

SUPERIOR COURT OF WASHINGTON FOR KITSAP COUNTY

DAVID W. DUNN, an individual;)
and BRIAN WILKINSON, an)
individual,)
)
Plaintiffs,)
)
vs.) NO. 19-2-01994-18
)
THE CITY OF BAINBRIDGE ISLAND,)
a municipal corporation,)
)
Defendant.)
)

DEPOSITION UPON ORAL EXAMINATION OF
RASHAM NASSAR
October 21, 2019
Bainbridge Island, Washington
Pages 1 through 131

Taken Before:
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APPEARANCES

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ALSO PRESENT: David W. Dunn
Brian Wilkinson

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EXHIBIT INDEX

NO.	DESCRIPTION	IDENTIFIED
1	Errata and affidavit for request no. 18-760	69
2	Errata and affidavit for request no. 19-90	69
3	Errata and affidavit for request no. 19-91	69
4	Errata and affidavit for request no. 19-92	69

1 BE IT REMEMBERED that on Monday, October 21,
2 2019, at 10:29 a.m., at 280 Madison Avenue North,
3 Bainbridge Island, Washington, appeared the above-named
4 witness before Karyn Kirouac, Washington State Certified
5 Court Reporter, residing at Silverdale, authorized to
6 administer oaths and affirmations pursuant to RCW
7 5.28.010.

8 WHEREUPON the following proceedings were had,
9 to wit:

10

11 RASHAM NASSAR having been first duly sworn
12 by the Court Reporter testified
13 as follows:

14

15 EXAMINATION

16 BY MR. POWER:

17 Q. Good morning.

18 A. Morning.

19 Q. Would you please state your name for the
20 record.

21 A. Rasham Nassar.

22 Q. My name is Nick Power, and I represent the
23 plaintiffs in this matter, and today we're here to take
24 your deposition in the public records lawsuit Dunn and
25 Wilkinson versus the City of Bainbridge.

1 Can I ask have you ever taken a deposition
2 before? Have you ever had your deposition taken before?

3 A. No.

4 Q. No. Have you ever testified in court before?

5 A. No.

6 Q. Okay. So there are just a couple ground rules
7 that I should explain before we start, and one of the
8 ground rules is that because this is being transcribed,
9 you'll have to wait until I finish my question so that we
10 don't talk over each other.

11 The second is that all your answers have to be
12 audible, and so shaking your head doesn't get on the
13 record. So when you are agreeing with me, if you could
14 say yes, that's true, or respond audibly, that would help
15 to create a better transcript. Do you understand?

16 A. Yes.

17 Q. Okay. The other thing I should mention is that
18 I'm not here to trick you and if -- it's very likely,
19 indeed it's almost probable, that I will mess up certain
20 questions, and you're completely entitled to a fair
21 question.

22 So if you don't understand what I'm asking or
23 if you'd like me to rephrase the question, please feel
24 free to ask me to, you know, rephrase the question.

25 That's not to say that if I think the question

1 is fair, I'll let that question stand, but I want you to
2 understand what I'm asking, okay, so please let me know.

3 Do you understand?

4 A. Yes.

5 Q. Okay. Could you describe your educational
6 background from high school to the present.

7 A. I don't understand. You want me to describe my
8 high school experience?

9 Q. No, from high school --

10 A. After high school.

11 Q. Yes. After high school, could you tell me what
12 type of schooling you received, what degrees you received.

13 A. Yes.

14 Q. Okay. Could you go ahead and do that.

15 A. I have a Bachelor's degree from the University
16 of California at Berkeley.

17 Q. Okay. And when did you get that?

18 A. I believe it was 2007.

19 Q. Okay. Did you have any advanced degrees after
20 that?

21 A. No.

22 Q. Did you attend any training or professional
23 training since obtaining that Bachelor's degree?

24 A. Yes.

25 Q. Okay. What was that?

1 A. I have a certificate in project management.

2 Q. Okay.

3 A. And I also had a certificate which pertained to
4 my working role as a certified commercial real estate
5 appraiser trainee.

6 Q. Okay. And what entity trained you to get that
7 certificate, and who issued those certificates?

8 A. Resolve Commercial Real Estate Appraisal and
9 Consulting, The Appraisal Institute of Washington; and the
10 certification is through the state of Washington.

11 Q. Okay. And were you anticipating a career in
12 real estate appraisals?

13 A. Perhaps.

14 Q. Okay. What sort of -- what sort of -- what was
15 involved in that training? Did you go to classroom or
16 were you an apprentice? Describe what that educational
17 program was like.

18 A. Online courses in commercial real estate
19 appraisal.

20 Q. Okay.

21 A. Testing to -- involved in order to earn that
22 certificate, and then experience, work experience.

23 Q. And you seem to have indicated that one of
24 those certificates was no longer active. Could you
25 describe the circumstance where that certificate no longer

1 became active.

2 A. Yes.

3 Q. Okay. Could you describe those for me.

4 A. The commercial real estate appraiser trainee
5 certificate is valid for a specific period of time, and
6 that time lapsed.

7 Q. Okay. So it expired?

8 A. Yes.

9 Q. Okay. How long have you lived in the city of
10 Bainbridge?

11 A. Since 2014.

12 Q. Okay. And when did you first become involved
13 in politics in the city of Bainbridge?

14 A. I should say that in 2012, is when -- it's
15 complicated, because my husband and I traveled, but in
16 2012 is when I first came to Bainbridge.

17 Q. Okay.

18 A. In 2014 is when we purchased our home.

19 Q. Okay.

20 A. And repeat the question after.

21 Q. When did you first become involved in political
22 activity in the city of Bainbridge?

23 A. I believe it was late in the year 2015.

24 Q. Okay. Could you describe that political
25 activity.

1 A. I participated in community activism.

2 Q. Okay. And what was one of your goals of your
3 community activism?

4 MS. LESTER: Object to the form of the
5 question.

6 MR. POWER: That was a bad question. That's a
7 good objection.

8 BY MR. POWER:

9 Q. What political issues were you interested in in
10 your activism?

11 A. Environmental stewardship.

12 Q. And then you subsequently ran for city council;
13 is that correct?

14 A. Yes.

15 Q. Okay. And when did you run?

16 A. Well, that would have been 2017. I don't
17 recall the exact dates.

18 Q. Okay. And could you describe your platform
19 when you were running.

20 A. Yes. Broadly, it was environmental
21 stewardship, affordability, fiscal responsibility.

22 Q. Okay. And who did you run against?

23 A. The incumbent.

24 Q. Okay. Did the incumbent have a name?

25 A. His name is Wayne Roth.

1 Q. Okay. When you were elected, could you
2 describe your training that you received from the city of
3 Bainbridge in order to fulfill your duties as a
4 councilmember.

5 A. Yes. The question specifically pertains to
6 training provided by the city of Bainbridge?

7 Q. Yes. What training did the city of Bainbridge
8 give you when you became a councilmember so that you could
9 perform your duties?

10 A. Sure. I recall, and it is my belief, that
11 councilmembers received training on ethics and training on
12 public records as well as Open Public Meetings Act.

13 Q. Okay. I am going to use the term PRA for
14 Public Records Act and OPMA for Open Public Meetings Act.
15 So when I say that, you'll understand.

16 So tell me about your PRA training. What did
17 that consist of?

18 A. I don't recall specifically. And just to
19 clarify your question, your question specifically
20 pertains, once again, to the training provided by the city
21 of Bainbridge?

22 Q. Well, have you received any other training
23 outside of the city of Bainbridge training in the Public
24 Records Act?

25 A. I did attend a new elected official workshop.

1 Q. And that was put on by the state auditor or the
2 state?

3 A. I believe it was the AWC, but I don't recall
4 specifically.

5 Q. Okay. But that training was arranged through
6 the city of Bainbridge, correct?

7 A. I don't recall.

8 Q. Okay. But you had been elected a
9 councilmember, and then did you go with other
10 councilmembers to this AWC training?

11 A. I believe there were at least -- there was at
12 least one other councilmember in attendance.

13 Q. Was it the other councilmember who had been
14 recently elected who attended that training with you?

15 A. Yes.

16 Q. Okay. So what I'm saying, I'm asking is you
17 didn't decide that you would go to the AWC training
18 sua sponte, by yourself, right?

19 A. Well, perhaps. I don't recall that it was
20 mandatory. It may have been, but I don't recall.

21 Q. Okay. How did you learn of the AWC training?

22 A. I don't recall.

23 Q. Okay. Where did the AWC training occur?

24 A. I believe it was Port Orchard or Gig Harbor.
25 In Kitsap.

1 Q. Okay. Did you take a city vehicle to the AWC
2 training?

3 A. No.

4 Q. Did you --

5 A. Not that I recall.

6 Q. Did you submit for mileage reimbursement from
7 the city for going to AWC training?

8 A. I don't believe so.

9 Q. Was there any other training besides the AWC
10 training that you took at the behest of the city on the
11 Public Records Act?

12 A. I'll ask you to clarify your question. Are you
13 referring to formal training?

14 Q. I'm talking about any training.

15 A. Well, aside from the trainings that I've
16 already mentioned with the city attorney, there are --
17 throughout my service on the city council, there are
18 supplemental educational opportunities that -- in terms of
19 executive sessions that speak to and are intended to
20 provide information and education on public records. I --

21 Q. Okay. Let me just stop you here. I don't --
22 and you have two attorneys sitting here, so they will be
23 conscious. I'm not asking for any communications that you
24 have had seeking legal advice from your attorney.

25 A. I understand.

1 Q. So just know that I'm not going after that.

2 A. Okay.

3 Q. What I'm asking about is what sort of, you
4 know -- what sort of official training have you had in the
5 Public Records Act which is, you know, of a general nature
6 that is given -- not case specific, like we should have
7 done something in this case but, you know, where they tell
8 you what your obligations are under the Public Records
9 Act? That's what I'm interested in.

10 So with that in mind, going back to this AWC
11 training, who was your trainer at AWC?

12 A. Oh, I don't recall.

13 Q. Okay. Were they attorneys that were brought in
14 to give PowerPoint presentations?

15 A. I don't recall. I don't believe so, but I
16 don't recall.

17 Q. Okay. Tell me what you can recall from
18 learning in that training.

19 A. I do recall that it was broadly educational
20 around the Public Records Act. I don't recall that the
21 training was specific to and exclusive to public records
22 training. Certain other areas of city government were
23 discussed.

24 Q. What other areas of city government?

25 A. I don't recall specifically.

1 Q. So you recall talking about other different
2 things at the training, but you don't remember what those
3 topics were; is that right? Is that a fair
4 characterization of your testimony?

5 A. Yes.

6 Q. Have you ever received any training about how
7 to handle public records that exist on private devices?

8 MS. LESTER: Object to the form of the
9 question.

10 BY MR. POWER:

11 Q. You can go ahead and answer that, because I
12 think that's fair.

13 A. Can you repeat the question.

14 MR. POWER: Could the court reporter please
15 repeat the question.

16 (Record read as requested.)

17 MS. LESTER: And same objection. Sorry. You
18 can answer. If you understood the question, you can
19 answer.

20 THE WITNESS: Yes.

21 BY MR. POWER:

22 Q. Okay. What was that training?

23 A. And this relates to the governance manual which
24 we were advised to review.

25 Q. Who advised you to review the governance

1 manual?

2 A. The city attorney.

3 Q. Okay. And when did that advice happen?

4 A. I don't recall.

5 Q. Was it close to the beginning of your tenure as
6 a county councilmember -- or I mean as a city
7 councilmember?

8 A. Yes. It would have been in the time period in
9 which I was -- could be considered a new councilmember.

10 Q. Okay. So within the first month or two of
11 taking your oath of office; is that correct?

12 A. Within the first three months.

13 Q. Okay. And you have a private phone currently
14 and a publicly-provided phone from the city; is that
15 correct?

16 A. Yes.

17 Q. Okay. During the course of your tenure on the
18 council, how many private phones have you had? And I'm
19 talking about handsets, and then we'll get into numbers
20 and accounts later, but how many handsets have you had?

21 A. I'll ask for clarification. By handset, do you
22 mean phone, the device, the actual phone?

23 Q. Yeah, the actual -- a physical phone. How many
24 physical phones have you had?

25 A. And is that question about how many private

1 phones have I had?

2 Q. Well, I would have asked you to break it down
3 between private and public phones in my next question, but
4 if you want to just describe how many phones you had and
5 how many are private and how many are public, that would
6 be great.

7 A. I have and I've had one city-issued phone; and
8 I have one iPhone, my personal phone. Now that I -- the
9 iPhone that I currently have is the iPhone that was --
10 that replaced an iPhone that was unintentionally destroyed
11 in 2018.

12 Q. So you've had two iPhones and then one
13 city-issued phone?

14 A. Yes, but only one private phone at a time,
15 not --

16 Q. Right.

17 A. I just want to be clear for the record.

18 Q. Sure. Is the city-issued phone an iPhone?

19 A. No.

20 Q. Okay. Your first iPhone, the iPhone that was
21 destroyed, what model was that, if you recall?

22 A. I believe it was an iPhone 7. I don't know if
23 there was an S after that.

24 Q. Okay. And then your second iPhone, what was
25 that -- the replacement phone, what model was that?

1 A. I believe it's also an iPhone 7.

2 Q. Okay. And your city-issued phone, is that an
3 Android phone or what type of OS is it using?

4 A. I believe it's a Samsung Galaxy.

5 Q. Okay. When did you get that city-issued phone?

6 A. I don't recall the exact date, but I do believe
7 it was soon after I was sworn in to the city council.

8 Might have been prior to; could have been as far after as
9 a couple of weeks. It was in, safe to say, January 2018.

10 Q. Okay. So that's the -- you've had one phone,
11 and it was issued right when -- or a few weeks after you
12 took office; is that correct?

13 A. Yes, within that -- around that general period
14 of time, yes.

15 Q. Okay. Okay. And did you use the
16 Bainbridge-supplied phone?

17 A. Yes.

18 Q. When did you start using it?

19 A. Soon after I received it.

20 Q. Okay. Was it your daily carry phone?

21 MS. LESTER: Object to the form of the
22 question.

23 BY MR. POWER:

24 Q. Okay. Did you carry it daily?

25 A. I don't recall that -- I'd ask you to clarify

1 your question. Do you mean did I have it with me
2 throughout every hour of every day or --

3 Q. Every day, did you carry that phone?

4 A. Every day I checked that phone, is what I'm
5 comfortable stating.

6 Q. Okay. Where did you keep that phone?

7 A. Primarily at my house. It would accompany me
8 to council meetings.

9 Q. What's the number to that phone?

10 A. Area code 206-300-6181.

11 Q. Okay. And your two iPhones, do they have the
12 same -- did they have the same phone number?

13 A. No.

14 Q. No. Okay. What was the number for the first
15 iPhone?

16 A. My personal phone number is area code
17 206-909-3207.

18 Q. And that's the first one; that's the number
19 that -- on the destroyed phone, right?

20 A. Yes.

21 Q. Okay. And now the second phone number, what
22 was that number?

23 A. The same.

24 Q. So it was -- because I understood you to say
25 that you had two different phone numbers on those iPhones.

1 A. No, that's not what I said.

2 Q. Okay. I'm sorry, I misunderstood.

3 So you took out the SIM card of the first phone
4 and then put it into the second phone; is that correct?

5 MS. LESTER: Object to the form of the
6 question; mischaracterizes the testimony.

7 BY MR. POWER:

8 Q. Okay. Did you take out the SIM card from your
9 first phone and put it into the second phone?

10 A. I did not do that personally, no.

11 Q. Okay. Was the SIM card from the first phone
12 placed in the second phone?

13 A. I don't know. I don't -- I can't -- I can't
14 say, and I don't want to make assumptions as to how the
15 transition between iPhones is made by Apple technicians.
16 That was a service that was provided to me by Apple.

