

EXHIBIT 1

RSPN
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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of the JACT
TRUST,

Plaintiff,

vs.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; DOES I through X and ROE
BUSINESS ENTITIES I through X, inclusive,

Defendants.

Case No.: A-22-852032-C
Dept. No.: 8

**DEFENDANT, PENNIE MOSSETT-
PUHEK'S RESPONSE TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

Defendant, PENNIE MOSSETT-PUHEK, by and through her counsel of record, the law
firm FREEMAN MATHIS & GARY LLP, hereby responds to Plaintiff, Andrea Collier's First
Set of Interrogatories.

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PRELIMINARY STATEMENT

As of the date of these responses, Defendant, PENNIE MOSSETT-PUHEK (“Defendant” or “Mossett-Puhek”) has not completed her investigation of the facts relating to this case and has not completed preparation for trial. The following Responses are based on information known to Defendant at this time, after reasonable inquiry and investigation. It is anticipated that discovery and further investigation, legal research, and analysis will supply additional facts, add meaning to known facts, and establish entirely new factual and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the Responses contained herein. These Responses are made in a good faith effort to supply as much factual information as is presently known but should in no way be to the prejudice of Defendant in relation to further discovery, research, analysis, or production of evidence.

Defendant reserves the right to amend or to supplement these Responses in the event of mistake, oversight, or omission. These Responses are made without prejudice to Defendant’s right to develop and to use other information not provided herein, including, without limitation, subsequently discovered information and information presently known to Defendant but whose specific relevance, significance, or applicability to the subject matter of this lawsuit has not yet been ascertained.

To the extent Defendant identifies or delineates certain facts in these Responses, they do so without prejudice to establish at a later date any additional facts that may be discovered as a result of any additional investigation, legal research, or discovery.

The inadvertent disclosure of confidential or privileged information in these Responses by Defendant does not constitute a waiver of any applicable privilege, nor should the disclosure of any information be construed to waive any objection to the admission of that information in evidence, including, without limitation, relevancy.

Each Response contained herein is subject to all objections as to competence, relevance, materiality, propriety, admissibility, and any and all other objections that would require the exclusion of any statement contained herein if any Request were asked of, or if any statement contained herein were made by, any witness testifying in court, either in person or by way of

1 deposition. All such objections and grounds are reserved and may be interposed at the time of trial.
2 In responding to these Requests, Defendant does not waive any proper objection to the use or
3 introduction into evidence of its Responses or information provided therein.

4 This Preliminary Statement is incorporated by reference into each Response contained
5 herein.

6 **GENERAL OBJECTIONS**

7 Each Response contained herein is subject to the following General Objections. These
8 General Objections form a part of each Response and are set forth herein to avoid duplication and
9 repetition caused by restating them in each Response. These General Objections may be
10 specifically interposed for the purpose of clarity in Response to an individual Request. However,
11 the failure to specifically incorporate the General Objection in a particular Response should not be
12 construed as a waiver of the objection.

13 A. Defendant objects to the Requests to the extent they require Defendant to obtain and
14 produce information and documents from persons over whom she has no control. Defendant
15 responds to the Requests only on behalf of itself.

16 B. Defendant objects to the Requests to the extent that they are vague, ambiguous, or
17 otherwise lack sufficient precision to permit a Response.

18 C. Defendant objects to the Requests to the extent that they call for the disclosure of
19 information that would reveal trade secrets or other confidential research, development,
20 commercial or proprietary information, or information that may be protected by a right of privacy
21 under either the United States Constitution, Article 1 of the Constitution of the State of Nevada or
22 any other applicable law. Defendant reserves the right to produce such non-privileged, responsive
23 information only pursuant to a protective order duly entered by the court appropriately limiting the
24 control, use and disposition of such information.

25 D. Defendant objects to the Requests to the extent they seek information that is neither
26 relevant to the subject matter of this action, nor reasonably calculated to lead to the discovery of
27 admissible evidence.

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1 E. Defendant objects to the Requests to the extent that they seek information and
2 documents that are publicly available, more readily and more appropriately collected from sources
3 other than Defendant, and/or more practically obtained through other methods.

4 F. Defendant objects to the Requests to the extent that they are overbroad and unduly
5 burdensome.

6 G. Defendant objects to the Requests to the extent they may be construed to request
7 disclosure of information prepared in anticipation of litigation; that constitutes attorney work
8 product; that discloses the mental impressions, conclusions, opinions or legal theories of any
9 attorneys for Defendant; that contain privileged attorney-client communications; or that are
10 otherwise protected from disclosure under applicable privileges, laws or rules. Defendant will not
11 provide any such privileged or protected information. Inadvertent disclosure of any such
12 information shall not constitute a waiver of any privilege or any other ground for objecting to
13 discovery with respect to such information. Nor shall such inadvertent production or disclosure
14 waive the right of Defendant to object to the use of any such information during this action or in
15 any other subsequent proceeding.

16 H. Defendant objects to the Requests to the extent they are ambiguous or excessive as
17 to time frames and thus are overbroad.

18 I. Defendant objects to the Requests to the extent that they attempt to impose
19 obligations on Defendant other than those imposed or authorized by applicable law or rule.
20 Defendant further objects to the Requests to the extent that obtaining the information and compiling
21 documents responsive to these Interrogatories would impose a vexatious and undue burden on
22 Defendant, and thus the Requests are oppressive and/or are merely intended to harass.

23 **INTERROGATORY NO. 1:**

24 Please state the basis as to why you were reprimanded, disciplined, or no longer permitted
25 to post on NextDoor.

26 **RESPONSES TO INTERROGATORY NO. 1:**

27 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
28 overbroad in scope of time. Mossett-Puhek further objects to this Interrogatory on the grounds it

1 is compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is vague and
2 ambiguous as drafted, especially as to the terms “reprimanded” and “disciplined”. Mossett-Puhek
3 further objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-Puhek.
4 Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant information and
5 is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further objects to this
6 Interrogatory on the grounds that it constitutes harassment. Mossett-Puhek also objects to this
7 Interrogatory on the grounds it assumes facts not in evidence.

8 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
9 this Interrogatory as follows: Based on information presently known to me, I have never been
10 “reprimanded” or “disciplined” by Nextdoor. At some point in time, I was unable to log in to the
11 site and then at some later point in time I was allowed to log back in.

12 **INTERROGATORY NO. 2:**

13 Set forth in detail your relationship with any persons currently employed with or previously
14 employed within the last ten (10) years by Boyack Orme & Anthony.

15 **RESPONSES TO INTERROGATORY NO. 2:**

16 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
17 overbroad in scope of time. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks
18 irrelevant information and is not reasonably calculated to lead to admissible evidence. Mossett-
19 Puhek further objects to this Interrogatory on the grounds that it violates Mossett-Puhek’s and non-
20 parties’ rights to privacy.

21 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
22 this Interrogatory as follows: I have a professional working relationship with Ted Boyack, who is
23 legal counsel for Anthem. I also previously requested Mr. Boyack’s firms’ services for a personal
24 matter relating to a Nextdoor posting that I believed to be libelous and defamatory to myself.
25 Anthem’s current part-time manager, Carmen Eassa, also used to work for Mr. Boyack. My
26 relationship with Mr. Boyack is of a professional nature regarding the management of Anthem.

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INTERROGATORY NO. 3:

Set forth in detail your relationship with any persons currently employed with or previously employed within the last ten (10) years by K.G.D.O. Holding Company, LLC d/b/a Terra West Management Services.

RESPONSES TO INTERROGATORY NO. 3:

OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is overbroad in scope of time. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant information and is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further objects to this Interrogatory on the grounds that it violates Mossett-Puhek's and non-parties' rights to privacy.

Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to this Interrogatory as follows: I have a professional working relationship with Anthem's part-time manager Carmen Eassa of Terra West. I may at times interact with other various staff of Terra West solely regarding the management of Anthem.

INTERROGATORY NO. 4:

Please state the basis for all complaints YOU have filed with the Nevada Real Estate Division and/or the Ombudsman, such as Intervention Affidavits (Form 530).

RESPONSES TO INTERROGATORY NO. 4:

OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is overbroad in scope of time. Mossett-Puhek further objects to this Interrogatory on the grounds it is compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is vague and ambiguous as drafted, especially as to the terms "complaints" and "intervention affidavits". Mossett-Puhek further objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-Puhek. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant information and is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further objects to this Interrogatory on the grounds that it constitutes harassment. Mossett-Puhek also objects to this Interrogatory on the grounds it assumes facts not in evidence.

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1 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
2 this Interrogatory as follows: Upon information and belief at the present time, I do not recall filing
3 any intervention affidavits or other complaints with the Nevada Real Estate Division. Plaintiffs'
4 subpoena to the Nevada Real Estate Division would be able to obtain any documents, if they exist.

5 **INTERROGATORY NO. 5:**

6 Please state the basis for all complaints that have been filed against YOU with the Nevada
7 Real Estate Division and/or the Ombudsman, such as Intervention Affidavits (Form 530).

8 **RESPONSES TO INTERROGATORY NO. 5:**

9 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
10 overbroad in scope of time. Mossett-Puhek further objects to this Interrogatory on the grounds it is
11 compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is vague and
12 ambiguous as drafted, especially as to the terms "complaints" and "intervention affidavits". Mossett-
13 Puhek further objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-
14 Puhek. Mossett-Puhek objects to this Interrogatory on the grounds that it seeks irrelevant
15 information and is not reasonably calculated to lead to admissible evidence. Mossett-Puhek further
16 objects to this Interrogatory on the grounds that it constitutes harassment. Mossett-Puhek also
17 objects to this Interrogatory on the grounds it assumes facts not in evidence.

18 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
19 this Interrogatory as follows: Upon information and belief at the present time, I am aware of only
20 two complaints. One filed by former board member Mark West in December 2019 and the other by
21 former board member Robert Stern in January 2015. I do not recall the basis for the complaint with
22 Mark West and do not possess the documentation of that complaint. The basis for the complaint by
23 Robert Stern was a Nextdoor posting and my stated opinion about Mr. Stern's new book that nobody
24 should buy it. I do not possess any documentation of that complaint. Plaintiffs' subpoena to the
25 Nevada Real Estate Division would be able to obtain any documents, if they exist.

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INTERROGATORY NO. 6:

Please state in detail the nature of your personal relationship with COLLIER and when it ended. A complete answer will identify dates as to when the personal relationship began and ended, as well as the basis for it ending.

RESPONSES TO INTERROGATORY NO. 6:

OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is overbroad as to scope and as to time. Mossett-Puhek further objects to this Interrogatory on the grounds it is compound.

Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to this Interrogatory as follows: I do not consider my relationship with COLLIER to have ever been personal. In my role in the Anthem board as president, I previously encouraged members of the neighborhoods to become community liaisons for the purpose of assisting in reporting compliance issues to the Anthem board and management. Ms. Collier contacted me through Anthem management in the summer of 2020 and requested to assist in bringing compliance matters to the attention of the Anthem board for possible action. On two occasions, myself and others met with Ms. Collier. Once at her home and once at a restaurant. Due to concerns of Ms. Collier's motives and actions regarding her neighbors, I sought the advice of association legal counsel and ultimately ceased all contact with Ms. Collier. My last contact with Ms. Collier was in March 2021.

INTERROGATORY NO. 7:

Please state in detail the nature of your personal relationship with COLLIER and when it ended. A complete answer will identify dates as to when the personal relationship began and ended, as well as the basis for it ending.

RESPONSES TO INTERROGATORY NO. 7:

OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is overbroad as to scope and as to time. Mossett-Puhek further objects to this Interrogatory on the grounds it is compound. Mossett-Puhek also objects to this Interrogatory on the grounds it is duplicative as it has been asked and answered (See Interrogatory No. 6).

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1 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
2 this Interrogatory as follows: See response in Interrogatory No.6.

3 **INTERROGATORY NO. 8:**

4 Since 2015, identify each and every time YOU inspected the PROPERTY. A complete
5 answer will identify the date of the inspection and for what purpose the inspection occurred.

6 **RESPONSES TO INTERROGATORY NO. 8:**

7 OBJECTION. Mossett-Puhek objects to this Interrogatory on the grounds that it is
8 overbroad in scope with respect to time. Mossett-Puhek further objects to this Interrogatory on the
9 grounds it is compound. Mossett-Puhek also objects to this Interrogatory on the grounds that it is
10 vague and ambiguous as drafted, especially as to the term “inspected”. Mossett-Puhek further
11 objects to this Interrogatory on the grounds that it lacks foundation as to Mossett-Puhek.

12 Notwithstanding and without waiving the foregoing objections, Mossett-Puhek responds to
13 this Interrogatory as follows: Ms. Collier’s property can be seen as I exit and enter my community,
14 which I have done consistently as a resident. I do not recall specifically the dates, but I have taken
15 photos of the plant material on Ms. Collier’s property in my role on behalf of Anthem. The purpose
16 of the photos was to show that the plant material was not being maintained in a height that that
17 would avoid site visibility concerns as referenced in Anthem’s architectural guidelines for
18 compliance purposes.

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1 **INTERROGATORY NO. 9:**

2 Please state the route of travel YOU take through ANTHEM to arrive at YOUR unit. A
3 complete answer will identify the streets you take and direction of travel as it relates to your ingress
4 and egress.

5 **RESPONSES TO INTERROGATORY NO. 9:**

6 Bicentennial via Anthem Highlands Drive, to Crathes, to Culloden. Left on Culloden to the
7 entrance of Earlstone.

8 DATED this 31st day of March 2023.

9 FREEMAN MATHIS & GARY, LLP

10 /s/Michael M. Edwards

11 MICHAEL M. EDWARDS ESQ.

12 Nevada Bar No. 6281

13 DEREK R. NOACK, ESQ.

14 Nevada Bar No. 15074

15 3993 Howard Hughes Pkwy., Suite 100

16 Las Vegas, Nevada 89169

17 *Attorney for Defendant PENNIE MOSSETT-*
18 *PUHEK*

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PROOF OF SERVICE
Andrea Collier v. Pennie Mossett-Puhek, et al.
Case No.: A-22-852032-C

The undersigned does hereby declare that I am over the age of eighteen (18) years and not a party to the within entitled action. I am employed by Freeman Mathis and Gary LLP, 550 South Hope Street, Suite 2200, Los Angeles, CA 90071. I am readily familiar with Freeman Mathis and Gary LLP's practice for collection and processing of documents for delivery by way of the service indicated below.

On March 31, 2023 I served the following document(s):

**DEFENDANT, PENNIE MOSSETT-PUHEK'S RESPONSE TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

on the interested party(ies) in this action as follows:

Timothy P. Elson, Esq.	Edward D. Boyack, Esq.
THE LAW OFFICES OF TIMOTHY ELSON	BOYACK ORME & ANTHONY
8965 S. Eastern Ave. Suite 382	7432 W. Sahara Ave. Suite 101
Las Vegas, NV 89123	Las Vegas, NV 89117
Telephone: (702) 874-8600	Telephone: (702)562.3415
Tim@ElsonLawOffices.com	ted@boyacklaw.com
<i>Attorney for Plaintiff</i>	<i>Attorney for Defendant</i>
	<i>Anthem Highlands Community Association</i>

X By Electronic Service. Pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR, I caused said documents(s) to be transmitted to the person(s) identified in the E-Service List for this captioned case in Odyssey E-File & Serve of the Eighth Judicial District Court, County of Clark, State of Nevada. A service transmission report reported service as complete and a copy of the service transmission report will be maintained with the document(s) in this office.

By Mail. By placing said document(s) in an envelope or package for collection and mailing, addressed to the person(s) at the address(es) listed above, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing of mail. Under that practice, on the same day that mail is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

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

/s/Laurie Moreno
An employee of Freeman Mathis and Gary LLP

EXHIBIT 2

1

DISTRICT COURT

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CLARK COUNTY, NEVADA

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ANDREA COLLIER, as trustee of the
JACT TRUST,

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Plaintiff,

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vs.

No. A-22-852032-C

8

PENNIE MOSSETT-PUHEK,
individually; ANTHEM HIGHLANDS
COMMUNITY ASSOCIATION, a Nevada
Non-Profit Corporation; DOES I
through X and ROE BUSINESS
ENTITIES I through X, inclusive,

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Defendants.

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DEPOSITION OF JASON ESAU

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Taken on September 27, 2022

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At 1:15 p.m.

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At 8965 South Eastern Avenue, Suite 382

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Las Vegas, Nevada

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Reported by: Linda Horton Sprague, CCR 466

25

Job No. 50936, Firm No. 061F

2

1 APPEARANCES:
2
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4 Timothy P. Elson, Esq.
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13
14 For the Deponent:
15 Amanda B. Kern, Esq.
City of Henderson
16 240 Water Street
P.O. Box 95050
17 MSC 144
Henderson, Nevada 89015
18 (702) 267-1288
amanda.kern@cityofhenderson.com
19
20 Also Present:
21 Andrea Collier
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1 DEPOSITION OF JASON ESAU
2 September 27, 2022
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4 (Prior to the commencement of the deposition,
5 all of the parties present agreed to waive statements
6 by the court reporter pursuant to Rules 30(b)(5)(A) and
7 30(b)(5)(C) of the NRCF/FRCP.)
8
9 JASON ESAU
10 was called as a witness and, having been first duly
11 sworn, testified as follows:
12
13 EXAMINATION
14 BY MR. ELSON:
15 Q. Good afternoon, Mr. Esau. My name is Tim
16 Elson. And I represent Ms. Collier in this matter.
17 Before we begin this deposition, what is
18 your legal name?
19 A. Jason Esau, E-s-a-u.
20 Q. Have you ever been sworn to tell the truth
21 before?
22 A. No. This is my first time.
23 Q. Okay. Well, let me explain the basic rules
24 of a deposition so there's no confusion here today.
25 Do you understand you are under oath today

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1 and that this is the same oath you would take as if
2 you were before a judge and jury?
3 A. Yes.
4 Q. And you understand that anything you say
5 here today carries the same penalty of perjury as if
6 you were before a judge and jury?
7 A. Yes.
8 Q. Have you consumed any alcohol in the last 12
9 hours?
10 A. No.
11 Q. Have you consumed any prescription or
12 non-prescription medication that will affect your
13 ability to give me your best testimony here today?
14 A. No.
15 Q. Is there any reason why this deposition
16 cannot go forward today?
17 A. No.
18 Q. Okay. One of the basic rules of a
19 deposition is that only one person can speak at a
20 time. The reason why is we have a court reporter here
21 who is taking down everything that we say.
22 So I'll do my best to wait for you to finish
23 answering the question before I ask another. And I'd
24 ask you to wait for me to finish asking it before you
25 start answering. Is that fair?

<p>6</p> <p>1 A. Fair.</p> <p>2 Q. Sometimes in ordinary language we do things</p> <p>3 like "uh-huhs" or "huh-uhs" or nodding our head yes or</p> <p>4 no. And while that's very normal in everyday</p> <p>5 language, it sometimes makes it difficult to create a</p> <p>6 clean and accurate record.</p> <p>7 So, from time to time, I may say "Is that a</p> <p>8 'yes'?" "Is that a 'no'?" I'm not doing that to be</p> <p>9 rude. I'm just trying to create a clean and accurate</p> <p>10 record. Is that fair?</p> <p>11 A. Understood.</p> <p>12 Q. Okay. I don't want you to guess today. But</p> <p>13 I am entitled to your best estimate.</p> <p>14 Do you understand the difference between a</p> <p>15 guess and an estimate?</p> <p>16 A. Yes.</p> <p>17 Q. Your testimony will come in a type of book</p> <p>18 format. You will have the opportunity to review it</p> <p>19 and make any changes that you wish to make. Please be</p> <p>20 cautious that if you make a material change, or any</p> <p>21 change, somebody may comment or opine as to whether or</p> <p>22 not you were telling the truth at one time or another.</p> <p>23 So it's very important that we get your best testimony</p> <p>24 here today.</p> <p>25 Do you understand?</p>	<p>8</p> <p>1 Q. And where did you attend high school?</p> <p>2 A. In Giessen, G-i-e-s-s-e-n, Germany.</p> <p>3 Q. You may, at times, get a spelling test</p> <p>4 today.</p> <p>5 Did you attend any college or any vocational</p> <p>6 training after high school?</p> <p>7 A. No.</p> <p>8 Q. It sounds like you spent some time in</p> <p>9 Germany.</p> <p>10 When did you first move to the United</p> <p>11 States?</p> <p>12 A. In '81.</p> <p>13 Q. Where did you move when you first moved to</p> <p>14 the United States?</p> <p>15 A. From American Samoa to Hawaii. S-a-m-o-a.</p> <p>16 Q. When did you first move to Las Vegas?</p> <p>17 A. 1993. I want to say late October.</p> <p>18 Q. And have you lived in Las Vegas since then?</p> <p>19 A. Henderson mostly. Yes.</p> <p>20 Q. And the only reason I'm asking is you</p> <p>21 mentioned you spent time in Germany. Your English</p> <p>22 sounds like it's your primary language.</p> <p>23 Is English your primary language?</p> <p>24 A. It's my second language.</p> <p>25 Q. Okay. You seem to be speaking it just fine</p>
<p>7</p> <p>1 A. Yes.</p> <p>2 Q. Okay. If you don't understand my question,</p> <p>3 please let me know. And I'll rephrase it as many</p> <p>4 times as necessary. Please be cautious that if you do</p> <p>5 answer a question, everyone will have the right to</p> <p>6 presume you understood the question before you</p> <p>7 answered. Is that fair?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. If you need to take a break, just go</p> <p>10 ahead and ask. We can go off the record. You can</p> <p>11 stretch your legs. Use the restroom. Whatever you</p> <p>12 need to do. The only thing that I ask is that you</p> <p>13 answer any question that's pending before you before</p> <p>14 we take a break. Is that fair?</p> <p>15 A. Okay.</p> <p>16 Q. Do you have any questions before we start?</p> <p>17 A. No.</p> <p>18 Q. Jason, I'm going to start -- may I call you</p> <p>19 Jason?</p> <p>20 A. Sure.</p> <p>21 Q. I'm going to start by going over some of</p> <p>22 your education and background.</p> <p>23 Can you tell me what's the highest level of</p> <p>24 education that you've completed.</p> <p>25 A. High school.</p>	<p>9</p> <p>1 here today.</p> <p>2 Do you have any issues with communicating in</p> <p>3 English?</p> <p>4 I just want to make sure we're speaking in a</p> <p>5 language in which you would consider yourself fluent</p> <p>6 and that you understand everything that's transpiring</p> <p>7 here today.</p> <p>8 A. English is fine.</p> <p>9 Q. Okay. Any other schooling or vocational</p> <p>10 training that you can think of --</p> <p>11 A. No.</p> <p>12 Q. -- that we haven't talked about?</p> <p>13 Okay. Let's talk a little bit about your</p> <p>14 employment background.</p> <p>15 Where are you currently employed?</p> <p>16 A. With the City of Henderson.</p> <p>17 Q. And how long have you been with the City of</p> <p>18 Henderson?</p> <p>19 A. Since November of 2005.</p> <p>20 Q. What position do you currently hold with the</p> <p>21 City of Henderson?</p> <p>22 A. I am a code enforcement officer.</p> <p>23 Q. And how long have you been with Code</p> <p>24 Enforcement?</p> <p>25 A. April 1st, 2013.</p>

<p style="text-align: right;">10</p> <p>1 Q. What did you do for the City of Henderson 2 before Code Enforcement? 3 A. I worked for the Utilities Department as a 4 meter services specialist. 5 Q. Do you have a specific position within 6 Henderson Code Enforcement? Title? 7 A. Just -- I'm just -- I'm a code enforcement 8 officer. I'm one of many. 9 Q. Okay. About how many code enforcements 10 would you estimate work for the City of Henderson? 11 A. How many code enforcement officers? 12 Q. That's correct. 13 A. I believe we have seven right now. Seven. 14 Q. And I'm sure it varies from time to time as 15 people transition in and out. 16 But is it your understanding that that 17 number is, roughly, seven since you've started with 18 Code Enforcement? 19 A. Well, that's what it is currently. 20 Q. Okay. 21 A. Yeah. It could change, you know. 22 Q. Prior to working with Henderson Code 23 Enforcement as a code enforcement officer, did you 24 have any experience with reviewing or interpreting or 25 understanding code?</p>	<p style="text-align: right;">12</p> <p>1 Q. When were you born? And where were you 2 born? 3 A. November 4th, 1974. In American Samoa. 4 Q. Jason, I'm not trying to be rude. I ask 5 this question of every witness I've ever deposed. 6 Have you ever been convicted of a felony? 7 A. No. 8 Q. Have you ever been convicted of a crime of 9 moral turpitude -- that is, involving one of deceit or 10 dishonesty? 11 A. No. 12 Q. What did you do to prepare for your 13 deposition here today? 14 A. I reviewed my case that was in -- in our 15 system. Just looked over it. 16 Q. And about how many pages would you say your 17 cases were in your system? 18 A. Well, it's on the computer. It's -- I don't 19 know exactly how many pages. I would guess maybe 20 three pages. 21 Q. I'll be showing you some documents. 22 A. Okay. 23 Q. And when I do, I'll ask you if those were 24 the documents -- 25 A. Okay.</p>
<p style="text-align: right;">11</p> <p>1 A. In Utilities, yes. 2 Q. And what experience did you have with it in 3 Utilities? 4 A. We -- so we installed all the new water 5 meters for new construction for the City of Henderson. 6 And they had to meet certain codes before we were able 7 to install those water meters, for example. 8 I also worked in the Water Waste Division of 9 Utilities, where we enforced the water conservation 10 section of the Utilities Municipal Code. 11 Q. And so would it be fair to say that in those 12 positions you would review various code provisions and 13 determine whether or not compliance had occurred? 14 A. Correct. 15 Q. Prior to working with the City of 16 Henderson -- can you just give me a general idea of 17 any other types of employment that you've had in your 18 lifetime. 19 A. I worked in construction for a couple years. 20 I was a -- I worked at a golf course. I worked for 21 the MGM Grand Hotel Casino for a few years when they 22 first opened back in the mid '90s in their retail 23 merchandising division. 24 But, yeah, I have held a lot of different 25 jobs.</p>	<p style="text-align: right;">13</p> <p>1 Q. -- you reviewed. 2 Maybe that's the easiest way to clean that 3 up. 4 I imagine you met with your attorney. I 5 don't want to know what you and your attorney talked 6 about. 7 A. Uh-huh. 8 Q. But did you meet with your attorney -- 9 A. Yes. 10 Q. -- before the deposition? 11 How many times did you meet with your 12 attorney? 13 A. Just once. 14 Q. And how long did that meeting last? 15 A. Fifteen minutes maybe. 16 Q. Fifteen as in 1-5? 17 A. Yes. 18 That's an approximate. I wasn't keeping 19 track of the time. 20 Q. I understand. 21 Other than the case file notes, were there 22 any other documents that you reviewed to prepare for 23 your deposition? 24 A. No. 25 Q. We're here today to talk about a lawsuit</p>

