

No. 19-255

IN THE
Supreme Court of the United States

THOMAS MORE LAW CENTER,

Petitioner,

v.

XAVIER BECERRA, ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,

Respondent.

*On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit*

JOINT APPENDIX

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Petition for Writ of Certiorari Filed: August 26, 2019
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Docket Entries:
United States District Court for the Central
District of California
No. 2:15-cv-03048-R-FFM

Date Filed	#	Docket Text
04/23/2015	<u>1</u>	COMPLAINT Receipt No: 0973-15599989 - Fee: \$400, filed by Plaintiff Thomas More Law Center. (Attachments: # 1 Exhibit Exhibits A-I) (Attorney Sheila Pham added to party Thomas More Law Center(pty:pla))(Pham, Sheila) (Entered: 04/23/2015)
04/23/2015	<u>2</u>	NOTICE NOTICE OF PENDENCY OF OTHER RELATED ACTIONS OR PROCEEDINGS filed by Plaintiff Thomas More Law Center. (Pham, Sheila) (Entered: 04/23/2015)
* * * * *		
04/23/2015	<u>10</u>	NOTICE OF MOTION AND MOTION for Temporary Restraining Order as to enjoining Defendant Kamala Harris from demanding or enforcing demand for list of organizations' donors Motion filed by Plaintiff Thomas More

Date Filed	#	Docket Text
		Law Center. (Attachments: # <u>1</u> Memorandum of Points and Authorities In Support of Application for Temporary Restraining Order, # <u>2</u> Declaration of Richard Thompson, # <u>3</u> Declaration of Sheila Pham, # <u>4</u> Proposed Order)(Pham, Sheila) (Entered: 04/23/2015)
04/23/2015	<u>11</u>	NOTICE of Related Case(s) filed by Plaintiff Thomas More Law Center. Related Case(s): 2:14-cv-09448-r-FFM (Pham, Sheila) (Entered: 04/23/2015)
* * * * *		
04/29/2015	<u>13</u>	ORDER GRANTING PLAINTIFFS APPLICATION FOR TEMPORARY PROTECTIVE ORDER by Judge Manuel L. Real: <u>10</u> . The Court hereby sets an Order to Show Cause as to why a preliminary injunction should not issue on the same bases on May 11, 2015 at 10:00 a.m. Any opposition is due on or before May 4, 2015. Any reply to such opposition will be due on or before May 6, 2015. All hard

Date Filed	#	Docket Text
		copies of papers are to be delivered to chambers the following morning no later than 9:00 AM PST. The temporary restraining order will remain in effect until the hearing on the Preliminary Injunction. (pj) (Entered: 04/30/2015)

* * * * *

05/04/2015	<u>16</u>	Response of Defendant Attorney General Kamala D. Harris to Order to Show Cause Regarding Preliminary Injunction Opposition re: MOTION for Temporary Restraining Order as to enjoining Defendant Kamala Harris from demanding or enforcing demand for list of organizations' donors Motion <u>10</u> filed by Defendant Kamala Harris. (Attachments: # <u>1</u> Declaration of Kim L. Nguyen ISO Defendant's Response to OSC re: Preliminary Injunction, # <u>2</u> Exhibit A to Nguyen Declaration, # <u>3</u> Exhibit B to Nguyen Declaration, # <u>4</u> Declaration of Kevis Foley ISO Defendant's Response to
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Date Filed	#	Docket Text
		OSC re: Preliminary Injunction, # <u>5</u> Declaration of Steve Bauman ISO Defendant's Response to OSC re: Preliminary Injunction) (Attorney Kim L Nguyen added to party Kamala Harris(pty:dft)) (Nguyen, Kim) (Entered: 05/04/2015)

* * * * *

05/06/2015	<u>19</u>	REPLY In Support MOTION for Temporary Restraining Order as to enjoining Defendant Kamala Harris from demanding or enforcing demand for list of organizations' donors Motion <u>10</u> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration OF LOUIS H. CASTORIA IN SUPPORT OF PLAINTIFF THOMAS MORE LAW CENTERS REPLY IN SUPPORT OF PRELIMINARY INJUNCTION, # <u>2</u> Declaration SUPPLEMENTAL DECLARATION OF RICHARD THOMPSON IN SUPPORT OF PLAINTIFF THOMAS MORE LAW CENTERS REPLY IN
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Date Filed	#	Docket Text
		SUPPORT OF PRELIMINARY INJUNCTION) (Pham, Sheila) (Entered: 05/06/2015)
* * * * *		
05/11/2015	<u>21</u>	NOTICE of Ruling by Ninth Circuit Court of Appeals filed by Defendant Kamala Harris.
05/11/2015	<u>22</u>	NOTICE of Ruling by Ninth Circuit filed by Plaintiff Thomas More Law Center. (Pham, Sheila) (Entered: 05/11/2015)
05/19/2015	<u>23</u>	ORDER ISSUING PRELIMINARY INJUNCTION by Judge Manuel L. Real. IT IS HEREBY ORDERED that a preliminary injunction is ISSUED that Defendant and those in concert with Defendant are restrained from demanding, or taking any action to implement or enforce Defendants demand for, the names and addresses of Plaintiffs donors, particularly as contained in Schedule B to IRS Form 990, and from taking the other

Date Filed	#	Docket Text
		adverse actions threatened in Defendants March 24, 2015, letter. (shb) (Entered: 05/19/2015)
05/26/2015	<u>24</u>	ANSWER to <i>Complaint</i> filed by Defendant Kamala Harris. (Nguyen, Kim) (Entered: 05/26/2015)
06/11/2015	<u>25</u>	FIRST AMENDED COMPLAINT against DEFENDANT All Defendants amending Complaint (Attorney Civil Case Opening) <u>1</u> , filed by Attorneys for Plaintiff Thomas More Law Center (Pham, Sheila) (Entered: 06/11/2015)
06/11/2015	<u>26</u>	NOTICE OF APPEAL to the 9th CCA filed by Defendant Kamala Harris. Appeal of Order, <u>23</u> (Appeal fee of \$505 receipt number 0973-15892053 paid.) (Attachments: # <u>1</u> Order Granting Preliminary Injunction, # <u>2</u> Proof of Service)(Nguyen, Kim) (Entered: 06/11/2015)

Date Filed	#	Docket Text
06/12/2015	<u>28</u>	NOTIFICATION by Circuit Court of Appellate Docket Number 15-55911, 9th Circuit regarding Notice of Appeal to 9th Circuit Court of Appeals, <u>26</u> as to defendant Kamala Harris. (mat) (Entered: 06/12/2015)
06/15/2015	<u>29</u>	DESIGNATION of Record on Appeal by Defendant Kamala Harris re <u>26</u> (Attachments: # <u>1</u> ECF Certificate of Service) (Nguyen, Kim)(Entered: 06/15/2015)
06/25/2015	<u>30</u>	ANSWER to Amended Complaint/Petition <u>25</u> filed by Defendant Kamala Harris. (Nguyen, Kim) (Entered: 06/25/2015)
07/02/2015	<u>31</u>	NOTICE OF MOTION AND MOTION to Stay Case pending Resolution of Related Appeals filed by Defendant Kamala Harris. Motion set for hearing on 8/17/2015 at 10:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Memorandum of Points and Authorities In Support of

Date Filed	#	Docket Text
		Motion to Stay, # <u>2</u> Certificate of Service) (Nguyen, Kim) (Entered: 07/02/2015)
07/28/2015	<u>32</u>	MEMORANDUM in Opposition to NOTICE OF MOTION AND MOTION to Stay Case pending Resolution of Related Appeals <u>31</u> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration Decl of Louis H Castoria ISO Plaintiff's Opposition to Def's Motion to Stay, # <u>2</u> Supplement Request for Judicial Notice ISO Plt's Opposition to Def's Motion to Stay)(Pham, Sheila) (Entered: 07/27/2015)
08/03/2015	<u>33</u>	REPLY In Support Of NOTICE OF MOTION AND MOTION to Stay Case pending Resolution of Related Appeals <u>31</u> filed by Defendant Kamala Harris. (Nguyen, Kim) (Entered: 08/03/2015)
08/11/2015	<u>34</u>	SCHEDULING NOTICE TAKING MOTION UNDER SUBMISSION ON THE PAPERS WITHOUT NEED OF ORAL ARGUMENT by

Date Filed	#	Docket Text
		<p>Judge Manuel L. Real: The Court has determined that Defendant Kamala Harris' Motion to Stay Case Pending Resolution of Related Appeals <u>31</u> set for hearing on August 17, 2015 at 10:00 A.M., is suitable for a decision on the papers as filed by all parties, without the need for oral argument; therefore, the said Motion is taken UNDER SUBMISSION on the papers as filed, and the hearing date of August 17, 2015 is VACATED and TAKEN OFF CALENDAR. The Court will issue its ruling on the matter in due course. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (cch) TEXT ONLY ENTRY (Entered: 08/11/2015)</p>
08/18/2015	<u>35</u>	<p>ORDER DENYING DEFENDANT'S MOTION TO STAY PROCEEDINGS PENDING APPEAL <u>31</u> by Judge Manuel L. Real. IT IS HEREBY ORDERED that Defendant Kamala Harris' Motion to Stay Proceedings Pending</p>

Date Filed	#	Docket Text
		Appeal is DENIED. (lom) (Entered: 08/18/2015)
* * * * *		
12/29/2015	<u>38</u>	ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>26</u> filed by Kamala Harris. CCA # 15-55911 and 15-55446. 15-55446, motion to stay the district court proceedings, filed October 22, 2015, is DENIED and motion for judicial notice, filed June 24, 2015, is GRANTED. 15-55911, Thomas More Law Centers motion to supplement the record, filed September 2, 2015, is DENIED. (mat) (Entered: 12/30/2015)
12/29/2015	<u>39</u>	OPINION from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>26</u> filed by Kamala Harris. CCA # 15-55911 and 15-55446. We (9th CCA) vacate the district court's orders granting preliminary injunctions and instruct the district court to

Date Filed	#	Docket Text
		enter new orders preliminarily enjoining the Attorney General only from making Schedule B information public. ORDERS VACATED. (mat) (Entered: 12/30/2015)
01/05/2016	<u>40</u>	ORDER ENJOINING ATTORNEY GENERAL FROM PUBLICLY DISCLOSING SCHEDULE B FORMS by Judge Manuel L. Real: IT IS HEREBY ORDERED that the Attorney General shall be permitted to obtain and use Plaintiff's Schedule B forms for its nonpublic enforcement purposes, but is strictly prohibited from making the Schedule B information public in any manner or under any circumstances. (gk) (Entered: 01/05/2016)
01/11/2016	<u>41</u>	NOTICE filed by Plaintiff Thomas More Law Center. <i>NOTICE OF FILING OF JOINT PETITION FOR PANEL REHEARING AND EN BANC REHEARING AND REQUEST FOR STAY OF ORDER</i> (Attachments: # <u>1</u>)

Date Filed	#	Docket Text
		Declaration Decl of SMP ISO of TMLC's Notice of Filing of Joint Petition for Panel Rehearing and En Banc Hearing and Req fo Stay of Order)(Pham, Sheila) (Entered: 01/11/2016)
* * * * *		
04/06/2016	<u>45</u>	ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals, <u>26</u> filed by Kamala Harris. CCA # 15-55911. Appellants' petition for panel rehearing and rehearing en banc, filed January 11, 2016, is DENIED. (mat) (Entered: 04/07/2016)
* * * * *		
04/18/2016	<u>48</u>	MANDATE of Ninth Circuit Court of Appeals filed re: Notice of Appeal <u>26</u> CCA # 15-55911. The judgment of the 9th Circuit Court, entered December 29, 2015, takes effect this date. This constitutes the formal mandate of the 9th CCA issued pursuant to Rule 41(a) of the Federal

Date Filed	#	Docket Text
		Rules of Appellate Procedure. Each party shall bear its own costs on appeal. [See USCA Opinion <u>39</u> ORDERS VACATED] (mat) (Entered: 04/18/2016)
* * * * *		
05/09/2016	<u>52</u>	NOTICE OF MOTION AND MOTION for Summary Judgment filed by Plaintiff Thomas More Law Center. Motion set for hearing on 6/6/2016 at 10:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Supplement Separate Statement of Uncontroverted Facts and Conclusions of Law, # <u>2</u> Exhibit Request for Judicial Notice) (Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>53</u>	DECLARATION in support of NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Declaration of Louis H. Castoria</i> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration of Pamela Geller in Support of Plaintiff's Motion for

Date Filed	#	Docket Text
		Summary Judgment)(Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>54</u>	EXHIBIT to NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Declaration of Robert Spencer</i> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration of Francia Morello)(Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>55</u>	DECLARATION in support of NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Declaration of Melissa Wood</i> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration of Melissa Wood in Support of Motion for Summary Judgment)(Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>56</u>	DECLARATION in support of NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Declaration of Sally Kern</i> filed by Plaintiff Thomas More Law Center.

Date Filed	#	Docket Text
		(Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>57</u>	DECLARATION in support of NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Declaration of Richard Thompson</i> filed by Plaintiff Thomas More Law Center. (Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>58</u>	DECLARATION in support of NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Supplemental Declaration of Richard Thompson</i> filed by Plaintiff Thomas More Law Center. (Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>59</u>	EXHIBIT to NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> <i>Expert Report of Dr. James T. McClave</i> filed by Plaintiff Thomas More Law Center. (Cruz, Marion) (Entered: 05/09/2016)
05/09/2016	<u>60</u>	EXHIBIT to NOTICE OF MOTION AND MOTION for

Date Filed	#	Docket Text
		Summary Judgment <u>52</u> <i>Expert Report of Dr. Paul G. Schervish</i> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Exhibit) (Cruz, Marion) (Entered: 05/09/2016)
* * * * *		
05/13/2016	<u>65</u>	Amendment to NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> filed by Plaintiff Thomas More Law Center. (Cruz, Marion) (Entered: 05/13/2016)
* * * * *		
06/20/2016	<u>69</u>	NOTICE OF MOTION AND MOTION IN LIMINE to Exclude Trial Testimony of Ray Madoff filed by Plaintiff Thomas More Law Center. Motion set for hearing on 7/18/2016 at 11 :00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Memorandum in Support of Motion in Limine to Exclude Trial Testimony of Ray Madoff, # <u>2</u> Affidavit of Louis Castoria in Support of Motion in Limine

Date Filed	#	Docket Text
		to Exclude Ray Madoff Trial Testimony, # <u>3</u> Exhibit -- Exhibits A thru D to Castoria Declaration, # <u>4</u> Proposed Order Granting Plaintiff's Motion in Limine to Exclude Ray Madoff Trial Testimony) (Johnston, Ian) (Entered: 06/20/2016)
06/20/2016	<u>70</u>	NOTICE OF MOTION AND MOTION IN LIMINE to Exclude Investigative Uses of Schedule B filed by Plaintiff Thomas More Law Center. Motion set for hearing on 7/18/2016 at 11 :00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Memorandum of Points and Authorities in Support of Motion in Limine to Exclude Investigative Uses of Schedule B, # <u>2</u> Affidavit of Louis Castoria in Support of Plaintiff's Motion in Limine to Exclude Schedule B, # <u>3</u> Exhibit -- Exhibits A thru D to Castoria Declaration, # <u>4</u> Proposed Order Granting Plaintiff's Motion in Limine to Exclude Schedule

Date Filed	#	Docket Text
		B)(Johnston, Ian) (Entered: 06/20/2016)
06/20/2016	<u>71</u>	NOTICE OF MOTION AND MOTION IN LIMINE to Exclude Plaintiff's Expert Witness <i>Dr. Paul Schervish</i> filed by Defendant Kamala Harris. Motion set for hearing on 7/18/2016 at 11:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Declaration of Jose A. Zelidon-Zepeda in Supporting Defendant's Motion in Limine Number One to Exclude Plaintiff's Expert Witness Dr. Paul Schervish, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Proposed Order, # <u>5</u> Certificate of Service) (Zelidon-Zepeda, Jose) (Entered: 06/20/2016)
06/20/2016	<u>72</u>	NOTICE OF MOTION AND MOTION IN LIMINE (#2) to Exclude Evidence Regarding Purported First Amendment Harm to Donors filed by Defendant Kamala Harris. Motion set for hearing on 7/18/2016 at 11:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Declaration

Date Filed	#	Docket Text
		of Alexandra Robert Gordon in Support of Motion In Limine #2, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Proposed Order, # <u>9</u> Certificate of Service)(Gordon, Alexandra) (Entered: 06/20/2016)
06/20/2016	<u>73</u>	NOTICE OF MOTION AND MOTION IN LIMINE to Preclude Motion in Limine for Issue Preclusion to Collaterally Estop Defendant From Denying or Re-Litigating Issues Previously Adjudicated in Americans for Prosperity Foundation v. Kamala Harris filed by Plaintiff Thomas More Law Center. Motion set for hearing on 7/18/2016 at 11:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Memorandum -- Memo of Points and Authorities in Support of Motion in Limine for Issue Preclusion, # <u>2</u> Memorandum -- Request for Judicial Notice, # <u>3</u> Exhibit -- Exhibits A thru C to the Request for Judicial

Date Filed	#	Docket Text
		Notice, # <u>4</u> Affidavit -- Declaration of Louis Castoria in Support of Motion in Limine, # <u>5</u> Exhibit -- Exhibits A thru D to Castoria Declaration, # <u>6</u> Proposed Order Granting Plaintiff's Motion in Limine for Preclusion)(Cruz, Marion) (Entered: 06/20/2016)
06/20/2016	<u>74</u>	NOTICE OF MOTION AND MOTION IN LIMINE to Exclude Rulemaking filed by Plaintiff Thomas More Law Center. Motion set for hearing on 7/18/2016 at 11:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Memorandum -- Memo of Points and Authorities in Support of Motion, # <u>2</u> Appendix Declaration of Louis Castoria and Exhibit A attached thereto, # <u>3</u> Proposed Order Granting Plaintiff's Motion in Limine to Exclude Proposed Rulemaking)(Cruz, Marion) (Entered: 06/20/2016)
06/20/2016	<u>75</u>	NOTICE OF MOTION AND MOTION for Partial Summary Judgment as to

Date Filed	#	Docket Text
		First Amendment Claim filed by defendant Kamala Harris. Motion set for hearing on 7/18/2016 at 10:00 AM before Judge Manuel L. Real. (Attachments: # <u>1</u> Proposed Order) (Calia, Kevin) (Entered: 06/20/2016)
06/20/2016	<u>76</u>	DECLARATION of Kevin A. Calia in support of NOTICE OF MOTION AND MOTION for Partial Summary Judgment as to First Amendment Claim <u>75</u> filed by Defendant Kamala Harris. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Exhibit L, # <u>13</u> Exhibit M, # <u>14</u> Exhibit N, # <u>15</u> Exhibit O, # <u>16</u> Exhibit P, # <u>17</u> Exhibit Q, # <u>18</u> Exhibit R)(Calia, Kevin) (Entered: 06/20/2016)
06/20/2016	<u>77</u>	STATEMENT of Uncontroverted Facts and Conclusions of Law NOTICE OF MOTION AND MOTION for Partial Summary Judgment as to

Date Filed	#	Docket Text
		First Amendment Claim <u>75</u> filed by Defendant Kamala Harris. (Calia, Kevin) (Entered: 06/20/2016)
* * * * *		
06/27/2016	<u>79</u>	MEMORANDUM of CONTENTIONS of FACT and LAW filed by Plaintiff Thomas More Law Center. (Johnston, Ian) (Entered: 06/27/2016)
06/27/2016	<u>80</u>	MEMORANDUM in Opposition to MOTION IN LIMINE (#2) to Exclude Evidence Regarding Purported First Amendment Harm to Donors <u>72</u> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Affidavit -- Declaration of Louis Castoria in Support of Opposition to Motion in Limine to Exclude Evidence re Purported First Amendment Harm to Donors, # <u>2</u> Exhibit A to Castoria Declaration, # <u>3</u> Exhibit B to Castoria Declaration) (Johnston, Ian) (Entered: 06/27/2016)

Date Filed	#	Docket Text
06/27/2016	<u>81</u>	MEMORANDUM in Opposition to MOTION IN LIMINE to Exclude Plaintiff's Expert Witness <i>Dr. Paul Schervish</i> <u>71</u> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Affidavit -- Declaration of Louis Castoria in Support of Plaintiff's Opposition to Defendant's Motion in Limine to Exclude Plaintiff's Expert Witness Dr. Paul Schervish, # <u>2</u> Exhibit A to Castoria Declaration, # <u>3</u> Exhibit B to Castoria Declaration, # <u>4</u> Exhibit C to Castoria Declaration, # <u>5</u> Exhibit D to Castoria Declaration, # <u>6</u> Exhibit E to Castoria Declaration, # <u>7</u> Exhibit F to Castoria Declaration)(Johnston, Ian) (Entered: 06/27/2016)
06/27/2016	<u>82</u>	Opposition Support re: MOTION IN LIMINE to Exclude Plaintiff's Expert Witness <i>Dr. Paul Schervish</i> <u>71</u> <i>Opp. to Motion in Limine</i> filed by Defendant Kamala Harris. (Zelidon-Zepeda, Jose) (Entered: 06/27/2016)

Date Filed	#	Docket Text
06/27/2016	<u>83</u>	OPPOSITION of Defendant Kamala D. Harris to Plaintiff's Motion in Limine to Exclude Proposed Rule-making in Opposition re: MOTION IN LIMINE to Exclude Rulemaking <u>74</u> filed by Defendant Kamala Harris. (Nguyen, Kim) (Entered: 06/27/2016)
06/27/2016	<u>84</u>	OPPOSITION of Defendant Kamala D. Harris to Plaintiff's Motion in Limine to Exclude Investigative Uses of Schedule B in Opposition re: MOTION IN LIMINE to Exclude Investigative Uses of Schedule B <u>70</u> filed by Defendant Kamala Harris. (Nguyen, Kim) (Entered: 06/27/2016)
	<u>85</u>	DECLARATION of Kim L. Nguyen in Support of Defendant's Opposition to Plaintiff's Motion in Limine to Exclude Investigative Uses of Schedule B <u>84</u> MOTION IN LIMINE to Exclude Investigative Uses of Schedule B <u>70</u> filed by Defendant Kamala

Date Filed	#	Docket Text
		Harris. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Nguyen, Kim) (Entered: 06/27/2016)
06/27/2016	<u>86</u>	Opposition Opposition re: NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> filed by Defendant Kamala Harris. (Attachments: # <u>1</u> Declaration of Kevin A. Calia in Opposition to Plaintiff's Motion for Summary Judgment, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Exhibit K, # <u>13</u> Exhibit L, # <u>14</u> Exhibit M, # <u>15</u> Exhibit N, # <u>16</u> Exhibit O, # <u>17</u> Exhibit P, # <u>18</u> Certificate of Service) (Calia, Kevin) (Entered: 06/27/2016)
06/27/2016	<u>87</u>	Opposition in Opposition re: NOTICE OF MOTION AND MOTION for Partial Summary Judgment as to First Amendment Claim <u>75</u> <i>Memorandum of Points and Authorities in Opposition to</i>

Date Filed	#	Docket Text
		<i>Defendant's Cross-Motion for Partial Summary Judgment, Plaintiff's Genuine Disputes of Material Facts, and Declaration of Louis H. Castoria</i> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration, # <u>2</u> Supplement) (Cruz, Marion) (Entered: 06/27/2016)
06/27/2016	<u>88</u>	Opposition Opposition re: MOTION IN LIMINE to Preclude Motion in Limine for Issue Preclusion to Collaterally Estop Defendant From Denying or Re-Litigating Issues Previously Adjudicated in Americans for Prosperity Foundation v. Kamala Harris <u>73</u> filed by Defendant Kamala Harris. (Attachments: # <u>1</u> Certificate of Service)(Calia, Kevin) (Entered: 06/27/2016)
06/27/2016	<u>89</u>	STATEMENT of Genuine Disputes in Opposition to NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> filed by Defendant Kamala Harris.

Date Filed	#	Docket Text
		(Nguyen, Kim) (Entered: 06/27/2016)
06/27/2016	<u>90</u>	MEMORANDUM of CONTENTIONS of FACT and LAW filed by Defendant Kamala Harris. (Gordon, Alexandra) (Entered: 06/27/2016)
06/27/2016	<u>91</u>	Opposition to Request for Judicial Notice in Support of re: NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> filed by Defendant Kamala Harris. (Calia, Kevin) (Entered: 06/27/2016)
07/05/2016	<u>92</u>	REPLY NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Declaration of Louis H. Castoria, # <u>2</u> Exhibit A) (Cruz, Marion) (Entered: 07/05/2016)
07/05/2016	<u>93</u>	REPLY in support of NOTICE OF MOTION AND MOTION for Partial Summary Judgment as to First Amendment Claim <u>75</u> filed by Defendant

Date Filed	#	Docket Text
		Kamala Harris. (Calia, Kevin) (Entered: 07/05/2016)
07/08/2016	<u>94</u>	Witness List filed by Defendant Kamala Harris.. (Calia, Kevin) (Entered: 07/08/2016)
07/08/2016	<u>95</u>	Exhibit List filed by Defendant Kamala Harris.. (Calia, Kevin) (Entered: 07/08/2016)
07/08/2016	<u>96</u>	Witness List filed by Plaintiff Thomas More Law Center.. (Cruz, Marion) (Entered: 07/08/2016)
07/08/2016	<u>97</u>	Exhibit List filed by Plaintiff Thomas More Law Center.. (Cruz, Marion) (Entered: 07/08/2016)
* * * * *		
07/12/2016	<u>102</u>	SCHEDULING NOTICE TAKING MOTIONS UNDER SUBMISSION ON THE PAPERS WITHOUT NEED OF ORAL ARGUMENT by Judge Manuel L. Real. The Court has determined that Plaintiff Thomas More Law

Date Filed	#	Docket Text
		Center's Motion for Summary Judgment <u>52</u> ; the Parties Motion's in Limine <u>69</u> , <u>70</u> , <u>71</u> , <u>72</u> , <u>73</u> , <u>74</u> ; and Defendant Kamala Harris' Motion for Partial Summary Judgment as to First Amendment Claim <u>75</u> set for hearing on July 18, 2016 at 10:00 A.M., are suitable for a decision on the papers as filed by all parties, without the need for oral argument; therefore, the said Motions are taken UNDER SUBMISSION on the papers as filed, and the hearing date of July 18, 2016 is VACATED and TAKEN OFF CALENDAR. The Court will issue its ruling on the matter in due course. IT IS SO ORDERED. THERE IS NO PDF DOCUMENT ASSOCIATED WITH THIS ENTRY. (iv) TEXT ONLY ENTRY (Entered: 07/12/2016)
07/12/2016	<u>103</u>	NOTICE OF LODGING filed re Order,,, Set/Reset Deadlines/Hearings,, <u>68</u> (Attachments: # <u>1</u> Proposed Order - - Plaintiff's Proposed

Date Filed	#	Docket Text
		Findings of Fact and Conclusions of Law) (Johnston, Ian) (Entered: 07/12/2016)
* * * * *		
07/12/2016	<u>106</u>	TRIAL BRIEF filed by Plaintiff Thomas More Law Center.. (Cruz, Marion) (Entered: 07/12/2016)
07/12/2016	<u>107</u>	NOTICE OF LODGING filed re Order,,, Set/Reset Deadlines/Hearings,, <u>68</u> (Attachments: # <u>1</u> Proposed Order Defendant's Proposed Findings of Fact and Conclusions of Law) (Calia, Kevin) (Entered: 07/12/2016)
07/12/2016	<u>108</u>	TRIAL BRIEF filed by defendant Kamala Harris.. (Calia, Kevin) (Entered: 07/12/2016)
* * * * *		
07/15/2016	<u>110</u>	REQUEST FOR JUDICIAL NOTICE re NOTICE OF MOTION AND MOTION for Summary Judgment <u>52</u> , NOTICE OF MOTION AND

Date Filed	#	Docket Text
		MOTION for Partial Summary Judgment as to First Amendment Claim <u>75</u> filed by Defendant Kamala Harris. (Calia, Kevin) (Entered: 07/15/2016)
* * * * *		
07/18/2016	<u>115</u>	ORDER DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND DENYING DEFENDANT'S CROSS MOTION FOR PARTIAL SUMMARY JUDGMENT by Judge Manuel L. Real: IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Judgment is DENIED. (Dkt. No. <u>52</u>). IT IS FURTHER ORDERED that Defendant's Cross Motion for Partial Summary Judgment is DENIED. (Dkt. No. <u>75</u>). (clee) (Entered: 07/19/2016)
* * * * *		
07/26/2016	<u>117</u>	Witness List filed by Plaintiff Thomas More Law Center..

Date Filed	#	Docket Text
		(Cruz, Marion) (Entered: 07/26/2016)
* * * * *		
08/10/2016	<u>123</u>	Joint STIPULATION to Vacate Trial Dates, Stay, and Administratively Close the Case Until Final Judgment in <i>Americans For Prosperity Foundation v. Harris, No. 2:14-CV-09448</i> filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Proposed Order) (Cruz, Marion) (Entered: 08/10/2016)
* * * * *		
08/15/2016	<u>125</u>	ORDER REGARDING JOINT STIPULATION AND REQUEST TO VACATE TRIAL DATES, STAY AND ADMINISTRATIVELY CLOSE THE CASE UNTIL FINAL JUDGMENT IN AMERICANS FOR PROSPERITY FOUNDATION V. HARRIS, NO. 2:14-CV-09448 by Judge Manuel L. Real. This matter is before the Court on the Joint Stipulation of the Parties <u>123</u> . IT IS SO

Date Filed	#	Docket Text
		ORDERED the Stipulation is DENIED. (iv) (Entered: 08/17/2016)
08/26/2016	<u>126</u>	Joint STIPULATION for Order to Permit Testimony by Robert Spencer in Open Court by Contemporaneous Transmission from a Different Location filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Proposed Order)(Cruz, Marion) (Entered: 08/26/2016)
08/29/2016	<u>127</u>	ORDER PERMITTING TESTIMONY BY ROBERT SPENCER IN OPEN COURT BY CONTEMPORANEOUS TRANSMISSION FROM A DIFFERENT LOCATION by Judge Manuel L. Real: Upon Stipulation <u>126</u> , IT IS HEREBY ORDERED that Robert Spencer is permitted to testify in open court by contemporaneous transmission from a different United States District Court on 9/13/2016 or 9/14/2016, contingent to the schedule of

Date Filed	#	Docket Text
		the trial. (gk) (Entered: 08/30/2016)
* * * * *		
08/29/2016	<u>129</u>	FINAL PRETRIAL CONFERENCE ORDER approved by Judge Manuel L. Real. (gk) (Entered: 08/30/2016)
09/13/2016	<u>130</u>	NOTICE OF LODGING filed <i>JOINT NOTICE OF LODGING OF DEPOSITION AND TRIAL DESIGNATIONS</i> re Pretrial Conference Order - Final <u>129</u> (Attachments: # <u>1</u> Exhibit) (Cruz, Marion) (Entered: 09/13/2016)
09/13/2016	<u>131</u>	MINUTES OF COURT TRIAL (1st Day) held before Judge Manuel L. Real: Opening statements made. Witnesses called, sworn and testified. Exhibits identified and admitted. Stipulated admitted exhibits (Dckt No. 124-3) read into record. Witnesses: Richard Thompson; Catherine McMillan; Sally Kern; Dr. Paul Schervish. Bench Trial continued to 9/14/2016 10:00

Date Filed	#	Docket Text
		AM before Judge Manuel L. Real. Court Reporter: Sheri Kleeger / Deborah Gackle. (gk) (Entered: 09/14/2016)
09/14/2016	<u>132</u>	MINUTES OF Court Trial (2nd day)held before Judge Manuel L. Real: Opening statements made. Witnesses called, sworn and testified. Exhibits identified and admitted. Plaintiff(s) rest. Witnesses: Dr. Paul Schervish, Robert Spencer, Pamela Gellar by video recorded testimony, Tania Ibanez, and Joseph Zimring. Plaintiff's motion to exclude testimony of Ray Madoff as an expert <u>69</u> is GRANTED. Bench Trial continued to 9/15/2016 10:00 AM before Judge Manuel L. Real. Court Reporter: Sheri Kleeger / Deborah Gackle. (gk) (Entered: 09/15/2016)
09/15/2016	<u>133</u>	MINUTES OF Court Trial (3rd day) held before Judge Manuel L. Real: Witnesses called, sworn and testified. Exhibits identified and admitted. Filed Witness &

Date Filed	#	Docket Text
		Exhibit Lists. The Court ORDERS the parties in this case to submit a proposed order of what each party would recommend as an order in this case, on or before 10/15/2016. The Court continues this matter for arguments to 10/31/2016 at 10 AM. Bench Trial continued to 10/31/2016 10:00 AM before Judge Manuel L. Real. Court Reporter: Sheri Kleeger / Deborah Gackle. (gk) (Entered: 09/22/2016)
* * * * *		
10/15/2016	<u>136</u>	NOTICE OF LODGING filed <i>with Proposed Order for Judgment in Favor of Defendant</i> re Bench Trial - Held and Continued,, <u>133</u> (Attachments: # <u>1</u> Proposed Order) (Calia, Kevin) (Entered: 10/15/2016)
10/15/2016	<u>137</u>	NOTICE OF LODGING filed <i>with Proposed Order for Judgment in Favor of Plaintiff Thomas More Law Center</i> re Bench Trial - Held and

Date Filed	#	Docket Text
		Continued,, <u>133</u> (Attachments: # <u>1</u> Proposed Order) (Cruz, Marion) (Entered: 10/15/2016)
10/31/2016	<u>138</u>	MINUTES OF Court Trial (4th Day) held and completed/submitted to court before Judge Manuel L. Real: Closing arguments made. Court Reporter: Sheri Kleeger. (gk) (Entered: 11/01/2016)
11/16/2016	<u>139</u>	ORDER FOR JUDGMENT IN FAVOR OF PLAINTIFF by Judge Manuel L. Real: IT IS HEREBY ORDERED that the Attorney General is permanently enjoined from requiring the Thomas More Law Center to file with the registry a periodic written report containing a copy of its Schedule B to IRS Form 990. TMLC shall no longer be considered deficient or delinquent in its reporting requirement because it does not file its confidential Schedule B with the Attorney General. Each party shall bear its own costs. See

Date Filed	#	Docket Text
		document for further details. (MD JS-6, Case Terminated). (gk) (Entered: 11/16/2016)
11/29/2016	<u>140</u>	STIPULATION for Order to Extend Time to File Any Motion for Attorneys' Fees Until After Resolution of All Appeals from November 16, 2016 Judgment filed by Plaintiff Thomas More Law Center. (Attachments: # <u>1</u> Proposed Order) (Cruz, Marion) (Entered: 11/29/2016)
11/30/2016	<u>141</u>	ORDER GRANTING STIPULATION TO EXTEND TIME TO FILE ANY MOTION FOR ATTORNEYS' FEES UNTIL AFTER RESOLUTION OF ALL APPEALS FROM 11/16/2016 JUDGMENT by Judge Manuel L. Real: The Stipulation <u>140</u> IS HEREBY GRANTED. Pursuant to Local Rule 54-10, the time to file any motion for attorneys' fees is extended until 28 days after the latest date on which (a) the deadline for filing an appeal from the 11/16/2016 judgment expires, (b) the Court of Appeals issues its

Date Filed	#	Docket Text
		mandate and the deadline for filing a petition for certiorari expires, (c) the Supreme Court of the United States denies any timely petition for certiorari, or (d) the Supreme Court of the United States issues a certified judgment that requires no further action from the Court of Appeals. (gk) (Entered: 12/01/2016)
12/15/2016	<u>142</u>	NOTICE OF APPEAL to the 9th Circuit Court of Appeals filed by Defendant Kamala Harris. Appeal of Judgment,, <u>139</u> . (Appeal Fee - \$505 Fee Paid, Receipt No. 0973-19062771.) (Calia, Kevin) (Entered: 12/15/2016)
* * * * *		
12/16/2016	<u>144</u>	NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 16-56855 assigned to Notice of Appeal to 9th Circuit Court of Appeals <u>142</u> as to defendant Kamala

Date Filed	#	Docket Text
		Harris. (mat) (Entered: 12/16/2016)
12/28/2016	<u>145</u>	NOTICE OF APPEAL to the 9th Circuit Court of Appeals Thomas More Law Center. Appeal of Judgment,, <u>139</u> . (Appeal Fee- \$505 Fee Paid, Receipt No. 0973-19115795.) (Cruz, Marion). (Entered: 12/28/2016)
12/28/2016	<u>146</u>	NOTIFICATION from Ninth Circuit Court of Appeals of case number assigned and briefing schedule. Appeal Docket No. 16-56902 cross appeal assigned to Notice of Appeal to 9th Circuit Court of Appeals <u>145</u> as to Cross-Appellant Thomas More Law Center. (mat) (Entered: 12/29/2016)
* * * * *		
12/29/2016	<u>150</u>	DESIGNATION of Record on Appeal by defendant Kamala Harris re <u>142</u> (Calia, Kevin) (Entered: 12/29/2016)
* * * * *		

Date Filed	#	Docket Text
01/05/2017	<u>153</u>	TRANSCRIPT for proceedings held on 9/13/16 PM Trial. Court Reporter: Deborah K. Gackle, phone number (213) 894-8913 deborahgackle.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 1/26/2017. Redacted Transcript Deadline set for 2/6/2017. Release of Transcript Restriction set for 4/5/2017. (Gackle, Deborah) (Entered: 01/05/2017)
01/10/2017	<u>154</u>	DESIGNATION of Record on Appeal by Thomas More Law Center's Transcript Designation Thomas More Law Center re <u>145</u> (Castoria, Louis) (Entered: 01/10/2017)
01/10/2017	<u>155</u>	TRANSCRIPT for proceedings held on 9/13/16 10am. Court Reporter/Electronic Court

Date Filed	#	Docket Text
		Recorder: Sheri Kleeger, phone number 213-894-6604. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 1/31/2017. Redacted Transcript Deadline set for 2/10/2017. Release of Transcript Restriction set for 4/10/2017. (Kleeger, Sheri) (Entered: 01/10/2017)
01/10/2017	<u>156</u>	TRANSCRIPT for proceedings held on 9/14/16 am. Court Reporter/Electronic Court Recorder: Sheri Kleeger, phone number 213-894-6604. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it

Date Filed	#	Docket Text
		<p>may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 1/31/2017. Redacted Transcript Deadline set for 2/10/2017. Release of Transcript Restriction set for 4/10/2017. (Kleeger, Sheri) (Entered: 01/10/2017)</p>
01/10/2017	<u>157</u>	<p>TRANSCRIPT for proceedings held on 9/15/16 9am. Court Reporter/Electronic Court Recorder: Sheri Kleeger, phone number 213-894-6604. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 1/31/2017. Redacted Transcript Deadline set for 2/10/2017. Release of Transcript Restriction set for</p>

Date Filed	#	Docket Text
		4/10/2017. (Kleeger, Sheri) (Entered: 01/10/2017)
01/10/2017	<u>158</u>	TRANSCRIPT for proceedings held on 10/31/16. Court Reporter/Electronic Court Recorder: Sheri Kleeger, phone number 213-894-6604. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Electronic Court Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Notice of Intent to Redact due within 7 days of this date. Redaction Request due 1/31/2017. Redacted Transcript Deadline set for 2/10/2017. Release of Transcript Restriction set for 4/10/2017. (Kleeger, Sheri) (Entered: 01/10/2017)
* * * * *		
09/11/2018	<u>170</u>	OPINION from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>142</u> filed by Kamala Harris, Notice of

Date Filed	#	Docket Text
		<p>Appeal to 9th Circuit Court of Appeals <u>145</u> filed by Thomas More Law Center. CCA # 16-56855, 16-56902. The judgments of the district court are reversed. The permanent injunctions are vacated. The case is remanded for entry of judgments in favor of the Attorney General. INJUNCTIONS VACATED; JUDGMENTS REVERSED; CASES REMANDED. The Law Centers motion for judicial notice, filed February 12, 2018 (Dkt. 45, No. 16-56855) is DENIED. The Attorney Generals motion to strike, filed February 13, 2018 (Dkt. 47, No. 16-56855), is DENIED. [LATE DOCKETING DUE TO CLERK'S OFFICE ERROR] (car) (Entered: 04/10/2019)</p>
03/29/2019	<u>169</u>	<p>ORDER DENYING PETITIONS FOR REHEARING EN BANC from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>142</u> filed by Kamala Harris, Notice of</p>

Date Filed	#	Docket Text
		Appeal to 9th Circuit Court of Appeals <u>145</u> filed by Thomas More Law Center. CCA # 16-56855 and 16-56902. (gk) (Entered: 03/29/2019)
04/08/2019	<u>171</u>	MANDATE of Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>142</u> , Notice of Appeal to 9th Circuit Court of Appeals <u>145</u> , CCA # 16-56855, 16-56902. The judgment of this Court, entered September 11, 2018, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (car) (Entered: 04/10/2019)
06/10/2019	<u>172</u>	SUPREME COURT NOTICE re: Notice of Appeal to 9th Circuit Court of Appeals <u>142</u> , and Notice of Appeal to 9th Circuit Court of Appeals <u>145</u> . The application for an extension of time within to which to file a petition for a writ of certiorari in the above entitled case has been

Date Filed	#	Docket Text
		presented to Justice Kagan, who on June 5, 2019 extended the time to and including August 26, 2019. This letter has been sent to those designated on the attached notification list. (mat) (Entered: 06/11/2019)
08/02/2019	<u>173</u>	ORDER from Ninth Circuit Court of Appeals filed re: Notice of Appeal to 9th Circuit Court of Appeals <u>142</u> filed by Kamala Harris, Notice of Appeal to 9th Circuit Court of Appeals <u>145</u> filed by Thomas More Law Center. CCA # 16-56855 and 16-56902. The motion of Thomas More Law Center to recall and stay the mandate, filed May 28, 2019, is GRANTED. The mandate is recalled. [See document for more further details.](mat) (Entered: 08/05/2019)
01/08/2021	<u>174</u>	Supreme Court Notice re: Notice of Appeal to 9th Circuit Court of Appeals, <u>142</u> , Notice of Appeal to 9th Circuit Court of Appeals <u>145</u> . The Court today entered the following order in the above-entitled

Date Filed	#	Docket Text
		case: The petition for a writ of certiorari is granted. The petition for a writ of certiorari in No. 19-255 is granted. The cases are consolidated, and a total of one hour is allotted for oral argument. VIDED. (mat) (Entered: 01/21/2021)

Docket Entries:
U.S. Court of Appeals for the Ninth Circuit
Case No. 15-55911

Date Filed	#	Docket Text
* * * * *		
07/09/2015	<u>8</u>	Submitted (ECF) Opening Brief and excerpts of record for review. Submitted by Appellant Kamala D. Harris. Date of service: 07/09/2015. [9604337] [15-55911] (Nguyen, Kim) [Entered: 07/09/2015 12:26 PM]
07/10/2015	<u>9</u>	Filed clerk order: The opening brief [8] submitted by Kamala D. Harris is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. The Court

Date Filed	#	Docket Text
		has reviewed the excerpts of record [8] submitted by Kamala D. Harris. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9606383] (WWP) [Entered: 07/10/2015 02:42 PM]
07/14/2015	10	Received 7 paper copies of Opening brief [8] filed by Kamala D. Harris. [9610312] (SD) [Entered: 07/14/2015 04:41 PM]
07/14/2015	11	Filed Appellant Kamala D. Harris paper copies of excerpts of record [8] in 1 volume. [9610471] (WWP) [Entered: 07/15/2015 07:52 AM]
* * * * *		
08/06/2015	<u>14</u>	Submitted (ECF) Answering Brief and supplemental excerpts of record for review. Submitted by Appellee Thomas More Law Center. Date of service: 08/06/2015. [9638107]

Date Filed	#	Docket Text
		(15-55911)--[COURT UPDATE: Attached separate PDF files of brief and excerpts. 08/11/2015 by RY] (Castoria, Louis) [Entered: 08/06/2015 07:43 PM]
* * * * *		
08/07/2015	<u>16</u>	Filed clerk order: The answering brief [14] submitted by Thomas More Law Center is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: red. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. The Court has reviewed the supplemental excerpts of record [14] submitted by Thomas More Law Center. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format,

Date Filed	#	Docket Text
		with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [9638894] (WWP) [Entered: 08/07/2015 01:39 PM]
08/12/2015	17	Received 7 paper copies of Answering brief [14] filed by Thomas More Law Center. [9644453] (SD) [Entered: 08/12/2015 01:15 PM]
08/12/2015	18	Filed Appellee Thomas More Law Center paper copies of supplemental excerpts of record [14] in 1 volume. [9646033] (GV) [Entered: 08/13/2015 12:29 PM]
08/20/2015	<u>19</u>	Submitted (ECF) Reply Brief for review. Submitted by Appellant Kamala D. Harris. Date of service: 08/20/2015. [9654528] [15-55911] (Nguyen, Kim) [Entered: 08/20/2015 03:11 PM]
08/20/2015	<u>20</u>	Filed clerk order: The reply brief [19] submitted by Kamala D. Harris is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of

Date Filed	#	Docket Text
		the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [9654543] (WWP) [Entered: 08/20/2015 03:16 PM]
08/24/2015	21	Received 7 paper copies of Reply brief [19] filed by Kamala D. Harris. [9657898] (SD) [Entered: 08/24/2015 02:20 PM]
09/02/2015	<u>22</u>	Filed (ECF) Appellee Thomas More Law Center Supplemental Motion to supplement record on appeal. Date of service: 09/02/2015. [9670145] [15-55911] (Pham, Sheila) [Entered: 09/02/2015 03:01 PM]
09/03/2015	<u>23</u>	Filed clerk order (Deputy Clerk: CAG): The appellee's

Date Filed	#	Docket Text
		motion for leave to supplemental the record and any responsive filing shall be referred for disposition to the panel that considers the merits of the case. [9672118] (AF) [Entered: 09/03/2015 04:43 PM]
09/03/2015	<u>24</u>	Filed (ECF) Appellant Kamala D. Harris Correspondence: Opposing Appellee's Motion to Supplement Record. Date of service: 09/03/2015 [9672152] [15-55911] (Nguyen, Kim) [Entered: 09/03/2015 04:56 PM]
09/08/2015	<u>25</u>	Filed (ECF) Appellee Thomas More Law Center Supplemental Motion to supplement record on appeal. Date of service: 09/08/2015. [9675070] [15-55911)--[COURT UPDATE: Updated docket text to reflect content of filing. 09/08/2015 by TYL] (Pham, Sheila) [Entered: 09/08/2015 03:25 PM]

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Date Filed	#	Docket Text
09/30/2015	<u>27</u>	Filed clerk order (Deputy Clerk: HL): These appeals have been assigned to the same panel because they involve potentially related issues regarding California Government Code sections 12580 et seq. The cases are not consolidated for oral argument. Counsel may wish to confer in order to enhance oral argument. The Clerk shall serve a copy of the court's service list for each case on all parties.[9701740] [15-55446, 15-55911) (WL) [Entered: 09/30/2015 11:07 AM]
* * * * *		
12/09/2015	30	ARGUED AND SUBMITTED TO STEPHEN R. REINHARDT, RAYMOND C. FISHER and JACQUELINE H. NGUYEN. [9785918] (FB) [Entered: 12/09/2015 01:36 PM]
12/29/2015	<u>31</u>	Filed order (STEPHEN REINHARDT, RAYMOND C. FISHER and JACQUELINE H. NGUYEN) We heard these

Date Filed	#	Docket Text
		<p>cases together and now consolidate them for disposition. See Fed. R. App. P. 3(b)(2); <i>Mattos v. Agarano</i>, 661 F.3d 433, 436 n.1 (9th Cir. 2011) (en banc). In <i>Americans for Prosperity Foundation v. Harris</i>, No. 15-55446, the Attorney General's pending motion to stay the district court proceedings, filed October 22, 2015, is DENIED. <i>Americans for Prosperity Foundation's</i> unopposed motion for judicial notice, filed June 24, 2015, is GRANTED. In <i>Thomas More Law Center v. Harris</i>, No. 15-55911, <i>Thomas More Law Center's</i> motion to supplement the record, filed September 2, 2015, is DENIED. [9808552] [15-55446, 15-55911] (RMM) [Entered: 12/29/2015 01:12 PM]</p>
12/29/2015	<u>32</u>	<p>FILED PER CURIAM OPINION (STEPHEN REINHARDT, RAYMOND C. FISHER and JACQUELINE H. NGUYEN) Each party shall bear its own costs on appeal. ORDERS VACATED. FILED</p>

Date Filed	#	Docket Text
		AND ENTERED JUDGMENT. [9808574] [15-55446, 15-55911] (RMM) [Entered: 12/29/2015 01:21 PM]
* * * * *		
01/11/2016	<u>34</u>	Filed (ECF) Appellee Americans for Prosperity Foundation in 15-55446 petition for panel rehearing and petition for rehearing en banc (from 12/29/2015 opinion). Date of service: 01/11/2016. [9822955] [15-55446, 15-55911] (Shaffer, Derek) [Entered: 01/11/2016 03:05 PM]
01/19/2016	<u>35</u>	Filed order (STEPHEN REINHARDT, RAYMOND C. FISHER and JACQUELINE H. NGUYEN): The Attorney General is directed to file a response to the Petition for Panel Rehearing and En Banc Rehearing, filed with this court on January 11, 2016. The response shall not exceed 15 pages or 4,200 words and shall be filed within 21 days of the date of this order. Parties who are registered for ECF must file the response electronically

Date Filed	#	Docket Text
		without submission of paper copies. Parties who are not registered ECF filers must file the original response plus 50 paper copies. [9831062] [15-55446, 15-55911] (AF) [Entered: 01/19/2016 01:08 PM]
01/21/2016	<u>36</u>	Submitted (ECF) Amicus brief for review (by government or with consent per FRAP 29(a)). Submitted by Free Speech Def. & Education Fund, Free Speech Coalition, U.S. Justice Fnd, Downsize DC Fnd, Gun Owners Fnd, Citizens United Fnd, Conservative Legal Defense & Education Fund, Freedom Alliance, Law Enforcement Alliance of America, Public Advocate of the US. Date of service: 01/21/2016. [9836399] [15-55446, 15-55911] (Morgan, Jeremiah) [Entered: 01/21/2016 05:42 PM]
* * * * *		
01/22/2016	<u>38</u>	Filed clerk order: The amicus brief [36] submitted by CUF, Conservative Legal Defense

Date Filed	#	Docket Text
		<p>and Education Fund, Downsize DC Foundation, Free Speech Coalition, Free Speech Defense and Education Fund, Freedom Alliance, Gun Owners Foundation, LEAA, Public Advocate of the United States and USJF is filed. Within 7 days of the filing of this order, filer is ordered to file 20 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: green. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [9836635] [15-55446, 15-55911] (KT) [Entered: 01/22/2016 09:51 AM]</p>
01/29/2016	39	<p>Received 20 paper copies of Amicus brief [36] filed by CUF, Conservative Legal Defense and Education Fund, Downsize DC Foundation, Free Speech Coalition, Free Speech Defense and Education Fund, Freedom</p>

Date Filed	#	Docket Text
		Alliance, Gun Owners Foundation, LEAA, Public Advocate of the United States and USJF. [9846725] [15-55446, 15-55911] (KT) [Entered: 01/29/2016 11:43AM]
2/09/2016	<u>40</u>	Filed (ECF) Appellant Kamala D. Harris in 15-55446, 15-55911 response to Combo PFR Panel and En Banc (ECF Filing), Combo PFR Panel and En Banc (ECF Filing) for panel and en banc rehearing, for panel and en banc rehearing (statistical entry). Date of service: 02/09/2016. [9860346]. [15-55446, 15-55911] (Gordon, Alexandra) [Entered: 02/09/2016 05:15 PM]
04/06/2016	<u>41</u>	Filed order (STEPHEN REINHARDT, RAYMOND C. FISHER and JACQUELINE H. NGUYEN) The panel has voted to deny the petition for panel rehearing. Judges Reinhardt and Nguyen have voted to deny the petition for rehearing en banc, and Judge Fisher so recommends. The full court has been advised of the petition for rehearing en banc

Date Filed	#	Docket Text
		and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35. Appellants' petition for panel rehearing and rehearing en banc, filed January 11, 2016, is DENIED. [9929085] [15-55446, 15-55911] (WL) [Entered: 04/06/2016 09:40 AM]
04/18/2016	<u>42</u>	MANDATE ISSUED. Each party shall bear its own costs on appeal. (SR, RCF and JHN) [9944244] [15-55446, 15-55911] (RR) [Entered: 04/18/2016 04:05 PM]

Docket Entries:
U.S. Court of Appeals for the Ninth Circuit
Case No. 16-56855

Date Filed	#	Docket Text
* * * * *		
07/10/2017	<u>16</u>	Submitted (ECF) First Brief on Cross-Appeal for review. Submitted by Appellant Xavier Becerra in 16-56855, Appellee Xavier Becerra in 16-56902. Date of service: 07/10/2017. [10503322] [16-56855, 16-56902] (Calia, Kevin) [Entered: 07/10/2017 03:30 PM]
07/10/2017	<u>17</u>	Submitted (ECF) excerpts of record. Submitted by Appellant Xavier Becerra in 16-56855, Appellee Xavier Becerra in 16-56902. Date of service: 07/10/2017. [10503340] [16-56855, 16-56902] --[COURT UPDATE: Attached corrected excerpts of record Vol 5. 7/11/2017 by TYL] (Calia, Kevin) [Entered: 07/10/2017 03:34 PM]
* * * * *		

Date Filed	#	Docket Text
07/11/2017	<u>19</u>	Filed clerk order: The first brief on cross-appeal [16] submitted by Xavier Becerra is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. The Court has reviewed the excerpts of record [17] submitted by Xavier Becerra. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6. [10504275] [16-56855, 16-56902] (SML) [Entered: 07/11/2017 11:49 AM]

Date Filed	#	Docket Text
* * * * *		
07/13/2017	22	ENTRY UPDATED: Filed 4 paper copies of excerpts of record [<u>17</u>] in 6 volume(s) filed by Appellant/Cross-Appellee Xavier Becerra. (sent to panel) [10507479] [16-56855, 16-56902]--[Edited 07/14/2017 by SML to indicate the materials were sent to the panel] (SML) [Entered: 07/13/2017 12:37 PM]
07/13/2017	23	Received 7 paper copies of First Brief on Cross-Appeal [16] filed by Xavier Becerra in 16-56855, 16-56902. [10507711] [16-56855, 16-56902] (Sent to Panel) (RG) [Entered: 07/13/2017 02:04 PM]
* * * * *		
09/06/2017	<u>27</u>	Filed order (STEPHEN REINHARDT, RAYMOND C. FISHER and JACQUELINE H. NGUYEN): Oral argument in the above-captioned cases will be heard on the same

Date Filed	#	Docket Text
		day. The court will issue an order respecting the date, time and location of oral argument once briefing in Nos. 16-56855 and 16-56902 is completed. [10571474] [16-55727, 16-55786, 16-56855, 16-56902] (AF) [Entered: 09/06/2017 03:31 PM]
10/20/2017	<u>28</u>	Submitted (ECF) Second Brief on Cross-Appeal for review. Submitted by Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902. Date of service: 10/20/2017. [10626674] [16-56855, 16-56902] (Castoria, Louis) [Entered: 10/20/2017 08:05 PM]
10/20/2017	<u>29</u>	Submitted (ECF) supplemental excerpts of record. Submitted by Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902. Date of service: 10/20/2017. [10626677] [16-56855, 16-56902] (Castoria,

Date Filed	#	Docket Text
		Louis) [Entered: 10/20/2017 08:10 PM]
10/23/2017	<u>30</u>	Filed clerk order: The second brief on cross-appeal [28] submitted by Thomas More Law Center is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: red. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. The Court has reviewed the supplemental excerpts of record [29] submitted by Thomas More Law Center. Within 7 days of this order, filer is ordered to file 4 copies of the excerpts in paper format, with a white cover. The paper copies must be in the format described in 9th Circuit Rule 30-1.6.

