

1 **IN THE UNITED STATES DISTRICT COURT**  
 2 **FOR THE NORTHERN DISTRICT OF IOWA**  
    **WESTERN DIVISION**

3 **KALI MYERS,** )  
 4 **an individual,** )  
           **Plaintiff,** )  
 5           **vs.**        ) **Case No. 5:16-cv-04107-LRR**  
 6                    ) **THE CITY OF SIOUX CITY,** )  
 7 **IOWA; ROBERT PADMORE, in** )  
 8 **his official capacity;** )  
 9 **and CINDY RARRAT, in her** )  
                   **official capacity,** )  
                   **Defendants.   )**

12 \_\_\_\_\_  
 13 **DEPOSITION OF**  
 14 **MEGAN LALK**  
 15 \_\_\_\_\_

19 **DATE:**                        Wednesday, January 17, 2018  
 20 **LOCATION:**                   Sioux City City Hall  
                                   Legal Division, Suite 511  
 21                                   405 Douglas Street  
                                   Sioux City, Iowa  
                                   (712) 279-6318  
 23 **TIME COMMENCED:**        1:34 p.m.  
 24 **TIME CONCLUDED:**         3:29 p.m.  
 25

A P P E A R A N C E S

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 6

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 12



I N D E X

1                                    I N D E X

2       Appearances..... 2

3       Stipulations..... 4

4       Reporter's Certificate..... 91

5       Amendment to Deposition Page..... 92

6

7 **WITNESS:**

8       **MEGAN LALK**

9           Direct Examination by Mr. Hasan..... 5

10          Cross-Examination by Mr. Vondrak.... 75

11          Redirect Examination by Mr. Hasan... 77

12          Recross-Examination by Mr. Vondrak.. 89

13

14 **EXHIBITS:**                                    **MARKED**

15 1. NACA photo page.....49

16 2. Voith study photos.....49

17 3. Photos marked with UF numbers.....49

18 4. Section 7.10.010.....75

19

20

21

22

23

24

25

S T I P U L A T I O N S

2 It is stipulated and agreed by and between the

3 parties hereto:

4 1. That the deposition of MEGAN LALK may be

5 taken before Julie A. Pell, Registered Professional

6 Reporter, Certified Realtime Reporter, Certified

7 Shorthand Reporter, Certified Realtime Captioner,

8 General Notary Public, at the time and place set

9 forth on the title page hereof.

10 2. That the deposition is taken pursuant to

11 notice.

12 3. That the original deposition will be

13 delivered to Mr. Kamron Hasan, attorney for the

14 Plaintiff.

15 4. That all objections except as to form and

16 foundation are reserved until time of trial.

17 5. That the required elements of Federal

18 Rules of Civil Procedure Rule 30(b)(5)(A) and (C)

19 will be set forth within this transcript and,

20 therefore, do not need to be stated aloud on the

21 record by the court reporter.

22 6. That the testimony of the witness may be

23 transcribed outside the presence of the witness.

24 7. That the signature of the witness to the

25 transcribed copy of the deposition is not waived.

1 MEGAN LALK,  
 2 Of lawful age, being first duly  
 3 cautioned and solemnly sworn as  
 4 hereinafter certified, was examined  
 5 and testified as follows:  
 6 (Witness' response to oath - "Yes, ma'am.")  
 7 DIRECT EXAMINATION  
 8 BY MR. HASAN:  
 9 Q. Will you please state and spell your name  
 10 for the record?  
 11 **A. Megan Lalk. M-e-g-a-l-k.**  
 12 Q. Is it all right if I refer to you as Megan  
 13 during this?  
 14 **A. Yes.**  
 15 Q. My name is Kamron Hasan, but please call me  
 16 Kamron. If you have any questions or anything,  
 17 please let me know, during the middle of this.  
 18 Have you ever had your deposition taken?  
 19 **A. I have.**  
 20 Q. So you're somewhat familiar with the  
 21 process?  
 22 **A. Yes.**  
 23 Q. What was the context of that?  
 24 **A. Similar. Similar. It was with the city.**  
 25 **It was years ago.**  
 26 Q. Okay.

1 **A. So I – but I have been in a deposition**  
 2 **before, yeah.**  
 3 Q. Okay. Okay. I am just going to go over the  
 4 ground rules again. And you're familiar, so we don't  
 5 need to get into all of the specifics.  
 6 **A. Okay.**  
 7 Q. You understand you're under oath today?  
 8 **A. Yes.**  
 9 Q. Will you answer truthfully and fully?  
 10 **A. Yes.**  
 11 Q. We need to have audible answers here because  
 12 Julie is taking down everything. So please do your  
 13 best to give audible answers. Also important that we  
 14 don't talk over each other. I will try not to talk  
 15 over you, and I would just ask that you do the same  
 16 for me.  
 17 **A. Okay.**  
 18 Q. I probably will ask some not phrased so  
 19 perfectly questions. And if I do, just please let me  
 20 know if you don't understand the question or if  
 21 you're confused, and I will do my best to restate it.  
 22 Is that fair?  
 23 **A. Okay.**  
 24 Q. If you need a break during this – I expect,  
 25 especially based on how fast they're going this