<p style="text-align: right;">14</p> <p>1 involving Ms. Andrea Collier and her HOA, Anthem 2 Highlands, regarding some oleander bushes that are on 3 Ms. Collier's property. 4 Have you ever reviewed any of the legal 5 documents associated with this lawsuit? 6 A. No. Just, you know, the subpoena for the 7 deposition is the only thing I saw. 8 Q. Before we start talking about specifics with 9 Ms. Collier and those oleander bushes -- and I 10 understand you're familiar with those oleander bushes. 11 Correct? 12 A. Correct. 13 Q. Okay. I want to talk just a little more 14 generally about protocol within the Code Enforcement 15 Division. 16 When Henderson Code Enforcement receives a 17 complaint -- can you tell me, generally, how that 18 process works and what happens. 19 A. It gets assigned to one of the several code 20 enforcement officers that we have on staff. And we 21 respond to the cases as quickly as we can. We 22 document what the violation, if -- you know, with 23 photographs. And then we'll make notes into our case. 24 And then we make a determination of whether or not a 25 violation exists.</p>	<p style="text-align: right;">16</p> <p>1 Or, you know, again, as I stated earlier, 2 monetary fines is also another option that the City 3 has -- to assess fines against the homeowner. 4 Q. So it sounds like fines can be issued. And 5 if fines -- the City believes that fines aren't enough 6 of a coercive measure to cause the homeowner to come 7 into compliance or if the violation is serious enough 8 the City will just correct it itself with the vendor? 9 A. It depends. As far as sending in a 10 vendor -- it depends on what the violation is. 11 You know, if it entails us entering onto the 12 person's property and, you know, either removing 13 something from their property or -- you know, that -- 14 that could sometimes, you know, lead us to assessing 15 fines versus an abatement. 16 An abatement would usually, you know, 17 involve violations, like litter, for example, where, 18 you know, there's garbage or litter that needs to be 19 disposed of. Or if it's in the right-of-way and not 20 necessarily on private property. 21 But the notice does give the homeowner 22 the -- it lets them know that the City has a couple of 23 different, you know, options in the enforcement 24 process to move forward. 25 Q. What types of notes do you typically keep</p>
<p style="text-align: right;">15</p> <p>1 And then we either close out the case, or we 2 go forward with the enforcement process. 3 Q. And when you say "go forward with the 4 enforcement process," what does that mean? 5 A. So, we would issue a -- what's called a 6 Notice of Violation. That's the document that we're 7 required to issue to the property owner that's 8 involved. 9 Q. And if the homeowner doesn't, then, come 10 into compliance, what happens then? 11 A. So the next step would be what's called a 12 Notice to Abate. It basically notifies the homeowner 13 that -- that they're being reminded that there's a 14 violation that hasn't been corrected. 15 And then it lists the different options that 16 the City has as far as either having the violation 17 abated by the City via a third-party vendor or an 18 option to issue fines for non-compliance. 19 Q. And just so I can understand what you mean 20 by "abate" -- does that, in lay person terms, 21 essentially mean "correct"? 22 A. Yes. Basically to -- to have somebody come 23 in and correct the violation. Or if the homeowner 24 corrects it on their own, then we would close the 25 case.</p>	<p style="text-align: right;">17</p> <p>1 within the system? 2 A. So photographic evidence of -- of the 3 subject of the complaint. And we will also make notes 4 in the case. Just general notes as far as what we've 5 observed, whether we've determined that there's a 6 violation and whether we've issued a notice or not. 7 Q. Do you ever confer with your supervisor 8 about certain violations? 9 A. At times, yes. 10 Q. And who was your supervisor in 2021? 11 A. Ian Massey. 12 Q. Is Mr. Massey still your supervisor to this 13 day? 14 A. Yes. 15 Q. If a complainant is abusive or combative, is 16 that a reason you would speak with your supervisor? 17 A. I have brought it up to him sometimes when 18 that happens in -- yes. It -- it's not something we 19 do all time because, in my line of work, we -- we 20 don't get treated very nicely most times. So -- 21 Q. Well, I'm sorry to hear that. Sometimes it 22 happens in my line of work as well. So you have my 23 sympathy in that regard. 24 Is there ever a time that you would not just 25 confer with your supervisor, but refer the matter over</p>

18	20
<p>1 to Mr. Massey to deal directly with the complainant?</p> <p>2 A. At times, yes.</p> <p>3 Q. And is one of the reasons you would do that</p> <p>4 when a complainant is abusive or combative?</p> <p>5 A. It can be. Yeah.</p> <p>6 Q. Are you familiar with the Division Henderson</p> <p>7 Engineering?</p> <p>8 A. Henderson Engineering.</p> <p>9 Q. I've heard there's a department called the</p> <p>10 Engineering Department with the City of Henderson.</p> <p>11 Have you heard of that department?</p> <p>12 A. We have engineers in multiple departments of</p> <p>13 the City.</p> <p>14 Q. Are there engineers that work with the Code</p> <p>15 Enforcement Division?</p> <p>16 A. We don't have an engineer in our division.</p> <p>17 At times, if we have to consult with subject</p> <p>18 matter experts in other departments, they could</p> <p>19 possibly have engineers that -- that would be</p> <p>20 consulted by Code Enforcement.</p> <p>21 Q. Is one of those departments Traffic?</p> <p>22 A. Traffic Engineering. Yes.</p> <p>23 Q. And are matters ever referred over to</p> <p>24 Traffic Engineering?</p> <p>25 A. Occasionally, we will consult with our City</p>	<p>1 (Exhibit 1 was marked for</p> <p>2 identification.)</p> <p>3 BY MR. ELSON:</p> <p>4 Q. Jason, I'm showing you what's been marked as</p> <p>5 Exhibit 1.</p> <p>6 Do you recognize this document?</p> <p>7 A. Yes.</p> <p>8 Q. Is this one of the documents that -- one of</p> <p>9 the case documents that you were talking about that</p> <p>10 you reviewed to prepare for your deposition?</p> <p>11 A. Yes.</p> <p>12 Q. So I'm looking at the top of the first page.</p> <p>13 It states:</p> <p>14 Created on March 2nd, 2021, by James Dwyer.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What does the date March 2nd, 2021,</p> <p>18 refer to?</p> <p>19 A. The date that the case was created.</p> <p>20 Q. And who is James Dwyer?</p> <p>21 A. He's a fellow code enforcement officer.</p> <p>22 Q. And then next to it, it states:</p> <p>23 Closed on May 12th, 2021, by Jason Esau.</p> <p>24 You're Jason; correct?</p> <p>25 A. Correct.</p>
19	21
<p>1 traffic engineer in his office.</p> <p>2 Q. And what would be one of the reasons why you</p> <p>3 would consult with Traffic Engineering?</p> <p>4 A. So they -- the traffic engineer is the</p> <p>5 subject matter expert when it comes to, you know,</p> <p>6 traffic issues. And anytime there's cases that are</p> <p>7 complaints that could affect traffic -- traffic</p> <p>8 obstructions or traffic flow, stoplights, street</p> <p>9 signs, stop signs, matters such as those is when we</p> <p>10 would consult with them.</p> <p>11 Q. Before consulting with Traffic Engineering,</p> <p>12 do you typically discuss things with your supervisor</p> <p>13 before that point?</p> <p>14 A. Correct.</p> <p>15 Q. If a complainant is abusive or combative, is</p> <p>16 that a reason why you might refer a matter over to</p> <p>17 Traffic Engineering?</p> <p>18 A. Not necessarily just because they're being</p> <p>19 abusive or combative. Many times someone would</p> <p>20 request it. Or if it's something that we need some</p> <p>21 clarification on, we need a professional determination</p> <p>22 to be made by that subject matter expert, then we</p> <p>23 would -- that's when we would consult with them.</p> <p>24 MR. ELSON: May we mark this Exhibit</p> <p>25 number 1.</p>	<p>1 Q. And what does May 12th, 2021, refer to?</p> <p>2 A. So that would be the date I closed the case</p> <p>3 within our system.</p> <p>4 Q. Is there a specific reason why Mr. Dwyer</p> <p>5 would have referred this over to you as to him</p> <p>6 personally keeping it?</p> <p>7 A. I think he just -- he might have just taken</p> <p>8 the complaint.</p> <p>9 There's a note on page 2 that documents</p> <p>10 the -- the receipt of the complaint. So that's --</p> <p>11 that's how I presume the -- his name -- he created the</p> <p>12 case. So his name is logged.</p> <p>13 And under the notes -- the first note said</p> <p>14 that, you know, I received a complaint on the phone</p> <p>15 from, you know, so on and so forth.</p> <p>16 Q. So after a complaint is taken in, matters</p> <p>17 are then assigned to a specific code enforcement</p> <p>18 officer; is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. And how -- well, strike that.</p> <p>21 Who selects to whom the matter is assigned?</p> <p>22 A. So at this particular time, in 2021, we were</p> <p>23 assigned within the City by geographic areas. And I</p> <p>24 was one of two code enforcement officers that was</p> <p>25 assigned to what we refer to as the west -- West</p>

<p style="text-align: right;">22</p> <p>1 Henderson, which this particular neighborhood is</p> <p>2 included in that West Henderson area.</p> <p>3 Q. Who was the other code enforcement officer</p> <p>4 that was assigned to West Henderson?</p> <p>5 A. Kami Beckwith.</p> <p>6 Q. Could you spell Kami's name for the record.</p> <p>7 A. Sure. K-a-m-i. Beckwith, B-e-c-k-w-i-t-h.</p> <p>8 Q. Do you confer with Ms. Beckwith when</p> <p>9 evaluating complaints within the west area?</p> <p>10 A. We confer with each other at times with all</p> <p>11 of the code enforcement officers within the office.</p> <p>12 Q. Do you remember discussing the complaint</p> <p>13 pertaining to Ms. Collier's residence with</p> <p>14 Ms. Beckwith?</p> <p>15 A. No. I don't recall.</p> <p>16 Q. Is that because it didn't occur? Or because</p> <p>17 you just don't remember one way or the other?</p> <p>18 A. I'm positive it didn't occur.</p> <p>19 The majority of cases we kind of just handle</p> <p>20 on our own. And, you know, it's -- conferring with</p> <p>21 each other is -- or with one another in the office is</p> <p>22 something that happens sometimes but not -- not</p> <p>23 necessarily a majority of the time.</p> <p>24 Q. Understood.</p> <p>25 So you mentioned some notes on the second</p>	<p style="text-align: right;">24</p> <p>1 A. It is a Notice of Violation in order to</p> <p>2 correct.</p> <p>3 Q. It's dated March 3rd, 2021; is that correct?</p> <p>4 A. Correct.</p> <p>5 Q. And it references case number CE-21-503; is</p> <p>6 that correct?</p> <p>7 A. Correct.</p> <p>8 Q. And that's the same case number on</p> <p>9 Exhibit 1; is that correct?</p> <p>10 A. Correct.</p> <p>11 Q. And on the second page, I see your name.</p> <p>12 Jason Esau.</p> <p>13 Is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. Who prepared this letter?</p> <p>16 A. I did.</p> <p>17 Q. And on it, I see that you mention -- right</p> <p>18 after the first paragraph, there's a table. It looks</p> <p>19 like there's only one violation. So there's only one</p> <p>20 row within that table.</p> <p>21 And you mention a municipal code, a</p> <p>22 description, and then a resolution associated with</p> <p>23 that; is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. And the resolution states:</p>
<p style="text-align: right;">23</p> <p>1 page. The first note states:</p> <p>2 Received a complaint over the phone from the</p> <p>3 HOA board member, who states the address at</p> <p>4 2822 Culloden planted oleander bushes that are</p> <p>5 obstructing driver's view of traffic when turning</p> <p>6 right at the stop sign. States they have had issues</p> <p>7 with people running the stop sign because of this.</p> <p>8 Did I read that correctly?</p> <p>9 A. Yes.</p> <p>10 Q. Did you come to learn who the board member</p> <p>11 was that made this initial complaint to Mr. Dwyer?</p> <p>12 A. At this point, I didn't know who the</p> <p>13 complainant was.</p> <p>14 Q. Did you eventually learn who it was?</p> <p>15 A. I did find out who the complainant was.</p> <p>16 Q. And who was that?</p> <p>17 A. It was -- Pennie is what I came to find out.</p> <p>18 (Exhibit 2 was marked for</p> <p>19 identification.)</p> <p>20 BY MR. ELSON:</p> <p>21 Q. Okay. I've handed you what's been marked as</p> <p>22 Exhibit 2.</p> <p>23 Have you seen Exhibit 2 before, Jason?</p> <p>24 A. Yes.</p> <p>25 Q. And what is Exhibit 2?</p>	<p style="text-align: right;">25</p> <p>1 The oleanders in the front yard shall be</p> <p>2 trimmed or removed to provide adequate line of sight</p> <p>3 visibility at the intersection, with a maximum height</p> <p>4 of 24 inches.</p> <p>5 Did I read that correctly?</p> <p>6 A. Yes.</p> <p>7 Q. So it was -- at the time you issued this on</p> <p>8 March 3rd, 2021, it was your understanding that the</p> <p>9 oleanders had to be cut to a height of 24 inches; is</p> <p>10 that correct?</p> <p>11 A. Correct.</p> <p>12 (Exhibit 3 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. ELSON:</p> <p>15 Q. Are you aware if the oleanders were cut back</p> <p>16 by Ms. Collier to 24 inches?</p> <p>17 A. I'm sorry. Can you repeat the question.</p> <p>18 Q. Do you know if Ms. Collier cut the oleanders</p> <p>19 back to 24 inches as you indicated your letter?</p> <p>20 A. They -- eventually they were. Yes.</p> <p>21 MR. ELSON: Can you hand him Exhibit 3 now.</p> <p>22 BY MR. ELSON:</p> <p>23 Q. Jason, you've been handed what's been marked</p> <p>24 as Exhibit 3. I don't know that you've ever seen this</p> <p>25 specific photograph before.</p>

<p style="text-align: right;">26</p> <p>1 But do you recognize the area within the</p> <p>2 photograph?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Is this the corner that's at issue in case</p> <p>5 number 21-503?</p> <p>6 A. Yes.</p> <p>7 Q. And I see some oleander bushes in this</p> <p>8 picture.</p> <p>9 Are those the oleander bushes at issue?</p> <p>10 A. Yes.</p> <p>11 Q. And this is a photograph showing that the</p> <p>12 oleander bushes were cut back to 24 inches; is that</p> <p>13 correct?</p> <p>14 A. It appears that it is. Yes.</p> <p>15 Q. Prior to closing case number CE-21-503, did</p> <p>16 you reinspect the property to verify that the</p> <p>17 oleanders were cut back to 24 inches?</p> <p>18 A. Prior to closing the case, I believe I did.</p> <p>19 I believe I did.</p> <p>20 Q. And so at that point in time, you understood</p> <p>21 that the violation had been corrected and closed the</p> <p>22 case; is that correct?</p> <p>23 A. Yes. I understood it was -- it was a closed</p> <p>24 matter.</p> <p>25 Q. And there was no notice of abatement issue;</p>	<p style="text-align: right;">28</p> <p>1 Q. And so December 13th, 2021, would have been</p> <p>2 the date that another complaint was received; is that</p> <p>3 correct?</p> <p>4 A. On December 13th when Daniel created -- it</p> <p>5 looks like Daniel created the case on that date.</p> <p>6 Q. If I look at the notes -- and this time</p> <p>7 there's only one note. It states:</p> <p>8 Pennie states that this is still a line of</p> <p>9 sight issue from the bush at this house. She is</p> <p>10 wanting clarification if it is a violation or not.</p> <p>11 And did I read that correctly?</p> <p>12 A. Yes.</p> <p>13 Q. And then underneath that, there's a date,</p> <p>14 December 13th, 2021; is that correct?</p> <p>15 A. Correct.</p> <p>16 Q. And then looking back at the first page.</p> <p>17 It states that it was closed on</p> <p>18 December 21st, 2021, by Jason Esau.</p> <p>19 And that would be the date that you closed</p> <p>20 out this matter; is that correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then looking at the first page, toward</p> <p>23 the bottom. It says:</p> <p>24 Inspection note. Initial inspection. The</p> <p>25 oleanders in question have been trimmed since we last</p>
<p style="text-align: right;">27</p> <p>1 is that correct?</p> <p>2 A. As far as I recall, the only notice that was</p> <p>3 issued was the notice -- the original Notice of</p> <p>4 Violation, dated March 3rd, 2021.</p> <p>5 Q. So, as you sit here today, it's your</p> <p>6 understanding that there was no notice of abatement;</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. And there were no fines issued either; is</p> <p>10 that correct?</p> <p>11 A. That's correct.</p> <p>12 (Exhibit 4 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. ELSON:</p> <p>15 Q. Jason, you've been handed what's been marked</p> <p>16 as Exhibit 4.</p> <p>17 Do you recognize this document?</p> <p>18 A. Yes.</p> <p>19 Q. And what is Exhibit 4?</p> <p>20 A. It looks like another separate case for</p> <p>21 the -- for the same property.</p> <p>22 Q. And at the top, it states it was created on</p> <p>23 December 13th, 2021, by Daniel Steklasa; is that</p> <p>24 correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">29</p> <p>1 had a case for this property. I did not observe any</p> <p>2 line of sight obstruction at this intersection. No</p> <p>3 violation. Case closed.</p> <p>4 Did I read that correctly?</p> <p>5 A. Yes.</p> <p>6 Q. And above that, it states:</p> <p>7 Verification inspection completed on</p> <p>8 December 21st, 2021.</p> <p>9 Did I read that correctly?</p> <p>10 A. Correct.</p> <p>11 Q. So that would have been the date that you</p> <p>12 conducted an inspection of the property; is that</p> <p>13 correct?</p> <p>14 A. Yes.</p> <p>15 Q. And when you went out to the property, you</p> <p>16 inspected it, and you had determined that no violation</p> <p>17 existed at that time; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. At that time, you didn't involve Traffic</p> <p>20 Engineering; is that correct? On December 21st, 2021.</p> <p>21 A. That's correct.</p> <p>22 Q. It seemed pretty clear to you that no</p> <p>23 violation had existed and that was why you didn't</p> <p>24 involve Traffic Engineering; is that correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">30</p> <p>1 Q. After December 2021 -- or during this time 2 frame, do you recall receiving additional calls from 3 Pennie Mossett-Puhek, the individual with the HOA? 4 A. I believe it was around this time when I 5 closed -- shortly after I closed this case that I did 6 have a -- I did receive a call from Pennie. 7 Q. Do you recall Pennie becoming upset with you 8 and telling you that you didn't know how to do your 9 job? 10 A. Yes. 11 Q. Do you recall Pennie stating to you that you 12 didn't know the code and she, essentially, knew the 13 code better than you? 14 A. Something to that extent. Yes. 15 Q. Is there something specific that you recall 16 about the phone call with Pennie, or the phone calls 17 with Pennie, that -- because I don't want to put words 18 in your mouth, Jason. 19 How would you describe those calls with 20 Pennie? 21 A. She was just questioning whether the 22 oleanders needed to be removed or not. She was 23 insisting that the code states that they needed to be 24 removed. 25 Q. And when you told her that they didn't need</p>	<p style="text-align: right;">32</p> <p>1 A. I'm not sure about that. You'd have to ask 2 him. 3 Q. All right. Do you recall referring Pennie 4 to Traffic Engineering? 5 A. I never referred her to Traffic Engineering. 6 I know I brought it up with my supervisor, 7 Mr. Massey, to see if -- if it was possible to have 8 a -- I believe I did that on the -- when the first -- 9 on the first complaint prior to us closing it out. I 10 did ask to see if we could get a professional 11 determination by our traffic engineer's office. 12 Q. Let's take a look back at Exhibit 1. 13 Looking at the bottom of Exhibit 1. It states: 14 Called and spoke with property manager, 15 Andrea, who requested we send a Notice of Violation so 16 she can forward to their attorneys. They have been 17 having issues with the HOA. 18 Did I read that correctly? 19 A. Yes. 20 Q. Was it Ms. Collier who requested the Notice 21 of Violation? 22 A. I issued the Notice of Violation. And we -- 23 we sent it out via certified mail and regular 24 first-class mail. 25 When I reached out to Andrea, it's -- it's</p>
<p style="text-align: right;">31</p> <p>1 to be removed, how did she respond to you at that 2 time? 3 A. She responded that she disagreed with me and 4 that I didn't know, quote, unquote, my own code. 5 Q. Do you recall discussing with Mr. Massey at 6 that time that Pennie had become combative with you? 7 A. I can't remember if I mentioned the 8 conversation to Mr. Massey at that time. It did come 9 up later, for sure. I -- because we -- we did speak 10 about it later. 11 Q. What do you mean? When did you speak about 12 it later? 13 A. So I had mentioned to him that we had gotten 14 a second complaint since the initial one was -- was 15 closed. 16 So he -- I just remember him asking me, 17 well, why -- how did we get the complaint? What was 18 it about? So I was just giving him the information 19 that it -- it was the same complainant and she 20 disagreed with our determination on whether or not a 21 violation existed. 22 Q. Do you recall referring Pennie to speak to 23 Mr. Massey directly? 24 A. I don't recall referring her to Mr. Massey. 25 Q. Do you know if she did speak to Mr. Massey?</p>	<p style="text-align: right;">33</p> <p>1 common for me to try to reach out to -- to violators, 2 if you will, via telephone to make sure because 3 sometimes mail doesn't always get there in a timely 4 manner. 5 So she requested a copy of the Notice of 6 Violation, if I recall correctly. 7 Q. So she was just requesting that one be sent 8 by e-mail, for example? 9 A. I believe she wanted me to send her an 10 e-mail copy of it. 11 Q. Okay. 12 A. Correct. 13 Q. Okay. And it states here that she wanted to 14 forward it to her attorney and that they had been 15 having issues with the HOA. 16 Do you recall discussing with Ms. Collier 17 any issues with her HOA? 18 A. I recall that she had mentioned that she -- 19 as I wrote in the notes there -- that she has been 20 having issues with the HOA. 21 Q. Do you recall Ms. Collier discussing with 22 you that she had been harassed by Ms. -- by Pennie 23 Mossett-Puhek? 24 A. I believe she did mention that to me during 25 our phone conversation.</p>

<p style="text-align: right;">34</p> <p>1 Q. And during your calls with Pennie, do you 2 recall discussing any other view obstructions within 3 the Anthem HOA? 4 A. So I recall having one phone conversation 5 with Pennie. And it wasn't a phone call that I 6 initiated. It was a phone call that she made, I 7 believe, to our office. And it was transferred to me. 8 So during that one phone call that I had 9 with her, we only discussed those oleanders for this 10 particular property. 11 Q. Because you were handling the Anthem 12 Highlands area and had been dealing with Pennie, would 13 you have been assigned any other view obstructions 14 within Anthem or any other complaints from Pennie at 15 this time period? 16 A. At this time, between myself, 17 Officer Beckwith, it's -- yes, it's possible that I 18 would have been assigned other obstructions or any 19 other violations. 20 Q. So during the call with Pennie, she didn't 21 mention any other view obstructions within Anthem; is 22 that correct? 23 A. I don't recall her mentioning any other 24 violations. 25 Q. As you sit here today, do you recall any</p>	<p style="text-align: right;">36</p> <p>1 now that you've seen the photographs. 2 Do you recall receiving any complaints 3 regarding any of these other intersections within 4 Anthem Highlands? 5 A. I did receive some photographs from 6 Ms. Collier of different intersections. 7 Q. And that was in response to the case 8 number 21-503, in which a complaint was opened against 9 Ms. Collier; correct? 10 A. Correct. I believe so. Yeah. 11 Q. So no one opened complaints regarding any of 12 these other intersections, Ms. Collier just sent them 13 over as a response to the Notice of Violation she 14 received; is that correct? 15 A. I'm not aware of whether cases were opened 16 or not. 17 Q. No cases regarding these intersections were 18 ever assigned to you; is that correct? 19 A. I'm not aware of any of them being assigned 20 to me. No. 21 Q. Okay. And looking at the photograph that's 22 been marked as Exhibit 3. And let's take the first 23 page of Exhibit 5. 24 A. Okay. 25 Q. And would you agree with me that first page</p>
<p style="text-align: right;">35</p> <p>1 other violations for view obstructions within Anthem 2 that you have been assigned within the last year or 3 two? 4 A. At that particular time, I cannot recall. 5 It's -- it's uncommon for us to get those 6 types of violations -- or complaints for those types 7 of violations in the Anthem area, I should say. 8 Anthem is pretty big. 9 Q. And because it's uncommon, it sounds like 10 something that you would remember if it had been 11 assigned to you. Is that fair? 12 A. Yes. It does help me remember because 13 they're far and few in between. 14 Q. And you don't remember any such complaints; 15 correct? 16 A. I don't recall from that particular time. 17 (Exhibit 5 was marked for 18 identification.) 19 BY MR. ELSON: 20 Q. Jason, I'm handing you what's been marked as 21 Exhibit 5. And I'll represent to you that these are 22 some photographs of some different intersections 23 within the Anthem community that were taken in 2021. 24 And just to be clear -- I know that I've 25 asked you this a couple times. But I'll just ask you</p>	<p style="text-align: right;">37</p> <p>1 of Exhibit 5 presents a bigger view obstruction than 2 Exhibit 3? 3 A. It's -- they're taken at different angles. 4 You know, no two intersections are -- are exactly 5 alike. So I -- I can't make a determination on 6 whether or not one obstruction exists or is worse than 7 the other or it doesn't exist at all. 8 Q. Okay. Looking at the bushes in the first 9 page of Exhibit 5, would you agree with me that they 10 look taller than 24 inches? 11 Correct? 12 A. In the photograph, yes, they do look taller 13 than 24 inches. 14 Q. Looking at the second photograph of 15 Exhibit 5. The top of it. It references 16 2856 Kinknockie. 17 Do you agree with me that the vegetation in 18 this second photograph looks taller than 24 inches? 19 Is that correct? 20 A. They appear to be taller than 24 inches. 21 Q. Are you able to opine -- looking at 22 Exhibit 3 and the second page -- whether or not you 23 think that the photograph with 2856 Kinknockie on it 24 presents a greater view obstruction than what's in 25 Exhibit number 3?</p>