Date Filed	#	Docket Text
		[10627075] [16-56855, 16-56902] (SML) [Entered: 10/23/2017 09:29 AM]
10/23/2017	<u>31</u>	Filed (ECF) Errata to Second Brief on Cross-Appeal ([<u>28</u>] Brief Submitted for Review (ECF Filing)). Filed by Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902. Date of service: 10/23/2017. [10628356] [16-56855, 16-56902] (Castoria, Louis) [Entered: 10/23/2017 03:59 PM]
10/25/2017	32	Received 7 paper copies of Second Brief on Cross-Appeal [<u>28</u>] filed by Thomas More Law Center in 16-56855, 16-56902. [10631947] [16-56855, 16-56902] (Sent to Panel) (RG) [Entered: 10/26/2017 08:21 AM]
10/25/2017	33	ENTRY UPDATED: Filed 4 paper copies of supplemental excerpts of record [<u>29</u>] in 3 volume(s) filed by Appellee/ Cross-Appellant Thomas More Law Center. (sent to

Date Filed	#	Docket Text
		panel) [10632663] [16-56855, 16-56902]--[Edited 10/27/2017 by SML to reflect the paper copies were sent to the panel] (SML) [Entered: 10/26/2017 11:57 AM]
10/27/2017	<u>34</u>	Submitted (ECF) Amicus brief for review (by government or with consent per FRAP 29(a)). Submitted by Center for Constitutional Jurisprudence. Date of service: 10/27/2017 [10634169] [16-56855, 16-56902] (Eastman, John) [Entered: 10/27/2017 11:22 AM]
* * * * *		
10/27/2017	<u>36</u>	Filed clerk order: The amicus brief [34] submitted by Center For Constitutional Jurisprudence is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted

Date Filed	#	Docket Text
		electronically. Cover color: green. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. [10634199] [16-56855, 16-56902] (SML) [Entered: 10/27/2017 11 :28 AM]
11/03/2017	37	Received 7 paper copies of Amicus Brief [34] filed by Center For Constitutional Jurisprudence in 16-56855, 16-56902. [10642810] [16-56855, 16-56902] (Sent to Panel) (RG) [Entered: 11/03/2017 11 :51 AM]
11/13/2017	<u>38</u>	Filed (ECF) Appellant Xavier Becerra in 16-56855, Appellee Xavier Becerra in 16-56902 Unopposed Motion to extend time to file Third Brief on Cross-Appeal brief until 01/19/2018. Date of service: 11/13/2017. [10652113] [16-56855, 16-56902] (Gordon, Alexandra) [Entered: 11/13/2017 04:36 PM]

Date Filed	#	Docket Text
01/19/2018	<u>39</u>	Submitted (ECF) Third Brief on Cross-Appeal for review. Submitted by Appellant Xavier Becerra in 16-56855, Appellee Xavier Becerra in 16-56902. Date of service: 01/19/2018. [10731293] [16-56855, 16-56902] (Gordon, Alexandra) [Entered: 01/19/2018 02:59 PM]
01/19/2018	<u>40</u>	Filed (ECF) Appellee Xavier Becerra in 16-56902, Appellant Xavier Becerra in 16-56855 Correspondence: Letter accompanying Third Brief on Cross-Appeal. Date of service: 01/19/2018 [10731755] [16-56902, 16-56855] (Gordon, Alexandra) [Entered: 01/19/2018 05:18 PM]
01/29/2018	<u>41</u>	Filed clerk order (Deputy Clerk: OC): Defendant-Appellant-Cross-Appellee Xavier Becerra's unopposed motion for extension of time to file third brief, filed November 13, 2017 (Dkt. [38]), is GRANTED. The Clerk shall file the brief.

Date Filed	#	Docket Text
		[10742272] [16-56855, 16-56902] (OC) [Entered: 01/29/2018 02:12 PM]
01/29/2018	<u>42</u>	Filed clerk order: The third brief on cross-appeal [39] submitted by Xavier Becerra is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: yellow. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. [10742925] [16-56855, 16-56902] (SML) [Entered: 01/29/2018 04:15 PM]
01/31/2018	43	Received 7 paper copies of Third Brief on Cross-Appeal [39] filed by Xavier Becerra in 16-56855, 16-56902. [10747128] [16-56855, 16-56902] (Sent to Panel) (RG)

Date Filed	#	Docket Text
		[Entered: 02/01/2018 08:14 AM]
02/09/2018	<u>44</u>	Submitted (ECF) Cross-Appeal Reply Brief for review. Submitted by Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902. Date of service: 02/09/2018. [10758964] [16-56855, 16-56902]--[COURT UPDATE: Removed motion and exhibits (filed correctly in entry[45]). Updated docket text to reflect correct brief type. 02/12/2018 by SLM] (Cruz, Marion) [Entered: 02/09/2018 05:55 PM]
02/12/2018	<u>45</u>	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 Motion to take judicial notice of. Date of service: 02/12/2018. [10759426] [16-56855, 16-56902] (Cruz, Marion) [Entered: 02/12/2018 09:51 AM]
02/12/2018	<u>46</u>	Filed clerk order: The cross-appeal reply brief [44]

Date Filed	#	Docket Text
		<p>submitted by Thomas More Law Center is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: gray. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate CM/ECF. [10760189] [16-56855, 16-56902] (SML) [Entered: 02/12/2018 01:06 PM]</p>
02/13/2018	<u>47</u>	<p>Filed (ECF) Appellant Xavier Becerra in 16-56855, Appellee Xavier Becerra in 16-56902 Motion to strike portion of Thomas More Law Center's Reply Brief. Date of service: 02/13/2018. [10763136] [16-56855, 16-56902] (Gordon, Alexandra) [Entered: 02/13/2018 05:25 PM]</p>

Date Filed	#	Docket Text
02/14/2018	48	Received 7 paper copies of Cross-Appeal Reply Brief [44] filed by Thomas More Law Center (sent to panel). [10763739] [16-56855, 16-56902] (DB) [Entered: 02/14/2018 10:49 AM]
02/22/2018	49	Filed (ECF) Appellee Xavier Becerra in 16-56902, Appellant Xavier Becerra in 16-56855 response opposing motion ([45] Motion (ECF Filing), [45] Motion (ECF Filing) motion to take judicial notice). Date of service: 02/22/2018. [10773264] [16-56902, 16-56855] (Gordon, Alexandra) [Entered: 02/22/2018 11:30 AM]
02/23/2018	50	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 Motion to strike portion of THOMAS MORE LAW CENTER OPPOSITION TO ATTORNEY GENERALS MOTION TO STRIKE PORTIONS OF THOMAS MORE LAW CENTERS

Date Filed	#	Docket Text
		REPLY BRIEF. Date of service: 02/23/2018. [10775144] [16-56855, 16-56902] (Cruz, Marion) [Entered: 02/23/2018 11:12 AM]
02/28/2018	<u>51</u>	Filed (ECF) Appellant Xavier Becerra in 16-56855, Appellee Xavier Becerra in 16-56902 citation of supplemental authorities. Date of service: 02/28/2018. [10781628] [16-56855, 16-56902] (Gordon, Alexandra) [Entered: 02/28/2018 03:24 PM]
03/01/2018	<u>52</u>	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 reply to response(). Date of service: 03/01/2018. [10783520] [16-56855, 16-56902] (Cruz, Marion) [Entered: 03/01/2018 04:59 PM]
* * * * *		
04/09/2018	<u>54</u>	Filed clerk order (Deputy Clerk: AF): Pursuant to G.O. § 3.2.h, Judge Paez has been

Date Filed	#	Docket Text
		drawn as the replacement for Judge Reinhardt. The panel for these cases will now consist of: FISHER, PAEZ and NGUYEN, Circuit Judges. [10829034] [16-55727, 16-55786, 16-56855, 16-56902] (AF) [Entered: 04/09/2018 11:39 AM]
* * * * *		
06/15/2018	<u>59</u>	Filed order (RAYMOND C. FISHER, RICHARD A. PAEZ and JACQUELINE H. NGUYEN): The time of oral argument has been changed from 12:30 p.m. to 10:30 a.m. Oral argument will now be held at 10:30 a.m. on Monday, June 25, 2018, at the Richard H. Chambers U.S. Courthouse, 125 South Grand Avenue, Pasadena, CA 91105-1643. The parties will be afforded 15 minutes per side in each case, for a total argument time of one hour. [10910620] [16-55727, 16-55786, 16-56855, 16-56902] (AF) [Entered: 06/15/2018 11:43 AM]

Date Filed	#	Docket Text
* * * * *		
06/20/2018	<u>62</u>	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 citation of supplemental authorities. Date of service: 06/20/2018. [10916602] [16-56855, 16-56902]--[COURT UPDATE: Attached searchable version of citation. 6/20/2018 by TYL] (Castoria, Louis) [Entered: 06/20/2018 05:08 PM]
06/20/2018	<u>63</u>	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 citation of supplemental authorities. Date of service: 06/20/2018. [10916621] [16-56855, 16-56902]--[COURT UPDATE: Attached searchable version of citation. 6/20/2018 by TYL] (Castoria, Louis) [Entered: 06/20/2018 05:32 PM]
06/25/2018	64	ARGUED AND SUBMITTED TO RAYMOND C. FISHER,

Date Filed	#	Docket Text
		RICHARD A. PAEZ and JACQUELINE H. NGUYEN. [10920722] [16-56855, 16-56902] (Witt, Dusty) [Entered: 06/25/2018 12:35 PM]
06/26/2018	<u>65</u>	Filed Audio recording of oral argument. Note: Video recordings of public argument calendars are available on the Court's website, at http://www.ca9.uscourts.gov/media/ [10922135] [16-56855, 16-56902] (Witt, Dusty) [Entered: 06/26/2018 10:18 AM]
09/11/2018	<u>66</u>	FILED OPINION (RAYMOND C. FISHER, RICHARD A. PAEZ and JACQUELINE H. NGUYEN) INJUNCTIONS VACATED; JUDGMENTS REVERSED; CASES REMANDED. The Law Center's motion for judicial notice, filed February 12, 2018 (Dkt. 45, No. 16-56855) is DENIED. The Attorney General's motion to strike, filed February 13, 2018 (Dkt. 47, No. 16-56855), is DENIED. Judge: RCF

Date Filed	#	Docket Text
		Authoring. FILED AND ENTERED JUDGMENT. [11006860] [16-55727, 16-55786, 16-56855, 16-56902] (RMM) [Entered: 09/11/2018 07:28 AM]
09/25/2018	<u>67</u>	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 petition for rehearing en banc (from 09/11/2018 opinion). Date of service: 09/25/2018. [11025443] [16-56855, 16-56902] (Castoria, Louis) [Entered: 09/25/2018 04:59 PM]
03/29/2019	<u>68</u>	Filed Order for PUBLICATION (RAYMOND C. FISHER, RICHARD A. PAEZ and JACQUELINE H. NGUYEN) (Dissent by Judge Ikuta; Reply to Dissent by Judges Fisher, Paez, and Nguyen) Denying Petition for Rehearing En Banc (ECF Filing) filed by Appellant Americans for Prosperity Foundation in 16-55727, 16-55786, Denying Petition for Rehearing En Banc (ECF

Date Filed	#	Docket Text
		<p>Filing) Judge Paez and Judge Nguyen have voted to deny the petitions for rehearing en banc and Judge Fisher has so recommended. The full court was advised of the petitions for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. Fed. R. App. P. 35. The petitions for rehearing en banc (Nos. 16-55727 and 16-55786, filed September 25, 2018 - Dkt.[11025269-2]; and Nos. 16-56855 and 16-56902, filed September 26, 2018 - Dkt. [67] are DENIED. [11246084] [16-55727, 16-55786, 16-56855, 16-56902] (RMM) [Entered: 03/29/2019 07:49 AM]</p>
04/08/2019	<u>69</u>	<p>MANDATE ISSUED.(RCF, RAP and JHN) [11255343] [16-56855, 16-56902] (CW) [Entered: 04/08/2019 07:14 AM]</p>

Date Filed	#	Docket Text
05/28/2019	<u>70</u>	Filed (ECF) Appellee Thomas More Law Center in 16-56855, Appellant Thomas More Law Center in 16-56902 Motion to recall the mandate, Motion to stay the mandate. Date of service: 05/28/2019. [11310740] [16-56855, 16-56902] (Castoria, Louis) [Entered: 05/28/2019 03:15 PM]
06/10/2019	<u>71</u>	Received letter from the Supreme Court dated 06/05/2019. The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case has been presented to Justice Kagan, who on June 5, 2019, extended the time to and including August 26, 2019. [11326370] [16-56855, 16-56902] (RR) [Entered: 06/11/2019 10:11 AM]
08/02/2019	<u>72</u>	Filed order (RAYMOND C. FISHER, RICHARD A. PAEZ and JACQUELINE H. NGUYEN) The motion of Thomas More Law Center to

Date Filed	#	Docket Text
		recall and stay the mandate, filed May 28, 2019 (Dkt. [70]), is GRANTED. The mandate is recalled. The mandate is stayed for a period not to exceed 90 days pending the filing of the petition for writ of certiorari in the Supreme Court. If, within that period, the Clerk of the Supreme Court advises the Clerk of this Court that a petition for certiorari has been filed, then the mandate shall be further stayed until final disposition of the matter by the Supreme Court. [11385587] [16-56855, 16-56902] (OC) [Entered: 08/02/2019 02:02 PM]
08/27/2019	<u>73</u>	Supreme Court Case Info Case number: 19-255 Filed on: 08/26/2019 Cert Petition Action 1: Pending [11412007] [16-56855, 16-56902] (RR) [Entered: 08/27/2019 12:53 PM]
01/11/2021	<u>74</u>	Supreme Court Case Info Case number: 19-255 Filed on: 08/26/2019 Cert Petition Action 1:

Date Filed	#	Docket Text
		Granted, 01/08/2021 [11959678] [16-56855, 16- 56902] (RR) [Entered: 01/11/2021 04:19 PM]

**Excerpts from Trial Transcript,
Day 1, Vol. 1**

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

HONORABLE MANUEL L. REAL
UNITED STATES DISTRICT JUDGE PRESIDING

THOMAS MORE LAW)	
CENTER,)	
)	
PLAINTIFF,	)	CERTIFIED COPY
)	
VS.	)	CV 14-09448 R
)	
KAMALA HARRIS,)	
)	
DEFENDANT.)	
-----)	

TRIAL DAY ONE, MORNING SESSION
REPORTER'S TRANSCRIPT OF PROCEEDINGS
TUESDAY, SEPTEMBER 13, 2016
A.M. SESSION
LOS ANGELES, CALIFORNIA

[18] 365, 369, 372, 373, 377, 385, 389, 391, 392, 395, 400, 406, 407, 411, 412, 413, 414, 418, 419, 420, 433, 862 will be received.)

MR. CASTORIA: Thank you, Your Honor.

As its first witness, pardon me, the Law Center calls Mr. Richard Thompson to the stand, please.

(WITNESS SWORN.)

MR. CASTORIA: Your Honor, to expedite the witness, the Law Center's prepared a separate witness binder. As the Court may have observed, the numbers of binders of exhibits in this case are voluminous. And -- so both of the witnesses and the Court's sake, we have compiled this witness binder for Richard Thompson so that he can follow and we can expedite testimony.

The witness has been sworn, I see.

THE CLERK: Yes.

MR. CASTORIA: Thank you very much.

THE COURT: He has been sworn.

DIRECT EXAMINATION

BY MR. CASTORIA:

Q. Mr. Thompson, please state your name for the record and spell your last name.

A. Richard Thompson, T-h-o-m-p-s-o-n.

Q. Mr. Thompson, what is your current employment and title?

[19] A. I'm employed with the Thomas More Law Center. The title is president and chief counsel.

Q. When did you begin that employment?

A. 1998.

Q. And obviously you're an attorney. Where did you go to law school?

A. Wayne State University in Detroit.

Q. What year did you graduate?

A. Pardon me?

Q. What year did you graduate law school?

A. 1964.

Q. Thank you.

Now prior to joining Thomas More Law Center, what was your longest position employed as a lawyer?

A. I was in law enforcement 16 years with -- as chief assistant prosecutor for the Oakland County prosecutor's office, and eight years as the elected prosecuting attorney of Oakland County. So a total of 24 years.

Q. And Oakland County's in Michigan obviously?

A. Yes. It's a county in Michigan north of Wayne County, which the city of Detroit is located. It has a population of 1.2 million.

Q. Thank you. And briefly if you would, please, describe what your role was in your position with the [20] prosecutor's office.

A. Initially as a chief assistant prosecutor I was second in command, ran a day-to-day operation of the office. Handled some cases as well as assigned cases.

Also as the elected prosecuting attorney, I was involved in setting policies for the office. Also a member of the narcotics enforcement team, which was a multi-jurisdictional organization that investigated and prosecuted major drug dealers. I was a member of the Oakland County Chiefs of Police Association, which consisted of 46 different departments of chiefs of police. And also was involved in the -- Governor Engler's criminal justice organization.

Q. Could you spell the governor's last name for the court reporter.

A. E-n-g-l-e-r.

Q. Thank you.

Did you do any teaching while you were prosecutor in the area of criminal justice?

A. Yes. I also taught at the Oakland County Police Academy on issues of search and seizure, as well as Miranda warnings.

Q. Tell me how you first came to learn of the Law Center.

MR. CASTORIA: Is it all right with you if I [21] refer to Thomas More Law Center as the Law Center?

THE COURT: Certainly.

THE WITNESS: Would you repeat that question again? When I first learned about the Law Center?

BY MR. CASTORIA:

Q. Yes, sir.

A. The Law Center was established in cooperation with Mr. Thomas Monaghan who wanted to change

the culture. He was a deeply religious man and he was concerned about the direction that the culture was going, especially in the pro-life areas.

And he asked what could be done after I had worked for him for a couple of months in the pro-life cause. And I said, the two things you should be able to do to try to change the culture is establish a law school based on Catholic principles and also a public interest law firm to advocate in court, litigate as the ACLU is doing for the principles that they believed in.

And it was a case of where the courts now were taking the lead in establishing the direction of the culture on many of the various issues that people were concerned about.

Q. Did Mr. Monaghan ultimately do both things, the law firm and the law school?

[22] A. At first, yes. But quickly, we had an individual who had a lot more experience in that. And that was Dean Bernard Dobranski who was the dean of the law school at Catholic University in Washington, D.C.

And he wanted to be the founding dean of the Ave Maria School of Law. And we welcomed that.

And so I focused my attention on the public interest litigation aspect of the Thomas More Law Center.

Q. I'd asked you how the Law Center came to your attention, did Mr. Monaghan tell you how you came to his attention?

A. Well, actually the Law Center -- let me back up.

I came to the attention of Mr. Monaghan as a result of my involvement in physician assisted suicide. As a prosecuting attorney, I was a prosecutor that challenged what Dr. Jack Kevorkian was doing with his idea of physician assisted suicide.

And we prosecuted several cases. The -- the opinion in Oakland County was 83 percent against prosecution. But I continued to prosecute. I felt that was my job.

And as a result, lost my job in a primary. And ultimately I believe that's where Mr. Monaghan recognized me as an individual.

[23] And then we moved ahead with the relationship, first working with him on a pro-life issue; and then ultimately the -- as a cofounder of the Thomas More Law Center Public Interest Law Firm.

Q. And with respect to your prosecution of Dr. Kevorkian, was that based on your analysis of Michigan law at that time or solely on your religious beliefs?

A. It was basically on the law. I mean, I don't -- I don't try to impose my religious beliefs as a prosecuting attorney. And in Michigan at the time the law was -- the common law, there was no specific law on physician assisted suicide. But back in 1920 there was a common law case where a judge determined that where an individual handed poison to his wife so she could kill herself, but that was first degree murder. That was the law that we depended upon when we filed the first case against Dr. Kevorkian.

And at the same time asking the legislature to develop a piece of legislation that would deal with that.

Q. So let's turn our attention back to the Law Center. You were you said one of the founders together with Mr. Monaghan.

What type of business entity is Thomas More Law [24] Center?

A. The Thomas More Law Center is a 5012(c)(3) public interest law firm, that represents individuals dealing with the mission that we have, which is the restoration, protection, promotion of Christian heritage and moral values, including the sanctity of human life, family values, religious freedom and a strong and sovereign United States of America.

Q. Has the Law Center been a 501(c)(3) -- that's under the Internal Revenue code; is that right?

A. Yes.

Q. Has that been the case since the inception of the Law Center?

A. Yes.

Q. How many full-time employees does the Law Center currently have?

A. Approximately -- I'm not sure, approximately nine or ten.

Q. Are any of them based in the State of California?

A. No.

Q. I would like you to please describe in general terms but briefly what your duties at the Law Center are as president and as chief counsel?

A. Well, it involves running the day-to-day operations of the Law Center; assigning cases to the [25] lawyers; keeping tabs on how our financial situation is, because the Law Center is a small organization. It is more of a team effort.

Where I may be the quarterback, but I'm relying upon all the people in the office to help me out. And they are all committed to the mission of the Law Center.

Q. In connection with your duties at the Law Center, do you communicate from time to time with donors to the Law Center about the Law Center's mission?

A. Yes.

Q. How do you do that? What medium do you use to communicate?

A. Well, sometimes I have -- make public speeches to organizations. I also send out letters to individuals who we think may be interested in donating to the Thomas More Law Center.

Of course we issue press releases. We have a website that discusses and produces documents and articles on the various cases that we are handling. And we ask for donations from that particular medium.

So we basically use many of the same tools that any organization would want to use to get their message out and to get people to support them.

Q. Are your newsletters that you mentioned physical [26] letters sent by U.S. mail or are they electronic?

A. Both. We do have -- to describe the way we operate, we do have what we call acquisition packages that we send out to people who have never donated to us before. But because of their membership in organizations that we feel reflect our views, and maybe they've also donated to organizations that are similar to us, we get those lists from a -- what we call a list broker, and we send mailers out about a particular issue and inviting them to join the Thomas More Law Center.

That's the method by which we bring in new people into the Thomas More Law Center.

Now once they are members, we then write what we call in-house files, direct mail, where we may be talking about a particular case that we are interested in, that we are involved with. And if they agree with us on that case, we ask for donations. And that's the way that comes in.

As I indicated on our website we have a donate button, if they want to donate that way as well.

Sometimes we do ads in various magazines and newspapers that might be featuring some case that we're involved with, especially in magazines and events that are going to take place that we feel would be consistent with the views that we espouse.

[27] Q. In terms of the cases that the Law Center chooses to become involved in, are you the person who makes that ultimate choice?

A. Yes.

Q. What are the criteria that you use in selecting cases that the Thomas More Law Center will accept?

A. The number one criteria I believe is will it make a difference in what I call the cultural -- or is this going to make a difference in the environment that we find ourselves. Although we take on individual litigants to do that, we base it on the fact that the Supreme Court has itself said that public interest law firm representing individuals are a fundamental way to make sure the constitution is followed.

Obviously, the -- you know, the ACLU is an example of changing the culture through litigation. And so that's what we do with every kind of medium that we look at.

Q. Does the Law Center charge its clients for its services?

A. Pardon me?

Q. Does the Law Center charge its clients for its services?

A. No. All of our representation is without charge.

Q. And in some cases does the Law Center receive [28] fees under provision, such as the Civil Rights Act Section 1983 and 1988?

A. Yes. There are a few provisions where the prevailing party may recover reasonable attorney fees. We do do that. We do get that every once in a while. But our main source of income is the donation.

Q. How does the Law Center based in Ann Arbor, Michigan litigate cases all the across the country?

A. We have a list of pro bono attorneys who have signed on voluntarily. They commit to follow the

mission of the Thomas More Law Center. And these pro bono attorneys when we have a case in a particular state normally come in and file applications for pro hac vice representation so that we can come in and practice in the court that we may not be admitted to.

And if they have the time and they want to, they can also help. And most of them do help us with motions areas and litigation that they feel they have the time to do that. They are basically in private practice and they are donating their services.

Q. How easy or hard is it for the Law Center to find attorneys around the country whose law firms will agree to that pro bono commitment?

A. Well, it is difficult in the sense that the Law Center takes on controversial issues. Many of the [29] larger firms have pro bono committees, but they don't want to get involved in the larger issues. For instance, traditional marriage versus same sex marriage that is an issue that many large firms will not allow their attorneys to engage in pro bono practice.

So again, it's a -- we are involved in these controversial issues and many commercial law firms do not want to have their employees involved in it.

Q. I see.

I think you used the word members earlier. What is a member of the Law Center?

A. Anyone who contributes \$25 or more becomes an automatic member. They get a card that they basically -- that allows them to get our updates whenever we have a press release or some article that we are involved with on a case of controversy.

So they are kept up to date on what we are doing.

Q. Is it fair to say that a donor is a member and a member is a donor?

A. Most often, yes.

Q. How many total donors or members approximately has the Law Center had?

A. Anywhere between 60,000 and 100,000 that are on our list. Once you're -- once you donate you're on our list.

[30] Now, that doesn't mean we send out mail asking for money to 60,000 or 100,000. Because a lot of people, although they have been involved, their interest drops off. And if they haven't donated in three or four or five years, we don't send them routine packages. But every once in a while we will send them a package to see if they are still interested in supporting the Thomas More Law Center.

Q. And while we are on that subject, can you estimate for me what percentage of the Law Center's revenues come to it in recent years through the mailing campaigns you've described as opposed to the others, the website, et cetera?

A. I don't have a percentage. But I would say that the majority of our money comes from donors who are responding to a mail campaign.

Q. Can you give an example of a mailer that the Law Center sent out on a subject that was controversial this year, for example?

A. Well, in acquisition pieces that we've send out that we talk about the internal threat of radical Islam, which is a very controversial issue right now.

And we have people that support us on that issue. And there are people that don't want to support us on that issue.

We have a piece that's already in the works [31] that's going to come out shortly on pro-life issues where we've been representing some sidewalk counsellors in the State of Maine. And there has been a great effort by Planned Parenthood to sweep them off the sidewalks. First they tried with a 39-foot buffer zone. And we held that -- we got the Court to hold that unconstitutional. Then the attorney general came in and is attempting to use the main civil rights law saying that the sidewalk counsellors are too loud, and if anyone in the abortion clinic hears them, then they are interfering with a medical process and they can be fined for up to \$5,000 for each instance.

We challenged that. We won that case in the Federal District Court. And the attorney general now has appealed it to the Court of Appeals.

Q. You called it acquisition piece. That's the mailer that goes to people who are not yet donors, correct?

A. Correct.

Q. So the acquisition piece on radical Islam that went out this year, roughly when did that one go out?

A. They go out periodically. I think there was one that went out in February, and then there was one that went out in April of this year.

Q. Do people who respond to the mailers and send [32] donations via the mailers -- I should go back a step. Pardon me.

Does the acquisition piece mailer have a business reply envelope or something like that in it?

A. Yes. They have a reply -- it's normally an urgent reply form. And they fill it out for membership. That is the acquisition piece, asking them to be a member.

And then the reply form that goes out with the house file is an urgent reply form. They're already a member so we're not asking them to be a member again.

But we are asking them to donate if they agree with that particular lawsuit that we are involved with.

Q. Can you estimate for me how most of the people who respond to an acquisition piece and make a donation, how they make it? Is it a check; is it a credit card number? How does it go?

A. Most often they're sending it via check. And then there is a form for credit cards if they want to fill out a credit card. And then sometimes people decide they want to call and send a donation by the mail. And we'll have someone in the office fill out the donation form on our computer, and put it into the system that way.

Q. Are you familiar with communications that other [33] people at the Law Center have with potential donors who have questions about whether they should donate or not?

A. Yes, I'm familiar with that.

Q. And do you receive any regular reports in your capacity as president of the Law Center from the

employees about records they of those kinds of contacts?

A. Yes. Recently, you know, I've asked them to do that as a result of this lawsuit. But in the past, you know, we've had e-mails that our office kept. And because it's a small office, many times it's just word of mouth.

Q. You have regular staff meetings?

A. Yes, we have staff meetings. We have -- our days always start with morning prayer. And then shortly after the morning prayer we have maybe a 15-minute meeting of the staff of anything that they want to discuss, anything that is of interest.

Q. You also receive regular reports from anyone on the staff regarding reports in the media that refer to the Law Center.

A. Right. Well, there are several reports I receive in my capacity as the president. One is of course every -- every employee sends me a daily report. And that is a written document sent to me via e-mail. And it is of the previous day's activity they were involved [34] with. And in that, if there is something that is important, they want to bring to my attention, they can put it in the daily report. But I also ask them to see me personally about that if it's a matter that is that important.

And then we have a media report that goes out that comes to me from Catherine McMillan, who keeps track of the media that is talking about the Thomas More Law Center, very -- doesn't make any difference whether it is negative or positive she sends me the media reports.

We have a donation report that goes out to me every week that tells me how much money we brought in the previous week, and compare it to the previous year, so I have an idea on how we are doing financially.

We have a strength report that comes to me every day telling me who's in the office and who isn't, and where are they.

Q. And in addition to that, do you kind of wander around and chat with people about what they are doing day-to-day?

A. I believe in management, supervision by walking around, I think a lot of times you learn things by just walking and chatting with people, find out what they're doing, find out what's bothering them. I do that quite [35] soften.

Q. Through these various methods that you've described, the reports, the walking around, the chatting, the meetings, do you try to stay on top of the levels of donations coming into the Law Center and the kinds of communications the Law Center is receiving?

A. Yes.

Q. You mentioned having a relatively small staff, maybe nine or so people.

Is it difficult for you to recruit new employees to the Law Center? I'm talking about the actual employees, not the pro bono office?

A. Yes. The same problem exists, because when we put an ad -- advertise for new employees, we basically

tell them what our mission is, what is -- you know, what particular areas we are involved with.

We always mention, you know, traditional family values versus same sex marriage. We mention our involvement with stealth jihad.

And we also -- if there is a resume that comes in that we are interested in, we then send them out a questionnaire and we get more detailed about, you know, these are the things that we believe in. Do you have any problem with that? And if so, what problems do you have?

[36] So we kind of -- by our mission, we've narrowed it down. And then by the particular issues that we are involved with, we narrow it down even more, so that there is only a select group of people that we would -- that we would be interested in, and who would be interested in us, and then of course we get involved into the legal experience they have, basically federal court experience is something that we emphasize. We also emphasize experience as JAG officer, if they've been in the military, we always recruit them.

Q. Do you tell people who are being considered for employment at the Law Center if they accept the job they may face some criticism?

A. I alert them to that aspect. Because invariably it happens, someone will call, and one of our staff will answer the phone call, and they will be subjected to, you know, some kind of vehement criticism. And I basically forewarn them that is going to happen; and don't worry about it, treat them politely; if they get too abusive, just hang up.

Q. What do you mean by vehement criticism? I believe that was your phrase.

A. They're using vulgar words. Most of our staff -- I should say all of our staff is pretty religious. And I don't want them to have to face that. I won't repeat

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[40] The Thomas More Law Center filed 12 of those lawsuits in federal court representing 36 individuals. And those cases were making themselves -- making their way to the federal court system. It got to the various courts of appeals. We won several of them at the lower court level. And of course they were appealed by the government.

Then ultimately when the Supreme Court decided the Sister of the Poor -- Little Sisters of the Poor case, then the federal government basically backed down and resolved almost all of those cases in favor of the religious private organizations that had filed lawsuits.

There's still some controversy arising. But most of that has been resolved.

Q. All right. And traditional definition of marriage you discussed. You also mentioned support for the military.

And don't let me put the words in your mouth. What was your description that you gave of that cause that the Law Center advocates for?

A. Well, there are a couple of issues that were involved in that. One, we represented Lieutenant

* * * * *

[43] Q. In that instance, was lieutenant colonel's action because the two women were women or because they were in uniform and having a public display of affection?

A. It was a public display of affection. Whether you're heterosexual or lesbian or whatever, the Army has a rule that you do not engage in public displays of affection.

And in that case, we had a situation where a female sergeant married to an enlisted person, because there was going to be the dance, went home, changed from her uniform to civilian clothes so she could come back and dance with her husband. That's how important that is to the military.

Q. Does the Law Center support political candidates?

A. Say that again.

Q. Does the Law Center support political candidates?

A. No, it does not. It cannot. It is a 5012(c)(3). You cannot take any kind of position on partisan politics.

Q. Does the Law Center organize any public demonstrations?

A. No.

Q. Does the Law Center advocate violence against those who disagree with its causes?

A. No.

[44] Q. Based on everything you've seen and heard, does it appear to you that the causes the Law Center

has been advocating about that you've described are highly controversial in today's society?

A. Yes. I think I've used the phrase before, "Cultural War." There is all of these things occurring in our society right now that's very unsettling. And it's important that we litigate those issues in the court system rather than in some other venue, which would be disastrous for our nation.

Q. Mr. Thompson, I'd like you to pull out the exhibit binder that is in front of you. I hope you have it in front of you. And if you'd turn, please, to Exhibit No. 258.

THE CLERK: Exhibit 258 is placed before the witness.

MR. CASTORIA: Okay. And Your Honor, I'm just confirming this, but I believe -- no. 258 is not on the list of stipulated exhibits.

BY MR. CASTORIA:

Q. So could you please identify Exhibit 258 for the record, Mr. Thompson.

A. That is a list of various cases that we've handled. It's obviously not the entire list, but it's several cases that we've handled.

* * * * *

[48] It was a great opinion. But we got it up to the Ninth Circuit Court of Appeals. The Ninth Circuit overruled Judge Benitez. We tried to get it up into the Supreme Court. They would not take it.

Q. And last -- I'm not going to go through all these. But the last one I'd like you to comment on is

Hollingsworth versus Perry case. Probably most of us in the room are familiar with.

What was the Law Center's involvement in that case?

A. We filed an amicus brief on behalf of a clerk in California, Chuck Storey, I think of Imperial County, who tried to intervene in the case at an earlier stage but was not. And so we filed an amicus brief in support of Proposition 8, saying that it was a rational government decision, and that there were reasons that the people could vote in favor of traditional marriage that had nothing to do with animus towards the other, you know, homosexuals or lesbians.

Q. Okay. I'm going to ask you to turn to Exhibit 38 in your binder.

THE CLERK: Exhibit 38 is identified and placed before the witness.

MR. CASTORIA: And before I forget, Your Honor, I would like to move the prior exhibit into

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[52] MR. CASTORIA: Your Honor, we would move Number 38 into evidence.

MR. CALIA: Object. It lacks foundation. The witness who compiled it should testify.

THE COURT: 38 in evidence.

(Exhibit 38 is received.)

BY MR. CASTORIA:

Q. To your knowledge, sir, has any lawyer employed by the Law Center been reported to any

state bars authorities for disciplinary action because of retaliation for her work?

A. Yes.

Q. I should say "in retaliation." Pardon me.

A. Yes.

Q. Can you briefly describe that situation?

A. Lawyer Erin Mersino was cited to the Bar Association because she was representing a student by the name of Glowacki; his mother, Sandra Glowacki. The student at an economics class was being taught about homosexuality. This was a day that the school had decided they were going to talk about bullying. And at one point during the class the teacher asked Daniel Glowacki, "Do you believe in homosexuality?" He said, "No, it's against my Catholic religion."

And the teacher yells at him, pulls him out of [53] class, calls a security guard to take him to the principal's office.

A great furor existed at that time. We filed a lawsuit on behalf of Sandra Glowacki, his mother, who was accused of -- by the homosexual advocacy group, says "raising a bigoted and intolerant son" totally destroyed her emotionally for many months.

We filed a lawsuit in Federal District Court. The federal district judge there ruled in our favor saying that if the -- if the teacher asked the student what his thought is and the student gives an honest answer, the teacher does not have the right then to do what he did.

And that particular case was published throughout the United States in the education magazines because of the really horrendous thing that a teacher would do to a young man who was asked a question who answered honestly.

THE COURT: How is the name spelled?

THE WITNESS: Pardon me?

THE COURT: How is the name spelled?

THE WITNESS: Glowacki?

THE COURT: Yes.

THE WITNESS: G-l-o-w-a-c-k-i.

THE COURT: All right. Thank you.

[54] MR. CASTORIA: Could you also spell Ms. Mersino's last name?

THE WITNESS: M-e-r-s-i-n-o.

BY MR. CASTORIA:

Q. While Ms. Mersino was working on this Glowacki case you described, were you her immediate supervisor?

A. Was I her immediate supervisor.

Q. Yes, sir.

A. Yes.

Q. In that capacity, did you follow the complaint that was made against her to the Michigan State Bar?

A. It was thrown out without any kind of hearing.

Q. What was her response? What did she tell you her reaction was to having a complaint made to the state bar?

MR. CALIA: Objection. Calls for hearsay.

THE COURT: The objection is overruled.

THE WITNESS: She was very upset, as any attorney would be, about something like that happening to their -- her bar license -- affecting her bar license.

BY MR. CASTORIA:

Q. Let's switch gears for a moment.

Tell us, please, what is Legatus? L-e-g-a-t-u-s.

A. Legatus is an international organization of

* * * * *

[57] THE CLERK: Exhibit 33 is placed before the witness.

MR. CASTORIA: And cross-referencing, Your Honor, Exhibit 33 has already been stipulated into evidence.

THE COURT: 33 in evidence.

BY MR. CASTORIA:

Q. Do you recognize Exhibit 33, Mr. Thompson?

A. Yes.

Q. In the center of -- what is it?

A. It's a document that's on our web page. It talks about financial statements that they can get if they want. Talks about our privacy policy; that the Thomas More Law Center will not sell, share or trade our donor's names or personal information with any other entity nor send mailings to our donors on behalf of other organizations.

And it goes on: "This policy applies to all donor's names or personal information received by the Thomas More Law Center both on line and off line on any platform." And it goes on.

And then the other part of it is it talks about compensation of myself and the lack of, you know, a conflict of interest in my compensation is not determined by me but by the board.

[58] Q. Just focusing, if I may, I'm sorry to interrupt you.

Had you completed your answer?

A. Yes.

Q. The privacy policy's in the center of the page. And you summarized a portion of it.

Has this been the privacy policy of the Law Center for some time? Or is this brand new?

A. It's been the policy of the office since the beginning. Now this particular articulation of the policy is more recent. And it was developed when we developed our web page. And through -- I think Catherine McMillan developed that to make sure that we were complying with the provisions of Charity Navigator that wanted, you know, transparency on what we do and how we do it.

Q. Did you say Charity Navigator?

A. Yes.

Q. What is that?

A. That's an organization that keeps track of none profits.

Q. Have you received any complaints from Charity Navigator after posting this privacy policy, that it's not adequate?

A. No. In fact, we were doing it in conjunction

* * * * *

[60] And she was laying out the instructions how 990's should be handled; Schedule B of the 990's should be handled.

Q. Would you mind just reading the concluding sentence of this document for the record.

A. "It cannot be stressed enough that no copy of Schedule B is to distributed to the public." Period.

Q. Thank you.

Could you also please turn to the next Exhibit number 9 in your binder.

THE CLERK: Exhibit 9 is placed before the witness.

MR. CASTORIA: Thank you. Again, Your Honor, I would note that Exhibit 9 is on the --

THE COURT: 9 in evidence.

MR. CASTORIA: There you go.

(Exhibit 9 is received.)

BY MR. CASTORIA:

Q. Can you identify Exhibit 9 for the record, please?

A. This is a confidentiality agreement that we have our employees sign. And it is also an agreement that we have any vendors sign who are going to be

looking at our computer system or our information that would deal -- [61] that would deal with donors. Basically all of our employees would sign this confidentiality agreement. And then anyone who is going to work on our computers would have to sign the confidentiality agreement as well.

Q. All right.

MR. CASTORIA: I just want to check the time, Your Honor. I don't see a clock.

Oh, I do.

BY MR. CASTORIA:

Q. Would you please turn to Exhibit number 20, which should be in your binder.

THE CLERK: Exhibit 20 is placed before the witness.

MR. CASTORIA: Thank you.

And, Your Honor, I would note that Exhibit 20 is on the list of stipulated exhibits.

THE COURT: 20 in evidence.

(Exhibit 20 is received.)

MR. CASTORIA: Thank you.

BY MR. CASTORIA:

Q. Mr. Thompson, what is Exhibit 20?

A. Exhibit 20 is a membership enrollment form. This would have been a form that would have been included in our acquisition piece. And it's -- it's someone who [62] strongly objects to what we were doing in that acquisition -- or what we were saying in that acquisition piece.

Q. I'm not sure we're looking at the same document. Do you have a handwritten note as Exhibit 20, sir?

A. No. I'm sorry. I'm looking at the wrong one.

Q. Quite all right.

Let me ask the question: Now that you have Exhibit 20 in front of you, sir, can you identify this document?

A. Yes.

Q. What is it?

A. It's a document we received through the mails. It's dated 3/28/16. And it is an individual who is indicating that he does not want to give any of his personal information because he is afraid that ISIS is going to find out and that they are going to be hunted down. So he contributed anonymously thinking -- I mean saying that he thinks we are doing good work. But he does not want any of his fingerprints on the donation.

Q. Understood. And this came in with cash or check or what?

A. This was cash.

Q. And how did this document get reported to you at

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[64] MR. CASTORIA: Your Honor, Exhibit 166 has not been stipulated into evidence as yet. I want to ask a few foundational questions.

BY MR. CASTORIA:

Q. Do you recognize 166, Mr. Thompson?

A. I recognize it, yes.

Q. What do you understand this to be?

A. I understand it to be an attack on Pam Geller.

Q. And I imagine you can't translate the top part of this document.

But has this been identified to you by anyone other than your own counsel as the fatwa that Ms. Geller received?

A. No. I've seen this in the media, but I didn't really pay that much attention to it.

Q. Okay. What do you understand a fatwa to be?

A. A fatwa is a pronouncement by a religious leader of a particular -- a matter that they want their followers to take -- a particular position they want their followers to take. It is in the way of a religious dictate. For instance, Osama bin Laden issued a fatwa against the United States of America; meaning that all faithful Muslims had to attack the United States of America. And various religious leaders issue various fatwas. It doesn't come from a central [65] authority.

Q. Understood.

Now, the Law Center represented Ms. Geller at some point; is that right?

A. Yes.

Q. What capacity? As what -- on what?

A. We represented her in at least two cases in which she was challenging public transit authorities

for not putting on ads that she wanted to put on to counter the ads that Muslim public interest firms had already put on the public transit system.

Q. And you said there was more than one of those lawsuits?

A. There was -- yes. There were at least two, maybe three lawsuits where we represented both her and Robert Spencer under the -- they had an organization. I forgot what the exact name was. But the organization was paying for these ads that would go on -- one of them in the Detroit area where they said "Thinking about leaving Islam?" And then you give a phone number or contact information that they could contact to get more information how they would leave Islam.

That case we were successful in the Federal District Court in Detroit. It went up to the Sixth Circuit Court of Appeals. They sent it back down for

* * * * *

[67] Q. How did it come to your attention?

A. I'm not sure how it first came to my attention.

Q. Okay. And I'm not going to ask you to read it out loud for the record, obviously.

But did the threat of a number of thousands of New Yorkers being named publicly as targets for Islam cause you any concern in light of the work that you had been doing for Mr. Spencer and Ms. Geller?

A. Cause me concern?

Q. Yes, sir.

A. No.

Q. You didn't think you were going to be one of the people on the list?

A. A lot of that I think is bravado.

Q. Okay. I would ask you to look at Exhibit 262 in your binder.

THE CLERK: Exhibit 262 is identified and placed before the witness.

BY MR. CASTORIA:

Q. Do you recognize number 262, Mr. Thompson?

A. Yes.

Q. What is this?

A. That is an article in the newspaper talking about ISIS threatening Pamela Geller in boasting they have 71 trained soldiers in 15 different states. And basically [68] indicating they want to kill her.

Q. In your capacity as representative of Ms. Geller in a couple of court cases, were you concerned for Ms. Geller when this article came to your attention?

A. Yes. With reference to Pamela Geller, I was concerned, because she is such an outspoken individual against radical Islam. And I would take that threat a little more seriously than just general boasting.

MR. CASTORIA: Your Honor, we are at a reasonable break point in my questioning. I don't know when the Court would like to start a lunch break.

THE COURT: All right.

Cross-examination?

MR. CASTORIA: Oh, I'm not finished with the witness.

THE COURT: I'm sorry.

MR. CASTORIA: I just meant I was going to have a break in subject, and I don't know what the Court's preference was for schedule.

THE COURT: All right. No. We'll go -- all right. We'll take our noon recess. All right.

THE LAW CLERK: All rise.

(LUNCH RECESS TAKEN.)

* * * * *

**Excerpts from Trial Transcript
Day 1, Vol. 2**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE HONORABLE MANUEL L. REAL, U.S.
DISTRICT JUDGE

PRESIDING

THOMAS MORE LAW)	
CENTER,)	
)	
Plaintiff,)	
)	
vs.	)	No. CV 15-3048-R
)	
KAMALA HARRIS)	
)	
Defendant.)	
-----)	

REPORTER'S TRANSCRIPT OF DAILY TRIAL
PROCEEDINGS

LOS ANGELES, CALIFORNIA
TUESDAY, SEPTEMBER 13, 2016

VOLUME II
PAGES 1 - 116

* * * * *

[9] Q. Okay.

Does the law center file the complete, unredacted copy of its form 990, including all these schedules without redactions with the IRS annually?

A. Yes.

Q. Does the law center file the same form 990 with all the schedules, other than Schedule B, with the California Regulatory of Trusts annually?

A. Yes.

Q. Does the law center also file with the -- an annual report with the California Registry on an annual basis?

A. Yes.

Q. That is a separate document from the form 990; is that correct?

A. Correct.

Q. Does the law center file with its annual report a financial audit form?

A. Yes.

Q. Okay.

And that is also filed annually with the California Attorney General, correct?

A. Yes.

Q. Thank you.

Why does the law center not file its Schedule B along with the rest of its form 990 with the California Registry?

[10]

A. There's a few reasons. Number one, we think demanding that is unconstitutional as it relates to people who are expressing political and religious views want to contribute; and the case law starting back in the 1950s that says government can't enforce that. Secondly, there's a privacy issue. We promise our donors we will not reveal that information to the public because of concerns they may have about repercussions.

Q. Right.

Do you have any reason as you sit here today to believe that the current California Attorney General has taken any actions against people who disagree with her positions?

A. Based on my personal experience with reference to this particular lawsuit, yes.

Q. Okay.

And are you aware of anyone else who has had any form of search of personal property by the current California Attorney General who advocates for a similar position to the law center?

MR. CALIA: Objection, relevance, lacks foundation.

MR. CASTORIA: Your Honor, the intent of the question is that if such an action has been taken against a California resident, it shows the potential animus on the part of the Attorney General.

I didn't understand --

[11] THE COURT: Yes.

MR. CASTORIA: Okay.

Is that your ruling, Your Honor?

THE COURT: Yes.

BY MR. CASTORIA:

Q. Please answer.

A. Yes, I'm aware of it. It's been in the national press, and a person by the name of Daldiden, who was a pro life reporter who taped Planned Parenthood, allegedly taped Planned Parenthood about selling baby parts. The Attorney General of the State of California obtained a search warrant and had her investigators go into that person's apartment and confiscate all of his personal belongs relating to his activity as a reporter, including his computers.

MR. CALIA: I move to strike that testimony. It lacks foundation. He's telling us what he read in the news.

THE COURT: Motion is denied.

BY MR. CASTORIA:

Q. Please turn to Exhibit 303 -- tab 303 -- I should say -- in your binder, Mr. Thompson.

A. 303?

Q. 303, sir.

A. Okay.

Q. Please tell me when you have it in front of you.

THE CLERK: 303 is identified and placed before the [12] witness.

THE WITNESS: I found it.

BY MR. CASTORIA:

Q. This is a news story that you've read Mr. Daldiden.

For the court reporter, I'll spell that: D-a-l-d-i-d-e-n.

A. Yes.

Q. This is the an article about the search that you were just describing, correct?

A. Correct.

Q. Would you also --

I would like to move 306 into evidence, please.

MR. CALIA: We object. The article is hearsay and can't be used for its truth.

THE COURT: The objection is overruled.

(Plaintiff's Exhibit 306 received in evidence.)

BY MR. CASTORIA:

Q. Please turn to 306, which is the last tab in your witness binder, sir, 306.

A. Is it entitled "Add your name to defend Planned Parenthood"?

Q. That's the one.

A. Yes.

Q. I'll represent to you that is a page my firm obtained from the Attorney General's website for her current campaign.

[13] Have you looked at this page on the website itself?

A. Yes.

Q. And you found this Planned Parenthood page that I'm referencing?

A. Yes.

MR. CASTORIA: Move 306 into evidence, please.

MR. CALIA: We also object. This is also hearsay, and a campaign is separate from the attorney general in her official capacity, who is the defendant in this case.

THE COURT: The objection is overruled.

(Plaintiff's Exhibit 306 received in evidence.)

BY MR. CASTORIA:

Q. As someone who was a former prosecutor yourself, do you find it at all odd that current California Attorney General is, in her capacity as a candidate for office, giving people an opportunity to add their name to a mailing list for an organization that she regulates?

A. I think it would be an apparent conflict of interest.

Q. Let's -- in how many states does the law center file annual reports like form 990?

A. I think about 40 states. It's listed in one of the documents that we filed with the IRS and attorney general.

Q. Has the law center, to your knowledge, ever filed an unredacted Schedule B with any Regulatory agency other than the IRS?

[14] A. No.

Q. Has any state regulatory agency threatened to revoke the law center's license to solicit donations in

that state because it had omitted Schedule B from its annual form 990 filings with that agency?

A. No.

Q. I should have said other than California.

A. Correct.

Q. Is that right?

Okay. Where does the law center keep your own copies of your form 990?

A. My executive assistant keeps the copies in her office under lock and key.

Q. Who has access to them to open up the thing that's locked?

A. She would.

Q. Anyone else?

A. I would ask her if I wanted to see it. If members of the board want to see it, they would make an appointment to come in, and she would show them a Schedule B, unredacted.

Q. Is the completed form 990 that the law center files each year, is that the document that the law center creates?

A. Yes.

Q. I made a reference earlier that some charity trusts sell their donor list.

Does the law center sell its donor lists --

[15] A. No.

Q. Why not?

A. For several -- couple of reasons: Number one, we promise we will not sale or in any way divulge the information to donors. It's -- you know, it protects their privacy. Secondly, the donor list is crucial to our survival. If people get the donor list, number one, they will -- the individuals that have it could cause disruption in our relationship with donors and could utilize our donor list to send out fundraising mail.

Q. To your knowledge has the law center ever been approached by any one seeking to purchase your donor list?

A. Yes.

Q. More than one occasion?

A. Yes.

Q. Have you ever agreed to do that?

A. No.

Q. At some point in time, the law center began to receive letters from the State of California, Office of Registry of Charitable Trusts, stating it's annual filings were incomplete because was there no Schedule B.

Do you remember when that started, more or less?

A. Yes.

Q. About when?

A. Approximately -- I think 2012 is the first indication that [16] we have of that letter. Apparently there was another letter that we never could find, but we were aware of the 2012 letter, and from that point on, we kept on getting these requests from the AG's office to send them the same 990 form that we send the IRS.

Q. All right.

So during the first decades of your work with the law center, is it a fair summary to say that the law center did not receive from the State of California that type of letter saying you were delinquent?

A. Correct. First ten years, we never, as I indicated before, never filed a Schedule B with our 990 form. State of California accepted it without any kind of response until the letter that they sent us either in 2011 or 2012.

Q. Okay.

Would you please turn to Exhibit 3 in your binder.

A. Exhibit what?

Q. No. 3. Should be the first one. Yes, the first one.

I note, Your Honor, that Exhibit 3 and some of the following exhibits, which I'll deal with individually, are stipulated into evidence already.

THE COURT: Three's in evidence.

(Plaintiff's Exhibit 3 received in evidence.)

THE CLERK: Exhibit 3 is placed before the witness.

MR. CASTORIA: Thank you.

[17] Q. Would you identify Exhibit 3, please.

A. It's a letter that we received from the AG's office dated February 28, 2011. "Subject matter: IRS form 990, Schedule B, schedule of contributors."

Q. All right.

This is a letter the law center received?

A. Well, this is a letter that purportedly the law center received. I think the first one we got that I can find is 2012. I'm not sure of that.

Q. All right. Let's see if we can help on that.

Could you please turn to Exhibit No. 4, the next one, which is actually a compilation of several letters.

THE CLERK: Exhibit 4 is placed before the witness.

BY MR. CASTORIA:

Q. Is the first page of Exhibit 4 the March 6, 2012, letter, the letter you refer to as the first one you're aware of?

A. Yes.

Q. The two letters we've looked at thus far don't threaten any action against the law center in terms of the revocation of licensing or action against directors or officers, do they?

A. Correct.

Q. If you turn through the next letter in Exhibit 4, the April 19 letter, that's letter that the Thomas More Law Center received?

A. April 19, 2013?

[18] Q. Yes.

A. Correct. Yes, it is.

Q. Very good.

And the following one, October 22, 2013, is that a letter that the law center received?

A. Yes.

Q. When we get to the next page, April 23, 2014, there's a reference that this is a second notice.

Is this letter the law center received?

A. Yes.

Q. Okay. Almost there.

And the following one, October 31, 2014, is another letter that the law center received regarding its failure to file a Schedule B?

A. Yes.

Q. Okay.

Then there is a page erroneously copied into my version of this document. It says "Exhibit B." Please ignore that.

There follows a letter from the law firm of Buetzel, Long, April 11, 2012. It's signed by a Paul Fransway.

Who is Mr. Fransway?

A. Mr. Fransway was our corporate lawyer. He handled the matters that dealt with charitable issues that we may have.

Q. All right.

[19] And did Mr. Fransway reply to the Registry of Charitable Trust via this letter at your request?

A. Could you repeat that question.

Q. Yes.

Did Mr. Fransway reply to the Registry of Charitable Trusts in California at your request?

A. Yes.

Q. Why did you bring outside counsel into this?

A. Because my executive assistant kept on asking them, in response to these letters we were getting, what is their authority for requesting our Schedule B, and they would not respond. We thought maybe if a lawyer responded from a private law firm, that they would be more willing to respond to the question.

Q. All right.

The next page is a letter from a Sherry Doran at the law center.

Do you recognize this?

A. Yes.

Q. March 14, 2012.

And is that the executive assistant you were referring to?

A. Yes.

Q. The following letter in the next year, April 2013, from Ms. Doran to the Registry of Charitable Trusts, that's a letter [20] you requested Ms. Doran to send?

A. Yes.

Q. The next letter, October 28, 2013 -- Sherry Doran -- that's the letter that you requested that she send?

A. Yes.

Q. Did the law center receive any response from any of -- to any of these letters that we've just identified from Ms. Doran or Mr. Fransway?

A. No, except Mr. Fransway did get, to the last letter, after the threatening letter was sent, and he responded in a more detailed fashion, someone from

the Attorney General's office acknowledged receipt of the letter, and that was it, but no action was taken.

Q. I'm going to ask you to move forward to Exhibit 236 in the binder.

THE CLERK: Exhibit 256 is identified and placed before the witness.