1 morning, that it shouldn't go super long.  
 2 **A. Okay.**  
 3 Q. But if you do need a break, please let me  
 4 know. And I may finish a line of questioning, but  
 5 you're – just let me know, and I am happy to take a  
 6 break whenever.  
 7 **A. Okay.**  
 8 Q. Also, your attorneys may lodge objections at  
 9 any point during the questioning. Unless the – your  
 10 attorneys ask you not to – instruct you not to  
 11 answer, the question will stand, and I will ask you  
 12 to answer the question. I may rephrase it again if  
 13 it's a bad question, anything like that. Do you  
 14 understand that?  
 15 **A. Okay. Yes, I do.**  
 16 Q. Is there anything about your state today,  
 17 your physical, emotional or mental state that will  
 18 keep you from understanding my questions?  
 19 **A. No.**  
 20 Q. Or that will keep you from answering  
 21 truthfully or completely?  
 22 **A. No.**  
 23 Q. Any alcohol or medication today that will  
 24 keep you from understanding my questions?  
 25 **A. No.**

1 Q. Or that will keep you from answering  
 2 truthfully and completely?  
 3 **A. No.**  
 4 Q. All right. Megan, what do you do for a  
 5 living?  
 6 **A. I am an animal control officer.**  
 7 Q. Is that your title?  
 8 **A. Yes.**  
 9 Q. Where do you work?  
 10 **A. Animal Adoption and Rescue Center in Sioux**  
 11 **City, Iowa.**  
 12 Q. Animal Adoption and Rescue Center. Is that  
 13 Hannah, Inc.? Is that the same place?  
 14 **A. City building. It is contracted by Hannah,**  
 15 **Incorporated.**  
 16 Q. Okay. So do you work for Animal and  
 17 Adoption – or, and Rescue or Hannah, Inc.?  
 18 **A. Hannah, Inc.**  
 19 Q. And what's your education background?  
 20 **A. High school diploma.**  
 21 Q. Was that from – are you from here, this  
 22 area?  
 23 **A. Yes. Yes.**  
 24 Q. Do you have any certifications of any kind?  
 25 **A. I am NACA level certified, level two.**

1 Q. Sorry?  
 2 A. **NACA certified.**  
 3 Q. Okay.  
 4 A. **NACA certified, level two. Excuse me.**  
 5 Q. All right. Is NACA the National Animal  
 6 Control...  
 7 A. **Animal Control.**  
 8 Q. Okay. And you said level two?  
 9 A. **Yes.**  
 10 Q. What does level-two certification from  
 11 NACA --  
 12 MR. HASAN: It's N-A-C-A.  
 13 THE COURT REPORTER: Uh-huh.  
 14 Q. (By Mr. Hasan) -- NACA entail?  
 15 A. **It covers photography, crime scene**  
 16 **investigation, search and seizure, blood sport. I**  
 17 **believe -- I believe that's the majority of it.**  
 18 Q. Can you think of anything else? Not the  
 19 majority, but anything else?  
 20 A. **No, not off the top of my head. No.**  
 21 Q. Any animal identification?  
 22 A. **No.**  
 23 Q. Do you attend or have you attended any  
 24 seminars or conferences related to your job?  
 25 A. **No.**

1 Q. How about any additional training other than  
 2 what we were talking about with NACA?  
 3 A. **Just through NACA and for level three,**  
 4 **chemical immobilization.**  
 5 Q. Oh, and level three?  
 6 A. **Yes.**  
 7 Q. So have you done level two and level three?  
 8 A. **Yes. Sorry.**  
 9 Q. No. That's -- the point of this is just  
 10 information gathering.  
 11 A. **Yep.**  
 12 Q. So if you think of anything else, just chime  
 13 in.  
 14 A. **Yep. No. Level two and three.**  
 15 Q. Do either of those involve animal  
 16 identification?  
 17 A. **No.**  
 18 Q. Have you reviewed NACA's training guide,  
 19 training manual?  
 20 A. **I don't know.**  
 21 Q. Do you go to dog shows ever?  
 22 A. **No.**  
 23 Q. Does Hannah, Inc., or the Animal Adoption  
 24 and Rescue Center provide you with any additional  
 25 training?

1 A. **No.**  
 2 Q. Aside from your time in your current role  
 3 and your experience with your current job --  
 4 A. **Uh-huh.**  
 5 Q. -- what's your history with animals?  
 6 A. **Prior to this job?**  
 7 Q. Other than your experience with this job.  
 8 So...  
 9 A. **Other than personally owning them, none.**  
 10 Q. Okay. Do you own any dogs?  
 11 A. **Not at the moment, no.**  
 12 Q. Have you owned dogs previously?  
 13 A. **Yes.**  
 14 Q. What kind of dogs?  
 15 A. **I have owned Border Collie and lab.**  
 16 Q. Are they purebreds?  
 17 A. **Not papered by any means. They were -- they**  
 18 **were shelter dogs. So...**  
 19 Q. Okay. I have a shelter dog.  
 20 Can you please describe your job functions?  
 21 A. **Answer any animal-related complaints that**  
 22 **are filed by the -- or, by -- to the city.**  
 23 Q. What else?  
 24 A. **Running animals to vets, to adopt-a-thons.**  
 25 **I believe that pretty much covers it.**

1 Q. So your job functions include answering  
 2 complaints given to the city, taking animals to vets  
 3 and adopt-a-thons. Is there anything else?  
 4 A. **No. That -- that covers it.**  
 5 Q. With your role at Hannah, Inc., will you  
 6 please describe the hierarchy, such as anyone -- your  
 7 peers, who you report to, who's in charge? Can you  
 8 describe that to me, please?  
 9 A. **The hierarchy is Cindy Rarrat is in charge.**  
 10 **There's -- that's -- there's not a hierarchy, per se,**  
 11 **but it does go by seniority. So the officers that**  
 12 **have been there longer will be looked up to as**  
 13 **superior.**  
 14 Q. Okay.  
 15 A. **In a position that they can -- they are --**  
 16 **somebody that they can go to.**  
 17 Q. How many officers are there right now?  
 18 A. **Six.**  
 19 Q. Do you know all of them? Do you mind  
 20 telling me who they are?  
 21 A. **Of the new ones, I can -- I can give first**  
 22 **names of the ones I don't work with. So...**  
 23 Q. Okay. Sure.  
 24 A. **It would be Travis Johnson, myself.**  
 25 Q. Okay.