17 Q. Okay. Can you list to me all the applications
18 that were installed on that first iPhone.

19 A. No.

20 Q. Can you just provide me a list of every app
21 that you can remember that was installed on that iPhone.

22 A. I certainly don't have the ability to recall
23 every application that's installed on my iPhone without
24 looking at my iPhone.

25 Q. I understand that, but what I want to know is

1 what apps can you remember having been on that first
2 iPhone?

3 A. There are apps that I understand cannot -- come
4 with the phone and can't be deleted such as Apple News,
5 text messages, mail, photos, camera, basic applications;
6 and then --

7 Q. Okay. Are there any other apps that you
8 installed on that phone that did not come preinstalled on
9 the phone?

10 A. Yes.

11 Q. What were those applications, to the best of
12 your recollection?

13 A. And you're requesting this information related
14 to the first phone or the current iPhone?

15 Q. The first phone.

16 A. Okay. Well, I had, to the best of my
17 recollection, Ovia, which is an ovulation tracker and
18 pregnancy tracker; Runtastic; and perhaps Strava, although
19 I can't recall the exact date which I installed --
20 upgraded to the Strava application, which is a fitness
21 application. Google Maps, Dictionary.

22 I know there's more, but I can't recall exactly
23 what they are; they would pertain to personal scheduling,
24 calendars. I believe I have a web app related to
25 parenting.

1 Q. Let me ask this: What communication apps, apps
2 that either allowed voice or text or other communications
3 between users, did you have installed on that first
4 iPhone?

5 A. Facebook messaging, and I may have had Skype
6 app installed. I'm not entirely sure. And I believe
7 WhatsApp, as well.

8 Q. Okay. And for messaging, what apps did you use
9 on that first iPhone?

10 A. The text messaging app, iPhone text message.

11 Q. That came preinstalled, okay.

12 A. Mm-hm. Messenger and WhatsApp.

13 Q. Okay. Can you describe what modifications to
14 the settings you performed on that phone at any time prior
15 or during your possession of that phone.

16 MS. LESTER: Object to the form of the
17 question.

18 BY MR. POWER:

19 Q. I think it's -- if you want to read it again,
20 that's fine.

21 A. Well, I don't understand the question.

22 Q. Okay. What settings did you have on that phone
23 as far as default settings that you may have changed that
24 came with that phone? So what settings did you change on
25 that phone?

1 MS. LESTER: Object to the form of the
2 question. You can answer it if you can.

3 THE WITNESS: I really don't -- I don't
4 understand the question. I don't recall --

5 BY MR. POWER:

6 Q. Okay.

7 A. -- changing settings. I have a very basic
8 knowledge of Apple technologies. I'm not sure I
9 understand your question or the direction that you would
10 like me to respond to.

11 Q. Sure. How long have you been using Apple
12 products?

13 A. I don't recall.

14 Q. Did you have an iPhone before the iPhone 7 that
15 was destroyed?

16 A. Yes.

17 Q. Okay. What iPhone was that? What model, if
18 you recall?

19 A. I believe it was the iPhone 4 S.

20 Q. Did you have an iPhone previous to that?

21 A. I don't recall.

22 Q. Did you have any cell phone previous to that?

23 A. Yes.

24 Q. Was it a smartphone?

25 A. I don't know that I understand what could be

1 defined as a smartphone.

2 Q. Did it have a touch screen on it?

3 A. I don't recall. It had a stylus.

4 Q. It had a stylus that you touched the screen
5 with?

6 A. Yes.

7 Q. Okay. So when did you get that phone, about?

8 A. I don't recall.

9 Q. Was it when you were in college?

10 A. It's possible that I had a smartphone in
11 college, but I don't recall.

12 Q. Okay. Did you have an Apple computer while you
13 were in college?

14 A. No.

15 Q. Okay. Do you have an Apple computer now?

16 A. No.

17 Q. Okay. Do you have access to the use of an
18 Apple computer now?

19 A. Yes.

20 Q. Okay. What computer do you have access to
21 that's an Apple computer, or which computers do you have
22 access to that are Apple computers?

23 A. My husband owns a -- I believe it's a MacBook
24 Air.

25 Q. Okay. And do you know how long has he had that

1 MacBook Air?

2 A. I can't say. I don't recall.

3 Q. Did he have the MacBook Air in January of 2018?

4 A. Yes.

5 Q. Okay. Does he have it presently?

6 A. Yes.

7 Q. Did you ever plug your first iPhone into that
8 MacBook Air?

9 A. No.

10 Q. Did you ever plug that iPhone into any
11 computer?

12 A. The first iPhone, you're referring to?

13 Q. Mm-hm.

14 A. Yes.

15 Q. What computer?

16 A. My work computer at the time I was employed.

17 Q. Okay. What type of computer was that work
18 computer?

19 A. I don't know.

20 Q. Was it an Apple product?

21 A. No.

22 Q. Okay. Who owns that work computer?

23 A. My -- it would be the property of Resolve Real
24 Estate Appraisal and Consulting.

25 Q. Okay. Why did you plug your phone into that

1 computer?

2 A. It was in 2016, and I -- it was soon after my
3 first son was born. My mother-in-law wanted an
4 eight-by-ten printed of his hospital photo, and so I
5 sought to download and transfer that photo to my work
6 computer to provide to her.

7 Q. Okay. Is that the only time that that
8 iPhone -- the first iPhone 7 was ever plugged in to a
9 computer, to the best of your knowledge?

10 A. Yes.

11 Q. Okay. So when we were talking about your
12 history with cell phones, we'd gone back a couple
13 generations of iPhone and then to a phone that you don't
14 recall the make of. Did you have a phone before that
15 phone that you identified that had the stylus?

16 A. Yes.

17 Q. Okay. What kind of phone was that?

18 A. It was a Nokia.

19 Q. Like a flip phone?

20 A. I don't even think it was a flip phone. I had
21 a --

22 Q. Like a brick?

23 A. Mm-hm.

24 Q. Did you have -- when's the first time you had a
25 computer of your own?

1 A. I don't understand. I'd ask you to be more
2 specific.

3 Q. Sure. When did you first get a computer that
4 you would, you know, say is your own personal computer?

5 A. In my life?

6 Q. Mm-hm.

7 A. I can't recall having a computer in college. I
8 may have accessed a desktop computer. I have owned an
9 Acer Aspire, which accompanied me on my bicycle travels
10 that ceased to operate in 20 -- oh, somewhere around 2014,
11 2015. I'll stop there and see if there are any additional
12 questions.

13 Q. Okay. So when you were in college, I take it
14 you must have needed a computer to do some of your
15 research homework, right? So what -- where did you --
16 where did you do that computer work that you had to do in
17 college?

18 A. I don't recall.

19 Q. Do you recall how you would store any files
20 that you created during college?

21 A. I don't recall. My parents had a desktop
22 computer at their house, which I do recall using.

23 Q. Okay. Was that the computer you primarily used
24 when you were in college?

25 A. It's possible. I don't recall.

1 Q. Okay. If it wasn't that desktop, what other
2 computers did you use in college?

3 A. To the best of my recollection, friends'
4 computers. I believe students at U.C. Berkeley had access
5 to library computers, things of that sort.

6 Q. Okay. And then did you have storage space on
7 some sort of main drive at Berkeley or some server on
8 Berkeley where you could store files that you created?
9 Like if you had to write a paper, you wanted to save your
10 paper, where would you keep that file?

11 A. I really don't recall. If I was working from
12 my parents' computer -- my parents live near U.C.
13 Berkeley -- I would have saved it to -- you know, as
14 anyone would save a document to the --

15 Q. The local drive?

16 A. Yeah, I suppose.

17 Q. Okay. Do you have a computer currently?

18 A. I do.

19 Q. Okay. How is that computer backed up?

20 A. I don't believe it is.

21 Q. Okay. Going back to the training you had at
22 AWC or at -- through the general training provided by the
23 city attorney, what did they tell you to do with respect
24 to electronic public records that are kept on your
25 personal devices?

1 MS. LESTER: Object to the form of the
2 question.

3 MR. POWER: I think it's totally within bounds,
4 so if you could read it back.

5 (Record read as requested.)

6 MS. LESTER: Okay. And to the extent that this
7 would implicate any discussions in executive session
8 and/or any direct communications with the city attorney, I
9 don't want you to provide that testimony. It's
10 attorney-client privileged and/or privileged under
11 executive session, subject to --

12 MR. POWER: Which is why I included the
13 provision in the question, the general advice.

14 MS. LESTER: Got it. I just want to make sure.

15 THE WITNESS: The general advice is to forward
16 records that may be responsive to public records requests
17 and that may be public records to the city.

18 BY MR. POWER:

19 Q. Okay. So your answer just now is that you're
20 supposed to forward records that may be responsive to
21 public records requests?

22 A. Mm-hm.

23 Q. Would it be fair to say that the advice was to
24 forward messages that may be public records of the city
25 and not necessarily those that had been requested?

1 A. It's fair to say, I suppose.

2 MS. LESTER: Again, your question -- sorry to
3 interrupt, but your question is just generally? I just
4 wanted to ensure that any testimony you're providing does
5 not implicate the attorney-client privilege or any
6 discussions in executive session.

7 MR. POWER: I don't think I was even asking
8 about any attorney involvement at all in that question.

9 MS. LESTER: It was a follow-up. I just want
10 to make sure the record's clear.

11 THE WITNESS: And I'll clarify. Not all
12 records are responsive -- or are public record. So in
13 those cases is where I would -- where we are advised to
14 consult with the city attorney to determine whether or not
15 records would constitute public record and should be
16 provided to the city.

17 BY MR. POWER:

18 Q. Right. I mean, I get that. So you know, if
19 your husband texts you and says, hey, will you come pick
20 up the kid and you say yes, that's fine, obviously that
21 has nothing to do with the city of Bainbridge and that
22 doesn't need to be forwarded.

23 But if a constituent calls you or texts you and
24 says, you know, I think you should support this
25 legislation that is going to be before you, that would be

1 a public record. Are you -- is that your understanding?

2 A. Yes.

3 Q. Okay. So --

4 A. More or less.

5 Q. More or less. So that second example I gave

6 you would be something that should be forwarded

7 irrespective of whether or not there has been a public

8 records request; is that correct?

9 A. Yes.

10 Q. So when did you receive that advice to do that?

11 A. I don't recall the exact date.

12 Q. Okay. I'm not really asking for the exact

13 date, but was it in the first month or so after you

14 assumed office?

15 A. I don't recall.

16 Q. That wasn't part of the AWC training?

17 A. I don't recall if the training was that

18 specific.

19 Q. Okay. When were you given a copy of the manual

20 of city government policies, procedures, and guidelines

21 for the city of Bainbridge?

22 A. I don't believe I was given a copy, and I don't

23 recall.

24 Q. Okay. What --

25 A. It's available on the web site, I believe.

1 Q. Okay. When were you made aware that such
2 existed?

3 A. Soon after I joined the city council.

4 Q. Okay. Were you advised to review it?

5 A. We were advised to review it, yes.

6 Q. Okay. Did you review it?

7 A. Yes.

8 Q. Okay. Did you review it promptly?

9 MS. LESTER: Object to the form of the
10 question.

11 BY MR. POWER:

12 Q. Did you review it within the first two months
13 of being sworn into office?

14 A. I don't recall.

15 Q. When's the first time you can recall having
16 reviewed that document?

17 A. I don't recall, but it's likely that I reviewed
18 the document over -- within the first four months, four or
19 five months that I was a councilmember.

20 Q. Do you remember what the manual says about
21 electronic records sent to private devices?

22 A. Yes.

23 Q. Okay. Paraphrase -- or to the best of your
24 ability, describe what that manual says.

25 A. The manual advises that communications that are

1 sent to private devices, personal e-mail, be -- that would
2 be responsive or considered public record, be provided and
3 forwarded to the city server.

4 Q. Okay. And did you understand why that was the
5 direction that was given in that manual?

6 A. Yes.

7 Q. Okay. And tell me why was that? Why is that
8 the instruction that's given in the manual?

9 A. The city has an obligation under state law to
10 provide records that are public records that would be
11 responsive to requests; and our city takes public records,
12 public records requests very seriously.

13 Q. Okay. So in your first, say, four months on
14 the job, what percentage of public work were you doing on
15 your Bainbridge-supplied phone as opposed to your private
16 cell phone?

17 A. The majority of the work I conducted as a new
18 city councilmember was conducted from my city-issued
19 laptop primarily. Primarily city business and the
20 conducting of city business happens through e-mail
21 exchange, and that happens through my city-issued laptop.

22 I possessed the Samsung Galaxy at the start of
23 my term, and I used that sparingly; and I rarely used my
24 personal iPhone to conduct city business.

25 Q. Okay. Same question, but what percent of the

1 texts that were public records were produced on the
2 iPhone 7 that was destroyed compared to your city-issued
3 Samsung?

4 MS. LESTER: I'm going to object to the form of
5 the question.

6 THE WITNESS: I don't recall what text messages
7 were sent through the Samsung Galaxy. For lack of text
8 messages on that Samsung Galaxy, the bulk of my work,
9 again as an elected official, was primarily through e-mail
10 and phone calls.

11 BY MR. POWER:

12 Q. Okay. Did you ever use that Samsung Galaxy for
13 texting about public business?

14 A. Ever in the -- to clarify, ever in my -- in the
15 duration of my term to date?

16 Q. No. Let's say in the first six months of your
17 term.

18 A. I don't recall.

19 Q. Okay. Do you think you have?

20 A. I -- it's possible that there are text messages
21 from the Samsung Galaxy in that time period.

22 Q. Okay.

23 A. I do recall that number belonged to someone
24 else in receiving text messages that were not intended for
25 my consumption.

1 Q. Explain that to me. Whose text messages were
2 you receiving, or who did they think they were talking to?

3 A. I don't know.

4 Q. It wasn't -- it wasn't a number that was -- I
5 thought this was a number that was owned by the city.

6 A. At the time that I activated the phone.

7 Q. The Samsung phone?

8 A. Yes.

9 Q. Okay. And you activated that phone, not the --
10 the city didn't come with it already activated for you?

11 A. At the time the phone was activated, that
12 number became the phone of the Samsung Galaxy, I believe.
13 That's the best of my understanding.

14 Q. So you think there was some prior -- some other
15 person had that number previously, and they were texting
16 you, hey, where's my Domino's pizza or whatever, right?
17 And was it like completely random? Did it have to do with
18 city business?

19 A. No.

20 Q. Okay.

21 A. You were asking about text messages to that
22 phone, so I just wanted to be clear.

23 Q. Right. So you were receiving these errant text
24 messages to this phone, like I'm not that person that
25 you're trying to reach?

1 A. And my assumption that would be on -- that
2 would be public record if it's on the phone, so it's --

3 MR. POWER: Okay. Can we take five minutes and
4 take a quick break?

5 MS. LESTER: Sure.

6 (Recess from 11:17 a.m. to 11:34 a.m.)

7 BY MR. POWER:

8 Q. I'd still like to talk a little bit more about
9 the AWC training that you took. Was that just a day-long
10 training?

11 A. Sitting here, I don't recall. I believe it's
12 possible it was either scheduled as a half day or what
13 could be considered full day; but sitting here, I don't
14 recall.

15 Q. Okay. Was it -- was there just one presenter,
16 or were there multiple presenters?

17 A. I really don't -- I don't recall.

18 Q. Do you recall if they handed out any material
19 for you to review?

20 A. I don't recall, and I don't want to guess.

21 Q. Okay. Do you recall if they presented a
22 PowerPoint or other audiovisual presentation?

23 A. To the best of my recollection, I do recall a
24 video presentation.

25 Q. A video presentation?

1 A. Mm-hm.

2 Q. Was anyone else that you knew in attendance at
3 that training?

4 A. Could you please clarify what you mean by
5 "know."

6 Q. Were you -- did you know the name of anyone
7 else in that room?

8 A. Yes.

9 Q. Name them, please.

10 A. To the best of my recollection, current sitting
11 councilmember Joe Deets was present.

12 Q. Anyone else?

13 A. I don't recall.

14 Q. About how many people were in the room?

15 A. I don't recall the number of individuals in
16 attendance, and I'd rather not guess.

17 Q. I mean, was it more than ten, fewer than ten?

18 A. More than ten, most likely.

19 Q. Okay. More than 50 or less than -- fewer than
20 50?

21 A. I don't recall.

22 Q. What room was it in? What was the venue?

23 A. I don't recall the specifics of the venue.
24 Sitting here, I don't recall.

25 Q. Okay. Can you recall what type of facility was

1 it? Was it a government facility? Was it a movie
2 theater? Was it a private house?