<p style="text-align: right;">38</p> <p>1 A. It's possible.</p> <p>2 Again, I would have to -- we always go out</p> <p>3 in person to make these determinations. Photographs</p> <p>4 are always taken at varying angles. And where the</p> <p>5 actual stop signs or street signage is placed plays a</p> <p>6 big part in -- in where -- whether we determine the</p> <p>7 obstruction exists or not.</p> <p>8 Q. Looking at the third page of Exhibit 5.</p> <p>9 You would agree with me that the vegetation</p> <p>10 within that photograph is taller than 24 inches; is</p> <p>11 that correct?</p> <p>12 A. It appears to be taller than 24 inches in</p> <p>13 the photograph.</p> <p>14 Q. Are you able to opine or comment on whether</p> <p>15 or not this third photograph creates a larger view</p> <p>16 obstruction than what's in Exhibit 3?</p> <p>17 A. It's possible. Again, I would have to go</p> <p>18 and view it in person to make that determination.</p> <p>19 Q. Okay. Let's look at the fourth page of</p> <p>20 Exhibit 5. This one has the van in the photograph.</p> <p>21 A. Okay.</p> <p>22 Q. There's some vegetation that's circled.</p> <p>23 You would agree with me that that vegetation</p> <p>24 is taller than 24 inches; is that correct?</p> <p>25 A. It appears taller than 24 inches in the</p>	<p style="text-align: right;">40</p> <p>1 say with the ones that are down lower.</p> <p>2 Q. What about the last photograph, which I see</p> <p>3 the street sign Dunnottar in that one.</p> <p>4 Is that correct?</p> <p>5 A. Yes, sir, it looks like Dunnottar.</p> <p>6 Q. And that vegetation also looks like it's</p> <p>7 taller than 24 inches; correct?</p> <p>8 A. It looks taller than 24 inches. Yes.</p> <p>9 Q. And, as you sit here today, you don't recall</p> <p>10 Pennie ever calling up Code Enforcement -- let me --</p> <p>11 strike that. Let me rephrase.</p> <p>12 As you sit here today, there were no</p> <p>13 violations that you're aware of, with respect to any</p> <p>14 of the photographs within Exhibit 5, that were</p> <p>15 assigned to you; is that correct?</p> <p>16 A. I'm not aware of any violations that match</p> <p>17 these photos.</p> <p>18 Q. After the matter was escalated to Traffic</p> <p>19 Engineering -- well, let me rephrase.</p> <p>20 Are you aware if this matter was escalated</p> <p>21 to Traffic Engineering?</p> <p>22 A. I'm aware that we consulted with them</p> <p>23 through -- though my supervisor, Ian Massey, it was --</p> <p>24 it was forwarded to them.</p> <p>25 Q. Okay. Do you recall what Traffic</p>
<p style="text-align: right;">39</p> <p>1 photograph.</p> <p>2 Q. Are you able to opine or comment on whether</p> <p>3 this fourth photograph presents a larger view</p> <p>4 obstruction than what's within Exhibit 3?</p> <p>5 A. I can't even determine if this is at an</p> <p>6 intersection or not.</p> <p>7 Q. If you look right above the van, can you two</p> <p>8 little brown signs? One looks like it's got --</p> <p>9 A. The two street name signs. Yes, I see that.</p> <p>10 Q. Yeah. That would appear to indicate that</p> <p>11 it's at an intersection; correct?</p> <p>12 A. Yes.</p> <p>13 Q. But, I mean, between the van and bushes, it</p> <p>14 sounds like it's a view obstruction so bad that you</p> <p>15 can't even tell if there's another street there; is</p> <p>16 that correct?</p> <p>17 A. The growth is fairly tall in the front yard.</p> <p>18 Yes.</p> <p>19 Q. And looking at the last couple photographs</p> <p>20 of Exhibit 5.</p> <p>21 You would agree with me that the vegetation</p> <p>22 within those photographs are also taller than</p> <p>23 24 inches; is that correct?</p> <p>24 A. It appears at least those -- the shrub to</p> <p>25 the right looks taller than 24 inches. It's hard to</p>	<p style="text-align: right;">41</p> <p>1 Engineering determined?</p> <p>2 A. I believe they determined that it was not</p> <p>3 within the sight visibility zone, that there was no</p> <p>4 obstruction.</p> <p>5 Q. So just to be clear, Traffic Engineering</p> <p>6 also determined that there was no violation with</p> <p>7 respect to those oleander bushes; is that correct?</p> <p>8 A. I believe that's what I recall hearing.</p> <p>9 You would have to consult with Traffic</p> <p>10 Engineering for -- for records to -- to see if they</p> <p>11 made that determination for sure.</p> <p>12 Q. Jason, as we sit here today, is there</p> <p>13 anything that -- regarding these cases or those</p> <p>14 oleander bushes that sticks out to you that we haven't</p> <p>15 talked about here today?</p> <p>16 A. No.</p> <p>17 MR. ELSON: I don't have any further</p> <p>18 questions at this time.</p> <p>19 MR. BOYACK: Thank you.</p> <p>20</p> <p>21 EXAMINATION</p> <p>22 BY MR. BOYACK:</p> <p>23 Q. Sir, my name is Ted Boyack. I represent the</p> <p>24 defendants in this matter.</p> <p>25 If it's okay with the court reporter, I can</p>

<p style="text-align: right;">42</p> <p>1 stay seated here if you can hear okay. I'll talk to 2 you and through you if that's okay. 3 A few questions about Title 15.12.030. 4 That's the code that generally governs the issues that 5 we have been talking about today. Is that a fair 6 statement? 7 A. Yes. 8 Q. All right. And just, generally speaking, 9 that's the code that basically indicates that 10 vegetation shouldn't obstruct -- on a private property 11 shouldn't obstruct the vision to the streets. 12 Is that the general intent of that code, as 13 you understand it? 14 A. Yes. 15 Q. And that's the code that would -- is that 16 the code that specifically says the vegetation should 17 be 24 inches -- or 24 inches? 18 Where does that code -- where does that 19 24 inches come from? 20 A. I believe that comes out of Title 19. And 21 it refers to the sight visibility zones within the 22 intersection. 23 Q. All right. So in this particular case with 24 the oleanders -- and you indicated they were -- if 25 they were below 24 inches that they do not create a</p>	<p style="text-align: right;">44</p> <p>1 to potentially create a view obstruction? 2 A. I don't recall discussing further, you know, 3 occurrences of the oleanders being in violation in 4 particular. I just recall that she was adamant that 5 they needed to be removed. 6 Q. Do you understand -- do you remember what 7 her argument was, or concern was, as to why they 8 needed to be removed? 9 A. Well, she mentioned that people ran the stop 10 sign there. And that was -- one of the causes of it 11 was because of the presence of the oleanders. 12 Q. Did she believe that they were fine at 13 24 inches or below? Or she thought that they should 14 be removed, generally? 15 A. I recall her opinion was that they needed to 16 be removed completely. 17 Q. All right. Was that because at 24 inches 18 and below they still created a possible obstruction in 19 her opinion? 20 A. I couldn't say for sure. 21 Q. That's not a good question. I'm not asking 22 you to get into her head. I'm just saying: 23 Do you recall if she specifically 24 articulated that she believed that there was an 25 obstruction there even if the oleanders were below</p>
<p style="text-align: right;">43</p> <p>1 sight -- a sight obstruction that would violate 2 Title 15. Is that a fair statement? 3 A. Yes. 4 Q. All right. But if they do go -- rise above 5 24 inches, would you agree with me, at that point, 6 they may be in violation of Title 15? 7 A. Yes. 8 Q. So it would be incumbent upon the homeowner 9 to ensure that those oleanders are, at all times, 10 maintained at 24 inches or below? 11 A. Yes. 12 Q. So in the case of vegetation -- obviously, 13 vegetation grows. You know, some vegetation faster 14 than others. But vegetation grows. 15 And then we can -- we can have a violation 16 at one point in time and no violation at another point 17 in time, depending on how those -- the landscape is 18 maintained; correct? 19 A. Correct. 20 Q. When you -- going back to your one 21 conversation with Ms. Puhek. 22 Do you recall anything specifically being 23 discussed about the concerns about how the oleanders 24 were planted and placed in the area and that -- that, 25 since they continued to grow, that they would continue</p>	<p style="text-align: right;">45</p> <p>1 24 inches? 2 Or do you recall what her argument or 3 concern was that she may have articulated to you? 4 A. No. I just recall that she just was adamant 5 about them needing to be removed and that trimming was 6 not sufficient. 7 Q. All right. On this exhibit -- I think 8 it's -- I'm sorry. Is that Exhibit 2? Right here 9 (indicating) there's handwriting. 10 Do you see that? 11 A. Uh-huh. 12 Q. Is that your handwriting? 13 A. No. That's not mine. 14 Q. Whose handwriting is that? 15 A. I have no idea. 16 Q. Why would someone else's handwriting be on 17 that notice -- strike that. 18 Do you know if that would be handwriting 19 from someone in your office? 20 A. I don't believe so. 21 Q. All right. You don't recognize that 22 handwriting as anything that would be coming from your 23 office? 24 A. No. 25 Q. So you did refer this matter over to traffic</p>

<p style="text-align: right;">46</p> <p>1 control; correct?</p> <p>2 A. So I referred it to my supervisor, who then,</p> <p>3 in turn, referred it over to the traffic -- City</p> <p>4 traffic engineer.</p> <p>5 Q. And that's Mr. Massey?</p> <p>6 A. Mr. Massey is my supervisor. Correct.</p> <p>7 Q. All right. So he, in essence, after you</p> <p>8 discussed it with him, referred it to traffic --</p> <p>9 A. Yes.</p> <p>10 Q. -- control?</p> <p>11 Do you recall, approximately, when that</p> <p>12 referral occurred? Generally.</p> <p>13 A. I believe I have it documented in my case.</p> <p>14 Q. You're free to look at the document.</p> <p>15 A. I asked -- yeah. So there's a note on</p> <p>16 Exhibit 1, page 2, where it says:</p> <p>17 Pending review by PW, which is Public Works,</p> <p>18 Traffic Engineer's Office on the sight visibility</p> <p>19 zone.</p> <p>20 That was a note in my case.</p> <p>21 Q. Okay. Thank you.</p> <p>22 Just on that note, you've indicated you</p> <p>23 recall one conversation with Ms. Puhek; correct?</p> <p>24 A. Is that Pennie?</p> <p>25 Q. Pennie. Sorry. Pennie.</p>	<p style="text-align: right;">48</p> <p>1 any conversation with Mr. Elson other than today?</p> <p>2 A. We had a conference call a few weeks ago. I</p> <p>3 can't remember the date. That was the first time.</p> <p>4 Q. And who was on the conference call?</p> <p>5 A. Myself. Amanda. Mr. Elson. And, I</p> <p>6 believe, Andrea Collier.</p> <p>7 Q. And what was discussed -- who initiated --</p> <p>8 I'm sorry.</p> <p>9 Who initiated the conference call? Who</p> <p>10 asked for it?</p> <p>11 A. It came through our City Attorney's Office,</p> <p>12 I think, from Mr. Elson's office.</p> <p>13 Q. And what was the subject of that conference</p> <p>14 call? What did you guys talk about?</p> <p>15 A. Well, they had some questions regarding the</p> <p>16 case -- or my case.</p> <p>17 Q. What were those questions? Do you remember?</p> <p>18 A. So I believe they were asking me if I had</p> <p>19 any additional notes aside from what was in the case</p> <p>20 and, basically, what -- what happened. What was the</p> <p>21 time frame of what happened when the complaint came in</p> <p>22 and such.</p> <p>23 Q. And did you provide them any additional</p> <p>24 documents or information at that time that they did</p> <p>25 not have previously, to your knowledge?</p>
<p style="text-align: right;">47</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall any other conversations with</p> <p>3 anyone else from the association involving this</p> <p>4 particular residence?</p> <p>5 A. No, I do not.</p> <p>6 Q. Do you recall receiving any calls from</p> <p>7 Ms. Collier regarding this -- this violation?</p> <p>8 A. I spoke with Ms. Collier on more than one</p> <p>9 occasion throughout the -- when the case was open.</p> <p>10 So, yes, I did.</p> <p>11 Q. Do you recall, approximately, how many times</p> <p>12 you spoke with her?</p> <p>13 A. Not exactly. At least a couple of times.</p> <p>14 Q. And that's when the matter was open the</p> <p>15 first -- was open; correct?</p> <p>16 A. It was open.</p> <p>17 And I can't recall if I spoke with her when</p> <p>18 this second complaint came in or not. But I -- I just</p> <p>19 recall that I did have at least one conversation with</p> <p>20 her when the case was first opened for her property.</p> <p>21 Q. Did you have any conversations with her</p> <p>22 attorney, Mr. Elson, at all that you recall around the</p> <p>23 time period of these violations?</p> <p>24 A. No, I did not.</p> <p>25 Q. When was the first time -- have you ever had</p>	<p style="text-align: right;">49</p> <p>1 A. So I don't personally provide any</p> <p>2 documentation. We have a process where public records</p> <p>3 requests are made through the City of Henderson. So I</p> <p>4 didn't provide any documents.</p> <p>5 Q. All right. Did you review these documents</p> <p>6 that are in front of you today during that conference</p> <p>7 call?</p> <p>8 A. I believe I had the case documents on my</p> <p>9 screen at my desk when we were on the call.</p> <p>10 Q. Are there any other documents that are</p> <p>11 relevant to this matter that we have not seen here</p> <p>12 today?</p> <p>13 A. Not that I'm aware of.</p> <p>14 Q. Other than the discussion on the</p> <p>15 documents -- you said there was some discussion about</p> <p>16 the events or the time line.</p> <p>17 Is that correct?</p> <p>18 A. Of the case, in general, yes.</p> <p>19 Q. Okay.</p> <p>20 A. From what I recall.</p> <p>21 Q. All right. Did you talk -- or say anything</p> <p>22 during that conference call that you have not</p> <p>23 discussed or testified to here today in deposition?</p> <p>24 A. I don't believe I did. No.</p> <p>25 Q. So you say there's seven people that work in</p>

<p>50</p> <p>1 the office that handle complaints -- right now 2 there's, approximately, seven people. 3 A. We have seven code enforcement officers. 4 Q. All right. Do you -- and I understand that 5 you may not have a recollection. 6 But just in an effort to maybe try to 7 refresh your recollection, I'm going to just ask you 8 some questions. If it refreshes your recollection 9 about a potential communication with the City of 10 Henderson enforcement with Anthem Highlands, then just 11 let me know. 12 Does that make sense? 13 A. Okay. 14 Q. All right. Are you aware of a request from 15 Anthem Highlands for a traffic control stop sign at 16 the corner of Culloden and Crathes? Does that ring a 17 bell? 18 A. No. I'm not aware of it. 19 Q. Were you -- were you aware of any requests 20 from the association to assist with people living in 21 trailers in the public streets on Culloden Avenue? 22 A. I'm not aware of it. 23 Q. Are you aware of a request by Anthem 24 regarding abandoned or stored vehicles that had -- 25 were in the community? Generally.</p>	<p>52</p> <p>1 A. Yes. 2 Q. All right. So -- yeah. 3 I think you testified earlier that you 4 believed you handle a lot of issues within the -- 5 strike that. 6 That you believe that you -- and I think you 7 indicated one other person would most likely handle 8 the physical area of Anthem Highlands. 9 Is that a fair statement? 10 A. At that particular time, yes. 11 Q. At that time? 12 A. Yes. 13 Q. Okay. Do you remember a time line as to 14 when that may have changed internally within the 15 department? 16 A. Approximately, two months ago. 17 Q. Okay. Is everything done jurisdictionally 18 by way of geography as far as assignments? Or does 19 it -- is it random? Or is it general guidance? How 20 does that work? 21 A. For the most part, it was. 22 We've experienced some -- some changes in 23 staffing levels. So, you know, there's people that 24 have been bouncing around from different areas. 25 But, yeah, at that time, we were assigned to</p>
<p>51</p> <p>1 A. We do get cases regarding possible abandoned 2 or inoperable vehicles on the street. I -- I can't 3 recall from that particular time frame. 4 Q. Fair enough. 5 And I understand. I'm just only asking if 6 something triggers your memory that you can discuss 7 it. 8 Have you heard of any requests from Anthem 9 Highlands regarding issues with trimming of palm trees 10 because of rat infestations? 11 A. No. I'm not aware of that. 12 Q. Okay. How about with regard to a home in 13 the community that was, for lack of a better 14 description, a hoarder home that was having vermin and 15 other problems in the community? Does that ring a 16 bell? 17 A. I don't recall of -- one of those in Anthem. 18 Q. Would it -- if, hypothetically, those type 19 of requests for assistance or inspection were made by 20 Anthem, could that have been assigned by someone else 21 within the department? 22 A. I'm sorry. Can you rephrase. 23 Q. Sure. 24 A. Could it have been assigned to someone else? 25 Q. Yes.</p>	<p>53</p> <p>1 specific areas of the city. 2 Q. And when did you start handling the general 3 area of Anthem Highlands? Do you recall? 4 Approximately. 5 A. I don't recall. It was after the COVID 6 lockdown. It was around the same time when I handled 7 this case, approximately. 8 Q. So, say, the year or two prior to you 9 handling this case, you may not have been assigned to 10 that geographic area; correct? 11 A. Correct. 12 Q. When I say "Anthem Highlands," just for 13 clarification -- I know that you talked to a board 14 member, Pennie. 15 Right? 16 A. (Nonverbal response.) 17 Q. But there's also the management company that 18 manages the affairs of the association. So there may 19 be a manager, also, that would reach out to you. 20 Do you recall having any conversations with 21 any managers or -- at Anthem Highlands with regard to 22 this particular issue? 23 MR. ELSON: I'm sorry. What -- you're 24 talking about the oleanders; correct? 25 MR. BOYACK: Yeah. The oleanders. Yeah.</p>

<p style="text-align: right;">54</p> <p>1 MR. ELSON: Okay.</p> <p>2 THE WITNESS: No. Not -- not this</p> <p>3 particular case or these oleanders.</p> <p>4 BY MR. BOYACK:</p> <p>5 Q. Any recollection of any conversations with</p> <p>6 any managers at Anthem regarding any other issues</p> <p>7 where you may have interacted with a management person</p> <p>8 representing Anthem?</p> <p>9 A. So Anthem Highlands, from -- how I</p> <p>10 understand it, is the -- they are further south of the</p> <p>11 Anthem loop. I know we've dealt with -- I believe</p> <p>12 it's Terra West for other parts of Anthem.</p> <p>13 So, yes, we -- we have dealt with a property</p> <p>14 management company and vendor.</p> <p>15 Q. Do you remember, generally, what those</p> <p>16 interactions were?</p> <p>17 A. We had a meeting because there were some</p> <p>18 common areas that had landscape growth that were</p> <p>19 either obstructions or could soon become obstructions.</p> <p>20 And so it was -- it was a group meeting that we had to</p> <p>21 just kind of generally address common areas within</p> <p>22 the -- the Anthem community.</p> <p>23 Q. Do you -- was it a Zoom meeting? Or an</p> <p>24 actual physical meeting?</p> <p>25 A. It was an actual physical meeting.</p>	<p style="text-align: right;">56</p> <p>1 routinely do, over the years, to meet with -- vendors</p> <p>2 keep changing.</p> <p>3 So we just kind of proactively want to meet</p> <p>4 with these people and let them know, like, you know,</p> <p>5 you guys might want to take a trip around the Anthem</p> <p>6 loop and address any possible issues.</p> <p>7 Q. So you looked at Exhibit 5, which was a</p> <p>8 series of photographs.</p> <p>9 A. Uh-huh.</p> <p>10 Q. And there were general questions about</p> <p>11 whether these photographs may or may not violate</p> <p>12 Title 15.</p> <p>13 But you don't have any information with</p> <p>14 regard to any specifics as to what the association may</p> <p>15 or may not have been doing with regard to these</p> <p>16 locations as far as enforcements of the overgrowth of</p> <p>17 vegetation?</p> <p>18 A. No. I don't have -- I'm not privy to the</p> <p>19 information with the HOA -- between the HOA and --</p> <p>20 Q. Have you seen these photographs at all prior</p> <p>21 to today?</p> <p>22 A. I think this is the first time I've seen</p> <p>23 them.</p> <p>24 I know there was a lot of photographs that</p> <p>25 Ms. Collier had sent to me when I initially opened my</p>
<p style="text-align: right;">55</p> <p>1 Q. And you were present at that meeting?</p> <p>2 A. Yes.</p> <p>3 Q. Was it -- do you recall the name of anybody</p> <p>4 else that may have been present?</p> <p>5 A. My co-worker, Kami, at the time. And I</p> <p>6 can't remember the woman's name. But I believe she's</p> <p>7 a property manager with Terra West.</p> <p>8 Q. If I mentioned the name Carmen Essa, would</p> <p>9 that ring a bell?</p> <p>10 A. Carmen who?</p> <p>11 Q. Carmen Essa, E-s-s-a.</p> <p>12 A. That doesn't really ring a bell. No.</p> <p>13 Q. Okay. When was that meeting, approximately?</p> <p>14 A. I can't recall. It was prior to -- it was</p> <p>15 prior to this case. It was unrelated. But it was</p> <p>16 prior to this case, for sure.</p> <p>17 Q. Was that to discuss general issues</p> <p>18 throughout the community? Or was there anything</p> <p>19 specific that that meeting was addressing?</p> <p>20 A. It was mainly the Anthem Hills Parkway loop.</p> <p>21 The big loop.</p> <p>22 There's a lot of common areas that there --</p> <p>23 that have been there. I believe it's Par 3 or Par 4</p> <p>24 landscaping. They sent a representative. And we</p> <p>25 were -- it's just a -- it's something that we</p>	<p style="text-align: right;">57</p> <p>1 case for her property.</p> <p>2 Q. And when you talked to Ms. Collier and she</p> <p>3 indicated to you that she felt the association -- what</p> <p>4 did she tell you? She was having issues with the</p> <p>5 association? Do you remember anything specific?</p> <p>6 A. I recall she -- she just -- I think she just</p> <p>7 kind of vaguely said that she was having issues with</p> <p>8 the HOA.</p> <p>9 And it's not uncommon for us to -- to hear</p> <p>10 these from property owners. So I just immediately</p> <p>11 said, look, we're -- I'm just coming out to determine</p> <p>12 whether a violation exists. But -- yeah.</p> <p>13 Q. And you haven't been out to -- to her</p> <p>14 residence at present, have you, as far as -- or at any</p> <p>15 time within the last several months to -- to inspect</p> <p>16 the height of the oleanders?</p> <p>17 A. No.</p> <p>18 Q. You wouldn't do that on a regular basis,</p> <p>19 would you? You'd only go if somebody brought it to</p> <p>20 your attention?</p> <p>21 "You" being the City of Henderson.</p> <p>22 A. Yes. We would typically respond to</p> <p>23 complaints.</p> <p>24 Q. If the oleanders, right now, were over</p> <p>25 24 inches, would you agree with me that that may</p>

<p style="text-align: right;">58</p> <p>1 constitute a violation of Title 15?</p> <p>2 A. It could possibly be a violation. Yes.</p> <p>3 Q. In evaluating -- go back to Exhibit 5.</p> <p>4 Okay. You said that you really have a</p> <p>5 difficult time making any opinions or comments just</p> <p>6 based on photographs due to camera angles and other</p> <p>7 factors.</p> <p>8 So you -- you would withhold any opinion</p> <p>9 regarding any other view obstructions until you</p> <p>10 actually set sight on -- until you were actually</p> <p>11 on-site.</p> <p>12 Is that a fair statement?</p> <p>13 A. Correct.</p> <p>14 Q. What are some of the factors you determine</p> <p>15 or evaluate or think about when you try to determine</p> <p>16 whether or not vegetation has created a view</p> <p>17 obstruction in violation of Title 15?</p> <p>18 A. The location of the actual street sign</p> <p>19 itself. In some cases, there will be a painted solid</p> <p>20 white bar on the road delineating where people should</p> <p>21 stop. But those are a couple of different things.</p> <p>22 Q. In other words, each location can be unique</p> <p>23 as to the hazards that it may or may not create.</p> <p>24 Is that a fair statement?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">60</p> <p>1 Q. And do you recall doing that in the case</p> <p>2 of -- of your inspection of the Collier residence?</p> <p>3 A. Yes.</p> <p>4 Q. And you determined, at that point, that,</p> <p>5 based on the height the oleanders, that it was a view</p> <p>6 obstruction; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And the reason -- you may agree with me --</p> <p>9 that we have these sort of code enforcement issues to</p> <p>10 ensure public safety.</p> <p>11 Is that a fair statement?</p> <p>12 A. That's one reason.</p> <p>13 Q. What are some other reasons?</p> <p>14 A. Nuisances. Just general property</p> <p>15 maintenance issues. Lack of maintenance and so forth.</p> <p>16 Q. And you would consider, in evaluating a</p> <p>17 particular line of sight area, not only the traffic</p> <p>18 but, also, pedestrian issues as well?</p> <p>19 A. Yeah. I mean, it's mostly traffic that</p> <p>20 we're looking for as far as the obstruction for -- for</p> <p>21 visibility for oncoming traffic.</p> <p>22 Q. But if -- if one area had a sidewalk versus</p> <p>23 another area that does not have a sidewalk, would that</p> <p>24 weigh into your analysis of -- of how you view the</p> <p>25 obstruction should be managed?</p>
<p style="text-align: right;">59</p> <p>1 Q. And that could be -- also, other factors</p> <p>2 could be the amount of traffic?</p> <p>3 A. We don't necessarily take into consideration</p> <p>4 the amount of traffic when we evaluate these</p> <p>5 complaints.</p> <p>6 Q. How about the nature of the traffic control</p> <p>7 devices at a particular intersection, whether it's a</p> <p>8 two-way stop, you know -- in other words, how the</p> <p>9 intersection is structured by way of traffic control.</p> <p>10 Does that weigh in at all into your</p> <p>11 analysis?</p> <p>12 A. Not necessarily.</p> <p>13 You know, we -- we make an inspection of the</p> <p>14 intersection based on where the -- the signs and</p> <p>15 markings are. And we make a determination.</p> <p>16 Q. Do you actually get in your vehicle and -- I</p> <p>17 mean, do you do it from outside the vehicle? Or do</p> <p>18 you get in a vehicle and pull up and actually simulate</p> <p>19 traffic conditions?</p> <p>20 A. I do it in the vehicle. Yes.</p> <p>21 Q. So you sort of act as if you were a driver</p> <p>22 in that area and evaluate?</p> <p>23 A. When initially responding, that's usually</p> <p>24 the first thing I do on these particular types of</p> <p>25 complaints -- obstruction complaints. Yes.</p>	<p style="text-align: right;">61</p> <p>1 A. I don't understand, necessarily, the</p> <p>2 question.</p> <p>3 Q. Okay. Well, some -- my neighborhood in my</p> <p>4 community -- there's a sidewalk on one side of the</p> <p>5 street and no sidewalk on the other side of the</p> <p>6 street. And I don't know if many communities are like</p> <p>7 that.</p> <p>8 But -- so I'm just asking if the sidewalk of</p> <p>9 pedestrian right-of-ways is part of your analysis in</p> <p>10 determining view corridors when you do an inspection.</p> <p>11 That's all.</p> <p>12 A. Yes. So sidewalks are considered part of</p> <p>13 the public, you know, way -- public right-of-way.</p> <p>14 Public sidewalks, I should say.</p> <p>15 And in cases where there is no sidewalk,</p> <p>16 there is landscaping that could possibly be</p> <p>17 obstructions over the roadway.</p> <p>18 Q. Now, you've been here providing testimony</p> <p>19 that we appreciate very much.</p> <p>20 Is there any -- and I know you've,</p> <p>21 generally, talked about Mr. Massey and others in the</p> <p>22 office are familiar with some of the facts involving</p> <p>23 this situation.</p> <p>24 Is there anybody else that you haven't</p> <p>25 mentioned that you spoke to about this particular</p>