1 **A. Armando Castaneda. Kent, not sure of the**  
 2 **last name. Mitchell, I am not sure of...**  
 3 Q. Is that first name Mitchell?  
 4 **A. Yeah. Not sure of the last name. And**  
 5 **Anastasia, again, not sure of the last name. And**  
 6 **Kenna Anderson is actually considered an officer, but**  
 7 **she's kind of a floating, officer but she stays in**  
 8 **the office.**  
 9 Q. What does that mean, a floating in- -- or,  
 10 officer?  
 11 **A. Covers vacation days. So she can work the**  
 12 **streets still.**  
 13 Q. Is there anyone else in Hannah, Inc., that  
 14 you work with? And Chris Wall. I just got done  
 15 talking with Chris Wall.  
 16 **A. Uh-huh.**  
 17 Q. So we've got Chris, Cindy, Officer Johnson,  
 18 Armando, Kent, Mitchell, Anastasia, Kenna and you.  
 19 Anyone else you work with in...  
 20 **A. That I work with, no, other than kennel**  
 21 **staff.**  
 22 Q. And kennel staff. Okay.  
 23 Okay. Are you familiar with the Sioux City,  
 24 Iowa, municipal code?  
 25 **A. Yes.**

1 Q. Specifically related to animals are you  
 2 familiar with the code?  
 3 **A. Yes.**  
 4 Q. How did you become familiar with the code?  
 5 **A. Becoming an animal control officer.**  
 6 Q. When you became an animal control officer,  
 7 were you given any instructions related to the code?  
 8 I mean, how were you introduced to it, I guess is  
 9 what I am asking?  
 10 **A. Well, the whole, I guess, beginning training**  
 11 **of this position you were given the ordinances. And**  
 12 **that -- I mean, you have to read the ordinances.**  
 13 Q. Was there any other -- was there training or  
 14 instruction given to you aside from just being handed  
 15 the ordinances and instructions, saying learn these?  
 16 **A. Yeah. It -- we would go with another**  
 17 **officer that was already familiar with the**  
 18 **ordinances.**  
 19 Q. Okay. Kind of like shadow sort of thing?  
 20 **A. Yes. Yes.**  
 21 Q. Was there any -- were there any quizzes, any  
 22 tests, anything like that to check to see if you knew  
 23 the ordinances?  
 24 **A. No.**  
 25 Q. Has anyone ever occasionally checked to see

1 if you understand the ordinances and the wording of  
 2 them?  
 3 **A. Yes.**  
 4 Q. How does that play out?  
 5 **A. What do you mean?**  
 6 Q. How do people keep track of the -- see if  
 7 you know and how you know the ordinances?  
 8 **A. Again, that would happen during training.**  
 9 **If we were in a position that we were being trained,**  
 10 **we would be asked what would -- we could do in that**  
 11 **position to make sure that we understand what we're**  
 12 **enforcing.**  
 13 Q. So is that an ongoing thing?  
 14 **A. Yes.**  
 15 Q. Specifically do you know why you're here  
 16 today, this lawsuit that we're talking about?  
 17 **A. Yes.**  
 18 Q. So specifically going to the pit bull ban  
 19 here, is it okay -- do you understand what I am  
 20 talking about if I say pit bull ban?  
 21 **A. Yes.**  
 22 Q. Are you familiar with the definition of pit  
 23 bull under the ban?  
 24 **A. Yes.**  
 25 Q. And what's your understanding of the

1 definition?  
 2 **A. It's a -- I believe it is based on**  
 3 **description of a dog.**  
 4 Q. And I am -- yeah. I am not asking you to  
 5 read it, you know, verbatim. You know, obviously you  
 6 don't have it in front of you right now. But just  
 7 the general description of the pit bull ban. And you  
 8 said that's description of the dog?  
 9 **A. Based on basically description of the dog,**  
 10 **yes.**  
 11 Q. So we'll come back to the pit bull ban  
 12 specifically. Well, first of all, how long have you  
 13 been in your position?  
 14 **A. Ten and a half years.**  
 15 Q. So you -- were you with the department when  
 16 the pit bull ban was put into place?  
 17 **A. I was.**  
 18 Q. When that happened, what did you do to begin  
 19 its enforcement?  
 20 **A. It was complaint driven. If there was a**  
 21 **complaint filed, we would respond to that complaint.**  
 22 Q. When the ordinance was put into place, did  
 23 you receive any supplemental training, anything like  
 24 that?  
 25 **A. No.**

