to Julie about the article and she asked that I appoint an I panel to review this matter. You will also find disposition forms attached. The disposition forms are in pdf and Word formats. Please fill out the forms and return them to me via email or US Post on or before 1/5/15. Let me know if you prefer US Post and I will provide you with pre-addressed, stamped envelopes.

If you need help with the password, please call me. Let me know if there are any problems or concerns.

Thank you,

Wendy J. Soto
Executive Director
Commission on Judicial Conduct and Ethics
PO Box 2645
Cheyenne WY 82003
Telephone 307-778-7792
Cell 307-421-3247
Fax 307-778-8689
wendy.soto@wyboards.gov
http://judicialconduct.wyo.gov

CONFIDENTIALITY NOTICE: The information contained in this message and any attachment is legally privileged and confidential information intended on for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any release, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the author immediately by replying to this message and delete the original message entirely from your computer.

Thank you.

3 attachments

2014-27 complaint (email with news article).pdf
2171K

2014-27 disposition frm.docx
103K

2014-27 disposition frm.pdf
55K



EXHIBIT 27

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

BEFORE THE COMMISSION ON JUDICIAL CONDUCT AND ETHICS
STATE OF WYOMING

An inquiry concerning) No. 2014-27
The Honorable Ruth Neely)
Municipal Court Judge and) TELECONFERENCE MEETING
Circuit Court Magistrate)
Ninth Judicial District)
Pinedale, Sublette County)

Teleconference Meeting of Commission on
Judicial Conduct and Ethics
Transcribed from an Audio Recording

January 6, 2015

(File name: 2014-27NeelyIpanel1.6.15.mp3)

ARIZONA REPORTING SERVICE, INC.
Audio Transcription Specialists
2928 North Evergreen Street
Phoenix, Arizona 85014-5508

ORIGINAL

Transcribed by:
Katherine A. McNally
CERTIFIED TRANSCRIBER
CET**323

ARIZONA REPORTING SERVICE, INC. (602) 274-9944
www.az-reporting.com Phoenix, AZ

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

TRANSCRIPT OF AUDIO RECORDED PROCEEDINGS
recorded on January 6, 2015.

BEFORE: WADE WALDRIP, Judge
WENDY SOTO, Executive Director
LESLIE PETERSEN, Commission Member
KERSTIN CONNOLLY, Chair, Citizen Member
KAREN HAYES, Citizen Member
JULIE TIEDEKEN, Citizen Member

1 (Commencement of audio recorded meeting.)

2 * * * * *

3 UNIDENTIFIED SPEAKER: It is Tuesday, January 6,
4 2015, at noon. And this is a meeting of an I-panel in
5 an own motion matter, Case Number 2014-27, and the judge
6 is Municipal Court Judge Neely from Pinedale.

7 Members of the I-panel are Kerstin Connolly, as
8 a presiding officer; Karen Hayes; Leslie Petersen; Julie
9 Tiedeken; and Judge Wade Waldrip.

10 UNIDENTIFIED SPEAKER: And we are on the record.

11 UNIDENTIFIED SPEAKER: We're ready? Okay. This
12 is the I-panel on Case Number 2014-27, and the judicial
13 officer is Ruth Neely, a municipal court judge in
14 Pinedale.

15 And I think several people have requested a
16 conference call on this matter, so we're just going to
17 open it up for some discussion.

18 Julie, do you want to start?

19 MS. TIEDEKEN: Sure. I wanted to have a
20 discussion as to whether this matter should be
21 considered on our own motion. There has not been a
22 formal complaint or a verified complaint filed with the
23 commission. If I understand it, Wendy received an email
24 from an individual who forwarded to her this news
25 article and may have actually talked to Wendy about it

ARIZONA REPORTING SERVICE, INC. (602) 274-9944
www.az-reporting.com Phoenix, AZ

1 also.

2 This seems like the type of matter that our
3 rules would allow us to -- to investigate or to appoint
4 an I-panel to investigate on our own motion. And I was
5 trying to -- I forget what the exact wording of the rule
6 is, but --

7 UNIDENTIFIED SPEAKER: Hang on, Julie, and I'll
8 read it to you.

9 MS. TIEDEKEN: Okay. Go ahead.

10 UNIDENTIFIED SPEAKER: It says, In the
11 absence -- this is Rule 7B: In the absence of a written
12 complaint, the investigatory panel may commence
13 investigations on its own motion when it becomes aware
14 of information from any source that is deemed reasonably
15 reliable on matters concerning alleged disability,
16 judicial misconduct, criminal misconduct, or civil
17 misconduct falling within the jurisdiction of the
18 commission.