<p style="text-align: right;">62</p> <p>1 case?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. Did you have -- or have any knowledge of</p> <p>4 what traffic -- the traffic engineers determined or</p> <p>5 how -- what they evaluated?</p> <p>6 A. I just heard that it was determined that</p> <p>7 they -- their determination was that there was no</p> <p>8 sight visibility issues.</p> <p>9 Q. Okay. Provided that the oleanders stayed</p> <p>10 below the 24 inches; correct?</p> <p>11 MR. ELSON: Objection. Calls for</p> <p>12 speculation.</p> <p>13 When an attorney makes an objection, unless</p> <p>14 you're instructed not to answer the question, you can</p> <p>15 go ahead and answer the question.</p> <p>16 THE WITNESS: Can you ask the question</p> <p>17 again.</p> <p>18 MR. BOYACK: Sure. If I can remember it.</p> <p>19 MR. ELSON: We can have court reporter read</p> <p>20 it back to you if you want.</p> <p>21 MS. KERN: Yeah. She read it back for you.</p> <p>22 MR. BOYACK: Go ahead, Court Reporter. If</p> <p>23 you can read it back, that would be great.</p> <p>24 Thank you.</p> <p>25 (The record was read.)</p>	<p style="text-align: right;">64</p> <p>1 Q. Okay. So --</p> <p>2 A. -- adjacent to it.</p> <p>3 Q. Sorry. I didn't mean to cut you off.</p> <p>4 A. Yeah.</p> <p>5 Q. Just so we're clear, because a -- the bush</p> <p>6 to the ground may be higher or lower than the sidewalk</p> <p>7 or the street in some cases; correct?</p> <p>8 A. Correct.</p> <p>9 Q. So if you're measuring the 24 inches, is it</p> <p>10 your understanding that that would be from the ground</p> <p>11 next to the vegetation up? Or would it be from the</p> <p>12 street or sidewalk to the top of the vegetation?</p> <p>13 A. I would typically measure it from the</p> <p>14 street -- or from the -- I'm sorry -- from the</p> <p>15 sidewalk, adjacent to the -- the landscaping in</p> <p>16 question.</p> <p>17 Q. Okay. So if you measure it from the</p> <p>18 sidewalk, there may be a slope -- it may be stepped up</p> <p>19 a little bit so that it -- you may actually be higher</p> <p>20 where the vegetation is to the grade of the sidewalk.</p> <p>21 Have you seen that before?</p> <p>22 A. Yes.</p> <p>23 Q. All right. But you would -- you believe</p> <p>24 that you should measure it from the sidewalk location</p> <p>25 to the top of the vegetation; right?</p>
<p style="text-align: right;">63</p> <p>1 THE WITNESS: No. I don't have any</p> <p>2 firsthand knowledge of what their determinations were.</p> <p>3 I just heard that the determination was made that</p> <p>4 there was no obstruction.</p> <p>5 BY MR. BOYACK:</p> <p>6 Q. Did they do a report -- do you know? --</p> <p>7 internally?</p> <p>8 I know it's not your department. But --</p> <p>9 A. I'm not aware.</p> <p>10 Q. Understood.</p> <p>11 Just on that -- so just so I understand,</p> <p>12 because we don't -- we're lawyers. But that doesn't</p> <p>13 mean we get digging around in City codes. Okay.</p> <p>14 So Title 19 discusses visibility. And you</p> <p>15 mentioned Title 15 discusses the 24-inch requirement.</p> <p>16 Right?</p> <p>17 A. Title 15 is the property maintenance code.</p> <p>18 Title 19 is the development code.</p> <p>19 Q. That 24 inches, as outlined in 15 -- do you</p> <p>20 know if that's from the -- from the ground level? The</p> <p>21 curb level? The street level? Do you know how that</p> <p>22 24 inches is measured?</p> <p>23 A. It's usually measured from the street</p> <p>24 level -- from the ground level. The -- I guess the</p> <p>25 sidewalk level. Whatever the landscaping is --</p>	<p style="text-align: right;">65</p> <p>1 A. Correct.</p> <p>2 Q. Do you know if -- if that's your practice?</p> <p>3 Or do you know if that's what the -- how the</p> <p>4 department does it?</p> <p>5 A. It's my practice, based on -- on my</p> <p>6 knowledge of the code.</p> <p>7 Q. Do you know if other inspectors do it that</p> <p>8 way? Do you have any knowledge if they do it from the</p> <p>9 ground -- the vegetation -- or maybe from the street</p> <p>10 itself? Do you know?</p> <p>11 A. I can't -- I don't know how other code</p> <p>12 officers measure.</p> <p>13 Q. Have you been informed at all, from any</p> <p>14 source, whether it be Ms. Collier or counsel or anyone</p> <p>15 else, about the details of the actions that the</p> <p>16 association has taken with regard to violations in</p> <p>17 this matter?</p> <p>18 A. No. I'm not aware of any of that</p> <p>19 information.</p> <p>20 Q. Okay. So the wealth of your knowledge is</p> <p>21 really just related to your engagement with these</p> <p>22 particular violations as it related to this particular</p> <p>23 home; right?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. Are you aware of any other violations</p>

<p style="text-align: right;">66</p> <p>1 that have been brought by the association against this</p> <p>2 particular residence other than what we've discussed</p> <p>3 today?</p> <p>4 A. No. I'm not aware.</p> <p>5 Q. In your conversation with Pennie -- you</p> <p>6 indicated that she had told you that she disagreed</p> <p>7 with you with regard to the interpretation of the</p> <p>8 code; right?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. How did you feel about her wanting to</p> <p>11 disagree with you about the interpretation of the</p> <p>12 code? Did it anger you? Frustrate you? Were you</p> <p>13 indifferent to it?</p> <p>14 A. I felt indifferent to it.</p> <p>15 It actually happens quite often in my line</p> <p>16 of work.</p> <p>17 Q. A lot of people read a code and interpret it</p> <p>18 differently. Is that -- that's pretty common. You've</p> <p>19 seen that?</p> <p>20 A. Yeah. That's -- yeah. They'll have a</p> <p>21 different interpretation. Yes.</p> <p>22 Q. That's not necessarily unreasonable -- that</p> <p>23 people may disagree about how a code should be</p> <p>24 interpreted?</p> <p>25 MR. ELSON: Objection. Form.</p>	<p style="text-align: right;">68</p> <p>1 you're doing a sight inspection?</p> <p>2 A. No.</p> <p>3 Q. But would you --</p> <p>4 A. Unless it was marijuana.</p> <p>5 Q. Well, then you would have to cut it down</p> <p>6 immediately.</p> <p>7 A. We would -- yeah.</p> <p>8 Q. Okay.</p> <p>9 A. We'd refer it to somebody else.</p> <p>10 Q. Yeah. Your City Attorney is really cool.</p> <p>11 She won't say anything.</p> <p>12 That was a bad question.</p> <p>13 What I was just asking is -- is -- I mean,</p> <p>14 you know, you evaluate some vegetations different than</p> <p>15 others. Vegetation at my house is, like -- it seems</p> <p>16 to be dying and sparse all the time.</p> <p>17 So you would evaluate the overall conditions</p> <p>18 and circumstances of the vegetation when you do your</p> <p>19 analysis?</p> <p>20 A. When -- well, it depends on what the</p> <p>21 complaint is.</p> <p>22 I don't understand the question</p> <p>23 specifically.</p> <p>24 Q. Well, if -- when you do a line of sight</p> <p>25 evaluation to see if it complies with Title 19, is</p>
<p style="text-align: right;">67</p> <p>1 MS. KERN: You can answer.</p> <p>2 THE WITNESS: Yeah. People disagree with</p> <p>3 almost everything I do.</p> <p>4 BY MR. BOYACK:</p> <p>5 Q. And I appreciate that. I'm not -- I think</p> <p>6 we're all sympathetic to you.</p> <p>7 I'm just saying specifically to the code</p> <p>8 itself. You've seen -- it's common where people may</p> <p>9 disagree with how -- what the language of the code may</p> <p>10 mean or how it is to be applied.</p> <p>11 Is that a fair statement?</p> <p>12 A. It happens. Yes.</p> <p>13 Q. All right. Is there anything with regard to</p> <p>14 title -- and I know I'm just talking in general terms.</p> <p>15 But you're doing a very good job in following me.</p> <p>16 Is there anything in Title 19 or 15 that</p> <p>17 discusses particular types of vegetation as opposed to</p> <p>18 just the height?</p> <p>19 A. Title 15 does not, as I -- as I'm aware,</p> <p>20 point out specific types of vegetation.</p> <p>21 Title 19 is -- it's a lot of pages. It's a</p> <p>22 couple hundred pages. So I -- I don't want to say for</p> <p>23 sure. But it may -- they may list specific species or</p> <p>24 plant types in 19.</p> <p>25 Q. Do you evaluate the type of vegetation when</p>	<p style="text-align: right;">69</p> <p>1 part of your analysis the thickness and nature of the</p> <p>2 vegetation and how it looks through the line of sight?</p> <p>3 Do you look -- because there's -- some</p> <p>4 vegetation may not be as difficult to see -- or</p> <p>5 problematic as other vegetation at that time -- is</p> <p>6 that part of your consideration?</p> <p>7 A. The only consideration we take is whether or</p> <p>8 not the landscaping is an obstruction or not, not</p> <p>9 necessarily what type of vegetation it is.</p> <p>10 Q. Or its condition? Would the condition of</p> <p>11 the vegetation --</p> <p>12 A. We do have a violation for dead or dieing</p> <p>13 landscaping.</p> <p>14 Q. Okay. Did you -- other than your</p> <p>15 attorney -- did you talk to Mr. Massey about your</p> <p>16 deposition today?</p> <p>17 A. I mentioned to him that it was -- it was</p> <p>18 happening. Yes.</p> <p>19 Q. Did he make any comments or have any</p> <p>20 opinions regarding it?</p> <p>21 A. No. Just that he thanked me for letting him</p> <p>22 know.</p> <p>23 Q. Did he have any interactions with anyone at</p> <p>24 Anthem Highlands, to your knowledge? Directly.</p> <p>25 A. I don't -- I'm not aware of whose</p>

<p style="text-align: right;">70</p> <p>1 interactions -- what interactions Mr. Massey may have 2 had. 3 Q. And he hasn't had any detailed conversations 4 with you regarding the nature of this residence and 5 this complaint in particular? 6 MR. ELSON: Objection. Form. 7 THE WITNESS: I have not discussed this case 8 with Mr. Massey since, I believe, when the last time 9 we had a case, which was -- would have been the second 10 case. 11 BY MR. BOYACK: 12 Q. Is it December? Around the December time 13 period? 14 A. I believe so when the second case came in. 15 December of last year. 16 Q. Do you recall the nature of those 17 conversations that you had with Massey regarding 18 the -- I'll just refer to it as the December -- around 19 December the second time that this issue came up? 20 A. I recall just asking him if -- if Traffic 21 Engineering -- because I know we had sent the -- or he 22 had sent it over to Traffic Engineering. And I hadn't 23 heard any -- whether or not a determination had been 24 made. 25 So I believe our last conversation was --</p>	<p style="text-align: right;">72</p> <p>1 Thank you so much. 2 THE WITNESS: You're welcome. 3 MR. ELSON: Can we go off the record for a 4 second. 5 (A discussion was held off the record.) 6 MR. ELSON: Back on. 7 Off the record, Mr. Boyack and I discussed 8 the admissibility of Exhibits 1, 2, and 4, which are 9 records from the City of Henderson. And rather than 10 go through the Business Records Exception, we've both 11 agreed and stipulated that we agree that the hearsay 12 exception applies to these records and they qualify 13 under the Business Exceptions within the state of 14 Nevada. 15 Is that correct, Ted? 16 MR. BOYACK: I agree. 17 The only thing that I would just add is if 18 there's some document that part of the production 19 today or whatever that is not an exhibit listed that 20 that would be included. 21 MR. ELSON: I have no issue with that as 22 well. 23 MR. BOYACK: Okay. 24 MR. ELSON: So I think we just both agree 25 that the City of Henderson records are admissible.</p>
<p style="text-align: right;">71</p> <p>1 was about the matter being referred to Traffic 2 Engineering. 3 Q. I'm going to -- do you -- do you know, in 4 particular, if your department has talked about 5 with -- amongst yourselves -- amongst the code 6 enforcement that Anthem Highlands is known for having 7 a lot of complaints or a lot of issues that come 8 before Code Enforcement? 9 A. I'm not aware of what -- the discussion if 10 that's what happened. 11 Q. I guess my question is: Is Anthem Highlands 12 unique or special in the amount of times they'd 13 contact Code Enforcement with regard to issues in the 14 City of Henderson? 15 A. I don't recall Anthem Highlands being a -- 16 you know, someone that contacts us frequently. 17 Q. Any different than anything else; right? 18 A. Well, it's different. They're an HOA. 19 There's HOAs in these neighborhoods. And, for the 20 most part, a lot of these HOA neighborhoods police 21 themselves. So we do get fewer complaints from HOA 22 communities. 23 Q. Okay. 24 MR. BOYACK: All right. I appreciate your 25 time today.</p>	<p style="text-align: right;">73</p> <p>1 MR. BOYACK: Yeah. 2 MR. ELSON: So -- 3 MR. BOYACK: So stipulated. 4 MR. ELSON: Okay. Off the record. 5 I don't have anything further. 6 THE WITNESS: Do you want a copy of the 7 transcript, Mr. Boyack? 8 MR. BOYACK: Not at this time. No thanks. 9 THE REPORTER: Okay. 10 (The deposition recessed at 2:45 p.m.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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1 CERTIFICATE OF REPORTER
2 STATE OF NEVADA)
) ss:
3 COUNTY OF CLARK)
4

5 I, Linda Horton Sprague, a Certified Court
6 Reporter, licensed by the State of Nevada, do hereby
7 certify:

8 That I reported the deposition of JASON ESAU, on
9 Tuesday, September 27, 2022 at 1:15 p.m.;

10 That prior to being deposed, the witness was duly
11 sworn by me to testify to the truth, the whole truth,
12 and nothing but the truth;

13 That I thereafter transcribed my said stenographic
14 notes into typewriting and that the typewritten
15 transcript is a complete, true, and accurate record of
16 testimony provided by the witness at said time to the
17 best of my ability;

18 I further certify (1) that I am not a relative,
19 employee, or independent contractor of counsel, or of
20 any of the parties involved in the proceeding; nor a
21 person financially interested in the proceeding; nor do
22 I have any other relationship that may reasonably cause
23 my impartiality to be questioned; and (2) that
24 transcript review pursuant to NRCP (30)(e) was not
25 requested.

26 IN WITNESS WHEREOF, I have set my hand in my
27 office in the County of Clark, State of Nevada, this
28 29th day of September, 2022.

Linda Horton Sprague

Linda Horton Sprague, C.C.R. No. 466

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EXHIBIT 3

Case: 22-625625

Location: Crathes & Culloden

Request: This request is being submitted on behalf of the Anthem Highlands Board of Directors. Code Enforcement has a pending case for 2822 Culloden to evaluate for site visibility violations. This case has been open for at least 8 months with no evaluation. The HOAs homeowners have complained that when stopping at the white line for the stop sign at the corner of Crathes and Culloden, they cannot see oncoming traffic. It is also hard to see the children when walking to school as they round this corner. The maps obtained for site visibility on the COH website show that these fast-growing oleanders (which are not permitted in Henderson) are in violation of the site visibility guidelines. Code enforcement determined they were not in violation of Title 15 if they were kept to a 2ft height. The issue is that the 2 ft must be from the "level of the sidewalk" and not the level of the ground where the plants are placed under COH guidelines. This was not addressed by code enforcement. This area continues to be a safety concern for residents because these plants are intended to create a wall on this corner and there is no way we can continue to monitor the growth. We respectfully ask for a traffic engineer to address the site visibility violations at this corner as soon as possible. (2/8/2022)

Homeowner at 2822 Culloden, Andrea Collier 702-219-4335, called today. She said there is now a civil case pending with the HOA. She maintains Code Enforcement told her there was no problem. I let her know the case is still open and is in our queue for a site visibility study. She said she is available if anyone has any questions or needs to speak with her. (4/8/2022)

Response: thank you for your patience as we worked through our case load until we were able to respond to this case. At the time your case was opened, there was over 400+ cases. We try to treat every case with the same amount of detail since they are all as important as the others. We recently conducted a site visit to the intersection of Culloden and Crathes to look into the concern regarding the sight visibility and the bushes. The sight visibility guidelines that are mentioned in your concern are used at intersections that do not have an all-way stop controlled or signal. Intersections such as two-way stop controlled and or roundabouts must meet sight visibility requirements since the vehicles that are stopped must be able to see oncoming traffic a specific distance down the roadway to be able to gauge when it is appropriate for them to continue through the intersection. Since the intersection of Culloden and Crathes is an all-way stop controlled intersection where all approaches must come to a stop, the sight visibility is different. The line of sight for this type of intersection is from the drivers eye to the first car at the stop sign at all approaches. During our field visit we made sure that when stopped at every approach, the stop sign and vehicles at the stop sign were visible. The bushes in question do hinder the line of sight for any approach. It should be noted that when sitting at the approach on Crathes, the stop sign for eastbound Culloden was blocked by trees. We respectfully request that the HOA have their landscaping company trim the tree so the approach on Crathes can see that that leg of the intersection does have a stop sign. Please let me know if there are any other questions we can assist you with. Thank you. (4/26/2022)

EXHIBIT 4

RESP

Edward D. Boyack, Esq.

Nevada Bar No. 5229

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Attorneys for Defendants

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

ANDREA COLLIER, as trustee of the JACT
TRUST

Plaintiff,

vs.

PENNIE MOSSETT-PUHEK, individually;
ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION, a Nevada Non-Profit
Corporation; DOES I through X and ROE
BUSINESS ENTITIES I through X, inclusive.

Defendants.

CASE NO. A-22-852032-C

DEPT. NO. VIII

**ANTHEM HIGHLANDS COMMUNITY
ASSOCIATION'S RESPONSE TO
PLAINTIFF ANDREA COLLIER'S FIRST
SET OF INTERROGATORIES**

Defendants, ANTHEM HIGHLANDS COMMUNITY ASSOCIATION, by and through
its attorney of record Edward D. Boyack of the law firm Boyack Orme & Anthony, hereby
responds to Plaintiff Andrea Collier's First Set of Interrogatories as follow:

GENERAL OBJECTIONS

Anthem's answer to each and every Interrogatory herein is made subject to and without
waiving the following general objections:

1. Anthem has not yet completed its investigation of the facts pertaining to this action
and has not yet completed its discovery or preparation for trial and specifically reserves the right
to amend, modify and/or supplement the within answers/objections.

1 2. In responding to Plaintiff's Interrogatories, Anthem does not waive, or intend to
2 waive, but rather intends to preserve and is preserving:

- 3 a. all objections as to competency, relevancy, materiality and admissibility;
4 b. all rights to object on any ground to the use in any proceeding, including
5 trial of this or any other action, of any of the responses or documents referenced herein;
6 c. all objections as to vagueness and ambiguity; and
7 d. all rights to object on any ground to future discovery Interrogatories.

8 3. Anthem objects to Plaintiff's Interrogatories to the extent they seek information
9 protected from discovery by the attorney-client privilege, the work product doctrine, or any other
10 judicially recognized protection or privilege applicable to any requested information.
11

12 4. Anthem objects to Plaintiff's Interrogatories to the extent they purport to impose
13 on Plaintiff's obligations greater than those existing under the Nevada Rules of Civil Procedure.
14

15 5. Anthem objects to Plaintiff's Interrogatories to the extent they purport to apply to
16 persons and entities not parties to this action or purport to require Anthem to provide information
17 which is not within its possession, custody or control.
18

19 6. Anthem objects to Plaintiff's Interrogatories to the extent they seek information
20 which is not relevant to the subject matter involved in the pending action, nor admissible or
21 reasonably calculated to lead to the discovery of admissible evidence.
22

23 7. Anthem objects to Plaintiff's Interrogatories to the extent they seek the disclosure
24 of information which constitutes trade secrets or proprietary or other confidential business
25 information.
26

27 8. Anthem incorporates the foregoing General Objections into each and every
28 objection and/or individualized answer contained herein and set forth below.

1 9. In responding to Plaintiff's Interrogatories, Anthem will give the word its plain,
2 ordinary meaning and not such overly broad and all-inclusive meanings as stated by Plaintiff.

3 **INTERROGATORIES**

4 **INTERROGATORY NO. 1:**

5
6 Please identify all board members that have served on ANTHEM's board since 2015. A
7 complete answer shall include their name, address, telephone number, email address, and the
8 length of time they served.

9 **RESPONSE TO INTERROGATORY NO. 1:**

10
11 Objection, the request for board members prior to 2021 is not relevant, or likely to lead to
12 discoverable evidence. Notwithstanding said objection the association answers as follows:

13 From August 1, 2020, to present the board members serving the Anthem board are:

14 5/2020 Elections

15 Gregory Moore
16 2819 Dunnottar Ave.
17 Henderson, NV 89044
18 c. 702.823.6426
e. gregahca@gmail.com
5/2020 - 5/2021

19
20 Harold "Ken" Brensinger
21 2741 Rosenheartly Dr.
22 Henderson, NV 89044
c. 702.528.1440
Term Exp: 5/23/2024
kenbrensinger@gmail.com
23 5/2020 - 5/2022

24 Joseph "Joe" Osisek
25 2780 Strathblane Ave.
26 Henderson, NV 89044
c. 407.579.4255
joeosisek@gmail.com
27 5/2019 - 5/2021
28

1 Pennie Puhek
2 2740 Kildrummie St.
3 Henderson, NV 89044
4 c. 702.808.8917
5 pennieahca@gmail.com
6 5/2019 - 5/2021
7
8 Sydney Woo
9 2773 Strathblane Ave.
10 Henderson, NV 89044
11 c. 702.528.8282
12 sydneyahca@gmail.com
13 5/2020 - 1/2022
14 5/2021 Election
15
16 Joseph "Joe" Osisek
17 5/2021 - 5/2023
18
19 Pennie Puhek
20 5/2021 - 5/2023
21
22 Shirley Breeden
23 5/26/21 - 1/2022
24
25 Dahl Capello
26 2459 Macrory Dr.
27 Henderson, NV 89044
28 702-786-5839
dahlahca@gmail.com
2/2022 – 5/2022
6/2022 – 5/2023
Jay Winter
2794 Lochleven Way
Henderson, NV 89044
702-439-1385
Jaymw0@gmail.com
2/2022 – 5/2022
5/2022 -5/2024
Harold "Ken" Brensinger
2741 Rosenheartly Dr.
Henderson, NV 89044
702.528.1440
5/2020 - 5/2022

1 5/2022 – 5/2024

2 Chris Astrella
3 2879 Kinknockie Way
4 Henderson, NV 89044
5 608-446-6480
6 Bootleg711@gmail.com
7 5/2022 – 6/2022

8 Dahl Capello
9 2/2022 – 5/2022
10 6/2022 – 5/2023

11 5/2023 Election

12 Dahl Capello
13 5/2023 – present

14 Pennie Puhek
15 5/2023 – present

16 Joe Osisek
17 5/2023 – present

18 For information from August 1, 2020, through 2015, the data and information is presently
19 contained on a flash drive prepared and managed by the prior management company, First
20 Service Residential. The plaintiff is welcome to review and search the business records for all
21 identifying information responsive to interrogatory number one. Said data will be made available
22 upon appointment at the offices of Boyack, Orme, & Anthony. (See attached Ex. 1.)

23 **INTERROGATORY NO. 2:**

24 Please identify all community managers that have been employed by Anthem since 2015.
25 A complete answer shall include their name, address, telephone number, email address, the
26 management company with whom they were employed, and the length of time they served.

27 **RESPONSE TO INTERROGATORY NO. 2:**

28 Objection as to relevance for community managers prior to August 2020. Notwithstanding

1 said objection, the association answers as follows:

2
3 Community managers on Anthem Highlands account:
4 Dawn Marshall 8/2020 – 9/2020 (deceased Terra West)
5 Carmen Eassa 10/2020 – present (Terra West)
6 Brittany Langmade 1/2023 – present (Terra West)

7 Prior to August 2020, the managers employed by First Service Residential, and relevant
8 information related to interrogatory number two are contained upon the flash drive located at
9 Boyack Orme & Anthony and can be reviewed upon appointment. (See attached Ex 1.)

10 **INTERROGATORY NO. 3:**

11 Please identify all persons that have served on ANTHEM's architectural review
12 committee since 2015. A complete answer shall include their name, address, telephone number,
13 email address, and the length of the time they served.

14 **RESPONSE TO INTERROGATORY NO. 3:**

15 As stated previously, prior to August of 2020, the relevant information responsive to this
16 interrogatory is contained upon a flash drive located at the offices of Boyack, Orme & Anthony
17 and can be reviewed upon appointment. (See attached Ex 1.)

18
19 Mark West
20 2441 Barclay St.
21 Henderson, NV 89044
22 702-462-5707
23 mwest51@me.com
24 7/2019 – 3/2020
25 3/2020- 5/2020

26
27 Michael Stein
28 6/2020 – 7/2020
Christine Damalas
3/2019 - 4/2019

Paul Gallant
2485 Sturrock Dr.
Henderson, NV 89044
510-501-6594

1	paul@griplv.com
2	3/2019- 3/2020
3	3/2020- 5/2020
4	Joseph Androwski
5	2471 Sturrock Dr.
6	Henderson, NV 89044
7	702-296-1065
8	androj01@gmail.com
9	3/2020- 5/2020
10	Frank Capello Jr, ARC Chairman
11	2459 Macroy Dr
12	Henderson, NV 89044
13	631-834-9601
14	anthemfrank@gmail.com
15	6/2020 – 6/2021
16	6/2021-6/2022
17	6/2022 – present
18	Klaus Drehmann
19	2790 Culzean Pl
20	Henderson, NV 89044
21	360-901-9894
22	kdrehmann@cox.net
23	6/2020 – 6/2022
24	Gregory Moore
25	2819 Dunnottar Ave.
26	Henderson, NV 89044
27	702.823.6426
28	e. gregahca@gmail.com
	6/2020 - 6/2021
	8/2021 - 1/2022
	Jonathan Johnson
	2744 Tarbert St
	Henderson, NV 89044
	Jondjohn2@gmail.com
	702-797-1352
	6/2021 – 6/2022
	6/30/22 - 8/3/22
	Joe Osisek
	2780 Strathblane Ave
	Henderson, NV 89044

1 joeosisek@gmail.com
2 407.579.4255
3 3/2019- 3/2020
4 3/2020- 5/2020
5 6/2021 – 6/2022
6 6/2022-present

7 Pennie Puhek
8 2740 Kildrummie St.
9 Henderson, NV 89044
10 702.808.8917
11 e. pennieahca@gmail.com
12 8/2021 – 6/2022

13 Cynthia Heard
14 2781 Mingary Avenue
15 Henderson, NV 89044
16 CynHeardBOD@gmail.com
17 702-372-2158
18 08/2021 – 3/2022

19 Patrick Kays
20 2432 Tyneside St.
21 Henderson, NV 89044
22 916-871-0686
23 patrickahca@gmail.com
24 6/2022 – present

25 William (Bill) Pittman
26 2967 Pitgaveny Ave.
27 Henderson, NV 89044
28 575-770-3434
pittmanwilliam550@gmail.com
2/2023 – present

Jay Winter
2794 Lochleven Way
Henderson, NV 89044
c. 702-439-1385
Jaymw0@gmail.com
6/2022 -present

INTERROGATORY NO. 4:

Please identify each and every alleges violation for all other unit owners within

1 ANTHEM for each violation Collier. That is, please identify all other unit owners that have
2 received notices of violation for oleanders, view obstruction, replacement of plant material, paint
3 schemes, and flag poles. A complete answer will identify the date of the initial notice alleging a
4 violation, unit owner, unit address, the nature of the violation, and whether or not a violation was
5 found.
6

7 **RESPONSE TO INTERROGATORY NO. 4:**

8
9 Objection, interrogatory is vague and overly broad and burdensome. Objection as to the
10 request for information which is confidential in nature and statutorily protected pursuant to NRS
11 116.31075, and pursuant to statute, the association is obligated to provide only a violation log.
12 Said log is produced hereto with the appropriately redacted homeowner information. The log is
13 from June of 2022. (See attached Ex. 1.)
14

15 **INTERROGATORY NO. 5:**

16 If you still contend that COLLIER's oleanders create a view obstruction, please state all
17 facts that support this contention.
18

19 **RESPONSE TO INTERROGATORY NO. 5:**

20 Objection as the interrogatory is vague and ambiguous as to time, and as to the term
21 "view obstruction". Notwithstanding said objection, if the association receives a complaint of a
22 specific view obstruction it will generally act accordingly in the best interest of the association
23 and its unit owners to maintain safety within the community. Additionally, the association may
24 refer where appropriate to the city of Henderson site visibility guidelines which state that plant
25 material cannot be higher than two feet from the level of the curb. If the current height exceeds 2
26 ft it would violate the maximum allowable height, then pursuant to the city of Henderson
27 guidelines, the oleanders may present a view obstruction to pedestrians and vehicles. (See City of
28

Henderson guidelines attached hereto as Ex. 1.)