1 Q. Any additional tips on identifying dogs or  
2 having to pick out a pit bull as opposed to a  
3 different breed of dog?  
4 **A. No.**  
5 Q. Well, let's talk about enforcing the code.  
6 **A. Okay.**  
7 Q. Are you aware of -- are you aware that the  
8 city defines dangerous animals, high-risk animals and  
9 vicious animals?  
10 **A. Am I aware that they're defined in the**  
11 **ordinance?**  
12 Q. Yes.  
13 **A. Yes, I am.**  
14 Q. I am not going to ask you for what they are.  
15 But you are aware that there are definitions for  
16 those types of dogs?  
17 **A. Yes. Yes.**  
18 Q. So in your day-to-day role as an animal  
19 control officer, how do you identify a situation when  
20 any of these code sections may be in violation?  
21 **A. Can you rephrase that?**  
22 Q. Yeah. So specifically it's how you know  
23 when a situation -- when one of these code sections  
24 may be in violation. So really what I am asking you  
25 is, how do you show up to a dog, let's say? Let's

1 use a dog as an example. How do you arrive at that  
2 dog? Is it just kind of you patrol the streets? Is  
3 it you only go if there's a complaint? Is it --  
4 that's what I am asking. Like, how is it that you  
5 find yourself enforcing a...  
6 **A. Oh, I see. We patrol as well as answer**  
7 **calls.**  
8 Q. Would you say that for enforcing a -- the  
9 pit bull ban, how does that commonly come about?  
10 **A. Complaint driven.**  
11 Q. Is it only complaint driven?  
12 **A. It is generally only complaint driven.**  
13 Q. Is that complaint driven based on someone  
14 saying, hey, there's a pit bull next door? Is that  
15 how it comes up?  
16 **A. It could.**  
17 Q. What other ways?  
18 **A. As far as it doesn't necessarily have to be**  
19 **for a pit bull. It could be a dog bite. It could be**  
20 **a -- whatever reason would bring us to that**  
21 **residence.**  
22 Q. I have looked through some of the records.  
23 Dog at large I am guessing is a big one?  
24 **A. Uh-huh. Yep. Yep.**  
25 Q. So how do you respond once you have

1 identified -- let's use dog at large as an example.  
2 **A. Okay.**  
3 Q. You're called to a situation, and there's  
4 Fido on the side of the road.  
5 **A. Uh-huh.**  
6 Q. What do you do?  
7 **A. Catch Fido.**  
8 Q. Okay. Fair. So after you have caught Fido,  
9 which is a conversation for another day, how do  
10 you -- once Fido is caught, do you -- what do you do  
11 next?  
12 **A. Impound him at the shelter.**  
13 Q. Do you take any notes?  
14 **A. We check them in, identify breed as best we**  
15 **can. Yes.**  
16 Q. Do you always impound the dogs that you  
17 catch?  
18 **A. Yes.**  
19 Q. Every single one?  
20 **A. As far as taking them out of the truck and**  
21 **into the shelter (nods head up and down.)**  
22 Q. My question more relates to if you pick up a  
23 dog that has its tag on it that says it lives at an  
24 address and the address is just right there across  
25 the street --

1 **A. Yeah.**  
2 Q. -- do you take that dog into the shelter  
3 every single time or do you return it home?  
4 **A. It can -- it can be -- it has been returned**  
5 **home before, yes.**  
6 Q. So it's either one or the other?  
7 **A. It can be, yes.**  
8 Q. When do you -- at what point after catching  
9 Fido, or even I guess it could be technically before  
10 catching Fido --  
11 **A. Uh-huh.**  
12 Q. -- at what point do you determine what breed  
13 the dog is?  
14 **A. It could be as soon as I see the dog.**  
15 Q. Is there a point where you have to  
16 determine, a mandatory, I have to determine that this  
17 is this breed of dog?  
18 **A. Again. If you could ask it...**  
19 Q. Yeah. Is there a point where it's mandatory  
20 that, you know, at this point in the procedure you  
21 have to identify what breed of dog it is?  
22 **A. When the dog is actually physically brought**  
23 **into the shelter.**  
24 Q. So at impounding -- sometime between seeing  
25 the dog and impounding it?

- 1 **A. Yes. Yes.**  
 2 Q. Okay. In your experience when you make that  
 3 determination is there one time or another that is  
 4 more common? Is it more common that you see the dog  
 5 and you say, that's a Rottweiler, that's a Greyhound,  
 6 or is it you wait until it's back to the shelter and  
 7 that's when you make the determination?  
 8 **A. Are you asking if dogs – certain dogs are**  
 9 **more easily identified than others?**  
 10 Q. No. I am just asking whether you find it  
 11 more common – when you identify the breed of a dog  
 12 most commonly.  
 13 **A. That's a difficult question to answer**  
 14 **because it's – it's based on every single dog that**  
 15 **we see. So is there breeds that I know? Absolutely.**  
 16 **Absolutely.**  
 17 Q. Okay.  
 18 **A. Absolutely.**  
 19 Q. Let's talk about that. How do you determine  
 20 the breed of a dog?  
 21 **A. I mean, physical features.**  
 22 Q. You look at it?  
 23 **A. Yeah.**  
 24 Q. Wasn't meant to be a tricky question. You  
 25 look at it. So if it's – it's a visual