19 MS. TIEDEKEN: So then in my view, the question
20 I have is does this matter pertain to judicial
21 misconduct? I had looked at Rule 2.3 of the Code of
22 Judicial Conduct, which states that a judge shall
23 perform the duties of judicial office without bias or
24 prejudice by -- and it says shall not, in the
25 performance of judicial duties by words or conduct,

ARIZONA REPORTING SERVICE, INC. (602) 274-9944
www.az-reporting.com Phoenix, AZ

1 manifest bias or prejudice or engage in harassment
2 including, but not limited to -- and there's a whole
3 laundry list, but one is bias with regard to sexual
4 orientation. Well, and their marital status is also in
5 there.

6 You know, I think this newspaper article con- --
7 you know, seems to indicate that the judge will not
8 perform same-sex marriages. I think that could be
9 considered a bias against someone's sexual orientation,
10 and I think it's probably something that at least should
11 be investigated by an I-panel on our own motion.

12 UNIDENTIFIED SPEAKER: Okay. Leslie, do you
13 have anything to add?

14 MS. PETERSEN: It sounds very clear, from what
15 Julie just read to us, that to me it sounds like
16 something we probably should look into.

17 In my own mind, I'm not clear whether a
18 magistrate's job includes doing weddings as part of the
19 job description. But if she does weddings, then I think
20 she has to do them for everybody, if she does them at
21 all. I don't know -- does anyone know whether
22 magistrates normally do weddings for anyone who asks?

23 JUDGE WALDRIP: This is Wade. When I was
24 asked -- weddings typically go to the circuit court
25 level. My standard reply when someone -- all judges,

ARIZONA REPORTING SERVICE, INC. (602) 274-9944
www.az-reporting.com Phoenix, AZ

1 and that includes magistrates at a state level, are
2 authorized to perform weddings.

3 Magistrates -- and I just looked under our
4 rules -- magistrates of circuit court are, in fact,
5 considered judges and bound by our rules of conduct.

6 When I was a circuit court judge, and it's been
7 a -- I won't bother you with the history of weddings in
8 circuit court, but the law is clear now that they may do
9 them between 8:00 and 5:00. They may not charge after
10 5:00 and off courthouse premises. They may charge, and
11 that is applicable to magistrates.

12 I do not believe that a municipal judge has the
13 authority to conduct a wedding, but it is also clear to
14 me that Judge Neely is -- is -- I assume -- it never
15 says in the article, but I assume she is a circuit court
16 magistrate and, therefore, empowered to conduct
17 weddings. And the mayor says that it's a service -- to
18 provide more services to the town she took this role
19 upon herself years ago.

20 So I think that's problematic to me. She is
21 serving under the supervision of a circuit court judge,
22 who up there is a guy named Curt Haws. So first of all,
23 let -- I agree that this is something we should take up
24 upon our own motion. I agree that the alleged conduct,
25 if the newspaper article is correct, is potentially in

1 violation of Rule 2.3. But I wonder how we proceed from
2 here, and I wonder if we shouldn't bring Judge Haws into
3 this matter as well. I throw that out for your
4 consideration.

5 MS. CONNOLLY: Well, this is Kerstin, and I
6 agree with everything that's been said. And my concern
7 was in the article, you know, there's one statement
8 there that all judges are required to marry those who
9 meet the legal requirements. And then it goes on to say
10 down below that as the town judge, she doesn't perform
11 marriages, that is not part of the description of the
12 work of a town judge. And that's a quote from the
13 mayor, I believe.

14 So it's kind of conflicting. And I'd like to
15 know, is it one of her duties? And yeah, where do we go
16 from here? And who can answer that question?

17 UNIDENTIFIED SPEAKER: Well, and I don't think
18 we need an I-panel to look into that, and possibly
19 consult with her supervisor, Judge Haws, as suggested.