MR. CASTORIA: Thank you.

Q. My notes indicate 236 was among the stipulated exhibits.

Mr. Thompson, is Exhibit 236 the threatening letter you just referred to?

A. Yes.

Q. And I'm not going to read it into the record obviously, but this is the letter that threatened revocation of the law center's license and action against its directors, officers and [21] tax preparers; is that right?

A. Yes.

Q. And you said that this warning letter was after Mr. Fransway's last letter on behalf of the law center?

A. Yes.

Q. Okay.

Mr. Fransway wrote one more letter. If you turn to Exhibit 106. I'm sorry you have go backwards in the binder; that's how the numbers worked out.

A. Which exhibit is that?

Q. 106, sir.

A. 106.

Yes.

Q. This is letter from Mr. Fransway that you asked him to send in reply to the California Attorney General?

A. Yes.

Q. And you said earlier testimony sent a more detailed response. Is this that letter?

A. Yes.

Q. Mr. Fransway's letter, there's a suggestion in the second full paragraph -- I'm not going to read it out loud -- that the Attorney General's office forgo further action pending resolution of cases, Center for Competitive Politics and Americans for Prosperity Foundation.

Do you see that, sir.

[22] A. Yes.

Q. To your knowledge did either the law center or Mr. Fransway receive any further response from the Attorney General to this letter to the suggestion the current dispute be stayed?

A. No.

Q. As a former law enforcement official, how did you take it when the AG's office did not respond to the series of letters we've been looking at?

A. Well as a lawyer, I thought it was a violation of professional courtesy. When -- a constitutional issue is raised where there's a threat of taking Draconian action against a public interest law firm, that there is no response to that from the attorney representing us, leaving us no option but to take other action.

Q. All right.

I'm going to turn again to clients for a moment.

Does the law center -- has the law center represented the family of Kevin Wood?

A. Yes.

Q. Are you personally familiar with that case?

A. Yes.

Q. Briefly, what were the circumstances that led the law center to represent the Wood family?

A. Kevin Woods was a former marine who was propelled into the [23] limelight when he refused to allow his daughter to complete a lesson plan on Islam. Kevin Woods was a former -- was in the Persian Gulf War. He also responded as a first responder to the Pentagon 9/11 attack, and he felt that what they were teaching his daughter, who was in the 11th grade at that time, was contrary to what Islam was all about and was basically propaganda. He was a Christian, and he felt since they don't allow the teachings of the 10 Commandments and other Christian doctrine, that they should not be teaching his daughter about Islam. Because of his actions, they, the school, the principal of the school, because he was so vociferous about his complaint, without any hearing, barred him from stepping onto school property. We found out about it. We offered to represent him, and we ultimately did and filed a lawsuit on his behalf.

Q. Did Mr. Woods or his wife provide you with any negative comments that they received on social media about the incident you were describing?

A. Yes, there was a lot of controversy over it, both positive and negative, and there were very disturbing comments made about his daughter on social media.

Q. Would you please turn to Exhibit 120.

THE CLERK: Exhibit 120 is identified and placed before the witness.

///

[24] BY MR. CASTORIA:

Q. Is Exhibit 120 a copy of a posting on social media that the Woods provided to you at the law center?

A. Yes.

Q. And that -- is that the one you're referring to a moment ago about horrible things being said about his daughter?

A. Yes.

MR. CASTORIA: Move Exhibit 120 into evidence.

MR. CALIA: Object. It's hearsay.

THE COURT: 120 in evidence.

(Plaintiff's Exhibit 120 received in evidence.)

BY MR. CASTORIA:

Q. We talked about several others. I don't believe we talked about representative Sally Kern. Correct me if I'm wrong.

Has the law center represented Oklahoma state representative Sally Kern?

A. Yes.

Q. What was that representation about?

A. Sally Kern was making statements about what the homosexual advocacy groups were doing to the state and to the country. It became public news. Then she was put in a limelight. Threats were made on her life. She was inundated with vulgar emails. Her husband, who is a Baptist preacher, his assembly was visited by homosexual advocates who would sit in the back of the room and take notes about his sermons. The state police [25] had to come in and protect her, and there was a state police officer that guarded her for a while; and there was a threat of a lawsuit; there was a threat of taking away all of her donor money, putting pressure on her donors, and there was a threat that they would place somewhere in opposition to her in the next election, which any did, but that person lost. We offered to represent her when a lawyer, who was a part of our pro bono network in Oklahoma, asked us to get involved.

Q. Okay. Few other quickies.

Are you aware of the fact -- I mentioned in the open statement that the Attorney General opted not to defend Proposition 8 in court.

Were you familiar with that fact at the time it happened?

A. Yes.

Q. And were you also aware that the Attorney General filed an amicus brief against Proposition 8 in the U.S. Supreme Court?

A. Yes.

Q. The law center filed an amicus brief in support Proposition 8 in the U.S. Supreme Court?

A. Yes.

Q. In the *HHS Mandate* case -- which I have trouble saying -- but the contraception mandate case that went up on appeal, do you know whether the AG's office filed an amicus brief in support of the mandate?

[26] A. I'm not positive. I wasn't aware of that. I didn't see the amicus brief.

Q. Okay.

Would you turn to Exhibit 302, please.

A. Which number?

Q. 302. Sorry.

A. 302.

THE CLERK: Exhibit 302 is identified and placed before the witness.

THE WITNESS: Yes.

BY MR. CASTORIA:

Q. Do you recognize Exhibit 302, sir?

A. It's a statement from the Attorney General of California indicating she's filed amicus brief regarding the contraception issue.

Q. Okay.

Your Honor, this is a public statement by the Attorney General in her official capacity.

We move it into evidence.

MR. CALIA: No objection.

BY MR. CASTORIA:

Q. And are you -- were you aware that the Attorney General filed an amicus brief in the *Hobby Lobby* case which was also a contraception HHS mandate matter?

A. Yes.

[27] Q. In light of the Attorney General's advocacy for some causes that are contrary to the law center's and its donors religious beliefs, what would your comfort level be in delivering to the Attorney General's Registry, the law center's unredacted Schedule Bs?

A. Zero.

MR. CASTORIA: I have no further questions at this time, Your Honor.

THE COURT: All right.

Cross-examination.

MR. CALIA: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. CALIA:

Q. Good afternoon, Mr. Thompson.

A. Good afternoon.

Q. We met before at your deposition; is that correct?

A. Yes.

Q. You testified earlier this morning that you often draft and send on behalf of the law center something you called acquisition pieces.

Do you recall that?

A. Yes.

Q. And you sometimes send those out to a large number of male recipients, correct?

A. Yes.

* * * * *

[36] Q. And take a moment to review the list and confirm for me that you're not aware of any harassment to any foundation listed on that list because of their donations to the law center --

THE COURT: Counsel, that is not cross-examination of this witness.

MR. CALIA: The last question in this line, Your Honor.

THE WITNESS: Correct.

BY MR. CALIA:

Q. You testified earlier that you are not required to disclose contributions to the IRS on Schedule B if they are below \$5,000, correct?

A. Correct.

Q. Have you now learned that the Thomas More Law Center More Law Center was eligible to use an even higher threshold?

A. Yes.

Q. And that threshold is two percent of total contributions, correct?

[37] A. Correct.

Q. When you learned that the law enforcement had disclosed to the IRS a greater number of donors than was required, did that cause you any concern?

A. That was an alternative way to do it. It didn't cause me concern, but was there an alternative way to do it that would reduce the number of donors that we would have to report to the IRS.

Q. Didn't cause you concern that the law center had not done it that way in the past?

A. No.

* * * * *

[40] Q. You mentioned a state bar complaint against Erin Mersino earlier in your testimony today.

Do you recall that?

A. Yes.

Q. And that investigation has how been closed, correct?

A. Yes.

Q. And without any negative finding of fault on the part of Ms. Mersino, correct?

A. Correct.

Q. The fact that complaint was made did not hurt Ms. Mercino's standing at the law center, did it?

A. Correct.

Q. And you're not aware of any other affect it had on Ms. Mercino's employment opportunities, correct?

A. Correct.

Q. You mentioned Mr. Daldiden or Daliden -- however you say his name -- earlier in your testimony.

Do you recall that?

A. Yes.

Q. And you're aware that Mr. Daliden was indicted by a grand jury in Texas because of his activities, correct?

A. Yes.

Q. And that happened before the California Attorney General obtained a search warrant for some of his property, correct?

A. Correct.

* * * * *

[41] Q. You've never had a conversation with a potential donor who, unlike the donor in Exhibit 20 that you testified about earlier, said, "I would love to give money, I support your cause, but I'm not going to do it because of my fear"?

Is that right?

A. I've never had that kind of a conversation.

* * * * *

[42] MR. CASTORIA: The law center calls Catherine McMillan as our next witness, Your Honor.

THE CLERK: Please raise your right hand.

(Witness sworn.)

THE WITNESS: I do.

THE CLERK: Thank you. Please take a seat.

State your full name and spell it for the record.

THE WITNESS: I'm Catherine Nicole McMillan. My last names is spelled M-c-M-i-l-l-a-n, C-a-t-h-e-r-i-n-e.

MR. CASTORIA: Your Honor, we have again prepared for this witness an exhibit binder of the exhibits we are likely to be using, and they are -- and have provided a copy to opposing counsel.

THE COURT: All right.

**CATHERINE McMILLAN, PLAINTIFF'S
WITNESS; SWORN, TESTIFIED:**

DIRECT EXAMINATION

BY MR. CASTORIA:

Q. Good afternoon, Ms. McMillan.

A. Hello.

Q. Hi.

Tell us what you do for a living.

A. I'm the director of public affairs at the Thomas More Law Center More Law Center.

Q. How long have you been at the Thomas More Law Center More Law Center?

* * * * *

[44] Q. Had your experience in the Peace Corps and in later at the McAllen Pregnancy Center inform your views on right-to-life issues?

A. It certainly did. I was brought up pro life. I remember being outside of abortion clinics with my father as a young child. It definitely solidified my own views and through my own experiences in education.

Q. While you worked at McAllen Center in Texas, did you observe any public protests regarding right-to-life issues?

A. I did.

Q. How often?

A. At least weekly, sometimes more often. Depended on, you know, what was going on and how people felt. If it was a particular month related to pro life or pro abortion, maybe once or twice a week on average.

Q. Did you yourself do anything publicly to express your beliefs on the subject while you were working at McAllen?

A. I did. I participated in prayer gatherings outside of the the local abortion clinic, which was down the street -- or across the street about twice a week.

Q. Were those events, prayer meetings, ones that blocked -- what's the word -- blocked people from entering the abortion clinic?

[45] A. No, absolutely not.

Q. Did anyone make negative comments to you while you were expressing your believe or harass you in any way?

A. Oh, yes. I was yelled at; I was physically approached with large people looming over me in a very threatening manner; I was pushed, shoved, spit upon; the usual stuff.

Q. Did you observe others receiving threats or any physical violence during the prayer events?

A. Yes, I did. I saw people have things thrown at them from car windows; I saw them get pushed and shoved and approached and yelled at.

Q. Did you ever have to call the police in response to what was going there?

A. We had a vehicle throw something out of a window at us and continue to circle around and eventually park their car and get out and approach us, and we had to file a police report.

Q. And were you and the other protesters who were with you at the time during the prayer meetings doing anything more violent than praying?

A. No, just standing on the sidewalk with our rosaries and occasionally stopping by and offering them a free ultra sound or alternative, to talk.

Q. Let's move ahead quickly to the law center.

So how did you first learn about Thomas More Law Center?

* * * * *

[48] Q. Was Kevin Woods one such person?

A. I spoke with Missy Wood. But, yes, I did speak with them about their case.

Q. Missy is Mr. Wood's wife?

A. His wife, yes.

Q. Melissa?

A. Her real name is Melissa. She goes by Missy. Excuse me.

Q. That's fine.

How did you come to be in contact with Melissa Woods?

A. We had read about what had happened to her husband, John Kevin, I think on the news. I'm not quite sure who passed my desk. After conferring with Mr. Thompson, he asked that I reach out to them. I

found a phone number and contact information for them using a large network of techniques and super sleuthing, and then I called her and she called me back, and I dropped what I was doing and spoke with her.

Q. And did the Woods eventually become clients of the law center?

A. Yes, they are clients of the law center.

Q. Now, there's been discussion with Mr. Thompson about some of the issues and causes the law center advocates.

Have you been involved in communicating to the public through social media about -- give you one at a time -- the right-to-life issue?

A. Yes, I have.

[49] Q. How about the Health and Social Services or *HSS mandate*?

A. The *HHS mandate*, yes.

Q. Did I say it wrong again?

A. You're fine.

Q. Trying to turn it into a ship. *HHS mandate*.

A. Yes, I have.

Q. The communications opposing the imposition of Sharia law and jihad in America?

A. Yes, I have.

Q. And traditional definition of marriage?

A. Yes, I have.

Q. How about support for American military?

A. Yes, I have.

Q. And in doing that, does the law center -- putting out to the public communications about those issues, does the law center receive responses from the public?

A. Yes, we do.

Q. Some come in from email?

A. We receive some of the responses via email; we receive some at our website; we get some through social media; we occasionally get a phone call.

Q. Okay.

And then the last couple of years when any sort of communication has come in with the public that seems particularly threatening or abusive, does the law center have a

* * * * *

[52] to -- I'm a faithful Catholic. As somebody who was brought up religious, I don't -- I don't like to think that what I'm is wrong or hurtful. I consider myself a good person. Nobody wants to have it inferred that they're not.

Q. There's a series of other emails in Exhibit 38, and not just emails but also printed form letters, responses to acquisition pieces and such.

My question for you is did you assemble the documents that are in Exhibit 38?

A. I did.

Q. And have you had a chance to look through them prior to coming to testify today?

A. Yes, I have.

Q. Are these true and correct copies of the exhibits -- I'm sorry, not exhibits -- the documents that you assembled?

A. Yes, they are.

Q. And are these taken from the business records of Thomas More Law Center?

A. They are.

MR. CASTORIA: Your Honor, we'd move Exhibit 38 into evidence, please.

MS. NGUYEN: I believe 38 has already been moved into evidence.

THE COURT: Thirty-eight in evidence.

(Plaintiff's Exhibit 38 received in evidence.)

[53] MR. CASTORIA: Thank you.

Q. Turn, please, to the last exhibit in the binder. It should be Exhibit 200.

Do you see that?

A. Yes, sir.

Q. Okay.

Can you describe what Exhibit 200 is.

A. This is a printout of an email that was received by the tmlc.org or TMLC.com account. It is a copy -- it was -- it's generated by a web form on our website called "Contact," and then it's sent to that email.

Q. This is a printout of the document you just described?

A. Yes, it is.

Q. It appears that the comment is at the very bottom of -- it's a sideways document, but the bottom document, the first page of it where it says "comments or questions."

Do you see that?

A. I do see that.

Q. And, again, I'm not going to read it for the record because it's there, but what was your reaction on receiving this particular response?

A. I was confused and disgusted. It was part of a series. We received several of them.

Q. Disgusted in what way?

A. Just the types of things that they came up with to say. [54] They were shocking; they weren't the usual "F-U" type of stuff. This was a bit more in depth and detailed.

Q. I misplaced one exhibit. I apologize. I'll find it later.

To your knowledge is the law center -- has it been described as a hate group by any outside organization?

A. We've been listed on Hate Watch and people have called us a hate group in the past.

Q. Are there any other organizations -- who manages, if you know, the Hate Watch site?

A. The Southern Poverty Law Center does.

Q. Do you think you're working for a hate group?

A. No.

Q. Are there any other groups out there, other than Southern Poverty Law Center, that portrayed the law

-- portrayed the law center in negative ways on their websites?

A. The Counsel for American Islamic Relations has referred to us as being Islamophobic, and they've tried to keep speeches from people that are associated with us from occurring. I'm sure there's others, but I don't recall at this time.

Q. Would you please turn to Exhibit 29.

A. I don't have Exhibit 29.

Q. You don't?

A. No.

Q. Neither do I.

[55] THE CLERK: Neither do I.

MR. CASTORIA: Ask that it be shown to the witness, please.

THE CLERK: We don't have exhibit 29 in here either.

MR. CASTORIA: The paralegal was reminding me that 29 was withdrawn. Come back to this. I apologize.

Q. Let's switch gears then.

You have a 39 in your binder?

A. I do.

Q. Okay.

THE CLERK: Exhibit 39 is identified and placed before the witness.

BY MR. CASTORIA:

Q. Ms. McMillan, do you have 39 in front you now?

A. I do.

Q. Do you recognize this exhibit?

A. I do recognize this exhibit.

Q. And this is evidently some photographs that were sent to the law center in a business reply mail envelope; is that right?

A. This is a series of several photographs that were sent to the law center in several different business reply envelopes.

Q. How did these come to your attention?

A. When mail comes into the law center in a business reply envelope it is stored in a locked drawer until it can be [56] processed through our donation system. At the time it is processed, these envelopes are opened and any sort of communications within them are reviewed. When we receive things that are out of the ordinary, threatening, harassing, or vulgar, they are forwarded to me, and I become the keeper of them.

Q. And you produced what is now No. 39 from among those documents, correct?

A. I did.

Q. Is this part of the business records of the Thomas More Law Center?

A. It is.

MR. CASTORIA: Your Honor, we'd move Exhibit 39 into evidence.

THE COURT: Thirty-nine in evidence.

(Plaintiff's Exhibit 39 received in evidence.)

MS. NGUYEN: No objection.

MR. CASTORIA: Okay. Thank you.

Q. Do you have Exhibit 30 in your binder?

A. I do.

Q. Good. So do I.

THE CLERK: Exhibit 30 is identified and placed before the witness.

BY MR. CASTORIA:

Q. Is Exhibit 30 another of the gmail account responses that [57] Thomas More Law Center received?

A. Yes. This is a -- the email that Nile came in through that account, it was generated by the web form on our website.

Q. Again, the -- I'll say rude comment on Exhibit 30 appears at the bottom of the form.

Is this Exhibit 30 produced from the business records of the law center?

A. Yes, it is.

MR. CASTORIA: We would move Exhibit 30 into evidence, please.

MS. NGUYEN: No objection.

THE COURT: Thirty in evidence.

(Plaintiff's Exhibit 30 received in evidence.)

MR. CASTORIA: Also Exhibit 37, please.

THE WITNESS: I do not have 37.

BY MR. CASTORIA:

Q. Thirty-eight?

A. I do have 38.

Q. We talked about that one. So we're done with that.

Did you have communications with the members of the Woods family about their case after they became clients?

A. I did.

Q. In the course of that, did they provide to you the document we've already seen, the Facebook comment, from a young man threatening horrible actions against their daughter?

[58] A. I believe it was a Facebook message, and I did see it, and I was asked to look into it.

Q. What did you do?

A. I just looked at the account, you know, to establish if it was a legitimate account or a fake one. I just looked at little clues about -- to see if there was something that would give us any information about who this person was so that we could assist them. I understand that it was -- that message was forwarded to the FBI.

Q. You yourself have any concerns for your safety because you worked for the Thomas More Law Center?

A. I -- I don't know. I guess sometimes I worry about it in that off way we worry about, you know, any horrible thing that could happen. I think it's a more real threat for someone like me where my name, my phone number, my email address are all on the website, but at the same time my face isn't; so that's good.

MR. CASTORIA: I have no further questions, Your Honor.

THE COURT: Cross-examination.

MS. NGUYEN: Yes, Your Honor.

CROSS-EXAMINATION

BY MS. NGUYEN:

Q. Good afternoon, Ms. McMillan.

A. Hello again.

* * * * *

[62] THE WITNESS: My name is Sally Kern. Last name is spelled K-e-r-n.

MS. CRUZ: Your Honor, may I proceed?

THE COURT: Yes.

MS. CRUZ: Thank you, Your Honor.

**SALLY KERN; PLAINTIFF'S WITNESS,
SWORN, TESTIFIED:**

DIRECT EXAMINATION

BY MS. CRUZ:

Q. Good afternoon, Ms. Kern.

A. Good afternoon.

Q. Please state your title.

A. State Representative for Oklahoma, House District 84.

Q. How long have you held that position?

A. I was first elected in 2004, and my first term was 2005.

Q. When will your term end?

A. It will end this November, November the 16th, when the newly elected legislature is sworn in.

Q. I want to talk about your background, Representative Kern.

Where did you receive your college degree?

A. I got a B.A. degree in Sociology at the University of Texas in Arlington.

Q. What year did you receive that degree?

A. I think it was 1971.

Q. And other than the B.A. in sociology, do you hold any

* * * * *

[64] More Law Center?

A. I am.

Q. And can you tell us how you were familiar with the Thomas More Law Center.

A. They contacted me back in 2008 after a situation had arisen. I believe someone suggested that they should contact me, and they did.

Q. And can you tell us about the situation that led to the contact with -- I'm going to call it for short -- the law center?

A. Yes. There was, in our state we were having a state-wide elections for Corporation Commissioner, and one of the candidates was a gay man, and I had been to a conference where I had learned about a small group of wealthy gay activists who were funding races across the country trying to get gays and pro gay

people in to office, and so I found out that they were supporting this candidate for the statewide office, and I was asked about five times, I think it was, to speak across the state and just share the information I had learned about what these gay activists were doing.

Q. In terms of the presentations that you made, were any of those recorded?

A. Evidently one was.

Q. Did you know at the time that you made the presentation that it was being recorded?

[65] A. No, ma'am.

Q. When is it that you learned that one of those presentations had in fact been recorded?

A. On Friday, March the 8th, 2008.

Q. And what did you learn on Friday, March 8, 2008?

A. Well, we don't have session on Fridays, and I was out running errands and had just pulled into a Walmart parking lot, and I get a phone call from my L.A., legislative assistant, and she told me we were getting thousands -- her exact words were thousands of emails and phone calls, and of course I asked who from, and she told me from people who were responding to a video clip that they had seen and -- on YouTube, and so I immediately went home -- and it's the first time I'd ever been on YouTube -- and listened to it. So that's how I found out.

Q. Do you know approximately when in time or in relation to when you learned of the video being leaked when you made the presentation itself?

A. Well, the conference that I attended -- I attended a conference in November of 2017 where I learned a lot

of information about this small group of gay activists who were wealthy gay activists who were funding campaigns, and so it was after November of 2007; and the video, when I first learned of it, was March 2016. So just a few months.

Q. As a result of the video recording of the presentation that you speak of, did you in fact receive negative feedback [66] from the public?

A. Emails and phone calls, yes.

Q. Before you there is a binder, Representative Kern, and I think it's been flipped to tab 89.

Do you see that?

A. Yes, I do.

Q. Okay.

And showing you what's been marked as Exhibit 89, could you please flip through -- I believe there's about ten pages there, and let me know when you're done.

THE CLERK: Exhibit 89 is identified and placed before the witness.

MS. CRUZ: Thank you.

THE WITNESS: Yes, these are emails I received.

BY MS. CRUZ:

Q. You answered my next question.

How is it that you recognize these to be emails that you received?

A. Well, they have my name on them; they were sent to me.

Q. What are the various dates on the emails? If you could please tell us.

A. March the 8th, 2008; March the 9th; another one is March the 9th; March the 9th; the 9th of March; this one is the 8th; the 8th; March 8; March 9; March 9.

Q. And all of those March dates refer to 2008?

[67] A. Yes, ma'am. Sorry.

Q. No problem.

Are these true and correct copies of emails you received in March of 2008?

A. Yes.

MS. CRUZ: Your Honor, we move to admit Exhibit 89 into evidence.

MR. ZEPEDA: No objection, Your Honor.

THE COURT: Eighty-nine in evidence.

(Plaintiff's Exhibit 89 received in evidence.)

MS. CRUZ: Thank you.

Q. Representative Kern, are these the total of the negative emails and communications that you received after the leak of the presentation that you made?

A. No.

Q. Do you know approximately how many negative communications you received in that week following the time you learned that the video had been leaked on the Internet?

A. According to the I.T. department at the state capitol, it was approximately 30,000 emails and phone calls.

Q. And those -- that total number, was that in the range of one week or a month or do you know?

A. It was pretty much one week.

Q. Is that more than a typical number of emails you get in one week?

[68] A. Oh, yes.

Q. How would you compare it to the number of emails you receive in the, let's say, one legislative session?

A. Oh. In one legislative session, probably receive, oh, a thousand. We receive probably 30, 40 a day, if that many.

Q. Okay.

And did you turn any of these emails over to law enforcement?

A. Yes.

Q. Now, if you could turn to the first page of 89. On the bottom it says -- there's a stamp. It says TMLC TROD 000219.

Can you read that to yourself and let me know when you're done.

A. I'm done.

Q. Okay.

Is that -- can you just tell us: Is this a positive or a negative email?

A. Negative.

Q. And does it contain any reference to any statements that you made?

A. It says I heard what you said.

Q. Does it wish you good will or does it wish you harm?

A. Harm.

Q. Can you explain without saying the vulgarities in the email what it actually wishes you?

[69] A. Well, it says that I should be killed, and that Christianity should be eliminated.

Q. Representative Kern, are you a religious person?

A. I am.

Q. Turning to the next page of Exhibit 89, just want to ask you if the subject title includes an insult or whether it's a positive subject title.

A. It includes an insult.

Q. And does this email wish you harm or wish you ill will?

A. Ill will.

Q. And does it -- can you please tell us the very last line. Could you please tell us what it says before this "sincerely" line.

A. "I sure do hope and pray that you rot in hell."

Q. Thank you.

If you can turn to the next email, just one question on this.

Does this the subject matter -- does it contain basically foul language?

A. Yes.

Q. And does it refer to you as a moronic homophobic idiot?

A. It does.

Q. I won't go through all of these, but have you seen these emails before today?

A. Yes.

[70] Q. And Exhibit 89, does it contain any positive email?

A. No.

Q. Would it be fair to say that these emails contained in Exhibit 89 are hostile, negative and insulting?

A. Very.

Q. And do they wish you at any point -- I'm sorry. Let's look at TMLC PROD 222.

And is this an example of an email that has a directive that is that harmful to you?

A. Yes.

Q. Could you please read that first line, please.

A. "Why don't you do the world a favor and kill yourself you failed abortion."

Q. Now, prior to the incident where the videotaping of the presentation you referred to earlier had been released, had you ever received communications from the general public that contained this type of hostile and negative sentiment?

A. Never.

Q. And still looking at the same exhibit and page, does this email refer at all to your religion or your beliefs?

A. Yes, it does.

Q. Can you refer us to the line and read it to us, please.

A. Yes, next to the last line, it says, "Crawl back under your rock with your bible and wait for the rapture."

Q. Do these emails offend you?

[71] A. Well, yes, they contain words I'd never seen before, to be honest with you.

Q. And you mentioned that you also received some phone calls; is that correct?

A. Yes.

Q. Were those to your office or to your home or where were they to?

A. To both my office and home.

Q. And were they words of congratulations, or were there hostile and negative as well?

A. Hostile and negative.

Q. And this is all still within the week of March 2008?

A. Yes, in that weekend afterwards for some time.

Q. And -- just one moment.

These emails we've gone through, you've stated that some of them wish you harm.

Did you ever receive an actual threat to your life during that week of March 2008 following the release of the video that we've spoken about?

A. According to the Oklahoma State Bureau of Investigation, who -- they came and got my computer, capitol computer, and kept it for several days and

went through all the emails, according to them there was only one that they felt was a credible threat, and thankfully it was from someone out of the country, and, you know, not within their jurisdiction and [72] so ...

Q. When you received knowledge of this threat, what, if anything, did the law enforcement -- or the state legislature do?

A. Well, the Oklahoma state troopers, because of all of these emails, they assigned a trooper to me to set in plain clothes on the capitol floor close to my desk. Anytime -- before I left my home in the morning, I had to call them, and they would -- a trooper would be there to follow me to the capitol, and they would not let me leave the capitol until I notified them that I was leaving, and a trooper would follow me home.

Q. Is that standard protocol for your position?

A. No, ma'am.

Q. Had you of received that type of security detail prior to this March 2008 incident?

A. Never.

Q. How long were you provided a security escort to and from your place of employment?

A. At least two weeks.

Q. Prior to the incident that I'll refer to as the March 2008 video leak incident, had you ever received a death threat in your role as a state representative?

A. No, ma'am.

Q. And have you ever received a death threat at all prior to this instance?

[73] A. No.

Q. Have you ever required the type of security that the OSBI, or Oklahoma State Bureau of Investigation, provided you that you just spoke of prior to this time?

A. No.

Q. We spoke a little bit about the communications you received, including the emails; you mentioned some phone calls to your home.

Can you describe the nature again of those -- not again, but can you describe in more detail the nature of those phone calls.

A. They were very similar to the emails, very foul language, calling me names, wishing me harm, and they occurred 24 hours, around the clock. It eventually got where we only -- we never answered our phone except maybe once -- once a day. We'd come home and check our voicemails and only call back legitimate calls, delete the others.

Q. So you had to modify your every-day life as a result harassment you received?

A. Yes, we eventually got rid of our landline.

Q. Did your -- has your family been affected by the harassment that followed the March 2008 incident?

A. Yes.

Q. Can you provide us with any examples.

A. Yes. My youngest son that has two -- my two grandchildren [74] was fearful for a time to let the boys be with me in case somebody would say something or maybe try to do something when they

were with me. The other thing was the attacks, the verbal attacks, made on my eldest son.

Q. And what about your husband?

A. Yes. He was accused of being a member of the KKK.

Q. Is that accusation true?

A. No, ma'am.

Q. Is the accusation about your son true?

A. No. They -- the accusations about my son were for a young man -- he was 31, Jesse Jacob Kern, and what happened to him was in 2000 -- I mean, 1989 -- and my son was 12 years old in 1989, and we had never lived in Shawnee, Oklahoma.

Q. And when did these accusations, the one about your husband and your son, when did they occur?

A. Oh, just a few days after all of the -- March 8th.

Q. Now, I want to talk a little bit about your views.

Are you familiar with the Thomas More Law Center's position on gay marriage?

A. I am now.

Q. And how are you familiar with it?

A. Well, I had never heard of the Thomas More Law Center prior to all of this happening, and when had they contacted me and expressed that they felt like I might need some help in case I was sued, they shared with me the type of organization [75] they were; and so I saw that they held the same views, that they opposed same-sex marriages, as I do.

Q. And is it your belief that your family has become a target for hateful communications and/or unwanted

harassment as a result of your expression of your religious convictions?

A. Yes.

Q. What is the basis for your belief?

A. Well, the basis for my belief is my relationship with the Lord Jesus Christ and the Bible, which I believe to be God's word us to.

Q. I'm sorry. That was an inartful way of asking.

What was basis for your belief that you've become a target because of your conviction on gay marriage or natural marriage?

A. The Bible.

Q. In terms of the -- your background, step back a bit and talk about your background as a politician.

Have you had occasion to fundraise?

A. Yes.

Q. And have you yourself or your campaign received donations from contributors supporting your running for office or for political aspirations?

A. Yes.

Q. Are you familiar at all with the state regulation of charitable organizations?

[76] A. I'm familiar, not in depth, but we have some legislation that has dealt with it from time to time, and then the church my husband pastors now, oh, about 17 years ago, we started a 501(c)(3) charitable organization to care for homeless mothers with children; so I'm familiar through that.

Q. Have you had a chance to speak to donors that contributed to your campaign or any of the causes you just listed?

A. Oh, yes. You speak to your donors all the time.

Q. And do you have an understanding that the donors to your campaign or to you as to whether or not they are aligned with your view on, for example, gay marriage?

A. Yes. They would not be contributing to me if they were not aligned with my views.

Q. And do you have an understanding of, in this case, what the Thomas More Law Center is being asked to do by the California Attorney General?

A. Well, it's my understanding that they are being asked to turn over their contributor records to the state.

Q. And does that at all concern you?

A. Yes.

Q. Can you tell us why.

A. Well, it does because from what I experienced, I know that many of my donors were contacted, and I know so because they told me they had been, and they didn't particularly like being hassled like that, and so some of them quit -- not many [77] thankfully -- but some quit contributing, and I think that most people who donate would just like to be able to contribute to causes they support, believe in, and not really have any great deal of backlash because they contribute.

MS. CRUZ: Thank you so much. I have no further questions at this time.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. ZEPEDA:

Q. Good afternoon, Representative Kern. We met before at your deposition.

How are you?

A. I'm fine. Thank you.

Q. You mentioned that you have been a member of the Oklahoma legislature for about 12 years; is that correct?

A. Yes. I just finished my 12th term -- year.

Q. And is it your experience that as a politician, you often receive negative emails for your views on certain issues?

A. Every elected official receives some negative comments.

Q. And you agree that that's sort of part of the job.

A. I think so. I don't believe that most of them receive or appreciate receiving hateful, insulting and threatening emails. That does not happen very often.

Q. You discussed with Ms. Cruz that you received national attention in 2008 for certain remarks that you made.

* * * * *

[83] Q. It didn't cause you to modify your views in any way?

A. No.

Q. Okay.

No further questions, Your Honor.

THE COURT: Redirect?

MS. CRUZ: Yes, Your Honor.

REDIRECT EXAMINATION

BY MS. CRUZ:

Q. Representative Kern, you were asked about your positions and somewhat controversial, I guess, statements.

And I guess my question to you is as a fundraiser and a politician, is it your understanding that donors who contribute to individual organizations with whom they agree on political and socioeconomic positions, it is your understanding that they donate to those with whom they agree?

A. Yes --

MR. ZEPEDA: Objection, Your Honor, calls for speculation, overbroad --

[84] THE COURT: Overruled.

BY MS. CRUZ:

Q. And is there any reason for you to believe that this thought or this principle would be any different with respect to the Thomas More Law Center and its donors?

MR. ZEPEDA: Objection, Your Honor, calls for speculation, lacks foundation.

THE COURT: Objection is overruled.

THE WITNESS: No. I believe that the -- it would be a very real -- oh -- very real possibility that donors would be -- their willingness to give would be -- oh, what would be the word? -- they would be reluctant to give if they felt like they we're going to receive harassment for giving.

BY MS. CRUZ:

Q. And the -- you were asked by counsel about the one credible threat.

And that was the one credible threat to your life, correct?

A. Yes.

Q. But having gone through Exhibit 89 together, there were several emails and communications that certainly -- correct me if I'm wrong -- wished you physically harm, correct?

A. Yes.

Q. And in your mind, do you needs more than one credible death threat to feel threatened or harassed?

A. No.

Q. And you mentioned that thank goodness you weren't physically hurt.

Did you have a fear of being physically hurt in the week of March 2008 following the leak of the YouTube video of the presentation that you made?

A. Yes, I did have some fear.

* * * * *

[89] MR. CASTORIA: I may.

MR. CALIA: By stipulation, yes.

MR. CASTORIA: I understand that 303, which is the news report regarding David Daliden, was admitted over objection.

THE COURT: Yes.

MR. CASTORIA: I may have misstated that 303 was by stipulation; it was not.

THE COURT: All right.

MR. CASTORIA: The law center would next call Mr. Paul Schervish to the stand, Dr. Paul Schervish to the stand.

(Witness sworn.)

THE WITNESS: I do.

THE CLERK: Thank you, Mr. Schervish.

Please take a seat.

State your full name and spell it for the record.

THE WITNESS: Paul Schervish, S-c-h-e-r-v-i-s-h.

(Brief interruption)

MR. CASTORIA: Mr. Schervish, do you have any electronic equipment on you?

THE WITNESS: No, I don't have any metal either.

PAUL SCHERVISH; PLAINTIFF'S WITNESS,
SWORN, TESTIFIED:

DIRECT EXAMINATION

///

[90] BY MR. CASTORIA:

Q. Doctor Schervish, would you please introduce yourself to the court.

A. I am currently professor emeritus at Boston College, formerly in the Department of Sociology and former director of the Center on Wealth and Philanthropy at Boston College and the founder.

Q. And what does it mean to be a professor emeritus?

A. It is the special designation for retired faculty by the president of the university for having had a distinguished research career at the university.

Q. Before you retired, what did you do at Boston College?

A. I was the professor of sociology, and as I said, director and founder of the Center on Wealth and Philanthropy there.

Q. What is the Center for Wealth and Philanthropy?

A. The center is essentially a research-, speaking- and application-oriented institute in which the issues surrounding the meaning and practice of philanthropy among wealth holders is the central focus. The money, the meaning, the motivations and the methods of their philanthropy.

Q. Okay.

Have you testified as an expert prior to today?

A. Yes, I have.

Q. How many times?

A. Two times before.

[91] Q. If you can please name the cases in which you've testified as an expert witness.

A. The *Franchise Tax Board of California versus Hyatt*, and the *FT* -- the previous case, the --

Q. *Americans for Prosperity* --

A. *AFPF versus the Attorney General of California*.

Q. On what -- sorry.

On what subject did you testify in the *California Franchise Tax Board* case?

A. Whether a donor and a wealth holder could live frugally and thereby not being deceptive in having moved to another jurisdiction and having lived in an inexpensive apartment, inexpensive home, driving inexpensive car and shopping at inexpensive outlets, that that was a continuation of his previous activities, and that was not unusual for a good number of wealth holders.

Q. And what was the basic testimony topic you gave in the *Americans for Prosperity Foundation* case?

A. That the donors to the AFPF would like to retain their anonymity when they so request it, would indeed respect it to be respected and protected by the organization, that when that anonymity is violated, that they would undergo a chilling effect for their continued participation, donations, and this chilling affect would tend to potential future donors as well.

Q. And just to be clear, there's no other cases than those [92] two in which you've testified as an expert, correct?

A. That is correct.

Q. Do you maintain a curriculum vitae or biography?

A. Yes, I do.

Q. Would you kindly turn to Exhibit No. -- tab No. 381 in the binder, and I'll mention, again, Your Honor,

that we've prepared a separate binder for this witness, a copy of which has been provided to opposing counsel.

THE WITNESS: I have it, sir.

MR. CASTORIA: Okay.

Q. Do you have 318 in front of you?

A. Yes, I do.

THE CLERK: 318 is identified and placed before the witness.

BY MR. CASTORIA:

Q. What is Exhibit 381?

A. It is my C.V.

Q. Is this the one you currently use?

A. Yes. It needs to be amended slightly for a few more talks and a couple of articles.

MR. CASTORIA: Your Honor, we would move No. 381 into evidence.

MR. CALIA: No objection.

THE COURT: 381 in evidence.

(Plaintiff's Exhibit 381 received in evidence.)

[93] BY MR. CASTORIA:

Q. Have any of the talks or articles that you have spoken at or published since this version of your curriculum vitae had a direct bearing on the case we're here to talk about today?

A. No -- oh, yes, the talks do.

Q. What are those talks and how do they affect this?

A. The talks that I have given involve two instances, one to a group of high school students in an afternoon seminar of about three-and-a-half hours -- I don't know how they lasted that long -- and then one to a group fundraisers and development officers about the spiritual foundations of charitable giving.

Q. In what way does that relate to your work in this case?

A. That's why I said -- took a second look at my answer. It's because it was a spiritual foundations of the intensely personal and intimate way in which religious and spiritual motivations affect people's engagements.

Q. What was the name of the article that you've authored this year that you referred to?

A. "Breaking Down the Giving Pledge Barrier," and that was in a wealth management journal.

Q. Okay.

Did the article that you just mentioned change or affect your opinions that you've reached in this case?

A. No, sir.

[94] Q. Okay.

And was there also an article about pledges made to the Bill and Melinda Gates Foundation?

A. That is the one.

Q. That's the -- solving the pledge bottleneck; is that the same one?

A. Yes, that's correct.

Q. Understood.

Do you have any additional lectures planned through the rest of this year that have a bearing on the subjects of this lawsuit?

A. Yes. I will be speaking in Colorado Springs in October, and that is a request to repeat a seminar that many people were not able to get into that I presented last year at Philanthropy Southwest on the spiritual foundations of charitable giving.

I am, in October of this year, also giving the key note address to the Association of Museum Development Officers in Charlotte, North Carolina; and then next September, I am presenting an honorific lecture to the Friday Forum in Boston. This is their 25th anniversary, and they asked for the nine months of their seminars this coming year to have the nine most regarded speakers of the last 25 years to repeat a presentation.

Q. And tell us, please, how these presentations, both recent and upcoming, relate to your opinions in the case we have [95] today.

A. They essentially demonstrate, to myself especially, my continued interest in this topic of religion, spirituality and philanthropy; my continued development of my thinking; the interaction with wealth holders at some of these forums and those that work with wealth holders; and the modification of my thinking in modest ways, largely to apply more and more of what I learned about wealth holders to the regular donors that all of us are, rather than major donors with exceptional wealth.

Q. I see.

Have you created any slides to assist with your testimony here today?

A. Yes, I have, and if we could use them, it would help me.

MR. CASTORIA: Your Honor, with your permission, we'd like to put the slides up. Thank you.

Is that appearing at the AG's table? Okay. Thank you.

Q. The first slide is about educational background.

Dr. Schervish -- by the way, do you have the slide in front of you as well?

A. Yes, I do.

Q. Should have asked you.

Where did you receive your degrees?

A. I received my undergraduate degree at the University of Detroit in classical and comparative literature in 1968, and I [96] received a summa cum laude degree in arts bachelor. I studied then -- which isn't on here -- a year and a half of philosophy and theology studies at the Jesuit School of Theology in North Aurora, Illinois; then I did a masters degree in sociology at Northwestern; finished that in 1970; taught for two years at John Carroll University; and then in 1975, received my master's of divinity degree from the Jesuit School of Theology at Berkeley. My doctorate degree, my doctor of philosophy degree, was from the University of Wisconsin at Madison in 1980.

Q. Thank you.

You mentioned you've done work with respect to donors; is that right?

A. That is correct.

Q. Have you prepared a slide that summarizes your work on donor behavior?

A. Yes.

MR. CASTORIA: May we turn to that, please.

Q. Dr. Schervish, the studies of donor behavior listed here begins with the Wealth and Philanthropy Center at Boston College; you've already testified at to that, but some of these others you've not.

Could you explain your involvement in these matters to us.

A. Yes.

This list includes some of the organizational [97] activity and not just our research active. The Center on Wealth and Philanthropy is one; the other one is the Wealth and Giving Forum, which I help found; and that was a seminar that was over a weekend for wealth holders and their associates, sometimes their attorneys and financial planners that we held over a period of about five years, three times a year, and we would have surveys for wealth holders, conferences with them, private meetings with them if they desired, and group discussions where people were given the privilege of complete confidentiality to talk about what they were finding as happinesses and concerns of their wealth and philanthropy.

Q. At these various meetings at the Wealth and Giving Forum, did you talk one on one with donors?

A. Yes, I did there, and over a period of my career, I have counseled five, six, seven families over extended periods of time about the meaning of philanthropy,

the distribution of wealth to their children, the engagement of their children in philanthropy and so forth.

Q. In the same context of the Wealth and Giving Forum --

A. That's correct.

Q. -- did you speak with donors in groups?

A. Yes, very often I would present to boards of trustees, to donor groups, to those that were meeting in private homes, groups of ten to 20, that were trying to figure out what is the best relative distribution of their wealth to children and to [98] philanthropy and the best strategies for doing so. Those were some of our activities.

Q. The Center on Wealth and Philanthropy, does that sponsor any surveys?

A. We have sponsored several surveys ourselves. We did the first major study of -- in contemporary times of the philanthropy among wealth holders, which was the study on wealth and giving, the study on wealth and philanthropy, which we completed in 1988. And then we did the survey with Deutsche Bank, Banker's Trust. We did a survey with the high-tech donor study of high-tech donors and their motivations, and we also interviewed a number of expert informants, people that weren't themselves major donors but were working with them in a comprehensive way and had accumulated a number of insights and, of course, experience with that group of people.

We also recently did the Joys and Dilemmas of Wealth sponsored by the Gates Foundation, and that included 100 -- interviews with 160 -- survey of 160

people. So we have done a mixture of survey research and intensive interviews, as well as direct work with families and finally the experience with groups of donors and wealth holders in various settings.

Q. Can you please describe in a little more detail the study on wealth and philanthropy in terms of how long the study took and the methods used in conducting this study.

A. The length of the study was about two-and-a-half years [99] because we did -- it's extensive interviews around the country, and, of course, we had to carefully analyze each interview, transcribe it and analyze.

In regard to what we're talking about here, one of the things that researchers are very careful about is protecting the confidentiality both when they do intensive interviews and actually speak to people face to face. You have them sign something that allows you to be able to discuss their transcript, even with your colleagues; and in all of the surveys that you do, you have confidentiality agreements, and you have double blinds about what they're coded as and their names. So that one group may have the code numbers, one group may have the names, but nobody has -- we never had both of them.

Q. You've used the phrase "intensive interview."

What exactly does that mean?

A. That can mean a number of different of methodologies revolving around this central idea. It means that you are talking to people personally and instead of asking them, like you would in a survey a set of rote questions and writing down the same answer to the very same question for each person,

what you do is you follow the logic of their emotion, of where they take you to new areas, and you pursue a continued line of development of questioning; but you always are aware of digging more deeply into the story that is being told to you, [100] especially if it is a new story that you haven't heard at all before.

Q. Is this idea of intensive interview considered a standard practice in sociological studies?

A. Yes, it is.

Q. Not just at Boston College?

A. That's right.

Q. Have you conducted any -- you've already answered about the large survey of donors for the Joys and Dilemmas of Wealth.

A. One thing I haven't mentioned which is here, and maybe you're getting that, we also analyze the major national surveys that we don't do but are done by other universities, the panel study of income dynamics and their module on philanthropy; and then the federal reserve survey consumer finances, which comes out ever three years, which is the gold standard of analyzing the wealth, income and philanthropy of households in the United States, and it's where we get the statistics that everybody hears about distribution of income and distribution of wealth.

Q. These other surveys that you've reviewed and analyzed, do you know from reading them whether those surveys employed the same sort of steps to preserve anonymity you described for your own work?

A. Especially that. They all do, but especially the federal reserve study. It goes to the IRS, and at the

IRS to write to high net-worth individuals, because what they do, in order to [101] get a national representative random sample of high net-worth people, you have to get a permission from people to talk with them because if you do a national representative sample, you're not going to find them very easily. So the IRS writes to people, asks permission whether the federal reserve can send people not just to interview them, but with a high ends, they go to their records, they go to their accounts, they go to their financial advisers, they go to their philanthropic advisers so that these numbers are as accurate as possible.

Q. Can you estimate for me, roughly, how many charitable donors you have spoken with personally about their charitable giving incurred?

A. Probably a thousand and have heard even more, you know, at other conferences where I have listened but not spoken to them.

Q. You've described some of your education with respect to the Jesuit School of Theology and such, but have you had any experience particularly with religiously motivated donors?

A. Yes, I have. The person that founded our center with financing, he was our -- the person who initiated the question and asked Boston College if he could meet with some people, some professors, to pursue a research idea that he had, and he was a highly motivated religious man, Catholic, and -- name is public: Thomas Murphy from Detroit. And he supported our work and asked the leading question that has remained with us ever since: As people become wealthy and have redundant or [102]

excessive wealth other than what they need for their daily standard of living and what they desire for their heirs, do they turn to deeper purposes with their wealth and with their income.

Q. Have you prepared a slide that summarizes your work specifically with religiously motivated donations?

A. Yes, and it includes some other research as well that is related that I can explain.

Q. Could we turn to that, please.

Can you read that all right?

A. Yes, I can.

Q. This is a slide you were just referring to?

A. Yes.

Q. You mentioned earlier Master of Divinity of Jesuit School of Theology. You were ordained a Roman Catholic priest in the Jesuit order. Let's take it from there.

What's the next item that has to do with your special focus on religious donations?

A. My most recent book is cited there, *The Will of God and Wealth* -- it's actually *Wealth and the Will of God* -- no. This is the correct one. They kept changing the title -- discerning of use of riches and the service of ultimate purpose, and in that book, we looked at the meaning of wealth, the meaning of charity and giving, the meaning of identification with the fate of others in Aristotle, Ignacius Loyola, Thomas Aquinas, [103] Calvin, Luther, Jonathan Edwards, in order to cover the reformation, as well as the Catholic tradition, and

then Aristotle, the foundation for so much in Western thought.

Q. And were specific research projects conducted in connection with these?

A. Yes, these are only some that had such a title of spirituality and religiosity. One that is not mentioned there is a recent survey that we did and made a report to the Templeton Foundation about happiness, spirituality, religion and philanthropy as part of our study on the joys and dilemmas of wealth. But these various research projects all were concerned with the way in which -- what we considered to be one of the key questions of the 21st Century got to be answered, as I said, not just by wealth holders but increasingly by all of us, how can you use your wealth for deeper purposes. When acquiring more wealth or a more elaborate standard of interest of -- standard of living isn't of highest importance you to.

Q. Items listed on this slide are not all inclusive of the religiously motivated studies that you've --

A. That's correct. I would say that even our nationally known wealth transfer model, which became renown for its famous quote of \$41 million transfer of wealth from the World War II and previous generation to the baby boomers, became an important study for the expansion of banking's financial industry and for universities and so on to expand their [104] development offices. And the reason why I say even that was spiritual, because it was answering the question about the growing abundance that would unleash greater care and greater ability to carry out your spirituel ideals.

Q. Okay.

Based on your studies you've read and conducted, how would you characterize the principal motivation that donors have in making charitable -- doing charitable --

MR. ZEPEDA: Objection, Your Honor, calls for speculation.

THE COURT: The objection is overruled.

THE WITNESS: This is our research. We developed what was called the identification model, and this showed up in many of our papers and is cited by other people; and the identification model essentially says that the reason why people give, it's not because of selflessness, and it's not because they are, on the other hand, selfish and want to be self-aggrandizing. It is neither. It's because of the connection that people feel to the beneficiaries of their help, whether it be through formal philanthropy or taking care of a parent or a neighbor or the son and daughter of a deceased brother or sister. So whether it's formal or informal, the chief motivation is that we identify with the fate of others as if they were ourselves, our parents, and our loved ones. And this, again, is a very a important theme in Aquinas, Thomas [105] Aquinas, when he asks what was more important: The love of God, love of neighbor, or love of self, and it says that that's a three-legged stool, and if you were to abandon love of self, and that would be the identification with helping others, it advances your own fulfillment. If you abandon love of self, you have also abandoned love of God and love of neighbor; that's the identification model.

Q. How does the identification model, as you've described it, inform your work in this case, if at all?

MR. ZEPEDA: Objection, Your Honor, exceeds the scope of the expert report. This is not a part of his expert and was not disclosed to the defendant.

THE COURT: Objection is overruled.

THE WITNESS: May I hear the question again, please.

MR. CASTORIA: Sure.

Q. I was asking how the identification model informs your opinions in this case.

A. This is, along with the motivation of gratitude, the key of why donors are contributing to the causes that the organization that the -- that we've discussed, the organizations that we talked about, the work of the Thomas More Law Center, all of these are connected to the way in which people are carrying out a assistance of others as a way of self-fulfillment for themselves and for their families.

///

[106] Q. Can you give us example of what that --

A. It means very simple that if my child -- or my little grandchild, that was now two years old, fell into a river, I would jump in after her. Now, whom am I saving? I am saving her, and I'm saving myself at the same time. So it's not altruistic in the classical, traditional sense or in a modern sense, and it's not selfish in a kind of modern sense. It's connection. It's indication. Our fates are tied together. So when somebody says that I'm contributing to a pro life group, they are seeing that they are attending to a baby that could be, is in deed, in their own religious and spiritual experience, their own unborn baby. That

would be an example. If somebody were to be concerned about violence toward or coming from terrorism, they would be supporting anti-terrorist activities because it was part of their identification with the victims of terrorism and with the effort to counteract the terrible harm and suffering that only comes from it. So it's that kind of application.

Q. We just commemorated the 15th anniversary of 9/11. From that event, do you draw any analogies to this identification principle?

A. Absolutely. I would take the hurricanes, the earthquakes, 9/11, the bombings at the Boston marathon. You ask people: Whom did you contribute to, and they would say the Jewish Federation, or they say the Jesuit Relief Services or [107] they say the American Red Cross. Then I would say in these interactive seminars, to whom did you really contribute? And then they would say, Oh, yeah I get it, to the families, to people like me. And it helps them appreciate and draw out of them what they already know at a deep-seated level. They're not giving to the Red Cross, they're giving to the families of 9/11, to the orphans of 9/11, to the broken hearts of 9/11.

Q. Does this motivation that you've described, the identification model, apply only to the very wealthy donors who can make a huge difference by an individual donation or the donors at all levels?

A. When I received an award, one of the things I talked about in that particular instance, which was for my work on wealth and philanthropy, was how much what I had learned has increasingly, step by step, idea by idea, been virtually completely applicable to the rest of us who are not financially

wealthy. Now that may seem obvious, but there are distinctive aspects that wealth holders have that the rest of us don't have, which means that they can be creating new organizations, new institutions and so on, and most of us have to live with an existing institution. And can -- what I say is that a wealth holder can do relatively individually what it would take a social movement, a philanthropic movement, or a political movement to do otherwise.

And so in this particular case, what would take large [108] donors to repeatedly support a large number of smaller donors can make happen in concert.

Q. Even 25 to \$100?

A. Well, they had a great affect on a political campaign this year.

Q. Have you received awards and recognitions for the work you've described?

A. Several. I don't know if we have anything on them. I don't remember them.

Q. I believe we had a slide.

A. Did we have a slide?

Q. I believe we have a slide. If we can go to that. Is this the one?

A. Yes.

The paper that was the foundation for a lot of my work for understanding the desire and rationale for anonymous giving was this paper, *The Sound of One Hand Clapping*. That won the Virginia Hodgkinson Prize in 1994 for the best paper or report in the field for that year --

Q. Go ahead. I'm sorry.

A. Well, I just -- we go down -- recognized by the *NonProfit Times* -- five times in the top -- *Power and Influence*, top 50, and that included some well-known people. It was rare for somebody that was a researcher to be on that list. The winner of the the Scott Fithian Award, International Association of [109] Advisers and Philanthropy. More recently the winner of the American Sociological Association's distinguished career award from the section on altruism, morality and social solidarity. This wasn't an award, it was a burden -- not a burden, but it was a service. I was on the donor advise fund board for Smith Barney Morgan Stanley, what they called the Global Impact Funding Trust, and I was on the board of directors of that donor advisory fund from 2001 to 2013.

Q. Would you please turn to Exhibit 382 in the binder.

A. Yes. I have it.

Q. Can you identify Exhibit 382, please.

A. That is the article of which I spoke a moment ago, *The Sound of One Hand Clapping*.

Q. If you just put it -- don't read it -- but is this the complete version of the article?

A. Yes.

Q. Okay.

Your Honor, we'd move Exhibit 382 into evidence.

MR. ZEPEDA: No objection, Your Honor?

THE COURT: 382 in evidence.

(Plaintiff's Exhibit 382 received in evidence.)

MR. CASTORIA: Okay.

Q. For the sake of those of us who are not sociologists, can you describe what this article is about.

A. The article turned out to be something that we literally [110] discovered as we read and reread the transcripts. In intensive interviews, if you do 100, 130 intensive interviews, every time you reread them, you're essentially seeing another interview because there's things you hadn't seen as patterns that you now see because you've seen all 130.