- 1 identification?  
 2 **A. Yes.**  
 3 Q. How do you determine, once you have looked  
 4 at the dog, what the dog actually is, what breed it  
 5 is? Like, obviously, it's your visual. You're  
 6 looking at it. You're using your eyes.  
 7 **A. Uh-huh.**  
 8 Q. But what about the dog tells you it's a  
 9 certain breed?  
 10 **A. Its most dominant features.**  
 11 Q. How do you determine what its most dominant  
 12 features are?  
 13 **A. By looking at the dog.**  
 14 Q. Yeah. I understand that it's looking at the  
 15 dog, but what, in your mind, tells you...  
 16 **A. Experience.**  
 17 Q. But understanding that it's your experience,  
 18 what about the dog, what specific features of a dog  
 19 tells you this is predominantly this breed?  
 20 **A. Okay. Head, body structure, coloring. I**  
 21 **mean, there's just physical features that go along**  
 22 **with certain breeds.**  
 23 Q. So I have got a list of features that I  
 24 thought of –  
 25 **A. Okay.**

- 1 Q. – just looking at my dog and looking  
 2 through that NACA training manual.  
 3 **A. Okay.**  
 4 Q. And I'd like you to tell me if you consider  
 5 these features when you look at a dog.  
 6 **A. Okay.**  
 7 Q. Color?  
 8 **A. Yes.**  
 9 Q. Color pattern?  
 10 **A. Yes.**  
 11 Q. The texture of the coat?  
 12 **A. Yes.**  
 13 Q. Coat length?  
 14 **A. Yes.**  
 15 Q. Body size?  
 16 **A. Yes.**  
 17 Q. Body type?  
 18 **A. Yes.**  
 19 Q. Body length?  
 20 **A. Yes.**  
 21 Q. Weight?  
 22 **A. Yes.**  
 23 Q. Muscle mass?  
 24 **A. Yes. Yes.**  
 25 Q. The chest size?

- 1 **A. Yes.**  
 2 Q. Topline angle, which I am led to believe is  
 3 shoulders down to the hips, the angle of the back?  
 4 **A. Yes.**  
 5 Q. The leg length?  
 6 **A. I don't know.**  
 7 Q. Maybe not leg length? Okay.  
 8 **A. I don't know.**  
 9 Q. How about head shape?  
 10 **A. Yes.**  
 11 Q. Head length?  
 12 **A. Yes.**  
 13 Q. Width?  
 14 **A. Yes.**  
 15 Q. Muscle shape?  
 16 **A. Yes.**  
 17 Q. Eye color?  
 18 **A. Yes.**  
 19 Q. Ear shape?  
 20 **A. Yes.**  
 21 Q. Ear size?  
 22 **A. Yes.**  
 23 Q. What about the neck?  
 24 **A. Not me personally, no.**  
 25 Q. Would other animal control officers consider

1 that?

2 **A. I can't answer that for other people.**

3 Q. How about the teeth or jaws?

4 **A. Yes.**

5 Q. Do you look at tongue color?

6 **A. Yes.**

7 Q. Tail shape?

8 **A. Yes.**

9 Q. Tail size?

10 **A. Yes.**

11 Q. Do you watch the animal's gait?

12 **A. No.**

13 Q. So also do you look at how agile the animal

14 is?

15 **A. Me personally, no.**

16 Q. Have you ever observed other animal control

17 officers looking at those?

18 **A. I haven't, no.**

19 Q. How about behavior? Do you take that into

20 consideration?

21 **A. No.**

22 Q. So I am sure there are other – can you

23 think of anything else as far as looking at a dog

24 that would factor in?

25 **A. Nope.**

1 Q. Before I went through that long list, you

2 mentioned head, body type. Was there anything else

3 you mentioned that was off the top of your head? I

4 can't remember.

5 **A. Coloring.**

6 Q. And coloring. Head, body type and coloring.

7 That was in the list I had, but we just went over,

8 like, 24 or 25 different physical attributes.

9 **A. Uh-huh.**

10 Q. How do you come up with this is

11 predominantly this breed if you have all of these

12 different physical characteristics? How is it that

13 you come to the ultimate conclusion?

14 **A. Experience. Just experience with the**

15 **different breeds. It – that's – it does. It's –**

16 **that's the best answer I can give you. Experience.**

17 Q. Okay. So it's that you've seen dogs that

18 you have been told or you have previously believed to

19 be a certain breed that have looked similar to the

20 dog that you're picking up and that's what leads you

21 to believe that this is that type of dog?

22 **A. Yes.**

23 Q. Are there ever circumstances – actually,

24 strike that.

25 So based on all of those, if you – if you

1 look at the physical traits of a dog and it's a

2 mixed-breed dog, how is it that you determine that

3 it's one of the subject breeds or predominantly the

4 subject breeds of the pit bull ban?

5 **A. Are you specifically asking how we identify**

6 **a pit bull mix?**

7 Q. Yeah. I mean, if there's a mixed-breed

8 dog – because – would it help you if I give you a

9 copy of the wording of the statute so you can see

10 exactly what it says?

11 **A. Nope. Nope. Nope. I just need to**

12 **understand the question.**

13 Q. Yeah. So the premise is the statute says

14 three specific breeds –

15 **A. Uh-huh.**

16 Q. – or a dog whose appearance and

17 characteristics are predominantly those of one of

18 those three purebred dogs.

19 **A. Uh-huh.**

20 Q. So if you pick up a mixed breed, how do

21 you – how do you come to the determination that

22 it – that that is predominantly one of those three

23 breeds?

24 **A. It's not solely left up to one individual.**

25 **It's – it's – it's a – it – I – that's the best**

1 **I can tell you is it's not left up to one individual.**

2 **There is several people that look at the dog.**

3 Q. If you're out in the field by yourself and

4 you pick up a – you pick up a dog, you bring it back

5 to impound. You're the person who fills out the

6 impound card; right?