3 A. To the best of my knowledge, it was a
4 government facility.

5 Q. Okay. But you don't know exactly where that
6 government facility was?

7 A. Sitting here, I really don't recall.

8 Q. On that first iPhone, the one that was
9 purportedly destroyed, did you have WhatsApp installed on
10 that phone?

11 A. I don't recall.

12 Q. Did you have Snapchat on that phone?

13 A. I don't recall.

14 Q. Have you ever used WhatsApp?

15 A. Yes.

16 Q. Have you ever used Snapchat?

17 A. Yes.

18 Q. When did you start using WhatsApp?

19 A. I don't recall. My use is extremely
20 infrequent.

21 Q. Did you -- would you categorically deny that
22 you used WhatsApp on the first iPhone?

23 A. Excuse me, your question was would I
24 categorically deny?

25 Q. Right.

1 MS. LESTER: Object to the form of the
2 question.

3 THE WITNESS: No.

4 BY MR. POWER:

5 Q. Okay. So you might have used WhatsApp on that
6 iPhone, the one that was destroyed?

7 MS. LESTER: Object to the form of the
8 question. I think it's been asked and answered.

9 BY MR. POWER:

10 Q. You can go ahead and answer.

11 A. It's possible, but again, I don't -- I don't
12 recall.

13 Q. Okay. Same question but for Snapchat.

14 A. The question again is -- could you repeat it.

15 Q. Did you use Snapchat on the iPhone that was
16 purportedly destroyed?

17 A. I don't recall.

18 Q. Have you ever used WhatsApp or Snapchat,
19 regardless of which phone you used, to conduct city
20 business?

21 A. No.

22 Q. Have you ever used the Samsung phone that was
23 provided by the city of Bainbridge to conduct private
24 business?

25 A. Not that I'm aware. That is not my habit.

1 Q. Who at the city provided you with the Samsung
2 phone?

3 A. I don't recall who physically provided the
4 phone, if that's what you're asking. I don't recall.

5 Q. Okay. Did anyone at the city ever tell you
6 what to use the city's phone for?

7 A. My understand -- yes.

8 Q. Okay. What did they tell you? Who was that
9 and what did they tell you?

10 A. I don't recall from whom the advice came or was
11 delivered; my understanding at the time was that my
12 city-issued phone was for the purposes of conducting city
13 business.

14 Q. Okay. And what do you base that understanding
15 on?

16 A. Advice received at the time; common-sense
17 understanding of these sorts of things, I suppose.

18 Q. Okay. Did you have any discussions with city
19 employees regarding cell phone use?

20 A. Can you clarify what you mean by city employee.
21 All city employees, any city employee?

22 Q. Sure.

23 A. Regarding cell phone use or --

24 Q. How you should use your cell phone on the job,
25 you know, being an elected councilmember.

1 A. How the Samsung Galaxy phone should be used in
2 my capacity as a councilmember?

3 Q. Sure. Let's start with the Samsung phone.

4 A. Well, I recall at the time, you know, on or
5 around the time that the phone was provided, general
6 instructions, and again I can't remember from whom, was
7 that city-issued phones were to be used for official city
8 business.

9 Q. Okay. And did you think that that was good
10 advice or bad advice?

11 MS. LESTER: Object to the form of the
12 question.

13 THE WITNESS: It was the advice that was
14 provided. It was consistent with the governance manual.

15 BY MR. POWER:

16 Q. Okay. Do you have any reason to believe that
17 that was bad advice?

18 A. No.

19 Q. Are you aware that the city has archiving
20 software to capture public records as they are created on
21 city devices?

22 A. Yes.

23 Q. Okay. When did you become aware of that?

24 A. As I -- as I began my role on the city council
25 as part of the educational learning process in becoming an

1 elected official; and it very possibly most likely was
2 referenced but very broadly referenced in public records
3 training, as well.

4 Q. So they told you that, you know, hey, this is
5 your official phone, it's automatically synched to some
6 government computer somewhere so that you could retrieve
7 the data off of it; is that correct?

8 MS. LESTER: Object to the form of the
9 question.

10 THE WITNESS: My understanding is that the
11 city-issued phone and the city-issued laptop are backed up
12 to the city server.

13 BY MR. POWER:

14 Q. Okay. And that was your understanding shortly
15 after you took your oath of office; is that correct?

16 A. Yes.

17 Q. Okay. Did you have any reason to believe that
18 your private phone would be backed up to the city
19 archiving mechanism?

20 A. No.

21 Q. Okay. Did you know that your phone was not
22 being archived either by the city or privately?

23 MS. LESTER: Object to the form of the
24 question.

25 BY MR. POWER:

1 Q. All right. I'll ask it in two parts. Did you
2 think that your phone was being archived, your personal
3 iPhone was being archived by the city?

4 MS. LESTER: Object to the form. I'll just
5 tell you that it's just as far as vague as to time.

6 BY MR. POWER:

7 Q. At any time, do you think that the city was
8 archiving -- did you think that the city was archiving
9 files on your phone?

10 A. Automatically archiving, is what you're
11 referring to?

12 Q. Yes.

13 A. No.

14 Q. Did the city ever explain to you how their
15 archiving software worked with respect to phones and
16 computers?

17 A. That's very broad, and so I'm not sure how to
18 answer that. If you could specify or --

19 Q. When you say it's very broad, is it your
20 understanding that the city software essentially captures
21 every document or every text message that's created on the
22 public's phones or the public's devices?

23 MS. LESTER: Object to the form of the
24 question.

25 THE WITNESS: On city-issued phones and

1 city-issued devices, is what you're asking?

2 BY MR. POWER:

3 Q. Mm-hm.

4 A. My understanding is that, yes.

5 Q. Okay. Did you talk to any other councilmembers
6 about what is appropriate cell phone use with respect to
7 private cell phones?

8 MS. LESTER: Object to the form of the
9 question.

10 THE WITNESS: Can you repeat the question.

11 BY MR. POWER:

12 Q. Did you talk to any other councilmembers
13 regarding cell phone use with respect to private cell
14 phones?

15 A. And are you looking for a specific time frame
16 or just in general?

17 Q. At any time did you talk to any other
18 councilmembers regarding cell phone use with respect to
19 private cell phones?

20 A. Yes.

21 Q. Okay. Who?

22 A. Councilmember Ron Peltier.

23 Q. Okay. What was the nature of that discussion?

24 A. I can't recall specifics.

25 Q. What generally can you recall about that

1 conversation with -- was it a face-to-face conversation?

2 A. I don't recall.

3 Q. Was it a text message conversation?

4 A. No.

5 Q. Was it an e-mail conversation?

6 A. I don't believe it was.

7 Q. You believe it was an e-mail conversation?

8 A. No, I don't believe it was e-mail.

9 Q. So you believe, then, it was face-to-face?

10 A. Face-to-face or phone, over the phone.

11 Q. Okay. What was the -- tell me everything you
12 can remember about that conversation.

13 A. It would have been around the time that -- or
14 after the time that the records were -- on that iPhone
15 were unintentionally destroyed; and I can't recall
16 specifics about the discussion, but --

17 Q. Did he call you or did you call him or did he
18 initiate the conversation, depending on how it went?

19 A. I don't recall who called who.

20 Q. Okay. Were you seeking his advice as to what
21 to do?

22 A. No.

23 Q. Okay.

24 A. I can't -- I don't recall that being the case.

25 Q. Why did you call Mr. Peltier?

1 MS. LESTER: Object to the form of the
2 question.

3 THE WITNESS: Well, Councilmember Peltier is a
4 colleague and it's practice of elected officials to
5 contact one another to discuss city-related business.
6 It's part of the roles and responsibilities of elected
7 officials.

8 BY MR. POWER:

9 Q. Okay. And did you ask Mr. Peltier what you
10 should do with or -- what you should do to be responsive
11 to the request or what you should do with your destroyed
12 phone, or what was the nature of that conversation?

13 A. Sorry, that was -- there's several questions in
14 there. One of them was what I should do and respond to
15 the request. What request are you referring to?

16 Q. Well, you said that you spoke with Ron after
17 the records were destroyed, --

18 A. Destroyed.

19 Q. -- right? So were you asking advice as to what
20 the proper procedure would be for you to uphold your
21 obligations with respect to the request?

22 MS. LESTER: Object to the form of the
23 question.

24 THE WITNESS: Not -- not specifically.

25 BY MR. POWER:

1 Q. Okay.

2 A. I consulted with the city attorney first and
3 foremost --

4 Q. Okay.

5 A. -- throughout these matters and in all matters
6 related to public records requests.

7 Q. How soon after the destruction of the phone did
8 you notify anyone at the city of Bainbridge?

9 A. It was soon after, in the following months.

10 Q. And when you said in the following months, you
11 didn't notify them immediately that you had lost a -- or
12 destroyed a phone that contained public records?

13 A. I don't -- I don't recall that I did
14 immediately. I know it was soon after, but I don't
15 recall -- sitting here, I don't recall the timing of when
16 I first notified the city attorney.

17 Q. But you're saying that soon after could be as
18 many as a couple months?

19 A. Mm-hm.

20 Q. Okay.

21 MS. LESTER: Just for the record, was that a
22 yes?

23 THE WITNESS: Yes.

24 MS. LESTER: The reason I say that is she's
25 taking everything down; so when we read the record later,

1 it may be difficult to --

2 THE WITNESS: Okay.

3 BY MR. POWER:

4 Q. Did you contact the city by e-mail that your
5 phone had been destroyed?

6 A. As a first point of contact, is that your
7 question, --

8 Q. At any time.

9 A. -- or any time?

10 Q. Yeah.

11 A. Yes.

12 Q. Okay. Was that the first point, method of
13 contacting the city?

14 A. I don't recall, but I don't believe so. I
15 believe it was a phone call, attorney-client privilege,
16 with Joe Levan, the city attorney.

17 Q. Okay. And I'm not asking you for the content
18 of that communication, but do you remember when that phone
19 call would have been made?

20 A. I don't recall, sitting here, the date.

21 Q. Okay. Did you make that call from your
22 personal phone or from the city phone?

23 A. My practice is to make phone calls that pertain
24 to city business through my city-issued cellular device.

25 Q. Okay. My question wasn't about your practice.

1 My question was about if you can remember which phone you
2 made that phone call on.

3 A. I don't recall.

4 Q. Is it -- do you know of other city
5 councilmembers who used their city -- or excuse me,
6 private phones to conduct city business?

7 A. Yes.

8 Q. Okay. Which councilmembers?

9 A. To my knowledge, Councilmember Peltier.

10 Q. Okay. Anybody else?

11 A. Not -- I can't say. I'm not -- I'm not aware
12 of --

13 Q. Okay.

14 A. I'm not aware of the practices of other
15 councilmembers, to state --

16 Q. You're only aware that Councilmember Peltier is
17 using his phone, his private phone, to conduct public
18 business?

19 A. Yes.

20 Q. Okay. What sort of business does he conduct on
21 his private phone that is public business?

22 A. I don't have access to Councilmember Peltier's
23 phone. I am -- I don't know.

24 Q. Okay.

25 A. That would be a question for Councilmember

1 Peltier.

2 Q. Well, then what made you answer that
3 Councilmember Peltier was conducting public business on
4 his private phone? What's the basis for your belief of
5 that fact?

6 A. Through text -- through the course of
7 receiving -- the city receiving public records requests.

8 Q. Okay. Have you ever contacted Mr. Peltier on
9 your private iPhone about city business?

10 A. Not that I recall.

11 Q. Okay. Has --

12 A. Sorry, by contact did you mean telephone
13 communication or did you mean --

14 Q. Text messages.

15 A. -- any communication?

16 Q. Text messages.

17 A. Can I have that question repeated, then, and I
18 will clarify my response.

19 MR. POWER: Sure. Ma'am, could you read that
20 back.

21 (Record read as requested.)

22 BY MR. POWER:

23 Q. And I will clarify that I'm asking about text
24 messages.

25 A. I apologize. My first hearing of that word

1 contact, I assumed you meant telephone, phone call
2 communication.

3 Q. Okay.

4 A. So if your question pertains as well to text
5 messages, then my response would be yes.

6 Q. Okay. What sort of things did you and
7 Mr. Peltier discuss via text messages via your private
8 phone and presumably his private phone?

9 A. What's stated in my affidavit, text messages
10 exchanged between Councilmember Peltier and I were
11 primarily related to scheduling phone calls.

12 Q. Okay. Were there other -- besides scheduling
13 matters, were there other text messages that you and
14 Mr. Peltier exchanged that related to public business?

15 A. Without having copies of the text message
16 exchange before me, I can't recall specifics. I might --
17 it might be the case that there was a text message
18 requesting him to print a parking pass.

19 Q. Okay.

20 A. Something of that nature.

21 Q. Did you review any documents in preparation for
22 this deposition?

23 A. Yes.

24 Q. What documents did you review?

25 A. I reviewed my affidavits; I reviewed public

1 records requests; I reviewed the governance manual. And
2 not to limit it to those documents, but that's what I
3 recall sitting here.

4 Q. Okay. So there may have been other documents
5 that you reviewed, but you just can't remember those; is
6 that what --

7 A. I don't want to exclude that possibility from
8 the record.

9 Q. Understood. What public employees of the city
10 of Bainbridge do you know are -- strike that.

11 Do you know how there is a contacts list in
12 your phone?

13 A. Yes.

14 Q. You have a database of contacts?

15 A. Are you referring to both phones at this point?

16 Q. No. Just generally.

17 A. Yes.

18 Q. All right. On your iPhone 7, what city of
19 Bainbridge Island employees or officers do you know you
20 had contacts of in that phone?

21 MS. LESTER: Object to the form of the
22 question.

23 THE WITNESS: In the phone that was
24 destroyed, --

25 BY MR. POWER:

1 Q. Yes.

2 A. -- just for clarification? And your question,
3 sorry, specifically was what employees, so what staff
4 members of the city of Bainbridge Island?

5 Q. Yeah. So who did you have --

6 A. On the payroll.

7 Q. Yeah. Who did you have listed as contacts in
8 that iPhone 7 who were city employees?

9 A. Does that include councilmembers?

10 Q. Sure.

11 A. I don't recall, without having that record.

12 Q. Okay. Name -- name the ones you can recall.

13 A. I can't recall. It's possible that I had
14 Councilmember Peltier's contact in my contacts list.

15 Q. Well, you must have had his, because like you
16 wouldn't have typed in his number every time you were
17 trying to text him, right?

18 A. Well, that's not entirely true.

19 Q. Okay. Explain that to me.

20 A. Numbers that have called, you can always look
21 at your call list to see numbers that are familiar without
22 actually having them saved as contacts in your phone book,
23 and that's what I'm referring to.

24 Q. Okay. And so that's what you think happened
25 with Mr. Peltier?

1 A. I can't --

2 MS. LESTER: Object to the form of the
3 question.

4 THE WITNESS: I can't -- I can't say for
5 certain without having that, those records before me.

6 BY MR. POWER:

7 Q. Okay. Do you know of any councilmember or
8 staff member whose contact information you had in the
9 iPhone?

10 A. And we're discussing again the iPhone that was
11 destroyed?

12 Q. Mm-hm.

13 A. Not that I recall. I don't believe so, but I
14 can't say for sure.

15 Q. Okay. How about in your current iPhone?

16 A. Yes.

17 Q. Okay. Who's in your current iPhone that is a
18 member of staff or a public official here at the city?

19 A. I believe -- and without having it in front of
20 me to state for certain, it's possible that the former
21 city managers's contact is saved in my personal iPhone;
22 it's possible that Councilmember Peltier's contact
23 information is saved in my current iPhone.