And one of those areas was this concern about anonymous giving, and there was a conference that I was asked if I had anything to contribute to because of my work with wealth holders and studying them, and it was at the Center on Philanthropy at Indiana University in 1991, and I developed a paper for that conference, and there were just three of us -- or four of us that presented papers, and subsequent to that, it was published in a refereed journal; but the basis for this article was discussing the different rationales, the moral rationale, the functional or instrumental rationale, for giving anonymously, the range of from spiritual to functional, meaning that you -- spiritual, not letting your left hand know what your right hand is doing, all the way to the very functional one of not wanting your children to know how wealthy you are, not wanting your colleagues to know that you're making a major gift because they don't know that you have such wealth, to letting the organization even know that you have so much more wealth because they would tap you for even more, and then not to be harassed by people coming to your door or writing you

letters or calling you up and saying can you please support us.

[111] So it was why they would approach and take on anonymous giving, and in some cases, why they wouldn't; and sometimes some people -- and this is true -- what we found in the article from the research was that some people would sometimes contribute anonymously, for a moral reason or a religious reason, and other times people would contribute purposely non-anonymously for a religious reason. For instance, to help the fundraising for their church's youth group or new hall or new church and so on.

Q. To your knowledge, have there been other -- is the phrase "peer-reviewed studies"? Do I have that right?

A. Yes.

Q. Have there been other peer-reviewed studies done on anonymous giving after your *Sound of One Hand Clapping*?

A. Neither before nor after except I did finally find a couple of highly mathematical and technical economic articles using game theory. Now, there are -- which are not directly using the information from donors. There have been magazine reports and reports that come out of study centers and so on that are that are two, three pages long, but are accumulating and writing down what they have learned over a period of time from talking with donors rather than having something that is peer reviewed and written with the length and consistency of a peer-reviewed article.

Q. All right.

[112] Your Honor, based on the testimony thus far, we would offer Dr. Schervish as an expert witness on charitable giving and donor behavior.

THE COURT: All right.

MR. ZEPEDA: Your Honor, subject to the objections and our motion we made regarding Dr. Schervish, we'll reserve our questions for cross-examination.

MR. CASTORIA: Ask the court's guidance at this point whether to proceed into Dr. Schervish's analysis in the case or reserve in the morning.

THE COURT: Go.

MR. CASTORIA: Go. Okay.

Q. Dr. Schervish, as an overview, what were you asked to do in this case?

A. We have a slide on that, I think, but let me just start out by -- before we come to that, let me start out by saying I was asked to provide an expert opinion about what is the reasonable, legitimate interest of donors to the Thomas More Law Center to have their anonymity preserved if they should so desire and expect it, how this is based in their desire for freedom of association, privacy and freedom from harassment and a positive note, freedom of expression of religion, and as I said, freedom of association, if that were to be violated and that their identities were to become known in a way contrary to their expectations and desires, they themselves would become [113] chilled in reducing or eliminating their participation and donations to the Thomas More Law Center, and additional donors, potential donor, future donors,

would be chilled as well in their participation and in their donations.

Q. With that summary, shall we turn to the slide you prepared regarding your summary of opinions in the case.

A. Thank you.

MR. CASTORIA: Next.

Q. I believe there's actually two slides because they don't all fit on one.

Dr. Schervish, lead us through, if you would, your opinions of the case in the order we have them on the slide.

Ask you to read the slide but follow the slide in terms of the --

A. Yes.

The donors, as I said, have a legitimate and reasonable desire, and indeed expectation, when they so express it, especially, or when promised it, to have their names, addresses, contact information held confidentially by the organization, not to be made known to third parties unless they so desire.

Q. That's the first one.

A. Yes.

Q. Okay.

A. And they, in certain circumstances, all the way from [114] simply being inundated with requests, to having their life threatened, they reasonably fear that disclosure of their names and addresses and so on can lead to harassment; and as we have heard more and more today, catastrophic consequences when highly

controversial issues become part of the attention of militant groups, partisan groups, and mentally ill individuals, and so there is this desire for this anonymity to be so much more protected in today's atmosphere of intensity of opinion and reaction that -- across our country, and especially when that has a religious valiance to it.

Q. Would you explain that, please.

A. Yes. Religion is like fire -- it's like electricity. It can be a great fortifying and deepening and healing and supportive experience and motivation. It can also lead to intense hatred and justification and even obligation to commit physical bodily harm to others. So like fire, they can warm your house or burn it down, or electricity can make your life so much better, or it can destroy you through a lightning bolt.

This ability of donors to make contributions and today's religious environment is of such high -- I said valiance -- as such high emotion and high intensity to it across the board. The third point is that in today's technology, it is hard -- once somebody is identified to be wealthy or to have made a gift -- let's not even talk about harassment or death threats or mean emails -- it opens you up [115] to be searched out by many of these companies that make their living on just discovering who is this last person to go public with a firm; where did she or he go to high school and college; and they let these organizations know all about this person; and then when there is this electronic ability built today to discover so much about a person, it is not able to discover it, it is able to broadcast it, and it can broadcast it widely to people who are both your friends and those that might wish you harm and, of

course, those that wish to get something from you like a donation.

Finally, I have, as part of one of my major opinions, that the law center's disclosure of Schedule B to the registry would chill contributions. If there was one thing that we have learned is that donors do not want to be harassed when they step out of their private life in the charitable realm. It is like stepping out of your private life and caring for a neighbor. You don't want to be bothered and suffer negative consequences for doing what you feel and know and appreciate to be within your constitutional rights of freedom of association.

And then you said there's a fifth one, but I'm going to go back to No. 1 for a second, if you don't mind.

Q. Actually, let's get the six of them out first.

A. Okay.

Q. The next slide has numbers five and six, and I will wander back to one if we need to?

[116] A. The registry's failure that I have learned about from depositions and declarations in this case and in the AFPP case. To keep Schedule B's private increases the chilling factor, the chilling of donors' contributions and of potential donors and contributors; and as I said, the religious nature of all of this heightens the need for First Amendment protection. The point I wanted to make in regard to the first point –

Q. Let ask you the question.

A. Excuse me.

Q. Was there something about your first point that you neglected to mention?

A. Just what I've already mentioned in regard to our research, that this applies not just to major wealth holders and their donations, this expectation applies to when so desired, more modest donors, even what might be considered smaller donors, and it is not just true for major wealth holders.

Q. You've used several times the word "chill" or "chilling." I think most of these in the room are lawyers. It has a certain meaning for us.

Tell us your meaning when you use the word "chill" or "chilling."

A. I'm trying to use it in the way I read it in various documents, early documents in this case, and in the previous case that I was an expert witness for and then in the way the [117] American Civil Liberties Union used it explicitly in a report on a Muslim mosque in New York City where they studied and wrote explicitly about the chilling effect that the surveillance of police from the New York Police Department was having -- their surveillance, their attendance at mosques undercover, at that particular mosque, undercover, and attending services and meetings, that that was having a chilling affect on people's attendance at the mosque, on their donations, and on their family's participation. And so I used it, and I'm trying to use it in the way the ACLU used it in that particular study they did.

Q. Okay.

THE COURT: We'll continue with Dr. Schevish at 10 o'clock tomorrow morning.

MR. CASTORIA: Thank you, Your Honor.

THE COURT: I mean, nine o'clock tomorrow morning, not 10:00, 9:00.

(Proceedings concluded at 4:15 p.m.)

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**Excerpts from Trial Transcript
Day 2, Vol. 1**

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

HONORABLE MANUEL L. REAL
UNITED STATES DISTRICT JUDGE PRESIDING

THOMAS MORE Law)	
Center,)	
)	
PLAINTIFF,	)	CERTIFIED COPY
)	
VS.	)	CV 14-09448 R
)	
KAMALA HARRIS,)	
)	
DEFENDANT.)	
-----)	

TRIAL DAY TWO, MORNING SESSION
REPORTER'S TRANSCRIPT OF PROCEEDINGS
TUESDAY, SEPTEMBER 14, 2016
A.M. SESSION
LOS ANGELES, CALIFORNIA

* * * * *

[5]

MR. CASTORIA: Thank you, Your Honor. And good morning.

Last evening opposing counsel and I conferred about some of the exhibits that were stipulated into evidence yesterday and have a few corrections to make which we've notified the clerk of, but I wish to put on the record if I may.

Several exhibits were actually withdrawn after that list was compiled. And those are: 259, 343, 372, 389, 395, 414, and 80.

Also, we realized that there is an additional exhibit that was stipulated to to be put into evidence, and that is No. 386. As I mentioned, we've advised the clerk before court began, but we wish to put it on the record.

THE COURT: All right.

MR. CASTORIA: May I proceed?

THE COURT: Yes.

MR. CASTORIA: Thank you.

CONTINUED DIRECT EXAMINATION

BY MR. CASTORIA:

Q. Good morning, Dr. Schervish. When we left off we were about to summarize the sources of information you [6] used at arriving at your opinion.

Did you create a slide on that subject?

A. Yes, sir.

Q. Just a moment, please.

And Dr. Schervish, could you describe for us the types of sources that you relied upon in reaching your decisions.

A. To start at the bottom because it is the foundational work, the academic and pure reviewed research on anonymous giving. The related print and electronic media coverage of issues involved in this case. And finally, the depositions, interrogatories, declarations and exhibits that have been provided me in conjunction with this case.

Q. All right. And did you also rely upon your own work in donor giving?

A. Yes. My own academic research, not only that which was shown up in books and articles, but that which showed up in reports and was part of my basic learning about this topic. My years of exposure to wealth holders, their opinions, attitudes and motivations.

Q. Was there a particular work -- academic work that you referred to in the course of your study?

A. Yes. It was "The Sound of One Hand Clapping," which was the peer-reviewed article that we discussed [7] yesterday. And it was subtitled "The Case for and Against Anonymous Giving."

Q. Were there also any particular sources -- academic sources that you were not the author of that you relied of?

A. Yes. Cicerchi and Weskerna provided a report from over 2,000 development officers that they interviewed to talk about what they had picked up in the course of their work about the meanings and

motivations surrounding anonymous giving by the donors with whom they had associated.

Q. Do you have your exhibit binder in front of you?

A. Yes, I do.

Q. Would you please turn to exhibit tab 383 in the binder.

A. Yes.

Q. Can you identify tab 383, please.

A. That is that survey on anonymous giving that I just spoke about.

Q. And that was by Cicerchi and Weskerna, if I'm pronouncing those right, correct?

A. Yes.

Q. What was the importance to you of that particular survey in your work on this case?

A. It reinforced it. Because at the conference, my [8] paper had also been completed before I had seen this. But it confirmed the broader framework, the historical context of what I had found directly from donors themselves.

MR. CASTORIA: Your Honor, I would move 383 in evidence, please.

MR. CALIA: No objection, Your Honor.

THE COURT: 383 in evidence.

(Exhibit 383 is received.)

BY MR. CASTORIA:

Q. Dr. Schervish, are you familiar with something called the Donor's Bills of Rights?

A. Yes.

Q. And what is that?

A. It was initiated by a number of the organizations that are umbrella for donors and charities. And various charities themselves tailor it to add their own words and so on. But basically it is a list of seven, eight, nine propositions that talk about what the donors should be able to expect from the charities to which they contribute money.

Q. And was the Donor's Bill of Rights, as it's called, influential in any way in forming your opinions in this case?

A. It is something that I knew about for a long [9] time. It is something that confirms the notion that the charities themselves recognize that donors have what they would call a moral right to confidentiality when they so request it.

Q. Were there certain concerns about confidentiality that Cicerchi and Weskerna study highlighted that were relevant to your work in this case?

A. The work that they did was in 1990, and it was a different era. When I looked at the reports of donors and looked at their reports, there was a consistent theme, which was not to be inconvenienced, not to be harassed -- and so if you were to look at the various rationale that they had come up with for understanding why donors wish to remain anonymous, you would find them all under the rubric of wanting to be liberated from unwanted intrusions and harassment.

Q. Do you have any opinion as to whether donor concerns in that regard have changed from 1990 to 2016?

A. They have changed in the United States dramatically.

Q. How so?

A. In other countries, and in Europe, there's much more fear about major donors, about kidnapping of children, death threats, and so on. That has now become something much more familiar in the United States.

[10] And donors are increasingly, when involved with controversial or what are deemed to be controversial cases, that they are protected in their own family, in their own person. And this has accelerated dramatically among the donors that I speak to and have spoken to over the course of the years, from 1990 coming to the present.

Q. When you use the word "controversial," what do you mean?

A. I mean that is a topic of public private morality, public policy that has an opposition that is intensely opposed to it, as there is on the other side a supporting group that is intensely adhered to it.

Q. Have you heard examples used at this trial during your attendance of causes that you under that definition would consider controversial?

A. Yes.

Q. Can you give any examples, please.

A. The issue of abortion, choice, for one; the relative safety that Americans, people, citizens and residents of the United States of America have in regard to Islamic terrorism; the issues of freedom of religious expression in schools and so on. The ability to enunciate your own political view points publicly, and not to be charged as representative, occurring [11] yesterday, was with death threats and so on. And in that particular incident, it was about gay and lesbian issues.

Q. Yesterday you listed a number of opinions. The second of your opinions had to do with donors reasonably fearing disclosure of their identities due to harassment that can arise especially in today's environment.

What kind of harassment were you referring to in that opinion?

A. It can all -- it can be all the way from simply disagreements that are repeated often enough to become bothersome to the content of those communications that are demeaning, vulgar, insulting, all the way to communications both in word and in behavior that are life-threatening and indeed in some cases we've heard about actual carrying out of murders and terrorism on behalf of some of causes we have discussed already.

Q. Did you give a similar opinion in the AFPF case? And for the record yesterday we used AFPF as an acronym for Americans for Prosperity Foundation.

A. I did give a similar opinion.

Q. Does your opinion in this case on that subject differ in any way from your opinion in AFPF?

A. It differs in that I have become aware because of the work of the Thomas More Law Center, its mission and [12] purpose, and some of the clients that it has supported, that there is a much more explicit religious dimension to the notion of freedom of association and freedom of expression.

Q. Turning back to your opinions, your third opinion had to do with technology -- today's state of technology increasing the need to protect donor information. I'm paraphrasing slightly.

Could you state with a little more particularity what it is about technology that forms your opinions in this case.

A. Technology today has reached new heights. And we only can expect greater abilities from it in regard to three areas: One is the discovery of information, either by searching databases that are publicly available or hacking. There is the -- second, the distribution of that information. And third, the use of that information to either support or hurt an individual or a cause.

Q. And once confidentiality has been breached, have you reached any conclusions about whether the state of technology today makes it possible to put the genie back in the bottle?

MR. CALIA: Objection. Lacks foundation, Your Honor.

[13] THE COURT: The objection is overruled.

THE WITNESS: Technology enables something to be distributed so broadly and so quickly, that even when information is recalled, removed from Twitter, removed from Facebook, removed from other -- from

e-mails even, there is a widespread dissemination of it even when things have been withdrawn, and you cannot withdraw or take back what has gotten out there.

BY MR. CASTORIA:

Q. In the course of your work on this case, have you learned about any groups or organizations who have tried to track down donor lists to charitable organizations and expose the donors publicly?

A. Not only in the course of this trial and the previous trial to which we referred, but in the course of my own work with donors and their discussion about it, and my own study of philanthropy, there are hundreds of organizations seeking databases, developing lists of donors to be able to contact these donors on behalf of new causes or causes that are simply trying to raise money, and also on behalf of groups that will buy those lists, and will try to use them for fundraising. And finally, there is the in-house development efforts, prospect research they call it, and it occurs out in the field and is sold by companies but also takes place in [14] major charitable organizations themselves.

Q. Thank you. Would you please turn to tab 396, 396 in your exhibit binder.

A. I found it. Excuse me. Maybe not. Yes, I do.

Q. You do. Is that a document that starts with the words "David Coke" at the top?

A. Yes.

Q. All right. Same thing?

A. Yes. Thank you.

Q. Is this a document that you reviewed in the course of your work on this case?

A. Yes.

Q. And also on the prior case?

A. Yes.

Q. And is this -- is 396 a document that informed in any way your opinion about outsiders to groups trying to obtain donor lists for other than fundraising purposes?

A. They are sought out and obtained in the previous case, in this case, and here in this particular example, whatever information is left unsecured is made available because of the high political valency of it is made available to the press and disseminated. And as you indicated cannot be -- have the genie be put back into the bottle. But the instance here is with the information from a Coke brothers meeting in which there [15] was a list of donors made available, and it was -- appeared not only publicly but I think this refers -- and I haven't read this for a while -- refers to the Massachusetts Attorney General having this on a Website eventually, if I'm correct about that.

MR. CASTORIA: Your Honor, we'd move 396 into evidence, please.

MR. CALIA: Your Honor, objection to the extent it's submitted for the truth of the matter.

THE COURT: 396 in evidence.

(Exhibit 396 is received.)

BY MR. CASTORIA:

Q. Dr. Schervish, you've done some research, obviously in both cases, and came up with some examples to support your opinion of individuals and organizations that have been targeted. And have you prepared a slide on that subject?

A. Yes, sir.

Q. Can we advance to that slide, please.

A. I think we have --

Q. It's actually two slides. I stand corrected.

Briefly could you describe each of the incidents mentioned on this slide it starts with the "Purge the Bigots."

A. I think this is -- these two slides indicate in [16] general what I was talking about, about the intensification of the harassment and threats that are made to people in regard to taking positions on controversial topics.

The first one refers to the founder of Mozilla, who six years later after Proposition 8 had been proposed, was discovered by his workers to have made a contribution of a thousand dollars, and was forced to resign.

The California Proposition 8 received strong resistance from the Mormon community. And there were e-mails and white powder sent to Mormons both in the local area and in Salt Lake City.

The -- I have to look at one of these, it's not quite -- the example that I gave yesterday, it's documented by the American American Civil Liberties Union about Muslims being killed in their own mosque --

Q. What about the one at the bottom?

A. -- in New York City.

Q. Oh, sorry.

A. And then the -- this is one again in California. I can't -- this is not clear enough for me to read.

Q. Which one are you referring to, Doctor?

A. The New York Times.

Q. Okay. "Marriage Ban Donors Feel Exposed by [17] List"; is that the headline you are referring to?

A. Yes.

Q. All right. Let's turn to the next slide, please.

Are these --

A. Chick-fil-A was part of the -- a gay marriage flack. The owner of the company resisted the gay marriage initiatives and same sex marriage, and he was -- his company was boycotted.

It isn't just on the one side of the political spectrum where all of this takes place. We find that McDonald's -- the American Family Association had a five-month boycott of McDonald's after they found that a company executive had a gay and lesbian business association.

The National Association of -- National Abortion Rights Action League had a threat from -- of violence. And it turns out in that particular instance that the person that threatened them eventually was arrested and convicted for plotting to bomb a abortion clinic, which shows that threats turn into actual actions.

And then the Planned Parenthood had many of its corporate sponsors seek to not be publicly known on

its Website and asked to have their logos removed in the middle of the Planned Parenthood flack.

And Hobby Lobby was very much with the HHS [18] mandate and, again, was a boycott of the company in regard to its request to have an exemption to Secretary Sebelius's regulations.

Q. Dr. Schervish, in your experience what is the effect of incidents like these that you described on donor behavior?

A. Well, they are the public face of what is taking place privately. These are examples that are known publicly. And when confirmed personally and privately in some of the instances that we have talked about and heard from witnesses in this particular case, and in other cases, they confirm and deepen and make real the threats that people have been exposed to.

Q. I'm going to turn to -- you had mentioned the sources you looked at. I'm going to turn to lists of them by type, in the interest of time.

I'm going to read a list of declarations in this case that I understand you have reviewed and then ask you if you did in fact review all of them.

Richard Thompson deposition -- I'm sorry. Declarations. Richard Thompson's two declarations in this case. Francia Morello, F-r-a-n-c-i-a, M-o-r-e-l-l-o. Catherine McMillan. Pamela Geller. Robert Spencer. Melissa, also known as Missy Wood. And Sally Kern. Are those all declarations that you [19] reviewed in your work on this case?

A. Yes.

Q. And then depositions:

A list is Richard Thompson. Francia Morello. Catherine McMillan. Pamela Geller. Robert Spencer. Sally Kern. Thomas Monaghan. And Ray Madoff.

Are those deposition transcripts which you reviewed in your work on this case?

A. Yes.

Q. And there were other materials that you reviewed in the work on this case. I would like you to turn to Exhibit 62, please, in your binder.

THE CLERK: Exhibit 62 is placed before the witness.

THE WITNESS: I have it.

BY MR. CASTORIA:

Q. Do you recognize Exhibit 62, sir?

A. Yes.

Q. Does Exhibit 62 list, in addition to some of the things I mentioned, other sources that you specifically reviewed in your work on this case?

A. Yes.

MR. CASTORIA: Your Honor, we move Exhibit 62 into evidence, please.

MR. CALIA: No objection, Your Honor.

[20] THE COURT: 62 in evidence.

(Exhibit 62 is received.)

BY MR. CASTORIA:

Q. We've already marked and discussed Exhibit 20. I'm not asking you to turn to it or refer to it, but

that was the anonymous letter, handwritten letter, with a \$25 donation.

Is that a document that you reviewed in your work on this case?

A. Yes, it is.

Q. How does Exhibit 20, the letter, inform or affect your conclusions that you've reached in this case?

A. That is very simply a summary of the logic of the case. That one short letter, its rationale for wanting to be contributing, its rationale for wanting not to be known, and its best wishes to the organization. But never to have any fingerprints on the gift is exactly the -- in a small way here the logic that permeates the whole case.

Q. You've also been here through what we've had of the trial so far; is that correct?

A. Yes.

Q. You heard the testimony from the Law Centers two witnesses, Mr. Thompson and Ms. McMillan, correct?

A. Yes.

[21] MR. CALIA: Objection your Honor exceeds the scope of the expert report.

THE COURT: The objection is overruled.

BY MR. CASTORIA:

Q. My question is simply: Did the testimony of those witnesses alter or confirm any of your opinions as stated?

A. They confirmed the intensity of the issue. When you read, it's hard to have missed the intensity in these particular cases, but -- and looking at the exhibits and declaration and depositions. But when you hear them fresh again from a person who has suffered through them, it makes it more poignant and more dramatic and perhaps communicates the feel of the danger of which we are speaking.

Q. You also were here for Representative Sally Kern's testimony, correct?

A. Yes.

Q. And Representative Kern's testimony confirm or alter in any way the opinions that you've stated in this case?

A. I would say they confirmed them in the same way I just mentioned.

Q. Okay. Would you please turn -- I believe it should be in your binder -- to Exhibit 258. 258.

[22] THE CLERK: Exhibit 258 is identified and placed before the witness.

THE WITNESS: Yes.

THE CLERK: Do you have it?

THE WITNESS: Yes. Thank you.

BY MR. CASTORIA:

Q. This was introduced earlier in evidence, and is actually in evidence as an exhibit now. List of California cases in which Thomas More Law Center appeared as counsel.

Do you remember seeing this, sir?

A. Yes.

Q. My question is simply: Looking at this list, how does this conform to your deposition you gave us earlier about controversial causes?

A. Well, the topics that are listed here certainly fit that topic. I give a sociological definition of controversial; meaning there is an intense support and an intense opposition. And that this leads to intense communications either physically or verbally.

Q. In your work on this case, did you interview any of the Law Center's donors?

A. No.

Q. Did you believe it was necessary for you to interview any of the Law Center's donors to reach the [23] conclusions you have in this case?

A. No.

Q. Excuse me just a moment.

You read Mr. Monaghan's deposition?

A. Yes.

Q. How, if at all, did Mr. Monaghan's deposition testimony relate to your opinions in the case?

A. His testimony is indeed -- while I did not interview him for the case, I did read his deposition which expresses his rationale for supporting the Thomas More -- and founding the Thomas More Law Center.

We heard from Mr. Thompson yesterday the two purposes that he suggested to Mr. Monaghan which he carried out; the Thomas More Law Center and the Ave Maria Law School.

These -- the deposition indicates that Mr. Monaghan is very much aware of a purpose that is sincerely religiously held over a long period of time, and understands even what comes back to him not so much through a political lens but has as a religious experience and a religious commitment.

Q. Have you reached an opinion in this case as to whether the Law Center's donors reasonably fear disclosure of the donor list of the Law Center to the California registry?

[24] A. I have.

Q. What was the opinion?

A. I think that they have -- my opinion is that they do have a legitimate and reasonable fear that they will be harassed, intruded upon, if their names are revealed on Schedule B to the Attorney General of California.

Q. Would you turn to Exhibit 292 of the binder, please.

THE CLERK: Exhibit 292 is identified and placed before the witness.

THE WITNESS: I have it, sir.

BY MR. CASTORIA:

Q. Can you identify this document, please.

A. This is a news report, looks like it is from some social media site, in which the Attorney General says that she will not defend Proposition 8 even after it had been passed.

Q. Is this a document that you reviewed in your work on this case?

A. Yes.

Q. And if you'd also would turn to 293, the next exhibit, please.

THE CLERK: Exhibit 293 is identified and placed before the witness.

THE WITNESS: I have it.

[25] BY MR. CASTORIA:

Q. Is 293 also a document that you reviewed in your work on this case?

A. Yes.

Q. And what is Exhibit 293, please.

A. It is a statement from the Attorney General's office in which the Attorney General explains why she is not enforcing Proposition 8.

MR. CASTORIA: Your Honor, we'd move Exhibits 292 and 293 into evidence.

THE COURT: 292 and 293 in evidence.

(Exhibits 292 and 293 are received.)

BY MR. CASTORIA:

Q. And while we're there, would you please turn to 296.

THE CLERK: Exhibit 296 is identified and placed before the witness.

BY MR. CASTORIA:

Q. Please identify document 296.

A. Again, it is from the office of the Attorney General. And talks about how the Attorney General filed an amicus brief in the United States Supreme

Court on behalf of the supporting that the HHS mandate be applied to all organizations.

Q. And did you review and rely upon this document in [26] forming your opinions in this case?

A. Yes.

MR. CASTORIA: Your Honor, we'd move No. 296 into evidence.

THE COURT: 296 in evidence.

(Exhibit 296 is received.)

BY MR. CASTORIA:

Q. Dr. Schervish, looking at the last three documents that you have, do these inform your opinion in any way about the nature of the chilling effect on the Law Center's donors specifically as to the California Attorney General receiving their identities?

A. Yes, it does have an affect on my opinion.

Q. Would you describe that, please.

A. The Attorney General is a -- and currently is in a highly politicized position, enunciating views that are controversial -- deemed controversial. Taking positions that are controversial or deemed controversial, which is the phrase I prefer.

And in this particular case, it is important to note that while people refer to this as the contraceptive mandate, I had previous to being involved with either one of these cases, read Secretary Sebelius's mandate. And contraceptive means all the forms of contraception, not just birth control pills, [27] that are allowed under the healthcare act, the Obama Care

Act. And it includes abortion, it includes abortive birth control methods. It even -- not just the normal notion of birth control that we deem it to be when we talk about contraception. And as such this term contraception does not cover the intensity that is felt by the people that are opposing this and would see this as highly political. It is not just, quote, contraception, that they deem the Attorney General to be opposed to stopping or limiting for certain organizations, but all forms of contraception listed by her.

MR. CALIA: Objection, your Honor. Move to strike. There has been no evidence that Dr. Schervish is qualified to provide a legal opinion in any way.

THE COURT: That motion is denied.

BY MR. CASTORIA:

Q. I'm going to run through a few exhibits --

THE COURT: It is his opinion, Counsel.

MR. CASTORIA: Sorry.

BY MR. CASTORIA:

Q. I'd like to run through a few additional exhibits and then we'll be wrapped up.

Would you please turn to 288, 288 in your exhibit binder.

[28] THE CLERK: 288 is identified and placed before the witness.

THE WITNESS: Yes.

BY MR. CASTORIA:

Q. Is 288 a document that you've reviewed in the course of your work, the Declaration of Melissa Wood?

A. Yes.

Q. And did you rely on that document in forming your opinions?

A. Yes, sir.

Q. And you've heard the story of the Wood family as depicted in the courtroom during the trial?

A. Yes.

MR. CASTORIA: Your Honor, we'd move Exhibit 288 into evidence, please.

MR. CALIA: Objection to the extent it's submitted for the truth of the matter, Your Honor.

THE COURT: 288 in evidence.

(Exhibit 288 is received.)

BY MR. CASTORIA:

Q. Would you please turn to Exhibit 120. I hope you have 120.

THE CLERK: 120 is identified and placed before the witness.

THE WITNESS: If you can help me, please.

[29] THE CLERK: Okay. There we go.

THE WITNESS: Thank you.

Yes, sir.

BY MR. CASTORIA:

Q. Is Exhibit 120 a document that -- I should first say Exhibit 28 is an Facebook post, correct?

A. Yes.

Q. Is Exhibit 120 a document that you reviewed in the course of your work on this case?

A. Yes.

Q. And this is a document that refers to a situation with the Wood family, correct?

A. That is correct.

MR. CASTORIA: Your Honor, we move Exhibit 120 into evidence.

THE COURT: All right. 120 into evidence.

(Exhibit 120 is received.)

BY MR. CASTORIA:

Q. Did you, in the course of your work, read the deposition testimony and declaration of Pamela Geller?

A. Yes.

Q. There's some exhibits I'd like you to look at briefly and tell me if you reviewed and relied on them.

The first of them is 153, a series of -- rather, an e-mail to Ms. Geller.

[30] Do you have that in front of you?

A. Yes. I reviewed this.

Q. You did? Okay. And did it assist in informing your opinion in this case?

A. Yes, it did.

MR. CASTORIA: Your Honor, we'd move Exhibit 153 into evidence.

THE COURT: 153 in evidence.

(Exhibit 153 is received.)

BY MR. CASTORIA:

Q. Please turn to 166.

A. I have it.

Q. Okay. Can you identify what 166 is.

A. This is the fatwa against Ms. Geller.

Q. And is this a document that you reviewed and relied on in reaching your opinions in this case?

A. Yes. It indicates that there is an army of a certain number of individuals in several states, 15 states I see here, in which she -- they have been ordered to attack and kill.

MR. CASTORIA: Your Honor, we'd move Exhibit 166 into evidence.

MR. CALIA: Objection, Your Honor, to the extent that it is submitted for the truth of the matter. It is hearsay.

[31] THE COURT: 166 in evidence.

(Exhibit 166 is received.)

BY MR. CASTORIA:

Q. Please turn to -- I cannot read. 262, please. 262.

A. I have it.

Q. Is this article one that you reviewed in the course of your work on this case?

A. Yes.

Q. And did it inform or assist you in reaching your conclusions?

A. Yes.

Q. And just for the record, please tell us the headline of -- that appears on this document.

A. "ISIS threatens controversial blogger Pamela Geller in message boasting of," quote, "71 trained solders in 15 different states," unquote.

MR. CASTORIA: Your Honor, we'd move Exhibit 262 into evidence.

MR. CALIA: Objection. Hearsay.

THE COURT: 262 in evidence.

(Exhibit 262 is received.)

THE COURT: Hearsay is not what he uses in his opinion, Counsel. It has nothing to do with that. And that's the purpose of its admission --

[32] BY MR. CASTORIA:

Q. Could you please turn --

THE COURT: -- his opinion.

MR. CASTORIA: Sorry, Your Honor.

BY MR. CASTORIA:

Q. Dr. Schervish, could you please turn to 165 and 167. We'll take them together.

A. I have 165 and 167.

Q. Did you review Exhibit 165 in the course of your work on this case?

A. Yes.

Q. And could you please also turn to 167 and tell me, is this a document that you also reviewed and relied upon in your work in this case?

A. Yes.

Q. Both of these, and I'm treating them together, deal with the indictment of defendants Rovinski and Wright for conspiring to assassinate Pamela Geller, among others.

Did you rely on these in your work?

A. Yes.

MR. CASTORIA: Your Honor, we would move 165 and 167 into evidence.

THE COURT: 165 and 167 in evidence.

(Exhibit 165 and 167 are received.)

[33] BY MR. CASTORIA:

Q. Your fifth opinion in your slides had to do with the registry's failure to keep in practice Schedule B's private and the effect that might have on chilling donor contributions.

Do you recall that?

A. Yes.

Q. In forming that opinion, was the basis for that the same as it was in the Americans for Prosperity case?

A. Yes.

Q. And with the exception of Tom Monaghan and that \$25 cash donor who was anonymous, the sources you've relied upon in reaching your conclusions are not donors to the Law Center but clients, correct?

A. There was one donor that was on -- a witness at the previous case, the Americans for Prosperity Foundation case, Mr. Pope.

Q. I stand corrected. I was referring just to the Law Center's donors.

A. Excuse me, sir. Yes. I answer yes to you.

Q. Did Mr. Pope's testimony also influence your conclusions?

A. Yes.

Q. Does it make a difference to you that these other sources that we've been speaking of are clients as [34] opposed to donors?

A. I look at the clients in -- ensconced in -- just overcome in a whirlwind of turmoil. The clients as well as the members of the Law Center staff.

And we have heard about harassment and threats and carrying out of threats. And FBI confirming the threats and so on as being legitimate and reasonable.

If the people that were known, that the donors who made all of this possible were revealed, it is my opinion that they would be attended to with the same kinds, if not greater, harassment and threats as the client and the members of the Thomas More Law Center staff, so that those who generate the possibility of this activity to go on would be deemed even more controversial than the people that have been the clients and the staff. And we have seen what has happened to them.

So 84CRI (phonetic), it would apply to the donors.

Q. Dr. Schervish, one last quick topic. You were deposed in this case, correct?

A. Yes.

Q. You were asked your opinions regarding donor advised funds, weren't you?

A. Yes.

[35] Q. And those questions were posed by the Attorney General's counsel?

A. Yes.

Q. You've prepared a slide about donor advised funds in this case?

A. Yes.

Q. Could we turn to that, please. There it is.

Can you see that slide in front of you, sir?

A. Yes.

Q. I don't know what the orange markings are on the one I'm looking at.

Are you able to read it?

A. Yes. The slides are bleeding.

Q. I'm going to ask you to quickly summarize for me your conclusions regarding how the use of donor advised funds would or would not be appropriate for the majority of the donors to the Thomas More Law Center?

A. It is clear from being a board member for 12 and a half years of a donor-advised fund myself, that there is often a gap between the intention of a check representing a heartfelt gift and the actual reception of it by a charity. It has happened to my gifts. It has happened to the donor of my -- who has supported my research when his check gets lost in Boston College,

because it has to be sent to the trustees of Boston [36] College, and he doesn't know where the check is. Nobody knows where it is. I can't thank him. And the personal relationship gets to such a point he says, Did you get the check? And he shouldn't have to say that.

And so not only that, it just puts another step in between you and the organization which, in my opinion, need not be there unless thoroughly desired to be done.

It doesn't shield the donor entirely from scrutiny because there are dedicated donor-advised funds.

And people will know if you contributed to this donor-advised fund that the gift that you then make to a particular charity from your account would be associated with the purposes of that dedicated donor-advised fund.

There's management fees. You might be able to, in your own foundation, keep money under management, and larger amounts receive lower rates. And so if you could concentrate your management fees, you wouldn't be paying additional management fees by a donor-advised fund. And you can't legally fulfill all of your charitable intent. You cannot fulfill a formal pledge. And you cannot contribute to people internationally -- to organizations internationally, and you cannot, like a foundation can, make a gift to an individual person in need, which you [37] can do through a foundation or directly -- you can't do it directly from your own. You can always contribute, but you don't get a tax deduction. But you can through your foundation.

MR. CASTORIA: Thank you. I have no further questions for the witness.

THE COURT: All right.

Cross-examination?

CROSS-EXAMINATION

BY MR. ZEPEDA:

Q. Good morning, Dr. Schervish. My name is Jose Zepeda. We met before, haven't we?

A. Yes. Good morning, Mr. Zepeda.

Q. I wanted to talk to you a little bit about your background that you discussed at some length with Mr. Castoria.

You do not have training on First Amendment issues, do you?

A. I'm sorry. What issues?

Q. You do not have any training on First Amendment issues?

A. No.

Q. No educational expertise regarding legal concepts?

MR. CASTORIA: Overbroad, Your Honor.

* * * * *

[42] Q. But you didn't meet with any of the Law Center's donors to prepare your expert opinions in this case?

A. No.

Q. Or any potential donors to the Law Center?

A. No.

* * * * *

[43] Q. You have no surveys about donors to the Law Center?

A. Did I survey donors at the Law Center.

Q. Okay.

A. Is that what you're asking?

Q. Yes.

[44] A. No, I haven't.

Q. You did not survey them, and you did not have any surveys --

A. Oh, excuse me. Yes. No, I don't have any surveys about them either.

Q. So you didn't perform any statistical analyses regarding the Law Center's donors?

A. No, sir.

Q. You did not perform any statistical analyses of the donors to the Law Center's purported concerns regarding safety?

A. No.

Q. You did not conduct any random sampling of the Law Center's donors?

A. No.

Q. You also mentioned a study that's called -- that involved 28 intensive interviews with wealth holders.

Does that sound familiar?

A. No. That was the high tech donor study.

Q. And intensive interviews you talked about with Mr. Castoria is a standard practice in sociology, correct?

A. Yes.

Q. You conducted no interviews -- intensive interviews with any of the Law Center's donors?

[45] A. No.

* * * * *

[50] Q. In your review of materials in this case, you did [51] not see any materials indicating that any donor to the Law Center has stopped his or her donations due to the fear of being disclosed?

A. I did not see that.

Q. And you did not see any evidence that any donor to the Law Center has reduced his or her donations for this reason?

A. No.

* * * * *

[54] THE COURT: Objection is sustained.

MR. ZEPEDA: I have no further questions, Your Honor.

THE COURT: Redirect?

MR. CASTORIA: Briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. CASTORIA:

Q. Dr. Schervish, you were asked on cross-examination whether you were aware of any donor who had expressed a concern about his or her safety, words to that effect; is that right?

A. Yes.

Q. You, in fact, had reviewed Exhibit 20, had you not, the handwritten letter from the anonymous donor of the \$25?

A. Yes. That would be an example.

Q. Did that donor express a concern for his or her safety?

A. Yes.

Q. And in terms of your not interviewing Law Center donors as part of your work, was one of your reasons for that concern about invading the privacy of the donors?

MR. CALIA: Objection; leading, your Honor.

THE COURT: The objection is sustained in that form.

[55] BY MR. CASTORIA:

Q. Okay. Let me ask you this: What were your reasons for not conducting interviews of the Law Center's donors?

A. If I were to interview the Law Center's donors, the names would be known to me, and then I would presume -- I would have to testify to whom I had interviewed. And this is what the case is about.

Q. Did you have any concern on the subject of interviewing of the donors as to whether simply the fact of the interview on this subject might create the same type of chill that you've described from the loss of anonymity of the donor?

A. I think for the Thomas More Law Center donors that very well could be the case. Because these are not the usual protected multimillionaire donors that

would have levels of security and acts -- you know, protection from access, protection around communications and media.

So this particular group might become even more aware of the kinds of threats and problems than they are already aware. And it would help create, I'm afraid, a chilling effect on them, which could have been a possibility.

MR. CASTORIA: No further redirect, Your Honor.

* * * * *

[57] Q. In terms of your concerns about maintaining donor anonymity in preparing your expert opinion, isn't it the case that in sociological research there are ways to maintain donor anonymity when conducting surveys?

A. Not only are there ways, they are obligated by university regulations and federal regulations.

Q. And they're fairly commonly used; is that correct?

A. Yes.

[58] Q. You mentioned the double-blind procedure, I believe, yesterday?

A. That is one.

Q. But you did not utilize that in this case?

A. To interview donors?

Q. Yes.

A. I didn't interview donors at all, so...

Q. Okay.

A. So there was no basis for using that.

* * * * *

[61] Louie Castoria speaking.

A. Good afternoon.

Q. Thank you again for testifying from a remote location for us.

Have you received a package of exhibits and have that in front of you in this case?

A. Yes, I have. It is in front of me.

Q. Just as a check, is the first item in that package marked Exhibit 65?

A. Yes, it is.

Q. Well, let's begin with a little identification. Please tell the Court who you are and what you do.

A. I am Robert Spencer. I am a writer and speaker.

Q. What is your current employment?

A. The David Horowitz Freedom Center. American Freedom Defense Initiatives. And Center for Security Policy.

Q. Could you briefly describe the functions of those three organizations?

A. They are all human rights and advocacy organizations designed to raise public awareness about certain key issues.

Q. Can you identify some of those issues?

A. Well, my particular preoccupation is regarding jihad terrorism.

[62] Q. And what is your position at the Horowitz Center?

A. I am the director of their Jihad Watch program.

Q. What is Jihad Watch?

A. Jihad Watch is a news and commentary Website designed to illuminate certain aspects of the terrorism threats that are not sufficiently covered in the mainstream media.

Q. Is the threat you are referring to only international or also domestic?

A. Domestic and international.

Q. And how long have you been affiliated with The Horowitz Center?

A. About ten years.

Q. And the next organization you mentioned was American Freedom Defense Initiatives, if I got the name correct?

A. Yes.

Q. By the way, there is about a second delay between seeing you speak and hearing you speak. So I will try to allow you that second, and please do the same for me as you have been doing. Thank you.

What is your current position with American Freedom Defense Initiative.

A. Vice president.

Q. Who is the president?

[63] A. Pamela Geller.

Q. When was American -- is it all right if I just use AFDI for short?

A. Yes.

Q. When was AFDI founded?

A. 2010.

Q. Who were the founders?

A. Pamela Geller and I.

Q. What is the function of American Freedom Defense Initiative?

A. The American Freedom Defense Initiative is dedicated to defending the freedom of speech, the freedom of conscience, equality of rights of all people before the law and individual rights.

Q. And what is your -- you said you are vice president currently; is that right?

A. Yes.

Q. Has that been your position throughout the time?

A. Yes, it has.

Q. What was the third organization you mentioned, sir?

A. Center for Security Policy.

Q. And what is that, please?

A. That is another organization designed to defend constitutional freedoms and raise awareness about [64] certain threats to those freedoms.

Q. And do these three organizations that you are affiliated with publish materials on the Internet to educate people on these subjects?

A. Yes, they do.

Q. Is that something you personally do?

A. Yes.

Q. What other means do those organizations -- or I should say any of those organizations use to get their message out to the public?

A. Advertising. Public rallies. Conferences. Individual lectures by various affiliates of the organization.

Q. All right. You mentioned advertising. Was there an instance in which the Thomas More Law Center represented you and Ms. Geller with respect to advertising on public properties?

A. I believe so. I believe there was.

Q. Was there a bus case or cases? Does that ring a bell?

A. Yes. We had been denied the right to run our ads in several municipalities and contested those bans on free speech grounds.

Q. And that occurred in court, correct?

A. Yes, it did.

* * * * *

[69] A. Oh, going back many years. I couldn't even pinpoint the first. This has been a backdrop of my professional work for 15 years and more.

Q. Is it fair to say you've had more frequent contacts with the FBI than most people have?

A. Yes. In terms of threats to me, yes. I also used to train FBI agents about the ideology of the terrorists.

Q. Where was that done?

A. That was done all over at various Joint Terrorism Task Force offices and also at the FBI headquarters.

Q. Have you been in communication with the Joint Terrorism Task Force regarding your activities during the last few years?

A. No, not since 2010.

Q. What happened in 2010?

A. Actually it officially happened in 2011, but it was already de facto in place that the current administration decided that they were not going to have any discussion of Islam in counter-terror analysis in connection with terrorism. And so any instructor such as myself who spoke about the Islamic beliefs of the terrorists was no longer welcome.

Q. I would like to move to an event that happened in Garland, Texas. Did you attend an event in Garland, [70] Texas with Ms. Geller?

A. I not only attended, but I was co-organizer of the event.

Q. And was it that prompted you and Ms. Geller to organize the event in Garland, Texas?

A. The event in Garland, Texas was designed to defend the freedom of speech in the face of violent intimidation and threats.

The Charlie Hebdo magazine in France had had its offices attacked, and I believe it was twelve of its employees murdered by Islamic jihades in January 2015, because they drew Muhammad, the prophet of Islam.

We reasoned that in the face of people who are going to kill for drawing Muhammad, you either have to draw Mohammed or you have to surrender your freedom and speech and allow yourself to be bullied and intimidated into silence, and so we thought it was important to take a stand in defense of the freedom of speech and held a Mohammed art exhibit and cartoon contest in Garland on May 3, 2015.

Q. How did you come to choose Garland, Texas as a location?

A. Because right after the massacre in France a Muslim organization held a conference in Garland, Texas "Stand With the Prophet," which we thought was [71] specularly inappropriate and ill advised and especially ill timed coming so soon after the massacre of the cartoonists. It looked like an affirmation of approval for the murder of those cartoonists. And so we thought it would be a good location, therefore, to have it stand for the freedom of speech.

Q. Approximately, if you know, how many attendees were there at your event in Garland?

A. I believe about 250.

Q. And was in fact drawing done by people there of the Prophet Muhammad?

A. No. All the drawing had been done previously. And then we judged the entries and chose a winner, and the winner was presented with the -- the -- the winning check, the check with the prize money at the event.

Q. Were there other art -- was there other art on display during the event?

A. Yes. I had chosen a series of historical representations of Muhammad, many of which had been done by Muslims themselves throughout history, as well as non-Muslims, including a fresco in a church in Florence, Italy, and some Shiite representations of Muhammad from Persia in the 16th century. And those were on display. We had them blown up and attached with explanations, as in any art exhibit, and they were also -- they were [72] displayed alongside some of the entries that we had considered in the final stages of choosing the winner. And so some of the better of the cartoon entries that we had received were displayed along with the classical artwork.

Q. What was your point in displaying the classical artwork?

A. We were trying to show that drawing Mohammed was only a flash point and considered to be a death penalty offense as far as Islamic jihades are concerned only in the current age in order to intimidate the West into discarding the freedom of speech, but that there had been representations of Muhammad that had never offended Muslims or led to mass murder even done by Muslims in the past.

Q. I'd like you to turn your attention, if I may, to Exhibit 65, which would be the first one that's in front of you. And I believe we have delivered exhibit binders for this witness to counsel and to the Court.

Do you have Exhibit 65, sir?

A. Yes, sir.

Q. What is it?

A. It is Declaration of Robert Spencer -- oh, it's my statement, I suppose, in support of the plaintiff in this case.

* * * * *

[74] Q. The fatwa. Okay. And that's the page that has to me the unreadable part in black at the top and then says -- it has "The New Era" in the middle of the page.

Do you see that?

A. Yeah, that says ilaha ila-llah, muhammadur-rasulu-llah (phonetic). There's no God but Allah and Muhammad is his prophet.

Q. Thank you.

How did this document first get to your attention?

A. I saw this when it was originally published on the Internet in early May 2015.

Q. And the text is unfortunately very small on this document.

A. I can read it.

Q. Would you mind reading it for the record, please?

A. "To our brothers and sisters fighting for the sake of Allah, we make duaa" -- that's prayers -- "for you and ask Allah to guide your bullets, terrify your enemies and establish you in the land. As our noble brother in the Philippines said in his bayah, This is the Golden Era. Everyone who believes is running for shahid" -- that's martyrdom.

“The attack by the Islamic State in America is only the beginning of our efforts to establish a wilayah [75] in the heart of our enemy.”

That’s an Islamic’s enclave.

“Our aim was the khanzir” -- that’s pig -- “Pamela Geller and to show her that we don’t care what land she hides in or what sky shields her. We will sent all our alliance to achieve her slaughter. This will heal the hearts of our brothers and disperse the ones behind her. To those who protect her, this will only be your only warning of housing this woman and her circus show. Everyone who houses her events, gives her a platform to spill her filth, are legitimate targets. We have been watching closely who was present at that -- at this event and the shooter of our brothers. We know that the target was protected. Our intention was to show how easy we give our lives for the sake of Allah.

“We have” -- now I can’t make out the number, but it’s I think 71 trained solders in 15 different states ready at our word to attack any target we desire. Out of the 71, yes, trained soldiers 23 have signed up for missions like Sunday. We are increasing in number, bismillah -- I -- I think that says bismillah. But in any case -- or I don’t -- that’s in the name Allah.

“Of the 15 states five we will name. Virginia, Maryland, Illinois, California and Michigan. [76] The disbelievers who shot our brothers think that you” -- something I can’t make out -- “someone untrained. Nay, they gave you their bodies in plain view because we were watching. The next six months will be interesting. To our emir hamoonami, make duaa.” That’s the leader of the believers.

“Make duaa prayers for us and continue your reign. May Allah ennoble your face. May Allah send his peace and blessings upon our Prophet Muhammad and all those who follow until the last day.

(Phonetically) al-haqqah iibraham al’amrikiia.”

Q. That last part is the person’s name, correct?

A. Yes, it is.

Q. Can you identify who that person is?

A. Well, the name means son of Abraham the American. But I do not know who that is. I -- I -- I’m -- happy to say I have not met him.

Q. Who do you understand that person to be? Not his other name he uses, but what position he holds in the organization?

A. I don’t know his position in ISIS. But he is clearly someone who -- he’s an American, and he is interested in carrying out jihad attacks in the United States and is claiming that he has the personnel [77] to do so.

MS. GORDON: Objection, Your Honor. There is no foundation. This is speculation.

THE COURT: The objection is overruled.

BY MR. CASTORIA:

Q. Mr. Spencer, the part that you have read refers to an event occurring. Do you have any understanding as to whether this is your event in Garland, Texas?

A. Yes, that is absolutely certain.

Q. Why do you say --

A. This was issued right after the event. And when he says the khazir Pamela Geller, and we were watching closely who was present at this event. There is no doubt whatsoever that he meant our event May 3rd in Garland, Texas.

Q. So now let's get to what happened in Garland, Texas. We've talked about the art exhibit. What happened in terms of violence occurring?

A. The event had just concluded, and we were beginning actually a television interview, and one of our security men came in and told us that there had been a shooting outside and that they had to get us to a safe room, so they took Ms. Geller and I to a safe room. They took the crowd to another -- a -- a hall within the building and guarded them there until they were able to [78] determine that there were no further threats and that people could exit safely.

Q. Do you know if anyone was killed at the event in Garland, Texas?

A. The shooters, the jihades were killed. Abraham Simpson and Nadir Soofi from Phoenix.

Q. Did police or other authorities report to you whether shots were fired by the jihades at the event?

A. No, I don't believe that they were -- oh, they did, yes, because they wounded a police officer in the ankle I believe it was.

Q. So after the event in Garland, Texas, this document that you've read that includes these Islamic words was posted on the Internet, did you say?

A. Yes, it was.

Q. And before these events were you familiar with Ms. Geller's frequency of being a public speaker on anti-jihad subjects?

A. Yes.

Q. Well, how would you characterize her? As a frequent speaker or an infrequent?

A. Frequent.

Q. Would you say it would be fair to say she was in great demand?

A. Yes.

[79] Q. How did that change after the events in Garland, Texas and the issuance of the fatwa?

A. All her speaking engagements dried up. And, as a matter of fact, I told you earlier that I spoke in Los Angeles at a conference several weeks ago, and Ms. Geller also spoke there and announced to the crowd that this was her first speaking engagement since Garland, because everyone was afraid now to host her.

Q. There are e-mails attached to your declaration. Would you leaf through them. I'm not going to ask you to read them for the record, but leaf through them. And my question will be whether you provided these.

A. Yes, I did.

Q. And do you recall that I asked you to provide examples of some of the e-mail threats you had received?

A. Yes.

Q. Did you produce these e-mails without the redacting from your --

A. Yes, I did.

Q. I wasn't quite finished.

-- from your own records?

A. Yes.

Q. Have you received threats upon your life?

A. Yes.

Q. And what was the most recent?

[80] A. The FBI call several days ago.

Q. If you are able to, please tell me what they communicated to you.

A. They communicated to me that there was -- they had received information about a man in New York City who had mentioned me and Ms. Geller, both by name, intending to kill us. And I asked is this man in custody? And he said, I cannot tell you that. And I asked, do you know where this man is now? And he said, I cannot tell you that.

Ms. Geller subsequently spoke to the same special agent in New York and related to me that they had told her that she -- that he had told her that the man was not in custody and so he could be anywhere.

Q. Did that cause you some concern in terms of your travel for your speaking engagement yesterday?

A. Yes. I notified the organizers of the event last night that there was no telling what could happen and where this man was and that consequently if they wanted to cancel, I would understand. But they increased the police presence and went ahead with the event.

Q. When you travel for speaking engagements do you bring your own security with you?

A. Generally, yes.

Q. And is it also your practice to contact local law [81] enforcement agencies?

A. I don't do that directly. But usually my security man does that when we arrive -- well, actually before we arrive at a city he contacts them and meets with them once we get there.

Q. Would you please turn to Exhibit 66 in the exhibit binder.

A. Got it.

Q. Got it?

A. Yes, sir.

Q. This is a one-page e-mail taken from what you provided. Let me ask you first, is this an e-mail you received?

A. Yes, it is.

Q. And this subject of this, would you just read that for the record, please.

THE COURT: No, I can read.

MR. CASTORIA: Okay. Sorry.

THE COURT: I have the right to read.

MR. CASTORIA: Understood.

Q. Did you consider this e-mail to be a threat to your family members as well as yourself?

A. Yes, sir.

MR. CASTORIA: Your Honor, we would move Exhibit 66 into evidence.

* * * * *

[103] "ANSWER: Yes."

"THE ATTORNEY: Same objections as before.

"ANSWER: Yeah. Yes, it is."

MR. CASTORIA: Any objections now?

MS. GORDON: No.

MR. CASTORIA: Next please.

(The video is played.)

"QUESTION: Let's look at your declaration. And I think it's paragraphs 12, 13, and then continues 14, 15. We're just going to talk about the cartoon drawing conference in Garland.

"So that was -- paragraph 12 -- May 3, 2015?"

"ANSWER: Yes.

"QUESTION: It says it was partially sponsored by AFDI. Who -- were there other sponsors?"

"ANSWER: Jihad Watch sponsored.

Jihad Watch.

"QUESTION: Okay. And it says -- I'm probably not counting right, but I think it's the third sentence: The event in Garland was intended to support free [104] speech, right?"

"ANSWER: Yes.

"QUESTION: Through an art exhibit of depiction of the Prophet throughout the centuries, including ones by devout mainstream Muslim artists. And then

attendees were also invited to exercise their own First Amendment rights by drawing picture of the Prophet.

“ANSWER: Uh-huh.

“QUESTION: So how -- so first of all, what -- what was the -- how did the idea for this event come about. Do you remember?

“ANSWER: Yes. In the wake of the Charlie Hebdo slaughter. Now, three days after that bloodshed Muslim leaders in Texas gathered at the Culwell Center and organized a stand with the Prophet conference in support of the Sharia, in support of the ideology behind the killings in France, which shocked me.

“I mean, if there was ever a time to make a statement then for American Muslim leaders in support of the [105] First Amendment, I would have thought it would have been then. Instead they had an event against Islamophobia, which really in translation was against the freedom of speech. And so we decided to hold an event in the same place in support of freedom of speech.

“We had pieces of artwork, depictions of Muhammad through history the past 1400 years showing that they weren't always killing people in order to enforce this law.

“That now it is being used as a violent. intimidation to submit to and impose the blasphemy laws under the Sharia. So it was a stand for freedom of speech.

“QUESTION: Okay. I see. So if I'm understanding this, it's the link that because there were depictions of Muhammad throughout the ages and they didn't

incite any reaction, you were showing that that's possible?

“ANSWER: Yes.

“QUESTION: Okay. And how about those drawing pictures of Muhammad, what was [106] the idea behind that?

“ANSWER: It was an art contest.

“QUESTION: Was it just meant to be fun?

Or was there --

“ANSWER: It wasn't meant to be fun. It was meant to be serious. We're afraid and we're not -- we won't be cowed by these brutal and extreme laws that we do not adhere to.”

MR. CASTORIA: Any objections?

MS. GORDON: No, none.

MR. CASTORIA: Next please.