7 **A. Uh-huh.**

8 Q. That's a yes?

9 **A. Yes.**

10 Q. So you'd put down the breed at that point?

11 **A. I would.**

12 Q. So even if it went to a second level of

13 people trying to identify the breed, you'd be making

14 that breed determination when you put that down on

15 the impound card, wouldn't you?

16 **A. I may ask for opinion before I put down a**

17 **breed.**

18 Q. You...

19 **A. When I bring that dog into the shelter, if I**

20 **believe it may be a mixed breed, I will ask.**

21 Q. A mixed breed that fits into the...

22 **A. Yes.**

23 Q. So what about the dog specifically makes you

24 think it is a mixed breed with predominantly one of

25 those three specific purebreds?

1 **A. It would be the head, the body style. Those**  
2 **would be the two most predominant things that would**  
3 **stick out.**

4 Q. So if the dog has the head or the body style  
5 of one of these three specific breeds, is that  
6 outcome determinative? Do you say, okay, this has  
7 the head of an American Staffordshire Terrier, this  
8 is a pit bull, and that's it?

9 **A. It is not left up to one person to make that**  
10 **determination.**

11 Q. Sure. I understand. But when you're...

12 **A. So I can have – I can have that I believe**  
13 **that this dog has the predominant characteristics of**  
14 **one of those three breeds.**

15 Q. Right.

16 **A. And it will be – it will be brought up, and**  
17 **it will be shown to more than one person to come to**  
18 **that determination.**

19 Q. Right. And I understand that. But the  
20 initial determination that you're making before it  
21 goes on to people deciding is this dog actually  
22 subject to the ban.

23 **A. I can't say it's an actual determination. I**  
24 **have – if I have reason to believe that I need to**  
25 **question this dog, the dog's breed, I will bring it**

1 **up before anything is put down on the impound card.**

2 Q. So if you don't have reason to question the  
3 dog's breed, if you – you're certain –

4 **A. Uh-huh.**

5 Q. -- by looking at the dog that you think it  
6 is one of -- predominantly one of these three, what  
7 is it about that? I mean, is it outcome  
8 determinative that you look at the head and you say,  
9 I know for a fact that this is an American  
10 Staffordshire Terrier? I am trying to see what it is  
11 that makes you certain that that is predominantly one  
12 of these three breeds.

13 **A. It's the physical attributes of the breeds**  
14 **that show through.**

15 Q. Well, I know, but there's a lot of...

16 **A. In the head, the body style, muscle**  
17 **structure, that would make me feel that I need to**  
18 **have a second or third or fourth opinion on the breed**  
19 **of this dog.**

20 Q. Yeah. I think I understand the if you think  
21 you need to have a second opinion.

22 **A. Uh-huh.**

23 Q. I am asking you not about if you think you  
24 need to have a second opinion. We'll get to that.

25 **A. Yep.**

1 Q. If you don't need to have a second opinion,  
2 if you look at the dog and you're confident this is  
3 predominantly one of these three purebreds, what is  
4 it about -- what makes you so confident? What  
5 physical traits of that dog makes you so confident,  
6 this -- I don't need a second opinion. I know this  
7 is one of -- I know this is a pit bull subject to the  
8 ban. What is it that makes you so confident in not  
9 needing a second opinion?

10 **A. It's -- it's the head size, the muscle**  
11 **structure, the body structure, the actual size of the**  
12 **dog itself.**

13 Q. Those features?

14 **A. Those feat-...**

15 Q. Anything else?

16 **A. No. No.**

17 Q. Okay. So before we talk about the group  
18 decision-making process --

19 **A. Uh-huh. Okay.**

20 Q. -- have you reviewed the American Kennel  
21 Club and United Kennel Club standards for these  
22 breeds?

23 **A. I have not.**

24 Q. So is it fair to say that you're not  
25 familiar with exactly what those standards provide?

1 **A. No.**

2 Q. And -- okay. Going for that second opinion.

3 **A. Okay.**

4 Q. How do you approach another individual or  
5 the group of individuals asking for their insight?  
6 How do you go about doing that?

7 **A. Ask them to identify the breed of a dog.**

8 Q. So give me just an example so I make sure I  
9 understand the context here. Is it, for example, is  
10 it you come back in, come to the shelter and you  
11 impound.

12 **A. Uh-huh.**

13 Q. And you say, hey, guys, I just impounded  
14 this dog, I can't tell what it is, what do you think?

15 **A. No. It's actually something as simple as,**  
16 **what do you think the breed of this dog is?**

17 Q. What happens if you -- people disagree?

18 **A. It's based on the best determination of the**  
19 **appearance and the experience in the room.**

20 Q. So do people defer to the person who has the  
21 most experience?

22 **A. Not necessarily, no.**

23 Q. So if people with varying degrees of  
24 experience disagree --

25 **A. Uh-huh.**



- 1 Q. -- how do you collectively come up with this  
2 is X breed?
- 3 **A. It's -- it's the general, I guess -- just**  
4 **there's not a whole lot of situations that arise that**  
5 **there's a huge disagreement where it becomes an issue**  
6 **on the breed of a dog. So I don't really know how to**  
7 **answer that question.**
- 8 Q. Okay. Is there an ultimate decision-maker  
9 where if there is a disagreement, this person that's  
10 been -- that person calls the shots, that's the way  
11 it is?
- 12 **A. No. No. There -- there -- I mean, that**  
13 **would be left up to Cindy, being in a position that**  
14 **she is the boss, but, no.**
- 15 Q. Okay. You mentioned earlier that you have  
16 not reviewed the UKC or AKC standards for the three  
17 breeds, which I am not sure if I have actually said  
18 it on the record yet. So let's go back. The UKC  
19 standard that is the listed purebred standard is the  
20 American Pit Bull Terrier; right?
- 21 **A. Yes.**
- 22 Q. There are two AKC standards that are listed  
23 as the prohibited breeds. One of them is the  
24 American Staffordshire Terrier?
- 25 **A. Yes.**