INTERROGATORY NO. 6:

If you still contend that COLLIER's oleanders create a violation of the GOVERNING DOCUMENTS in any way whatsoever, please state all facts that support this contention.

RESPONSE TO INTERROGATORY NO. 6:

Objection as the interrogatory is vague and ambiguous as to time and the definition of "view obstruction". Notwithstanding said objection, the association follows the architectural guidelines in effect at the time of any architectural submission. Specifically, pursuant to the architectural guidelines, oleanders are prohibited. Furthermore, architectural guidelines from 2018 to current state under article 5 entitled "landscape design standards" that, "landscaping on corner lots must not encroach on site visibility line requirements". Furthermore, under section 5.8 entitled "trees and shrubs" it reads, "care must be taken in the placement of trees and shrubs to avoid creating maintenance nuisance or view restrictions for surrounding lots of any adjacent common areas such as parks and paseos".

A violation of the governing documents as it relates to oleanders, may occur based upon a violation of the architectural guidelines at the time of the architectural submission, or as observed by the association where no application has been submitted previously.

INTERROGATORY NO. 7:

If you still contend that COLLIER is in violation of the GOVERNING DOCUMENTS as it relates to the paint scheme, please state all facts that support this contention.

RESPONSE TO INTERROGATORY NO. 7:

The Association contends that Ms. Collier is in violation of the government documents, based upon the fact she did not submit an application for architectural approval as is required by

1 the associations governing documents for the color scheme utilized for her residence. Additionally,
2 the trim color is not within the approved color scheme for the community of Glengarry.

3
4 **INTERROGATORY NO. 8:**

5 If you still contend that COLLIER is in violation of the GOVERNING DOCUMENTS as
6 it relates to the flagpole, please state all the facts that support this contention.
7

8 **RESPONSE TO INTERROGATORY NO.8:**

9 The Association contends Ms. Collier is in violation of the governing documents as it
10 relates to the flagpole because she did not seek architectural approval which is required pursuant
11 to the governing documents for the installation of the poll. The controlling guidelines at the time
12 of the violation are contained within the architectural guidelines from 2018.
13

14 **INTERROGATORY NO. 9:**

15 If you removed any fines related to COLLIER or the Property since 2015, please identify
16 the basis for removing the fine. A Complete answer will identify the fine, when it was removed,
17 and why it was removed.
18

19 **RESPONSE TO INTERROGATORY NO. 9:**

20 Terra West Management was the agent for the Association commencing on August 2020.
21 Any information sought with regard to any fine waiver prior to August 2020 is made available on
22 a flash drive for inspection by the plaintiff which represents the prior management files from
23 First Service Residential. In response to this interrogatory, the association is aware of the
24 removal of a fine for health safety welfare violation for a view obstruction. The fine was
25 imposed after a hearing and a 14-day compliance period to cure the violation. The \$2,000 fine
26 was removed in June of 2022 after, at the request of the association, a city of Henderson traffic
27 engineering site inspection was conducted. Based upon the city of Henderson traffic engineering
28

1 inspection it was determined that due to a third stop sign being installed in the locality, that a site
2 visibility issue was not present at the time of the inspection. (See attached Ex. 1.)

3 **INTERROGATORY NO. 10:**

4 Please identify all persons that ANTHEM has required to submit information for a flag
5 pole as stated in ANTHEM'S COMMUNICATION to COLLIER dated February 28, 2022. A
6 complete answer will identify the date that the communication was sent, unit owner, and unit
7 address.
8

9 **RESPONSE TO INTERROGATORY NO. 10:**

10 Darren Mark, 2848 Kinknockie, date was July 18, 2022. (See attached Ex. 1.)

11 **INTERROGATORY NO. 11:**

12 Please identify each and every COMMUNITATION that ANTHEM made with
13 Henderson Code Enforcement pertaining to Collier.
14

15 **RESPONSE TO INTERROGATORY NO. 11:**

16 On behalf of the association board of directors, Ms. Mossett-Puhek contacted code
17 enforcement for the city of Henderson in March and December 2021 regarding the possible view
18 obstruction. During the phone conversation, Ms. Mossett-Puhek was informed that there existed
19 an open ticket and that traffic engineering would conduct a site inspection of the subject
20 property. The March 2021, communication was initiated by the board due to the association
21 receiving a homeowner complaint regarding a possible view obstruction of Ms. Colliers's
22 property. The association is aware of no other communications with Henderson code
23 enforcement pertaining to Ms. Collier. (See attached Ex. 1.)
24

25 **INTERROGATORY NO. 12:**

26 Please identify all units that ANTHEM has referred to Henderson Code Enforcement for
27
28

view obstructions involving traffic issues.

RESPONSE TO INTERROGATORY NO. 12:

Based upon knowledge and belief there have been no units referred to Henderson code enforcement related to view obstructions involving traffic issues.

INTERROGATORY NO. 13:

Since 2015, identify each and every inspection of the PROPERTY. A complete answer will identify the date of the inspection, who conducted the inspection, and for what purpose the inspection occurred.

RESPONSE TO INTERROGATORY NO. 13:

Objection, the interrogatory is vague and ambiguous as it relates to the term inspection of the property and may call for disclosure of information protected by confidentiality statutes.

Notwithstanding said objection, the current management company, Terra West does not maintain a record for each specific inspections conducted within the community. A record of inspections would be identified by particular courtesy notices sent to unit owners. Inspectors, employed by Terra West, generally conduct monthly inspections in the community to determine homeowner compliance with the governing documents. Members of the association's architectural committee occasionally may confirm architectural compliance by unit owners and report any non-compliant homeowners.

INTERROGATORY NO. 14:

Please identify all units within ANTHEM that have oleanders planted.

RESPONSE TO INTERROGATORY NO. 14:

Objection, the interrogatory is overly broad and ambiguous and vague. Notwithstanding

1 said objection, the association has not maintained any specific records as it relates to the planting
2 of oleanders within the Anthem Community. Consequently, the associations does not possess any
3 information responsive to this interrogatory.
4

5 **INTERROGATORY NO. 15:**

6 Please identify all units within ANTHEM that were approved for oleanders as part of
7 their architectural review applications. A complete answer will identify the date the application
8 was submitted, the date it was approved, and the unit address.
9

10 **RESPONSE TO INTERROGATORY NO. 15:**

11 Objection as the interrogatory calls for confidential information protected pursuant to
12 NRS 116.31075. Notwithstanding said objection, upon information and belief, the association is
13 unaware of any application submitted relating to the approval of oleanders within the
14 community.
15

16 **INTERROGATORY NO. 16:**

17 Please identify all areas where oleanders are planted within the common elements. A
18 Complete answer will identify each area and the date the oleanders were planted.
19

20 **RESPONSE TO INTERROGATORY NO. 16:**

21 Upon information and belief, there are no oleanders planted within the common elements
22 of Anthem Highlands as they have been a prohibited plant within the community since 2018.
23

24 **INTERROGATORY NO. 17:**

25 Please identify how ANTHEM notifies or notifies members of Glengarry Community of
26 the approved paint schemes since 2015.

27 **RESPONSE TO INTERROGATORY NO. 17:**

28 Objection, interrogatory is overly broad, vague and ambiguous as it relates to the term

1 notifies members of Glengarry Community. Notwithstanding said objection, the Anthem
2 Community Association mails copies to all homeowners of the updated guidelines each time the
3 guidelines are revised or updated. Upon information and believe this occurred in May 2018 as
4 well as July 2022. The information is also contained within the web portal for the Anthem
5 Community Association and the Sherwin Williams web portal for all homeowners to review and
6 reference.

7
8 **INTERROGATORY NO. 18:**

9 Please identify all Intervention Affidavits (Form 530 with NRED) filed by, against, or in
10 any way involving MOSSETT-PUHEK since MOSSETT-PUHEK first resided in ANTHEM. A
11 complete answer will identify the date the Intervention Affidavit was filed, who filed the
12 Intervention Affidavit, the issued complained of in the Intervention Affidavit, and any supporting
13 documentation related to the Intervention Affidavit.

14
15 **RESPONSE TO INTERROGATORY NO. 18:**

16 Objection, request is not likely to lead to discoverable evidence, and is not at all relevant
17 or discoverable as it relates to the causes of action and defenses in this matter. The association is
18 unaware of any supporting documentation responsive to this interrogatory. Based upon
19 information and belief, the association is aware that an Intervention affidavit was filed by Ms
20 Puhek against Mark West approximately December of 2019.

21
22 **INTERROGATORY NO. 19:**

23 Please identify all complaints that ANTHEM has received pertaining to MOSSETT-
24 PUHEK since MOSSETT-PUHEK first resided in ANTHEM. A complete answer will identify
25 the date the complaint was received, who made the complaint, the issues complained of by
26 complainant, and any supporting documentation related to the complaints.
27
28

RESPONSE TO INTERROGATORY NO. 19:

Objection, interrogatory is vague and is overly broad and ambiguous as it pertains to the term complaint furthermore, the interrogatory calls for confidential information protected by statute or pursuant to NRS 116. 31075. Notwithstanding said objection, the association is aware of one complaint sent to the association by email to the agent Terra West, from homeowner Danielle Gallant alleging that Ms. Mossett-Puhek reported her to city of Henderson for not having obtained appropriate permits. The Association is aware of no other information responsive to interrogatory number 19. (See attached Ex. 1)

INTERROGATORY NO. 20:

Please identify any and all reason(s) why ANTHEM chose to solicit bids for general counsel (the time prior to the BOYACK FIRM being retained).

RESPONSE TO INTERROGATORY NO. 20:

Objection, the interrogatory is not reasonably calculated to lead to discoverable evidence and is completely irrelevant. Furthermore, the interrogatory is designed to seek attorney client information or another information that is privileged. Furthermore, the interrogatory is vague and is unable to be answered as to the time period in question.

INTERROGATORY NO. 21:

Please identify any and all reason(s) why ANTHEM chose to solicit bids for community manager (the time prior to the BOYACK FIRM being retained).

RESPONSE TO INTERROGATORY NO. 21:

Objection, the interrogatory is not reasonably calculated to lead to discoverable evidence and is completely irrelevant. Furthermore, the interrogatory is designed to seek attorney client

1 information or another information that is privileged. Furthermore, the interrogatory is vague and
2 is unable to be answered as to the time period in question.

3 DATED this 31st day of March, 2023.

4 **BOYACK ORME & ANTHONY**

5
6 By: /s/Edward D. Boyack
7 EDWARD D. BOYACK, ESQ.
8 Nevada Bar No. 005229
9 7432 W. Sahara Ave, Ste 101
10 Las Vegas, Nevada 89117
11 Attorney for Defendants

12
13 **CERTIFICATE OF SERVICE**

14
15 I HEREBY CERTIFY that on this 31st day of March, 2023, a true and correct copy of the
16 foregoing **ANTHEM HIGHLANDS COMMUNITY ASSOCIATION'S RESPONSE TO**
17 **PLAINTIFF ANDREA COLLIER'S FIRST SET OF INTERROGATORIES**, was served
18 via electronic submission through the Clerk of Court's electronic filing/service to all parties
19 registered to receive electronic.
20

21 By: /s/ Norma Ramirez
22 An Employee of Boyack Orme & Anthony
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EXHIBIT 5

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DISTRICT COURT
CLARK COUNTY, NEVADA

ANDREA COLLIER, as trustee of)
the JACT TRUST,)
Plaintiff,)
vs.) CASE NO.
PENNIE MOSSETT-PUHEK,) A-22-852032
individually ANTHEM HIGHLANDS)
COMMUNITY ASSOCIATION, a Nevada)
nonprofit corporation; DOES I-X)
and ROE BUSINESS ENTITIES I-X,)
inclusive,)
Defendants.)

DEPOSITION
OF
SHIRLEY BREEDEN

LAS VEGAS, NEVADA
MONDAY, June 26, 2023

REPORTED BY: DONNA E. MIZE, CCR NO. 675, CSR 11008
JOB NO: 979688

<p style="text-align: right;">Page 2</p> <p>1 DEPOSITION OF SHIRLEY BREEDEN taken at 8965 2 South Eastern Avenue, Las Vegas, Nevada, on Monday, 3 June 26, 2023, at 9:00 a.m., before Donna E. Mize, 4 Certified Court Reporter, in and for the State of 5 Nevada. 6 7 8 APPEARANCES 9 10 For Plaintiff: 11 TIMOTHY P. ELSON, ESQ. 12 Law Office of Timothy Elson 13 8965 South Eastern Avenue 14 Suite 382 15 Las Vegas, Nevada 89123 16 702.874.8600 17 tim@elsonlawoffices.com 18 19 For Pennie Mossett-Puhek: 20 DEREK NOACK, ESQ. 21 Freeman, Mathis & Gary 22 3993 Howard Hughes Parkway 23 Suite 100 24 Las Vegas, Nevada 89169 25 derek.noack@fmglaw.com</p>	<p style="text-align: right;">Page 3</p> <p>1 For Anthem Highlands: 2 TED BOYACK, ESQ. 3 Boyack, Orme, Anthony & McKiever 4 7432 West Sahara Avenue 5 Suite 101 6 702.562.3415 7 8 Also Present: ANDREA COLLIER 9 PENNIE MOSSETT-PUHCK, Via Telephone 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 4</p> <p>1 INDEX OF EXAMINATION 2 3 WITNESS: SHIRLEY BREEDEN 4 5 EXAMINATION PAGE 6 By Mr. Elson: 5 7 By Mr. Boyack: 43 8 By Mr. Noack: 56 9 10 11 INDEX OF EXHIBITS 12 13 Exhibit Description Page 14 Exhibit 1 6/9/2021 Letter 23 15 Exhibit 2 6/9/2021 Email 27 16 Exhibit 3 6/20/2021 Courtesy Notice 29 17 Exhibit 4 6/9/2021 Meeting Minutes 35 18 Exhibit 5 6/17/2021 Letter 37 19 Exhibit 6 6/18/2021 Email 37 20 21 /// 22 /// 23 /// 24 /// 25 ///</p>	<p style="text-align: right;">Page 5</p> <p>1 Las Vegas, Nevada; Monday, June 26, 2023 2 9:00 a.m. 3 -oOo- 4 (The court reporter was relieved of her 5 duties under NRCP Rule 30(b)(4).) 6 7 SHIRLEY BREEDEN, 8 was called as a witness, and having been first duly 9 sworn, was examined and testified as follows: 10 EXAMINATION 11 BY MR. ELSON: 12 Q. Good morning, Ms. Breedden. My name is Tim 13 Elson and I represent Ms. Andrea Collier here. 14 Before we begin this deposition would you 15 please state and spell your legal name? 16 A. Shirley Andrea Breedden. S-h-i-r-l-e-y A-n-n 17 B-r-e-e-d-e-n. 18 Q. Ms. Breedden, have you ever been sworn to tell 19 the truth before? 20 A. I have. 21 Q. On how many occasions? 22 A. Once. 23 Q. What was that for? 24 A. It was a deposition. 25 Q. How long ago was that deposition?</p>

<p style="text-align: right;">Page 6</p> <p>1 A. Twenty years maybe.</p> <p>2 Q. It's been a little bit of time?</p> <p>3 A. It has.</p> <p>4 Q. Let me explain the process to you to make</p> <p>5 sure we are all on the same page here.</p> <p>6 A. Okay.</p> <p>7 Q. You understand that you are under oath here</p> <p>8 today and that is the same oath you would take as if</p> <p>9 you were before a judge and jury?</p> <p>10 A. Yes.</p> <p>11 Q. You understand anything you say here today</p> <p>12 carries the same penalty of perjury as it would if you</p> <p>13 were before a judge and jury?</p> <p>14 A. Yes.</p> <p>15 Q. Have you consumed any alcohol in the last 12</p> <p>16 hours?</p> <p>17 A. No.</p> <p>18 Q. Have you consumed any prescription drugs or</p> <p>19 non-prescription drugs in the last 24 hours?</p> <p>20 A. No.</p> <p>21 Q. Do you know of any reason why you can't give</p> <p>22 me your best testimony here today?</p> <p>23 A. No.</p> <p>24 Q. One of the basic rules of a deposition is</p> <p>25 that only one person speak at a time. The reason why</p>	<p style="text-align: right;">Page 7</p> <p>1 is we have the court reporter here who is taking down</p> <p>2 everything we are saying, and it becomes very difficult</p> <p>3 to create a clean and accurate record if we are</p> <p>4 speaking over one another so I would ask that you wait</p> <p>5 for me to finish asking my question before you answer,</p> <p>6 and I will try and give you the same courtesy; is that</p> <p>7 fair?</p> <p>8 A. Yes.</p> <p>9 Q. Sometimes in ordinary language we do things</p> <p>10 like uh-huhs or uh-uhs or nodding our head yes or no</p> <p>11 and while it's perfectly fine in ordinary language, it</p> <p>12 makes it very difficult for the court reporter to</p> <p>13 create a clean and accurate record so from time to time</p> <p>14 I may say is that a yes or is that a no, I'm not trying</p> <p>15 to be rude, I'm just trying to make sure we have a</p> <p>16 clean and accurate record; is that fair?</p> <p>17 A. Yes.</p> <p>18 Q. I don't want you to guess here today. I am</p> <p>19 entitled to your best estimate. Do you understand the</p> <p>20 difference between a guess and an estimate?</p> <p>21 A. Yes.</p> <p>22 Q. Most people tell me they do, but I like to</p> <p>23 give a little example to help demonstrate. If I asked</p> <p>24 you to estimate the length of the table in front of</p> <p>25 you, you could look at it using your every day</p>
<p style="text-align: right;">Page 8</p> <p>1 experience and tell me that you believe it is X amount</p> <p>2 of feet long. If I asked you to estimate the length of</p> <p>3 the table in my house because you've never been to my</p> <p>4 house that would be a pure guess.</p> <p>5 Does that comport with your understanding of</p> <p>6 the difference between a guess and an estimate?</p> <p>7 A. Yes.</p> <p>8 Q. Your testimony will come in a typed booklet</p> <p>9 format and you will have the opportunity to review it</p> <p>10 and make any changes that you wish to make. Please be</p> <p>11 cautious, however, that if you wish to make a material</p> <p>12 change to your testimony here today at any point in</p> <p>13 time anyone will have the right to opine or comment as</p> <p>14 to whether or not you were telling the truth at one</p> <p>15 time or another. It's very important that we get your</p> <p>16 best testimony here today.</p> <p>17 Do you understand that?</p> <p>18 A. Yes.</p> <p>19 Q. As such, I want you to understand my</p> <p>20 questions before you answer them. If you don't</p> <p>21 understand my question, please tell me and I will be</p> <p>22 happy to rephrase it as many times as necessary until</p> <p>23 you do; is that okay?</p> <p>24 A. Yes.</p> <p>25 Q. Keep in mind that if you do provide us an</p>	<p style="text-align: right;">Page 9</p> <p>1 answer everyone will have the right to presume that you</p> <p>2 understood the question before you answered it; is that</p> <p>3 fair?</p> <p>4 A. Yes.</p> <p>5 Q. I don't anticipate your deposition is going</p> <p>6 to go overly long today, but if at any point in time</p> <p>7 you want to take a break, get up use the restroom,</p> <p>8 stretch your legs, that's fine, just let us know and we</p> <p>9 will go off the record and can take a short break. I</p> <p>10 typically try and take breaks every hour or so anyway</p> <p>11 so just keep that in mind.</p> <p>12 Do you have any questions before we start?</p> <p>13 A. No. Thank you.</p> <p>14 Q. Let's start with a little background</p> <p>15 information just so we can get a better understanding</p> <p>16 of who Shirley Breeden is.</p> <p>17 How long have you lived in Las Vegas, Nevada?</p> <p>18 A. Consecutively since 1967.</p> <p>19 Q. A long time resident of the valley?</p> <p>20 A. Yes.</p> <p>21 Q. My wife would be very proud. She constantly</p> <p>22 reminds me that I am not a native even though I have</p> <p>23 been here 26 years now.</p> <p>24 Where were you born and when were you born?</p> <p>25 A. I was born December 19, 1955 in Needles,</p>

<p style="text-align: right;">Page 10</p> <p>1 California.</p> <p>2 Q. And when did you first move to Las Vegas?</p> <p>3 A. I moved here '62 or '63. I can't remember.</p> <p>4 I was five. I went to kindergarten here -- sorry, I</p> <p>5 started here in second grade so that would be '62, I</p> <p>6 believe.</p> <p>7 Q. Did you graduate from high school, Shirley?</p> <p>8 A. Yes.</p> <p>9 Q. Where did you graduate and when?</p> <p>10 A. I graduated 1973 here at Clark High School.</p> <p>11 Q. After high school did you attend any</p> <p>12 additional schooling, college, vocational schools,</p> <p>13 anything like that?</p> <p>14 A. I did. I attended Community College of</p> <p>15 Southern Nevada, and also, I took some continuing</p> <p>16 education courses at UNLV.</p> <p>17 Q. What have you done for a living employment</p> <p>18 wise, why don't you walk me through that?</p> <p>19 A. I worked for the community college for about</p> <p>20 a year. Then I went to work for the Clark County</p> <p>21 School District, and I retired there in 2008 with 31</p> <p>22 years of employment.</p> <p>23 Q. What did you do for CCSD?</p> <p>24 A. Originally I started out in the clerical</p> <p>25 field and then I worked my way up and I was director of</p>	<p style="text-align: right;">Page 11</p> <p>1 hiring and recruitment of support staff personnel.</p> <p>2 That was ten years in that position, and the last 11</p> <p>3 years I was director of professional development and</p> <p>4 education.</p> <p>5 Q. Congratulations.</p> <p>6 A. Thank you. Then after I retired I served as</p> <p>7 a Nevada state senator here in Nevada for four years,</p> <p>8 2008 to 2012.</p> <p>9 Q. Was that one term?</p> <p>10 A. It was one term.</p> <p>11 Q. I don't want to offend you, Shirley, I ask</p> <p>12 this question of every witness I've ever deposed.</p> <p>13 A. Okay.</p> <p>14 Q. Have you ever been convicted of a felony?</p> <p>15 A. No.</p> <p>16 Q. Have you ever been convicted of a crime of</p> <p>17 moral turpitude, that is, one involving deceit or</p> <p>18 dishonesty?</p> <p>19 A. No.</p> <p>20 Q. What did you do to prepare for your</p> <p>21 deposition here today?</p> <p>22 A. Nothing. I kind of tried to remember the</p> <p>23 meetings of which I served on the Anthem Highlands</p> <p>24 board pertaining to this issue.</p> <p>25 Q. What documents did you review, if any?</p>
<p style="text-align: right;">Page 12</p> <p>1 A. None.</p> <p>2 Q. Have you ever seen any of the documents that</p> <p>3 pertain to this specific case before, the complaint or</p> <p>4 any of the other court documents?</p> <p>5 A. No, just the subpoena.</p> <p>6 Q. Other than me, did you talk to anybody about</p> <p>7 your deposition?</p> <p>8 A. Yes.</p> <p>9 Q. Who did you talk to?</p> <p>10 A. My daughter.</p> <p>11 Q. Who is your daughter?</p> <p>12 A. Jennifer Breeden.</p> <p>13 Q. Why did you talk to Jennifer?</p> <p>14 A. Because I was very surprised that I was being</p> <p>15 called as a witness.</p> <p>16 Q. It wasn't anything really substantively you</p> <p>17 talked to Jennifer about, it was hey, I have to go</p> <p>18 through this deposition?</p> <p>19 A. Correct.</p> <p>20 Q. Did anyone ever tell you what to say here</p> <p>21 today?</p> <p>22 A. No.</p> <p>23 Q. We are here today to discuss a lawsuit</p> <p>24 involving Ms. Collier and Anthem Highlands. My</p> <p>25 understanding is you had a prior role on Anthem</p>	<p style="text-align: right;">Page 13</p> <p>1 Highlands; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. What was your role with Anthem Highlands?</p> <p>4 A. I served as a board member on that board.</p> <p>5 Q. When I refer to Anthem Highlands, and it</p> <p>6 sounds like you already know, but I'm talking about</p> <p>7 Anthem Highlands Homeowners Association?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall when you started to serve on</p> <p>10 the board?</p> <p>11 A. No, not specifically. I know when I</p> <p>12 resigned, January 2022, but I only served like five,</p> <p>13 six, seven months.</p> <p>14 Q. Based on my records it looks like you got on</p> <p>15 the board some time around May or June of 2021, which</p> <p>16 seems to comport with your understanding; is that</p> <p>17 right?</p> <p>18 A. That sounds correct.</p> <p>19 Q. Did you have a specific role when you were on</p> <p>20 the board with Anthem Highlands?</p> <p>21 A. I did not serve as an officer. I just served</p> <p>22 as a board member.</p> <p>23 Q. One of the board's roles is to help enforce</p> <p>24 the governing documents of the association; is that</p> <p>25 correct?</p>