24 Q. Can you tell me the identity of all the
25 employees or officials of the city of Bainbridge that you

1 texted from your first iPhone.

2 MS. LESTER: Object to the form of the
3 question.

4 THE WITNESS: I -- to the best of my knowledge,
5 the text messages to any elected official or anyone who
6 would be a member of city staff was limited to
7 Councilmember Peltier. Sorry, did that answer your
8 question?

9 BY MR. POWER:

10 Q. I'm just a little confused, because I thought
11 you had said that you had texted Mr. Schulze from that
12 phone, as well. So I'm not sure that I can reconcile your
13 testimony on that matter. So maybe I'm misunderstanding
14 you, so perhaps it would be a good idea for the reporter
15 to read back that question and we'll take another stab at
16 it.

17 (Record read as requested.)

18 THE WITNESS: Is that the question on the table
19 or have I --

20 BY MR. POWER:

21 Q. Yes.

22 A. From that first iPhone, Councilmember Peltier.
23 I don't recall text message communications between myself
24 and city manager Doug Schulze from that initial phone. I
25 believe the text message communication occurred on the new

1 phone.

2 Q. Do you text -- did you text your constituents
3 about public matters from that first iPhone?

4 A. That was not my practice, no.

5 Q. Okay. Again, I didn't ask you about your
6 practice. I asked you if you did or you didn't.

7 A. I can't control what comes to me as an elected
8 official; and as a newly elected official, oftentimes we
9 receive communications to the number that was primarily
10 utilized for campaign purposes.

11 It is possible that that iPhone 7 that was
12 unintentionally destroyed contained one or two text
13 messages from constituents that may have pertained to
14 city-related business, but I don't -- having no longer
15 access to those records, I am unsure and it's -- it's
16 possible they would not have been public record or would
17 have been subject to or included in the public records
18 request, responsive to a public records request.

19 Q. Okay. Will you -- as you sit here and testify
20 today, will you categorically deny that you did not --
21 will you categorically deny that you initiated a text
22 message from that first iPhone to your constituents about
23 a matter of public business?

24 MS. LESTER: Object to the form of the
25 question.

1 THE WITNESS: In response to that, what I --
2 and again without having access to those records, I
3 would -- I could say that it was not my practice to use my
4 personal iPhone for such purposes.

5 In response to the one or two messages that
6 would have been submitted to me through that phone, my
7 practice was to respond from the city-issued device, phone
8 call or my city e-mail, and it would have been an
9 infrequent occurrence.

10 MR. POWER: Counsel, I'm going to ask that
11 again as nonresponsive.

12 MS. LESTER: I think she -- I mean, you can ask
13 her the question again, but I think she responded and
14 answered it.

15 BY MR. POWER:

16 Q. Will you deny that you initiated, from your
17 first iPhone, messages to the public about city business?

18 MS. LESTER: Object to the form. You can go
19 ahead and answer it. I think it's been asked and
20 answered.

21 THE WITNESS: That question is very broad.

22 BY MR. POWER:

23 Q. I think it calls for a yes or a no.

24 MS. LESTER: I disagree.

25 THE WITNESS: I disagree.

1 MR. POWER: Well, I'm not asking you questions.

2 THE WITNESS: I want to be very clear,
3 especially when the question is framed as such to
4 categorically deny.

5 Communications are often very nuanced. And as
6 I stated, aside from -- and what's included in my
7 affidavit is that the text message communications that
8 were contained on the iPhone that was subsequently
9 unintentionally destroyed primarily related to scheduling
10 texts between myself and Councilmember Peltier.

11 If there were one or two, perhaps three at
12 most, text messages that were received to that phone by
13 constituents that were requesting a phone call or a
14 meeting, my practice was to respond to them from my city
15 e-mail or my city cellular device. So that's the best I
16 can answer that question.

17 BY MR. POWER:

18 Q. Okay. How many times do you think you
19 exchanged text messages with Ron Peltier?

20 A. I don't recall.

21 Q. Can you give me an estimation?

22 A. Without having the records before me, I -- if
23 you have them, I'd be happy to review them.

24 Q. Well, I mean, you're right. I mean, that's
25 kind of the essence of this whole lawsuit, is that, you

1 know, because the records are destroyed, we don't know
2 what happened. So I'm trying to understand what the
3 extent of your texting relationship with Ron Peltier is.

4 A. Councilmember Peltier submitted his copy of the
5 text message communications from his iPhone. That was a
6 comprehensive reflection of what was contained on my
7 iPhone, except it was from his personal device.

8 And he submitted those in good faith to the
9 city as public record. I was unable to provide my copy of
10 those same records because, again, my iPhone was --

11 Q. Right. And what I'm asking you --

12 A. -- unintentionally destroyed.

13 Q. I'm sorry. What I'm asking you is your
14 estimation of how many text messages you had with
15 Mr. Peltier.

16 MS. LESTER: Object to the form; and I'll just
17 clarify as to time frame.

18 BY MR. POWER:

19 Q. During your tenure as county councilmember.

20 MR. WILKINSON: City.

21 BY MR. POWER:

22 Q. City councilmember. I'm sorry.

23 A. I'm uncomfortable with just guessing a number.
24 If I had those records, I would be happy to flip through
25 them and form a best guess estimation; but without having

1 them in front of me, I'm uncomfortable providing a number.
2 I want to be very careful around that. I haven't taken
3 the time to count them. Again, I have not -- don't have
4 in front of me a record of those.

5 Q. Okay. So I mean, I'm just trying to get a
6 ballpark. So would you say it was over a thousand?

7 A. I really -- I really can't say.

8 Q. Okay. As a councilmember or before you even
9 became a councilmember, were you aware of previous
10 lawsuits involving the city of Bainbridge Island and
11 public records that were stored or created on personal
12 devices?

13 A. Yes, but with exceptions.

14 Q. Okay. Explain to me your understanding of
15 those previous circumstances.

16 MS. LESTER: And I will object to the extent --
17 I understand your question. I'll object to the extent
18 that it calls for any attorney-client privilege or any
19 communications discussing executive sessions.

20 With that guidance, please tell him. Please be
21 sure not to relay any of that information or testimony.

22 THE WITNESS: Okay. And with that guidance, I
23 was broadly aware of the circumstances and vaguely aware
24 of the parties involved, and it's possible that it may
25 have been -- well, I won't discuss it or disclose, again

1 with respect to executive session, but it may have been
2 discussed between myself and other councilmembers and the
3 city attorney at some point.

4 MR. POWER: Okay. What are you guys thinking
5 about -- can we just go off the record for a second?

6 MS. LESTER: Sure.

7 (Discussion off the record.)

8 BY MR. POWER:

9 Q. What applications on your iPhone, your first
10 iPhone, did you use for city business?

11 MS. LESTER: Object to the form of the
12 question.

13 MR. POWER: I want to say, I think my -- you
14 can have a standing objection to these questions, but I
15 don't understand what the basis of that objection is.

16 MS. LESTER: Is it assumed she used
17 applications. That's my issue with it. It's the form.
18 I'm objecting to the form of the question. Your question
19 was --

20 MR. POWER: She can say none, but anyway --

21 MS. LESTER: Well, but I try not to provide any
22 further clarification, but you called me out on my
23 objection to the form of the question, and so just that's
24 what it is, is it assumes that she used applications on
25 her first iPhone for city business.

1 MR. POWER: Okay. I think it just would go
2 faster if we don't keep on objecting.

3 MS. LESTER: I get it. If you have a prefatory
4 question that asked did she use any applications, then I
5 think -- I guess that's my point.

6 MR. POWER: I think we had.

7 BY MR. POWER:

8 Q. Okay. So go ahead. What applications on your
9 personal iPhone have you used for city business?

10 A. To the extent that the text message app, the
11 green Apple text app, is considered an application.
12 Clearly, as I stated, with regard to the text messages
13 exchanged between Councilmember Peltier and I, it related
14 to scheduling phone calls primarily; and I recall also
15 utilizing the Outlook app to view city e-mail.

16 Q. Okay. But that was city e-mail that was in --
17 sent to your city e-mail account, right?

18 A. Yes. It would have been kept -- yes.

19 Q. So did you use Outlook, then, to access your
20 personal e-mail account, as well?

21 A. No, I don't recall. Of course, my personal
22 e-mail accounts are on the mail app that comes with the
23 iPhone, but I don't recall accessing my personal e-mail
24 account through the Outlook app.

25 Q. Okay. Do you use any other e-mail interface

1 besides Outlook and the Apple-provided mail app?

2 A. I don't recall. It's possible I used the Gmail
3 app for -- and this is specific to the iPhone that was
4 destroyed -- to access my Gmail account, primarily related
5 to the campaign business prior to my taking the seat on
6 city council.

7 Q. Since three months prior to you becoming a
8 councilmember, can you list all the e-mail addresses that
9 you used.

10 A. Yes. The first one would be my primary, which
11 is my first and last name, rashamnassar@hotmail.com. I
12 had a campaign e-mail address set up; I believe that is
13 rasham4 -- the number 4 -- citycouncil@gmail.com. What
14 else? At one point I owned the e-mail address
15 solacefarmpups@gmail.com. Currently, but after having
16 taken my seat on the city council, I started an e-mail
17 address that is my sons' first names at gmail.com. Would
18 you like me to articulate that?

19 Q. Yeah, if you wouldn't mind.

20 A. I believe it's at atlasmojave@gmail.com. And
21 my husband and I share access to but primarily his --
22 what's primarily his e-mail account that was created
23 around the time we met in 2012, and that is
24 freelifebybike@gmail.com. And not stating for certain
25 that's a conclusive list, I believe that those are all of

1 the active e-mail accounts that I currently possess.

2 Q. Okay. But you're not sure; there may be
3 others?

4 A. It's possible.

5 Q. Okay.

6 A. But to the best of my knowledge, that's a
7 finite --

8 Q. No, that's all I can ask for.

9 A. There is one more. Shammy5@yahoo.com, although
10 I'm not certain that that's an active e-mail account.

11 Q. Okay. And so when you're managing this e-mail,
12 do you have it go through a universal in-box so you can
13 see all the messages that are received for all these
14 e-mails?

15 A. Does your question pertain to the iPhone that
16 was destroyed or my current iPhone?

17 Q. Well, my question pertains to all these e-mail
18 addresses that you've just listed. So for example, do you
19 have a consolidator like Outlook which will bring in the
20 Yahoo messages and the Gmail messages, or do you access
21 them through each different interface, like go to Gmail to
22 get your Gmail, go to Yahoo to get your Yahoo? That's my
23 question.

24 A. I understand. The Apple platform for e-mail is
25 through the -- for lack of knowing what its -- what its

1 technical term is, is a mail app that comes with the
2 phone. And through that you can set up all of your active
3 e-mail accounts, and there is an option when you open that
4 app to look at all in-boxes. You can also access each one
5 individually. And that is predominantly the way that I
6 access my personal private e-mail accounts.

7 Q. Okay. So predominantly you go to one master
8 in-box and it's getting all these e-mails funneled into
9 that one in-box?

10 A. Yes. But again, Apple does delineate between
11 those individual -- whether it's a Gmail or a Yahoo, it
12 all looks the same, but its different addresses contain
13 their own individual e-mail boxes. I don't know how to
14 describe it.

15 Q. Got you. Before your iPhone was destroyed, can
16 you approximate for me the percentage between your use of
17 that phone compared to the use of the Samsung phone with
18 respect to voice calls that you made concerning city
19 business.

20 A. I don't recall. My practice was to use my
21 city-issued cell phone for over-the-phone discussions that
22 pertained to city business. Again, as a newly elected
23 official, I can't control what comes in to me; and as I
24 developed contacts as I was campaigning for the position
25 of an elected, my -- of course, my personal cell phone

1 number was widely distributed, and individuals in the
2 community had access to it.

3 My practice was to, if I was contacted --
4 again, I can't state for certain the frequency or extent
5 to which I was, without seeing phone records, but my
6 practice was to refer them to my city-issued device, my
7 city-issued number.

8 Q. My question was about the calls that you
9 initiate. What percentage of calls did you initiate from
10 your private phone versus your public phone that had to do
11 with city business?

12 A. I can't say for certain.

13 Q. Can you give me an estimation?

14 A. Again, not without seeing those call records.
15 I don't -- I don't believe we're talking -- well, I'm
16 going to -- I'm just going to say I don't recall.

17 Q. Okay.

18 A. I don't recall without seeing the device.

19 Q. Do you have those call records?

20 A. I don't.

21 Q. Who was your carrier on that phone?

22 A. Verizon.

23 Q. Who is your carrier now?

24 A. Verizon.

25 Q. Is it the same account number or the same

1 account you have with Verizon?

2 A. As across both phones?

3 Q. Mm-hm.

4 A. I believe so, yes.

5 Q. Okay. Have you attempted to call Verizon to
6 get that information?

7 A. Can you specify as to what information you're
8 referring to.

9 Q. Yeah. To get your old phone logs.

10 A. And when you say logs, are you referring to
11 call logs or text message logs?

12 Q. Yeah. When you get a phone bill that has, you
13 know, the number called to, from, all that stuff.

14 A. I have not personally made contact with
15 Verizon. My father-in-law is the master account holder.

16 Q. What's your father-in-law's name?

17 A. Anthony Gibbons.

18 Q. Okay. So Anthony Gibbons is technically the
19 owner of the first iPhone; is that right?

20 A. Anthony Gibbons is the master account holder --

21 Q. Okay.

22 A. -- for the account which is for the phone, the
23 phone's --

24 Q. Did he pay the phone bill, then?

25 A. Yes.

1 THE WITNESS: Is that right?

2 MR. POWER: You can't coach.

3 MS. LESTER: I did not coach.

4 MR. POWER: I know you didn't. I'll say that
5 on the record. You didn't coach. It looked like your
6 client was asking for coaching. That's all I was
7 observing.

8 MS. LESTER: I wasn't even looking.

9 THE WITNESS: I wasn't asking for coaching.
10 May I request a break?

11 MS. LESTER: Were you finished with your
12 question?

13 THE WITNESS: I really have to go to the
14 bathroom.

15 MR. POWER: If you really have to go --

16 THE WITNESS: Sorry. Coffee.

17 MS. LESTER: Do you want to take the lunch
18 break right now?

19 MR. POWER: Yeah, let's take the lunch break
20 now.

21 (Lunch recess from 12:30 p.m. to 1:38 p.m.)

22 BY MR. POWER:

23 Q. So when we broke for lunch, we were talking a
24 little bit about your Verizon account, and you said
25 that -- do I have this right, that it's owned by -- it's

1 Anthony Gibbons; is that correct?

2 A. Yes.

3 Q. Yes, okay. And how many phones are on that
4 account?

5 A. I don't know.

6 Q. And do you know of any other phones that are on
7 that account?

8 A. Yes.

9 Q. Okay. How many other phones do you know about
10 that are on that account?

11 A. To my knowledge, my husband's phone is on that
12 account, my father-in-law's phone, and my mother-in-law's
13 phone, but that's not a conclusive list.

14 Q. Right. Okay. So it's sort of like a family
15 plan where you get multiple handsets, and then is that
16 basically what I'm getting, like --

17 A. Yes. Yes.

18 Q. Okay. And so Mr. Gibbons, is he responsible
19 for paying Verizon the monthly bill; is that how --

20 A. Yes.

21 Q. -- it works? And he took out -- to your
22 knowledge, he took out the account in his name; is that
23 correct?

24 A. To my knowledge.

25 Q. Okay. And do you know how long that account

1 has been in existence?