(Video is played.)

“QUESTION: So just for the record, you keep pointing. I believe -- so is this gentleman over here the head of your security team?

“ANSWER: He is.

“QUESTION: He's in the room with us.

“ANSWER: He is.

“QUESTION: Okay. And may I ask what his name is.

“ANSWER: Floyd Resnick.

R-E-S-N-I-C-K.

“QUESTION: Okay. And just for the [107] record, Mr. Resnick is in the room with us and that is who Ms. Geller is pointing to when she references the head of her security team. Okay. So as it turned out, unfortunately, the threat was attempted to be carried out that day; is that correct? You want to tell me what happened?

“ANSWER: We held our event, and two jihades traveled a thousand miles and attempted to kill everybody.

“QUESTION: Attempted to kill everybody who was at the event?

“ANSWER: They stormed the doors at 7 o'clock when people were leaving, and they were stopped by law enforcement and by a very able and brave human being they were stopped. It had the best of outcomes, unlike let's say San Bernardino.

“QUESTION: Right.

“ANSWER: Or Chattanooga.

“QUESTION: Because no one was actually --

“ANSWER: Right.

[108] “QUESTION: -- injured.

“ANSWER: And then we found out later they were instructed by ISIS. They were in touch with ISIS, and, you know, we smoked out the cell.

“QUESTION: Sorry. You had smoked out the cell?

“ANSWER: The event had smoked out the cell.

“QUESTION: So how did you find out that they were instructed by.

ISIS?

“ANSWER: That came out in the trial.

“QUESTION: Okay. Do you know what the outcome of trial was?

“ANSWER: I -- we’re waiting for sentencing, if I’m not mistaken.

“QUESTION: And they were convicted.

But now they’re awaiting --

“ANSWER: Right. Well, two were dead. The mastermind who, by the way, had been training with them for well over a year before we even announced our event, they were shooting in the desert and so forth, um, had -- had a plot to blow up [109] the Super Bowl. The point is, had it not been our event, which was very well protected, it would have been a soft -- it would have been a soft target, and the results would have been unimaginable.”

MR. CASTORIA: Any objections?

MS. GORDON: None.

MR. CASTORIA: Next please.

(The video is played.)

“QUESTION: And so the -- the Boston, what you called the Boston beheading, is that what you said?

“ANSWER: It was a beheading plot.

“QUESTION: Okay. Why don’t we talk about that briefly just -- I mean, we could read the declaration, but why don’t you just tell me in your own words what that plot entailed and what happened.

“ANSWER: A group of jihades had plotted to behead me. Usaamah Abdullah Rahim had planed to behead me with two others.

“Now, apparently when one of the Jihadists was making his way to New York, [110] he changed his mind and instead attacked a policeman and he was killed.

“The other two jihadists are currently on trial. And according to the latest testimony -- because it’s ongoing as we speak -- they had been trying to organize beheadings from jail.”

MR. CASTORIA: Next please.

There are about five more, Your Honor.

(The video is played.)

“QUESTION: Okay. Now, we are on page 6, and we are on subparagraph E. Actually, I’d like to go back, I’m sorry, to subparagraph D. So this is still on the previous page, page 5.

You say as the result of the threats against me because of my anti-jihadist advocacy.

So can you explain to me what that means?

“ANSWER: As a result of my work in defense of the freedom of speech and my opposition to jihad, I am no longer free to live freely.

“QUESTION: So am I reading this correctly, are the threats that you [111] received because of your work?

“ANSWER: Yes.

“QUESTION: Because of your work? Okay. Is there any other reason why you received threats besides your work?”

“ANSWER: No.

“QUESTION: Okay. Now we can go on to the next page, subparagraph E. We are on page 6. And I think that we’ve -- we’ve talked about this.

“ANSWER: Uh-huh.

“QUESTION: You say you have not been able to speak at public assemblies.

“ANSWER: No.

“QUESTION: And it says you’ve had four or five appearances scheduled, all of which were canceled.

“ANSWER: Yes.

“QUESTION: And did the organizations who canceled tell you why they

were canceling?”

“ANSWER: The one that was canceled in July in Texas, they had met with the police, and what the policemen [112] were -- were requiring of them in terms of security they couldn’t afford. And the Boston June 18th was also security concerns.”

MR. CASTORIA: Next please.

(The video is played.)

“QUESTION: So can you please read for the record paragraph 8.

“ANSWER: I am submitting this declaration in support of the Thomas More Law Center summary judgement motion in this case. The Thomas More Law

Center provided my organization with legal counsel in a case in Detroit arising from that city's transit authority's refusal to allow print advertisements on its buses that were critical of radical Islamic threats, though they allowed advertisements by other religious and not-for-profit organizations.

“QUESTION: Okay. And is that accurate?”

“ANSWER: Yes, it was the case I was referring to before with Robert Muise.

“QUESTION: I see. And is that -- was [113] Robert Muise working at Thomas More Law Center when this case was brought?”

“ANSWER: Yes. Yes, he was?”

MR. CASTORIA: Okay. Next please.

(The video is played.)

“QUESTION: Have you ever received an email or a threat even outside of the ones that you've compiled that references the Thomas More Law Center?”

“ANSWER: They're directed at me, the threats.

“QUESTION: Have you ever received at all -- so let's talk about the universe of, you know, threats that references IRS Form 990 Schedule B?”

“ANSWER: I don't know what that is.

No.

“QUESTION: Okay.

“ANSWER: But the ISIS fatwa specifically states that anyone that works with me, supports me is targeted for death. So is that indirectly Thomas More Law Center? One could make the case, I guess.”

MS. GORDON: No objection.

(The video is played.)

[114] “QUESTION: So in paragraph 18 of your declaration for page 6, and that references an Exhibit G, you talk about ISIS’s Caliphate United recently posted a list online of over three thousand names and addresses of the most important citizens in New York and other cities. And you said this posting demands of its followers, we want them dead. Shut them down.

“ANSWER: Uh-huh.

“QUESTION: And we can look at Exhibit G, which is on page 54 -- 54.

“ANSWER: Yeah.

“QUESTION: Am I correct that Exhibit G doesn’t actually contain a list?

“ANSWER: No, it doesn’t. And law.

enforcement did not release that list.

“QUESTION: So you haven’t seen that list?

“ANSWER: I have not seen that list.

“QUESTION: So you don’t know who’s on it?

“ANSWER: No.

“QUESTION: Do you have any reason to [115] think you’re on it?

“ANSWERS: I have many reasons to think I’m on it.”

MR. CASTORIA: Okay. Next please.

(The video is played.)

“QUESTION: Let’s go to paragraph 19.

“ANSWER: Yeah.

“QUESTION: So could you please read paragraph 19 into the record.

“ANSWER: ‘I am aware that this lawsuit involves a demand by the California Attorney General to take action against the Thomas More Law Center unless it delivers to the Attorney General the list of its donors that it files in confidence with the IRS.

In my view, that is exactly the kind of list that the jihadists would like to get their hands on directly or through hacking of government electronic records. The chilling effect upon donors to advocacy -- advocacy groups by Thomas More Law Center would be devastating, in my opinion, because formerly anonymous donors would face the [116] threat of reprisals, and potential donors would less likely to take that risk.’

“QUESTION: Did you write this paragraph?

THE ATTORNEY: No, no.

THE ATTORNEY: I’m not asking who wrote it. I’m simply asking if you wrote it.

THE ATTORNEY: Okay.

“ANSWER: I said it. I didn’t physically.

write it down.

“QUESTION: So this is an accurate reflection of your -- of your --

“ANSWER: Of my thoughts, yes.

“QUESTION: Okay. And what’s your basis for saying that this is exactly the kind of list that jihadists would like to get their hands on?

“ANSWER: Because it’s in black and white in the ISIS fatwa that anyone that supports our work will be targeted for death. Giving them a list of donors of who supports the work would be an absolute declaration of support for this kind of work. It would absolutely make them targets.”

MR. CASTORIA: Your Honor, we’ll stop at [117] this point.

MS. GORDON: And actually we object to that as lacking in foundation, no personal knowledge, and improper lay opinion.

THE COURT: The objection is overruled.

MR. CASTORIA: Thank you, Your Honor, for allowing us to show the video clips.

With that, I have one exhibit I believe we identified but did not yet move into evidence, which was Exhibit 252. That was a Form 990 filed by Thomas More Law Center for the year 2012, with a Schedule B redacted.

THE COURT: 252 in evidence.

(Exhibit 262 in evidence.)

MR. CASTORIA: Okay. And with that, and subject to closing argument at the end, plaintiff rests.

THE COURT: All right.

MS. GORDON: Actually, Your Honor, in response we --

THE COURT: I beg your pardon?

MS. GORDON: Right. In response to those video clips, we have just three very short clips from her deposition, since we can’t cross-examine her.

THE COURT: No, not in response. That's your case.

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**Excerpts from Trial Transcript
Day 2, Vol. 2**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE HONORABLE MANUEL L. REAL, U.S.
DISTRICT JUDGE
PRESIDING

THOMAS MORE LAW)	
CENTER,)	
)	
Plaintiff,)	
)	
vs.	)	No. CV 15-3048-R
)	
KAMALA HARRIS,)	
)	
Defendant.)	
_____)	

REPORTER'S TRANSCRIPT OF DAILY TRIAL
PROCEEDINGS

LOS ANGELES, CALIFORNIA

WEDNESDAY, SEPTEMBER 14, 2016

VOLUME II

PAGES 1 - 83

[16] **TANIA IBANEZ, DEFENSE WITNESS,**
SWORN, TESTIFIED:

DIRECT EXAMINATION

BY MS. GORDON:

Q. Good afternoon, Ms. Ibanez.

Ms. Ibanez, could you tell us what you do for a living, please.

[17] A. Yes. I'm an attorney with the state attorney general's office, charitable trust section.

Q. Do you have a title?

A. Yes, my title is senior assistant attorney general.

Q. And how long have you held that position?

A. Little over two years.

Q. How long have you been in the charitable trust section?

A. I started in 2002 as a deputy attorney general.

Q. And in between being a deputy attorney general and senior assistant attorney general, did you have any other roles?

A. Yes. I was also a supervising deputy attorney general.

Q. When did you become a supervising deputy attorney general?

A. I was promoted in February of 2012.

Q. When did you become the senior assistant attorney general?

A. I was promoted January of 2014.

Q. Could you give us, Ms. Ibanez, a very brief overview of what the charitable trust section does, please.

A. The charitable trust section is mandated by the legislature to protect charitable assets, to investigate charitable abuses. The charitable trust section also responsible for the registry of charitable trusts in which charities and trustees and commercial fundraisers and other people that are involved in the whole charity business are required to register and report.

Q. Thank you.

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[22] Q. Do people use that open-door policy?

A. Yes, they do.

Q. How many people currently work for the charitable trust section?

A. In the legal and audit unit there's 23, plus me -- that includes me, and then in the registry of charitable trust section, about 40 employees.

Q. Okay.

Could you just give -- for the legal and audit unit, could you give us a breakdown by function, please.

A. Yes.

I have 11 deputy attorney generals; two supervising deputy attorney generals; seven auditors; one supervising auditor; and two paralegals and me.

Q. Ms. Ibanez, how many charities are there in California?

A. There's probably over 300,000 charities or charitable trustees.

Q. Do you have a breakdown of those charities -- strike that.

Are all of those charities registered with the Registry of Charitable Trusts?

A. The last number that we received was 122,000 charities or charitable trustees were registered with us.

Q. I should have probably asked this first, but what is briefly the registry of charitable trusts?

[23] A. The registry of charitable trusts, which is under me, is basically is in charge of registering charities, registering trustees, registering commercial fundraisers and fundraising counsel. Anything that has to do with the registry -- with charity -- of a charity, whether it be local charity or foreign charity, if they want to solicit donations, they have to register first with the charity -- the registry of charitable trust, and they also have to provide annual reporting.

Q. I think you started to get at this.

What does registration entail?

A. Okay.

I was going to -- I wasn't done yet.

Q. I'm sorry. Please finish.

A. It not only collects the information from the charities and the trustees and the fundraisers, but it also makes that information available to the public at large and with the legal and audit unit.

Q. Okay.

So briefly, can you explain the relationship between the charitable trust section and the registry.

A. The registry collects the information and makes it available to the public, and it also collects the information and makes it available to the legal and the audit unit.

So if we have an investigation or a complaint, the first thing I would do, either as a supervisor or a DAG or a

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[25] Q. What happens if a charity doesn't fulfill all of its registration requirements?

A. They will get several notifications by the registry, they will be listed as delinquent at some point, and if they fail to comply, they may be suspended. Perhaps --

Q. How --

A. -- registration would be suspended.

Q. I see.

How many notifications would they receive?

A. For the suspension?

Q. Before suspension.

A. Usually -- typically it's two delinquency notices and then a suspension notice.

Q. How long does that process take?

A. It takes months.

Q. Who decides what charities the charity trust section is going to investigate?

A. It's a decision that's made by the supervising deputy attorney general and me.

Q. And what is the process for making that decision?

A. Well, we get the complaints, usually from the registry, and then, as a supervising deputy attorney general, they would review the complaint, they would also search the registry's

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[27] Ms. Ibanez, you testified that you would look at the 990 when you get a complaint, including all schedules.

Does that include Schedule B?

A. Yes.

Q. So based on your over 14 years in charitable trusts, could you please explain how -- first of all, what information is provided on Schedule B?

A. Schedule B contains a list of donors that made donations of \$5,000 or two percent grows revenue. It lists the donor; it lists information on the donation type, whether it be cash or gift in kind is donated goods.

Q. And how do you use that information in your work?

MR. CASTORIA: Objection, Your Honor, cumulative of the --

THE COURT: Objection is overruled.

THE WITNESS: Okay.

As a deputy attorney general, I use the Schedule B for -- to evaluate whether or not there was diversion of charitable assets, fiscal abuse; to evaluate whether

the charity was being used as a bypass; to evaluate whether or not the charity was engaging in solicitation fraud; to evaluate whether or not there was reporting violations and the charity [28] was improperly listing gift in kind donations.

As a supervisor, I looked at Schedule Bs routinely in order to evaluate of whether or not we were going to conduct an investigation, and if we we're going to assign the matter for investigation, what areas were we going to pursue; and that role has remained as a senior assistant. I still look at Schedule Bs to evaluate of how we're going to do the investigation, what areas should being explored; and sometimes a Schedule B is also used for a supervisor, as a SAG, to evaluate whether or not a complaint has merit.

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[29] Could you please give, Ms. Ibanez, some specific examples of investigations where you have used Schedule B.

MR. CASTORIA: Your Honor, I do object to this on the basis that it is cumulative of the documents that have been stipulated into evidence through the prior testimony and the evidence --

THE COURT: I don't have that. The objection is overruled.

THE WITNESS: When I was a deputy attorney general, one of the cases that I was assigned that led to litigation was the Cancer Fund Charity litigation that we were involved in, and I used Schedule B in that matter.

BY MS. GORDON:

Q. Can you tell me a little bit just about the cancer case, what was involved in it.

A. We started the investigation in 2010; we filed the lawsuit in 2015 against four charities.

[30] Q. Who is “we”?

A. “We” involved the State of California, plus all 50 states, plus the FT -- FTC, Federal Trade Commission.

Q. Okay.

What was the case about?

A. The case was about a lot of different abuse of practices, from nepotism, to self-dealing transactions, to misuse and diversion of charitable assets, to not even having, really, a charitable program. I think of every dollar that came in, only two percent was used to assist cancer patients and their families; but gift in kind was also a very significant portion of the lieutenant, and basically the charities were all run by the same family, and they were abusing gift in kind to artificially inflate their revenues and expenses.

Q. Ms. Ibanez, can you explain what gift in kind means.

A. Gift in kind is basically -- is a noncash donation. So it could be food; it can be pharmaceuticals; it can be building equipment; it can be clothing. That's considered a gift in kind donation. So it's not cash.

Q. What was the gift in kind element of the Cancer Fund case?

A. The problem with the Cancer Fund cases -- and there were four charities: One was the Cancer Fund of America; Breast Cancer Society; Children's Cancer

Fund of America; and Cancer Support Services; and all of these charities were basically reporting that they had received millions and millions and [31] millions of donations in gift in kind when they were not allowed to report those gifts. It was a reporting violation; they were filing false 990s.

Q. Why weren't they allowed to report those gifts?

A. Well, as part of part of our investigation, when we looked at Schedule Bs of the donating charities -- because that's happens here. You'll have one charity donating gift in kind to another charity. So you have "A" charity donating gift in kind to "B" charity and then "B" charity donating gift in kind -- the same gift in kind to "C" charity, "D" charity and down the line.

And in order to do that, in order to accurately report the gift in kind, the charity that receives it has to have what is known as variance power, and they also have to have the risk and reward power; and the Cancer Fund charities didn't have that. So they never should have booked those donations as donations, and because they falsely reported revenue, they look like they were much more successful in their business endeavors. They looked like they were bringing in millions of dollars in donations, and then the minute they would give those donations to another charity, they looked on paper like they were giving millions of dollars' worth of services. So it's a big scam.

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[36] bodies, and I don't have enough room. I only have 23 people in the legal and audit division, and just this year, we received 523 complaints.

Q. Okay.

Ms. Ibanez, have you ever issued a subpoena?

A. Yes.

Q. How many times?

A. I'm assuming you mean investigation subpoena, not trial or --

Q. I do. Yes. Thank you.

A. Three times.

Q. Why not just subpoena information when you need it?

A. Because it is -- has to go through multiple layers of review. It takes longer, and if the issue is addressing fiscal abuse, you're wasting time while you're trying to get authority to serve the subpoena, the charity could be doing all kinds of things that they shouldn't be doing.

Q. Ms. Ibanez, is the form 990 a public or private document?

A. It's a public document.

Q. How about Schedule B?

A. Depends if you're a private foundation or a public charity.

Q. What if you're a public charity?

A. If you're a public charity, it's a confidential document.

Q. When you say "confidential," what does mean?

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[39] A. This was approved on July 8 by the Office of Administrative Law.

Q. Okay.

So we've been talking about confidentiality, but I think you're aware that there have been times when Schedule Bs have not been kept confidential by the registry, correct?

A. Yes.

Q. And when did you become aware of Schedule Bs being incorrectly housed on the registry website?

MR. CASTORIA: Your Honor, I again object on the basis of this is cumulative of the prior testimony that's already in the record now, and it's essentially relitigating the AFPF case.

MS. GORDON: Your Honor, I have very few questions.

THE COURT: No. Few that are violations, the answer is no. All right.

MS. GORDON: I'm sorry. So?

THE COURT: Sustained.

MS. GORDON: Sustained. Okay.

Q. Ms. Ibanez, since the time of the Americans for Prosperity trial, has your office done anything to address inadvertent disclosures?

A. Yes.

Q. What have you done?

A. We've beefed up the review process by the registry staff.

[40] Q. How have you done that?

A. They are conducting inspections of soft-filed documents to make sure that the proper face sheets are put on Schedule Bs to ensure that they are kept as confidential and scanned as confidential, and so that's basically a manual process, and then they're also doing daily searches through the computer to ensure that no Schedule Bs are improperly uploaded.

Q. What do those searches entail?

MR. CASTORIA: Your Honor, I will object to the remedial measures in that none of them have been disclosed to us in discovery prior to trial.

THE COURT: The objection is sustained.

BY MS. GORDON:

Q. Just one last question, Ms. Ibanez: Are you aware of any inadvertent disclosures to the registry website occurring in 2016?

A. No.

MS. GORDON: Thank you.

I have nothing further.

THE COURT: Cross-examination.

CROSS-EXAMINATION

BY MR. CASTORIA:

Q. Ms. Ibanez, you're -- I should say the attorney general's investigation of the Cancer Fund of America's cases was the subject that came up during the prior case, American's for

* * * * *

[44] assistant, we have to go into the registry. Its computer -- my license, in order to actually read the complaint.

Q. You mentioned a couple of sources that could be bringing complaints to the registry attention.

Did I hear you correctly they could be ex-employees or directors and officers?

A. Yes.

Q. You recall any of the Cancer Fund of America cases where the source of the original complaint was found in a Schedule B of any organization?

A. I believe that most of the complaints that we had for the cancer funds came from their solicitation practices.

Q. And those don't appear on Schedule B, do they?

A. No. That would not be a schedule B-related issue.

Q. Okay.

Do you recall testifying -- and it might have been Ms. Berndt. Strike that.

Do you recall whether the use of Schedule B in the Cancer Fund of America cases commenced five years after the investigation started?

A. I remember looking at Schedule B when I was the DAG assigned to Cancer Fund, and I remember looking at gift in kind schemes where we figured out who was donating what to where.

Q. Ms. Ibanez, you may recall during your deposition I asked questions about any incidents you had in which you would have [45] been -- your status as a

donor to a charity had been made public against your will.

Do you recall that?

A. Yes.

MS. GORDON: Objection, exceeds the scope of direct, irrelevant.

THE COURT: The objection is overruled.

BY MR. CASTORIA:

Q. And what did you, without divulging the donation you made or whom it was to, what happened to you in that instance?

A. Well, one of the things that we investigate is coercive solicitation practices, and that is basically when someone, such as me, donates to a charity and oftentimes their name, their donation amount, the frequency in which they donate and who they donate to, is sold by the charity to other charities; and before you know it, you're inundated with solicitation materials. So our office investigates these practices, but I've also been the victim of these practices. My name, my donation amount, was sold by a few charities, and to this day I get solicitation materials in the mail.

Q. And you're upset by that, aren't you?

A. I don't like it.

Q. Couple of questions. To your knowledge is there any current investigation by the attorney general, including its different sections, against Thomas More Law Center?

[46] A. There is not.

Q. Has anyone to your knowledge made a complaint -- as you've used that term -- of any type against the Thomas More Law Center?

A. No complaints have been received by the Registry of Charitable Trust.

Q. Apart from the fact that the law center has not filed its Schedule Bs together with its form 990s, to the registry, to your knowledge, does the attorney general's office have any issues with the Thomas More Law Center about its compliance with California law?

A. No, I don't have any evidence that the Thomas More Law Center is violating any California statutes other than the Schedule B reporting requirement.

Q. When you do look at a form 990 in your decision-making process about a complaint that has come in, do you look only at Schedule B or at the entire form?

A. I look at the 990 and all of the schedules.

Q. That would include Schedule L about interested-party transactions, correct?

A. If they filed one, yes, I would look at it.

Q. And the financial statements that are enclosed as well, correct?

A. Yes. I would look at all of the schedules, everything.

Q. Is it also your practice to look at the annual filing that [47] the charity makes its annual report, which is accompanied by an audit?

A. You mean the audited financial statements?

Q. Yes, ma'am.

A. Yes. If they're required to file audited financial statements, I would look at them.

Q. Has review of the audited financial statements ever provided to you information about potential misuse of money or gift in kind or any of the other financial irregularities that you've been discussing?

A. Yes. Sometimes there's interesting notes in the audited financial statements. Not all charities are required to file audit and financial statements, only charities that receive over \$2 million in revenue every year. So it's not a resource that I can use with most charities.

Q. Do you recall whether in your review of the Thomas More Law Center's 990 and attached filings in this case, whether the relationship with the law center to Tom Monaghan was disclosed?

A. It's all a blur. I know that I reviewed the 990s for two years; I reviewed the audited financial statements and the deposition, and I don't know if the -- I don't know if Tom Monaghan was reported in the audited financial statements or if that was something I obtained through reviewing the depo.

Q. Ms. Ibanez, is there a document in front of you?

A. No.

* * * * *

[49] THE COURT: The objection is sustained on that question.

MR. CASTORIA: Nothing further, Your Honor.

THE COURT: Redirect?

MS. GORDON: I have nothing further, Your Honor. Thank you Ms. Ibanez.

THE COURT: Ms. Ibanez, was there a complaint which was being investigated when the attorney general demanded the Schedule B from the Thomas More Law Center?

THE WITNESS: No, Your Honor.

THE COURT: Any complaint against the Thomas More Law Center?

THE WITNESS: No. The Schedule B requirement

--

THE COURT: What was the reason for the demands of the Schedule B in the matter of Thomas More Law Center?

THE WITNESS: We demand Schedule B of all charities, not just Thomas More Law Center, Your Honor.

THE COURT: You told me that you looked at Schedule B for complaints from the registry. Was there a complaint in the registry against Thomas More Law Center that required the Thomas More Law Center to provide a Schedule B?

THE WITNESS: The Schedule B has to be filed by all charities, and it doesn't --

THE COURT: No --

[50] THE WITNESS: -- it's not complaint driven, Your Honor.

THE COURT: Would you read the question to the witness.

(Question read.)

THE WITNESS: No.

THE COURT: That's what this lawsuit is all about. You may step down.

THE WITNESS: Thank you.

* * * * *

**[63]JOSEPH ZIMRING; DEFENSE WITNESS,
SWORN, TESTIFIED:**

DIRECT EXAMINATION

BY MS. NGUYEN:

Q. Good afternoon, Mr. Zimring.

A. Good afternoon.

Q. Are you currently employed?

A. I am.

Q. What do you do for work?

A. I am currently employed as a deputy attorney general in the charity and trust section of the California Attorney General's office.

Q. How long have you worked as a deputy attorney general for the charitable trust section?

A. Approximately nine years.

Q. Briefly, can you please tell us your job duties.

A. My primary duties are conducting investigations related to misuse, misappropriation, and diversion of charitable assets and protection of prospective donors from false and misleading [64] charitable solicitations and improper activities by charities soliciting charitable donations.

Q. How much of your time approximately is spent on investigations?

A. It can vary, but the bulk of my time is spent on investigations. I would estimate typically about 75 percent.

Q. And when you conduct your investigations, are there documents that you typically review?

A. Yes. Typically we will review the IRS form 990, its attached schedules, including Schedule B filed by the organization; the annual registration renewal reports; any other documents or filings filed with the attorney general's office; and any supplemental information that may have been provided with a complaint.

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[67] Q. Moving on, Mr. Zimring.

Can you please give us another specific example -- I beg your pardon.

Are there other specific examples that you can share with the worth in which you have used Schedule B in an investigation you have personally conducted?

A. Yes. I was involved in an investigation of an animal rescue organization, an animal sanctuary, that operated in connection with a for-profit entity performing similar functions that was owned by the person who was running the charity.

The allegations were that the charity was misusing assets to subsidize the related for-profit entity.

Q. How did Schedule B assist you with your investigation?

[68] A. In conducting the investigation, we saw payments from the charity to the for-profit entity. The charity claimed that the for-profit entity was subsidizing the charity, and if that was the case, we would have expected to see the nature and amounts of the subsidies being reported by the for-profit foundation listed on the charity's Schedule B reports.

There was nothing from the for-profit business that was disclosed in the Schedule B. So that was inconsistent with the charity's claims that it was being subsidized by the for-profit entity and was more consistent with the information we were seeing that the charitable assets were being misused for the benefit of the related for-profit entity.

Q. Are there other specific examples you could tell us where you used Schedule B for your investigations?

A. Yes. I have an investigation pending of another animal rescue, animal sanctuary organization, related to allegations that the people running the charity were misusing charitable assets, including using charitable assets for their own personal purposes, like first-class trips to Hawaii and travel to Las Vegas and a number of other things.

In response to our investigation, the founders -- the people operating the charity were claiming that any use of the charitable assets were really repayment for funds that had been loaned or advanced to the charity by them, that they were owed. We were not able to find any information that corroborated the [69] amounts that they were saying they were entitled to. We did see in the Schedule B

that members of the family of the people who were running the charity were making donations to the charity, and so that clearly would not have been money that they were entitled to repayment on.

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[73] MR. CASTORIA: Objection, overbroad.

THE COURT: Sustained.

BY MS. NGUYEN:

Q. Do you have an understanding how Schedule B is specifically useful to you in conducting your investigation?

MR. CASTORIA: Same objection, Your Honor.

THE COURT: The objection is sustained.

MS. NGUYEN: Yes, Your Honor.

Q. Going back to specific uses of Schedule B, is there an example without -- keeping in mind the court's admonition that we discuss examples already disclosed to the plaintiff --

THE COURT: Ask him how many times he's used it in the last year.

MS. NGUYEN: Yes, Your Honor.

THE COURT: Schedule B.

BY MS. NGUYEN:

Q. How many times have you used Schedule B in the last year?

A. I don't know that I could quantify it in the last year. My time has been primarily spent litigating a matter in which there were no 990 issues. I know I have some

open investigations in which the Schedule B has been useful, but I can't quantify how many times I've looked at it in the past year specifically.

Q. You just testified that you've -- that you have found Schedule B useful.

* * * * *

[77] but I don't have a specific recollection sitting here.

Q. Thank you.

In your review of -- let me ask a foundational question.

You sometimes review documents that are filed with the registry by a charity in the course of your work, correct?

A. Typically that will be one of the first things we do in evaluating a case to determine whether we're going to conduct an investigation.

Q. Do you also review other forms that a charity files with the attorney general's office, such as its annual registration and audit report?

A. Yes.

Q. Do you review those documents at the same time as the form 990 or separately?

A. Well, the audit reports typically are not filed with our office; so that's something we would have to affirmatively seek out in most cases.

The registration renewal forms are something that we would routinely review.

Q. Where would you go to get the audits reports?

A. The charities are required to maintain them. Some maintain them on-site; some will direct us to their accountants or attorneys.

Q. Do some charities file their annual audit reports together [78] with their annual registration renewals?

A. It's possible.

Q. Do you know whether the Thomas More Law Center has done so?

A. That, I don't know.

Q. So as you sit here today, do you know any fact that is missing from what the attorney general needs to conduct an investigation of the Thomas More Law Center if it looked at both its redacted form 990 without the donor list and also looked at its annual registration and audit report?

A. Well, it would completely depend on the nature of the investigation, and the type of information can vary from investigation to investigation. The information in the form 990, including the Schedule B, is very useful to us in many investigations. There are investigations where it's not sufficient or additional information is needed.

Q. As you sit here today, do you know whether reviewing the information available about Thomas More Law Center in the registry would be sufficient to determine that Tom Monaghan was the founder and initially the funder of the Thomas More Law Center?

MS. NGUYEN: Objection, exceeds the scope of direct.

THE COURT: Objection is overruled.

THE WITNESS: I don't know the answer to that.

MR. CASTORIA: Okay.

[79] Q. You mentioned a couple of specific cases, and I understand you're not -- for matters in investigation, we're not using proper names.

There was one that counsel helped identify as No. 4 in a series of interrogatory responses. That was the one about use of restricted funds and loans listed as contributions.

Do you have that one in mind?

A. I believe so.

Q. And you were at the deputy attorney general on that case?

A. That's an open matter; so I'm still the assigned attorney.

Q. And who is the auditor assigned?

A. Currently I believe it's Martha Gallardo.

Q. How did that investigation -- strike that.

Was that investigation initiated by receipt of a complaint?

A. Yes.

Q. Who was the complainer? Not by name but by description.

A. An insider with the organization.

Q. Is it fair to say that there was nothing about the Schedule B filing of that organization that gave rise to the investigation?

A. The Schedule B, along with the 990, would have been part of the information we used to evaluate the complaint to make the determine to go forward with an investigation.

Q. Understood.

[80] But the complaint came first; is that right, the insider's complaint?

A. Yes.

Q. Did the complainant give the identity of the donor who was involved? I'm not asking for the name, just did they identify the donor?

A. I believe that the complainant did not have the full information of the donor. There was an individual affiliated with the donor, but the donor was identified as a foundation based in the Virgin Islands.

Q. What did the trust section do to determine the identity of the donor?

A. Well, the Schedule B, in part, helped us determine the identity of the significant donor.

Q. Okay.

In part, you said? Did the trust section also ask the complainant who the identity was?

A. Yes.

Q. Did the attorney general's office already have the unredacted Schedule B of the charity at the time it started the investigation?

A. I believe we had unredacted Schedule Bs for a number of years; I don't know if we had them for every year. I think ...

Q. Had you finished your answer?

A. My recollection is we had the unredacted Schedule B for a [81] number of years.

Q. Okay.

And in the rest of the form 990 filings, there's also a Schedule L; is that right?

A. There may be. I don't know. I don't recall if the organization had a Schedule L with every filing.

Q. Okay.

But that's a standard part of a form 990 filing, isn't it?

A. To be honest with you, as I sit here, I don't recall which Schedule L is.

Q. If I say loans to and from interested persons, would that ring a bell?

A. Yes.

Q. And for financial improprieties of the type you're suggesting, isn't it possible Schedule L would reveal the information you were looking for?

A. It's possible Schedule L will provide information related to the loans. There were issues whether or not the organization was providing accurate information, and so there were inconsistencies with Schedule L and other information we had; and that's one of the reasons Schedule B was relevant.

Q. There was one other investigation you mentioned. It was -- turned out it was No. 5 on that list.

The for-profit business that was not on the charity's [82] Schedule B and the relationship with the for-profit business.

Do you remember that one?

A. Yes.

Q. Okay.

You were the deputy attorney general on that?

A. I still am.

Q. Still am.

That's still pending obviously?

A. That is still pending.

Q. Okay. Who initialed -- who initially made the complaint that started that file?

A. My recollection is it was an independent contractor who had been hired by the organization and became aware of some of the information.

Q. Once again, was a Schedule B the source of information that the attorney general or the registry used in even knowing there was there something to investigate, or was it the complaint?

A. My recollection is the complaint would have started us looking at the organization, and then the IRS form 990, including the Schedule B, would have been information we used to evaluate the complaint and make a determination as to whether or not to pursue an investigation.

Q. Have you of personally successfully audited a charity without having its Schedule B?

[83] A. There are organizations who properly are not required to file Schedule Bs depending on the nature of the activities and the nature of the donations, and so my expectation is it's very likely that I would have successfully completed an audit or an investigation of an organization without having a Schedule B, assuming the organization was not required to file one.

Q. Thank you, Mr. Zimring.

I have no further questions for you.

THE COURT: Redirect?

MS. NGUYEN: No redirect, Your Honor. Thank you.

THE COURT: All right. You may step down.

THE WITNESS: Thank you, Your Honor.

THE COURT: Call your next witness.

MR. CALIA: Your Honor, things have proceeded a little more quickly this afternoon than we expected. We're trying to reach our next witness, but I'm not sure how quickly he can be in court. He could be available first thing tomorrow morning, and we will not take too much time with him.

Is that acceptable to the court?

THE COURT: Ten o'clock tomorrow morning.

(Proceedings concluded at 3:33 p.m.)

* * * * *

**Excerpts from Trial Transcript,
Day 3**

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

HONORABLE MANUEL L. REAL
UNITED STATES DISTRICT JUDGE PRESIDING

THOMAS MORE LAW)	
CENTER,)	
)	
PLAINTIFF,)	CERTIFIED COPY
)	
VS.)	CV 14-09448 R
)	
KAMALA HARRIS,)	
)	
DEFENDANT.)	
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TRIAL DAY THREE, MORNING SESSION
REPORTER'S TRANSCRIPT OF PROCEEDINGS
THURSDAY, SEPTEMBER 15, 2016
A.M. SESSION
LOS ANGELES, CALIFORNIA

[5] THE WITNESS: David Edward Eller, E-l-l-e-r.

THE COURT: All right.

DIRECT EXAMINATION

BY MR. CALIA:

Q. Good morning, Mr. Eller. Are you presently employed?

A. Yes, I am.

Q. And what is your position?

A. I am the registrar for the charitable trust registry, State of California.

Q. When did you start in that position?

A. August 17th last year, 2015.

Q. And what do you do as the registrar?

A. I manage the department that receives and takes forms and fees for register ed charities that actively fundraise in the State of California.

Q. What is the purpose of the registry?

A. The purpose is to collect the forms and fees for [6] the organizations, the charitable organizations that are actively fundraising in the State of California.

Q. How many staff does the registry have to complete that function?

A. Approximately 41.

Q. How is that staff organized?

A. They are allocated by the processes of the registry; starting with registration, renewal,

delinquency, raffle, commercial fundraising and complaints.

Q. What does the registration group do?

A. They intake the initial registration materials, which would include the registration form, and then the supplemental documents, such as founding documents, financials, and other materials associated with the organization.

Q. And what does the renewal group do?

A. They process documents as well. The principal document is the renewal form. And then all of the other associated documents, which again could be financials and other materials.

Q. Are there any other documents that are included with the renewal forms?

A. Yes. Federal tax forms 990s, and other associated schedules, all the schedules associated with

* * * * *

[9] A. We have unit meetings. As I mentioned, the processes are broken down into programs so each program [10] has their own meetings which are approximately every two weeks. We go over things that are relevant to that program, so any changes to procedures. We review results. And just make sure that everyone is on the same page as far as the work in progress, the status of our volumes and anything trend-wise that we need to be aware of and improve upon.

Q. When you say you review results, what does that mean?

A. We monitor outcomes as far as quality outcomes go. So we are looking at the timeliness of our work. We are looking at the quality of the output of our work as well. And so we're talking about and reviewing the status of our work as far as the volume and then also the quality result as well.

Q. How many charities are registered with the Registry of Charitable Trusts?

A. An approximation of about 118,000.

Q. Are there other charities who are not registered that the registry has any involvement with?

A. There are exempt charities that are not required to be registered. And then there are also charities that should be registered that are not actively registered.

Q. How many documents does the registry have in its [11] database?

A. Approximately 2 million.

Q. And how many of those documents are confidential?

A. Approximately about 370,000.

Q. Do you play any role in the investigation of charities?

A. No, we do not.

Q. Did there come a time when you learned that Schedule B forms that are supposed to be non-public had been available on the public website?

A. Yes.

Q. And when did that happen?

A. Approximately November of last year.

Q. Did you do anything in response?

A. Yes. Once provided --

MR. CASTORIA: Objection. Pardon me.

Objection, Your Honor, to the extent the witness is testifying regarding events taking place after his testimony in the Americans for Prosperity case, we have not been provided with any documents evidencing these procedures.

THE COURT: Counsel?

MR. CALIA: We don't intend to rely on any documents. I have just a few questions.

THE COURT: We don't go into it then.

* * * * *

[22] Q. As you sit here today, sir, are you aware of any requirement that the registry notify organizations or their donors after a confidential Schedule B has been uploaded to the public-facing website or otherwise disclosed by the registry?

A. I'm aware of our responsibility to notify -- make certain notifications based on the definitions of the data breach.

Q. Okay. And is there a document that requires you to do so?

A. I believe so, yes.

Are you talking about our procedures or are you talking about --

Q. I'm talking about a document.

A. We do have procedures on data breaches, yes.

Q. And is one of those procedures that the registry will notify organizations or donors after a confidential Schedule B has been uploaded or disclosed?

A. It is not specific to Schedule B. It is specific to the definition of a data breach.

Q. Are you aware of any document that requires the imposition of fines or penalties, civil or criminal, against any registry employee who discloses a confidential Schedule B to anyone outside the office of the Attorney General?

[23] A. No, I am not.

Q. Are you aware of any written requirement that sets forth how a data breach of the registry's database is to be remediated?

A. I want to make sure I understand your question. Can you repeat that, please. I just want to make sure I understand it properly.

MR. CASTORIA: Understood.

I'd like to ask for the court reporter to read it back, please, your Honor.

THE COURT: Yes.

(The question was read by the court reporter as requested.)

THE WITNESS: No.

BY MR. CASTORIA:

Q. And likewise, are you aware of any written document that requires that if someone in the registry learns that a confidential Schedule B has been

uploaded or disclosed, that that person make a written report to anyone that the breach has occurred?

A. No.

Q. You mentioned that you review -- correct me if I'm wrong. You review the complaints that come into the registry; is that right?

A. The registry intakes complaints.

* * * * *

[25] A. No. There's people tasked and assigned to the responsibility.

Q. Pardon me. Has anyone tasked or assigned to that responsibility ever communicated to you that a complaint has been made against the Thomas More Law Center?

A. Not since I have been -- I have no knowledge of any complaint against the Thomas More Law Center.

Q. Have you asked anyone at any time who handles complaints in the manner you've described whether they have become aware of any complaints against the Thomas More Law Center?

A. No, I have not.

Q. You mentioned that some financials are filed with the registry by charities, public charities. Could you describe what those are, please.

A. Sure. It could be taxed 990's, 990 forms. Depending on what the nature of the submission is. It could be through the initial registration or through the dissolution. So, for instance, with the dissolution we're looking at the status of funds that remain

within the organization. So these are active reflections of what funds are within the organization, based on the action requested.

Q. Are you aware of any document that requires the registry to undergo a cyber audit at any interval of [26] time?

A. No, I am not.

Q. Has the registry undergone a cyber audit at any time this year?

A. Well, first of all, I'm not sure what the definition of cyber audit is. But I'm not -- I'm not familiar with the term.

Q. You're not.

Let me ask it this way: Has the registry retained any outside expert or organization to conduct an evaluation of the efficacy of the registry's cyber defenses?

A. Not to my knowledge.

Q. Is it a good idea to do that?

A. I don't have a qualified response for that.

Q. Do you think that over 1700 confidential Schedule B's having been unloaded to the public-facing website might be a prompt to have that cyber audit conducted?

MR. CALIA: Objection; argumentative.

THE COURT: The objection is overruled.

THE WITNESS: I think that having good sound practices is very important. And certainly

we've looked to implement stronger controls to ensure proper results.

BY MR. CASTORIA:

Q. And those have not included what I described as a

* * * * *

[30] A. Yes.

Q. And when that has occurred what is your role in response?

A. We have a process defined which requires us to report them for them to be logged, we have a strict response time line that we have to adhere to.

They are then provided to my manager, again Tanya Banyez, who will then assign them out to an attorney for response. They coordinate the response.

Q. Thank you.

Have you been advised of a California Public Records Act request for documents regarding the data breaches that were the subject of the Americans for Prosperity Act case?

A. Once these records -- or once these requests are logged and assigned, our responsibility is to assist with any delivery and coordination of information.

Q. Gotcha. My question though is: Are you personally aware of a Public Records Act request that sought the registry's documents about the data breaches that were the subject of the Americans for Prosperity case?

A. No, I'm not.

Q. As you sit here today, sir, can you guarantee that no confidential Schedule B will ever again be [31] uploaded or otherwise disclosed by the registry?

A. No, I cannot.

MR. CASTORIA: No other questions, Your Honor. Thank you.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. CALIA:

Q. You testified a few moments ago, Mr. Eller, that three individuals received a notification letter. Do you recall that?

A. Yes, I do.

Q. Why did those three individuals receive notification and no others?

A. They met the criteria that's established with our procedure that defines a data breach.

Q. And what were the criteria that they met?

A. Normally it's a combination of a name in conjunction with personal information, which could be medical information, Social Security number, driver's license, bank or credit card information. So something that has a high degree of intrusive threat to an individual's identity.

Q. Do you know what the source of that list of criteria is?

A. I'm sorry. Can you repeat that?

* * * * *

**Excerpts from Trial Transcript,
Day 4**

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

HONORABLE MANUEL L. REAL
UNITED STATES DISTRICT JUDGE PRESIDING

THOMAS MORE LAW)	
CENTER,)	
)	
PLAINTIFF,	)	CERTIFIED COPY
)	
VS.	)	CV 14-09448 R
)	
KAMALA HARRIS,)	
)	
DEFENDANT.)	
-----)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
MONDAY, OCTOBER 31, 2016
A.M. SESSION
LOS ANGELES, CALIFORNIA

[19] The Court has samples of similar abuse and threats from others, including the multiple death threats received and collected by Robert Spencer, Exhibits 65, 66 and 170, another law center client, for his advocacy against radical jihad and the imposition of sharia law in the United States.

The Court heard directly from Mr. Spencer during the trial by remote video.

Mr. Spencer received these negative and harassing communications for his views on an almost daily basis, and has received death threats, including one he learned about from the FBI only a few days before he testified in this trial.

The fatwa of death, Exhibit B to Exhibit 65 in the record, which Mr. Spencer translated and read into the record for our convenience, includes this chilling passage, quote:

To those who protect her -- referring to Pamela Geller -- this will be your only warning of housing this woman and her circus show. Everyone who houses her events gives her a platform to spill her filth are legitimate targets. We have 71 trained soldiers in 15 different states ready at our word to attack any target we desire. Close quote.

Ms. Geller, another law center client [20] against whom ISIS issued the fatwa of death, has twice been targeted with assassination attempts by U.S.-based ISIS operatives. As a result, conferences have cancelled Ms. Geller's speaking engagements or stopped asking her to speak, for fear of what would happen if she appeared. Ms. Geller requires her own private security team for her safety, even at her deposition in this case.

Examples of the hate emails that Ms. Geller has received are in evidence as Exhibit D to Exhibit 76 and as Exhibits 145 to 164.

Ms. Geller testified regarding the law center's Schedule B donor list that it is, and I quote, exactly the kind of list that the jihadist would like to get their hands on directly or through the hacking of government electronic records.

The chilling effect upon donors to advocacy groups like Thomas More Law Center would be devastating, in my opinion, because formerly anonymous donors would face the threat of reprisals, and potential donors would be less likely to take that risk. End of quote.

When asked by the Attorney General's counsel to state the basis for her opinion, Ms. Geller testified, quote, because it's in black and white in the ISIS fatwa anyone who supports our work will be targeted

* * * * *

[27] The designated record abundantly shows the failures of the registry to protect confidential Schedule Bs. I will not burden the record here with all of the evidence Dr. James McClave provided in that case, and through testimony in deposition in this case, of more than 1,700 confidential Schedule Bs mistakenly uploaded through the registry's publicly accessible site.

At trial in this case, Mr. Eller admitted that he learned about that volume of confidential Schedule Bs being exposed through this lawsuit and Americans For Prosperity's lawsuit, although in fairness that was not during his watch.

I would like to briefly address the Fourth Amendment, Your Honor.

There is no justification for the Attorney General's demand that the law center hand its property over to her. Property it could sell to others but does not. Property that she wants but for which she has no need or use.

Her demand for our property, even upon threat of terminating our license, is unwarranted in both meanings of the word attempt to seize the law center's property.

We established through Ms. Ibanez's

* * * * *

[43] As Mr. Castoria mentioned, there was also [44] testimony of the investigations where Mr. Bauman used Schedule B, and there is testimony submitted in the record about the investigations where his team of auditors used Schedule B as well.

Now, these examples are not an exhaustive list, and that's because, as Mr. Castoria said, there is no mechanism for tracking exactly which information is used in evaluating each complaint that comes in.

The testimony is that when a complaint comes in, the first thing the lawyers do is look at the entire file, the Form 990 and all the schedules to determine whether the investigation should go forward, and then depending on the issues to determine what issue should be investigated and how the investigation should proceed.

Now, there's been a suggestion that there are other ways to get this information. That the Attorney

General could issue subpoenas or audit letters. And that is true. There are other ways to get the information. But those ways are not as efficient as having the information in advance. And there's been testimony from Mr. Zimring and others about the cost of getting the information that way. That it can result in delay. That it can cause costs to be incurred on charities who are innocent and not engaging in any

* * * * *

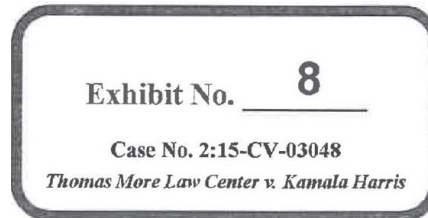
[46] these issues. So that testimony cannot be a good test for determining whether any additional documents are getting through the improved systems later on.

Now, Mr. Castoria said that Mr. Eller testified that he can't guarantee perfection. And we concede that. We admit that there's a possibility for human error to occur. But we submit that the standard is not to obtain perfection, but whether there is a reasonable probability that the law center's Schedule B would be publicly disclosed and that harm would flow from that. From the evidence one cannot draw that conclusion. The evidence, although the number is higher than we would like, is a very small percentage of the total confidential documents stored by the registry, which number in the hundreds of thousands. So it's less than one-tenth of one percent.

And there's testimony from Mr. Eller that he analyzed the pattern of when those documents were uploaded. That the bulk of them happened in 2012 when documents were first being loaded to a computerized system and that rates have gone down since that time.

There's also no evidence that anyone has suffered any harm as a result of those disclosures. And there is evidence that as soon as the registry learned of those disclosures, they were taken down immediately

* * * * *



Schedule B

Schedule B of the 990 contains a list of our major donors (those who donated \$5,000 or more). This list is not open to public inspection, and **must be removed from any copy distributed.**

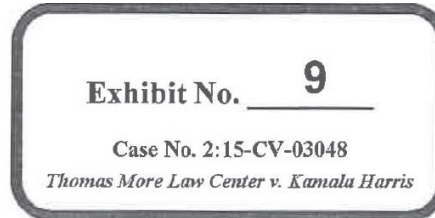
We maintain strict donor confidentiality, and do not share our donor information. The schedule is filed with the IRS, but with no one else. We are involved in a lawsuit in California regarding Schedule B disclosure, so it is even more imperative that our Schedule B remain confidential.

When you receive a copy of the IRS 990 from Len, it will include Schedule B. If it is emailed to you, save it to the tax folder on your drive, and include **NOT FOR PUBLIC INSPECTION** or **CONFIDENTIAL** before the file name. Do not print a copy that includes Schedule B, except for the one you give to Mr. Thompson to sign. You will be mailing copies of the 990 to states for solicitation licenses, so it's best not to have a copy laying around that you could accidentally mail.

If you receive a hard copy from Len place it in a file folder marked **Confidential** and **Not for Public Inspection**, as well as the tax year, and close with a binder clip.

Only you and Mr. Thompson, and Jamie with Mr. Thompson's permission, should be able to view Schedule B. Do not include it in the version given to Fran for review. Redact it from the version emailed to board members, but make them aware that it has been removed to maintain donor confidentiality. If board members wish to view schedule B, they are able to come to our offices to do so.

It cannot be stressed enough that no copy of Schedule B is to be distributed to the public.



Thomas More Law Center Confidentiality Agreement

I, _____, hereby agree, as a condition of my employment and access to Thomas More Law Center (“TMLC”) offices, files, information technology systems, equipment, TMLC client and donor databases, and software, to observe the following rules concerning the confidentiality of TMLC information:

1. I understand and agree that I shall keep confidential and not divulge to any third party unless authorized by the TMLC President, the following information:

TMLC documents containing client information, internal procedures, methods, programs, case files, donor/client lists, budgets, marketing strategies, pending projects and investigations, research and development strategies, litigation strategies, case evaluations, potential new cases, technological data, policies, procedures, names of clients, communications between TMLC employees, as well as communications between TMLC employees and third parties, websites visited, potential news releases, news media contacted,

news stories accessed, and financial records and/or reports.

2. I understand and agree that I shall not permit any third party to access TMLC information or TMLC information technology systems without express permission from the President of TMLC.

3. I understand and agree that I shall not access any file or retrieve any stored communications other than those necessary to the performance of my job duties as assigned by the President of the TMLC, and that such work-related access can take place only after I have received prior and express authorization to do so for the sole purpose of fulfilling my job responsibilities.

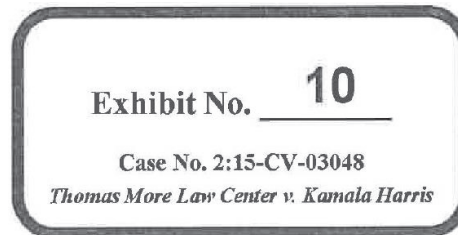
4. I understand and agree that I shall not use for my personal benefit or for the benefit of others any information that I become aware of as a result of my access to TMLC offices, files, information technology systems, equipment, and software.

5. I understand and agree that I shall not divulge any TMLC passwords or access codes to any person.

Proprietary and Client Information, Donor Information, and Forms

6. I understand and agree that all originals and copies of the TMLC client lists, donor lists, client addresses, client files, other client matters and information, TMLC financial and business records and reports, contracts, correspondence, personnel records, information from TMLC client and donor databases, and TMLC office forms shall be, and remain, the property of the TMLC and shall not be

removed by the employee from the TMLC offices nor be used by the employee, before or after his or her termination of employment, without the written consent of the TMLC President.



Fran Morello

From: Fran Morello
Sent: Wednesday, May 06, 2015 10:27 AM
To: Richard Thompson
Subject: Abusive E-mails Deletion

During my employment of 15 years here, I have routinely deleted e-mails sent to info@thomasmore.org that used foul language, such as the F word and other similar vulgarities or demeaning language, such as morons, idiots, assholes.

Exhibit No. 20

Case No. 2:15-CV-03048

Thomas More Law Center v. Kamala Harris

3-28-16

Good Morning

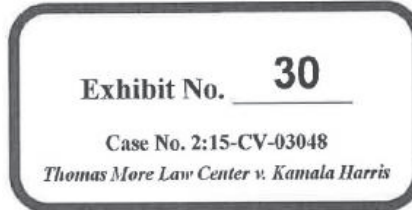
Guess you are wondering why
no donation info. These people
are the enemy (Isis) and would
stop at nothing. Should they
break into your offices, they
could obtain a big list of donors
and then target them, one at
a time.

So we will contribute to your
good work, but no clues as
to who is supporting you. No
finger print, not nothing.

Keep up the good work &
be careful.

Respectively,

XX



M Gmail

Thomas More <tmlc.org@gmail.com>

Fwd: Form submission from: Contact

Thomas More <tmlc.org@gmail.com>

To: cmcmillan@thomasmore.org

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

From: Thomas More Law Center

<info@thomasmore.org>

Date: Sun, Apr 7, 2013 at 12:33 PM


Subject: Form submission from: Contact

To: tmlc.org@gmail.com

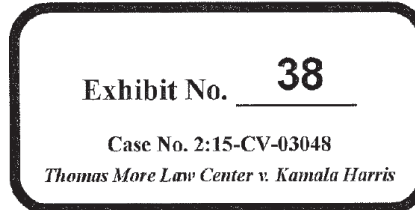
Submitted on Sunday, April 7, 2013 – 12:33

Submitted values are:

First Name	██████████
Last Name	██████████
Address	
City	

State	
Zip	
Work Phone	
Home Phone	
Fax	
Email	
Comments or Questions	thomas more was an asshole , so we know where you all come from

The results of this submission may be viewed at:
<http://www.thomasmore.org/contact/submission/881>



Catherine McMillan

From: WordPress [wordpress@thomasmore.org]
Sent: Thursday, February 18, 2016 10:48 PM
To: tmlc.org@gmail.com
Subject: Form Submission From: Contact

[REDACTED]

First Name: [REDACTED]
Last Name: [REDACTED]
Address: [REDACTED]
City: [REDACTED]
State: [REDACTED]
Zip: 01022

Work Phone:

Home Phone:

Fax:

Email: [REDACTED]

Comments or Questions: DO NOT EVER mail your disgusting junk mail to my home EVER AGAIN! I was revolted and disgusted by your vile and hateful remarks and LIES about our President. You are UN-AMERICAN, disgusting, and hateful. You ought to be ashamed of yourselves for promoting the greed, selfishness and hate that conservatism is about. I

believe that conservatism is VERY EVIL and VERY much against God. You broke at least one of the Ten Commandments with your LIES in your disgusting mail piece to me. I will pray for you that you will one day be like Jimmy Carter and our Pope, who are REAL Christians who follow Jesus' LIBERAL Teachings. I pray daily for the conversion of conservatives away from the evil that has sucked their souls dry, including yours. In the meantime DO NOT mail your filth to me ever again. I Hope that one day you will finally see that Jesus was a liberal and cease to be the evil hate group that you have become. Prayers going up for the conversion of conservatives across America and the world. We will not have peace on earth until conservatism and its evil forces are conquered. Hail Mary, full of grace, the Lord is with thee, blessed art thou amongst women, and blessed is the fruit of thy womb, Jesus. Holy Mary Mother of God pray for us sinners (especially sinners like you) now and at the hour of our death. May Jesus' liberal Christian Teachings allow you to realize that Muslims are human beings too. Christianity has the same roots as Judaism and Islam-Abraham. So PLEASE do not contact me again, and may God heal you of your sad status as a hypocrite and conservative. I know that Christ would throw you out like He did the money changers. YOU ARE NOTHING BUT SELFISH HATEFUL MONEY CHANGERS and that's why I DO NOT want MY name to be associated with your selfish filth. I am disgusted that you would even send me anything. I am a Christian AND a Democrat and I Hope that you will also one day become a true Christian AND A DEMOCRAT. Conservatism is only going to send you straight to HELL unless you ask God to repent and

308

ask for forgiveness. GOOD LUCK YOU WILL NEED IT

This mail is from contact form at <https://www.thomasmore.org/contact/> by [REDACTED]

* * * * *

From: WordPress [wordpress@thomasmore.org]
Sent: Saturday, June 27, 2015 7:55 AM
To: tmlc.org@gmail.com
Subject: Form Submission From: Contact

The AMERICAN PEOPLE

First Name: The
Last Name: AMERICAN PEOPLE
Address:
City:
State:
Zip:
Work Phone:
Home Phone:
Fax:
Email: [REDACTED]

Comments or Questions: The Taliban, ISIS, SHARIA LAW believers, all hold the same principles as your law firm and the GOP. RESPECT your religious rights and FUCK everyone else! Then you'll go have sex with your sister or get your mistress pregnant and ask her to get a secret abortion, and still have the NERVE to dictact to the rest of us, The American People, how to live. GO FUCK YOURSELVES!