- 1 Q. The other one is the Staffordshire Bull  
2 Terrier?
- 3 **A. Yes.**
- 4 Q. So going back, you mentioned that you  
5 haven't read the standards from the AKC or UKC for  
6 any of those breeds. So when in your training did  
7 you learn that a dog was a pit bull or one of these  
8 breeds?
- 9 **A. Contact. Coming into contact with --**  
10 **physically coming into contact with people's pit**  
11 **bulls.**
- 12 Q. I guess my question is, how -- if you  
13 haven't reviewed the standards for these dogs and you  
14 haven't seen what the AKC and the UKC say a dog --  
15 the traits that it has to have to be one of these  
16 purebreds --
- 17 **A. Uh-huh.**
- 18 Q. -- how do you know that the dog has the  
19 traits of one of these purebreds?
- 20 **A. Experience.**
- 21 Q. No, I know, but what...
- 22 **A. The experience comes from dealing with**  
23 **people who have owned pit bulls and seeing them.**  
24 **That's -- I mean, that's -- it -- that's where it**  
25 **comes in is from experience. I don't know how to...**

- 1 Q. Is it fair to say that it's kind of when you  
2 think -- the image that you come up with in your head  
3 of what a pit bull is, that's what you know you're  
4 looking for?
- 5 **A. You're asking if I know what a pit bull**  
6 **looks like?**
- 7 Q. Well, I am asking you that for one of these  
8 three breeds, since you haven't read the definitions  
9 or the standards for the American Pit Bull Terrier or  
10 American Staffordshire Terrier or Staffordshire Bull  
11 Terrier, when you make a determination that a dog is  
12 predominantly one of those dogs who carries the  
13 characteristics and appearance of one of those dogs,  
14 do you come up with that determination based on what,  
15 in your head, you think those dogs are going to look  
16 like?
- 17 **A. I make that determination based on the**  
18 **registered pit bulls that I have seen.**
- 19 Q. So do you compare them? Do you have, like,  
20 pictures to compare them with?
- 21 **A. No. I don't compare by pictures.**
- 22 Q. Okay. So is it your mental image of what  
23 they are?
- 24 **A. From what I've physically seen, yes.**
- 25 Q. How many purebred American Pit Bull Terriers

- 1 have you come across in your ten years?
- 2 **A. I have no idea.**
- 3 Q. Can you think of a specific instance where  
4 you came across a purebred American Pit Bull Terrier?
- 5 **A. No. No.**
- 6 Q. Have you -- can you think of a specific  
7 instance where you have come across a purebred of an  
8 American Staffordshire Terrier?
- 9 **A. I don't know, no.**
- 10 Q. How about have you come across a specific  
11 instance where you've encountered a purebred  
12 Staffordshire Bull Terrier?
- 13 **A. I don't know.**
- 14 Q. So it's based on your experience, but you --  
15 in your experience you can't say for sure you've seen  
16 one of these purebreds?
- 17 **A. I can't tell you a specific incident over**  
18 **the last ten years that I have had -- come in contact**  
19 **with a specific dog.**
- 20 Q. Right.
- 21 **A. No.**
- 22 Q. Are you familiar with how mixed-breed dogs  
23 get their physical appearance, how they display their  
24 physical traits?
- 25 **A. Am I familiar how they get it?**

- 1 Q. Like genetically how that happens.
- 2 **A. No. I am not familiar with the genetics.**
- 3 Q. So is it fair to say you're not familiar
- 4 with the percentages that a mixed-breed dog will
- 5 display the physical traits of one of its parents
- 6 versus the other parent?
- 7 **A. No.**
- 8 Q. Same thing for grandparents?
- 9 **A. (Witness nods head up and down.)**
- 10 Q. Are you familiar that -- you mentioned NACA,
- 11 National Association -- sorry -- National Animal
- 12 Control Association. Are you familiar that the
- 13 training manual from NACA states that visually
- 14 identifying the heritage of a mixed-breed dog is
- 15 nearly impossible?
- 16 **A. No.**
- 17 Q. Let's talk about what happens after you
- 18 impound a dog. What happens after that? I think the
- 19 example I used earlier was Fido. You picked up Fido
- 20 and brought Fido back --
- 21 **A. Uh-huh.**
- 22 Q. -- and you have impounded Fido. What
- 23 happens next?
- 24 **A. If Fido is impounded, that's where the**
- 25 **kennel staff takes over.**

- 1 **A. It would have to be if the dog was papered**
- 2 **or vet work.**
- 3 Q. Either -- what do you mean by "papered"?
- 4 Does that mean like it's a purebred or...
- 5 **A. Yes. Yes.**
- 6 Q. Or if the vet paperwork said it's, I don't
- 7 know, a bulldog, would that be enough?
- 8 **A. Potentially.**
- 9 Q. Is that a case by case? Just --
- 10 **A. Yes.**
- 11 Q. -- it's up to your discretion, I think this
- 12 is a pit bull, I don't believe the owner, versus I do
- 13 believe the owner?
- 14 **A. Well, it's not up to one person, but, yes.**
- 15 Q. No. No. No. But I mean if you're out in
- 16 the field and the owner comes up and says, this isn't
- 17 a pit bull, it's a bulldog --
- 18 **A. Uh-huh.**
- 19 Q. -- is it up to you, your discretion, to
- 20 believe the owner or say, no, this is a pit bull?
- 21 When you go back -- I mean, obviously, it is your
- 22 decision to impound it or not?
- 23 **A. Yes. Yes.**
- 24 Q. Do you have any more contact with the owner
- 25 with regard to the owner's options in challenging