2 A. No.

3 Q. Has it been in existence during the entire
4 tenure of your occupation of a seat on the council?

5 A. To the best of my knowledge.

6 Q. Okay.

7 A. Yes.

8 Q. And you said that he had contacted Verizon,
9 which is the carrier that furnishes service to those
10 phones; is that correct?

11 A. Yes.

12 Q. Okay. Have you contacted Verizon, you
13 personally contacted Verizon about the destruction of your
14 iPhone?

15 A. No.

16 Q. Okay. If you turn to paragraph 10 of your
17 declaration, it starts off: "Me and" --

18 MS. LESTER: Wait, there's four.

19 MR. POWER: There's four? This one -- this --

20 MR. LEVAN: What's the number on that one?

21 MR. POWER: It's the one with the errata sheet
22 on the front.

23 MR. LEVAN: What's the number of the public
24 records request?

25 MR. POWER: 19-92. So let me make sure I'm

1 working off the same. Okay, I'm on 19-90, but 19-92, I'll
2 represent to you, says the same thing. It says: "Me and
3 my family" --

4 MS. LESTER: Hold on. Hold on. Hold on. Let
5 me get it in front of her, because I want to have her read
6 it.

7 MR. POWER: In fact, let's offer it as an
8 exhibit.

9 MS. LESTER: Yeah, I was going to say, if
10 you -- here, I have extra -- hold on one second. So this
11 is -- do you want to do all four or just --

12 MR. POWER: What I have is -- can we just go
13 off the record to sort this out?

14 MS. LESTER: Sure.

15 (Discussion off the record.)

16 (Exhibits 1 through 4 were marked for
17 identification.)

18 BY MR. POWER:

19 Q. So the reporter has just given you exhibits
20 marked 1 through 4, I believe.

21 A. Okay.

22 Q. And those are your declarations that you signed
23 pertaining to the four public records requests which are
24 the subject of this lawsuit.

25 A. Okay.

1 Q. And on two of those, on 19-90 and 19-92,
2 paragraph 10 starts off: "Me and my family have been in
3 communication with Verizon in an effort to recover the
4 text messages that were lost when the iPhone was
5 destroyed."

6 And that same sentence exists in paragraph 12
7 of the 760 and the other requests that is the subject of
8 the suit. Is that correct?

9 A. Your question is whether those statements exist
10 across --

11 Q. Right.

12 A. -- the records request?

13 Q. I'm just trying to get everybody on the same --
14 looking at the same paragraphs.

15 A. Yes.

16 Q. Okay. So I thought I understood your testimony
17 to be that you yourself didn't contact Verizon, that it
18 was just your father-in-law; is that correct?

19 A. Yes. And that's assuming that your use of the
20 word "contact" refers specifically to my picking up the
21 phone and dialing and being the point of contact, meaning
22 having voice discussions with the Verizon personnel. Then
23 that statement would be true.

24 Q. Okay. But have you had any contact with
25 Verizon yourself, trying to retrieve these messages?

1 A. No. I have not contacted any Verizon personnel
2 personally.

3 Q. Okay. But your father-in-law evidently wrote a
4 letter; is that correct?

5 A. Yes.

6 Q. Okay. Did you supply that letter to the city?

7 A. I believe it was provided to the city clerk.

8 Q. Okay. Did your father-in-law do anything else
9 besides write a letter to Verizon's legal department?

10 A. To the best of my knowledge, my father-in-law
11 contacted Verizon over the phone; and with my assistance,
12 clearly, relayed the circumstances and the -- and the
13 request for those records. So there was phone contact, as
14 well.

15 Q. Were you present for the phone contact?

16 A. I don't recall that I was. I may have been in
17 the same building, but I don't recall sitting beside him,
18 if that's what you're requesting.

19 Q. So you didn't overhear what that conversation
20 was?

21 A. No.

22 Q. Okay.

23 A. Not to my -- not to my -- not in my best
24 recollection. I don't recall.

25 Q. Okay. You said you assisted your father in

1 contacting Verizon. What form did that assistance take?

2 A. My father-in-law's -- sorry, say the question
3 again, what form --

4 Q. How did you help your father contact Verizon?
5 What did you do to assist him to contact Verizon?

6 A. Well, I explained that in light of the -- in
7 light of the advice from the city attorney, that we
8 attempt to contact Verizon to see if those records were,
9 in fact, recoverable, that he contact Verizon. I provided
10 him that information and that advice.

11 Q. And about how long was this after the phone was
12 destroyed?

13 A. I don't recall. I recall this question might
14 have been brought up earlier in this deposition, and I
15 believe my response was within a three-month window of
16 time, more likely sooner than that, after the date the
17 phone was unintentionally destroyed.

18 Q. Did you review, prior to it being sent, the
19 letter that your father-in-law sent to Verizon?

20 A. I don't -- I don't recall reviewing the letter.

21 Q. Have you reviewed that at any time?

22 A. I believe I -- I don't recall. I may have
23 reviewed it after it was sent.

24 Q. So do you know what -- do you have any basis to
25 understand what was -- what were the contents of that

1 letter?

2 A. Yes.

3 Q. Okay. What is your basis and what were the
4 contents?

5 A. Well, my father-in-law discussed this.

6 Q. Okay. And what did he say was in that letter?
7 Who is it addressed to?

8 A. The letter was addressed to the Verizon legal
9 department.

10 Q. Okay. And did you know -- I mean, was that the
11 Verizon megacorp legal department probably someplace in
12 New York, or was it a local Verizon distributor, or do you
13 know where that was addressed to?

14 A. To the best of my knowledge, it was addressed
15 and submitted to Verizon's legal department, which is a --
16 to the best of my knowledge and understanding, a corporate
17 address. I don't know where in the US they're located,
18 but I do know that it was a larger corporate address.

19 Q. Did you request assistance from anyone in the
20 city in contacting Verizon?

21 A. No. At what time period? I want to be
22 specific before I -- let's pause on my response for a
23 moment.

24 Q. Before September 15, 2018, did you request the
25 assistance of anyone at the city of Bainbridge?

1 A. Okay. As the advice of city attorney was to
2 establish contact through Verizon through the master
3 account holder --

4 MS. LESTER: Okay, I want to be careful about
5 any advice that the city attorney provided you in the
6 context of attorney-client privileged communications.

7 BY MR. POWER:

8 Q. Besides the attorney, did you request
9 assistance of anyone else at the city of Bainbridge to
10 obtain that information from Verizon?

11 A. No.

12 Q. Have you -- do you recall when you received a
13 response from Verizon's legal department?

14 A. To the best of my knowledge, we did not receive
15 a response from Verizon's legal department.

16 Q. Okay. Did you follow up or request that your
17 father-in-law follow up with his communications to
18 Verizon's legal department?

19 A. I believe there was follow up.

20 Q. What --

21 A. Attempt -- excuse me, I should say attempted
22 follow up.

23 Q. Okay. What makes you believe that?

24 A. My understanding from Verizon -- and this is
25 through my father-in-law, so this is to the best of my

1 knowledge and understanding. Verizon expressed that we
2 would likely be unsuccessful in obtaining any records from
3 Verizon unless the request was formed by the police or
4 through a legal stream.

5 Q. Okay. But you're unaware of any writing from
6 Verizon which communicates that Verizon is -- was going to
7 be unable to provide those documents; is that correct?

8 A. I am unaware of any written, yes -- as you
9 stated, any written communication that confirms that fact.

10 Q. Okay. Do you know if your father sent this
11 letter through the US mail?

12 A. I don't recall, but --

13 Q. Do you know --

14 A. -- it was mailed.

15 Q. It was mailed. So when you say mailed, it was
16 physically mailed?

17 A. Yes.

18 Q. Okay. Was a copy sent via e-mail or other
19 electronic method?

20 A. I don't recall. I believe a copy was sent to
21 the city clerk. I don't know whether it was e-mail or
22 hard copy.

23 Q. Okay. Did you retain or did you know if your
24 father-in-law retained a copy of that letter that he sent
25 on August 24, 2018?

1 A. I don't -- I don't know.

2 Q. If I'm understanding your testimony, you just
3 testified that your belief was that Verizon told your
4 father-in-law that the text messages were unrecoverable;
5 is that correct?

6 A. No.

7 Q. No, okay.

8 A. No. My understanding of what -- of the
9 information that was provided to my father-in-law over the
10 phone by a Verizon employee was that it was unlikely that
11 Verizon would release any text message records, whether
12 they -- if it was the case that they did retain them or
13 possess them, to a private citizen.

14 And as such, my father-in-law requested the
15 legal department, through which to anyhow submit that
16 request, to attempt to obtain those records.

17 Q. But then -- so you'll agree with me, then, that
18 Verizon did make some response to your father regarding
19 that request, simply you're not going to get them without
20 a subpoena or something like that, right?

21 A. No. What I said was the Verizon rep said it
22 was unlikely that those records would be provided to a
23 private citizen.

24 Q. So what I'm trying to understand is if that
25 happened, I don't understand why you say: "To date,

1 Anthony has not received a response from Verizon regarding
2 our request for those messages." And that's on --

3 A. Yes.

4 Q. -- looks like around line 7 on page 3 of the
5 affidavit regarding 19-90.

6 A. Was that a question? Sorry, could you repeat
7 it.

8 Q. Yeah. You write in your affidavit: "To date,
9 Anthony has not received a response from Verizon regarding
10 our request for those messages."

11 But I'm understanding your testimony to be that
12 somebody at Verizon did respond to him, saying hey, you're
13 not going to get those messages.

14 MS. LESTER: Object to the form of the
15 question; mischaracterizes the testimony.

16 MR. POWER: But that's what I'm trying to have
17 her clarify.

18 MS. LESTER: Sure.

19 THE WITNESS: I feel like we're
20 misunderstanding. I'm -- there are two points of
21 communication I referred to. One is the phone
22 communication, which is the initial contact with Verizon
23 to obtain the address of the legal department to which to
24 send a formal request for text message records.

25 What I stated previously was that I believe it

1 to be the case that my father-in-law was told by a Verizon
2 employee that it was unlikely that the legal department
3 would provide text message records if they retained them,
4 meaning if it was the case that they still had them, to a
5 private citizen; but that Verizon employee ultimately,
6 through discussions with my father-in-law, came to provide
7 him with the address of the legal department.

8 Because it was in our interest to be as
9 cooperative and compliant and to try to exercise as much
10 due diligence and effort in an attempt to recover these
11 messages, my father-in-law sought to submit a request for
12 those messages, despite that he was told it was unlikely
13 that he would be provided them. Does that help clarify?

14 BY MR. POWER:

15 Q. I think that's fine. Do you ever text or
16 receive e-mails during council meetings?

17 A. Broadly, broad text messages? Are you
18 referring to my personal texting city-related business?
19 If you could be more specific in your question, I'd
20 appreciate it.

21 Q. I'm just asking if you receive or send text
22 messages during the council meetings.

23 MS. LESTER: I'm going to object to the form of
24 the question. I'll just tell you the form is because it's
25 two different things in one question.

1 THE WITNESS: Text -- say -- repeat the
2 question, text messages or what was --

3 BY MR. POWER:

4 Q. Do you text during council meetings?

5 A. Do I text during council meetings? Yes.

6 Q. Okay. With whom do you text during council
7 meetings?

8 A. Primarily my husband, who's looking after our
9 two young children; my mother and my sisters live in
10 California, and I'm very close with my family. Of course,
11 I'll clarify that this is all related to personal matters
12 and has nothing to do with city business. And then my
13 father has dementia, and he sometimes texts me to ask
14 questions, and I feel an obligation to respond.

15 Q. Okay.

16 A. Of course, and that's not limited to. I do
17 have friends. I have a life outside of city council, and
18 sometimes I use opportunities during council meetings to
19 quickly respond to personal matters.

20 Q. Do you ever text about public business during
21 council meetings?

22 A. No. Do I -- and that question is do I initiate
23 text messages about public business?

24 Q. Mm-hm.

25 A. Again, I so stated this before, I cannot

1 control what comes in to me, but if there are text
2 messages that are received to my personal phone, I respond
3 to -- on my city phone. And of course, if text messages
4 come in on my city phone during a council meeting that
5 pertain to city business, I would respond to my city
6 phone.

7 Q. Okay. Is that a roundabout way of saying yes,
8 I do receive text messages during the council meeting --
9 or the council meetings about public business?

10 A. It's a way of saying that I cannot control what
11 comes in to me, what comes into my phone during council --
12 I don't control when they come in, but typically at
13 council meetings I'm at council meeting.

14 Q. So just so we're clear, true or false: I have
15 received text messages during council about public
16 business?

17 A. I have in the past, yes.

18 Q. Okay. Okay. We talked about this a little bit
19 earlier, but I'm still a little unclear. What personal
20 computers do you have access to now? What would you say
21 is your primary computer that you use? Is it a laptop or
22 a desktop?

23 A. It's my -- I have access to my work computer at
24 my place of former employment; and I purchased a personal
25 PC, I believe it was two months ago, two or three months

1 ago for personal use.

2 Q. Do you have an iPad?

3 A. Yes. My family owns an iPad.

4 Q. For how long has your family owned an iPad?

5 A. I believe that was purchased in 2013 and
6 around -- between the 2012, 2014 time period.

7 Q. Is that iPad backed up?

8 A. I don't recall.

9 Q. What iCloud account is that associated with?

10 A. I don't know.

11 Q. How many iCloud accounts do you have?

12 A. I have -- I believe I have one iCloud account.

13 Q. Going back to your father-in-law, and I'm going
14 to apologize for this question before I even say it
15 because I know it's sensitive, but I think it's entirely
16 relevant given that he was tasked with covering these
17 public records. But when did your father first --

18 MS. LESTER: I'm going to object to the
19 characterization of public records, but --

20 BY MR. POWER:

21 Q. Okay. When was your father -- when did your
22 father-in-law first show signs of dementia?

23 A. Sorry if I wasn't clear. I wasn't referring to
24 my father-in-law.

25 Q. Oh, okay. Okay.

1 A. I was referring to my father, who's in
2 California.

3 Q. Okay. Misunderstood. Thank you very much.
4 Okay.

5 So let's turn now to the actual destruction of
6 the phone. Where was the phone when it met its final fate
7 in the olive jar?

8 MS. LESTER: Object to the form of the
9 question.

10 THE WITNESS: I don't understand the question.

11 BY MR. POWER:

12 Q. You were traveling, right?

13 A. Yes.

14 Q. Where were you traveling to?

15 A. California.

16 Q. Okay. And where was the olive jar in
17 California?

18 A. To be clear, it wasn't a jar. It was a can.

19 Q. Okay.

20 A. And to further clarify what's written in my
21 affidavit, the contents of the can are what the phone was
22 resting in.

23 Q. So it was filled with something other than
24 olives?

25 A. The can -- no. May I just clarify?

1 Q. Sure. Just tell me what happened.

2 A. A can of California -- I believe they were
3 California black olives, was poured by my son into the cup
4 holder of his car seat, which is where the iPhone
5 ultimately sat.

6 Q. Okay. And where were you traveling at the
7 time?

8 A. At the time the phone was discovered --

9 Q. Right.

10 A. -- sitting in the contents of the olives?

11 Q. Yes.

12 A. I can't say approximately where we were. We
13 were traveling to Bend, Oregon, which is our midway point.
14 We typically stay with friends and split the travel, the
15 car trip into two days to accommodate the children. We
16 would likely have been near Bend, Oregon.

17 Q. Okay. Were you driving the car?

18 A. No.

19 Q. Okay. Who was driving the car?

20 A. My husband.

21 Q. Okay. And then you were in the passenger seat?
22 You were also in the car?

23 A. I was also in the car, yes.

24 Q. Okay. Anyone else in the car?

25 A. Yes.

1 Q. Who?

2 A. My son Mojave and my son Atlas.

3 Q. Okay. And it's Atlas that destroyed the phone?

4 A. No.

5 Q. It's Mojave that destroyed the phone?

6 A. Yes.

7 Q. Okay. Okay. And where were you on your way to
8 during this trip? Where did you leave from that morning
9 that you destroyed the phone?