This mail is from contact form at <https://www.thomasmore.org/contact/> by The AMERICAN PEOPLE

* * * * *

Membership Enrollment Form
My Gift to Fight the Internal Threat of Radical Islam

To: Richard Thompson, President and Chief Counsel, **CUNT**
 Thomas More Law Center
 24 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48106 ADMA3-USJF

**YOU FUCKING FEAR MONGERING
 PIECE OF
 SHIT**

FUCK YOU!!!

I agree! Just as you've described in your letter, America is facing a grave threat to its very survival by Radical Muslims within our own borders. And it's clear — the Obama Administration and Washington politicians are unwilling to confront this threat. So, it's up to us to take back our country. As a Patriotic American, I am willing to do my part.

**YOU ARE FULL
 OF SHIT**

Here is my tax-deductible contribution of:

\$25 (member) \$50 \$100 \$250 \$500 \$1,000 Other \$ _____

I made my check payable to: **Thomas More Law Center**

Please charge my contribution to my credit card: VISA M/C AMEX DISCOVER

Card Number: _____ Exp: ____/____/____

Signature: _____

IMPORTANT — Please send me updates ("ALERTS") via email.
 My email address is _____

**REMOVE MY
 NAME.**

You may also make a donation by visiting our website at: www.thomasmore.org

As a member, you will receive:

- TMLC Membership Card
- Email updates on pending cases
- Special Alerts via email

Thomas More Law Center is recognized by the IRS as a 501(c)(3) organization.
 Contributions to the Center are tax-deductible to the fullest extent of allowable law.

* * * * *

Membership Enrollment Form
My Gift to Fight the Internal Threat of Radical Islam

To: Richard Thompson, President and Chief Counsel
 Thomas More Law Center
 24 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48106

You are STUPID
 ATMA2-CFI

Remove Obama & Bin Laden from mailing list

Richard: *is a liar + a hypocrite Obama Bin Laden*

I agree! Just as you've described in your letter, America is facing a grave threat to its very survival by Radical Muslims within our own borders. And it's clear — the Obama Administration and Washington politicians are unwilling to confront this threat. So, it's up to us to take back our country. As a Patriotic American, I am willing to do my part.

No I will not support smears against President Obama

Here is my tax-deductible contribution of:

\$25 (member) \$50 \$100 \$250 \$500 \$1,000 Other \$ _____

I made my check payable to: **Thomas More Law Center**

Please charge my contribution to my credit card: VISA M/C AMEX DISCOVER

Card Number: _____ Exp: _____

Signature: *Obama Got Osama*

IMPORTANT — Please send me updates ("ALERTS") via email.

My email address is: *IS IDIOT*

You may also make a donation by visiting our website at: www.thomasmore.org

As a member, you will receive:

- TMLC Membership Card
- Email updates on pending cases
- Special Alerts via email

Thomas More Law Center is recognized by the IRS as a 504(c)(3) organization. Contributions to the Center are tax-deductible to the fullest extent of allowable law.

TMLCPR0D000234

He^x Thompson

May your heart be

healed of the EVIL

forces of conservatism

that is causing you

to lie, to steal (scam

people for donations) and

to promote slander against

Obama who GOT

Bin Laden! POTUS ordered

to kill Bin Laden in a raid

so DON'T YOU DARE lie to
me that he is a Muslim!

* * * * *



Membership Enrollment Form

My Gift to Fight the Internal Threat of Radical Islam

To: Richard Thompson, President and Chief Counsel
Thomas More Law Center
24 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48106

AFMA3-CUSA



Richard:

I agree! Just as you've described in your letter, America is facing a grave threat to its very survival by Radical Muslims within our own borders. And it's clear -- the Obama Administration and Washington politicians are unwilling to confront this threat. So I sign up to us to take back our country. As a Patriotic American, I am willing to do my part.

Here is my tax-deductible contribution of:

\$25 (member) \$50 \$100 \$250 \$500 \$1,000 Other \$ _____

I made my check payable to: Thomas More Law Center

Please charge my contribution to my credit card: VISA M/C AMEX DISCOVER

Card Number: _____ Exp: _____

Signature: _____

IMPORTANT — Please send me updates ("ALERTS") via email.

My email address is: _____

You may also make a donation by visiting our website at: www.thomasmore.org

As a member, you will receive:

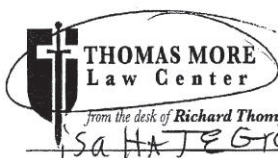
- TMLC Membership Card
- Email updates on pending cases
- Special Alerts via email

Thomas More Law Center is recognized by the IRS as a 501(c)3 organization.
Contributions to the Center are tax-deductible to the fullest extent of allowable law.

TMLCPROD000236

Handwritten: Fuck this!

* * * * *



from the desk of Richard Thompson, Esq.

February 2016

Hypocrite! Jesus would toss you out like the money changers

SHAME!

"Islam isn't in America to be equal to any other faith, but to become dominant. The Koran should be the highest authority in America, and Islam the only accepted religion on Earth."

You have NO HONOR!

probably not true you are breaking one of the 10 commandments

For years you've had to endure the drumbeat by the Obama White House and "politically correct" politicians that "Islam is a religion of peace"...

... even as Islamic Terrorists mercilessly murdered thousands of fellow Americans on our own soil, from the 9/11 attacks, to the Fort Hood massacre and the Boston Marathon bombing.

... even as a Muslim Terrorist shot and killed four Marines and a Navy sailor at a Navy Support Center in Chattanooga, Tennessee.

... and even as fourteen people were recently massacred by Islamic Terrorists at a holiday event in San Bernardino, California.

No one should be surprised by such mayhem. Muslims are explicitly instructed by the Koran "to kill the unbelievers wherever you find them."

Our nation is in grave danger. And I need your help to defend America from the insidious internal threat posed by Radical Muslims.

President Obama, sounding like one of those Islamic clerics threatening America, in a September 2012 United Nations speech, proclaimed:

"The future must not belong to those who slander the prophet of Islam."

Sheikh Yusuf al-Qaradawi of the Muslim Brotherhood told a youth conference in Toledo, Ohio in 1998:

"We will conquer Europe, we will conquer America."

As you probably know, WWII could have been prevented and millions of lives saved if only our leaders had taken more seriously what Hitler wrote in Mein Kampf and said in his speeches.

(Over, please ...) TMLCPROD000237

* * * * *

- Page 5 -

1. *Dar al-Islam*, the house of Islam, made up of adherents to Islam and where Islamic law rules; and
2. *Dar al-Harb*, the house of war, made up of nonbelievers ("infidels") such as Christians and Jews. Moreover, it's incumbent on Dar al-Islam to make war upon Dar al-Harb until all nations submit. And that includes the United States.

The Koran commands: "Fight them until all opposition ends and all submit to Allah." According to Islamic teaching, all people will one day accept Islam or submit to its rule.

The horrible 9/11 attacks were sanctioned by the Koran's mandate to wage Jihad (holy war) against non-Muslims. How can anyone call Islam a religion of peace!

- "War is a blessing for the world and for every nation. It is Allah himself who commands men to wage war and kill."
- Ayatollah Khomeini
- "[D]ismember [the American] nation, tear them apart...destroy their embassies...shoot down their planes...kill them on land, at sea, and in the air. Kill them wherever you find them."
- Islamic cleric Sheikh Omar Abdel-Rahman (The Blind Sheikh)
- Muslims must "destroy those who follow democracy, and we must take their followers as enemies — hate them and wage a great jihad against them."
- Abu Muhammad al-Maqdisi, Palestinian theologian

Yet, political correctness and the fear of being branded a bigot intimidate Washington politicians from telling the truth about Islam's violent theology. So every time a Muslim terrorist strikes on American soil, with few exceptions, they rush to the TV cameras to proclaim that "Islam is a religion of peace."

When Attorney General Eric Holder was questioned by Congressman Lou Barletta (R-Texas) before a House Judiciary Committee, he repeatedly refused to admit the obvious: the Fort Hood shooter, the Christmas bomber, and the Times Square bomber were all inspired to act because of Radical Islam.

And most astonishingly, the President's counterterrorism adviser, John Brennan (now Director of the CIA), during a speech at the Center for Strategic and International Studies, argued that the terms "radicalist" or "jihad" should not be used to describe America's enemies. His reason: Jihad is a holy struggle and a legitimate tenet of Islam.

How can we defeat our enemies if our leader refuses to accurately identify them?

Radical Muslims have been telling us for years that Islam demands holy war against

Handwritten: Rep. Barletta

(Over, please...)

TMLCPROD000241

* * * * *

- Page 6 -

America. And no amount of compromise or accommodation will deter them. That's because it is the religious obligation of Muslims to destroy America.

So your duty as a patriotic American is to engage them head on.

And that's what YOU will be doing by your financial support of the Thomas More Law Center!

Please RUSH the enclosed Membership Enrollment Form with a tax-deductible donation of \$25 or more to become a Member.

Ever since 9/11 we've been fighting against the internal *Jihad* being waged against our nation.

But that's not all. For over a decade, TMLC attorneys have been litigating throughout our nation defending America's Judeo-Christian heritage and moral values, a strong national defense, and an independent and sovereign United States of America. We fight for the religious freedom of Christians, time-honored family values, and the sanctity of human life.

ISIS — The Islamic State

Last year, President Obama referred to ISIS — The Islamic State — as "not Islamic" and a "jayvee team." Today, American military intelligence considers ISIS as the greatest internal threat faced by the United States.

ISIS leaders adhere to the teachings of the Koran and the example of their prophet Muhammad in excruciating wars — beatings, crucifixions, sex-slavery. They are committed to purifying the world by barbaric slaughter of vast numbers of people.

Sheikh Abu Muhammad al Adnani, ISIS's chief spokesman, promised:

"We will conquer your Rome, break your crosses and enslave your women."

According to FBI Director James Comey, the threat posed by ISIS in the U.S. is growing. It is present in all 50 states, and may be recruiting thousands of young Muslim men to commit "lone wolf" terrorist attacks.

THE MUSLIM BROTHERHOOD'S PLAN TO DEFEAT AMERICA

The Muslim Brotherhood controls most major Islamic organizations in America. It is active in over 80 countries around the world, including the United States. And it is the root of most Islamic terrorist organizations. Its goal is to establish a global Islamic State (Caliphate).

In 2008, the Holy Land Foundation, a supposed Muslim "charity," and five of its founders

NO MUSLIMS
but you are LYING ABOUT Obama!

* * * * *

OPAMA & Bin Laden
Nationally renowned radio commentator Dr. Michael Savage of the Savage Nation said this about TMLC:

"The Thomas More Law Center has been effectively fighting the culture war being waged against families by abortionists, pornographers, those against school prayer, those against the Ten Commandments, those against God... they are the only shield we have left in some cases."

And Pat Buchanan, bestselling author and commentator on the culture war, has said this about TMLC:

"The Thomas More Law Center is a crucial element on a crucial front of the Culture War."

It's time for Christians and patriotic Americans to Stand Up and Fight for our survival as a Judeo-Christian nation. I am counting on YOU to become a member of the Thomas More Law Center. If you can send more than \$25 - say \$50 or even more - please do. Your donations are tax-deductible.

For the sake of our children and future generations of Americans, we must not allow "Allah" to replace "God" in our Pledge of Allegiance and in our National Motto.

As a member you'll receive a number of benefits:

- Your own personalized TMLC membership card
- Periodic updates on pending cases via email
- Special Alerts via email
- And most important of all, you'll gain the satisfaction of knowing you are helping America during these dangerous times

Thank you. God Bless you...and God Bless America!

With warm regards,

Richard Thompson, Esq., President and Chief Counsel
Thomas More Law Center

P.S. You and I can't depend on the President and "politically correct" politicians to save our nation from the internal threat of Radical Islam. Islamists are already within our gates engineering America's destruction.

For the future of our children and nation ... HELP ME FIGHT THE THREAT OF RADICAL ISLAM! RUSH the enclosed Membership Enrollment Card with the largest gift you can give right now.

is a good thing. Anyone who was like a father to me said being politically correct is a respect

Handwritten notes: "this is to precisely", "stand up and follow the Commandment", "Racist Lie", "Real Christians", "Unitarian", "Democrat", "Support President Obama", "TMLC PROD 00248"

* * * * *



from the desk of Richard Thompson, Esq.

February 2016

“Islam isn’t in America to be equal to any other faith, but to become dominant. The Koran should be the highest authority in America, and Islam the only accepted religion on Earth.”

Speech to Muslims in California by Omar Ahmad, co-founder of the Council on American Islamic Relations (CAIR)

Dear American Patriot:

For years you’ve had to endure the drumbeat by the Obama White House and “politically correct” politicians that “Islam is a religion of peace” . . .

. . . even as Islamic Terrorists mercilessly murdered thousand of fellow Americans on our own soil, from the 9/11 attacks, to the Fort Hood massacre and the Boston Marathon bombing.

. . . even as a Muslim Terrorist shot and killed four Marines and a Navy sailor at a Navy Support Center in Chattanooga, Tennessee.

. . . and even as fourteen people were recently massacred by Islamic Terrorists at a holiday event in San Bernardino, California.

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Our nation is in grave danger. And I need your help to defend America from the insidious internal threat posed by Radical Muslims.

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“The future must not belong to those who slander the prophet of Islam.”

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“We will conquer Europe, we will conquer America.”

As you probably know, WWII could have been prevented and millions of lives saved if only our leaders had taken more seriously what Hitler wrote in *Mein Kampf* and said in his speeches.

(Over, please . . .)
TMLCPROD000251

* * * * *



Membership Enrollment Form

My Gift to Fight the Internal Threat of Radical Islam

To: Richard Thompson, President and Chief Counsel
Thomas More Law Center
24 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48106

BNMA2-ASCD

Not since 1959
[Redacted]
where the hell do you
get your information?

Richard

I agree! Just as you've described in your letter, America is facing a grave threat to its very survival by Radical Muslims within our own borders. And it's clear — the Obama Administration and Washington politicians are unwilling to confront this threat. So, it's up to us to take back our country. As a Patriotic American, I am willing to do my part.

Here is my tax-deductible contribution of:

\$25 (member) \$50 \$100 \$250 \$500 \$1,000 Other \$ _____

I made my check payable to: **Thomas More Law Center**

Please charge my contribution to my credit card: VISA M/C AMEX DISCOVER

Card Number: _____ Exp: _____

Signature: _____

IMPORTANT — Please send me updates ("ALERTS") via email.

My email address is: _____

You may also make a donation by visiting our website at: www.thomasmore.org

As a member, you will receive:

- TMLC Membership Card
- Email updates on pending cases
- Special Alerts via email

Thomas More Law Center is recognized by the IRS as a 501(c)(3) organization.
Contributions to the Center are tax-deductible to the fullest extent of allowable law.

* * * * *



Membership Enrollment Form

My Gift to Fight the Internal Threat of Radical Islam

To: Richard Thompson, President and Chief Counsel
Thomas More Law Center
24 Frank Lloyd Wright Drive, Ann Arbor, Michigan 48106

BNMA2-ASCD

As a patriotic American I strongly object to your allegation that Pres. Obama is aiding the conquering of America by Muslims - and on your envelope, Richard: no less!! Perhaps your so-called law center should be renamed "The Bigoted Washington politicians are unwilling to confront this threat. So, it's up to us to take back our country. As a Patriotic American I am willing to do my part. and Unreasoning Law Center." Clearly your aim is not concern for our country, but to

Here is my tax-deductible contribution of:

\$25 (member) \$50 \$100 \$250 \$500 \$1,000 Other \$

I made my check payable to: Thomas More Law Center

Please charge my contribution to my credit card: VISA M/C AMEX DISCOVER

Card Number: _____ Exp. _____

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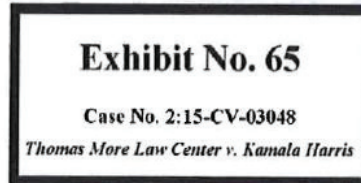
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TMLCPR0D000255



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Attorneys for Plaintiff,
THOMAS MORE LAW CENTER

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

THOMAS MORE LAW
CENTER,

Plaintiff,

vs.

KAMALA HARRIS, in
her Official Capacity as
Attorney General of
California,

Case No. 2:15-cv-03048-
R-FFM

DECLARATION OF
ROBERT SPENCER IN
SUPPORT OF
PLAINTIFF'S MOTION
FOR SUMMARY
JUDGMENT

Date: June 6, 2016

Time: 10:00 a.m.

Courtroom: 8

Defendant. ·	Judge: Hon. Manuel L. Real Action filed: April 23, 2015 Trial Date: June 28, 2016
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I, Robert Spencer, declare as follows:

1. I am an adult citizen of the United States.
2. I make this declaration based upon my personal knowledge and upon verifiable public information and belief, where noted herein.
3. I, along, with Pamela Geller, co-founded the American Freedom Defense Initiative (“AFDI”). I am currently Vice President and Ms. Geller is President.
4. AFDI is a non-profit organization incorporated under the laws of the State of New Hampshire. AFDI is dedicated to freedom of speech, freedom of conscience, freedom of religion, and individual rights. AFDI achieves its objectives through a variety of lawful means, including through the exercise of its right to freedom of speech under the United States Constitution.
5. AFDI exercises its right to freedom of speech and promotes its objectives by, *inter alia*, purchasing advertising space on transit authority property in major cities throughout the United States, including New York City. AFDI purchases this advertising to express its message on current events and public issues.

6. Ms. Geller and I engage in free speech activity through various projects of AFDI.

7. AFDI acts through its website and the existing Atlas Shrugs and Jihad Watch websites.

8. I am submitting this Declaration in support of the Thomas More Law Center's summary judgment motion in this case. The Thomas More Law Center provided my organization with legal counsel in a case in Detroit, arising from that city's transit authority's refusal to allow print advertisements on its buses that were critical of radical Islamic threats, though they allowed advertisements by other religious and not-for-profit organizations. Rather than allow our bus ads to run, the Detroit transit authority enacted a rule, nicknamed "Geller's Law," that prohibits all political advertisements on transit vehicles.

9. In my view, the general media underreport and underestimate the threat that jihadist terror groups, such as ISIS, pose to Americans here at home. I aim to fill this gap in my coverage, through my web site, www.jihadwatch.org. I have also been a frequent public speaker at conferences on anti-terrorism subjects, and through AFDI I have advocated in other ways, such as the public bus advertisements that were the subject of the lawsuit in which the Thomas More Law Center represented AFDI.

10. On May 3, 2015 an event and art exhibit partially sponsored by AFDI was held at the Curtis Culwell Center in Garland, Texas, in protest of the terrorist killings in Paris earlier that year that occurred after the satiric magazine, Charlie Hebdo, published a cartoon of Muhammad, the central figure of Islam. The event in Garland was intended to

support free speech rights through an art contest and exhibit of depictions of Muhammad throughout history, including ones by devout, mainstream Muslim artists. Attendees were also invited to exercise their own First Amendment rights by drawing pictures of Muhammad. As President of AFDI, Pamela Geller's name had been used in promotional materials for the Garland, Texas event.

11. On the day of the Garland event, two ISIS operatives drew their weapons in the parking lot of the event site. I was standing inside beside Ms. Geller when this occurred. Neither she nor I were shot, and the gunmen were killed by police officers on the scene. However, shortly after the event, an American ISIS leader, Abu Ibrahim Al Ameriki, issued a Fatwah—a legal pronouncement binding on his followers—calling for Ms. Geller's assassination. A true, correct, and complete copy of the Fatwah is attached to this Declaration as Exhibit A, and made a part hereof.

12. The Fatwah states, "Our aim was the khanzeer [pig] Pamela Geller and to show her that that we don't care what land she hides in or what sky shields her; we will send our Lions to achieve her slaughter. . . . Everyone who houses her events, gives her a platform to spill her filth are legitimate targets."

13. The Fatwah continues, "We have 71 trained soldiers in 15 different states ready at our word to attack any target we desire. Of the 25 states, 5 we will name: Virginia, Maryland, Illinois, California, and Michigan."

14. The assassination attempt on Ms. Geller in May 2015 and the issuance of the Fatwah threatening harm to anyone who gives her a platform to speak has

had a chilling effect on AFDI. Organizations, event sites and/or venues have canceled speaking engagements since the assassination attempt.

15. Ms. Geller routinely appeared for public speaking engagements at least once a month but has not had one since the attempt on her life in May 2015. It is obvious to me that Ms. Geller's speaking engagements would have continued if it were not for the assassination attempt: I believe organizers are afraid to have Ms. Geller speak due to the Fatwah and the cost of the heightened security required is also a deterrent.

16. As Vice President of AFDI and the founder of jihadwatch.org, I routinely receive threats of violence and death. While I was attending an event in Stuttgart, Germany, I was told by a stranger in the crowd who had somehow infiltrated the site, that "if there weren't so many police here, you'd be dead by now."

17. As a result of the aforementioned threats, I have had to hire my own highly trained and specialized security guards to accompany me when I travel and attend speaking engagements, which is very costly.

18. Based on my experience, anyone who engages in the type of work that I do, such as Pamela Geller and others affiliated with AFDI, receives these kinds of threats. One example is an individual who, on his own volition, made and sold t-shirts for my website. When I met this individual randomly, I learned that the individual abruptly stopped making the shirts because the individual's spouse was worried about the

individual being targeted for jihad. Because of this concern, I will not disclose this person's identity.

19. I have received many hateful and threatening emails sent to me via my website to the email address director@jihadwatch.org. I have also received death threats sent via Twitter and through my website. A sample of these hateful communications are attached hereto as Exhibit B. These include communications that threaten my life and/or the life of Pamela Geller; messages that include hateful and/or obscene comments and insults towards me and/or Ms. Geller, including statements calling Ms. Geller my "whore"; and emails that evidence someone claims to be or is actually stalking me. Some examples include:

- a. An email sent on February 8, 2011, with subject line "Bringing Spencer and GELLER to Justice" that states "You will be brought to Justice The question is only WHEN."
- b. An email sent on February 9, 2011, stating "Killing Spencer and his WHORE would be a priceful action," "His head must be put in a rubbish dustbin," and "SPENCER MUST be killed."
- c. Emails sent on February 9 and 10, 2011, stating "Specner (*sic*) is still at large after tracing him from NEW-YORK yesterday. Can someone tell me where he lives then I will show him his ability;" "Can you tell me where your location is: in New York. I ve (*sic*) just arrived from Nevada. I need to tell me (*sic*) your address;" and "Mr (*sic*) Spencer Why dont (*sic*) you still not telling me a location to meet you right away. I would treat you like a GOAT. No

matter what will the FBI say but I am sure that I would give you what you deserve. Where is your WHORE as well. NEW York ... New YORK ... Tell me the location. Washington Park, or near manhattan (*sic*). I will try to trace you.”

- d. An email sent on February 13, 2011 with the subject “Does Spencer have Loved friends or Families,” stating “Spencer must pay heavy price for the Deeds he handles. Does He have Kids and beloved Family.”
- e. An email sent on February 14, 2011 stating “Wether (*sic*) you call the FBI or law enforcement They will not.be able to stop me. 1) they know that you are a Bigot and hatermonger and 2) They cant (*sic*) do that to me . . . I am the one who will end your operations. I will Slaughter you like a HENI am not joking and No body Only GOD can prevent that. I am on my way to you Just it is a matter of time and tacing you (*sic*). If I meet you I am sure If (*sic*) I will spend next 200 years in Prison I will not Miss you and I know how coward you are.”
- f. An email sent on April 7, 2011 stating “I was thinking to CUT your head with AXE...” and an email sent on May 16, 2011, stating “Occupation will END, Geller and Spencer WILL DIE.”
- g. A twitter notification on September 23, 2011 that states “your death @DieEarlyNow is now following you (@jihadwatchRS).”

- h. An email sent on December 24, 2012, stating “your (*sic*) the biggest prick I have had the misfortunes to read on and watch, you are the problem not the Muslims it’s people like you, may the curse of god be on you and you die a slow and painful death. Ameen (*sic*).”
- i. An email sent on December 25, 2012, stating “3 HOURS I WILL KILL YOU FUCKER,”
- j. Some of the death threats are very specific, including a recent comment on my website posted on February 25, 2016, stating “Robert spencer (*sic*) will be DEAD before August 2016 it will be brutal.”

20. I am aware that this lawsuit involves a demand by the California Attorney General to take actions against the Thomas More Law Center unless it delivers to the Attorney General the list of its donors that it files in confidence with the IRS. In my view, that is exactly the kind of list that the jihadists would like to have access to, directly or through hacking of government electronic records. It is my opinion that the chilling effect upon donors to advocacy groups like Thomas More Law Center would be devastating, because formerly anonymous donors would face the threat of reprisals and potential donors would be less likely to take that risk.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information, knowledge and belief, and that this declaration was executed in New York, New York, on May 4, 2016.



Robert Spencer

EXHIBIT A



Bismillah Ar Rahman Ar Raheem

“The New Era”

To our brothers and sisters fighting for the sake of Allah, we make duaa for you and ask Allah to guide your bullets, terrify your enemies and establish you in the Land. As our noble brother in the Philippines said in his bayah, This is the Golden Era, everyone who believes. . . is running for shahid”

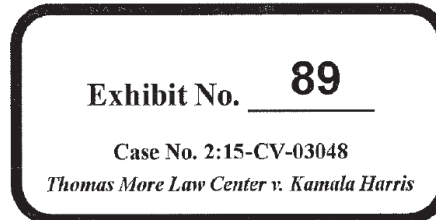
The attack by the Islamic State in America is only the beginning of our efforts to establish a wilayah in the heart of our enemy. Our aim was the khanzeer Pamela Geller and to show her that we don't care what land she hides in or what sky shields her, we will send all our Lions to achieve her slaughter. This will heal the hearts of our brothers and disperse the ones behind her. To those who protect her this will be your only warning of housing this woman and her circus show. Everyone who houses her events, gives her a platform to spill her filth are legitimate targets. We have been watching closely who was present at this event and the shooter of our brothers. We knew that the target was protected. Our intention was to show how easy we give our lives for the sake of Allah.

We have 71 trained soldiers in 15 different states ready at our word to attack any target we desire. Out of the 71 trained soldiers 23 have signed up for missions like Sunday. We are increasing in number bismillah. Of the 15 states, 5 we will name . . . Virginia, Maryland, Illinois, California, and Michigan. The disbelievers who shot our brothers think that you killed someone untrained, nay, they gave you their bodies in plain view because we were watching.

The next six months will be interesting. To our emir hamoonami, make duaa prayers for us and continue your reign. May Allah enable your face.

May Allah send His peace and blessings upon our Prophet Muhammad and all those who follow until the last Day.

Abu Ibrahim Al Ameriki



Sally Kern

From:
Sent: Saturday, March 08, 2008 6:27 PM
To: Sally Kern
Subject: so
Follow Up Flag: Follow up
Flag Status: Red

I heard what you said and you should be killed you stupid cunt bitch! along with George W. Bush! Christianity is the cancer in our society and should be eliminated!

Sally Kern

From:
Sent: Sunday, March 09, 2008 8:55 PM
To: Sally Kern
Subject: SALLY KERN, YOU ARE A DUMB CUNT

Follow Up Flat: Follow up
Flag Status: Purple

open this website you dumb whore:

<http://www.crooksandliars.com/2008/03/09/oklahoma-state-rep-goes-on-anti-gay-tirade/>

then read the comments below. How are such redneck whores like you ever elected? God damn, I was never aware that there were such dumb cunts in this world.

I sure do hope and pray that you rot in hell,

sincerely,



Sally Kern

From:

Sent: Sunday, March 09, 2008 11:25 PM

To: Sally Kern

Subject: FUCK YOU BITCH!

Follow Up Flag: Follow up

Flag Status: Purple

Sally, you're a shithead from hell and NOW everyone knows what a moronic, homophobic idiot you are.

BUSTED YOU LOOSE TWAT WHORE!

Sally Kern

From: [REDACTED]
To: [REDACTED]
Sent: Sunday, March 09, 2008 2:00 PM
Subject: You ignorant, bigotted cunt

Why don't you do the world a favor and kill yourself, you failed abortion.

The reason this country is so incredibly f*cked up is because of knuckledragging, mouthbreathers like you.

Crawl back under your rock with your 'bible' and wait for the rapture.

Stupid cunt.

Sally Kern

From: [REDACTED]
Sent: Sunday, March 09, 2008 6:45 PM
To: Sally Kern
Subject: Dear Sally Kern

I sincerely hope you die a slow, horrible death due to breast cancer. That is the only thing befitting such a pathetic human being such as yourself.

Sincerely,

[REDACTED]

Toronto (land of gay rights and gay marriage) Canada. Oh yeah and we're not in 3 trillion dollars debt, either, unlike some countries . . .

Sally Kern

From:
Sent: Saturday, March 08, 2008 5:37 PM
To: Sally Kern
Subject: Dear Sally
Follow Up Flag: Follow up
Flag Status: Red

I was disgusted in your hate speech. You should be ashamed of your self. Do the world a favor and jump off a cliff with all your other hate mongering friends you fat ugly bitch.

Sally Kern

From:
Sent: Saturday, March 08, 2008 4:44 PM
To: Sally Kern
Subject: Hey

Dear Ignorant homophobe. . . I pray to Baby Jeebus that you find nothing but misery and pain in your life. Do everyone a favor and just drop dead, you ugly hag.

Sally Kern

From:
Sent: Saturday, March 08, 2008 4:59 AM
To: Sally Kern
Subject: You are a vile, subhuman excuse for a person
Follow Up Flag: Follow up
Flag Status: Red

I hope you get hit by a truck. There's a special place in hell reserved you. I have great faith in that!

Sally Kern

From:
To: [REDACTED]
Sent: Sunday, March 09, 2008 2:30 PM
Subject: People like you disgust me

Dear Ms. Kern,

Please clean the sand out of your vagina.

Dearest Regards,

[REDACTED]

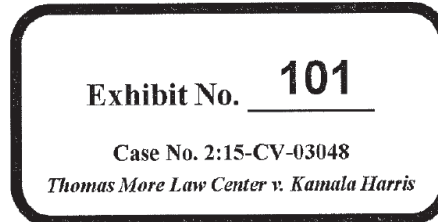
Sally Kern

From:
To: [REDACTED]
Sent: Sunday, March 09, 2008 2:01 PM
Subject: Concerning your speech.

You're honestly comparing gays to cancer? You honestly think that homosexuality is a greater threat than terrorism? How someone as petulant and vile as yourself got elected to office, I will never understand. You arguments are unfounded and puerile. You think there's some cadre of gay banditos, running around the country and magically turning innocent christian boys and girls into sinful homosexuals? Please. If your god would condemn these people just because of their sexual affiliation, then guess what.

Your god is a fucking asshole.

Just like you.



BUTZEL LONG
ATTORNEYS AND COUNSELORS

a professional corporation

Paul R. Fransway
734 213 3268
fransway@butzel.com

Stoneridge West Bldg.
41000 Woodward Ave.
Bloomfield Hills, MI 48304
T: 246 258 1616 F: 248 258 1439
Butzel.com

April 11, 2012

Via First Class Mail

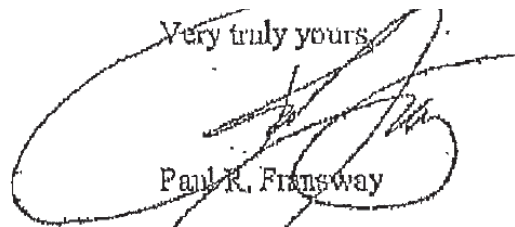
Kim Lewin
Office Technician
Registry of Charitable Trusts
1300 I Street
P.O. Box 903477
Sacramento, CA 94203-4470

Re: Thomas More Law Center
CT File Number 118144

Dear Ms. Lewin;

We have been retained by the Thomas More Law Center of Ann Arbor, Michigan with regard to your request for Schedule B of Form 990. Please communicate with this office exclusively in the future regarding this request and issue.

Please provide the legal authority you rely upon in order to demand release of this schedule. As you know, this schedule contains confidential information. As I am sure you are also aware, this schedule has not been routinely demanded from either the Thomas More Law Center or many of the tax exempt organizations filing Form 990 with your office.

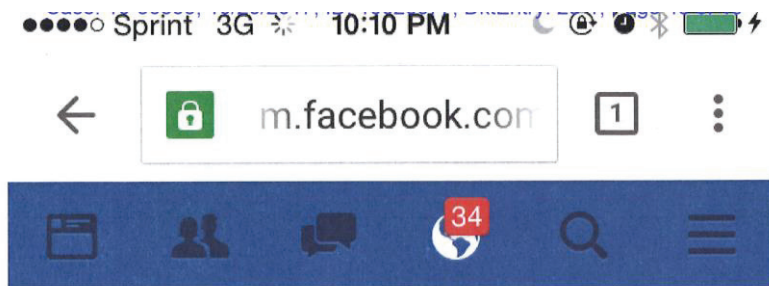
Very truly yours,

Paul R. Frisway

PRF/ms

cc: Thomas More Law Center

Exhibit No. 120

Case No. 2:15-CV-03048

Thomas More Law Center v. Kamala Harris**Dong Sharpton Zhao****Dong Sharpton Zhao**

You racist I go to la plata, I DARE you to come here and make a threat again. I seen your daughter Melissa before. Ill stab her stomach to leave a hole and then hang a hook inside her and hang her from a tree. The brown skin man has killed your friends, racist americunt. I'll find you in la plata and stab your body open and piss in it in front of your pathetic racist kids! Long live Asians, kill racist whites. Kill the marines. Jokes on you, racist.

May 28, 2015 · Sent from Web

340



Dong Sharpton Zhao

Your blonde wife comes to my house

Jun 1, 2015 · Sent from Web

Exhibit No. **165**

Case No. 2:15-CV-03048

Thomas More Law Center v. Kamala Harris

“Well-known ISIS operative instructed Americans to kill organizer of Muhammad cartoon contest, prosecutors reveal,” By Adam Goldman, Washington Post, April 21, 2016:

The Justice Department on Thursday revealed that a well-known Islamic State operative instructed a Boston-area man to kill Pamela Geller, the organizer of a controversial Muhammad cartoon contest in Texas last year.

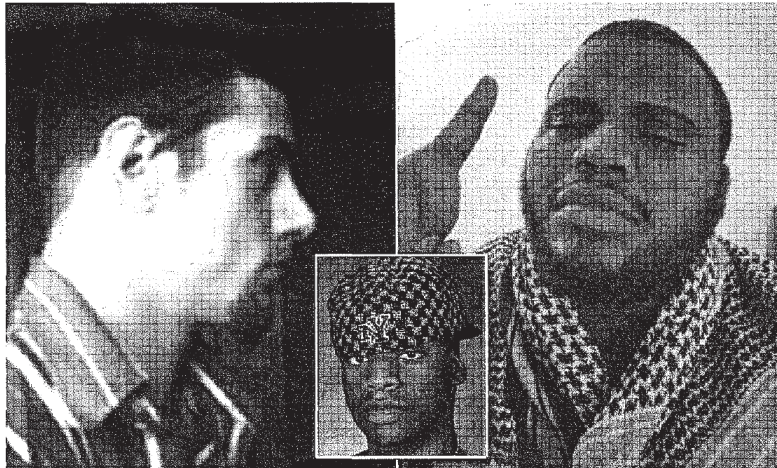
In court documents, prosecutors said that Junaid Hussain, a British militant, had been communicating with Usaamah Abdullah Rahim, 26, who along with two friends discussed beheading Geller.

Rahim, however, changed his mind and instead decided to target a police officer. He was shot and killed in June 2015 in Roslindale, Mass., after he attacked members of an FBI-led surveillance team while wielding a large knife, officials said.

[Boston terrorism suspect had planned to attack police officers, FBI says]

Hussain, 21, was killed in Raqqa, Syria, in August 2015 in a drone strike. He was a well-known militant involved in not only spreading Islamic State propaganda but also recruiting and planning attacks, officials said.

FBI Director James B. Comey has said previously that a Phoenix man who tried to attack the Muhammad cartoon contest in Texas was trading encrypted messages with an Islamic State operative. A senior U.S law enforcement official, speaking on the condition of anonymity to discuss the case, declined to identify that operative but said it was not Hussain. Another official described the person as a member of the group's unit that runs external operations.



Prosecutors said Rahim, along with two associates, Nicholas Alexander Rovinski, 25, of Warwick, R.I., and his nephew, David Wright, 26, of Everett, Mass., began **plotting a terror operation in the United States in early 2015.**

According to the Justice Department, Wright in March 2015 drafted organizational documents for a **“Martyrdom Operations Cell”** and conducted Internet searches about firearms, tranquilizers and the establishment of secret militias in the United States. Rovinski conducted research on **weapons**

that could be used to behead people, the authorities said.

[Two men in Boston charged with planning to aid Islamic State]

Prosecutors said **Hussain communicated directly with Rahim, who then communicated instructions to the other conspirators to kill Geller in New York, where she lives. They planned to kill her around the July 4 holiday, court documents show.**

The FBI was closely monitoring the men, officials said, and would have arrested them had they tried to travel to New York.

After Rahim's death, prosecutors charged Rovinski and Wright with conspiracy to provide material support to a terrorist organization. Prosecutors also revealed that Rovinski has written letters to Wright from prison **"discussing ways to take down the U.S. government and decapitate non-believers."** **Rovinski also pledged his allegiance to the leader of the Islamic State, according to court documents.**

On Thursday, Rovinski and Wright were also charged in a superseding indictment with conspiracy to commit acts of terrorism transcending national boundaries.

Yours in liberty,

Pamela Geller

President, American Freedom Defense Initiative

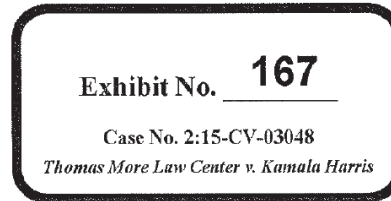
Editor, Publisher, AtlasShrugs.com

Pamela Geller on Facebook

@PamelaGeller on Twitter

American Freedom Defense Initiative is dedicated to freedom of speech, freedom of conscience, individual rights and equality for all before the law.





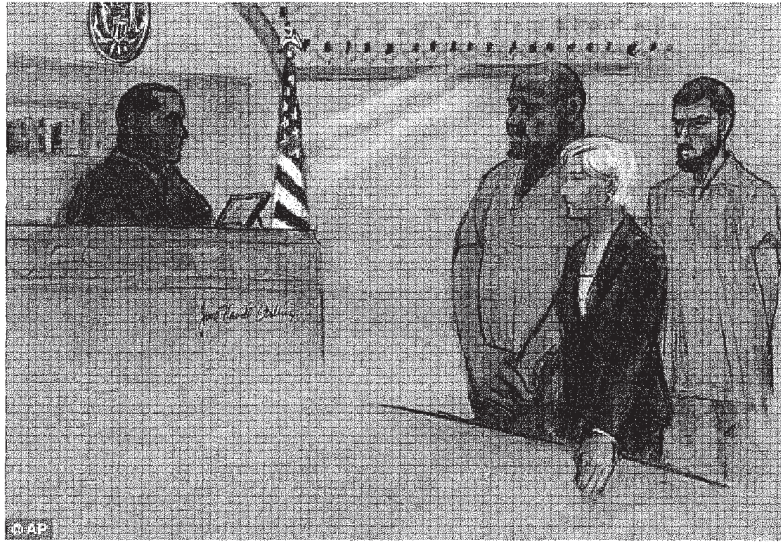
“New England ISIS suspect ‘tried to organize beheadings of non-believers from behind bars’ while awaiting terror charges,” By Darren Boyle for MailOnline, April, 22, 2016:

Nicholas Rovinski and David Wright are both facing several terror charges Prosecutors claim Rovinski continued his terror plotting from inside jail The pair allegedly targeted prominent conservative blogger Pamela Geller Rovinski and Wright have both pleaded not guilty to multiple charges

A New England ISIS suspect tried to organise the beheadings of ‘non-believers’ from inside jail while awaiting trial on terror charges, prosecutors claim.

Nicholas Rovinski of Warwick, Rhode Island and his co-accused David Wright of Everett, Massachusetts were arrested and charged in June 2015 with providing material support to ISIS.

However, following a hearing at US District Court in Boston on Thursday, the pair were also charged with plotting to kill conservative blogger Pamela Geller.



Nicholas Rovinski, right, and David Wright, second left, are both facing terror charges in Boston having been accused of plotting to decapitate 'non-believers' including conservative blogger Pamela Geller

Pamela Geller, pictured, was allegedly targeted because she organised a 'Draw Mohammad' competition



Pamela Geller, pictured, was allegedly targeted because she organised a 'Draw Mohammad' competition

Prosecutors allege Rovinski and Wright received instructions from a foreign-based ISIS recruiter.

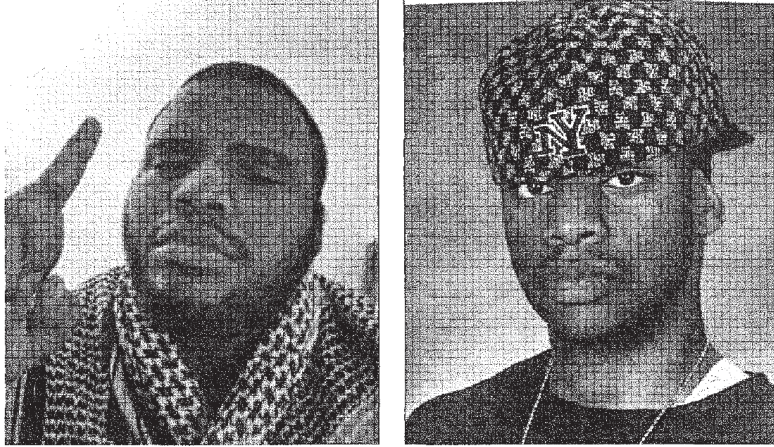
Rovinski and Wright both pleaded not guilty to the terrorism charges.

The court heard the pair allegedly plotted with Wright's uncle Usaamah Rahim to behead blogger Pamela Geller, who is known for provoking Muslims. The plot was not carried out.

Thursday's indictment says ISIS recruiter and hacker Junaid Hussain communicated instructions about the plot directly to Rahim from overseas in May 2015. It says Rahim then told his nephew.

Hussain was killed in a US drone strike in Syria in August. The US military has said Hussain had been recruiting sympathizers in the West to carry out lone-wolf terrorist attacks.

Rahim was killed June 2 by investigators who say he lunged at them with a knife when they approached him in Boston.



Prosecutors allege that Wright, left, and Rovinski plotted with Wright's uncle Usaamah Rahim, right, to decapitate Geller. Rahim has shot dead by the FBI on June 2 after he threatened to stab agents with a knife

According to the indictment, even from jail, Rovinski has tried to recruit people to help carry out plans for violent attacks in the United States, including to decapitate non-believers.

Geller last year organized a Prophet Muhammad cartoon contest that ended in gunfire in Garland, Texas, with two Muslim gunmen shot to death by police. She has spearheaded scores of events across the nation to decry Islamic extremism.

According to the new indictment, **Rovinski has continued to support Islamic State while in jail by trying to recruit others to 'decapitate non-believers' and take down the U.S. government and by writing a new pledge of support to the group's leader, Abu Bakr al-Baghdadi, on the back of his own criminal complaint.**

Rovinski and Wright pleaded not guilty to the original charge of conspiring to provide material support to a designated terrorist organization after they were arrested in June, and they were due to face trial in February 2017.



Rovinski and Wright are believed to have been in contact with British jihadi Junaid Hussain who was killed in a US drone strike in Syria in August. Hussain was believed to be the leader of the CyberCaliphate

According to the new indictment, Rovinski and Wright plotted their attacks with Wright's uncle, Usaamah Abdullah Rahim, who was shot dead by law enforcement officers last June when Boston police and agents for the Federal Bureau of Investigation approached him and he threatened them with a knife.

The indictment accused Rahim of beginning communication one month before he was shot with a British member of Islamic State, Junaid Hussain. Hussain was believed by government sources to be the leader of CyberCaliphate, a hacking group that last year attacked a Twitter account belonging to the Pentagon.

The indictment said **Hussain gave Rahim instructions that Rahim passed on to Wright about targeting individuals such as Pamela Geller, organizer of a ‘Draw Mohammad’ cartoon competition in Garland, Texas, that was attacked by two gunmen last May.**

Hussain was killed in a US drone strike in Syria last August.

Wright has pleaded not guilty to charges he alone faced of obstructing justice and conspiring to obstruct justice after he was accused of instructing Rahim to delete his phone and laptop data.

Wright and Rovinski now face maximum sentences of life in prison as a result of the new charges announced on Thursday. They are scheduled to be arraigned on April 28, according to the docket report in their case.

Yours in liberty,

Pamela Geller

President, American Freedom Defense Initiative

Editor, Publisher, AtlasShrugs.com


[Pamela Geller](#) on Facebook

[@PamelaGeller](#) on Twitter

American Freedom Defense Initiative is dedicated to freedom of speech, freedom of conscience, individual rights and equality for all before the law.



Exhibit No. 225
Case No. 2:15-CV-03048
Thomas More Law Center v. Kamala Harris

 **IRS** Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati OH 45201

In reply refer to:
0248564841
Mar. 26, 2009 LTR
4168C EO
38-3448297
000000 00 000
00013012
BODC: TE

THOMAS MORE LAW CENTER
P.O. BOX 393
c/o RICHARD THOMPSON
ANN ARBOR MI 48106

Employer Identification Number: 38-3448297
Person to Contact: MS. B. HALL
Toll Free Telephone Number: 1-877-829-5500

Dear TAXPAYER:

This is in response to your request of Mar. 17, 2009, regarding your tax-exempt status.

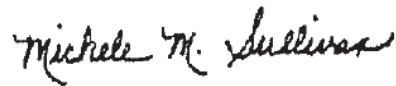
Our records indicate that a determination letter was issued in JUNE 1999, that recognized you as exempt from Federal income tax, and discloses that you are currently exempt under section 501(c)(03) of the Internal Revenue Code.

Our records also indicate you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

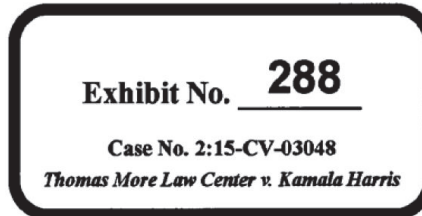
Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely yours,

A handwritten signature in cursive script that reads "Michele M. Sullivan".

Michele M. Sullivan, Oper. Mgr.
Accounts Management Operations I



KAUFMAN DOLOWICH & VOLUCK LLP
LOUIS H. CASTORIA (California Bar No. 95768)
MARION V. CRUZ (California Bar No. 244223)
IAN A. JOHNSTON (California Bar No. 287229)
425 California Street, Suite 2100
San Francisco, CA 94104
Telephone: (415) 926-7600
Facsimile: (415) 926-7601

Attorneys for Plaintiff,
THOMAS MORE LAW CENTER

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

THOMAS MORE LAW
CENTER,

Plaintiff,

vs.

KAMALA HARRIS, in
her Official Capacity as

Case No. 2:15-cv-03048-
R-FFM

**DECLARATION OF
MELISSA WOOD IN
SUPPORT OF
PLAINTIFF'S
MOTION FOR**

Attorney General of
California,

Defendant.

**SUMMARY
JUDGMENT**

Date: June 6, 2016
Time: 10:00 a.m.
Courtroom: 8
Judge: Hon. Manuel L.
Real
Action filed: April 23,
2015

I, Melissa Wood, declare as follows:

- I am an adult citizen of the United States.
- I make this declaration based upon my personal knowledge and upon verifiable public information and belief, where noted herein.
- I am the wife of John Kevin Wood (hereinafter “John”), a veteran of the United States Armed Forces, who served in the U.S. Marine Corps for eight years. His service includes active duty in the Persian Gulf to fight on behalf of the United States in Operation Desert Shield/Desert Storm. John and I have a teenage daughter (hereinafter “C.W.”) who attends La Plata High School in La Plata, Maryland.
- On or about October 2014, John discovered that C.W. was being forced by her World History teacher to complete assignments that promoted Islam. We voiced our objections to C.W.’s school, and John requested an alternative assignment for C.W. Our request was denied. John was banned from La Plata High School after the principal issued a “no trespass” notice against John, denying him access to the school grounds. C.W. received a zero or failing grade on the

assignment, and was not allowed to complete an alternative assignment.

- The “no trespass” notice against John lasted from October 2014 through approximately March 2016. As a result, John missed many of C.W.’s important events during her senior year of high school, Board of Education meetings and Parent Teacher Organization (PTO) meetings. We were also forced to ask friends and family to assist with picking up and dropping off C.W. for school while the ban was in place.

- In addition to receiving a zero or failing grade on the assignment that C.W. refused to complete due her religious beliefs, some of C.W.’s other grades have suffered.

- In January 2016, with the help of the Thomas More Law Center (“the Law Center”), John and I filed a civil rights action for the deprivation of our rights to religious freedom under the First and Fourteenth Amendments of the United States Constitution. We brought the lawsuit on our own behalf and on the behalf of C.W. against Defendants Charles County Public Schools, the Board of Education of Charles County, and the Principal and Vice Principal of La Plata High School in the United States District Court for the District of Maryland. The Law Center represents John, C.W. and me in the lawsuit. A true and accurate copy of the Complaint that was filed in the matter (hereinafter “the lawsuit”) is attached hereto as **Exhibit A**.

- There have been numerous news articles, news stories, blogs, and other

media reports about our challenge to C.W.'s school assignment and the lawsuit the Law Center filed on my family's behalf. As a result, my privacy and that of my family are gone. We are no longer anonymous citizens.

- Some of the stories published online about our challenge to C.W.'s assignment and the lawsuit include hateful, derogatory and profane comments from the public directed at John, C.W. and/or me.

- As a result of my family's challenge to C.W.'s school assignment and the lawsuit that the Law Center filed on our behalf, my family and I have experienced an extreme amount of stress, have lost friends, and have received death threats and threats of physical violence. These threats and hateful comments affect me personally. There are some nights that I cannot sleep due to the threats made against me and my family. One of my biggest fears is that someone who does not know that C.W.'s school's ban against John being on campus has been lifted, which may escalate things if John happens to be on the school's grounds.

- As a result of our challenge and the lawsuit, we have received letters and communications in the mail, emails and Facebook messages that relate to the lawsuit, my family's Christian beliefs, and statements that my family is "anti-Islam." We received the bulk of these communications in October 2014 when we first objected to C.W.'s assignment and then again in January 2016, after we filed the lawsuit.

- From October 2014 through present, my family has received at least twenty

(20) negative, hateful and/or; threatening messages on John's Facebook profile. I personally viewed these messages. These messages refer to John and my family as bigots or racists and in some instances include derogatory and profane insults and name-calling such as "cunt." I have access to John's Facebook account and have since blocked the senders of deleted these messages due to their hateful and vulgar content.

- Our family has also received physical threats via Facebook messages from

someone we do not know. The first message was sent to John on May 28, 2015, from a person that claims to go to C.W.'s high school. It states: "You racist I go to la plata. I DARE you to come here and make that threat again. I see your daughter Melissa before. Ill stab her stomach to leave a hole and then hang a hook inside her and hang her from a tree. The brown skin man has killed your friends, racist americunt. I'll find you in la plata and stab your body open and piss in it in front of your pathetic racist kids! Long live Asians, kill racist whites. Kill the marines. Jokes on you racist." The same person sent another message to John on June 1, 2015, which states, "Your blonde wife comes to my house." A true and accurate screenshot of these Facebook messages is attached hereto as **Exhibit B**.

- I am informed and believe that in approximately November or December

2014, the Federal Bureau of Investigation (FBI) visited me at my home, saying that they had heard "chatter" about my husband, which prompted the FBI to caution me of the "chatter." The FBI agents who

visited my home instructed me to put their phone numbers on speed dial and warned John to pay attention to his surroundings at all times.

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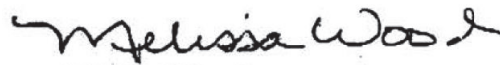
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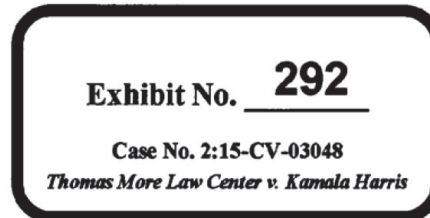
- As a result of our challenge to C.W.'s school assignment and the lawsuit,

some people have come forward commending me, John and C.W. for our bravery in standing up for our religious beliefs. Some of these individuals have said they do not have the courage we have to speak up publicly, to challenge C.W.'s school assignment, and to file a lawsuit such as the one the Law Center filed on our behalf.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on May 4, 2016, in Newburg, Maryland.



Melissa Wood



‘We Will Not Defend Prop 8,’ Says Kamala Harris
by Brock Keeling in News on Dec 1, 2010 8:55 am



*Harris speaking at the Delancey Street
Foundation, Tuesday, Nov. 30, 2020*

During Kamala Harris’ victory party last night at the Delancey Streey Foundation in South Beach, where she celebrated a narrow win against Los Angeles County District Attorney Steve Cooley in the Attorney General’s race, she promised some sort of surprise. That apparent surprise, at least for

Californians outside the Bay Area, was the announcement that she will not defend Proposition 8, the same-sex marriage ban.

When the San Francisco District Attorney joins her entourage of democrats to Sacramento next year, she said she “will not defend Proposition 8.”

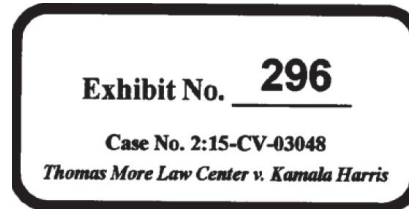
The hearing on whether Prop 8 should be struck down will be televised on Dec. 6 on C-SPAN.

Watch part of Tuesday night’s speech below.



Video: [arirhodes // YouTube](#)

Contact the author of this article or email tips@sfist.com with further questions, comments or tips.