20 MS. CONNOLLY: I think we have the I-panel
21 (indiscernible).

22 UNIDENTIFIED SPEAKER: Oh. We are the I-panel?

23 UNIDENTIFIED SPEAKER: Yes, you are the I-panel.

24 MS. CONNOLLY: Okay. (Indiscernible.)

25 MS. TIEDEKEN: (Indiscernible) I think we can

1 vote to take this up on our own motion. And then if we
2 take it up on our own motion, I think -- I think we can
3 probably consider today if -- what we want to do when we
4 take it up. I think first we have to decide if we're
5 going to take it up on our motion. If I'm hearing what
6 everybody is saying, everybody agrees this is something
7 we probably should --

8 UNIDENTIFIED SPEAKER: Right.

9 MS. TIEDEKEN: -- take up on our own motion.

10 JUDGE WALDRIP: I agree. But I agree with
11 Julie, that maybe we ought to have a motion and vote to
12 do that.

13 UNIDENTIFIED SPEAKER: Yeah, Julie
14 (indiscernible) Julie (indiscernible).

15 MS. TIEDEKEN: I would move then that we,
16 pursuant to Rule 7, which was previously read by Wendy
17 into the record, that we -- I-panel determine to
18 consider this matter on our own motion.

19 UNIDENTIFIED SPEAKER: Okay. Do we have a
20 second?

21 UNIDENTIFIED SPEAKER: Second.

22 UNIDENTIFIED SPEAKER: Okay. Any further
23 discussion?

24 Hearing none, all those in favor of taking this
25 under consideration on our own motion signify by saying

1 aye.

2 (A chorus of ayes.)

3 UNIDENTIFIED SPEAKER: All those opposed?

4 Motion carries.

5 UNIDENTIFIED SPEAKER: Okay. Got that?

6 UNIDENTIFIED SPEAKER: Okay. And then how do we
7 want to proceed?

8 UNIDENTIFIED SPEAKER: Well, you know, I think
9 Judge Waldrip had a good point in that we really don't
10 know under what authority she's performing marriages.
11 We're kind of assuming it's probably as a circuit court
12 magistrate. So maybe we need to pin that down.

13 And I don't know if we do that -- and probably
14 one good way to do that is, you know, we could
15 request -- we could be able to request information from
16 the judge, you know, under what authority are you
17 performing marriages? And are you appointed as a
18 circuit court magistrate? Maybe we could request that
19 information.

20 UNIDENTIFIED SPEAKER: An explanation from her?

21 UNIDENTIFIED SPEAKER: An inquiry.

22 JUDGE WALDRIP: And we could, in that same
23 request for information, ask if this newspaper article
24 is accurate.

25 UNIDENTIFIED SPEAKER: Good point.

1 UNIDENTIFIED SPEAKER: Good point.

2 UNIDENTIFIED SPEAKER: That she is, in fact,
3 refusing to perform same-sex marriages, but she will
4 perform marriages for other individuals, and that's a
5 question I have.

6 JUDGE WALDRIP: Yeah. Because if it's accurate
7 and if she's doing that, it seems to me to be a pretty
8 clear violation of 2.3.

9 UNIDENTIFIED SPEAKER: Um-hmm.

10 UNIDENTIFIED SPEAKER: I -- I agree, and I think
11 the thing that it was published in the newspapers, it's
12 pretty egregious to my view.

13 JUDGE WALDRIP: Yeah. I'm thinking so too.

14 UNIDENTIFIED SPEAKER: Did -- sorry. I'm just
15 throwing this out there. Is -- do you want to just
16 start with an inquiry with her, or do you want to also
17 send any questions to Judge Haws?

18 UNIDENTIFIED SPEAKER: I'm thinking maybe both.

19 JUDGE WALDRIP: I think so too. And if I was
20 Judge Haws, he has several magistrates who are -- who
21 he -- the law enables to act in his absence, and I would
22 want to know if -- if one of my magistrates was accused
23 of some kind of misconduct. And I would want to know if
24 my subordinate was -- was the subject of inquiry by this
25 I-panel.

1 MS. TIEDEKEN: Well, in actual -- oops, pardon
2 me, go ahead.

3 JUDGE WALDRIP: I think he's entitled to know
4 that, and we need to know what he's doing as a
5 supervisor.

6 MS. TIEDEKEN: Well, it does say a judge shall
7 not permit court staff, court officials, or others,
8 subject to the judge's direction and control, to do so,
9 that is, show bias. So I think he actually would come
10 under this rule.

11 JUDGE WALDRIP: I think so too. So I guess I
12 would copy him to any inquiry we send to Judge Neely.

13 MS. TIEDEKEN: So are you say -- so you would
14 just copy him with the inquiry to Judge Neely and ask
15 him to respond, or do we send it -- are you suggesting
16 that we send a separate inquiry to Judge Haws?