10 A. I want to be careful, because in your question
11 you said when I destroyed the phone and --

12 Q. When the phone was destroyed, where were you
13 leaving from that morning?

14 A. The first morning of our -- that began our
15 trip, we -- I believe we spent, to the best of my
16 recollection -- okay, that was -- we would have left from
17 Bainbridge.

18 Q. Okay. So you were headed --

19 A. From our home on Bainbridge.

20 Q. You were headed southbound on, presumably, I-5
21 going towards California or you go 101?

22 A. There are several -- I don't -- that's an
23 oversimplification of directions that it takes to get from
24 Bainbridge to the Bay Area; and of course like I said, we
25 take a detour in Bend which is not on the way.

1 Q. But generally you were traveling south towards
2 California when the phone was destroyed; is that fair?

3 A. Yes.

4 Q. Okay. What sort of car was this?

5 A. A Toyota Tundra.

6 Q. Toyota Tundra. And is that an extended cab
7 truck?

8 A. I don't know.

9 Q. Was there a back seat to it?

10 A. Yes.

11 Q. Okay. Was your son in the back seat?

12 A. Which son?

13 Q. It's Mojave that --

14 A. Yes.

15 Q. Yes?

16 A. Yes.

17 Q. Okay. Were both of your sons in the back seat?

18 A. Yes.

19 Q. Okay. Where were the cup holders located that
20 the phone was found in in that truck?

21 A. The cup holders in infant to toddler style car
22 seats are located, in the case of this model, on both
23 sides of the car seat.

24 Q. Okay. So your son was in a car seat, and it
25 was in the cup holder in the car seat that the phone was

1 found in?

2 A. Yes.

3 Q. Okay. Is it a forward-facing car seat or
4 rearward-facing car seat? Do you remember the model?
5 Let's start with that.

6 A. The model of the car seat?

7 Q. Yeah.

8 A. I don't, off the top of my head.

9 Q. Okay. So you discovered this someplace in
10 Oregon, that the phone had been dumped in the contents of
11 a jar of olives; is that right?

12 A. Yes, can.

13 Q. Was the can in the car seat or --

14 A. I don't recall. I don't recall.

15 Q. Okay. Where did you -- where do you recall
16 finding the phone?

17 A. I recall finding the phone in the cup holder of
18 the car seat.

19 Q. Okay. And you said they were California black
20 olives, and it was -- there was a can, right?

21 A. I said I believe they were California black
22 olives; and yes, it was a can of black olives.

23 Q. Okay. But you don't remember seeing the phone
24 actually in the jar of olives; is that right?

25 MS. LESTER: Object to the form of the

1 question.

2 THE WITNESS: For one, you keep using the word
3 jar. I want to make sure that we're clear it was a can of
4 olives. And what I said was when I awoke and discovered
5 the phone, it was sitting in the cup holder of my son's
6 car seat and sitting in the contents of a can of black
7 olives, with black olives swimming around the device.

8 BY MR. POWER:

9 Q. Okay. So on your declaration when it says:
10 "my two-year-old son soaked the phone in a can of olives
11 while my family was traveling," what you're telling me now
12 is that the phone wasn't necessarily in the can, that the
13 phone was destroyed by the contents of the can of olives?

14 A. Yes. And that was my intention in wording it
15 that way, but I realize that I could have provided and I
16 will provide further clarification.

17 Q. Is there anything else about that declaration
18 you'd like to clarify?

19 A. Yes. I will also clarify that I state that he
20 was two. At the time he was about two in several weeks --
21 sorry, he was just under two. He turned two on July 16th.

22 Q. Okay. Anything else about that declaration
23 that needs clarification? You can take some time if you
24 want to look at them.

25 A. Are you asking for clarification for the entire

1 document or just on that page?

2 Q. Yeah. I want to know, like, what else in this
3 is wrong.

4 MS. LESTER: Object to the form of the question
5 or the characterization.

6 THE WITNESS: Did you -- can you repeat the
7 question.

8 BY MR. POWER:

9 Q. Yeah. What else is either incorrect or needs
10 clarification in the declarations that you've supplied?

11 A. I don't believe there are any other points in
12 my affidavit that require clarification at this time.

13 Q. Okay. Did your phone have a case on it?

14 A. I don't recall.

15 Q. Did you have a case for that phone?

16 A. I -- I don't recall. It's possible, but I
17 don't recall.

18 Q. How did your son get a can of olives in the
19 back seat of a car?

20 A. Black olives were one of his favorite snacks.

21 Q. He's a man with good taste. I love black
22 olives.

23 A. We are Mediterranean by heritage, so maybe it's
24 in his DNA. But we stopped earlier at the gas station and
25 purchased snack supplies for the children, and we

1 purchased a can of black olives at that time.

2 Q. Okay. Do you remember where you purchased
3 those olives?

4 A. No, not at this time. I don't recall the
5 location.

6 Q. Okay. Would you normally pay for groceries on
7 a credit card or a debit card?

8 A. Not exclusively. My husband and I carry cash,
9 as well.

10 Q. Okay. Was it a pull-top can?

11 A. I believe so, but I don't recall specifically.

12 Q. Okay. Were you carrying a can opener?

13 A. It's possible, knowing my husband, but I don't
14 recall.

15 Q. Okay. You think your husband might recall
16 that?

17 A. I can't say whether he'd recall, unless he were
18 here for me to ask.

19 Q. Who, outside of the passengers in that car, did
20 you first inform that your phone had been destroyed?

21 A. Outside of my husband, my mom and my sisters.

22 Q. Okay. How did you communicate that to them?

23 A. I believe -- this is my recollection at this
24 time -- that I texted them. I either texted them or I
25 called them from my husband's phone.

1 Q. Okay. And was that more or less immediately
2 after you realized the phone had been destroyed?

3 A. More or less, but that depends on your
4 definition of immediate. It may have been as long after
5 as the following morning.

6 Q. Okay. Who were the next people that you
7 informed of the destruction of the phone?

8 A. Does this question pertain to city, to my
9 capacity as a councilmember? Are you asking in my
10 personal life whom did I make aware that --

11 Q. Anyone in the world, who was the next person
12 you contacted about the destruction of your phone?

13 A. I don't recall. It's possible I contacted a
14 friend or two.

15 Q. Okay. What would their names be?

16 A. Kate.

17 Q. A last name?

18 A. Killigrew.

19 Q. And how do you know her?

20 A. Kate is a friend.

21 Q. Where did you meet?

22 A. At the Kids Discovery Museum here on Bainbridge
23 Island.

24 Q. What's your usual method of communication with
25 Ms. Killigrew?

1 A. Mostly my friend stops by.

2 Q. Okay. If you weren't in the vicinity so you
3 could speak with her personally, how would you communicate
4 with Ms. Killigrew?

5 A. I text with Kate. We call.

6 Q. Okay. So would you have used your husband's
7 phone, then, to contact Ms. Killigrew?

8 A. It's possible. I'm not certain.

9 Q. Okay. Who's the next person with certainty
10 that you know you spoke with about the destroyed phone?

11 A. I can't say with certainty that in the window
12 of time that the cell phone had been destroyed and the
13 time where I was given a new cell phone at the Apple
14 store, that I contacted any individuals. If your question
15 is contact from my husband's phone, then I can't be for
16 certain that -- that I did.

17 Q. Okay. Did you take any immediate precautions
18 with respect to that phone?

19 A. I don't understand your question.

20 Q. Well, your phone's just been dunked in liquid.
21 Did you take any precautions with -- to try and mitigate
22 what happened to that phone?

23 A. Yes.

24 Q. Okay. What did you do?

25 A. When I discovered the phone sitting in the

1 contents of a can of olives, I first took the phone out
2 and I got into the front seat. I was sitting in between
3 my children at the time. And that was something I had
4 awoken to. And the first thing I did was crank up the
5 heat in the car and try and air it out.

6 Q. Okay.

7 A. That was the first thing, but I don't recall if
8 your question asked for a comprehensive list of steps I
9 took.

10 Q. Sure. What was the next thing?

11 A. I continued to air out the phone sporadically
12 throughout the night; arriving in California at my mom's
13 house, I tried several other things.

14 You have to understand this was very difficult
15 for me. My phone wouldn't turn on and it was -- I was
16 very upset, and I had photos on that phone that were from
17 my second son's home birth. So it was really important to
18 me to try what I could within my power and knowledge to
19 try and salvage this phone.

20 When I got to California -- my mother keeps
21 Ziploc bags full of the silica gel packs. Put it in one
22 of those for some period of time. I believe we tried
23 rice. We may have tried salt. I don't recall. One of my
24 sisters suggested we try a hair dryer, but the phone was
25 unresponsive to any of these attempts.

1 Q. Okay. And about how long was it from the time
2 you discovered the phone and the arrival at your mother's
3 house in California?

4 A. I can't say an exact time. I can't say. I
5 could -- I can't say, but it would have been very late on
6 the night of what I believe to be June 20th or 21st. And
7 I will estimate to the best of my knowledge that we
8 arrived in California around 4 or 5, more or less, give or
9 take.

10 Q. Okay. So you arrive at your mom's. You try
11 desiccants and rice, and then what's the next thing you do
12 to mitigate the damage that's happened to your phone?

13 A. I head to the Apple store on 4th Street in
14 Berkeley.

15 Q. Okay. Did anyone go with you to the Apple
16 store?

17 A. No.

18 Q. And who did you speak with at that Apple store?

19 A. I don't recall the names of the individuals
20 with whom I spoke.

21 Q. Okay. You spoke with more than one individual?

22 A. Yes.

23 Q. Okay. About how many individuals did you speak
24 with?

25 A. At least two; at most four.

1 Q. Okay. Do you remember any identifying traits
2 of those individuals you spoke with?

3 A. No.

4 Q. Okay. How long were you at the Apple store
5 for?

6 A. I don't recall.

7 Q. Would you say it was more than an hour?

8 A. I don't recall. It's possible. It's possible
9 it was less.

10 Q. Did the city provide you with any guidance
11 regarding the damaged -- what to do with the damaged
12 phone? And I'm not talking about attorney-client
13 information.

14 A. For my personal phone?

15 Q. That was -- yeah, that had public records --

16 A. No.

17 Q. -- on it. Yeah, no?

18 A. I just want to be clear. You added -- you said
19 that had public records on it.

20 Q. That we allege to have public records on it.

21 A. Okay, thank you. No.

22 Q. Okay. Did you ask anyone about the possibility
23 of recovering data from the phone?

24 A. Yes.

25 Q. Okay. And who did you ask?

1 A. The Apple technician whom I was assigned.

2 Q. Okay. And did the Apple technician say that
3 the data was irretrievable?

4 A. Yes.

5 Q. Did he say it was irretrievable by anyone or
6 just by the Apple store?

7 A. She -- I believe it was a she -- stated that --
8 and this is to the best of my recollection, that the data
9 and information would -- was irretrievable, could not be
10 retrieved by anyone.

11 Q. Okay. How old was she?

12 A. I don't recall.

13 Q. Was she under 30?

14 A. I really don't recall. I can't say.

15 Q. Okay. Did she present herself as a specialist
16 in data retrieval?

17 A. You're asking me if I believe she was a
18 specialist in data retrieval. That's a subjective
19 opinion, and I --

20 Q. I asked if she presented herself as a
21 specialist in data retrieval.

22 A. She presented herself as a technician for
23 Apple. She represented the product of the company and --

24 Q. But she was just somebody working the floor at
25 an Apple store, right?

1 A. She was the -- I believe they have a title,
2 Apple techs or -- I can't recall sitting here. Genius bar
3 or -- I really don't know.

4 Q. Okay. Were you unaware that data can be
5 recovered using forensic methods from phones?

6 MS. LESTER: Objection to the form.

7 THE WITNESS: Was I unaware at the time; is
8 that your question?

9 BY MR. POWER:

10 Q. Mm-hm.

11 MS. LESTER: Same objection.

12 THE WITNESS: Yes, I -- to the best of my
13 recollection, I -- when the tech produced the phone,
14 opened it, and revealed to me to demonstrate how these
15 records would be unrecoverable, I witnessed the -- I
16 don't -- I'm not sure what you call the hard drive or the
17 mother board of an iPhone; and she pointed out that it had
18 been corroded, that the oils from the -- unlike typical
19 water, aqueous solution, oil eats or corrodes this type of
20 equipment.

21 I stated earlier that I have average working
22 knowledge of technology. The term forensic retrieval is
23 unfamiliar to me. I don't specifically recall, but I
24 would say that yes, I -- and whether or not that could
25 have been the case, I don't know.

1 BY MR. POWER:

2 Q. Did you consider keeping the phone?

3 A. Perhaps so the -- in my recollection, but it
4 was the advice, as stated in my affidavit, the Apple
5 tech -- that those records, anything on that phone that
6 was on the hard drive, contents of the hard drive of that
7 phone could not be recovered.

8 And it was difficult news for me. I can't say
9 I wasn't crying. I was very upset, the loss of --
10 potential loss of those photos. I took her advice. I
11 took the advice of the Apple technician and surrendered
12 that phone in exchange for a new Apple iPhone 7.

13 Q. Okay. When you say you surrendered it, do you
14 mean you traded it in?

15 A. I believe. I don't know what the -- if -- what
16 the technical exchange was under, what they title those
17 transactions, but I left the damaged iPhone with Apple and
18 I purchased a new one.

19 Q. Okay. Did they give you a credit for that
20 handset?

21 A. I believe so.

22 Q. Okay. And it's my understanding that you,
23 then, have provided the receipt for this transaction to
24 the city; is that correct?

25 A. Yes.

1 Q. Okay. Who at the city did you provide that to?

2 A. I believe I provided it to the city clerk,
3 likely the city attorney. I don't specifically recall.

4 Q. And when did you provide that receipt?

5 A. Sorry, could you repeat the question.

6 Q. When did you -- when did you supply the
7 receipt?

8 A. I don't recall.

9 Q. Was it after this lawsuit's been initiated?

10 A. I don't recall that to be the case, but I don't
11 recall.

12 MR. POWER: Can we take five minutes here.

13 MS. LESTER: Sure.

14 (Recess from 2:33 p.m. to 2:44 p.m.)

15 BY MR. POWER:

16 Q. Okay. How many iCloud accounts do you have?

17 A. I believe I have one iCloud account.

18 Q. Okay. And that's the one that's associated
19 with your iPad?

20 MS. LESTER: Object to the form of the
21 question.

22 THE WITNESS: I stated I don't know what iCloud
23 account is associated with the iPad. It's a family
24 device.

25 BY MR. POWER:

1 Q. But you can send and receive messages from that
2 iPad, right?

3 A. I don't know that to be the case. I don't
4 recall ever using it for that purpose.

5 Q. Okay. And is that iPad backed up through the
6 iCloud?

7 A. I don't recall. As I stated, it's a family
8 device. It's possible my husband's iCloud account is
9 connected.

10 Q. Okay. But then you would have access to two or
11 more iCloud accounts if your husband has an account and
12 then there's one associated with this iPad; is that
13 correct?

14 A. Like I said, I don't know what iCloud account
15 is associated -- is currently associated with the iPad.

16 Q. So did you not check that iPad or that iCloud
17 account for the text messages which my clients have
18 alleged were withheld or not provided by the city?

19 A. No. I --

20 MS. LESTER: Can you -- can you restate that.
21 I'm sorry, I was having trouble following it, because I
22 think there was a double negative in it.

23 MR. POWER: Could I have the -- there may very
24 well have been. Could I have the court reporter read it
25 back. And if I'm happy with the question, I'll let it

1 stand; if not, I'll rephrase.

2 MS. LESTER: Sorry about that.

3 (Record read as requested.)