State of California ~ Department of Justice
OFFICE of the ATTORNEY GENERAL
KAMALA D. HARRIS

Attorney General Kamala D. Harris Files Amicus Brief in U.S. Supreme Court Supporting Access to Comprehensive Healthcare for Women

Tuesday, January 28, 2014

Contact: (415) 703-5837, agpressooffice@doj.ca.gov

SAN FRANCISCO — Attorney General Kamala D. Harris today filed a friend-of-the-court brief in the U.S. Supreme Court asking the court to strike down a lower court’s ruling that would allow for-profit companies to deny essential healthcare to female employees based on the religious beliefs of the company’s owners.

“Every American deserves access to quality, comprehensive healthcare,” Attorney General Harris said. A woman’s access to essential services, including contraception, should not be restricted because of the religious views of her employer—particularly when the right to these services is protected under federal law.”

Attorney General Harris’ brief, co-authored by Massachusetts Attorney General Martha Coakley, urges the U.S. Supreme Court to overturn a ruling

from the U.S. Court of Appeals for the Tenth Circuit in *Kathleen Sebelius v. Hobby Lobby Stores, Inc.* that held that for-profit businesses may exercise religion and therefore are covered by the Religious Freedom Restoration Act of 1993. The ruling would deny women coverage for contraception, which is protected under the Affordable Care Act (ACA) as a critical preventive service.

The brief further asks the Court to affirm the U.S. Court of Appeals for the Third Circuit's ruling in a companion case (*Conestoga Wood Specialties Corp. v. Kathleen Sebelius*) that came to the opposite conclusion and held that for-profit companies could not claim religious exemptions from the ACA coverage requirement.

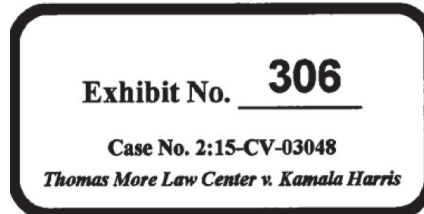
Thirteen states and the District of Columbia joined Attorney General Harris and Attorney General Coakley's brief, including Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, New Mexico, New York, Rhode Island, Oregon, Vermont, and Washington.

"Measures adopted by States, and now the federal government, to expand affordable access to contraceptives through health plan coverage provisions are narrowly tailored to further compelling public interests in promoting gender equity and achieving significant health, social, and economic benefits," the brief states.

A copy of the brief is attached to the electronic version of this release at oag.ca.gov/news.

###

Attachment
Brief



ADD YOUR NAME TO DEFEND PLANNED PARENTHOOD

For many, the new year is a chance for a fresh start — but not for some in Washington. It is Congress’s first week back, and apparently, they haven’t reshuffled their priorities.

They voted to defund Planned Parenthood.

We can all agree on one thing. Washington is broken. Voting to strip federal funding from an organization that provides vital health services to 2.7 million Americans is the epitome of dysfunction.

Once again, we need you to take a stand and join Kamala in defending Planned Parenthood.

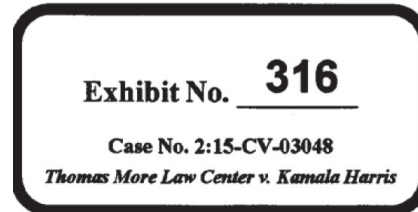
Sign our petition to protect this organization and the important work it does.

First Name*

Last Name*

Email Address*

Zip*



Elizabeth Kim

From: Bill Hou <*****>
Sent: Wednesday, April 09, 2014 12:39 PM
To: Bill Hou; Elizabeth Kim
Cc: RCT
Subject: Re: Schedule B
Attachments:
CA.ScheduleBsecondnoticeletter4.4.14.pdf

Dear Ms. Kim:

I have not heard back from you regarding my October 9, 2013 e-mail. My client has just received a Second Request for Schedule B dated April 4, 2013 (copy attached for your convenience).

I would appreciate a reply to the concerns I have raised. Thank you for your attention to this matter.

Please note that I have also copied the RCT general e-mail address.

Sincerely,

William Hou
Attorney for AAJC

366

On Wednesday, October 9, 2013 10:16 AM, Bill Hou
<williamhou@*****> wrote:

On Wednesday, October 9, 2013 10:14 AM, Bill Hou
<williamhou@*****> wrote:

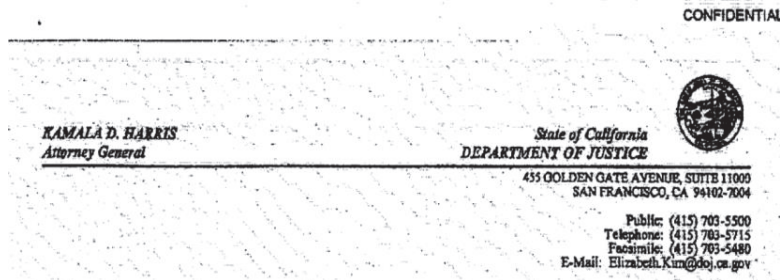
Dear Ms. Kim:

Thank you for your letter of October 2, 2013 regarding the confidential version of Schedule B (copy attached for your convenience).

Some years ago, your office did post the confidential version of my client's Schedule B on your public website, where it remained available for anyone to access to see the names and addresses of my client's funding sources. What assurances does my client have that this will not happen again? And what redress does my client have for the disclosure?

Thank you for your attention to this matter.

Sincerely,
William Hou



October 2, 2013

William Hou, Esq.
Law Offices of William C. Hou
1140 Connecticut Avenue, N.W., Suite 1200
Washington, DC 20036

Re: Asian Americans Advancing Justice – AAJC,
Inc. (formerly Asian American Justice Center,
Inc.) (CT No. 091492)

Dear Mr. Hou:

This will respond to your September 25, 2013 letter regarding the version of Schedule B of IRS Form 990 that is required to be filed with the California Attorney General's Registry of Charitable Trusts ("the Registry"). Your client, Asian Americans Advancing Justice, should file with the Registry the same version of Schedule B that is filed with the IRS.

The California Attorney General has a statutory duty to monitor the activities of all charitable trustees incorporated, or conducting business in California, and to protect charitable assets for their intended use.

To that end, Government Code section 12586¹ provides the Attorney General with the authority to require the filing of periodic written reports deemed necessary to carry out that mandate.

The “public disclosure” copy of Schedule B is intended to satisfy an entity’s disclosure requirements to the general public pursuant to IRS regulations. Regulatory agencies, on the other hand, may require to be filed documents deemed necessary to fulfill their statutory duties, so long as they maintain the confidentiality of documents that are specifically exempt from public disclosure. The Registry has, from its inception, understood and maintained as confidential such documents.

Under Government Code section 12586(b), the Attorney General has the power to make rules and regulations as to the content of reports filed with the Registry. IRS Form 990 was adopted by the California Attorney General’s Office as the primary reporting document for charitable entities required to file annual reports with the Registry to reduce the burden on filers. Section 301 of the regulations states that the “periodic written reports” referenced in Government Code section 12586 include:

“ . . . the Annual Registration Renewal Fee Report (“RRF-1”). . . which must be filed with the Registry of Charitable Trusts annually, as well as the Internal Revenue Service Form 990, which must be filed on an

¹ Unless otherwise noted, all statutory citations are to California law.

annual basis with the Registry of Charitable Trusts, as well as with the Internal Revenue Service. . . .”


The Registry has, since its inception, maintained the Schedule B filed by public charities as a confidential document. All confidential documents are routinely maintained in separate files that are not available for public viewing. Those “files” are now electronic records, as Registry staff scans all filings, with the exception of confidential documents, into the public interface of the Registry’s automated database. Registry staff goes through each filing prior to scanning to assure that all confidential information and documents have been removed; they are then scanned in to the backend Registry database. The Registry also receives, pursuant to the Fed/State Retrieval System, all Schedule B’s electronically filed with IRS. They are transmitted separately and uploaded into our backend system as confidential documents.

We understand organizations’ concerns regarding the inadvertent disclosure of the identity of donors. Please be aware, however, that if a Public Records Act request is made for an organization’s filings, only the “public file” is made available for review. We do not produce confidential information and documents and routinely raise statutory exemptions and privileges, such as Government Code section 6254, subdivision (k) and the Official Information Privilege (Evid. Code, § 1040), to protect all confidential documents in our possession.

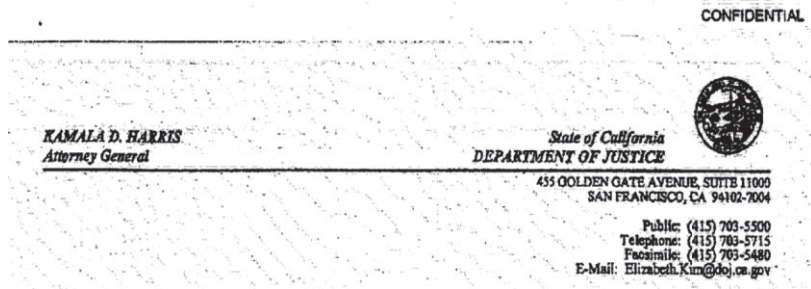
Your client may submit Schedule B as a separate mailing to the Registry, or mark Schedule B with a confidential cover sheet. Your client can also view its

filings on our website for the purpose of assuring itself that no confidential information has been uploaded to the public website.

I hope this adequately addresses your concerns.

Sincerely,

ELIZABETH S. KIM
Supervising Deputy Attorney General

For KAMALA D. HARRIS
Attorney General



April 4, 2014

ASIAN AMERICAN JUSTICE CENTER, INC.
1140 CONNECTICUT AVE NW STE 1200
WASHINGTON DC 20036

CT FILE NUMBER: 091492

RE: SECOND NOTICE: IRS Form 990, Schedule B,
Schedule of Contributions

We have received the IRS Form 990, 990-EZ or 990-PF submitted by the above-named organization for filing with the Registry of Charitable Trusts (Registry) for the fiscal year ending 12/31/2011. The filing is incomplete because the copy of Schedule B, Schedule of Contributors, does not include the names and addresses of contributors.

The copy of the IRS Form 990, 990-EZ or 990-PF, including all attachments, filed with the Registry must be identical to the document filed by the organization with the Internal Revenue Service. The Registry retains Schedule B as a confidential record for IRS Form 990 and 990-EZ filers.

Within 30 days of the date of this letter, please submit a complete copy of Schedule B, Schedule of

Contributors, for the fiscal year noted above, as filed with the Internal Revenue Service. Please address all correspondence to the undersigned.

Sincerely,
AS
Office Technician
Registry of Charitable Trusts
For KAMALA D. HARRIS
Attorney General

Elizabeth Kim

From: Elizabeth Kim
Sent: Thursday, April 10, 2014 11:52 AM
To: Bill Hou
Subject: RE: Schedule B

Mr. Hou – We acknowledge your request for assurances, and we hope that our explanation of the Registry’s process for handling Schedule B filings would give your client assurances that its Schedule B filings will be kept confidential, and not subject to public viewing.

This Office makes efforts to maintain the confidentiality of Schedule B information. Our process is that all confidential documents submitted to the Registry of Charitable Trusts are kept in separate electronic “files” that are not available for public viewing. The Registry staff scans all filings into the Registry’s automated database, and before scanning, Registry staff goes through each filing and removes all confidential data which is then scanned separately as a “confidential” document. Regrettably, mistakes can take place, though it has been a rare occurrence.

Also, as an extra precaution, as my letter of October 2, 2013 suggests, your client may submit Schedule B as a separate mailing to the Registry, or mark Schedule B with a confidential cover sheet. Your client is also encouraged to view its filings on our Attorney General’s website to ensure that no confidential information has been uploaded to the public website following its submission of Schedule B.

I hope the safeguards the Registry has in place, and the extra precautionary steps your client can choose to take, will alleviate your client's concerns. We apologize for any inconvenience that your client may have experienced.

Thank you for your attention to this matter.

From: Bill Hou [mailto:*****]
Sent: Wednesday, April 09, 2014 12:39 PM
To: Bill Hou; Elizabeth Kim
Cc: RCT
Subject: Re: Schedule B

Dear Ms. Kim:

I have not heard back from you regarding my October 9, 2013 e-mail. My client has just received a Second Request for Schedule B dated April 4, 2013 (copy attached for your convenience).

I would appreciate a reply to the concerns I have raised. Thank you for your attention to this matter.

Please note that I have also copied the RCT general e-mail address.

Sincerely,

William Hou
Attorney for AAJC

On Wednesday, October 9, 2013 10:16 AM, Bill Hou <*****> wrote:

On Wednesday, October 9, 2013 10:14 AM, Bill Hou <*****> wrote:

Dear Ms. Kim:

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Thank you for your attention to this matter.

Sincerely,
William Hou

Elizabeth Kim

From: Bill Hou <*****>
Sent: Friday, April 11, 2014 10:58 AM
To: Elizabeth Kim
Subject: Re: Schedule B

My number is (***) ***.****.

On Friday, April 11, 2014 1:51 PM, Elizabeth Kim <*****> wrote:

Could you give me your telephone number so I could call you? Thanks.

From: Bill Hou [mailto:*****]
Sent: Thursday, April 10, 2014 12:19 PM
To: Elizabeth Kim
Subject: Re: Schedule B

Dear Ms. Kim.

Thank you for your prompt response. Unfortunately, several years ago a mistake did occur with my client's Schedule B and it was posted on your public website for some time before it was removed following my alerting your office. However, the damage was already done by revealing the names/address of donors. It was more than just an inconvenience.

I will discuss your response with my client. In the meantime, may I ask what would be the consequences if my client does not provide Schedule B?

Thank you for your assistance in this matter.

Sincerely,
William Hou

On Thursday, April 10, 2014 2:52 PM, Elizabeth Kim <*****> wrote:

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Thank you for your attention to this matter.

Sincerely,
William Hou

Elizabeth Kim

From: Bill Hou <*****>
Sent: Friday, April 11, 2014 12:02 PM
To: Elizabeth Kim
Subject: Re: Schedule B
Attachments: CA.ScheduleB.coverletter4.11.14.pdf

Hello Elizabeth.

I enjoyed speaking with you today. My client has agreed to submit Schedule B pursuant to the procedures we discussed. Attached please find the cover letter I am sending in with Schedule B which should be in tomorrow's mail.

Have a good weekend.

Best regards,

Bill

On Friday, April 11, 2014 1:57 PM, Bill Hou <*****> wrote:

My number is (***) ***-****.

On Friday, April 11, 2014 1:51 PM, Elizabeth Kim <Elizabeth.Kim@*****> wrote:

Could you give me your telephone number so I could call you? Thanks.

From: Bill Hou [mailto:*****]
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To: Elizabeth Kim
Subject: Re: Schedule B

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Thank you for your attention to this matter.

Sincerely,
William Hou

Law Offices of William C. Hou

1100 Connecticut Avenue,
NW, Suite 1200
Washington DC 20036
Cell phone: (***) ***-****
email: *****

115 Chisman
Circle
Seaford, VA 23696
Telephone: (***)
-*
Facsimile: (***)
-*

April 11, 2014

Registry of Charitable Trusts
P.O. Box 903447
Sacramento, CA 94203-4470

Re: Registration Number 091-492
Schedule B

Dear Sirs:

Pursuant to my discussion with Supervising Deputy Attorney General Elizabeth Kim of your office, enclosed please find Schedule B from IRS Form 990 for the 2012 fiscal year for Asian Americans Advancing Justice – AAJC, Inc. (formerly the Asian American Justice Center, Inc.). This is a confidential document and should be maintained in files that are NOT available for access by the general public.

Please confirm that your office has maintained the confidentiality of Schedule B by contacting me via email at ***** or by telephone at (***) ***-****. By way of copy of this letter, I am also informing Supervising Deputy Attorney General Elizabeth Kim

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that our Schedule B has been submitted in response to her letter of October 2, 2013.

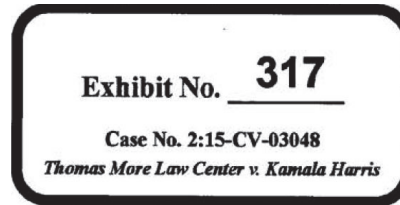
Thank you for your assistance in this matter.

Sincerely

A handwritten signature in black ink, appearing to read "William C. Hou", is centered on the page. The signature is written in a cursive style with some ink bleed-through from the reverse side of the paper.

William C. Hou
Attorney for AAJC

cc: Supervising Deputy Attorney General Elizabeth
Kim



Message

From: Kevis Foley [*****]
Sent: 12/18/2013 5:18:03 PM
To: Susan Allen [*****]
CC: Anthony Salazar [*****]
Subject: RE: Schedule B visible in a 990

FYI, this form was single indexed and was not part of the scanning process. Someone (not a Seasonal or Student) who received the form uploaded both the entire 990 and the Sched B separately as a confidential doc. Looks like they failed to remove the confidential info before uploading the 990 doc. I will fix and reupload.

Kevis Foley, Registrar
Attorney General's Office
Registry of Charitable Trusts
(916) 324-5498

386

From: Susan Allen
Sent: Tuesday, December 17, 2013 4:22 PM
To: Kevis Foley
Cc: Anthony Salazar
Subject: FW: Schedule B visible in a 990

Hi Kevis, please see below, Susan

From: Anthony Salazar
Sent: Tuesday, December 17, 2013 4:02 PM
To: Susan Allen
Subject: RE: Schedule B visible in a 990

I would let Kevis know so she knows who prepped the form for scanning.

From: Susan Allen
Sent: Tuesday, December 17, 2013 3:54 PM
To: Anthony Salazar
Subject: Schedule B visible in a 990

I found a Schedule B in the 990 for 013270 Beyond Baroque Foundation. It is the 2009 990.

There is also a 199 with that 990.

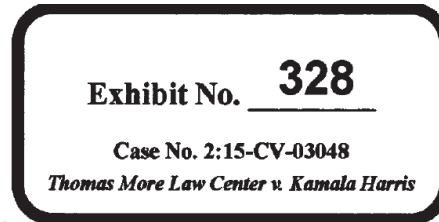
Thanks,

Susan, Office Technician

Attorney General's Office

Registry of Charitable Trusts

Phone *****



Message

From: Christopher Harryman [*****]
Sent: 8/20/2014 5:06:55 PM
To: Robert Ralls [*****]
BCC: Christopher Harryman [*****]
Subject: FW: Find Confidential Files Marked
Public – MLO Production
Attachments: FindConfidPublic.txt

Hi Bob,

We've just stumbled on another class of documents that should be confidential...they are ones that look like "Schedule B" or "Schedule of Contributors". I ran a query just using "schedule" (catching all lower case, mixed and all upper, of course) based on the legacy data in t_ document table and gave the list to Kevis so she can review and make them private if appropriate. So, she would like this query that you wrote to show what it shows now plus any public docs with the word "schedule" in the same fields that you are looking for "confidential". Since there will occasionally be a red herring (e.g. "Schedule C"), please order it by upload date descending so that the newest docs are at the top of the report.

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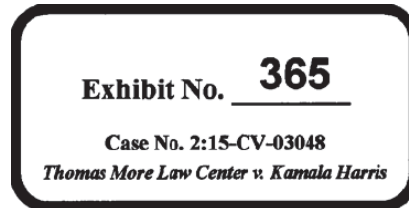
Can do?

Thanks,

Chris

From: RCTNotices@doj.ca.gov [mailto:
RCTNotices@doj.ca.gov]
Sent: Monday, August 18, 2014 5:01 AM
To: Christopher Harryman
Cc: Kevis Foley; Robert Ralls
Subject: Find Confidential Files Marked Public –
MLO Production

The latest public confidential documents listing
attached – Please do not reply



Schedule B (Form 990, 990-EZ, or 990- PF) Department of the Treasury Internal Revenue Service	Schedule of Contributors Attach to Form 990, Form 990- EZ, or Form 990-PF Information about Schedule B (Form 990, 990-EZ, or 990-PF) and its instructions is at www.irs.gov/form990 .	CMB No. 1545- 0047 <hr style="width: 50%; margin: 0 auto;"/> 2015
Name of the organization		Employer identification number

Organization type (check one):

Filers of:

Section:

Form 990 or 990-EZ

- 501(c)() (enter number)
organization
- 4947(a)(1) nonexempt
charitable trust **not** treated
as a private foundation
- 527 political organization

Form 990-PF

- 501(c)(3) exempt private
foundation
- 4947(a)(1) nonexempt
charitable trust treated as a
private foundation
- 501(c)(3) taxable private
foundation

Check if your organization is covered by the General Rule or a Special Rule.

Note. Only a section 501(c)(7), (8), or (10) organization can check boxes for both the General Rule and a Special Rule. See instructions.

General Rule

- For an organization filing Form 990, 990-EZ, or 990-PF that received, during the year, contributions totaling \$5,000 or more (in money or property) from any one contributor. Complete Parts I and II. See instructions for determining a contributor's total contributions.

Special Rules

- For an organization described in section 501(c)(3) filing Form 990 or 990-EZ that met the 33 $\frac{1}{3}$ % support test of the regulations under sections 509(a)(1) and 170(b)(1)(A)(vi), that checked Schedule A (Form 990 or 990-EZ), Part II, line 13, 16a, or 16b, and that received from any one contributor, during the year, total contributions of the greater of (1) \$5,000 or (2) 2% of the amount on (i) Form 990, Part VIII, line 1h, or (ii) Form 990-EZ, line 1. Complete Parts I and II.
- For an organization described in section 501(c)(7), (8), or (10) filing Form 990 or 990-EZ that received from any one contributor, during the year, total contributions of more than \$1,000 *exclusively* for religious, charitable, scientific, literary, or educational purposes, or

for the prevention of cruelty to children or animals. Complete Parts I, II, and III.

- For an organization described in section 501(c)(7), (8), or (10) filing Form 990 or 990-EZ that received from any one contributor, during the year, contributions *exclusively* for religious, charitable, etc., purposes, but no such contributions totaled more than \$1,000. If this box is checked, enter here the total contributions that were received during the year for an *exclusively* religious, charitable, etc., purpose. Do not complete any of the parts unless the General Rule applies to this organization because it received *nonexclusively* religious, charitable, etc., contributions totaling \$5,000 or more during the year.
 ▶ \$ _____

Caution. An organization that is not covered by the General Rule and/or the Special Rules does not file Schedule B (Form 990, 990-EZ, or 990-PF), but it must answer “No” on Part IV, line 2, of its Form 990, or check the box on line H of its Form 990-EZ or on its Form 990-PF, Part 1, line 2, to certify that it does not meet the filing requirements of Schedule B (Form 990, 990-EZ, or 990-PF).

Schedule B (Form 990, 990-EZ, or 990-PF) (2015)

Page 2

Name of Organization	Employer identification number
----------------------	--------------------------------

Part I Contributors (see instructions). Use duplicate copies of Part I if additional space is needed.

(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution
-----	----- ----- -----	\$-----	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution
-----	----- ----- -----	\$-----	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution
-----	----- ----- -----	\$-----	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution

-----	----- ----- -----	\$-----	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution
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-----	----- ----- -----	\$-----	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)

Name of Organization	Employer identification number
----------------------	--------------------------------

Part II Noncash Property (see instructions).
 Use duplicate copies of Part II if additional space
 is needed.

(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (see instruction)	(d) Date received
-----	----- ----- ----- -----	\$-----	-----
(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (see instruction)	(d) Date received
-----	----- ----- ----- -----	\$-----	-----
(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (see instruction)	(d) Date received

-----	----- ----- ----- -----	\$-----	-----
(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (see instruction)	(d) Date received
-----	----- ----- ----- -----	\$-----	-----
(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (see instruction)	(d) Date received
-----	----- ----- ----- -----	\$-----	-----
(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (see instruction)	(d) Date received

-----	----- ----- ----- -----	\$-----	-----
-------	----------------------------------	---------	-------

Schedule B (Form 990, 990-EZ, or
990-PF) (2015)

Page 4

Name of Organization	Employer identification number
----------------------	--------------------------------------

Part III *Exclusively* religious, charitable, etc., contributions to organizations described in section 501(c)(7), (8), or (10) that total more than \$1,000 for the year from any one contributor. Complete columns (a) through (e) and the following line entry. For organizations completing Part III, enter the total of *exclusively* religious, charitable, etc., contributions of \$1,000 or less for the year. (Enter this information one. See instructions.) ▶ \$.....

Use duplicate copies of Part III if additional space is needed.

(a) No. from Part 1	(b) Purpose of gift	(c) Use of gift	(d) Description of how gift is held
-----	----- ----- -----	----- ----- -----	----- ----- -----

(e) Transfer of gift

		Transferee's name, address, and ZIP + 4	Relationship of transferor to transferee
		-----	-----
		-----	-----
		-----	-----
(a) No. from Part 1	(b) Purpose of gift	(c) Use of gift	(d) Description of how gift is held
-----	-----	-----	-----
	-----	-----	-----
	-----	-----	-----

(e) Transfer of gift

		Transferee's name, address, and ZIP + 4	Relationship of transferor to transferee
		-----	-----
		-----	-----
		-----	-----
(a) No. from Part 1	(b) Purpose of gift	(c) Use of gift	(d) Description of how gift is held
-----	-----	-----	-----
	-----	-----	-----
	-----	-----	-----

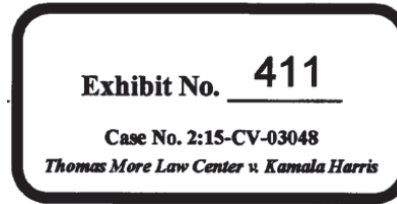
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		----- ----- -----	----- ----- -----
(a) No. from Part 1	(b) Purpose of gift	(c) Use of gift	(d) Description of how gift is held
-----	----- ----- -----	----- ----- -----	----- ----- -----

(e) Transfer of gift

		Transferee's name, address, and ZIP + 4	Relationship of transferor to transferee
		----- ----- -----	----- ----- -----

* * * * *



From: Eric K. Gorovitz [*****]
Sent: 7/3/2012 10:10:25 AM
To: Belinda Johns [*****]
CC: Rosemary E. Fei [*****]
Subject: RE: Request to remove posted Form
990, Schedule B
Attachments: sfgb-logo_color-horizontal-
125px.gif; IMAGE.gif; IMAGE.gif

Belinda,

That's what we figured. We'll let our clients know that they deviate from the standard forms at their peril!

Thanks again,

Eric

Any tax advice contained in this email was not intended to be used, and cannot be used, for the purpose of avoiding penalties that may be imposed under federal tax law. A taxpayer may rely on our advice to avoid penalties only if the advice is reflected in a more formal tax opinion that conforms to IRS standards. Please contact us if you would like to discuss the preparation of a legal opinion that conforms to these rules.

Eric Gorovitz

Adler & Colvin
235 Montgomery Street, Suite 1220
San Francisco, CA 94104
Phone: *****
Fax: *****
Email: *****
Web: www.adlercolvin.com

The information in this e-mail message and any attachments may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any use, dissemination, distribution, or copying of this transmission is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at *****, and delete all copies of this message and its attachments, if any. Thank you.

From: Belinda Johns [mailto:*****]
Sent: Tuesday, July 03, 2012 9:53 AM
To: Eric K. Gorovitz
Cc: Rosemary E. Fei
Subject: RE: Request to remove posted Form
990, Schedule B

The Registrar says the reason staff missed it when preparing that 990 for scanning was that it was a hand-written page, not on the form. Of course, it was clearly labeled Sched B but staff is pretty focused on just looking for the form.

Don't ever hesitate to contact me when urgent issues arise. Registry staff does their best but are overwhelmed with the volume of paper, email and voice mail.

Belinda

>>> "Eric K.Gorovitz" <*****> 7/3/2012 9:27 AM
>>>

Many thanks for this prompt response -- we appreciate your help!

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Eric Gorovitz
Adler & Colvin
235 Montgomery Street, Suite 1220
San Francisco, CA 94104
Phone: *****
Fax: *****
Email: *****
Web: www.adlercolvin.com

The information in this e-mail message and any attachments may be privileged, confidential, and protected from disclosure. If you are not the intended

recipient, any use, dissemination, distribution, or copying of this transmission is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at *****, and delete all copies of this message and its attachments, if any. Thank you.

From: Belinda Johns [mailto:*****]
Sent: Tuesday, July 03, 2012 9:16 AM
To: Eric K. Gorovitz
Cc: Rosemary E. Fei
Subject: Re: Request to remove posted Form
990, Schedule B

It will be done within the hour.

>>> "Eric K.Gorovitz" <*****> 7/2/2012 5:19 PM
>>>

Ms. Johns,

I hope this finds you well. I am contacting you directly at the suggestion of Rosemary Fei. We have a pressing concern that requires immediate attention, and we understand that the Registry of Charitable Trusts can take up to three business days to respond to inquiries made via phone or the online e-mail form.

We have discovered that the Registry has posted the complete Form 990, Schedule B (for FYE June 30, 2009), including all of the names and addresses of hundreds of donors, to the publicly accessible record for our client, Planned Parenthood Affiliates of California, Inc. (registration number 017023).

You have indicated that although the Registry requires the complete, unredacted Form 990, including Schedule B, to be submitted with Form RRF-1, the Registry's policy is to remove Schedule B before posting Form 990 online for public access. That did not happen in this case, perhaps because the information requested on Schedule B, though clearly labelled as such, was submitted in an atypical format.

We ask for your help in getting this information removed immediately from the publicly accessible database. As you might imagine, the unintended public availability of this information is potentially damaging to both our client and its donors, and the longer it remains available, the greater the risk it poses.

Please let me know if you need any more information, and thank you for your help.

Best regards,

Eric

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Eric Gorovitz
Adler & Colvin
235 Montgomery Street, Suite 1220
San Francisco, CA 94104

Phone: *****

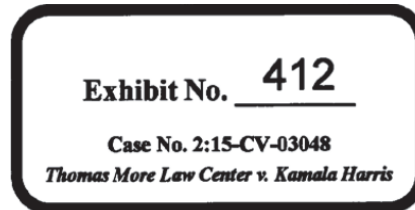
Fax: *****

Email: *****

Web: www.adlercolvin.com

The information in this e-mail message and any attachments may be privileged, confidential, and protected from disclosure. If you are not the intended recipient, any use, dissemination, distribution, or copying of this transmission is strictly prohibited. If you think that you have received this e-mail message in error, please e-mail the sender at *****, and delete all copies of this message and its attachments, if any. Thank you.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.



Message

From: Christopher Harryman [*****]
Sent: 10/26/2015 8:15:42 AM
To: Robert Ralls [*****]; Bassam Abughazaleh [*****]; Charles Penn [*****]; Kimi Ronay [*****]
CC: Tania Ibanez [*****]; David Eller [*****]
Subject: non-Public docs available via internet/Verification
Attachments: Verification_non_public.txt

Importance: High

Folks,

I had previously thought that non-Public docs were unavailable via Verification/internet even if someone had the necessary data that constructs the URL (e.g. name of file and the document ID). . . I don't recall how the last version of Verification did this. However, for some reason it occurred to me this morning on the way to work to double-check this.

It turns out that non-Public docs are available via internet as long as someone uses the document ID generated by our system when a doc is stored. I used docs associated with 119220 to test . . . attached.

Bob had told me prior to this upgrade that SA told him that this latest version of Verification would not

allow the harvesting of 'public' docs like was done en mass recently but I noted in testing that that wasn't the case. However, now it also appears that if someone creates an algorithm to generate document IDs that fit our pattern/sequence, they could automatically harvest non-Public documents as well.

Even if one isn't that sophisticated, if a search engine indexes a doc erroneously marked as Public, it will still be available by that harvested URL even after it is changed to non-Public within MLO.

Is there some safeguard in place that I am not aware of (or forgetting) that prevents/helps with either of these situations?

Thanks,

Chris

Exhibit No. **862**

Case No. 2:15-CV-03048

Thomas More Law Center v. Kamala Harris

**State of California
Office of Administrative Law**

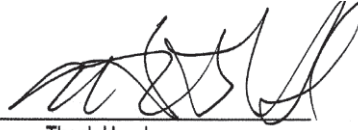
<p>In re: Department of Justice</p> <p>Regulatory Action: Title 11, California Code of Regulations</p> <p>Adopt sections: Amend sections: 310, 312, 999.1</p> <p>Repeal sections:</p>	<p>NOTICE OF APPROVAL OF REGULATORY ACTION</p> <p>Government Code Section 11349.3</p> <p>OAL Matter Number: 2016-0525-03</p> <p>OAL Matter Type: Regular (S)</p>
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In this regulatory action, the Department amends sections in Title 11 of the California Code of Regulations to provide circumstances under which confidential donor information may be disclosed. Further, the amendments add that the Registry of Charitable Trusts Fund shall be used to enforce the registration and reporting provisions.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 7/8/2016.

408

Date: July 8, 2016

A handwritten signature in black ink, appearing to read 'Thanh Huynh', written over a horizontal line.

Thanh Huynh
Senior Attorney

For: Debra M. Comez
Director

Original: Kamala D. Harris
Copy: Melan Noble

REGULAR

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION (See instructions on reverse)

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2015-1201-07	REGULATORY ACTION NUMBER 2016-0525-035	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2016 MAY 25 P 1:32

OFFICE OF ADMINISTRATIVE LAW

ENDORSED - FILED

in the office of the Secretary of State of the State of California

JUL 08 2016

1:38 PM

AGENCY WITH RULEMAKING AUTHORITY
Department of Justice

AGENCY FILE NUMBER (if any)
DOJ-015-005

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Superv. of Trustees and Fund. Charitable Purp. Act	TITLES(S) 11	FIRST SECTION AFFECTED 310	2. REQUESTED PUBLICATION DATE
--	-----------------	-------------------------------	-------------------------------

3. NOTICE TYPE <input checked="" type="checkbox"/> Notice to Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON Melan Noble	TELEPHONE NUMBER (916)322-0908	FAX NUMBER (Optional) (916)324-5033
--	---	-----------------------------------	--

OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2015 50-2	PUBLICATION DATE 12/11/2015
---	---------------------------	-------------------------------------	--------------------------------

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Confidentiality of Donor Information	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
--	--

SPECIFY CALIFORNIA CODE OF REGULATIONS TITLES AND SECTIONS (Including title 26, if source related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND Sections 310, 312, and 999.1
	REPEAL

11

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(b))
<input type="checkbox"/> Resubmittal of disapproved or withdrawn non-emergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. §§ 1.844 and Gov. Code §11347.3)
February 19, 2016 to March 7, 2016 per agency 7/8/16 (7P)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(b); Cal. Code Regs., title 1, §100) requests

Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(b)) Effective on filing with Secretary of State 6100 Changes Without Regulatory Effect Effective other (Specify)

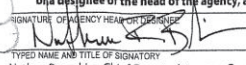
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

Department of Finance (Form STD. 399) (SAM §6660) Fair Political Practices Commission State Fire Marshal

Other (Specify)

7. CONTACT PERSON Melan Noble	TELEPHONE NUMBER (916) 322-0908	FAX NUMBER (Optional) (916) 324-5033	E-MAIL ADDRESS (Optional) Melan.Noble@doj.ca.gov
----------------------------------	------------------------------------	---	---

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 5.20.16
TYPED NAME AND TITLE OF SIGNATORY Nathan Barankin, Chief Deputy Attorney General	

ENDORSED APPROVED

JUL 08 2016

Office of Administrative Law

TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 4. REGULATIONS ADOPTED
PURSUANT TO THE SUPERVISION OF
TRUSTEES AND FUNDRAISERS FOR
CHARITABLE PURPOSES ACT

§ 310. Public Inspection of Charitable Trust Records.

(a) The register, copies of instruments and the reports filed with the Attorney General, except as provided in subdivision (b) and pursuant to Government Code section 12590, shall be open to public inspection at the Registry of Charitable Trusts in the office of the Attorney General, Sacramento, California, at such reasonable times as the Attorney General may determine. Such inspection shall at all times be subject to the control and supervision of an employee of the Office of the Attorney General.

(b) Donor information exempt from public inspection pursuant to Internal Revenue Code section 6104 (d)(3)(A) shall be maintained as confidential by the Attorney General and shall not be disclosed except as follows:

(1) In a court or administrative proceeding brought pursuant to the Attorney General's charitable trust enforcement responsibilities; or

(2) In response to a search warrant.

Note: Authority cited: Sections 12587 and 12590, Government Code. Reference: Section 12590, Government Code.

§ 312. Use of Annual Registration Fee.

Annual registration fees paid pursuant to Government Code section 12587 and section 311 of this chapter, ~~and~~ registration or renewal fees paid pursuant to Government Code sections 12599, 12599.1 and 12599.2, and the Registry of Charitable Trusts Fund established pursuant to Government Code section 12587.1, shall be used ~~solely~~ to operate and maintain the Attorney General's Registry of Charitable Trusts, to ~~and~~ provide public access via the Internet to reports filed with the Registry of Charitable Trusts in the office of the Attorney General, Sacramento, California, and to enforce the registration and reporting provisions.

Note: Authority cited: Sections 12586 and 12587, Government Code. Reference: Sections .12585, 12586, 12587, 12599, 12599.1 and 12599.2, Government Code.

**TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 15. ATTORNEY GENERAL
REGULATIONS UNDER NONPROFIT
CORPORATION LAW**

§999.1. General Provisions and Definitions.

(a) Giving Notice to and Submitting Requests to Attorney General; When Notice or Request is Deemed "Filed with Attorney General."

For purposes of giving notice to the Attorney General or submitting requests for approval or other action to the Attorney General pursuant to any of the subsections contained in sections 999.2 through 999.5 of these regulations, all notices and requests shall be submitted in writing at the office listed below which is located nearest to the principal office of the

corporation on whose behalf the notice or request is submitted.

Attorney General, Charitable Trusts Section
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102-7004

Attorney General, Charitable Trusts Section
300 South Spring Street
Los Angeles, California 90013-1230

Attorney General, Charitable Trusts Section
1300 I Street
P.O. Box 944255
Sacramento, California 94244-2550

Written notices or requests shall be deemed filed with the Attorney General when the notices or requests are received at the Office of the Attorney General with the information required by sections 999.2(e), 999.3(e), 999.4 and 999.5 of these regulations.

... (Omitting subsections (b)-(d))

(e) Public Files, Notices, and Requests for Approval by Attorney General To Be Maintained in Public Files; Attorney General's Responses To Be Maintained in Public Files.

A "Public File" is the file of a nonprofit corporation which contains public documents, including registration and financial reporting forms filed pursuant to Government Code sections 12585 and 12586, and which is maintained at the Registry of Charitable Trusts, Office of the Attorney General, P.O. Box 903447, Sacramento, California 94203-4470. A public file excludes donor information exempt from

public inspection pursuant to Internal Revenue Code section 6104 (d)(3)(A).

All notices and requests for approval submitted to the Attorney General pursuant to the subsections of sections 999.2 through 999.5 of these regulations shall become a part of the Public File of the corporation affected by the proposed action. In the discretion of the Attorney General, exceptions shall be made in the case of documents of a confidential or personal nature (i.e. individual tax returns, legitimate trade secret information, personal resumes, personal loan applications, *etc.*), where the corporation or person submitting the confidential documents separately designates and requests that such documents not be maintained in the Public File.

The Attorney General's responses to notices and requests for approval issued pursuant to the subsections of sections 999.2 through 999.5 of these regulations shall become a part of the Public File of the corporation affected by the proposed action.

... (*Omitting subsections (f)-(g)*)

Note: Authority cited: Sections 5914(b) and 5918, Corporations Code. Reference: 5142, 5223, 5225, 5226, 5233, 5236, 5238(c)(3), 5617, 5820, 5913, 5914(b), 5918, 6010, 6510(d), 6611(a), 6612(a), 6613(c), 6617(6), 6716(6), 6716(c), 6721(a), 6721(6), 7142, 7223, 7225, 7238, 7616, 7913, 8010;.8510, 8611, 8612, 8613, 8616, 8723, 9230, 9680, Corporations Code.

LOS ANGELES, CALIFORNIA
WEDNESDAY, FEBRUARY 24, 2016

9:08 A.M.

* * * * *

[11] Q (BY MR. LYTTLE) Dr. McClave, do you recognize Exhibit 250?

A Yes. This is a copy of my curriculum vitae.

MR. LYTTLE: Your Honor, we would offer Exhibit 250 into evidence. I believe it's stipulated to.

THE COURT: 250 in evidence.

(Exhibit No. 250 received into evidence.)

MS. SOICHET: No objection, Your Honor.

Q (BY MR. LYTTLE) Dr. McClave, when you've been qualified as an expert in the past, what areas have you testified in?

A Primarily statistics and a related field, econometrics, which is the application of statistics to business and economic issues.

Q You've also been qualified as an expert in data analysis?

A Well, again, through statistics, yes. All of the cases that I've testified in have involved data analysis.

MR. LYTTLE: Your Honor, we offer Dr. McClave as an expert in statistics and data analysis.

THE COURT: All right. The examination of the doctor is as an expert .

MS. SOICHET: We have no objection, Your Honor.

THE COURT: All right.

Q (BY MR. LYTTLE) Dr. McClave, what were you asked to analyze in this case?

A My assignment was to become familiar with the registry for [12] charitable trusts and -- I think it's called "verification" -- and I was asked to focus on two tasks in that analysis. The first was to determine what the registry reflected as far as the Attorney General's policy with respect to submission of Schedule B documents, and the second was to determine whether there were Schedule B documents publicly available, confidential Schedule B documents publicly available on the site.

Q How did you begin that analysis?

A I began by becoming familiar with the site. So I just got on the Internet, found the site and began to poke around, began to understand how you pulled up the site -- the documents for a particular charitable trust -- I'm sure I started with the Foundation -- and moved around the site to determine what types of documents appeared to be out there. Clicked on some documents. So just generally become -- became familiar with the site, excuse me.

Q And after you became familiar with the site, what was the next step you took?

A So the next step was to determine how best to accomplish my assignment, how best to find out what the submission policy -- for example, Schedule B -- was, which was the first thing I was trying to do. So I began to think about ways that we could efficiently examine the documents out there.

Q And did you come to any views on how you could efficiently

* * * * *

[14] vote, the count of what happens when people go to the polls. We sometimes had trouble in Florida with that count, but when it's right, it is a census.

And the other example, Counsel, that we're all familiar with is the decennial census conducted by the U.S. Census Bureau, where the goal is to count the population of the United States. And again, it's not a perfect count, but it's as close -- it's much better than a sample, and it's as close to perfect as we get. So we in statistics call those a census.

Q And, Dr. McClave, for your work in this case, were you ultimately able to obtain a census of the registry website?

A Yes. We were able to download 99.88 percent of all documents on the site.

Q Now, Dr. McClave, 99.88 percent is not 100 percent. Is it still considered a census?

A Yes, it would be. Again, samples are typically just a few percent of the population. When we get close to a hundred, just like the U.S. census -- again, there are undercounts due to certain populations -- subpopulations that are difficult to count, like the homeless. And so, yeah, we consider 99.9 percent a census.

Q Dr. McClave, you said that in order to take the census, you had to download every document from the registry website. How did you accomplish that?

A We wrote a computer program that went out to the site in a

* * * * *

[16] these documents are readily available on the site.

Q How many documents, Dr. McClave, did you end up downloading?

A Approximately 1.3 million.

Q And from how many individual charity pages did those 1.3 million documents come from, if you recall?

A It was a little over 420,000 charities. I think it was 422,000 charities and 1.3 million documents.

Q Dr. McClave, when did you download these documents?

A This work was done in the summer months of last year, of 2015.

Q And were you able to determine through your review of the registry when the registry first started uploading documents?

A Yes.

Q And when was that?

A So I understood, I think from testimony, that the site had been put up around 2008. And my search of documents indicated that the earliest documents were -- there were a few from before 2008, but most of them were from 2008 forward.

Q Dr. McClave, you mentioned that you did your initial downloads in the summer of 2015. Did you do any subsequent downloads?

A Yes. We continued -- the search of the site is an iterative process. It's not just go out and look and you're done. And so we've continued to look at the site, actually

* * * * *

[21] Q Now, Dr. McClave, how do you know you just didn't miss any in that time period before third quarter of 2010?

A Well, because we did exactly the same search. We used exactly the same search terms in 2008 and 2009 and the beginning of 2010 that we did after Q3, 2010. So it's not like we changed methodologies. We used exactly the same methodology. So I'm quite confident that there's -- there are no Schedule B letters prior to August of 2010.

Q Dr. McClave, has anything else confirmed your view that there are no Schedule B deficiency letters prior to August of 2010?

A Yes.

Q What is that?

A There was a letter that I saw -- it might have been an exhibit to a deposition, I don't remember. But it was a letter from the Attorney General that indicated that there had been no letters prior to -- I think the letter said September of 2010.

Q Dr. McClave, do you still have that binder in front of you?

A Yes.

Q Could you turn to Trial Exhibit -- which we'll mark for identification Trial Exhibit Number 242.

THE COURTROOM DEPUTY: Exhibit 242 is identified and placed before the witness.

[22] THE WITNESS: I've got it.

Q (BY MR. LYTTLE) Do you recognize Trial Exhibit Number 242?

A Yes. This is the letter to which I just referred.

Q And what do you understand this letter to be?

A I understand this to be a letter from the defendant, the Attorney General, to counsel for the Foundation.

MR. LYTTLE: Your Honor, we would move for the admission into evidence of Trial Exhibit Number 242.

MS. SOICHET: Your Honor, I'm going to object. This is hearsay. It's also irrelevant.

MR. LYTTLE: Your Honor, it's a --

THE COURT: 242 in evidence.

(Exhibit No. 242 received into evidence.)

MR. LYTTLE: Thank you.

Q (BY MR. LYTTLE) Dr. McClave, what is it in Trial Exhibit 242 that you were referring to that indicated to you that your conclusions that the Attorney General had not provided any Schedule B deficiency letters prior to August 2010, what is it in this letter that confirmed that for you?

A Yeah. There's a paragraph under Roman Numeral III on page 3, and essentially that is talking about Schedule B search in the date range of January 1, 2010 to December 9, 2014. And it indicates that that range -- I'm looking at the last sentence of this

paragraph -- predates by eight months the [23] earliest letter from the Registry of Charitable Trusts requesting that a charity submit its unredacted Schedule B.

And then that refers to a footnote, Footnote 2, which indicates that the earliest letter that the Attorney General located was September 2, 2010, which is in conformance -- actually a little bit later, one month later, than the earliest we found. But it confirmed for me that the Attorney General also hadn't found anything prior to Quarter 3 of 2010.

Q Now, still looking at Trial Exhibit Number 242, do you understand the Attorney General herself undertook efforts to identify when Schedule B deficiency letters were first sent?

A I do have that understanding.

Q Okay. And do you understand that the Attorney General provided you a list of what she found?

A Yes, I've seen that list.

Q How did that list, Dr. McClave, compare to the list that you were able to develop of Schedule B deficiency letters?

A In terms of timeframe covered by the list, it was consistent. But in terms of numbers of letters found, it was far short of how many we found.

Q Dr. McClave, did you prepare a chart comparing your list of Schedule B deficiency letters to those that the Attorney General was able to identify?

A Yes. Yes, this chart shows -- the orange bars are the 8,000 Schedule B letters that we found starting in Q3, 2010 and

* * * * *

[25] documents in the database and determine whether there were confidential Schedule Bs in that set, which if there were, that meant a member of the public could access them.

Q Before we go any further, Dr. McClave, do you have an understanding as to whether all Schedule Bs are confidential documents?

A I understand that not all Schedule Bs are confidential.

Q Okay. And which Schedule Bs do you understand are not confidential?

A I understand those that correspond to private foundations as opposed to public foundations, the private foundations' Schedule Bs, I was told and I understand, were not confidential.

Q So in your efforts to locate the number of confidential Schedule Bs on the registry website, did you take any steps to make sure you excluded those Schedule Bs from private foundations that would not be confidential?

A Yes. As part of our search, we searched for terms that indicated that they were private Foundation Schedule Bs, and we excluded those from our analysis.

Q Okay. So for the remainder of your testimony today, Dr. McClave, is it fair to say that when we're discussing Schedule Bs, we're discussing only your location of confidential Schedule Bs?

A Yes.

* * * * *

[28] A I think -- well, we did a lot of searches, but I think in terms of turning over documents for examination by counsel, I think there were four distinct iterations; the one we've already talked about and three more.

Q Thank you. And based on those four different results that you turned over, what is the total number of confidential Schedule Bs that you found on the registry website?

A 1,741.

Q And, Dr. McClave, you still have that binder in front of you?

A I do.

Q Could you please turn to Trial Exhibit 56.

THE COURTROOM DEPUTY: Exhibit 56 is identified and placed before the witness.

THE WITNESS: Okay.

Q (BY MR. LYTTLE) Dr. McClave, can you identify for the record what Trial Exhibit 56 is?

A Yes. This is the list of the 1,471 Schedule B documents that we turned over that counsel found among the 2,200 that contained confidential information.

MR. LYTTLE: Your Honor, we would move Trial Exhibit 56 into evidence. I believe it's stipulated to.

MS. SOICHET: Yes, no objection, Your Honor.

THE COURT: 56 in evidence.

(Exhibit No. 56 received into evidence.)

[29] Q (BY MR. LYTTLE) Dr. McClave, I think we just want to try to get through this as quickly as possible with these results. Could you turn in your binder, please, to Trial Exhibit 134.

THE COURTROOM DEPUTY: Exhibit 134 is identified and placed before the witness.

THE WITNESS: Yes.

Q (BY MR. LYTTLE) Do you recognize Trial Exhibit 134?

A I do.

Q. Can you identify it?

A This was the set of I think 50 additional Schedule Bs that were on the site with confidential information, and it was a result of additional -- the iterative nature of the search, the additional search terms that we'd found.

MR. LYTTLE: Your Honor, we would move Trial Exhibit 134 into evidence. I believe it's stipulated to.

MS. SOICHET: Again, no objection, Your Honor.

THE COURT: 134 in evidence.

(Exhibit No. 134 received into evidence.)

Q (BY MR. LYTTLE) Dr. McClave, could you turn to Trial Exhibit Number 187, please, in your binder.

A Yes .

THE COURTROOM DEPUTY: Exhibit 187 is identified and placed before the witness.

Q (BY MR. LYTTLE) Dr. McClave, do you recognize Trial Exhibit 187?

[30] A Yes. This is a set I think of about 100 and -- I think it's 185 Schedule Bs that we found subsequent to my initial report but reported about these in my supplemental report in January, last month. So this was just another iteration of the documents.

MR. LYTTLE: Your Honor, we would move Trial Exhibit 187 into evidence. Again, I believe it's stipulated to.

MS. SOICHET: Yes, no objection, Your Honor.

THE COURT: 187 in evidence.

(Exhibit No. 187 received into evidence.)

(BY MR. LYTTLE) Dr. McClave, could you please turn to Trial Exhibit 188 in your binder.

THE COURTROOM DEPUTY: 188 is identified and placed before the witness.

Q (BY MR. LYTTLE) Dr. McClave, do you recognize Trial Exhibit 188?

A Yes. This is the fourth iteration also recorded in my supplemental report. I think it's about 35 additional that we found. I believe these are from the latter part of 2015.

Q And does the fact that they're from the latter part of 2015 have any significance for you?

A Yes. It indicates to me that the issue of publishing confidential documents was ongoing.

MR. LYTTLE: Your Honor, we would move Trial Exhibit [31] Number 188 into evidence. Again, I believe it is stipulated to.

MS. SOICHET: Yes, Your Honor, no objection.

THE COURT: 188 in evidence.

(Exhibit No. 188 received into evidence.)

Q (BY MR. LYTTLE) Dr. McClave, if we look at Trial Exhibit 56, Trial Exhibit 134, Trial Exhibit 187 and Trial Exhibit 188, does those -- those exhibits comprise the 1,741 confidential Schedule Bs you were able to locate on the registry website?

A Yes.

Q Is that number still accurate today?

A No.

Q And what is inaccurate about it today?

A Well, I've been made aware that one of the 1,741 was actually a private Foundation document that our search somehow missed. So it's actually 1,740.

Q So do you understand as you testify today that the number of confidential Schedule Bs you were able to locate through your searches is 1,740 confidential Schedule Bs on the registry website?

A As of the time of my supplemental report last month, that's right.

Q Okay. Dr. McClave, what did the Attorney General do each time she learned about the Schedule Bs on these lists?

[32] A In every case, within 24 hours of being made aware of the list, the documents were gone.

Q And how did you learn that the Attorney General had taken them down once you identified them as confidential Schedule Bs?

A It was reported in the depositions, for one thing. And for another, we did some spot-checking, and the documents were no longer there.

Q Dr. McClave, did the Attorney General's actions in taking down those confidential Schedule Bs that you identified, do those indicate to you that they were, in fact, confidential?

A To me, it was another confirmation that our searches were accurate.

Q I just want to be clear, because we've gone through a lot. Is it your testimony that of those 1,740 confidential Schedule Bs that you found on the registry website, any member of the public could have accessed them?

A Absolutely. They were clickable.

Q Dr. McClave, did you ever cross-reference your Schedule B deficiency letter analysis, what you talked about in the first part of your testimony, with your Schedule B confidentiality breach analysis you just discussed?

A Yes. We did a match to see which charities had both been sent letters and had had confidential Schedule Bs put out on the site.

Q And what did you find?

[33] A We found 75 instances in which a letter had been sent requesting a Schedule B, and after that, after the letter, the Schedule B -- some Schedule B was put up on the site. So this example that's on the screen now for Coachella Valley Rescue Mission, they were sent a letter asking for the fiscal year 2009 and 2010 Schedule Bs. And later, evidently, the 2010 was

provided by the Rescue Mission, and it was one of the ones we found on the site that any member of the public could see.

Q I want to make sure I understand this and the timeline of this. The Attorney General sends out a letter saying -- a Schedule B deficiency letter saying, You didn't provide us your Schedule B; correct?

A Yes.

Q And then the charity provides the Schedule B -- confidential Schedule B in response to that?

A Sometimes, yes.

Q And these cases you're talking about, they did?

A Yes.

Q And then after receiving that confidential Schedule B, the Attorney General went ahead and posted it to the registry website?

A In some cases they did, yes.

Q And how many examples of that did you find?

A We found 75, which I reported in my supplemental report.

Q Dr. McClave, could you turn in your binder to Trial [34] Exhibit Number 255?

THE COURTROOM DEPUTY: 255 is identified and placed before the witness.

THE WITNESS: Yes.

Q (BY MR. LYTTLE) Do you recognize Trial Exhibit Number 255?

A I do.

Q What is it?

A This was Appendix J to my supplemental report, and it is the 75 instances where a Schedule B letter was sent on -- Schedule B deficiency letter was sent on one date, and at a later date for the same charity, a Schedule B was actually -- a confidential Schedule B was found on the site.

MR. LYTTLE: Your Honor, we would move Trial Exhibit Number 255 into evidence. Again, I believe it is stipulated to.

MS. SOICHET: No objection, Your Honor.

THE COURT: 255 in evidence.

(Exhibit No. 255 received into evidence.)

Q (BY MR. LYTTLE) Dr. McClave, the instances that you've been discussing with us this morning, those involved Schedule Bs listed on the registry website so that anyone who clicked on the link could download it; is that correct?

A Yes.

Q Is clicking on links the only way you found confidential [35] Schedule Bs on the registry website?

A No.

Q Could you elaborate on that?

A So we learned that the identification, if you will, of documents on the website fell into a sequential pattern such that there were gaps in the sequence. And we learned that there were certain -- I'll call them unlinked documents, documents that were not clickable. But if you changed the address slightly, the

web address called the URL, a document might come up.

Q Do you have an example that you could use to explain that more?