17 JUDGE WALDRIP: I guess -- Julie, I'm thinking
18 just copy Judge Haws and ask for his response as well,
19 point -- perhaps point out Rule 2.3 to both of them and
20 ask them both to respond as to the accuracy of the
21 newspaper article.

22 UNIDENTIFIED SPEAKER: So that -- I'm sorry,
23 that -- that sounds like two letters to me. So we send
24 each of them -- or do we send one letter addressed to
25 both of them? I --

1 JUDGE WALDRIP: I guess I'm thinking one letter
2 addressed to both of them.

3 UNIDENTIFIED SPEAKER: (Indiscernible) both.

4 UNIDENTIFIED SPEAKER: That would be acceptable
5 to me.

6 UNIDENTIFIED SPEAKER: I agree.

7 UNIDENTIFIED SPEAKER: Yeah, I would agree with
8 that.

9 UNIDENTIFIED SPEAKER: Okay. So now I have
10 another question. Do we have -- also have -- I mean, is
11 this one matter then, or are we also looking into
12 whether Judge Haws, by -- through his supervisory
13 authority -- I mean, do I need to set up a separate file
14 on Haws? That's my question.

15 UNIDENTIFIED SPEAKER: I don't know if we know
16 that for sure yet.

17 UNIDENTIFIED SPEAKER: Okay.

18 JUDGE WALDRIP: Yeah. I just --

19 UNIDENTIFIED SPEAKER: Yeah, I don't think so.

20 JUDGE WALDRIP: -- that would be premature.

21 UNIDENTIFIED SPEAKER: Okay.

22 UNIDENTIFIED SPEAKER: Because, yeah.

23 UNIDENTIFIED SPEAKER: We really don't even know
24 if she's acting as a circuit court magistrate yet.

25 UNIDENTIFIED SPEAKER: Okay.

1 JUDGE WALDRIP: Yeah. We're just
2 (indiscernible) that.

3 UNIDENTIFIED SPEAKER: Okay.

4 UNIDENTIFIED SPEAKER: Okay.

5 UNIDENTIFIED SPEAKER: So will you prepare --
6 who prepares the draft? Does Wendy prepare a draft for
7 our review, or whose review?

8 UNIDENTIFIED SPEAKER: That would be my
9 suggestion that I -- I mean, I can use the typical -- I
10 can modify the standard inquiry letter that we have
11 to -- and I will attach the newspaper article, instead
12 of a complaint, which is what we usually do.

13 UNIDENTIFIED SPEAKER: Um-hmm.

14 UNIDENTIFIED SPEAKER: So I can modify that by
15 adding in the rule and then just run it past you all
16 once I've -- I've made the changes to it.

17 JUDGE WALDRIP: Sounds good to me.

18 UNIDENTIFIED SPEAKER: Yep. Sounds like a plan.

19 UNIDENTIFIED SPEAKER: Good.

20 UNIDENTIFIED SPEAKER: Okay. So I think we are
21 done up until this point then.

22 UNIDENTIFIED SPEAKER: Okay.

23 UNIDENTIFIED SPEAKER: Very good.

24 UNIDENTIFIED SPEAKER: All right.

25 UNIDENTIFIED SPEAKER: Okay.

1 UNIDENTIFIED SPEAKER: Thank you all very much.

2 JUDGE WALDRIP: Well, thanks (indiscernible).

3 UNIDENTIFIED SPEAKER: Have a good day,
4 everyone.

5 JUDGE WALDRIP: (Indiscernible.)

6 UNIDENTIFIED SPEAKER: Sorry to keep you all
7 waiting. And talk to you soon. Bye.

8 UNIDENTIFIED SPEAKER: Bye.

9 UNIDENTIFIED SPEAKER: Bye-bye.

10 * * * * *

11 (Conclusion of audio recorded proceedings.)

12

13

14

15

16

17

18

19

20

21

22

23

24

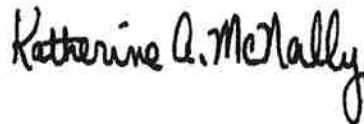
25

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

C E R T I F I C A T E

I, Katherine McNally, Certified
Transcriptionist, do hereby certify that the foregoing
pages 1 to 14 constitute a full, true, and accurate
transcript, from electronic recording, of the
proceedings had in the foregoing matter, all done to the
best of my skill and ability.

SIGNED and dated this 18th day of August 2015.



Katherine McNally
Certified Electronic Transcriber
CET**D-323