4 MR. POWER: Okay, strike that. That was bad.

5 BY MR. POWER:

6 Q. Did you check your iCloud account for the text
7 messages that my clients allege were improperly withheld?

8 A. Well, yes and no. And I say that because
9 that -- the iPad is primarily my son's. To my knowledge,
10 it is not -- no longer linked to my -- or is not linked to
11 my phone. I don't -- I've not used that iPad for text
12 messaging or any other purposes except to provide
13 entertainment apps and Netflix to our son.

14 Q. Okay. But when you get an iPad, you know,
15 there's a couple set-up screens and it automatically
16 creates an iCloud address or iCloud account, right?

17 A. I don't know that to be the exact process
18 through which iPads are set up. I stated that it was
19 purchased in 2012 or 2013, and that currently I don't
20 recall what iCloud account it's associated with.

21 Q. Okay. Do you think it would be a good idea to
22 check that?

23 MS. LESTER: Object to the form of the
24 question.

25 THE WITNESS: I don't believe there's any

1 reason to, and it's possible that I have. Like I said, I
2 just don't -- I don't recall what account is associated
3 with the device.

4 BY MR. POWER:

5 Q. Okay. In September 2018, did you check the
6 iCloud backup for data which may have been generated or
7 gone through your personal iPhone?

8 MS. LESTER: Object to the form of the
9 question.

10 THE WITNESS: I don't understand the question.

11 BY MR. POWER:

12 Q. In September of 2018, did you check the iCloud
13 backup for your personal phone's data?

14 MS. LESTER: Again, I'll object to the form of
15 the question.

16 MR. POWER: On what -- what -- hold that
17 question, but what basis is that objectionable?

18 MS. LESTER: That's assuming that there was an
19 iCloud account for her phone.

20 MR. POWER: There's no iCloud -- she's saying
21 there's no iCloud.

22 MS. LESTER: I understand that, but you don't
23 have the foundational question, so you're asking me about
24 the basis of my objection to the form of the question, and
25 that's --

1 MR. POWER: Okay, whatever. Could you read
2 that question back.

3 (Record read as requested.)

4 THE WITNESS: Specifically in September of
5 2018? I don't recall if I did in September of 2018, and I
6 don't recall what you mean specifically by checking for
7 iCloud backup.

8 BY MR. POWER:

9 Q. In response to any public records request, did
10 you ever attempt to check the iCloud backup if such
11 exists?

12 A. Yes.

13 Q. Okay.

14 A. I understand your question. Yes, I did.

15 Q. Okay. And when did you do that?

16 A. It was in response to public records requests,
17 and in -- again, this might be attorney-client privileged
18 communication. I don't -- I want to be careful around
19 that. But as a part of the attorney's -- city attorney
20 advised that we contact Verizon, I contacted Apple myself.

21 And in doing so, my -- I sought to try every
22 avenue within my means to retrieve the records that were
23 on that phone that was unintentionally destroyed. I
24 contacted Apple, and I believe I have provided records to
25 the city clerk as to a receipt of the communication with

1 Apple. I believe it was a supervisor.

2 And to the best of my knowledge, what I learned
3 throughout that specific communication was that unless
4 iCloud -- unless data was actively being stored to iCloud,
5 it would not be recoverable through the cloud. It would
6 not be otherwise available if the hard drive had been
7 destroyed.

8 Q. Okay. But you're unsure if your iCloud account
9 had been activated; is that correct?

10 A. I don't understand the question. I think
11 that's oversimplifying the nature of iCloud and storage.
12 I have an iCloud account. My assumption was that I've
13 always had an iCloud account and that my data was always
14 being stored in the Cloud. So when you say activate, I'm
15 not understanding what you're referring to.

16 Q. Okay. Can you describe the extent of any
17 communication or conversation that you've had with
18 Mr. Wilkinson.

19 MS. LESTER: I'd just object to the scope --
20 the form of the question as to scope of time.

21 MR. POWER: At any time.

22 MS. LESTER: Okay.

23 THE WITNESS: Do you mean -- what type of
24 communication? All communication?

25 BY MR. POWER:

1 Q. Mm-hm.

2 A. I believe Mr. Wilkinson has written in to the
3 city on addressing council generally. Those records would
4 be on the city server and in my city e-mail account.

5 Additionally, I recall Mr. Wilkinson addressing
6 council from the dais. I don't recall when. It could be
7 late 2018 or early 2019.

8 Q. Okay. But he's never contacted you personally,
9 has he?

10 A. Not to my knowledge.

11 Q. Okay. And same question for Mr. Dunn.
12 Mr. Dunn has never contacted you personally, has he?

13 A. Not that I'm aware.

14 Q. I understand that you filed for a protective
15 order against Mr. Dunn and Mr. Wilkinson; is that correct?

16 A. Yes.

17 Q. Okay. Could you explain to me your basis for
18 doing so. What factual events occurred that you perceived
19 warranted the issuance of a protective order?

20 A. Would you like me to specify my response to
21 your last question?

22 Q. Sure.

23 A. Can you restate that for me again.

24 (Record read as requested.)

25 THE WITNESS: Well, without having a copy of

1 the records that were provided to the judge at the time I
2 attempted to obtain a restraining order, I do recall at
3 least a couple instances which gave me cause to be
4 concerned for my personal safety and that of my children,
5 my family.

6 BY MR. POWER:

7 Q. Okay. And describe the first instance.

8 A. This pertains to Mr. Wilkinson. I don't recall
9 the council meeting date, but I do recall it was a study
10 session; and myself and another councilmember, female
11 councilmember, had our backs to the audience.

12 An individual wearing mostly black with a hood
13 entered council chambers later in the evening. I don't
14 recall the exact time, but I could safely say it was
15 10 p.m. or later.

16 Took a seat in an empty council chambers, and
17 sat in what myself and another councilmember thought to be
18 an intimidating manner, hands in pockets. It was
19 suspicious to the extent that she expressed to me that she
20 would be requesting police escort to her vehicle that
21 night.

22 Q. Okay. Who is that councilmember?

23 A. That was councilmember Blossom.

24 Q. Okay. So were the police called?

25 A. We have an officer present in council chambers.

1 Q. Okay. Did that councilmember {sic} then walk
2 Ms. Blossom to her car?

3 A. I don't recall.

4 Q. Did you ask for that officer to walk you to
5 your car?

6 A. I don't recall.

7 Q. Who was the officer that was there?

8 A. I don't recall specifically. My best guest is
9 that it was Guy; I believe his first name is Guy.

10 Q. Did Mr. Dunn say anything -- I mean
11 Mr. Wilkinson say anything to you at that council meeting?

12 A. I don't recall. I don't believe so.

13 Q. Besides wearing all black and having his hands
14 in his pockets, did he do anything else that was
15 intimidating?

16 A. Yes.

17 Q. Okay. What?

18 A. His posturing.

19 Q. His posturing?

20 A. Mm-hm.

21 Q. Describe his posture.

22 A. It was threatening, threatening, posturing,
23 posturing to intimidate.

24 Q. But he was seated, right?

25 A. Yes.

1 Q. Okay. And so he was seated but still posturing
2 himself to be threatening?

3 A. Yes.

4 Q. Okay. I mean, could you describe -- I just
5 can't see that in my mind's eye. Can you describe how he
6 was sitting so that from -- while you were on the dais and
7 he was seated, he was threatening.

8 A. Yes. And we -- our study session setup is
9 different. We're actually at tables on the floor, so we
10 weren't up in our formal business meeting situation.

11 We were -- we're at -- so when I said I had my
12 back to the audience, that's what I mean. We sat at a
13 round table similar to this one. There were several
14 things about his mannerisms, the time he appeared at
15 council chambers.

16 Q. What was strange about that? Weren't you in
17 open public meeting?

18 A. Yes. But it's just -- it's out of the
19 ordinary, so it raises -- it's a cause for concern.

20 Q. Are you telling me it's out of the ordinary for
21 the public to attend public meetings?

22 A. No.

23 MS. LESTER: Object to the form of the
24 question.

25 THE WITNESS: No, that's not what I said. I

1 stated it's out of the ordinary for a member of the public
2 to arrive so late to a council meeting between the hours
3 of 9:30 or 11.

4 And our study sessions typically went late, but
5 we were very close to adjourning at that meeting, I
6 believe. I don't recall what time it was.

7 BY MR. POWER:

8 Q. Do you have any reason to believe that
9 Mr. Wilkinson knew that you were close to adjourning?

10 A. Sorry, say that again.

11 Q. Do you have any reason to believe that
12 Mr. Wilkinson knew you were close to adjourning?

13 A. I can't say what Mr. Wilkinson believed or
14 didn't believe at that time.

15 Q. My question was do you have any reason to
16 believe that Mr. Wilkinson knew that you were close to
17 adjourning?

18 A. Well, no. It depends on Mr. Wilkinson's
19 knowledge of the format, structure of our council
20 meetings. I mean, they -- council meetings begin at 6, so
21 typically most members of the public understand that they
22 would be adjourned by 9:30 to 11.

23 Q. Okay. Did you file a police report on this?

24 A. I don't believe I filed an official police
25 report.

1 Q. Okay. Do you know if anyone filed an official
2 police report?

3 A. Not to my knowledge. I don't know. To my
4 knowledge, I don't -- I'm not sure.

5 Q. Okay. What else did you regard as threatening
6 besides this occurrence at the study session in the
7 evening where Mr. Wilkinson was seated?

8 A. I think I answered that it was -- it was the
9 feeling of his presence, his mannerisms, the energy that
10 he carried.

11 And it was not just noticed by myself. It was
12 actually first pointed out to me by another councilmember.
13 And in addition to that councilmember, another
14 councilmember found it very concerning. And that's in
15 light of knowledge about the upset that some members of
16 the public were experiencing about legislation that the
17 council had passed.

18 Q. Who were those other councilmembers that you
19 referenced, the two other ones?

20 A. Councilmember Blossom, the one, and
21 Councilmember Peltier.

22 Q. Okay. Is it your understanding that sometimes
23 members of the public disagree with their government?

24 A. Yes.

25 Q. Okay. Then according to the declaration you

1 filed in district court, you mentioned some other
2 occasions. Could you describe those occasions as to why
3 you thought Mr. Dunn and Mr. Wilkinson should be
4 restrained from coming to city hall.

5 A. May I please see the document, and then I can
6 refresh my memory as to the specifics that I provided?

7 Q. No, actually I prefer if you -- we just got
8 your testimony as to your knowledge now.

9 A. Okay. For the record, this was filed in
10 January of 2019, and the majority of these events took
11 place in 2018.

12 I do recall an instance where Mr. Wilkinson
13 showed up to city hall, again late in the evening -- I
14 believe this was a business meeting -- and stood at the
15 window and placed both hands on the window and peered in.

16 Again, that was noticed by all members of the
17 city council and regarded to be extremely odd, atypical
18 behavior by a member of the public.

19 Q. Okay. Did you guys call the police about that?

20 A. Again, we have a police officer that's present
21 in the room, so he's been aware. And as provided to the
22 judge, I have -- because I tend to want to err on the side
23 of caution in terms of protecting myself and my family, I
24 have maintained communication with the police about these
25 instances where I feel unsafe.

1 Q. Okay. When's the last time you communicated
2 with the police about either Mr. Dunn or Mr. Wilkinson?

3 A. Specifically, I don't recall the exact date.

4 Q. Was it in the last month?

5 A. Can you be specific as to what communications
6 you're referring to? Just specific communications about
7 Wilkinson or Dunn or that --

8 Q. I have no idea. I wasn't there, but no. Did
9 you talk to the police in the last month about Mr. Dunn or
10 Mr. Wilkinson?

11 A. Not directly, no.

12 Q. Okay. Did you do it indirectly?

13 A. I don't recall mentioning either of their
14 names. It's possible that I did, but I did -- yes, it's
15 possible.

16 Q. You've stated that Mr. Wilkinson is under
17 investigation by the police. Do you know that to be true?

18 A. I believe -- I don't recall stating that.

19 Q. Okay.

20 A. And if you have that statement somewhere, I'd
21 appreciate seeing it so I could respond if it requires
22 clarification.

23 Q. Okay. Your attorney can ask for it in
24 discovery.

25 So what I'm getting from you, as we sit here

1 today, the sum total of the behavior which you find
2 threatening was Mr. Wilkinson's appearance at city hall
3 twice and not saying anything and peering through a window
4 and sitting at a study session; is that correct?

5 A. No.

6 Q. No?

7 A. No. Your question was to provide a couple of
8 specific examples of behavior, so I provided --

9 Q. I want all specific examples that you can
10 remember. I'm sorry if I wasn't clear on that.

11 A. That's okay. I'll provide more. At least
12 twice Mr. Wilkinson appeared and in public at city council
13 meetings, and would exhibit intimidating posturing
14 behavior, mannerisms that made me uncomfortable:
15 Scoffing, under-the-breath remarks, eye rolling,
16 gesturing, things that are just inappropriate and that
17 were affecting my ability to do my job.

18 Q. Why do you think scoffing at government
19 officials is something that's inappropriate? I scoff at
20 government officials all the time.

21 A. If taken out of context, perhaps it would not
22 have been perceived that way; but taken in the context of
23 my history with both Dunn and Wilkinson, it was very
24 appropriate that I felt -- at least that I had a right to
25 feel cautious and exercise caution around these two

1 individuals.

2 And regardless of how others might -- the fact
3 is I felt concerned for my personal safety, and I was
4 informed that as a citizen and as an elected official I
5 had a right to express those concerns for my safety.

6 Q. I don't think anyone's questioning your right
7 to express those concerns. I think that that's not at
8 issue. But what I want to understand is what my clients
9 have done to make you feel this way.

10 And so is there more? Is there anything else
11 that you remember, as we sit here today, that you can tell
12 me about my clients' behavior which gave you apprehension
13 to your safety -- for your safety?

14 A. Yes.

15 Q. Okay. Can you tell me about that. What?

16 A. Was your question pertaining to specifically
17 Wilkinson or did it include Dunn?

18 Q. Either one. I'm happy to hear about either of
19 my clients' misbehavior.

20 A. The behavior was well-documented in the
21 materials that I provided to the judge. The fact is I
22 felt very real concern for my personal safety based on
23 what I've already shared: The posturing and intimidation
24 tactics that were displayed by Wilkinson specifically but
25 Dunn as well at council meetings, award meeting I recall,

1 as well. And then there's the issue of my personal
2 property.

3 Q. Okay. Tell me about your personal property.

4 A. My husband and I have witnessed, as well as our
5 neighbors, individuals stalking -- what they describe as
6 stalking, what farm workers have described as stalking of
7 individuals along our property lines, in some cases
8 individuals with cameras in an attempt to capture imagery
9 to submit to the city as alleged code enforcement
10 violations.

11 Q. Okay. First of all, who were these individuals
12 who supposedly observed this behavior?

13 A. My husband.

14 Q. Okay. Who else?

15 A. Megan.

16 Q. Megan, does Megan have a last name?

17 A. Herndon.

18 Q. Okay. Anyone else?

19 A. My neighbor.

20 Q. Okay. What's your --

21 A. That's the neighbor across Sands, Henshaw.

22 THE REPORTER: It's the neighbor what?

23 THE WITNESS: Across Sands Avenue.

24 THE REPORTER: Thank you.

25 THE WITNESS: Henshaw.

1 BY MR. POWER:

2 Q. Okay.

3 A. Rick, I believe his first name is. We called
4 him Mr. Henshaw.

5 Q. And did any of these witnesses positively
6 identify either of my clients?

7 A. My husband believes that, within a very narrow
8 margin of error, that he witnessed Mr. Dunn outside of our
9 property line.

10 Q. Is your husband acquainted with Mr. Dunn?

11 A. No.

12 Q. Okay. Has he ever met Mr. Dunn?

13 A. No.

14 Q. How is he sure that it was Mr. Dunn?

15 A. We compared his -- the individual that he
16 believed he witnessed to a photograph of Mr. Dunn
17 available publicly through a Google search.