A I do. So in this example, if you went on the site and you typed in Pregnancy Counseling Center of Ukiah, up would come this, to be clicked upon, the site name. And then this is an example of what the page looks like after you've reached the site. And at the bottom of these pages, see all these documents? Those are clickable documents that you can click and see the document.

But if you hover over any one of these, as is being shown here, IRS Form 990, 2006, notice in the upper right -- and I've highlighted it -- there's a number, a document ID. And focus on the last several digits of -- this is Document 22. If you move down one document, now you're at IRS Form 990 for 2008, and you can see that it's got the very next number in the [36] sequence, 23.

Now, if you come down one more and hover over that, 24 doesn't come up, but 26 does. So there's a gap in the URL numbers, which caused us to be curious about what happened to 24 and 25. They are missing.

So what we did was we put the 4 in there, changed the 3 to a 4 to see if there's a document there. And lo and behold, in this particular case, it was a Schedule B confidential document. So just by changing one number in the URL, we discovered still another Schedule B.

Q This example, Dr. McClave, is for one charity. Did you find the same pattern existed with other charities?

Yes.

Q How many of them?

A Well, we did a random sample of 50 of these -- I'll call them gaps in the URLs. And among those 50 -- I mean, Counsel, there were some 800,000 gaps in total. So rather than look at them all, we just looked -- we started by looking at a random sample of 50. And in those 50, we found -- I think it's the next slide down. Yeah. This is what we found. 33 of them didn't have any documents; they just returned an error message. 17 returned actual documents, and four of those were Schedule Bs.

So we verified that there were more out there like the one we just saw for the pregnancy center. And as this says, we [37] stopped testing when we realized that these unlinked URLs were returning confidential documents.

Q Okay. Dr. McClave, you've discussed how you identified this by looking at patterns in the URL numbers; correct?

A Yes.

Q Is it your view that anyone researching a charity could have found those patterns?

A Sure, yes.

Q What do you base that on?

A Well, again, the numbers are in a sequence, and there have been examples of this kind of thing happening with large companies. Delta Airlines had

a similar problem when it was discovered by a member of the public that if he or she changed the URL number by one or two while looking at her boarding pass, she found that, in fact, a boarding pass of someone else showed up on the screen. So within 24 hours after this was reported to Delta, they fixed the problem and you couldn't do that anymore.

And there have been several others. CitiBank had an issue with credit cards where if I were on the site -- confidential site looking at my credit card information, I could change the URL and see somebody else's credit card information. And like Delta, once that was discovered, they fixed it. But there have been a number of -- I'll call them infamous instances in which these URLs, these unlinked URLs actually contained information [38] that they shouldn't.

Q Did you ever come to find out whether this was, in fact, a security error on the registry website?

A Yes.

Q And how did you come to that understanding?

A Mr. Harryman's deposition in which he was asked about this issue and said that he had independently discovered this URL problem and said, as this -- as is indicated here, that -- remember I said there were about 800,000 gaps that we didn't -- that we thought existed. Apparently, he found about 400,000 documents out there and testified that they'd all been taken down, I think it was early November of 2015. But prior to that, there had been confidential documents out there.

Q Do you have an understanding as to how the security error on the registry website happened?

A Well, my understanding is that -- that the vendor who was contracted to set the site up simply did not do what is now done, which was block those unlinked URLs.

Q And did I understand you correctly that the 400,000 -- more than 400,000 confidential documents that were affected by this URL issue, are those still accessible today?

A No. This was fixed in -- according to Mr. Harryman's testimony, in November of 2015.

Q And did you test that?

A Yeah. We went back out and looked for our 50 that -- it's [39] the top -- that I talked about at the top of this slide, and they were all gone.

Q Based on this information, Dr. McClave, is it your opinion that any member of the public could have used a web browser to access any of the Attorney General's more than 400,000 confidential documents?

A Yes.

Q Dr. McClave, you talked today about thousands of confidential Schedule Bs you've located on the registry website. Do you have any reason to believe that the registry has fixed the problem?

A No.

Q Why not?

A Well, first of all, we continued to find issues right up until my supplemental report in January. We continued to find -- I think one of the four exhibits

that we just talked about, the last one. But I also have continued to do some searches right up until last night, and just in the last week or 10 days I found another 40 Schedule Bs.

Q Okay.

* * * * *

[42] Exhibit Number 185, as you just testified, it lists a number of other different types of confidential documents other than just Schedule Bs; correct?

A Yes.

[AG Objection: (42:5-42:21) 106; 402; 403; 901; F]

Q And did you look for any of these other confidential documents on the registry website other than confidential Schedule Bs?

A I did.

Q And what did you find?

A Well, I didn't do nearly as fulsome a search as I did for Schedule Bs. I put some of these terms in just to see if there were any hits , any documents out there, and I found something over 1,500 documents just doing a quick search.

Q So doing a quick search, you found another roughly 1,500 confidential documents?

A Yes, sir.

Q And these 1,500 more confidential documents you located, those are in addition to the 1,740 confidential Schedule Bs you've already testified about?

A Yes. These were not -- I excluded Schedule Bs from this search.

* * * * *

[44] Q (BY MR . LYTTLE) Dr. McClave, as you sit here today, do you believe you could keep searching for more confidential documents on the registry website?

A Oh, absolutely. Again, these last two exhibits that we just talked about were results of pretty quick searches, so I'm confident that the problem hasn't been resolved.

Q Thank you, Dr. McClave.

* * * * *

[61] A No, absolutely not. Again, there's the word "document ID equals," and those IDs are sequential. So the fact that something before that might have changed I think is unimportant. The important thing is it's easy to recognize that there's a sequence here, and in this case, it's easy to recognize that there's missing numbers in the sequence.

Q And that sequence stays the same regardless of how the document has changed and what the effect of that saving has on the URL prior to that sequence?

A Right. I mean, most of the time, Counsel, if you hover over sequential documents in the -- for most charities, the numbers just go 22, 23, 24, 25, 26. So this is not the usual, but there are a large number of instances in which you find this kind of gap. And, you know, that just becomes apparent once you start understanding the site.

Q The sequence stays the same?

A That's right.

Q And because that sequence stays the same, the pattern you've identified and discussed also stays the same?

A Yes.

Q And readily ascertainable by the public?

A Absolutely.

* * * * *

**Excerpts from Deposition of
Thomas Monaghan**

Exhibit No. 908

Case No. 2:15-CV-03048

Thomas More Law Center v. Kamala Harris

UNITED STATES DISTRICT COURT
IN THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THOMAS MORE LAW CENTER,

Plaintiff,

Case No. 2:15-CV-03048-R-FFM

vs.

KAMALA HARRIS, in her Official
Capacity as Attorney General of
the State of California,

Defendant.

The Telephonic Deposition of THOMAS
MONAGHAN

Taken at 24 Frank Lloyd Wright Drive
Ann Arbor, Michigan

Commencing at 1:05 p.m.

Wednesday, May 25, 2016

Before Renee J. Ogden, CSR-3455, RPR.

* * * * *

[30] 21. Let's look at page 21 first. Do you see the part on 21 that says grants and contributions paid during the year?

A. Yes.

Q. Below that there's a list that continues for several pages, correct?

A. Yes.

Q. At the top of the page number 23, there's an entry that says Thomas More Law Center. Do you see that?

A. Yes.

Q. And there's an address there 3475 Plymouth Road in Ann Arbor, Michigan. Do you see that?

A. Yes.

Q. Do you recognize that address?

A. That might be the location of their office in the early stages.

Q. That's not in Domino Farms, correct?

A. True.

Q. But you remember when the Thomas More Law Center had an office some other place?

A. Yes.

Q. The amount there for the contribution to the Thomas More Law Center is \$1,221,513, correct?

A. It looks like \$122 million.

Q. I don't believe so. You can mark some commas on your [31] document if it's helpful. It looks like

there's just seven digits there to the left of the decimal point to me.

- A. You are right. Minor difference.
- Q. It seems like a lot to me. You can put that document aside and look at the document that is marked as Exhibit 55. Does that one have the year 2002 in the top right-hand corner of the first page?
- A. Yes.
- Q. This is for the Ave Maria Foundation?
- A. Yes.
- Q. If you turn to page 12, you will see a black box that is covered by a signature. Can you confirm whether or not that signature is also Mr. Paul Roney?
- A. Yes.
- Q. If you can turn to the page numbered 18 at the bottom. Do you see that this document also provides a list of grants and contributions paid during the year?
- A. Yes.
- Q. As part of that list, on page 19 in the middle of the page there is another distribution to the Thomas More Law Center, correct?
- A. Yes.
- Q. And this time it's for \$1,374,715, correct?
- A. Yes.
- [32] Q. You can put that document aside and look at Exhibit Number 56. This one is for the

year 2003 as reflected in the upper right-hand corner, correct?

A. Correct. I said yes.

Q. I'm sorry. I didn't hear you. This is for the Ave Maria Foundation?

A. Yes.

Q. If you turn to the page that would be number 12, there is a signature. Once you have had a chance to look at it, could you tell us whether that is Mr. Paul Roney's signature?

A. Yes.

Q. Turn to the page number 19. Once again there is a list of grants and contributions made during the year, correct?

A. Yes.

Q. As part of that list on page 21, the fourth organization down from the top, it's Thomas More Law Center again, correct?

A. Yes.

Q. And this time the contribution is for \$1,003,484?

A. It's coming down.

Q. It sounds like a lot of money to me.

[33] Q. Before today, did you know that those contributions to the Thomas More Law Center were publicly available?

A. I wasn't aware of it.

Q. Have you ever experienced any trouble, harassment, threats, harm because anyone

things that you have contributed money to the Thomas More Law Center?

* * * * *

A. One case comes to mind. It had to with -- I believe it was Massachusetts quite a few years ago. There was a murder of a 12-year old by a homosexual. I was told that I would be subject to some attacks if I -- if they took that case. I don't know if I was, but I did know that I wound up at the top of a list shortly after that of the most antigay persons in the country.

* * * * *

Q. You said as part of your last answer you were told you could be subject to attack. Who told you that?

A. Dick Thompson.

Q. I'm sorry. I didn't hear your answer.

A. Dick Thompson.

* * * * *

Q. There was a case that involved the murder of a 12-year-old boy.

A. Yes.

Q. Is it your understanding that the Thomas More Law Center somehow became involved in that case?

A. I think they were considering being involved in it at that time, but I don't remember.

Q. Do you know how it ultimately --

A. Do I know that?

Q. I'm trying to find out if you know how it turned out. Did they, in fact, get involved at some later time?

A. Did they what?

MR. DANIELS: Did they get involved at some later time.

A. Yes, there was a suit filed.

BY MR. CALIA:

Q. Do you know who the Thomas More Law Center represented? Was it the family of the boy?

A. I would assume so.

Q. Okay. After that happened, you mentioned that you were placed on a list of people who were considered to [35] be antigay. Apart from that, did anything else happen? Were there any attacks?

A. I was at the top of the list, not just on the list. I'm not aware of any. I get a lot of --

Q. That list that you talked about, do you know where that list was published?

A. I don't remember where it was published.

Q. But it's your understanding that it was published somewhere in a newspaper or magazine, something like that?

A. Yes. I saw the list.

Q. Would this have been in the time when you would have seen the list on the internet someplace or more of a print publication?

A. I don't remember. It was probably a reprint of an article.

- Q. I understand that you wouldn't like to be put on such a list, but apart from appearing on the list, did that have other consequences for your business or recognition that you attribute to being on that list?
- A. I got a lot of mail, but I didn't see the mail so I couldn't tell you.
- Q. You had someone on your staff look at the mail or you put it off somewhere?
- A. No. Every piece of mail was answered but I don't see

* * * * *

- [39] the organization, can you speak of any connection between the two organizations?
- A. That has to do with the complaints or the cancellations or in general?
- Q. Just more broadly. I'm trying to see whether or not these cancellations relate to the Thomas More Law Center. I'm not taking a position one way or the other. I just want to understand how you think about it.
- A. I don't think -- I'm not aware of any direct relationship between the cancellations and the Thomas More Law Center except the timing was, I believe, just after that particular case that we were talking about. So any criticism I have had by the gay community could have been because of that, being on that list, which I may have been because of the Thomas More. I don't know what other reason I would have been on that list.

- Q. After you were included at the top of this list that you just mentioned, did it change your philanthropy?
- A. Not that I'm aware of.
- Q. It doesn't change which causes you wanted to give to, right?
- A. True.
- Q. It didn't change the method you use to engage in your philanthropy?

* * * * *

[42] A I want to save souls and clean my own.

- Q. Are you are looking for charities that you think will help you with that goal, correct?
- A. Yes.
- Q. I think I saw you on video saying you ant to do the most good you possibly can, right?
- A. Yes.
- Q. And you have been quoted as saying things like you want to get to heaven and take as many people as possible with you. Do you recall saying things like that?
- A. Yes.
- Q. And your charitable giving is meant to accomplish those purposes as best you can, right?
- A. Yes.
- Q. So if the critics disagree with what you are trying to do and send you mail or put you on a list or cast

you in unfavorable light, is that going to change your priorities for your philanthropic giving?

A. Well, it hasn't yet.

Q. And you are not thinking about making a change now, right?

A. No.

Q. You are committed to the causes that you believe in?

A. Pardon? I'm permitted -- it was a little choppy.

[43] Q. Committed.

A. I'm committed to give what I believe in? Is that what you are saying?

Q. Yes.

A. Yes.

Q. Apart from the things that you have told me about so far, which is this list that you were at the top of and some mail that your staff has received, are there other harassing behaviors that you have been subjected to because of your beliefs?

A. Well, I mentioned the speakers at our Legatus convention.

Q. I didn't mean to leave that off the list. Are there any others that come to mind?

A. I'm not aware of it as of now.

Q. Do you know who Pam Geller is?

A. Would you repeat the name.

Q. Pamela Geller?

A. Pamela Geller, I don't recognize the name offhand.

[TMLC Objection to 43:20-22 FRE 602]

Q. Have you received any threats or harassments that mention Pamela Geller to your knowledge?

A. Not to my knowledge.

Q. I want to perhaps refresh your memory about one other event that happened back when you were at Domino's Pizza. I understand that there was a time when the [44] National Organization of Women called for a boycott of Domino's Pizza.

A. You say now?

Q. Yes.

A. Yes, I remember that.

[TMLC Objection to 44:6-14 FRE 801, 802]

Q. Okay. And I read a quote attributed to you in People Magazine where you said the boycott has made pro-life people buy even more from us. Do you recall saying something like that?

A. I said something like that.

Q. You also were quoted as saying, "And even if it were hurting sales, it wouldn't change my mind." Do you recall saying that?

A. No, but I'm sure I did.

Q. If there were a boycott of your business, it wouldn't change your mind in terms of funding efforts to reduce or eliminate the number of abortions in this country, correct?

A. If I understood your question, that's correct.

Q. I mean that issue of reducing or eliminating abortion is something you feel strongly about, is that right?

A. Yes.

* * * * *

[46] how I wanted to organize it, so that was a major part of the work.

Q. Anything else?

A. No. I mean, that -- that covers the categories.

Q. When you say you restructured the logic of the argument, could you explain what that means?

A. Very simply, I have four sections in the other report. This has six. And I just built the argument piece by piece a little differently, but the same content. I separated out, you know, so I turned four sections into six.

Q. Okay. Now, you said at the beginning that you also wanted to emphasize the religious purpose of Thomas More Law Center, is that correct?

A. That is correct.

Q. And can you explain to me what you mean by that?

A. Yes. That in the expert testimony -- our expert report, excuse me -- one of the Constitutional rights that people have is freedom of expression of religion. In the previous case that certainly was part of what was meant by expanding and protecting liberties, but in this particular organization they have a specific focus on one of the key areas of Constitutional rights and protections in my view.

And so it seemed to me important that the people [47] that were being protected, the donors, would have this religious orientation. And so it was a re-enforcing and added set of principles and concerns that the donors would have for why they gave, why they wish

to remain anonymous, and why they wanted to give directly to the Thomas More Foundation.

And so it wasn't just protecting some dimensions of privacy and rights to privacy under the law, but these were added and more controversial areas than even some of the political areas that law firms and charities participate in or have orientations around or cultural areas.

Q. Okay. You said something like it was important to you that in this case the donors have this religious orientation.

A. No. Excuse me. It's not important to me that they have it. It's important to my report to know that they have this religious orientation to -- that they want protected.

* * * * *

So my question to you is how do you know that donors at Thomas More Law Center have a particular religious orientation?

[AG Objection: (47:24-48:10) F; 802]

[TMLC Response: FRE 702, 703]

A. Because the Thomas More Law Foundation in its solicitation letters, which I saw in some of the

* * * * *

[68] war. It was a -- an independent act.

Q. During the Salvador and civil war?

A. By the military, not by the -- any revolutionary.

Q. Now, the Jesuit killings in El Salvador happened in the '80s at some point, correct?

A. Uh-huh.

THE COURT REPORTER: Yes?

MS. CRUZ: Yes or no?

A. Yes. Yes.

BY MR. ZELIDON-ZEPEDA:

Q. And the Guatemalan Civil War was also in the mid '80s to late '80s, correct?

A. (Witness nods head.)

Q. Was that a yes?

A. Yes. Yes.

Q. And the struggle of the Shining Path in Peru, that was also in the '80s, '90s, and maybe continuing?

A. Yes.

Q. And it's your testimony that theoretically that background informs your opinion in this case regarding risks to religious organizations in American society today, is that correct?

* * * * *

A. It shows what I said before, yes. How intense [69] religious -- how adding a religious dimension to your position or an anti-religious position intensifies the violence in many instances that donors would face given the controversial nature in our culture of some of the defending activities and the mission statement of the Thomas More Law Center.

BY MR. ZELIDON-ZEPEDA:

Q. Have you conducted any research on the risks to religious organizations in American society in the present?

A. No.

Q. Are you aware of any such research in the field of sociology?

A. No.

Q. Are you aware of any peer-reviewed research in any field on the topic of the risk in today's society to religious organizations?

A. I know of peer-reviewed articles about the Israeli -- Israeli Arab conflict.

Q. In American society?

A. No. In -- that spills over to invective -- especially about potential Arab or Muslim religious activities. And I cite the ACLU report about the chilling effect, so it wasn't peer-reviewed, but it was a contemporary report by a legal organization, a

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[88] Q. On Section B in paragraph -- on page 11 you talk about the alleged link between negative repercussions and donor desire for anonymity, do you see that?

* * * * *

A. You said B. I thought you said D. Excuse me. Yes, I see that. And you asked me?

Q. So my question to you is according to the research in the field isn't the predominant reason why donors want to remain anonymous because they don't want to be harassed and hit up for more donations?

A. Harassment can include any kind of harassment today, so it is what becomes inconvenient to you. If the most inconvenient part for you because your major donation public yourself is harassment for other donations because you've made your donation public. If you don't want to be public, then there's a reason for that, and especially if you're associated with controversial causes that harassment is not about being asked for more contributions. That harassment is by opponents of the causes that you are contributing to.

Q. You've mentioned the term controversial causes a [89] couple of different times. Can you define what you mean by that?

A. Yes. Any issue in which people take action first feel offended by and take action to counter, and that action is -- an orientation is highly emotionally and morally and perhaps religiously charged, so when that opposition -- what defines controversial is opposition that is highly charged and this is across the political religious and cultural spectrum.

Q. Can you give me a couple of examples of what you have in mind when you talk about controversial causes?

A. Bathrooms for transgender people in North Carolina, police shootings in Baltimore, and the -- and in Chicago, and the opposition refusing to provide and to allow conferences to occur there. A proposition aid in California. I could -- the -- the case that went before the Supreme Court by the little sisters of the poor regarding having to provide from their health care.

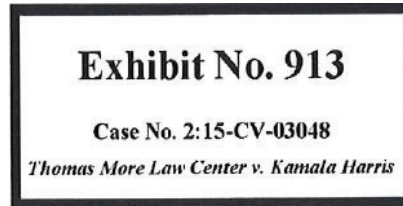
Q. Contraceptives?

A. Abortion and contraception practices, and defined by the opposition that you could read about and see in the court case right there. Those are examples. I mean I could go on and we all know them.

Q. On Section C on page 11 you talk about the effective technology on repercussions for individuals

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Excerpts from *AFPF* Trial Transcript, Day 6



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION

HONORABLE MANUEL L. REAL
UNITED STATES DISTRICT JUDGE PRESIDING

AMERICANS FOR PROSPERITY)	
FOUNDATION,)	
)	
Plaintiff,	)	CASE NO.
	)	CV 14-9448
vs.	)	-R
)	
KAMALA HARRIS, in her	)	(Pages 1 -
Official Capacity as Attorney	)	169)
General of the State of California,)	
)	
Defendant.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COURT TRIAL - DAY SIX
LOS ANGELES, CALIFORNIA

FRIDAY, MARCH 4, 2016
10:27 A.M.

* * * * *

[7] THE COURTROOM DEPUTY: Please raise your right hand.

STEVEN BENJAMIN BAUMAN, DEFENSE WITNESS, WAS SWORN

THE WITNESS: Yes, I do.

THE COURTROOM DEPUTY: Thank you. Please take a seat.

Please state your full and true name for the record, and spell your last name.

THE WITNESS: Steven Benjamin Bauman, B-a-u-m-a-n.

DIRECT EXAMINATION

BY MR. CALIA:

Q. Good morning, Mr. Bauman. Are you presently employed?

A. Yes, I am.

Q. What do you do for work?

A. I am a supervising investigative auditor for the attorney general's office, charitable trust section.

Q. How long have you held that position?

A. I have been the supervising investigative auditor since 2001.

Q. What did you do before that time?

A. I worked as an auditor for the same section, charitable trust section since 1988.

Q. What positions did you hold during the period 1988 when you became a supervising investigative auditor?

A. I started as an Auditor I, became an Auditor II, III, and

* * * * *

[18] Q Okay. And are you testifying today that, in fact, is incorrect?

A That is not incorrect.

Q That is not incorrect.

So when I asked you the question whether Schedule B was ever a triggering document to one of your personal investigations, you told me at deposition under oath that you could not remember, correct?

A That triggered -- I'm not aware of Schedule B being a document that triggered, that we opened up an investigation because of the existence of Schedule B. We have used it to help determine whether we open up an investigation or not.

Q Okay. On direct you said you used Schedule B to open an investigation, right? But just to be clear, your testimony, that's true, Schedule B itself has never been used as the triggering document to open up an investigation, correct?

A I'm not aware that Schedule B has ever been used to -- was the triggering document that we opened up an investigation strictly because of Schedule B.

Q Okay. Sir, on direct you discussed some of the investigations as supervising auditor that your team has performed over the years, correct?

A Correct.

Q Okay. Now, do you recall in discovery when we asked of defendants for a list of investigations that implicated

* * * * *

[21] includes these reports, and you again came up with one instance; am I right?

A. We went back to Pro Law and took a look at the assignments. We did not go and take a look and read every report and memo that had been written over the last ten years.

Q As you sit here today, can you think of one report that you -- or for an audit that you worked on that specifically mentions Schedule B as an important document, sir?

A As I sit here today, I don't recall.

Q And you couldn't at your deposition either in late October, correct?

A Correct.

Q Now, you identified one investigation. You also asked your team, your team of eight, to go back and look as well, correct?

A Correct.

Q And when they went back and looked -- that request from us asked for ten examples, right? We asked for you guys to provide ten examples to us, didn't it?

A Yes.

Q And after your investigators all went back and searched for ten years going back to 2005, they came up with around five investigations only; is that right?

A The request was from our section, as I understand it, and the auditors came up with approximately five, and I think the

* * * * *

[TMLC Objection to 22:22-23:25; TMLC Motion in Limine (ECF 70)]

[23] Q You told me a rough average, at least for your team of L.A., because that's all you keep track of, correct?

A Correct.

Q So that's the five auditors in L.A., correct?

A Correct.

Q Not the three in San Francisco, correct?

A Correct.

Q So of those five auditors, average two to three audits per month, new investigations. You told me that.

A Yes.

Q If we average that out, it's 36 per year, fair?

A Fair.

Q Over a ten-year period, 360 then, correct?

A 240 to 360.

Q 240 to 360 at the high end, but that doesn't account for what San Francisco did, right?

A Correct.

Q And they do their own audits, too, correct?

A Correct.

Q There's a couple three, maybe a little bit less, but maybe 180 if we cut it in half, fair?

A Fair.

Q Total, we are probably talking 540 or more potential investigations?

A Potential.

[24] Q Right. And you, sir, identified one that implicated Schedule B, right?

A Yes.

Q And your team came up with five in total, correct?

A That they recall the specific use of Schedule B.

Q Right. And so if we do that math and take 5 and divide it by 560, that's less than 1 percent of the time, isn't it?

A Yes.

Q Okay. Now, I want to focus on your investigations, sir, because we spent some time with that at your deposition. And I don't want to belabor the point, but it's true, is it not, that for the one investigation that you identified for this case, you could have, quote, probably completed it even without Schedule B, true?

A We could complete our investigations if you took away many of the tools that we have. We just wouldn't be as effective or as efficient.

Q Again, my question was very simple. We went over this before. You testified that you could have completed that one investigation that you recalled using Schedule B even without the Schedule B, true?

A Yes, but not as efficiently.

Q Okay. But the answer is “yes,” correct, to my question?

A Correct.

* * * * *

[25] Q Do you know whether the registry itself uses Schedule B?

A Well, you asked if I know anything they do. I know they scan them. I know they upload them. I know they collect them.

Q Do you know where they put the information from Schedule B to use in any way? The answer is “no,” correct?

A I don’t know that they do.

Q Okay. You understand that the charitable trust section oversees something like a hundred thousand charities, right?

A There are, my understanding, over 90,000 charities registered with us. That doesn’t cover the charities that we still oversee that are not required to register with us.

Q Fair enough. I only want to focus on the ones that are registered.

So your best recollection is some 90,000 plus?

A Correct.

Q Now, you also understand that every year the charitable trust section requires those who want to remain active to file renewal registration, right?

A Correct.

Q It's your understanding that tens and tens of thousands of those charities file those documents?

A Correct.

[26] Q Okay. And, in fact, we heard yesterday from Ms. Foley in her last year, 2014, it was some 60,000 plus?

A I don't know what that number is.

Q Do you have any reason to dispute that number if she said it?

A No.

Q Okay. So it's also true as the investigative branch, you guys don't review those documents as they come in, correct?

A You are asking if we review all the documents the registry gets?

Q Right, the 60,000 that come in.

A We do not.

Q You do not check to see if the form 990s are filed, correct?

A Correct.

Q You don't check to see if there's Schedule B in there, correct?

A Correct.

Q The registry just collects that universe of documents from every charity, the good, the bad and the ugly, and just holds on to those documents, correct?

A Correct.

Q And if ever you look at the documents, it's only when a complaint comes in, fair?

A Yes.

[27] Q Mr. Bauman, you testified that you have been with the charitable trust section from 1988 through today?

A Correct.

Q So roughly 27, 28 years?

A Yes.

Q And you were supervising investigating auditor from 2001 to -- or to today, about 15 years?

A Correct.

Q Now, sir, you've reviewed some form 990s along the way; is that true?

A Yes.

Q And you have reviewed form 990s in connection with audits that did not include Schedule B; isn't that true?

A Yes.

Q And you noticed, in fact, many form 990s do not include Schedule B?

A Correct.

Q You still successfully audited those charities, correct?

A Yes.

Q Found wrongdoing in some cases?

A Yes.

Q Without the Schedule B, correct?

A Correct.

Q And even when a supervising investigative auditor, you notice Schedule Bs were missing along the way, many of them, [28] you never told the registry that they need to make sure they are collecting those Schedule Bs, right?

A For organizations that we are currently investigating, if a Schedule B is missing, have I contacted the registry to say, "Go get it"?

Q Right.

A No. At that point I would contact the organization myself.

Q Fair enough. But on top of that, I'm generally asking, you've noticed over your tenureship that Schedule Bs are missing from form 990s?

A Yes.

* * * * *

Q You have been there a long time, and you've noticed it, and you've been the auditor, but you never told the registry, the attorney general or even the deputy attorney general, "I noticed these are missing. We need to make sure we are getting them so I can

successfully audit these charities,” you have [29] never said that, right?

A The registry’s goal is to collect the 990 and the schedules that are required to be attached to it. I --

Q Mr. Bauman, I think that’s a yes-or-no question.

A I assume they’re doing their job. I have not contacted them to say, “You need to go get Schedule Bs on every organization.”

Q Now, you did mention a moment ago that you contact charities after you do an investigation to ask for documents, and you spoke about that on direct, correct?

A Correct.

Q Okay. It’s true -- well, let me ask this: Has there ever been an instance where you asked a charity for their form 990 and they refused to provide it?

A Not that I recall.

* * * * *

[30] Q My question is: Do you know of an instance where there is a Schedule B out there, you have asked for it, and it hasn’t come back?

A No.

Q You aren’t aware of that happening.

It is also true in this audit process, Mr. Bauman, that it is the general practice of your team to send an audit letter very early on in the process to obtain documents; isn’t that true?

A Yes.

* * * * *

THE COURT: All right. Mr. Bauman, what information did you get in the case where you used -- where you used Schedule B?

THE WITNESS: The case that I was involved in where we used Schedule B, we were able to determine that the corporation who was connected to and funding a for-profit had given funds to the foundation but were not the sole contributor. And funds that the foundation was using for the [31] benefit of the for-profit corporation, it was also public funds that were benefitting the for-profit corporation.

THE COURT: What information did you get --

THE WITNESS: The --

THE COURT: -- from the Schedule B?

THE WITNESS: How much funds the corporation was giving to the nonprofit.

THE COURT: And could the nonprofit organization give you that information?

THE WITNESS: They could.

THE COURT: Couldn't they be asked, "How much did you get from X, Y, or Z?"

THE WITNESS: Yes, it's more effective and efficient --

THE COURT: What happens in the ones where Schedule B was not worked, was not used?

THE WITNESS: In cases that we have --

THE COURT: In the ones that you had where Schedule B was not used, where did you get the information that you talked about just now?

THE WITNESS: From the charity.

THE COURT: From the charity itself?

THE WITNESS: Correct.

THE COURT: All right. So you do not need a Schedule B to get that information, do you?

[32] THE WITNESS: It makes it more efficient --

THE COURT: No, I asked you a question. Read the question to the witness.

(Record read.)

THE WITNESS: To get it up front, I believe we do.

THE COURT: Counsel -- I mean, Mr. Bauman, don't play games with me. Now, answer the question.

THE WITNESS: Can you reread it, please?

(Record read.)

THE WITNESS: No.

* * * * *

[68] Q In your experience the things that have precipitated investigations are media reports and complaints, correct?

A Sorry. Yes.

Q A Schedule B -- I'm sorry.

A You didn't let me finish. Sorry.

We do get complaints through media. We get complaints from various different sources, and sometimes we get complaints from our own staff who are solicited at home, so yes.

Q A Schedule B has never precipitated an investigation of a charity in that same sense, has it?

A Yes.

Q Okay.

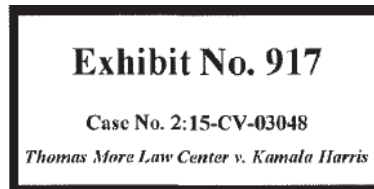
A You're correct.

Q Thank you.

And you don't ever undertake an investigation of a

* * * * *

Excerpts from Deposition of Belinda Johns



IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

-----X

AMERICANS FOR PROSPERITY
FOUNDATION,

Plaintiff,

v.

KAMALA HARRIS, in her Official
Capacity as Attorney General
of the State of California,

Defendant.

-----X

VIDEOTAPED DEPOSITION OF

BELINDA JOHNS

DECEMBER 11, 2015

9:26 a.m.

* * * * *

[151] occurring.

Q. Is it your view that the confidentiality measures that the charitable trust section implemented to keep Schedule Bs confidential were adequate to keep it confidential?

A. They were adequate if everyone was paying attention to their role and their job duties.

Q. Do you recall anybody who was not paying attention to their role and job duties?

A. Well, no one specifically but we certainly had students who had to be let go because they weren't filing things properly or -- or at all. They were eating candy or something. But that's unrelated to Schedule B. I mean, there's always human error. And the Registry is staffed by fairly low-level clerks. So while I thought most of the staff was very dedicated and very conscientious, that isn't to say there was never an error made. But I thought the policy was quite clear. And -- and the process that we set up.

Q. As you say, there's always human error?

A. Right.

Q. People are fallible?

A. Yeah.

Q. But to your mind while you were the [152] Senior Assistant Attorney General, especially in the automation era, the procedures that the charitable trust section and specifically the Registry of charitable trusts had no place to protect the confidentiality of Schedule B, you felt those were adequate at the time?

A. Based on what I knew then, yes.

Q. You felt they were -- sorry, go ahead.

A. They were devised by Kevis and I don't know if she consulted with anyone else, based on what the automation processes were. And there were checks and balances because, you know, the documents went through more than one set of hands. But that isn't to say there weren't errors.

Q. At the time you felt that they were sufficient to compensate for the fact that there's always human error?

A. Yes. Kevis felt they were, and they appeared to me and I trusted that she understood the processes because she was the manager and that they were, therefore, adequate.

Q. And you could have told her to change the processes if you thought they were inadequate?

A. Yes, I could.

Q. But you never told her that they were [153] inadequate?

A. I don't think I ever needed to do that. I don't remember a time when I had to do that.

* * * * *

[253] **Q. There would not be disciplinary proceedings and punishment?**

A. No.

Q. Why not?

A. It was an inadvertent error.

Q. So for inadvertent disclosures of Schedule B, no punishment is appropriate?

A. Well, I don't know what you mean by "punishment." In order to discipline an employee, there are stages of notice that have to be given and it would be for dereliction of duty or -- or -- what's the word I'm looking for? Purposeful -- purposefully not performing their job, and "punishment" is not a word that's used.

Q. I'll change my terminology then.

Is "discipline" the appropriate word for sanctioning an employee who has acted inappropriately?

A. If it's purposeful, yes. If it's an intentional act. Or if somebody is simply not doing their job for a period of time. But again, there are stages of discipline that have to be followed and those are managed by another section of the office.

There are a number of different notices that [254] have to be made and I don't know -- and the Charitable Trust Section does not impose discipline. It's imposed based on employment regs.

Q. So for -- if an employee in the Charitable Trust Section needed to be disciplined, you would refer that out to another section of the office that handles employee discipline?

A. The Section would -- I can't remember how many notices but there -- there has to be a notice of the wrongdoing. There has to be wrongdoing, not inadvertent error. And it has to be not -- it could be a single incident, if it was -- if it was serious wrongdoing, whatever "serious" means. But there has

to be an opportunity to cure. And then there has to be another notice, as I recall.

We had very few disciplinary actions. But always managed by the employment law, I can't remember the name of the section now. They were the monitors who walked us through the process. And then there is a hearing process, the employee can -- can object.

What's more likely is that if somebody is incapable of performing a specific job, they'll be moved to another position. So if somebody can't

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[AG Objection: (265: 17-280:4) Relevance, FRE 402, 403]

[275] A. That's what safeguard said.

Q. It was forbidden to upload these paper documents to an electronic file system?

A. Absolutely.

Q. And you say the IRS would have permitted electronic uploading if you had the same electronic safeguards as a revenue agency?

A. Yes.

Q. Do you recall what those electronic safeguards are?

A. No they're really -- really complex and only revenue agencies have them because they're intended to safeguard tax documents.

Q. What are examples of revenue agencies?

A. Franchise Tax Board.

Q. So the California Franchise Tax Board can have electronic copies of these kind of information received from the IRS?

A. And does.

Q. And does?

A. Yes.

Q. But the Charitable Trust Section doesn't have as advanced electronic safeguards as the California Franchise Tax Board?

A. I don't believe anybody in the [276] Department of Justice has that level. They're quite convoluted, and apparently it would take two days or more. The safeguards people would bring out PriceWaterhouse to audit the data center to make sure all that stuff was in place. We weren't getting enough to make that worthwhile.

Q. And you said at least once a year members of the IRS safeguard team would come and ask you questions and check on whether you were following all of the safeguards?

A. Yes.

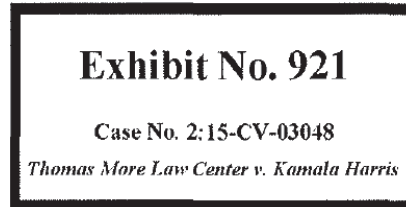
Q. For receiving the IRS information?

A. Yes.

Q. And you would also fill out a form that you would send to the safeguards team documenting, detailing all the measures you took to implement these safeguards?

A. Yes.

**Excerpts from Deposition of Tania Ibanez in
Foundation Case**



IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

-----x

AMERICANS FOR PROSPERITY
FOUNDATION,

Plaintiff,

v.

KAMALA HARRIS, in her Official
Capacity as Attorney General
of the State of California,

Defendant.

-----x

VIDEOTAPED DEPOSITION OF TANIA IBANEZ

Los Angeles, California

January 6, 2016

9:38 a.m.

* * * * *

[170] the work, most of the research, and then James and I were just reviewing and talking about, “Okay, well, what can be added and what should be deleted.” We went back and forth many times before we submitted it to the regulations coordinator.

Q. Why did you think the regulation would be a good idea?

A. Well, I thought that, given, you know, the litigation that’s going on right now, that it would be a good idea to memorialize our policy and regulations to make it clear that we’re going to keep it confidential, even though I thought it was clear.

Q. Am I correct in understanding from that that the regulation is meant to memorialize preexisting policy and practices?

A. Yes.

Q. Not to change them?

A. Not to change them.

Q. Are you able to prognosticate about whether the regulation is likely to take effect?

A. No.

Q. Because that’s subject to a notice and comment process that has yet to play out?

* * * * *

**Excerpts from Deposition of Tania Ibanez in
Law Center Case**



IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

THOMAS MORE LAW)	
CENTER,)	
)	
Plaintiff,	)	Case No.
	)	2:15-cv-03048
vs.	)	R-FFM
)	
KAMALA HARRIS, in her)	
Official Capacity as Attorney)	
General of the State of)	
California,)	
Defendant.)	

DEPOSITION OF TANIA IBÁÑEZ
 Los Angeles, California
 Friday, June 3, 2016

* * * * *

[101] Q. Okay. Figured as much.

Let's put this aside.

I'll ask a couple, and then we'll take the lunch break, if that's all right.

Other than through your counsel, did you become aware of any crash of the Registry's website that took place in May of 2016, last month?

A. Yes.

Q. Apart from your counsel, how did that come to your attention?

A. Actually, it didn't come from my attorneys. It came from the Registry.

Q. Tell me about it. Who brought it to your attention?

A. I received either an email or a phone call - - I don't remember which - - from David Eller and Chris Harryman.

Q. Do you remember the date?

A. No. But it was in May.

Q. Were all three of you on the phone together, or are they separate calls?

A. I don't even know if it was a call or if was an email.

Q. Oh, right.

[102] Well, what did Mr. Eller tell you about the crash in May?

A. I believe it was by email. If I was a betting woman, I would say it was an email.

Q. Okay.

A. And I believe the sense was that the verification wasn't working because somebody was using verification at such a rate, it amounted to hacking, as far as I'm concerned, and they wanted to know whether or not they should shut it down.

They couldn't -- they were trying to figure out, you know, where it was coming from. They were trying to address the issue, and apparently they were having difficulties.

And so the alternative was, should we shut it down? And so that was the question they posed to me.

Q. You say "they."

Did both Mr. Heller and Mr. Harryman pose the question to you separately?

A. No, I think it was one email from the both of them.

Q. Oh, all right.

A. Yeah.

Q. I follow you.

[103] And what did you respond? Should it be shut down or not?

A. I said, "Shut it down."

Q. I have to ask out of ignorance, what -- when you said the verification was not working, what does that mean?

A. It means that the Registry search feature available to the public wasn't working -- wasn't functioning properly.

So we've had this experience in the past with Americans for Prosperity when they hacked into our system, using a robot to search, and the robot that they were using to search apparently didn't follow our instructions, and it crashed the system.

Q. Okay.

A. And so no one could use the Registry search function.

Q. I understand you're not a technologist, and neither am I.

But was the situation that Mr. Eller and Mr. Harryman described to you in May similar to the situation that occurred with Americans for Prosperity?

A. I think so, but there were slight differences in the sense that they noticed that the [104] searches were done by more than one entity or more than one computer.

And I'm really not the best person to testify about this. This is way beyond my technical expertise.

Q. I can only ask you for your understanding.

A. But that was my understanding. It was similar but not the same.

[TMLC Objection: FRE 602; TMLC counter-designates 104:11-14 only if 104:9-10 are admitted]

Q. Okay. Has it been resolved now?

A. Yes.

Q. Do you know how it was resolved?

A. No. Chris Harryman and Hawkins Data Center staff would know much more about what happened and how they fixed the problem.

* * * * *

[122] the 1,400 -- I don't even want to call it leak, but the 1,400 charities where the Schedule B was public, apparently there -- some Congressmen are calling for Congressional hearings. So that came to my attention, not through my lawyers.

Q. Okay.

A. And then there was some discussion that the IRS is contemplating not using the Schedule B in the future.

Q. Was that independently of the move in Congress?

A. Yeah.

Q. As a result of those things, and I understand they haven't happened yet --

A. Yeah.

Q. -- but as a result of those being discussed, have any contingency plans been made in the AG's Office or the Registry for what to do if there is no Schedule B attached to a Form 990 in the future?

A. No. We haven't gotten that far.

Q. One last question about the May interruption of service at the registries.

Do you have any information, other than from your attorney, as to what the source of the [123] interruption was?

You did describe something, that it was more than one --

A. Yes.

Q. -- computer or person.

But in terms of -- do you know who did it?

A. I think I do.

Okay. You know that it was not Thomas More Law Center?

A. I do know that.

Q. Now you know it was not Dr. McClave, who was the expert for Americans for Prosperity?

A. That's what I heard, yes.

Q. Okay. Is there -- are you able to tell me who it was you believe was responsible?

A. I think so.

Q. Who do you believe was responsible?

A. I think the Registry staff -- Chris Harryman thought that it was Goldwater Institute. And this is speculation on his part. And that's because we were able to trace the surges to the charities that were on Mr. McClave's list.

So because we had given that list to Goldwater in response to the public records request, we basically concluded or assumed that they were [124] searching so fast to get the unredacted Schedule Bs, which were not available, but they were trying to, that we

assumed they were the ones that were shutting down our system.

But again, it's assumption, and I could be wrong.

Q. I understand.

A. It's just -- you know.

Q. Let's just pursue it for a moment.

Do you have an estimate of the time -- have they given you an estimate of the time when Goldwater received Dr. McClave's list pursuant to the Public Records Act request?

A. I think it all happened in May.

Q. And apart from anything you learned from your lawyer, do you know why Dr. McClave's list was provided to Goldwater?

A. I think they wanted to know all the charities that -- whose Schedule B might have been made public.

And we said we don't have a list, but here.

And I know that I'm not saying it very artfully, but that was the gist of our response. We referred the organization to that list.

Q. Did you have any concern at the time that [125] Goldwater might use the list to try to get the unredacted Schedule Bs and then sell the lists of donors to others?

A. No, because as soon as we found out from Mr. McClave that these Schedule Bs could be searched publicly, within less than 24 hours, we made those Schedule Bs confidential documents. So we were not concerned at all.

Q. Okay. Was there any evidence you know of that whoever -- whether it was Goldwater or somebody else, the person who caused the May disruption was conducting searches beyond the McClave list?

A. I don't know. They might have. But I think staff told me that they thought that that's what they were focusing on.

* * * * *

Excerpts from *AFPF* Trial Transcript
Day 5, Vol I



UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA -
 WESTERN DIVISION
 HONORABLE MANUEL L. REAL
 UNITED STATES DISTRICT JUDGE PRESIDING

AMERICANS FOR PROSPERITY)	
FOUNDATION,)	
)	
Plaintiff,	)	CASE NO.
	)	CV 14-9448
vs.	)	-R
)	
KAMALA HARRIS, in her)	
Official Capacity as Attorney	)	Volume I
General of California,	)	(Pages 1-93)
)	
Defendant.)	
_____)	

REPORTER'S TRANSCRIPT OF TRIAL
 PROCEEDINGS

COURT TRIAL – DAY FIVE
LOS ANGELES, CALIFORNIA
THURSDAY, MARCH 3, 2016
10:04 A.M.

* * * * *

[6] fundraisers for charitable purposes. I have registration reporting requirements related to those laws.

Q How is that work divided among the office?

A It's separated up programmatically. So for instance, we have the registration program and the renewal program, and then we have a delinquency program and a dissolution program. Those are all related to the charity registration reporting requirements. And we have a charitable raffles program, as well as a commercial fundraiser program. And then sort of a general front desk area, I'll call it, for lack of a better term, that makes sure all the mail gets processed every day. They sort of supervise the students, set their schedules, and then they also do all the prepping of the documents for scanning and oversee that scan project.

Q And what is the bulk of the work of the Registry of Charitable Trusts?

A Processing the annual filings that come in for the charities.

Q How many renewals do you process per year, approximately?

A The year before I left, it was 60,000-plus.

Q And when you started in 2005, how many people worked in the Registry?

A I want to say there was 17, including myself as a registrar, and then we had another seven or eight students.

Q And did that change during your time at the Registry?

[7] A Yeah. The number of students fluctuates, and then we also added additional permanent staff over the time until I left in 2015. I believe there were 25 or 26 permanent staff plus three seasonal clerks and another seven or eight students.

Q Did that happen -- did that happen over time, or was there a noticeable change --

A It sort of happened over time. We got -- a good number of additional staff happened during the budget crisis in California related to when they were going to be laying off staff in other sections of the Department of Justice. They moved them into our area because we're self-funded, and we could keep them there and we had room in the budget for them.

Q Approximately when was that?

A I want to say it was like 2009 or '10.

Q Did you budgets increase during the time that you were with the Registry?

A The budget did not increase. It's what they call spending authority for the state. So but within that spending authority, you can spend it on however you want. So, for instance, in the beginning when I started, most of those extra resources that had got in the budget in 2005-'6 budget year were allocated for

the automation of the Registry. And then after that, it sort of got freed up, because it was just on ongoing renewal process of the contract. And we had room to hire contractors to help do scanning. We had room also in the

* * * * *

[17] peak filing times, in May and November, a lot of the other staff would also have to assist opening the mail because they just had so much of it. So they would all open the -- you know, processing, stapling checks to the forms and putting them into boxes to be processed.

Q And where do the documents go from there?

A. In the old system or now?

Q. In the old system.

A. In the old system they would just get put into the paper files on the shelves and manually filed.

Q. How were those paper files organized? How would they get to the renewals program?

A. Well, once they were processed by -- the forms were opened and checks were attached, they would go to the program to be entered. Again, other staff would help out in that process as well during those peak filing times. And then once the forms were processed, they would just get put into boxes to be filed into the paper files.

Q. And who reviewed the forms?

A. The analysts would review the forms for completeness.

Q And then who would get the form after that?

A After that -- well, it could be either analysts or the office technicians that were entering the forms. And then after that, it would be the students that did most of the filing.

* * * * *

[19] go into the record. They're going to note the deficiency. They're going to generate a letter out to the organization telling them what they're deficient in. And they're also entering some information in what we call the ARF panel to say what we did get -- you know, the information that was there.

And the ones that are deemed to be -- there's no deficiencies, they also go into a box to be entered by staff to complete that renewal process. And those are done by office techs. They may be entered by analysts, and they may also be entered by students, depending on how many they have to enter.

Q And what happens to the documents, the paper documents after all that information is entered?

A After the information's entered, they go back into another --

(Reporter admonition.)

THE WITNESS: Sorry.

After the information is entered, the forms are put back into boxes that go on a shelf. Then those boxes are soft-sorted by state charity registration number order.

Q (BY MS. SOICHET) I'm sorry, what does "soft-sort" mean?

A Soft-sort means there's a range of numbers on the box, so they're just put into the box, like 10,000 to

20,000 go in this box for the registration numbers. Then once they're soft-sorted, somebody comes and takes that full box and puts it on the shelf, and they'll be ready to be prepped for scanning [20] next. And once the boxes have been prepped for scanning by the students or seasonal clerks, then they're -- everything -- all the boxes that have public documents are sent off site to a vendor that scans them and returns a drive, jump drive, to the Registry. And using that, the documents are uploaded to the records themselves. And those boxes of documents, once they've been scanned, get stored off site for three years until they're destructed.

Q You said earlier that the documents are prepped for scanning. What do you mean by that?

A. The documents, the filings are gone through to remove any confidential information from them. There are also scan sheets, that the software uses to identify the document type, are inserted at that time in between the documents, so that the boxes will have documents -- usually it's the R form with the 990 underneath it designates what years those form filings are, and then the scanning software uses that to identify what the record type is. They also have the state charity registration number written on the top of those front pages of the forms because that gets entered by scan staff.

Q And who is the staff again?

A. The staff that was doing the prepping of the documents is -- it's generally the students and the seasonal clerks in the office.

Q. Apart from mail, are there any other ways that the RRF-1

* * * * *

[62] right?

A We would not want to put them on the website, no.

Q Okay. And you would want to make sure that that policy was fulfilled and met and -- all the requirements met to the best of your ability; right?

A Yes.

Q And the best of your staff's ability; right?

A Yes.

Q Now, you testified on direct that the people who were trusted with identifying confidential Schedule Bs were students and seasonal clerks. Do you recall that?

A Yes.

Q Not full-time employees; right?

A Well, both. But during the scan prep process, it was mainly the seasonals and the students that would do that, along with -- under the direction of permanent staff.

Q. Under the direction of permanent staff. But the people who would get the documents to review them, the vast majority, to see if there are confidential information on those documents, including Schedule Bs, were seasonable employees and students; right?

A. Again, during the scan process. But all staff reviews the forms for completeness, would also see that information.

Q. So this full-time staff would go through and look at every one of those documents that are being scanned to check,

* * * * *

[81] A Yes.

Q And you mentioned this -- this -- I think it was a weekly update that you'd get about problems with confidential documents on the website?

A Possible -- yes, possible confidential documents that are public.

Q And can you, sitting here today, identify anybody else, other than Ms. Rose, who you talked to about the mistakes that were made?

A Not specifically, no.

Q When you say "not specifically," do you think that there were some, you just can't remember who? Or you don't know?

A I'm with staff all the time, so that would be just one of the things they may have made inaccuracies in and they would have been talked to about.

Q But there was no discipline brought for any confidential -- anyone who brought -- who uploaded or mistakenly posted confidential information; right?

A Not that was let go specifically for schedule -- Schedule B, no.

Q Okay. Anybody demoted for Schedule B uploading?

A. No.

Q. Anybody had their pay docked for Schedule B uploading?

A. No.

Q. Anyone get a formal letter in their file for Schedule B [82] uploading?

A No.

Q. Anybody get an e-mail saying, you know, You should take this as a warning to cease doing this because it could have repercussions for you?

A No.

Q And, in fact, I think when -- you were deposed in this case; right?

A Yes.

Q And I think you said -- and if you don't recall -- but that it was just part of the daily work for your staff to find confidential documents in the public website; right?

A Not that they -- I'm not sure what you're asking. I never said they found them daily, but it was part of their work to look for -- to see if there were any inadvertent ones. And the staff had the ability to make the documents confidential as well. So it's possible they came across one themselves and corrected it. I wouldn't know about it necessarily.

Q Well, let -- just to -- I'll read to you something you said in your deposition; you can tell me if it helps you recall.

A Okay.

Q There's a question posed to you, that, When you look back at your response to an interrogatory, were you conscious of the fact that there were other instances beyond those two where

* * * * *

[86] Q Okay. So Mr. Harryman is not somebody you consider to be capable of doing that?

A I don't believe we thought that we had the ability to search the documents like that, because of the way they were uploaded; they weren't really made searchable. So I didn't know you could even do that.

Q Did you ask anybody before you left whether or not it was possible to do something like that?

A No.

Q Did you ask Mr. Harryman -- or did you confirm with Mr. Harryman that he did not have the capability to do that?

A. No.

Q. So this is an assumption again?

A Yes.

Q And is it fair to say that you expect the charities themselves to check the website to make sure that their information is not -- their confidential information is not inadvertently posted?

A Well, I don't expect them to, but definitely if they have a concern about it, they would -- I would assume they would check the website to make sure that that hadn't happened.

Q So if they have a concern, then you think they should check?

A Yes.

Q. So if they have a concern, for example, because they found [87] the Schedule B, they should check; right?

A If they're concerned about it happening, yes.

Q. Well, I'm saying -- my first -- not even a hypothetical because we've got examples, is that if they know -- if they found it, they would come and tell you, We're concerned about the Schedule B being up?

A Yeah, I would assume so, if they were worried about it being posted and they saw it was, that they would have come to us and told us it was there, yes.

Q And then the charities whose Schedule Bs were posted -- well, let me ask you this: How would the ones that had theirs posted inadvertently by your staff, how would they have found out that their Schedule Bs had, in fact, been posted?

A Well, they could have looked on our website on their record and seen it themselves or somebody could have told them.

Q But not your staff, because you guys didn't do it; right? You didn't tell them?

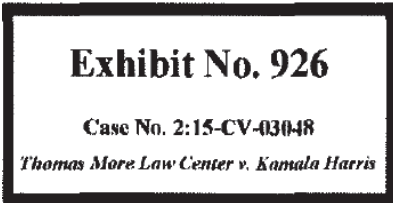
A That's correct.

Q So they could have either guessed or just maybe checked because they just want to be double-sure?

A Yes, if they had a concern, I would assume they would have checked.

Q And they would have had a concern, you agree with me, if you had told them that, in fact, for X number of years or months or weeks or days or hours, your Schedule B was posted * * * * *

Excerpts from *AFPF* Trial Transcript
Day 5, Vol. II



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -
WESTERN DIVISION

HONORABLE MANUEL L. REAL
UNITED STATES DISTRICT JUDGE PRESIDING

AMERICANS FOR PROSPERITY)	
FOUNDATION,)	
)	
Plaintiff,	)	CASE NO.
	)	CV 14-9448
vs.	)	-R
)	
KAMALA HARRIS, in her)	
Official Capacity as Attorney	)	Volume II
General of California,	)	(Pages
	)	1 – 133)
Defendant.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
COURT TRIAL – DAY FIVE

LOS ANGELES, CALIFORNIA
THURSDAY, MARCH 3, 2016
1:09 P.M.

* * * * *

[99] Q. Same is true for students who are employed by the registry; they all have access to the Schedule Bs?

A That is correct.

Q. There are no physical or technical impediments that prevent employees from downloading Schedule Bs to a computer, are there?

A. No, there are not.

Q. There are no physical or technical impediments that prevent employees from e-mailing Schedule Bs however they may please externally; isn't that true?

A. There are no -- that's correct.

Q. There are no physical or technical impediments that prevent registry personnel from printing Schedule Bs, are there?

A That's correct, other than maybe not having a printer, but --

Q. But they have printers at the registry, don't they?

A. That's correct.

Q And there's nothing that prevents an employee from sending a Schedule B to any of those printers for printing, is there?

A That's correct. It's a secure work area, so --

Q There are no physical or technical impediments that prevent anyone at the registry from taking a

printed Schedule B outside of the secure area with them, are there?

A There are no physical impediments, that's correct.

[100] Q And there are no physical or technical impediments that prevent anyone at the registry from accessing a Schedule B and putting it on a thumb drive that they then take out of the office, are there?

A That's correct. There are procedural and obviously policy impediments, but there are no physical or systemic impediments.

Q And as to the policy impediments that you are referring to, none of those specifically references Schedule B; isn't that true?

A That's correct. It more generally talks about confidential documents, confidential information.

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