<p style="text-align: right;">Page 14</p> <p>1 A. That is correct.</p> <p>2 Q. And part of that is to bring homeowners to</p> <p>3 hearings if they are out of compliance; is that</p> <p>4 correct?</p> <p>5 A. Correct.</p> <p>6 Q. When somebody is in violation of the</p> <p>7 governing documents what is your understanding of how</p> <p>8 homeowners were first brought to a hearing when you</p> <p>9 served on the board?</p> <p>10 A. When I was serving it was during Covid and</p> <p>11 all of our meetings were via Zoom, and really, we</p> <p>12 didn't have many people homeowners come before us via</p> <p>13 Zoom.</p> <p>14 Q. How would a violation first get brought to</p> <p>15 the board's attention?</p> <p>16 A. Pennie would bring it to our attention. She</p> <p>17 was president then.</p> <p>18 Q. When you say Pennie would bring it to your</p> <p>19 attention, is that because she noticed the violation or</p> <p>20 how would Pennie come to find out about the alleged</p> <p>21 violations?</p> <p>22 A. I guess they were reported to her.</p> <p>23 Q. Do you know that or are you guessing about</p> <p>24 that?</p> <p>25 A. I would say I'm guessing.</p>	<p style="text-align: right;">Page 15</p> <p>1 Q. Again, nobody wants you to guess here today.</p> <p>2 I don't know is a perfectly acceptable answer as long</p> <p>3 as it's the truth. All anybody wants you to do today</p> <p>4 is show up and tell the truth.</p> <p>5 A. Yes.</p> <p>6 Q. Prior to a homeowner being issued a courtesy</p> <p>7 violation or a notice of violation, was there a</p> <p>8 discussion amongst the board to even issue a courtesy</p> <p>9 violation?</p> <p>10 A. Yes.</p> <p>11 Q. When would that take place?</p> <p>12 A. We had two meetings, an executive meeting and</p> <p>13 an actual board meeting, and sometimes we would hear</p> <p>14 information and it would actually show up in our board</p> <p>15 minutes, the person's name and violation and what the</p> <p>16 violation was for.</p> <p>17 Q. And then the first step was to issue a</p> <p>18 courtesy notice; is that correct?</p> <p>19 A. I believe so.</p> <p>20 Q. And then do you recall what happened after a</p> <p>21 courtesy notice was issued?</p> <p>22 A. I do not. I do not.</p> <p>23 Q. Eventually a homeowner was brought to some</p> <p>24 type of hearing; is that correct?</p> <p>25 A. I can't really answer that because I will be</p>
<p style="text-align: right;">Page 16</p> <p>1 honest, it was so long ago and I -- all I remember</p> <p>2 receiving is the board documents and we -- we would go</p> <p>3 over the violations then because there were many of</p> <p>4 them.</p> <p>5 Q. So is it fair to say that you didn't see</p> <p>6 anything before the home was set on the executive</p> <p>7 session for a violation hearing?</p> <p>8 A. Please repeat that.</p> <p>9 Q. A home gets set for a violation at the</p> <p>10 executive session, is that correct, a unit?</p> <p>11 A. Yes.</p> <p>12 Q. A homeowner has alleged violations and the</p> <p>13 board talks about that unit at executive session; is</p> <p>14 that correct?</p> <p>15 A. Yes.</p> <p>16 Q. And determines whether or not the issue fines</p> <p>17 against that unit?</p> <p>18 A. Yes.</p> <p>19 Q. At that point in time notices have already</p> <p>20 been sent to the homeowner in order to bring them to a</p> <p>21 violation hearing, is that correct, or do you not have</p> <p>22 an understanding?</p> <p>23 A. I do not have an understanding of that.</p> <p>24 Q. So you don't know how a home was actually</p> <p>25 brought to a violation hearing; is that correct?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Correct.</p> <p>2 Q. When did you first learn of Ms. Collier?</p> <p>3 A. I do not recall the date when it was brought.</p> <p>4 What I remember about that is it was at the board</p> <p>5 meeting when Pennie proposed a fine.</p> <p>6 Q. So the first time you remember learning of</p> <p>7 Ms. Collier was at the executive session meeting where</p> <p>8 she was brought for a violation?</p> <p>9 A. I don't remember if it was an executive</p> <p>10 meeting or the board meeting.</p> <p>11 Q. Do you recall that board meeting regarding</p> <p>12 Ms. Collier?</p> <p>13 A. I do. Actually, the board meeting I remember</p> <p>14 is when you came to testify on her behalf.</p> <p>15 Q. What transpired at that meeting?</p> <p>16 A. We were told that before you were going to</p> <p>17 speak we were told that you were there to represent Ms.</p> <p>18 Collier and so then Pennie told Carmen because the</p> <p>19 meeting was via Zoom to allow you in so however that</p> <p>20 happened, and I remember before you even spoke Pennie</p> <p>21 said, Mr. Elson, if you do not have anything new to</p> <p>22 share, do not say anything because if there is nothing</p> <p>23 new then we don't need to hear it. Something to that</p> <p>24 effect.</p> <p>25 Q. What happened after that?</p>

<p style="text-align: right;">Page 18</p> <p>1 A. You were very polite and said no, I waited 2 for you to speak and now it's my turn, and you were 3 trying to present your case or your comments and you 4 were being interrupted by Pennie. 5 Q. Did you agree with the way that Pennie was 6 conducting that meeting? 7 MR. NOACK: Object. Vague, overbroad. 8 BY MR. ELSON: 9 Q. From time to time an attorney may lodge an 10 objection and the reason why is we don't have a judge 11 here to rule on this objection at this point in time so 12 an attorney may lodge an objection in order to preserve 13 that right to the extent your deposition transcript 14 needs to be used at the time of trial. 15 Unless someone instructs you otherwise, which 16 I don't think is going to happen since you don't have 17 counsel with you here today, but unless somebody 18 instructs you otherwise, go ahead and answer the 19 question because all the attorney is doing is 20 preserving their record. 21 A. Okay. 22 Q. I will reask the question that way or freshen 23 your memory, in fact, I don't remember what it was. 24 Ms. Court Reporter, will you remind me what 25 the question was.</p>	<p style="text-align: right;">Page 19</p> <p>1 (Record read by the reporter.) 2 BY MR. ELSON: 3 Q. So I will reask it. Did you agree with the 4 way that Pennie was conducting that meeting? 5 A. No. 6 Q. Was anyone other than Ms. Collier acting in a 7 manner -- I'm sorry, I said Ms. Collier. Let me reask 8 the question. 9 Was anyone other than Ms. Mossett-Puhek 10 conducting themselves in a manner in which you 11 disagreed with? 12 A. No. 13 Q. Was Ms. Collier ultimately fined as a result 14 of that board meeting? 15 A. Yes. 16 Q. Do you recall how much she was fined? 17 A. Originally the fine was \$5,000. That was 18 what Pennie proposed. 19 Q. What did you think of that fine amount when 20 Pennie proposed it? 21 A. I thought it was ludicrous. 22 Q. Did you vote in favor of fining Ms. Collier 23 \$5,000? 24 A. No. 25 Q. How did you want to handle the situation with</p>
<p style="text-align: right;">Page 20</p> <p>1 the oleanders? 2 A. Pennie asked me because of my questioning of 3 Pennie, she asked me what I would do, what I would 4 suggest, and I mentioned to her that sitting in Carson 5 City and working with both sides of people who have 6 pros and cons that we should work together or write a 7 letter and outline the specifics in it and send it to 8 Ms. Collier and tell her that she violated whatever it 9 was and she had so many weeks to correct it or impose a 10 fine of, like I said, a thousand or \$500, depending on 11 the infractions. Pennie stated no, you have to hit 12 them where it hurts in the pocket. 13 Q. Did the rest of the board discuss the amount 14 of the fine? 15 A. I don't -- I know there was some discussion, 16 very minor, but I don't recall the discussion. I was 17 the one that was so surprised at the fine because I am 18 new to the board and was flipping through my binder to 19 try to find the fines to see how they were laid out. 20 But, you know, it was everything happened so quickly 21 that I believe I was the only one that had most of the 22 questions. 23 Q. When you served on the Anthem board how many 24 other \$5,000 fines did Anthem issue to homeowners? 25 A. None.</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. When you were on the board how many other 2 \$5,000 fines did Anthem even discuss issuing to other 3 homeowners, whether they were actually issued or not? 4 A. None. 5 Q. So you would agree with me that this was an 6 abnormal fine? 7 A. Yes. 8 Q. When you discussed this fine amount with 9 Pennie did Pennie ever discuss anything with you 10 personal as it related to Andrea? 11 A. One of my questions to Pennie at the time was 12 how can you justify that large of a fine for planting 13 an oleander, and she mentioned she didn't ask 14 permission, oleanders aren't on the list, it was on 15 Anthem Highlands' property and it was a safety issue. 16 And then she stated at one time -- the verbiage could 17 be different, but she eluded to Ms. Collier working 18 against her when she was up for a reelection. 19 Q. So did this seem personal to Pennie? 20 MR. NOACK: Objection, speculation. 21 MR. BOYACK: Join in the objection. 22 THE WITNESS: I -- it just came at the end. 23 It was a comment she made at the end. 24 BY MR. ELSON: 25 Q. At the end about how Ms. Collier had worked</p>

<p style="text-align: right;">Page 22</p> <p>1 against her during a time when Pennie was seeking to 2 get elected to the board?</p> <p>3 A. That was my understanding.</p> <p>4 Q. Did Pennie discuss with you how Ms. Collier 5 had said bad things about Pennie during the election?</p> <p>6 A. No.</p> <p>7 Q. Do you remember anything else about that 8 conversation where Pennie had mentioned that Ms. 9 Collier had worked against her during the election?</p> <p>10 A. No.</p> <p>11 Q. I believe when you and I had spoke before 12 your deposition you had mentioned you were 13 uncomfortable about appearing at a deposition; is that 14 right?</p> <p>15 A. Yes.</p> <p>16 Q. Are you afraid of Pennie?</p> <p>17 MR. NOACK: Objection.</p> <p>18 MR. BOYACK: Join.</p> <p>19 THE WITNESS: I'm not afraid of her. I'm 20 afraid of her actions.</p> <p>21 BY MR. ELSON:</p> <p>22 Q. Why is that?</p> <p>23 MR. NOACK: Same objection.</p> <p>24 THE WITNESS: Because of the comment that she 25 made about Ms. Collier I felt as though she could be</p>	<p style="text-align: right;">Page 23</p> <p>1 vindictive.</p> <p>2 (Exhibit 1 marked)</p> <p>3 BY MR. ELSON:</p> <p>4 Q. In addition to Pennie mentioning that Ms. 5 Collier had worked against her you mentioned a few 6 other reasons that Pennie discussed about why the fine 7 amount was appropriate.</p> <p>8 One was that oleanders are prohibited; is 9 that correct?</p> <p>10 MR. NOACK: Objection. Misstates testimony.</p> <p>11 BY MR. ELSON:</p> <p>12 Q. If I'm misstating your testimony please 13 correct me because I want to make sure I cover the 14 other issues that were discussed.</p> <p>15 The second was that they were placed on HOA 16 property?</p> <p>17 A. Yes.</p> <p>18 Q. The third was a view obstruction?</p> <p>19 A. Did I tell you that?</p> <p>20 Q. I thought you had mentioned that. Do you 21 remember a view obstruction being discussed?</p> <p>22 A. I do.</p> <p>23 Q. Is there any others that I'm missing that you 24 can remember?</p> <p>25 A. Oleanders were not on the approved list and</p>
<p style="text-align: right;">Page 24</p> <p>1 she did not ask permission before planting.</p> <p>2 Q. As it relates to a view obstruction, were you 3 provided photographs of the oleanders at the time of 4 the board meeting?</p> <p>5 A. Yes, one.</p> <p>6 Q. And do you recall when that photograph was 7 taken?</p> <p>8 A. I do not.</p> <p>9 Q. Based on your view of the photograph did you 10 believe the oleanders had constituted a view 11 obstruction?</p> <p>12 A. No.</p> <p>13 Q. What type of dialogue existed with the board 14 about the oleanders constituting a view obstruction?</p> <p>15 A. I don't remember. I don't know who said it, 16 but I remember someone said that they were -- she had 17 them trimmed, they were only two feet high, and if they 18 kept them at two feet it wouldn't be a view 19 obstruction, but that's all I remember. I don't 20 remember who said it.</p> <p>21 Q. As it relates to the oleanders in the 22 community, how long did you live in Anthem Highlands?</p> <p>23 A. About 15 months.</p> <p>24 Q. Do you remember oleanders being present at 25 other homes in the community?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. I really never paid any attention.</p> <p>2 Q. Do you know if there were oleanders planted 3 on the common elements, the association -- the property 4 in which the association maintains?</p> <p>5 A. I do not know.</p> <p>6 Q. Was that something that was ever discussed on 7 how oleanders were planted throughout the community?</p> <p>8 A. I remember someone bringing up that there are 9 already oleanders planted around the community, but I 10 don't know when that was.</p> <p>11 Q. Could that have been me?</p> <p>12 A. I do not remember.</p> <p>13 Q. As far as the oleander being planted on HOA 14 property, what type of discussion happened on that 15 issue?</p> <p>16 A. As it pertains to Ms. Collier?</p> <p>17 Q. Yes.</p> <p>18 A. Like I say, I remember the discussion was 19 pretty vague. Well, that she didn't ask permission and 20 they were planted on HOA property and that was not 21 allowed.</p> <p>22 Q. Did anybody pull out any site maps or 23 anything like that in order to verify whether or not 24 the oleanders were planted on HOA property?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. Who said they were planted on HOA property?</p> <p>2 A. Pennie.</p> <p>3 Q. Who was leading the discussion as it related</p> <p>4 to Ms. Collier in general?</p> <p>5 A. Pennie.</p> <p>6 Q. I'm handing you what's been marked as</p> <p>7 Exhibit 1. It's quite long. I believe it's about 20</p> <p>8 pages. I don't necessarily need you to read the entire</p> <p>9 document, Ms. Breedon, but if you could flip through it</p> <p>10 and generally familiarize yourself with it because my</p> <p>11 first question is going to be do you recall ever seeing</p> <p>12 it so I don't necessarily need you to read every page,</p> <p>13 but you can certainly read every page if you need to in</p> <p>14 order to familiarize yourself with the document.</p> <p>15 Have you had a chance to review the document,</p> <p>16 Ms. Breedon?</p> <p>17 A. I have glanced at it, yes.</p> <p>18 Q. Do you recall if you have ever seen this</p> <p>19 document before?</p> <p>20 A. I have never seen this document.</p> <p>21 Q. Was this document discussed prior to Ms.</p> <p>22 Collier -- the fines being enforced against Ms.</p> <p>23 Collier?</p> <p>24 A. There was some discussion about fines for the</p> <p>25 oleanders.</p>	<p style="text-align: right;">Page 27</p> <p>1 Q. But not this specific document?</p> <p>2 MR. NOACK: Objection, speculation.</p> <p>3 THE WITNESS: I do not recognize this</p> <p>4 document.</p> <p>5 (Exhibit 2 marked)</p> <p>6 BY MR. ELSON:</p> <p>7 Q. You have been handed what's been marked as</p> <p>8 Exhibit 2. Have you ever seen this email before, Ms.</p> <p>9 Breedon?</p> <p>10 A. No.</p> <p>11 Q. This is an email dated June 9, 2021 from</p> <p>12 myself to Ms. Eassa and Mr. Boyack. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. You sent this email at 6:14 p.m. which was</p> <p>15 shortly after the executive meeting. It starts off --</p> <p>16 I'm not going to read the entire email, I'm just going</p> <p>17 to read parts to you.</p> <p>18 It starts off and says Ms. Mossett-Puhek</p> <p>19 repeatedly interrupted me from the very outset of the</p> <p>20 meeting. Do you recall if that took place?</p> <p>21 A. Yes.</p> <p>22 Q. And yes, it did?</p> <p>23 A. Yes, it did.</p> <p>24 Q. Sorry, it was a poor question on my part.</p> <p>25 Ms. Mossett-Puhek refused to allow us to present</p>
<p style="text-align: right;">Page 28</p> <p>1 documents or evidence at the hearing.</p> <p>2 Do you recall that taking place at the</p> <p>3 meeting?</p> <p>4 A. I do.</p> <p>5 Q. Ms. Mossett-Puhek misstated Nevada law in</p> <p>6 claiming that a unit owner may not present evidence at</p> <p>7 a hearing.</p> <p>8 Do you recall Pennie making that statement at</p> <p>9 the hearing?</p> <p>10 MR. NOACK: Objection, speculation.</p> <p>11 THE WITNESS: I don't remember that.</p> <p>12 BY MR. ELSON:</p> <p>13 Q. At one point early in the meeting the host,</p> <p>14 which we understand is you referring to Ms. Eassa muted</p> <p>15 me.</p> <p>16 Do you recall if at any point in time I was</p> <p>17 muted during the meeting?</p> <p>18 A. I don't recall that.</p> <p>19 Q. Ms. Mossett-Puhek refused to allow me to</p> <p>20 answer specific questions from board members,</p> <p>21 specifically the gentleman named Joseph.</p> <p>22 Do you remember that taking place at the</p> <p>23 meeting?</p> <p>24 A. I'm sorry, I don't.</p> <p>25 Q. When you say you don't remember things, you</p>	<p style="text-align: right;">Page 29</p> <p>1 don't remember them one way or the other, is that</p> <p>2 correct, you just have no memory altogether as it</p> <p>3 relates to those issues; you are not necessarily saying</p> <p>4 they didn't take place, you just don't remember them?</p> <p>5 A. Correct.</p> <p>6 Q. It also states at the very top Ms.</p> <p>7 Mossett-Puhek refused to allow you to enable screen</p> <p>8 share to allow us to more easily present evidence or</p> <p>9 refer to evidence during the hearing.</p> <p>10 Do you remember that taking place?</p> <p>11 A. I'm sorry, I do not.</p> <p>12 (Exhibit 3 marked)</p> <p>13 BY MR. ELSON:</p> <p>14 Q. You have been handed what's been marked as</p> <p>15 Exhibit 3. Take a moment to review Exhibit 3 and let</p> <p>16 me know after you've had a chance to familiarize</p> <p>17 yourself with it.</p> <p>18 Have you ever seen Exhibit 3 before?</p> <p>19 A. No.</p> <p>20 Q. Exhibit 3, property address 2822 Culloden</p> <p>21 Avenue. I will represent to you that's Ms. Collier's</p> <p>22 address. It says regarding courtesy notice. The date</p> <p>23 of it is June 10, 2021. There is a time above that</p> <p>24 that says 8:25:05 a.m.</p> <p>25 Do you see that.</p>

<p style="text-align: right;">Page 30</p> <p>1 A. Yes.</p> <p>2 Q. It says the violation, Tim Elson has been</p> <p>3 emailing the association's legal counsel without board</p> <p>4 authorization for such contact. This unauthorized</p> <p>5 contact has incurred legal fees for the association.</p> <p>6 Please be advised that all legal fees incurred as a</p> <p>7 result of this misconduct will be assessed to the unit</p> <p>8 owner's account after a duly noticed hearing.</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. Exhibit 2 is dated June 9, 2021 at 6:14 p.m.</p> <p>12 and this courtesy notice is dated June 10, 2021 at</p> <p>13 8:25:05 a.m.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Did the board ever discuss sending this</p> <p>17 courtesy notice out before it was issued to Ms.</p> <p>18 Collier?</p> <p>19 A. I do not recall it.</p> <p>20 Q. Do you recall any sort of email exchange</p> <p>21 about this courtesy notice before it was issued?</p> <p>22 A. No.</p> <p>23 Q. As you sit here today is this the first time</p> <p>24 you are becoming aware of the fact that Exhibit 3, the</p> <p>25 courtesy notice, was even issued to Ms. Collier?</p>	<p style="text-align: right;">Page 31</p> <p>1 A. I believe so.</p> <p>2 Q. While you were on the board were you aware of</p> <p>3 any pursuit of any violations for flag poles?</p> <p>4 A. No.</p> <p>5 Q. You don't recall during any executive session</p> <p>6 discussing any flag poles for any unit within the</p> <p>7 association; is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. What was it like to serve on the board?</p> <p>10 MR. NOACK: Objection. Overbroad, vague.</p> <p>11 THE WITNESS: Awful.</p> <p>12 BY MR. ELSON:</p> <p>13 Q. Why is that?</p> <p>14 MR. NOACK: Same objection.</p> <p>15 THE WITNESS: The first few months I sat on</p> <p>16 the board Pennie was the president and I was appalled</p> <p>17 and ashamed at how she conducted the meetings and how</p> <p>18 she treated people. I have never sat on a board</p> <p>19 throughout my career with the district or with serving</p> <p>20 in the senate where people were treated so rudely.</p> <p>21 Then it changed when Sydney Woo became president.</p> <p>22 BY MR. ELSON:</p> <p>23 Q. When you say it changed, you mean the dynamic</p> <p>24 on how people were treated?</p> <p>25 A. Yes. Even us board members, Sydney -- let me</p>
<p style="text-align: right;">Page 32</p> <p>1 backup. Pennie ran every meeting when she was</p> <p>2 president and she made most of the motions, and then</p> <p>3 when Sydney became president and that was kind of an</p> <p>4 internal reorganization Sydney was -- he asked for</p> <p>5 suggestions and he just talked calmer. His demeanor</p> <p>6 was so different and very professional. It was very</p> <p>7 different.</p> <p>8 Q. When you say he asked for suggestions, was</p> <p>9 that something that Pennie never did?</p> <p>10 A. You know, when you make a motion there is</p> <p>11 usually -- it's asked if there is any discussion and it</p> <p>12 seemed like again, with me being new I'm the one that</p> <p>13 always asked the questions. No one else asked</p> <p>14 questions, but I was trying to learn. So there was</p> <p>15 very little discussion usually on most of the topics</p> <p>16 except for my questioning.</p> <p>17 Q. Did you ever disagree with Pennie?</p> <p>18 A. Yes.</p> <p>19 Q. How did Pennie react when you disagreed with</p> <p>20 her?</p> <p>21 MR. NOACK: Objection, overbroad.</p> <p>22 THE WITNESS: Pennie made statements to me</p> <p>23 that it's because I was new and I didn't understand how</p> <p>24 things worked, suggested I take classes through the</p> <p>25 real estate division, and at one point in time I made a</p>	<p style="text-align: right;">Page 33</p> <p>1 comment to her that when I was serving up in Carson</p> <p>2 City there were some legislation that came before us</p> <p>3 regarding HOAs and none of them got passed because they</p> <p>4 were so stringent, the requests were stringent.</p> <p>5 Again, let me remind you that the board</p> <p>6 meetings were all via Zoom. Sometimes Pennie would</p> <p>7 roll her eyes, and Ken who was her vice president would</p> <p>8 go -- I'm sorry, I don't know how you -- I'm sorry. It</p> <p>9 just -- it seemed like I was wasting their time by</p> <p>10 making my comments.</p> <p>11 Q. Would Pennie ever interrupt you?</p> <p>12 A. Yes.</p> <p>13 Q. Would she ever cut you off or act in other</p> <p>14 rude ways toward you?</p> <p>15 A. It was Pennie's way or the highway, but I</p> <p>16 still asked questions. I felt as though it was my</p> <p>17 duty.</p> <p>18 Q. Why did you get off the board -- before I go</p> <p>19 there. You resigned from the board; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And you voluntarily resigned?</p> <p>22 A. That is correct.</p> <p>23 Q. Why did you resign from the board?</p> <p>24 A. In December Pennie called a special board</p> <p>25 meeting and I -- it came from Pennie and so I called</p>

<p style="text-align: right;">Page 34</p> <p>1 Sydney and asked him if he knew about this special 2 board meeting and why would it come from Pennie. I was 3 confused because Pennie was the secretary then. After 4 she left being the president she became board 5 secretary. 6 Sydney explained to me that in the documents 7 the secretary could call -- she is the only one on the 8 board that could call a special meeting besides the 9 president. I'm like well, what about it, and he said I 10 think it's about removing me as president. Anyway, I 11 thought what happened Pennie ran that meeting, and most 12 of Sydney's responsibilities or some of his 13 responsibilities were given to Ken and to Joe and she 14 was made I think the term was liaison to the management 15 company to Terra West; and I felt that was very 16 underhanded, deceitful and going through a backdoor to 17 accomplish whatever goals she wanted to accomplish. I 18 was ashamed and I no longer wanted to be associated 19 with them. 20 Q. Do you know of anything personal going on 21 between Pennie and Sydney at that time? 22 A. No. I know she sent me a barrage of emails 23 because for a while we were copied on them, and after 24 he became president, my opinion is that even though 25 Pennie was the secretary and Sydney was the president,</p>	<p style="text-align: right;">Page 35</p> <p>1 Pennie still tried to run the board. Sydney would say 2 oh, well, let's do this or let's do that or I spoke to 3 this person and he said this, and so then she started 4 issuing or sending emails have you done this, have you 5 done that, have you done -- I mean, constantly and it 6 was like yikes. 7 Q. When you resigned did you send a letter? 8 A. I did. 9 Q. What did your letter say? 10 A. I don't remember specifically but I was very 11 honest and stated my feelings as to how I could no 12 longer serve on the board because of what happened, how 13 the special board meeting went down, I remember how it 14 all went down, and I was ashamed and I could not work 15 with people that would be so deceitful, to that 16 language. I don't remember specifically the language. 17 I was very honest in my feelings. 18 (Exhibit 4 marked) 19 MR. BOYACK: Would this be a good time for a 20 restroom break? 21 MR. ELSON: Sure. We can take it now or 22 after I ask a few questions. I don't plan on being 23 long with this document. 24 BY MR. ELSON: 25 Q. Have you ever seen this document before,</p>
<p style="text-align: right;">Page 36</p> <p>1 Ms. Breedon? 2 A. I probably have but I don't recall it. 3 Q. Do you agree with what's in this document, 4 Ms. Breedon? 5 A. I don't remember all that's typed on here as 6 far as it's, you know, by the motions and approval of 7 minutes and by who made the motion and seconded it. I 8 don't remember it specifically. 9 Q. For example, it states that homeowner's 10 attorney Ms. Elson created a hostile and threatening 11 environment by repeatedly interrupting the board 12 president who was trying to conduct the meeting. 13 Do you agree with that statement? 14 A. I do not. 15 Q. It states that you voted in favor of fining 16 Ms. Collier \$2,000. Did you vote in favor of that? 17 A. I don't remember voting for a \$2,000 fine. 18 Let me say I don't even remember us discussing a \$2,000 19 fine. 20 Q. On the last page there is a signature. Is 21 that your signature? 22 A. No. 23 Q. Do you recognize that signature? 24 A. I do not. 25 MR. ELSON: Let's go off the record.</p>	<p style="text-align: right;">Page 37</p> <p>1 (A recess was taken.) 2 (Exhibits 5-6 marked) 3 BY MR. ELSON: 4 Q. Back on the record. 5 While we were off the record we discussed 6 that it has come to our attention that Ms. 7 Mossett-Puhek is listening in to today's proceedings, 8 which she has every right to do so all we are doing is 9 noting her appearance for the record. 10 Ms. Breedon, we are back on the record. I 11 have some additional questions for you. When I finish 12 my line of questioning both Mr. Boyack and Mr. Noack 13 will have the right to ask you questions if they have 14 any questions for you. 15 A. Okay. 16 Q. I do understand you have some time 17 constraints and we will do our best to get you out of 18 here to allow you to, I think, you said pick your 19 grandkid up from school, correct? 20 A. It's not school but I have to pick him up. 21 Q. You have been handed what's been marked as 22 Exhibit 5 when we were off the record. It's a letter 23 dated June 17, 2021. Do you see that? 24 A. Yes. 25 Q. Have you ever seen this document before?</p>