18 Q. Okay. And then you also claim that
19 Mr. Wilkinson trespassed upon your property; is that
20 correct?

21 A. I did not allege that. I said it's -- I said
22 there is a potential for, it is my belief.

23 Q. Why do you believe that?

24 A. As stated in my summary of events that
25 accompanied the request for a restraining order, Mr. Dunn

1 provided information to the city in his submittal of
2 perceived code violations that included knowledge that
3 could only be known by being on the property.

4 Q. Okay. And that was the construction of the
5 fence near the wetlands; is that correct?

6 A. Specifically, yes. That's the one that stands
7 out in my mind.

8 Q. Okay. Is there any other basis why you think
9 that he was on your property other than he identified the
10 fence on your property?

11 A. Yes.

12 Q. Okay. What is that?

13 A. My husband's strong belief that he believes he
14 witnessed him near our property, which is not in the
15 neighborhood or vicinity where Mr. Dunn resides.

16 Q. Okay. Are you aware that Google Earth shows
17 the fence on your property that Mr. Wilkinson complained
18 of?

19 MR. DUNN: Dunn.

20 MR. POWER: Dunn, sorry.

21 THE WITNESS: No. And I don't believe that
22 that's -- no.

23 BY MR. POWER:

24 Q. But Google Earth is an app that you said you
25 had on your phone, right?

1 A. Yes.

2 Q. Have you ever looked at your property on Google
3 Earth?

4 A. Yes.

5 Q. Did you ever notice that the fence is clearly
6 visible in that?

7 A. I would have to see an image that Mr. Dunn
8 witnessed, to make that determination. The fence that he
9 referenced in his e-mail is a welded wire fence. It's
10 very difficult to see unless you're standing within about
11 a 20- to 30-foot vicinity of that fence.

12 And I don't make these claims erroneously. My
13 husband and I researched this. But again, I stated this
14 as a -- in terms of it being possible.

15 MR. POWER: Let me have five minutes and I
16 think I might have a couple other follow-ups, but I think
17 we're getting close.

18 MS. LESTER: Okay.

19 (Recess from 3:18 p.m. to 3:40 p.m.)

20 BY MR. POWER:

21 Q. Just a couple real quick questions here. Have
22 you filed for a restraining order against any other
23 parties within the last five years?

24 A. No.

25 Q. Okay. Do you know is there a case number

1 assigned to either of your complaints against Mr. Dunn or
2 Mr. Wilkinson, a police case number?

3 A. I don't recall that I've filed specific police
4 complaints against either of those two individuals.

5 Q. Okay. Other than the declarations which were
6 provided to you as exhibits and the declarations that you
7 submitted during the application process for the
8 restraining orders, do you know of any other declarations
9 which describe my clients's behavior or their request for
10 public records?

11 A. Any other formal declarations? Was --

12 Q. Yeah. Do you have any other declarations
13 which -- beyond those that are provided and those that
14 were submitted in district court, that describe Mr. Dunn
15 or Mr. Wilkinson's behavior?

16 A. Aside from the notes and the record of
17 communication between myself and the chief of police --
18 and I want to be clear. I think I heard you use the term
19 restraining order; I think it was a protective order.
20 Just not quite certain about terminology there. But no, I
21 don't believe that there's any other declaration.

22 Q. Okay. So you didn't give a declaration to the
23 police department?

24 A. A written declaration?

25 Q. Yes, a written declaration.

1 A. I don't believe I did. The extent of my
2 communication with the police was described in the
3 materials provided to the judge.

4 Q. Okay. And all that communication between you
5 and the police department occurred -- was oral, right?

6 A. Yes. I believe so, primarily, if not
7 exclusively, but I can't recall specifically.

8 Q. Did you talk to anyone else at the city about
9 the protective orders?

10 A. Can you define what you mean by "at the city."
11 Is that to be taken to mean all staff persons and
12 councilmembers?

13 Q. Sure.

14 A. I don't recall. I don't recall.

15 Q. Did you attempt to get the protective orders
16 based on the advice of anyone besides that of your
17 attorney?

18 A. Well, yes. When, in my communications with the
19 former police chief, the chief advised that if I felt
20 concern for my safety and that of my family, that it was
21 within my rights as a citizen to seek a protective order,
22 and that was his advice to citizens in similar situations.
23 So I sought to do that.

24 MR. POWER: Okay. I don't have anything
25 further. Counsel?

1 MS. LESTER: Yeah, I have a few follow-up
2 questions.

3 EXAMINATION

4 BY MS. LESTER:

5 Q. So I just want to go back to the iPad that you
6 provided some testimony about. Did I hear you say --
7 well, let me ask you, what was the year of the iPad?

8 A. I believe it was a 2012, 2013, 2014 model. To
9 the best of my knowledge, it's a first generation iPad
10 mini.

11 Q. Okay. And is that -- or is that iPad or has
12 that iPad been hooked up to any cellular network?

13 A. No. It -- no.

14 Q. Okay. Why not?

15 A. I don't think it's the model that comes with
16 the ability to connect to cellular.

17 Q. Can you even update it with new -- you know how
18 with an iPhone, that your iPhone will prompt you to update
19 to new software when it comes out?

20 A. Mm-hm.

21 Q. Yes?

22 A. No, not to my knowledge. It's -- it's trapped
23 in time. It has very -- if not no storage space, its only
24 purpose and use at this point is just to serve as Netflix
25 and for my son, and there are a couple of children's apps.

1 But it doesn't have the capacity to be updated, not to my
2 knowledge. Certainly don't use it and have not for since
3 prior to my taking my seat on the city council.

4 Q. Okay. You haven't personally used it since
5 taking your seat on the city council?

6 A. Not for my personal use. My son has -- my son
7 has used it and we've used it for my son. But you have to
8 also understand that the screen is cracked and broken and
9 almost across the entire device. It's old and clunky and
10 slow. It crashes. It's appropriate for a two year old,
11 but I don't -- there's no -- I don't have any purpose for
12 using it, and I have not.

13 Q. Okay. And just to clarify, you indicated that
14 you haven't used it, since taking the city council seat,
15 for your personal use. I just want to clarify whether or
16 not you have used it in any way for city business-related
17 use since taking your seat on city council?

18 A. No.

19 Q. Okay. Now, you were asked some questions about
20 your communications with personnel at the Apple store when
21 you first went in after you discovered that -- after
22 everything happened with the phone and it was
23 inadvertently destroyed.

24 So as I understood your testimony, you don't
25 remember the specific amount of people that you talked

1 about, but generally can you describe -- just kind of
2 start off, you go into the Apple store, what happens?

3 A. So I go into the Apple store. I don't have an
4 appointment. I come -- the first person I meet is the
5 person that you -- that greets you at the front of the
6 Apple store.

7 And the first question they ask is whether you
8 have an appointment. I said: I don't, but I need help.
9 My phone isn't turning on. Is it possible for me to be
10 seen tonight? Go ahead and have a seat, and we will call
11 you up to the genius bar if we can see you.

12 I don't know how much time passed, but
13 eventually I was called, and that's when the communication
14 between myself and the tech began where I relayed to her
15 having pulled my cell phone from its -- from a pool of the
16 contents of a can of olives and being unsuccessful at
17 having the phone turn on.

18 I relayed to her all the methods that I tried
19 and how important it was that I -- that please try to help
20 recover the data and the phone records from that phone.

21 She explained -- we discussed about iCloud
22 briefly, but what occurred is that she took the phone and
23 she went and she opened it. And I provided to the record
24 that she showed me the hard drive of the phone and
25 explained to me that it was corroded and that it was --

1 looking at the hardware, that it was very unlikely, if not
2 impossible, that any data could be retrieved from this
3 device, and that I would be wasting my time and my money
4 if I took it to a third party.

5 She said: My strongest recommendation to
6 you -- and she said: I know this is hard for you to hear,
7 is that you just cut your losses and that we issue you a
8 new phone and that hopefully your iCloud -- you would have
9 saved your data to the cloud, and that when we turn on the
10 new phone and you sign in, that that data will be
11 downloaded to your new phone.

12 And I called my husband and I was tearful and I
13 said: I can't believe this is happening, those photos,
14 the birth photos of my son. They were home birth photos,
15 and that's it; if they weren't on the new phone, they
16 would be lost forever.

17 And based on everything that I was hearing,
18 based on my understanding of cloud and technology at that
19 time, I took her advice and surrendered that phone.
20 Gave -- kept -- allowed Apple store to keep that phone.
21 They issued me a new phone.

22 At that point after I paid for the device and a
23 receipt was e-mailed, I remained in the Apple store while
24 they set up the new phone, and watched as the data was
25 downloaded to the new phone.

1 And it took quite a long time, but what became
2 very apparent and shockingly so was that the record --
3 that phone was reset back to 2017, I believe, and I -- I
4 will estimate the month of that to be October or November.

5 The last pictures in the sequence that were
6 downloaded were of my dog's first litter of puppies, and I
7 just -- you know it was sad. That was it. Whatever data
8 off that phone that had not been stored to the cloud was
9 gone. That was the reality.

10 Q. Okay. And were there any other communications
11 about what had transpired to your phone or what could be
12 done after they provided you the new phone while still at
13 the store?

14 MR. POWER: Object to form.

15 BY MS. LESTER:

16 Q. You can answer, if you can.

17 A. Yeah. I mean, you know, like I said, I have a
18 very average and limited understanding of technology. I
19 have a -- I guess I complained to them. I said: Is there
20 anything else that you can do? Is there anything else
21 that can be tried?

22 And they were pretty cut and dried. They said,
23 you know: We're really sorry. We recommend that you
24 purchase iCloud storage space for your new phone.

25 And but with regard to the data and the phone

1 records that were on the phone that was damaged, I was
2 told again and again there was nothing I could do.

3 Q. Okay. You've talked about iCloud and you just
4 mentioned your understanding. Before this phone -- or
5 leading right up until the time that you're in the Apple
6 store and up until the time your phone was inadvertently
7 destroyed, what was your understanding of what iCloud was
8 and whether or not your phone data was being backed up to
9 your phone?

10 A. My understanding of iCloud is that it's
11 basically just creating a copy of your phone in some
12 virtual space. My assumption was that my phone was being
13 copied, that everything was being uploaded to the cloud.
14 That was my knowledge and understanding at the time. And
15 there was an additional question in there, but --

16 Q. No. Has your understanding of that changed at
17 all since your phone was inadvertently destroyed?

18 A. Yes. And through this experience and through
19 my communications with Apple, both at the store and on the
20 phone, I think I mentioned earlier in this testimony that
21 I did initiate contact with Apple as part of my working
22 attempt to try every possible avenue to retrieve those
23 records.

24 I called and asked if it hadn't been uploaded
25 to the cloud, even though that's what I had been told, is

1 there any way that maybe a manager or a supervisor or
2 there's some vault of data that -- something that I'm
3 missing, is there anything that I'm missing, is there
4 anywhere else where I might be able to find these records?

5 And I was told at the time that unless you're
6 purchasing adequate iCloud space to make a copy of the
7 data on your phone, and unless you have those options for
8 that data switched on in your settings, that that data
9 would not be copied and stored outside of the hard drive.

10 So I learned, and with my current phone I've
11 purchased iCloud data and I've had -- I had the Apple tech
12 walk me through how to switch on those options for iCloud
13 storage for all of my data, and you know -- yeah.

14 Q. Okay. You were just asked some questions
15 before we took a break about a protective order that you
16 had filed against the plaintiffs in this case, an
17 unrelated matter to this present case.

18 Can you explain in more general terms -- I know
19 you were asked specific questions about it, but why did
20 you go ahead with those protective order motions or
21 requests for seeking those protective orders?

22 A. Generally it's really hard to define and
23 describe these instances. As a woman, I know when I'm
24 being threatened by a male. I know how to read body
25 language. And it's -- it was a very visceral and real

1 experience of the anger of these individuals.

2 And with regard to personal safety, because I'm
3 a mom of two babies, I don't take that lightly. I tend to
4 want to err on the side of caution.

5 The fact is I did feel threatened and very real
6 cause for concern for my safety. And as I took initiative
7 to maintain a record of communication between myself and
8 the chief of police, ultimately was advised that a
9 protective order was within my rights.

10 MS. LESTER: Okay. That's all the questions I
11 have.

12 FURTHER EXAMINATION

13 BY MR. POWER:

14 Q. Okay. Just starting on the last sentence,
15 weren't you actually ultimately advised by the district
16 judge that a protective order wasn't within your rights to
17 obtain?

18 A. I don't recall that being the case.

19 Q. Well, your protective order was denied, right?

20 A. Yes, but not for lack of credible testimony.

21 Q. It was denied for lack of evidence; isn't that
22 correct?

23 A. Yes. Yes.

24 Q. Okay. When did you first purchase iCloud data
25 storage?

1 A. I don't recall. Either late 2018 or early
2 2019.

3 Q. Okay.

4 A. And I want to be clear, that's for the iPhone
5 that I currently possess, the new iPhone.

6 Q. Okay. When you went to the Apple store, did
7 you pay with a credit card?

8 A. Yes, I believe I did.

9 Q. Did you retain a copy of your communication
10 with Apple pertaining to your appeal to them to somehow
11 obtain the data that you had been told had been lost?

12 A. No. You mean -- are you specifically referring
13 to the communication that happened at the genius bar at
14 the Apple store?

15 Q. No. No, your subsequent communication.

16 A. I believe there is a -- Apple provides a
17 receipt of phone call communication. They open a case,
18 and I believe I did locate that record and I believe I did
19 provide it to the city clerk.

20 Q. Right. And I'm looking for anything that
21 indicates what the content of that communication might be.
22 Do you know of any document that exists that would
23 indicate what the content of that communication would be?

24 A. I don't -- I don't believe so. If your
25 question is whether Apple keeps a transcript of those

1 phone calls, I can't say.

2 I do want to say that I did -- I did
3 question -- asked whether I could receive a summary
4 transcript of my interaction at the Apple store with the
5 tech, but I was told that I could not. I was told that it
6 would be looked into, and as part of that communication
7 with the Apple tech with the Apple -- I believe it was a
8 supervisor -- over the phone, I was informed that that was
9 not a service that Apple could provide.

10 Q. Okay. Did you take notes of that conversation?

11 A. I'm not sure.

12 Q. Okay. You just testified that when you were at
13 the Apple store prior to your purchase, you called your
14 husband. What phone did you use to call your husband?

15 A. I borrowed the phone, a phone from one of the
16 Apple tech people.

17 Q. Okay. Do you still have the car seat that the
18 cup holders were attached to that the olives' jar was --
19 or the olive can was -- the contents of the olive can were
20 put into?

21 A. Yes.

22 MR. POWER: Okay. No further questions.

23 MS. LESTER: Okay.

24 THE REPORTER: Are you ordering?

25 MR. POWER: Yes.

1 THE REPORTER: Copy, counsel?

2 MS. LESTER: Yes, please, e-tran with pdf of
3 exhibits, please.

4 THE REPORTER: And what about signature?

5 MS. LESTER: We'll reserve.

6 (Deposition concluded at 4:00 p.m.)

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C E R T I F I C A T E

I, Karyn Kirouac, a Certified Court Reporter in and for the State of Washington, residing at Silverdale, Washington, do hereby certify:

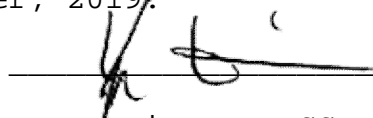
That the foregoing proceedings were taken before me and thereafter reduced to a typed format under my direction; that the transcript is a full, true and complete transcript of said proceedings consisting of Pages 1 through 131;

That as a CCR in this state, I am bound by the Rules of Conduct as Codified in WAC 308-14-130; that court reporting arrangements and fees in this case are offered to all parties on equal terms;

That I am not a relative, employee, attorney or counsel of any party to this action, or a relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That upon completion of signature, if required, the original transcript will be securely sealed and the same served upon the appropriate party.

IN WITNESS WHEREOF, I hereunto set my hand and seal this 25th day of October, 2019.


Karyn Kirouac, CCR No. 2471