<p style="text-align: right;">Page 38</p> <p>1 A. I don't recall seeing it.</p> <p>2 Q. Do you recall discussing this document with</p> <p>3 the board when you served on the board back in 2021?</p> <p>4 A. I don't recall.</p> <p>5 Q. Were you ever asked to preserve any of your</p> <p>6 emails or other documents relating to your time when</p> <p>7 you served on the board?</p> <p>8 A. No.</p> <p>9 Q. When you communicated with the board did you</p> <p>10 sometimes communicate with email?</p> <p>11 A. Yes.</p> <p>12 Q. Did you have a specific Anthem email address</p> <p>13 or did you use like a personal email address for</p> <p>14 communication.</p> <p>15 A. Originally, I used personal but then I was</p> <p>16 advised by Carmen to get an HOA email.</p> <p>17 Q. Did someone help create that for you?</p> <p>18 A. She told me -- Carmen told me what to do.</p> <p>19 Q. What did you have to do the create an email</p> <p>20 address?</p> <p>21 A. It was a Gmail account. I used Cox so I just</p> <p>22 created -- my daughter helped me create it.</p> <p>23 Q. So you just made a new email address?</p> <p>24 A. Yes.</p> <p>25 Q. And you made it through Gmail?</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Yes.</p> <p>2 Q. Do you recall what that email address was or</p> <p>3 is?</p> <p>4 A. I don't recall and I don't want to guess.</p> <p>5 Q. I imagine if you went home and reviewed your</p> <p>6 records you could probably figure that out for us; is</p> <p>7 that correct?</p> <p>8 A. Yes, or Terra West would have it as well.</p> <p>9 Q. Does Terra West have access to those emails?</p> <p>10 A. No, but when you communicate back and forth.</p> <p>11 Q. I understand why you think they would know</p> <p>12 the email address. It was a separate and independent</p> <p>13 question I was going to ask you anyway.</p> <p>14 Does Terra West have access to the Gmail</p> <p>15 email account?</p> <p>16 A. No.</p> <p>17 Q. Are you aware that Pennie previously worked</p> <p>18 for Ted Boyack?</p> <p>19 A. No.</p> <p>20 Q. Was that disclosed to you as part of your</p> <p>21 role on the board?</p> <p>22 A. No.</p> <p>23 Q. Are you aware that Pennie and Carmen Eassa</p> <p>24 previously worked together?</p> <p>25 A. I kind of remember -- I think Carmen told me</p>
<p style="text-align: right;">Page 40</p> <p>1 that.</p> <p>2 Q. Do you recall when you found out about that?</p> <p>3 A. I do not recall.</p> <p>4 Q. Do you think Pennie's relationship with</p> <p>5 Carmen influenced Carmen at all as to how she did her</p> <p>6 job?</p> <p>7 MR. NOACK: Objection, speculation.</p> <p>8 MR. BOYACK: Join.</p> <p>9 BY MR. ELSON:</p> <p>10 Q. Let me ask it this way. Did you see anything</p> <p>11 during your time on the board that would have caused</p> <p>12 you to believe that Pennie's relationship with Carmen</p> <p>13 influenced Carmen in one way or another?</p> <p>14 MR. NOACK: Objection, speculation.</p> <p>15 THE WITNESS: I don't remember seeing any</p> <p>16 specific influence, no. I do remember Carmen always</p> <p>17 saying that Pennie was very knowledgeable in this area.</p> <p>18 She has spent years in HOA issues.</p> <p>19 BY MR. ELSON:</p> <p>20 Q. Did you ever see a time where Carmen would</p> <p>21 defer to Pennie?</p> <p>22 A. I don't recall.</p> <p>23 Q. Let me ask it this way. Did you ever see</p> <p>24 Carmen stand up to Pennie?</p> <p>25 MR. NOACK: Objection, vague.</p>	<p style="text-align: right;">Page 41</p> <p>1 THE WITNESS: No.</p> <p>2 BY MR. ELSON:</p> <p>3 Q. In case you thought that question was vague</p> <p>4 or you didn't understand it, did you ever see Carmen</p> <p>5 tell Pennie that the manner in which she was acting was</p> <p>6 inappropriate?</p> <p>7 A. No.</p> <p>8 Q. You have been handed what's been marked as</p> <p>9 Exhibit 6. This is an email. I do not believe you are</p> <p>10 copied on this email.</p> <p>11 Have you ever seen this email exchange</p> <p>12 before?</p> <p>13 A. No.</p> <p>14 Q. This email discusses Exhibit 5, the</p> <p>15 preservation of evidence letter. At any point in time</p> <p>16 did Pennie discuss with the board her emails before</p> <p>17 sending them out, these emails that she was sending?</p> <p>18 A. No, I don't remember her discussing them.</p> <p>19 Q. Do you know who authorized Pennie to send</p> <p>20 those emails on behalf of the HOA?</p> <p>21 A. No.</p> <p>22 Q. Now, I'm flipping back to Exhibit 1. I'm</p> <p>23 showing you what is Exhibit 3 to Exhibit 1. It's Bates</p> <p>24 stamped as pages 232 to 236. This is a series of</p> <p>25 emails involving Ms. Puhek.</p>

<p style="text-align: right;">Page 42</p> <p>1 Did Pennie ever discuss those emails with the</p> <p>2 board before she sent them out?</p> <p>3 A. I don't recall a discussion.</p> <p>4 Q. Do you know who authorized Pennie to send</p> <p>5 those emails?</p> <p>6 A. No.</p> <p>7 Q. Now, I'm showing you Exhibit 4 to Exhibit 1,</p> <p>8 which is Bates stamped as P238 to P242. These are</p> <p>9 additional emails involving Pennie.</p> <p>10 Was there a discussion with the board before</p> <p>11 those emails were sent by Pennie?</p> <p>12 A. I don't recall a discussion.</p> <p>13 Q. I didn't mean to interrupt you.</p> <p>14 A. I do not recall a discussion.</p> <p>15 Q. Do you know who authorized Pennie to send out</p> <p>16 those emails?</p> <p>17 A. No.</p> <p>18 Q. Do you recall a time when Ms. Collier was</p> <p>19 brought to hearing for a paint scheme violation?</p> <p>20 A. No.</p> <p>21 Q. Is it your recollection that there was only a</p> <p>22 single hearing violation involving Ms. Collier while</p> <p>23 you served on the board?</p> <p>24 A. I believe so.</p> <p>25 Q. And that's the one that I was present at,</p>	<p style="text-align: right;">Page 43</p> <p>1 correct?</p> <p>2 A. Correct.</p> <p>3 MR. ELSON: I don't have any further</p> <p>4 questions at this time.</p> <p>5 EXAMINATION</p> <p>6 BY MR. BOYACK:</p> <p>7 Q. Thank you, ma'am. My name is Ted Boyack. As</p> <p>8 you know I represent Anthem so I want to ask you a few</p> <p>9 questions.</p> <p>10 As you sit here today do you have any</p> <p>11 understanding of the allegations by Ms. Collier against</p> <p>12 Anthem Highlands as it relates to this lawsuit?</p> <p>13 A. I do not know any specific allegations.</p> <p>14 Q. Let's go back to the board meeting that we</p> <p>15 have been discussing the fines. You acknowledge that</p> <p>16 meeting was on Zoom, correct?</p> <p>17 A. Yes.</p> <p>18 Q. I think you also had indicated that your</p> <p>19 memory as it relates to a lot of things that occurred</p> <p>20 in that meeting may not be complete; is that a fair</p> <p>21 statement?</p> <p>22 A. It was a long time ago, yes.</p> <p>23 Q. Let's talk, for example, about the testimony</p> <p>24 you gave indicating that Ms. Puhek had suggested a fine</p> <p>25 of \$5,000. Do you recall that?</p>
<p style="text-align: right;">Page 44</p> <p>1 A. I do.</p> <p>2 Q. I want to ask you, and maybe this may trigger</p> <p>3 your recollection, if Ms. Puhek may have indicated that</p> <p>4 the fine for health, safety, welfare could potentially</p> <p>5 be up to \$5,000 as opposed to a specific proposal that</p> <p>6 the fine be \$5,000.</p> <p>7 Do you understand the difference?</p> <p>8 A. I do.</p> <p>9 Q. How Woo respond to that question then as to</p> <p>10 whether Ms. Puhek may have said it could be a fine up</p> <p>11 to 5,000 versus an actual proposal of 5,000?</p> <p>12 A. I remember her proposing a \$5,000 fine</p> <p>13 because I asked her how she could justify such a high</p> <p>14 fine.</p> <p>15 Q. You have specific recollection that you</p> <p>16 believe she actually proposed a \$5,000 fine, correct?</p> <p>17 A. That's my recollection, yes.</p> <p>18 Q. At some point the board decided to fine</p> <p>19 according to the minutes Ms. Collier \$2,000, is that</p> <p>20 your recollection or is that coming from your review of</p> <p>21 the minutes?</p> <p>22 A. Coming from the review of the minutes.</p> <p>23 Q. Do you have any dispute with these minutes</p> <p>24 that you voted in favor of that fine?</p> <p>25 A. I do not remember voting for a \$2,000 fine.</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. I want to be clear because this is an</p> <p>2 important point. Do you believe that these minutes are</p> <p>3 inaccurate because it reflects that you voted</p> <p>4 affirmatively to issue a \$2,000 fine?</p> <p>5 A. I can just tell you that I do not remember</p> <p>6 voting for a \$2,000 fine so if it's in the record then</p> <p>7 possibly I did, but when I had the discussion about the</p> <p>8 fine my suggestion was a thousand or \$500.</p> <p>9 Q. Fair enough. Understanding that there could</p> <p>10 be a difference between suggestion and discussion and</p> <p>11 what the board -- a motion and an actual vote, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Do you as you sit here today believe there is</p> <p>14 anything wrong in this case if indeed -- if the \$2,000</p> <p>15 fine had been levied, do you sit here in hindsight and</p> <p>16 believe that that was somehow an error or</p> <p>17 inappropriate?</p> <p>18 A. Like I said, if the minutes reflect the</p> <p>19 \$2,000 fine then I must have voted for it.</p> <p>20 Q. You don't have as you sit here today any</p> <p>21 criticisms or concerns about your vote or the</p> <p>22 board's actions as it relates to the fine levied</p> <p>23 against Ms. Collier, do you?</p> <p>24 A. I personally believe the fine was too high.</p> <p>25 Q. As you sit here today understanding that</p>

<p style="text-align: right;">Page 46</p> <p>1 opinion but you are not saying that any fine at all was 2 not appropriate, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Do you recall in the meeting at all you 5 personally raising the issue of oleanders not being 6 able to be kept sufficiently at 24 inches, that they 7 may grow over time, do you recall that you may have 8 specifically asked or raised that concern?</p> <p>9 A. I don't recall that.</p> <p>10 Q. Is that something that would possibly be a 11 concern to you that vegetation could grow beyond a 12 certain height and that could be an issue that the 13 board needed to address?</p> <p>14 A. I remember discussion being that Ms. Collier 15 had hired a landscaper and they had -- they were 16 keeping them trimmed to two feet is what I remember.</p> <p>17 Q. If just hypothetically the oleanders, and you 18 looked at the picture, if you need to look at the 19 picture again we certainly can, but if hypothetically 20 those oleanders were three, three and a half feet would 21 that give you a concern that it could constitute a view 22 obstruction?</p> <p>23 A. I don't know specifically where Ms. Collier 24 lives and where the oleanders are. I never drove 25 there. I just saw the picture.</p>	<p style="text-align: right;">Page 47</p> <p>1 Q. Do you have an opinion based on reviewing the 2 picture at all if those oleanders got to say three, 3 three and a half feet that would constitute a view 4 obstruction?</p> <p>5 A. I really don't know but with someone sitting 6 in a car, a car sits up higher than two feet.</p> <p>7 Q. Is it fair to say you would really need to 8 look at it closer to really evaluate whether or not the 9 height of the oleanders could constitute a view 10 obstruction?</p> <p>11 A. I would have to go to the exact location.</p> <p>12 Q. You wouldn't have any criticism or concern 13 that if hypothetically vegetation created a view 14 obstruction around a corner that that's something the 15 association should address with the homeowner?</p> <p>16 A. It should be addressed if it's a safety 17 issue.</p> <p>18 Q. During this -- we talked -- you provided 19 testimony about this meeting and hearing that Mr. Elson 20 attended and you had some criticism or concerns about 21 how that meeting was conducted by Pennie, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have any criticisms or concerns about 24 anyone else involved in that meeting about how they 25 conducted themselves, whether it be Mr. Elson or</p>
<p style="text-align: right;">Page 48</p> <p>1 management or any board members?</p> <p>2 A. No.</p> <p>3 Q. You felt in that meeting your sole criticism 4 would rest with how Pennie conducted herself in that 5 meeting, correct?</p> <p>6 A. Pennie was the lead person of the meeting. 7 Let me just share and add that usually board members 8 did not add many comments as I mentioned before. I was 9 the one with most of the questions.</p> <p>10 Q. These criticisms generally, and I'm trying to 11 do this efficiently so if you don't understand my 12 question I will try to break it down.</p> <p>13 Generally speaking, you have criticized, for 14 example, Pennie and how she conducted board meetings, 15 how she conducted the meeting with Sydney, the special 16 meeting, for example, the hearing.</p> <p>17 Do you believe that your criticism of her or 18 anything she did in those meetings would actually 19 constitute a violation of law?</p> <p>20 MR. ELSON: Objection. Calls for legal 21 conclusion. Calls for speculation.</p> <p>22 THE WITNESS: I believe Pennie was 23 unprofessional and demeaning.</p> <p>24 BY MR. BOYACK:</p> <p>25 Q. On a personal level you disagreed with the</p>	<p style="text-align: right;">Page 49</p> <p>1 manner and means upon which she conducted business with 2 the association; is that a fair statement?</p> <p>3 A. Not with the association, it was with the 4 people that came before.</p> <p>5 Q. Do you have any evidence as you sit here 6 today specifically as it relates to Ms. Collier that 7 Ms. Collier -- that the board's actions to fine her 8 \$2,000, that those were somehow retaliatory against her 9 personally?</p> <p>10 A. I have no evidence, no.</p> <p>11 Q. You had indicated in your testimony 12 previously that Ms. Puhek you thought, and I don't want 13 to put words in your mouth, but generally indicated 14 there was some discussion about Ms. Collier having 15 spoken out against Pennie or done something during an 16 election. Do you recall that testimony?</p> <p>17 A. Yes.</p> <p>18 Q. I want to elaborate on that a little bit. Do 19 you know specifically any details about the election 20 that that may have been referencing or any more details 21 with when that may have occurred?</p> <p>22 A. No.</p> <p>23 Q. Do you recall any specific statements by Ms. 24 Puhek to that effect or was it more -- let me backup. 25 You had testified that there was a statement</p>

<p style="text-align: right;">Page 50</p> <p>1 by Ms. Puhek to your recollection that indicated that 2 Ms. Collier had taken some action against her during an 3 election. Do you recall that testimony? 4 A. I recall the testimony but I did not say 5 action. What I said was Pennie eluded that Ms. 6 Collier, and I don't remember the specific language, 7 but like worked against her when she was up for 8 reelection. No dates. Anything else was -- because I 9 didn't ask. 10 Q. This is rather important so I'm going to try 11 to walk you through this. When you say you don't 12 recall specific language but Pennie eluded to it, is 13 there anyway you can help quantify or explain the 14 difference between not recalling specific language 15 versus you felt she eluded to the fact that Ms. Collier 16 had done something during the election? 17 A. She did not give specifics. I asked her how 18 can you justify imposing or recommending such a high 19 fine, and she went on, like I say, to indicate what I 20 had stated before, the infractions and she goes well, 21 she worked against me during an election so she made a 22 statement to that effect and that was it. I didn't ask 23 any other questions. 24 Q. Do you recall specifically that it was 25 referencing an election or some other situation?</p>	<p style="text-align: right;">Page 51</p> <p>1 A. It was a reelection. 2 Q. Do you have any other evidence or information 3 as you sit here today regarding that statement that you 4 say Pennie cited regarding the reelection or any 5 actions, in other words, have you heard from anybody 6 else or any other evidence other than what you just 7 testified to today? 8 A. No. 9 Q. That is my understanding you indicated came 10 right out of Pennie's mouth, right? 11 A. Yes. 12 Q. Others in the room would have heard that 13 statement I presume, it was on Zoom so everyone could 14 have heard it? 15 A. Yes, I assume. 16 Q. Going back to this special meeting, I think 17 you called it a special session or meeting involving 18 Sydney? 19 A. Yes. 20 Q. As you sit here today, do you have any 21 recollection as to issues or concerns raised by the 22 board as it related to Sydney's conduct prior to that 23 meeting occurring? 24 A. I don't remember specifically what was stated 25 because Pennie ran the meeting and Pennie has a way</p>
<p style="text-align: right;">Page 52</p> <p>1 with words and everybody else just listens, and so no, 2 I do not. As a board member, seated board member I 3 thought Sydney was very professional, and I don't even 4 remember when he became president but he was very 5 professional, like I say, asked for suggestion or 6 comments. 7 Q. Fair enough. I understand that. I want to 8 make sure I clarify this. 9 Do you recall from that special meeting what 10 happened as far as the restructuring of the board? I 11 think you indicated that Sydney was removed or do you 12 remember the details of what happened, the outcome? 13 A. I don't remember everything. What I remember 14 was Sydney was left as the president, he remained 15 president. The oversight of the landscaping was then 16 given, handed over to Ken, the vice president. Pennie 17 became secretary and I do not -- I believe Ken 18 nominated her as secretary, but you would have to check 19 the records on that. Then Sydney was also performing 20 the duty as treasurer, and those duties were handed 21 over to Joe. Sydney volunteered to assist Joe because 22 Joe was sick. I don't know what his specific ailment 23 was, but Sydney volunteered to help him. 24 Q. Did you agree with those changes or did you 25 vote in favor of those changes?</p>	<p style="text-align: right;">Page 53</p> <p>1 A. I don't know if we even voted to be honest. 2 Q. Were you -- did you have any objection or did 3 you have any concern about those changes that you 4 voiced at the time, do you recall? 5 A. As I mentioned earlier, my concerns were how 6 the board meeting went down just through the backdoor 7 and underhanded. 8 Q. So you had a concern about the procedural 9 process and how the meeting occurred. Is it fair to 10 say you did not necessarily have any criticisms or 11 concerns about the actual changes that were made? 12 A. No. I had some concerns of how she could do 13 that, how that could happen. 14 Q. Let's go back to the subject meeting, which 15 was June 91, 2021. That's the meeting where Mr. Elson 16 appeared. 17 Do you recall any other hearings where fines 18 were issued at that executive session against another 19 homeowner? 20 A. There were lots of fines levied. 21 Q. So you don't have any specific recollection? 22 A. No. 23 Q. Do you have a recollection that the fine 24 levied against Ms. Collier had a window where she could 25 come into compliance and there would be no fine, are</p>

<p style="text-align: right;">Page 54</p> <p>1 you aware of that?</p> <p>2 A. I don't remember any discussion about no</p> <p>3 fine. I remember there was a discussion supposedly</p> <p>4 with Ms. Collier, but I don't remember us as a board</p> <p>5 discussing there would be no fine.</p> <p>6 Q. Maybe I didn't ask a very good question. Let</p> <p>7 me reference the meeting minutes here that have been</p> <p>8 marked as an exhibit.</p> <p>9 It says here homeowner must provide notice to</p> <p>10 the association of their removal along with</p> <p>11 photographic proof within 14 days to confirm</p> <p>12 compliance. Do you recall that discussion or being</p> <p>13 part of --</p> <p>14 A. I remember some discussion with Ms. Collier,</p> <p>15 I mean, about her situation. Specifically, I'm going</p> <p>16 to be honest, I don't remember everything that was</p> <p>17 stated, and I will tell you the whole experience on the</p> <p>18 board was a terrible experience and when I resigned I</p> <p>19 just was glad I was finished.</p> <p>20 Q. Have you had any conversations with Sydney</p> <p>21 Woo recently say in the past six months?</p> <p>22 A. I did call Sydney when I had a message from</p> <p>23 Mr. Elson because the message stated an HOA</p> <p>24 homeowner -- no, I texted him and then he called and I</p> <p>25 said do you know this name, Mr. Elson, and he told me</p>	<p style="text-align: right;">Page 55</p> <p>1 who it was and I said oh, okay. That was it.</p> <p>2 Q. It was just a text?</p> <p>3 A. No, he did call me. He was working when I</p> <p>4 texted him but we have not spoken since.</p> <p>5 Q. For the record you and I have spoken on the</p> <p>6 phone previously?</p> <p>7 A. Yes, you've called me.</p> <p>8 Q. I understand your concerns and issues that</p> <p>9 you've raised about Pennie's conduct, for example,</p> <p>10 during the course of some of these -- your time on the</p> <p>11 board.</p> <p>12 Is there anything that the board did to your</p> <p>13 knowledge or belief during your time on the board that</p> <p>14 you felt were actions that could create some type of</p> <p>15 liability or unfair or inappropriate actions taken by</p> <p>16 the board; in other words, was there anything in</p> <p>17 particular, not necessarily with Ms. Collier, but with</p> <p>18 anyone at all where you felt the board's actions were</p> <p>19 creating potential or inappropriate, not following the</p> <p>20 law, gave you concerns about what the board was doing.</p> <p>21 What I'm asking is separate and apart from</p> <p>22 what you thought were unprofessional actions and the</p> <p>23 means and manner of how things were conducted, but I'm</p> <p>24 asking specifically was there anything in particular</p> <p>25 that you recall where you thought this could be a real</p>
<p style="text-align: right;">Page 56</p> <p>1 problem for the association?</p> <p>2 MR. ELSON: Objection. Calls for legal</p> <p>3 conclusion. Speculation, compound.</p> <p>4 You can proceed to answer the question.</p> <p>5 THE WITNESS: Now, I'm not an attorney by all</p> <p>6 means or any means, but I remember a discussion about</p> <p>7 there was some, I believe, some landscaping that hadn't</p> <p>8 been completed in the previous year that was going to</p> <p>9 be completed and funded on the current year and</p> <p>10 discussion -- Sydney actually brought up the discussion</p> <p>11 and said we can't do that because it was supposed to be</p> <p>12 paid for and funded the previous year. That's what I</p> <p>13 remember. I don't remember specifically what it was,</p> <p>14 but that's the only thing that would come to mind that</p> <p>15 that might get the HOA in a bind.</p> <p>16 Q. Did you guys take any action on that, do you</p> <p>17 recall?</p> <p>18 A. I don't recall that, no. It was just</p> <p>19 discussion.</p> <p>20 MR. BOYACK: I pass the witness.</p> <p>21 MR. NOACK: Off the record for just a moment.</p> <p>22 (Discussion off the record)</p> <p>23 EXAMINATION</p> <p>24 BY MR. NOACK:</p> <p>25 Q. Back on the record.</p>	<p style="text-align: right;">Page 57</p> <p>1 Good morning, ma'am. I introduced myself to</p> <p>2 you off the record but I'm Derek Noack. I'm the</p> <p>3 attorney for Pennie Mossett-Puhek. I appreciate your</p> <p>4 time here today. I might jump around a little bit just</p> <p>5 to get through some of the follow-up that I have so if</p> <p>6 you ever need me to clarify a question please just let</p> <p>7 me know.</p> <p>8 A. Thank you.</p> <p>9 Q. What's your present address?</p> <p>10 A. 2015 High Mesa Drive, Henderson 89012.</p> <p>11 Q. Is that address in the Anthem community?</p> <p>12 A. No.</p> <p>13 Q. What was your address when you lived at the</p> <p>14 Anthem community, if you can recall?</p> <p>15 A. It was on Lockerbie. I'm sorry, I don't</p> <p>16 remember. I blocked it all out.</p> <p>17 Q. You don't recall your specific address at</p> <p>18 Anthem?</p> <p>19 A. Correct.</p> <p>20 Q. How long did you live in the Anthem</p> <p>21 community?</p> <p>22 A. About 14, 15 months.</p> <p>23 Q. Approximately when did you move out of the</p> <p>24 Anthem community to your present address?</p> <p>25 A. June 2022.</p>

<p style="text-align: right;">Page 58</p> <p>1 Q. When you say you blocked out time that you 2 lived at the Anthem community, are there certain things 3 you don't remember about that 14 or 15 month time 4 frame? 5 A. I don't remember my address, I mean, I'm 6 sorry. If I saw it then I would say oh, yeah, that's 7 my address. I mean, I didn't like living out in 8 Anthem. 9 Q. Just generally can you explain some of the 10 reasons why you didn't like living in Anthem? 11 A. Reasons, it was too far out. I was far from 12 my children, and after serving on the board I felt as 13 though I would be a target of Pennie's. With all those 14 combined I decided to move. 15 Q. How long had you lived in the Anthem 16 community before you joined the board? 17 A. I had just moved in really and information -- 18 I don't remember the exact time, but I had just moved 19 in and submitted my interest letter so it was I would 20 say a few months. 21 Q. I think this was asked but had you ever 22 served on any type of HOA board prior to the time you 23 joined the Anthem board? 24 A. Not on the HOA board but yes, I had served on 25 several boards.</p>	<p style="text-align: right;">Page 59</p> <p>1 Q. Do you take any medications? 2 A. No. 3 Q. No prescription medications or anything you 4 take regularly? 5 A. I do but nothing anti-depressants or anything 6 like that so if that's what you are getting at. 7 Q. No. If there is any type of medication that 8 you take regularly? 9 A. A thyroid medication. 10 Q. Does the thyroid medication you take affect 11 your memory? 12 A. No. 13 Q. During the time frame that you lived in 14 Anthem, and again, I apologize for asking, these are 15 pretty standard questions that are typically asked. 16 A. That's standard? 17 Q. Yes, I ask these in every depo. I don't 18 think Mr. Elson asked them. We just want to make sure 19 we get your best and most accurate testimony so I want 20 to make sure you are not taking any medication that 21 affects your memory in anyway and I understand your 22 answer to be no; is that correct? 23 A. Correct. 24 Q. Now, during the election process that you 25 referenced as between Pennie and Sydney, what was your</p>
<p style="text-align: right;">Page 60</p> <p>1 understanding of when the actual election occurred, and 2 let me ask specifically, was it after this June 9, 2021 3 meeting with Ms. Collier? 4 A. Which election process? 5 Q. You had offered some testimony regarding some 6 election issues as between Sydney and Pennie for 7 president, do you recall that? 8 A. Okay. I do. 9 Q. I will break it down. 10 A. I don't remember the dates. 11 Q. So at the June 9, 2021 meeting, Pennie was 12 president, correct? 13 A. Correct. 14 Q. Do you know who else served on the board at 15 that meeting? 16 A. Yes. It was Ken, he was the vice president. 17 Joe was a member. Sydney was the treasurer and myself. 18 I don't remember anybody else. 19 Q. Let's break that down. Is that Ken 20 Brensinger? 21 A. Yes. 22 Q. Sydney Woo? 23 A. Yes. 24 Q. Joe Osisek? 25 A. Yes.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. And then Shirley Breedon? 2 A. Yes. 3 Q. Anybody else serve on the board as of the 4 time of the June 2021 meeting? 5 A. No. 6 Q. When you indicated there was an election that 7 you understood Pennie eluded to Ms. Collier interfering 8 with, was that after the time of this June 2021 9 meeting? 10 A. I didn't state that Pennie interfered with an 11 election. What I stated was an election somehow 12 transpired and the next board meeting, whenever it 13 happened, I don't remember the date, Sydney was 14 president -- and we voted. Sydney was president, Ken 15 remained vice president, Joe remained on the board, I 16 remained on the board and Pennie became secretary, but 17 I don't know what the reasoning behind that was. 18 Q. Do you know whether Sydney and Pennie ever 19 ran against each other for president? 20 A. I have no idea. 21 Q. Now, was the June 9, 2021 meeting the first 22 board meeting that you had attended? 23 A. I don't remember. 24 Q. Do you recall whether you attended any 25 meeting in May of 2021?</p>

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1 A. I don't recall but I don't believe so. I
2 would have to check with management to see when my
3 actual first meeting was.

4 Q. You mentioned that you were learning at the
5 time, especially at the time of this June 2021 because
6 you had just joined the board, correct?

7 A. Yes.

8 Q. You offered some testimony that Pennie had
9 asked you to take a course or review some information
10 as it related to HOA law; was that correct?

11 A. She specifically stated that yes, there are
12 classes available through I believe it was the real
13 estate division on HOA topics, and she sent out an
14 email to everybody.

15 Q. Did Pennie just send these to you or was it
16 sent to the whole board?

17 A. To the whole board.

18 Q. What was your understanding once you joined
19 the board of what information you were supposed to
20 review as a board member?

21 A. Well, supposed to -- our job was to oversee,
22 you know, to follow the governing documents and keep
23 our community beautiful and support homeowners.

24 Q. What were the governing documents that you
25 are referencing?

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1 Can you generally explain the process of the
2 HOA board issuing a violation to a homeowner such as
3 Ms. Collier, kind of what the process entails?

4 A. Not in its entirety.

5 Q. Can you tell me what you know?

6 A. Well, my understanding is that an inspector
7 goes around and Pennie tells them what to look for, and
8 they go around and they come back and submit it to the
9 HOA. And I believe there is a committee that reviews
10 the information and then information comes out to the
11 homeowner. Then it's discussed with the board.

12 Q. When you say there is an inspector, do you
13 know who the inspector was, for example, at the time or
14 in June 2021?

15 A. I do not.

16 Q. When you say Pennie would tell the inspector
17 what to look for, what do you mean by that?

18 A. One time Pennie made a comment that she --
19 there was a young guy who was hired as an inspector and
20 he didn't know what to look for, and she went out with
21 him and told him specifically what to look for and it
22 just happened to be during paint, she mentioned spot
23 painting. I remember there were a lot of violations.

24 Q. As a member of the board yourself and Pennie
25 in her role as president, did you feel it was

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1 A. I don't remember them all. I'm sure you have
2 them.

3 Q. When you joined the board did you review all
4 of the governing documents so you could become familiar
5 with what they were?

6 A. In time I did. It was like a six, eight inch
7 binder so in time you just review as you -- with topics
8 I tried to plan before a meeting.

9 Q. Do you recall if there was an approximate 90
10 day or three month window where essentially a board
11 member was supposed to be up on the documents,
12 including the governing documents?

13 A. I don't remember a specific time frame.

14 Q. Were you ever asked to review any Nevada law
15 including the provisions of NRS116?

16 A. I was aware of NRS116, not in its entirety
17 but I knew it existed for HOA compliance in Nevada.

18 Q. When you joined the board did you review the
19 provisions of NRS116 to become familiar with them so
20 you could serve in your capacity on the board?

21 A. Yes. I mean, I skimmed over it but yes.

22 Q. Can you generally describe to me the
23 process -- your understanding of the process of the HOA
24 issuing a fine such as the fine that was issued to Ms.
25 Collier, and let me ask that better. Strike that.

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1 appropriate that she would assist the inspector or at
2 least make them aware of some of the things they are
3 supposed to be looking for?

4 Was there anything inappropriate about asking
5 him to look for paint or things like that that they may
6 have missed?

7 A. She was the president so she -- it sounded
8 like she gave the direction of what to look for.

9 Q. When the inspector would issue a proposed
10 violation, let's say to the board, what form would that
11 violation come to the board so they could review it and
12 vote whether to issue it or not?

13 A. I think the violation went to a committee
14 first or the management and then a committee and then
15 once it was determined, I believe, then it would come
16 to the board and we would have sometimes information in
17 our board packet of the addresses and whether it was a
18 rock violation to replace rock or trash cans or what
19 have you.

20 Q. That information, was that assembled or
21 produced by the inspector or by the committee?

22 A. I don't know who it was.

23 Q. Typically, would that information include you
24 said the homeowner's address?

25 A. Yes.

<p style="text-align: right;">Page 66</p> <p>1 Q. And then would it include --</p> <p>2 A. A violation or what the violation was.</p> <p>3 Q. Was there a citation to the governing</p> <p>4 documents or to some code?</p> <p>5 A. I don't recall that.</p> <p>6 Q. And then would there be a description of what</p> <p>7 the violation was, a written description?</p> <p>8 A. I believe it just said on the document, I</p> <p>9 believe just said paint, paint or replacement of rock,</p> <p>10 trimming of trees.</p> <p>11 Q. So there would be a general description of</p> <p>12 what the violation was that was observed; is that fair?</p> <p>13 A. Yes.</p> <p>14 Q. And would there also be photographs included</p> <p>15 with this?</p> <p>16 A. No, not normally.</p> <p>17 Q. Sometimes there would be photographs of the</p> <p>18 actual issue?</p> <p>19 A. Maybe. I don't recall. There were hardly</p> <p>20 any photos.</p> <p>21 Q. For example, with the paint violation, in</p> <p>22 support of the paint violation was there ever a</p> <p>23 photograph of the actual paint?</p> <p>24 A. There might have been but I don't recall</p> <p>25 seeing that.</p>	<p style="text-align: right;">Page 67</p> <p>1 Q. How about specifically with respect to the</p> <p>2 oleander violation, were there any photographs that you</p> <p>3 were able to review of the actual oleander plants that</p> <p>4 Ms. Collier had?</p> <p>5 A. Yes, I believe there was one photo.</p> <p>6 Q. Do you know who took that photograph?</p> <p>7 A. I have no idea.</p> <p>8 Q. You don't know if it was the inspector or</p> <p>9 another homeowner, you don't know who that is as you</p> <p>10 sit here?</p> <p>11 A. No.</p> <p>12 Q. Are you familiar -- let me backup.</p> <p>13 Do you recall during the June 9, 2021</p> <p>14 executive session asking any questions about the burden</p> <p>15 of the association or its inspector to continually</p> <p>16 observe the condition and height of the oleanders at</p> <p>17 Ms. Collier's residence?</p> <p>18 A. I don't recall that.</p> <p>19 Q. Do you recall, I believe, it's provision 2.04</p> <p>20 of the architectural guidelines stating that no</p> <p>21 condition on a property should create a burden on the</p> <p>22 association or the board to continually observe it, do</p> <p>23 you --</p> <p>24 A. I cannot recite that, no.</p> <p>25 Q. As you sit here today you don't recall asking</p>
<p style="text-align: right;">Page 68</p> <p>1 that question of the board or Mr. Elson at that</p> <p>2 meeting?</p> <p>3 A. No, I do not recall.</p> <p>4 Q. Do you recall how long Mr. Elson spoke at the</p> <p>5 executive session meeting, do you have an estimate as</p> <p>6 to how long he was speaking?</p> <p>7 A. I don't have an estimate but I can tell you</p> <p>8 it wasn't very long. He wasn't allowed to speak.</p> <p>9 Q. If you look at Exhibit 4, on the second page</p> <p>10 of Exhibit 4, and for the record it's Bates label</p> <p>11 DFT278.</p> <p>12 Right above the redactions, the final</p> <p>13 sentence states the hearing took 30 minutes with most</p> <p>14 of the time being spent with Mr. Elson complaining</p> <p>15 about procedure and citing legal opinions that were</p> <p>16 incorrect under NRS116 regarding such procedure.</p> <p>17 Do you see that sentence?</p> <p>18 A. I do.</p> <p>19 Q. Does that refresh your recollection that the</p> <p>20 hearing took approximately 30 minutes with Mr. Elson?</p> <p>21 A. Like I said, I don't recall the time frame,</p> <p>22 but I do remember Mr. Elson was not really allowed to</p> <p>23 speak very much.</p> <p>24 Q. Do you recall if Mr. Elson was able to share</p> <p>25 any photographs by any means over the Zoom call during</p>	<p style="text-align: right;">Page 69</p> <p>1 that hearing?</p> <p>2 A. I don't recall that.</p> <p>3 Q. So there was some testimony earlier that</p> <p>4 basically the screen sharing wasn't set up so Mr.</p> <p>5 Eluded couldn't, for example, pull up the actual screen</p> <p>6 on his computer?</p> <p>7 A. I remember that but I don't remember if there</p> <p>8 were photos that he showed. The only photo I remember</p> <p>9 was during the board, a board meeting that we were</p> <p>10 given.</p> <p>11 Q. Do you recall whether or not the Zoom</p> <p>12 technology or the meeting was set up to allow for</p> <p>13 something like a screen share?</p> <p>14 A. I have no idea. I don't even know what that</p> <p>15 is.</p> <p>16 Q. During the meeting itself, do you remember</p> <p>17 Mr. Elson holding up photographs to the camera over</p> <p>18 Zoom so everybody could view them, including</p> <p>19 photographs of Ms. Collier's residence?</p> <p>20 A. I'm sorry, I don't recall that.</p> <p>21 Q. Now, briefly I want to ask you a few</p> <p>22 questions about the time frame when that special</p> <p>23 meeting occurred where Mr. Woo and Pennie appeared to</p> <p>24 both become liaisons to the community management group.</p> <p>25 Do you recall that?</p>

<p style="text-align: right;">Page 70</p> <p>1 A. I remember the board meeting.</p> <p>2 Q. Now, were there any health issues that you're</p> <p>3 aware of with Mr. Sydney Woo prior to the time of that</p> <p>4 meeting?</p> <p>5 A. I was not aware of any.</p> <p>6 Q. Were you aware whether or not Mr. Woo</p> <p>7 suffered a brain injury during the late months of 2021?</p> <p>8 A. I have no knowledge of that.</p> <p>9 Q. Are you aware of any of the specific reasons</p> <p>10 why this special liaison meeting was set up, for</p> <p>11 example, any concerns that the board members had with</p> <p>12 Mr. Woo's performance as president?</p> <p>13 A. I have no knowledge of that.</p> <p>14 Q. Do you know whether or not Mr. Woo was</p> <p>15 failing to communicate with vendors during the time</p> <p>16 frame of late 2021?</p> <p>17 A. I have no knowledge of that. It didn't come</p> <p>18 across during a board meeting when he was president.</p> <p>19 Q. Were you speaking with Mr. Woo during this</p> <p>20 time period?</p> <p>21 A. I spoke to Sydney after the board meeting. I</p> <p>22 called and I said what just happened. He made some</p> <p>23 comments that Pennie had been emailing him, a barrage</p> <p>24 of emails and things that she didn't agree with.</p> <p>25 Q. Were you aware of any of the vendors</p>	<p style="text-align: right;">Page 71</p> <p>1 contacting Pennie regarding issues they were having</p> <p>2 with communications with Sydney like not being</p> <p>3 responded to or anything like that?</p> <p>4 A. I remember at a board meeting prior to the</p> <p>5 special meeting, I believe, it was that time that</p> <p>6 Pennie just, you know, said that she had heard from,</p> <p>7 and I don't remember who, and there was some banter and</p> <p>8 discussion back and forth between her and Sydney but</p> <p>9 specifically I don't recall.</p> <p>10 Q. During this kind of unique or special liaison</p> <p>11 meeting, was Sydney Woo opposed to the restructuring of</p> <p>12 it or did he actually agree to the restructuring?</p> <p>13 A. I don't remember him opposing the</p> <p>14 presidential duties. Like I say, he offered to help</p> <p>15 Joe with the treasurer, being treasurer but I don't</p> <p>16 recall specifically that he -- there was any arguments.</p> <p>17 I mean, again, Pennie ran the meeting, Sydney did not.</p> <p>18 Q. At that meeting was it basically like Pennie</p> <p>19 was asking for this but Sydney was opposed to it, or</p> <p>20 was it actually in agreement, like, did Sydney actually</p> <p>21 agree to have this dual liaison ultimately go through?</p> <p>22 A. My understanding is that Pennie became the</p> <p>23 liaison with the management company. It was removed</p> <p>24 from Sydney's under his wheelhouse.</p> <p>25 Q. If I represented to you that Pennie was added</p>
<p style="text-align: right;">Page 72</p> <p>1 and both Pennie and Sydney were communicated to by the</p> <p>2 management company does that refresh your recollection</p> <p>3 of what the dual liaison role became?</p> <p>4 A. Like I said I don't believe it was a dual</p> <p>5 role. My understanding of the meeting is that Sydney</p> <p>6 retained title and Pennie becoming the secretary she</p> <p>7 had special role as being the liaison.</p> <p>8 Q. Were any presidential powers, for lack of a</p> <p>9 better word, or was anything taken away from Sydney</p> <p>10 during this time?</p> <p>11 A. Well, for me my understanding is that yes,</p> <p>12 his role -- he kept title only but I was not privy to</p> <p>13 being an officer so I do not know what went on between</p> <p>14 the officers and management.</p> <p>15 Q. As you sit here today and during that time</p> <p>16 you are not aware of anything specifically that was</p> <p>17 taken away from Sydney during this liaison?</p> <p>18 A. Yes, the treasurer duties were removed.</p> <p>19 Q. Removed from Sydney?</p> <p>20 A. Yes.</p> <p>21 Q. The treasurer. How about any of the</p> <p>22 presidential duties?</p> <p>23 A. I believe being the liaison with the</p> <p>24 management company. That's my understanding.</p> <p>25 Q. Sydney was removed as liaison to the</p>	<p style="text-align: right;">Page 73</p> <p>1 management company, that's your understanding?</p> <p>2 A. Yes.</p> <p>3 Q. Would it surprise you to know that the</p> <p>4 management company continued to communicate with Sydney</p> <p>5 after this time?</p> <p>6 A. Would it surprise me, yes, actually possibly.</p> <p>7 Q. Do you know whether or not as you sit here</p> <p>8 today the management company continued to communicate</p> <p>9 with Sydney after this liaison meeting?</p> <p>10 A. I'm not aware of that.</p> <p>11 Q. You testified a little earlier after you left</p> <p>12 the board you were afraid of retaliation against you by</p> <p>13 the Anthem board. Do you remember that?</p> <p>14 A. It wasn't the Anthem board, it was Pennie</p> <p>15 individually.</p> <p>16 Q. Was any action taken against you after the</p> <p>17 time you left the HOA board?</p> <p>18 A. No, but I moved -- well, actually I received</p> <p>19 letters. I had my tree in my front yard trimmed,</p> <p>20 pruned, and it was really pruned. After that I</p> <p>21 received a letter that I needed to replace my tree</p> <p>22 because it was dead so I responded and said no, it's</p> <p>23 not dead. I went to Star Nursery and asked how to</p> <p>24 prune it and told my yard guys, but it did not have any</p> <p>25 leaves on it so I responded and then I went down there</p>

<p style="text-align: right;">Page 74</p> <p>1 and I spoke with a horticulturist. I don't remember 2 the gentleman.</p> <p>3 Then I received a letter back and I said how 4 can you tell me I have to replace my tree when we as 5 the board just had all of the Texas Rangers pruned down 6 to the ground. Then I received a response later on 7 that we will close this infraction.</p> <p>8 Q. There was no violation issued, it was more a 9 concern that the tree was actually dead or not?</p> <p>10 A. I mean, I felt like I was threatened to have 11 to replace my tree instead of just, you know, asking 12 about it. It was like you need to replace your dead 13 tree. I mean, there is a way of dealing with people 14 here or anywhere, the grocery store, anywhere, and I 15 think we as an HOA, I think, our responsibility was to 16 have an open line of communication with our homeowners 17 and be fair with them because after all we are 18 homeowners. Just because we serve on the board doesn't 19 mean we are better than anybody else.</p> <p>20 Q. Around the time of this dual liaison special 21 meeting, did you talk to any other board members 22 besides Sydney?</p> <p>23 A. No.</p> <p>24 Q. Did any of the other board members express 25 any concerns or was there anything -- did they take any</p>	<p style="text-align: right;">Page 75</p> <p>1 issues with the structuring of that dual liaison role 2 that Pennie and Sydney would have.</p> <p>3 A. I think the other board members already knew 4 what was happening because they accepted the 5 assignments.</p> <p>6 Q. But you don't recall any specific 7 conversations you had with any of them or heard during 8 that meeting?</p> <p>9 A. No.</p> <p>10 Q. Did you ever speak with me before today's 11 deposition?</p> <p>12 A. No.</p> <p>13 Q. I understand you spoke with Mr. Elson before 14 today's deposition?</p> <p>15 A. Yes.</p> <p>16 Q. How many times did you speak with Mr. Elson?</p> <p>17 A. Once on the phone.</p> <p>18 Q. Was that in response to the subpoena that you 19 received?</p> <p>20 A. He called to talk to me and ask me questions 21 in case he wanted to subpoena me.</p> <p>22 Q. So prior to the subpoena being issued you had 23 a conversation with Mr. Elson?</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall approximate date or month?</p>
<p style="text-align: right;">Page 76</p> <p>1 A. I'm sorry, I don't. Whatever -- it was right 2 before the first subpoena.</p> <p>3 Q. Was that some time in early 2023?</p> <p>4 A. Yeah, it was whatever our first date was 5 supposed to be.</p> <p>6 Q. So around the time of the first deposition 7 notice?</p> <p>8 A. Yes.</p> <p>9 Q. How long did that conversation last?</p> <p>10 A. Not very long?</p> <p>11 Q. You said he asked -- do you remember the 12 questions he asked?</p> <p>13 A. He asked if I remember the last name of 14 Collier and I said no.</p> <p>15 Q. As of the time when Mr. Elson was speaking to 16 you, you couldn't even recall who Ms. Collier was?</p> <p>17 A. I didn't remember the last name. Then he 18 asked me do you remember an issue regarding oleanders 19 and I said yes, I did.</p> <p>20 Q. What else did you talk about in that 21 conversation?</p> <p>22 A. He asked me whether I remembered and I told 23 him I remembered that it was brought up, and just like 24 I said earlier, it was -- a fine was recommended to be 25 imposed of \$5,000, and the issues of safety, you know,</p>	<p style="text-align: right;">Page 77</p> <p>1 and being on HOA property, oleanders is not on the 2 approved list and not asking permission so I said -- 3 then he asked if I remembered him coming to speak 4 before the board and I said I sure do.</p> <p>5 Q. You testified earlier that after you heard 6 from Mr. Elson you contacted someone to ask who Mr. 7 Elson was?</p> <p>8 A. Yes.</p> <p>9 Q. Do you remember that?</p> <p>10 A. It was Sydney.</p> <p>11 Q. You talked to Sydney, right, but now you're 12 telling me that during that conversation you recalled 13 who -- that meeting and who Mr. Elson was so, I guess, 14 I'm a little confused?</p> <p>15 A. He asked me -- Mr. Elson asked me if I 16 remembered him speaking at a board meeting and I said 17 yes because he was -- because Pennie was very rude to 18 him.</p> <p>19 Q. You specifically recall that during your 20 conversation with Mr. Elson?</p> <p>21 A. Yeah, because it -- there were three things 22 that stand out for me serving on the board and this was 23 one of them.</p> <p>24 Q. Did Mr. Elson provide you any information 25 during that call, like was he just asking you questions</p>

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1 or was he telling you some things that were going on?
 2 A. No. He just asked me if I remembered the
 3 issue and I said yes, and then he asked me what I
 4 remember and I told him about the fine. And then he
 5 said do you -- the infractions that Pennie had shared.
 6 He asked me if I remember him coming to the board and I
 7 remembered that.

8 Q. Then you called Sydney to confirm that?

9 A. No, no. I called Sydney before I even spoke
 10 to Mr. Elson. Mr. Elson left a message for me.

11 Q. This is what -- now it makes sense.

12 A. Mr. Elson left a message for me and I wasn't
 13 able to answer so after I listened to the message
 14 because the message was he was representing a homeowner
 15 in Anthem Highlands. Didn't leave a name or anything.
 16 I haven't spoken to Sydney since before that time I
 17 called since I left. I called Sydney and said -- yeah,
 18 I called and left a message and said hey, do you -- and
 19 I texted him, do you know this name.

20 Q. So there was a message left by Mr. Elson --

21 A. Yes.

22 Q. -- prior to the time you ever spoke with Mr.
 23 Elson?

24 A. Yes.

25 Q. Before calling Mr. Elson back you spoke with

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1 Mr. Boyack prior to the deposition?

2 A. What I did was after I spoke to Mr. Elson I
 3 called -- I texted -- no, I emailed Carmen and I spoke
 4 to her as well, and I said hey, I don't know why I'm
 5 being called but I just want you to know because
 6 serving on the board I thought I should at least let
 7 management know. Carmen said that she had notified Mr.
 8 Boyack and that he would be calling me.

9 Q. Do you remember any of the specifics of the
 10 conversation that you had with Mr. Boyack?

11 A. He asked me -- I made myself notes but I
 12 couldn't find them today. He asked me if I remembered
 13 the name, and we didn't speak very long. I told him
 14 I -- you know, basically I had shared with him about
 15 the \$5,000 fine and to be transparent and honest, and
 16 then at the end I remember saying hey, so if Mr. Elson
 17 calls me again I said do I tell him to contact you or
 18 am I allowed to speak with him because I thought I was
 19 an HOA board member during the time of the issue that
 20 I -- I really didn't know where I fit in. I thought I
 21 needed to let management know.

22 I asked him if Mr. Elson calls me do I tell
 23 him to contact you now, and he said no, I don't
 24 represent you. I said oh, okay. He said but if you
 25 feel you need counsel then we can talk. I just said

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1 Sydney to basically get your memory refreshed on who
 2 this was?

3 A. No. I just wanted to know if he had heard of
 4 Mr. Elson and if he had any idea of what this was about
 5 since we served on the board together because I thought
 6 why am I being called regarding an HOA lawsuit.

7 Q. Right. You were surprised by the call and
 8 being contacted?

9 A. Yes.

10 Q. What did Sydney tell you about his
 11 recollection of Mr. Elson and Ms. Collier?

12 A. All I asked him was he aware of the name and
 13 he said yes, he represented -- he remembered and I said
 14 oh.

15 Q. That conversation with Sydney kind of jogged
 16 your memory?

17 A. Like I say, that specific board meeting was
 18 very unprofessional.

19 Q. Contentious?

20 A. Very contentious.

21 Q. How long after the conversation with Mr. Woo
 22 did you speak with Mr. Elson?

23 A. I don't know. I called him back the next day
 24 or two days later. It was a short time.

25 Q. Then you mentioned you had also spoken with

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1 okay and we hung up. I don't think we spoke longer
 2 than 15 minutes maybe, 15, 20 minutes. I don't
 3 remember.

4 Q. Do you recall stating that you didn't really
 5 want to be involved?

6 A. I told both attorneys that I didn't know why
 7 I was involved.

8 Q. As you sit here today are you aware of
 9 whether any personal allegations against you have been
 10 levied by Ms. Collier in your role as a board member?

11 A. No.

12 Q. Final question. As far as the architectural
 13 guidelines for the health and safety issues of oleander
 14 prohibition, are you aware of whether any architectural
 15 request was ever made by Ms. Collier before the
 16 oleanders was planted?

17 A. One of the statements that Pennie indicated
 18 during a board meeting was that that was one of the
 19 fines because she did not ask for permission to plant
 20 the plants.

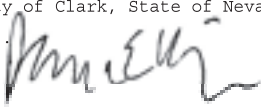
21 Q. Do you know whether the fine was issued on
 22 the basis that it was a health and safety issue?

23 A. I do not recall that. It was a variety.

24 Q. I have no further questions.

25 A. May I make a statement?

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1 Q. Sure.	1 here all day. I don't want to do anything that's going
2 A. I never witnessed Pennie do anything illegal,	2 to cause you any inconvenience or your grandchild any
3 but I do believe that she's a bully and people are	3 inconvenience so if you need to leave we can stop right
4 intimidated by her.	4 now.
5 MR. ELSON: It's 11:45 a.m. I'm assuming you	5 THE WITNESS: That would be great.
6 have to leave to go pick up the grandchild; is that	6 MR. ELSON: I want to make sure all the
7 correct?	7 attorneys are okay with that as well. I think Ted got
8 THE WITNESS: Yes.	8 all his questions, Derek seemed to get all his. I
9 MR. ELSON: I think for the most part	9 think we are done.
10 everybody has probably asked 99 percent of the	10 THE WITNESS: Thank you. I tried to make a
11 questions they would ask you. I might have had a few	11 plan B with a couple of folks.
12 more if we didn't have the time constraints, but I	12 MR. ELSON: Let's have you go get your
13 certainly don't want to keep your grandchild any longer	13 grandchild. I'm a firm believer family comes number
14 than we already have so I want to let you go and get	14 one in life. Let's go off the record.
15 your grandchild.	15 THE REPORTER: Derek, did you need a copy?
16 I'm not saying this because I plan on calling	16 MR. NOACK: Yes, please.
17 you back for a second day of your deposition. At this	17
18 point in time I don't have any plans to do so. If you	18
19 have five more minutes I might ask you two questions.	19 (Deposition Adjourned at 11:45 a.m.)
20 If you don't have anymore time I will let you go to get	20
21 your grandchild.	21
22 THE WITNESS: If you let me make a phone call	22
23 I can stay for a few more minutes but I don't want to	23
24 stay all day.	24
25 MR. ELSON: I don't think anybody wants you	25

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1 STATE OF NEVADA)	1 ERRATA SHEET
2 COUNTY OF CLARK)	2
3	3
4 CERTIFICATE OF REPORTER	4 I declare under penalty of perjury that I have read the
5 I, Donna E. Mize, a licensed court reporter,	5 foregoing _____ pages of my testimony, taken
6 Clark County, State of Nevada, do hereby certify:	6 on _____ (date) at
7 That I reported the taking of the deposition of	7 _____ (city), _____ (state),
8 Shirley Breedon, commencing on June 26, 2023, at the	8
9 hour of 9:00 a.m.;	9 and that the same is a true record of the testimony given
10 That the witness was, by me, duly sworn to	10 by me at the time and place herein
11 testify to the truth and that I thereafter transcribed	11 above set forth, with the following exceptions:
12 my shorthand notes into typewriting, and that the	12
13 typewritten transcript of said deposition is a	13 Page Line Should read: Reason for Change:
14 complete, true, and accurate transcription of said	14 _____
15 shorthand notes;	15 _____
16 I further certify that I am not a relative or	16 _____
17 employee of any of the parties involved in said action,	17 _____
18 nor a person financially interested in said action;	18 _____
19 That the reading and signing of the transcript	19 _____
20 was not requested.	20 _____
21 IN WITNESS WHEREOF, I have hereunto set my hand	21 _____
22 in my office in the County of Clark, State of Nevada,	22 _____
23 this 5th day of July 2023.	23 _____
24 	24 _____
25 DONNA E. MIZE, CCR NO. 675	25 _____

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1	ERRATA SHEET			1	HEALTH INFORMATION PRIVACY & SECURITY: CAUTIONARY NOTICE		
2	Page	Line	Should read:	2	Litigation Services is committed to compliance with applicable federal		
3			Reason for Change:	3	and state laws and regulations ("Privacy Laws") governing the		
4	---	---	_____	4	protection and security of patient health information. Notice is		
5			_____	5	hereby given to all parties that transcripts of depositions and legal		
6	---	---	_____	6	proceedings, and transcript exhibits, may contain patient health		
7			_____	7	information that is protected from unauthorized access, use and		
8	---	---	_____	8	disclosure by Privacy Laws. Litigation Services requires that access,		
9			_____	9	maintenance, use, and disclosure (including but not limited to		
10	---	---	_____	10	electronic database maintenance and access, storage, distribution/		
11			_____	11	dissemination and communication) of transcripts/exhibits containing		
12	---	---	_____	12	patient information be performed in compliance with Privacy Laws.		
13			_____	13	No transcript or exhibit containing protected patient health		
14	---	---	_____	14	information may be further disclosed except as permitted by Privacy		
15			_____	15	Laws. Litigation Services expects that all parties, parties'		
16	---	---	_____	16	attorneys, and their HIPAA Business Associates and Subcontractors will		
17			_____	17	make every reasonable effort to protect and secure patient health		
18				18	information, and to comply with applicable Privacy Law mandates,		
19	Date: _____		_____	19	including but not limited to restrictions on access, storage, use, and		
20			Signature of Witness	20	disclosure (sharing) of transcripts and transcript exhibits, and		
21			_____	21	applying "minimum necessary" standards where appropriate. It is		
22			Name Typed or Printed	22	recommended that your office review its policies regarding sharing of		
23				23	transcripts and exhibits - including access, storage, use, and		
24				24	disclosure - for compliance with Privacy Laws.		
25				25	© All Rights Reserved. Litigation Services (rev. 6/1/2019)		

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