- 1 Q. You don't handle anything after that?
- 2 **A. No.**
- 3 Q. Do you ever talk to the owner after that?
- 4 **A. Not as a rule, no.**
- 5 Q. How about an exception to the rule? Do you
- 6 ever talk to the animal owners after the dog's been
- 7 impounded?
- 8 **A. I could if there was, you know, a citation**
- 9 **that needed to be served, something along those**
- 10 **lines.**
- 11 Q. What if the owner disputes the determination
- 12 that the dog's a pit bull?
- 13 **A. After it's been impounded?**
- 14 Q. Right, or before, frankly. Let's go --
- 15 let's start by after, but we'll go back to before.
- 16 **A. That would be handled by office staff.**
- 17 **So...**
- 18 Q. What about the before it's been impounded?
- 19 **A. If I feel that a dog is predominantly**
- 20 **showing characteristics of being one of those three**
- 21 **breeds, then I will impound it. If the owner**
- 22 **disputes that, it's up to them to provide proof that**
- 23 **it is not.**
- 24 Q. What proof would the owner have to provide
- 25 you to get you to change your mind?

- 1 that determination?
- 2 **A. What do you mean?**
- 3 Q. Are you familiar with the codes -- are you
- 4 familiar that the code provides dog owners the
- 5 ability to challenge the determination that a dog is
- 6 a prohibited pit bull?
- 7 **A. Yes.**
- 8 Q. What is your understanding of how the owner
- 9 can do that?
- 10 **A. How they're able to dis- -- I -- ex -- can**
- 11 **you...**
- 12 Q. Yeah. Yeah. So the owner -- the specific
- 13 situation is the owner disputes that the dog is a pit
- 14 bull under the definition.
- 15 **A. Uh-huh. Uh-huh.**
- 16 Q. You're impounding it anyway, and the owner
- 17 obviously disputes it. What's your understanding of
- 18 the owner's rights in disputing that determination?
- 19 **A. Are you asking the route that an owner can**
- 20 **take to dispute?**
- 21 Q. Yeah. What is the owner -- what is your
- 22 understanding of what the owner can do if there is a
- 23 determination that it is a pit bull and the owner
- 24 wants to challenge?
- 25 **A. They would have to provide proof that it**

1 **wasn't.**

2 Q. Do you tell the owner anything with regards  
3 to their rights to dispute?

4 **A. No.**

5 Q. Have you ever told an owner, after picking  
6 up and impounding a dog under the pit bulls  
7 prohibited ban, that they have a right to dispute or  
8 a right to appeal?

9 **A. No.**

10 Q. Have you ever been given any instruction  
11 from either Cindy or Chris Wall regarding a dog  
12 owner's ability to appeal or challenge the  
13 determination?

14 **A. I don't know.**

15 Q. Have you ever gone through an appeal  
16 process?

17 **A. I don't know.**

18 Q. Can you think of – have you ever been in a  
19 situation where the dog owner has actually disputed  
20 your determination that the dog fits one of the  
21 definitions?

22 **A. I have.**

23 Q. How many of those situations have you been  
24 in?

25 **A. I don't know.**

1 Q. Well, can you – if you can think of a  
2 specific example, why don't you tell me. Tell me  
3 about that example.

4 **A. It was – I can't give you specifics. I can  
5 give you early on when I first started and the ban  
6 first went into effect and people were doing DNA  
7 testing, inconclusive. That was – that was the –  
8 the only time I can think of necessarily being  
9 involved in something along those lines.**

10 Q. When you say DNA, inconclusive, what do you  
11 mean by that?

12 **A. Their pit bull would have had to have been  
13 impounded for whatever reason and they were – did a  
14 DNA test to try and prove that their dog was not a  
15 pit bull.**

16 Q. So what was inconclusive? The...

17 **A. The breed of the dog.**

18 Q. Because of the DNA test?

19 **A. It was unknown breed.**

20 Q. Through the DNA test it was unknown breed?

21 **A. Yes. Yes.**

22 Q. Let's talk about the DNA of a dog. So you  
23 have obviously got physical attributes, physical  
24 characteristics of a dog; right?

25 **A. Uh-huh.**

1 Q. You have also got the DNA of a dog. In your  
2 opinion, if the DNA tests – the DNA results of a dog  
3 show that the dog is 10 percent one of the three  
4 prohibited purebreds and 90 percent not one of the  
5 three prohibited purebreds, but looking at the dog  
6 and what you think one of these dogs looks like that  
7 you think it's one of these prohibited dogs, what do  
8 you do?

9 **A. Can you break that down and make it shorter?**

10 Q. Yeah, well, how about this? It's going to  
11 take a little bit of – let's make sure we understand  
12 the hypothetical –

13 **A. Uh-huh.**

14 Q. – and then I will ask you the specific  
15 question. Is that okay?

16 **A. Yeah. That's fine.**

17 Q. So the hypothetical, the first part is you  
18 have identified – you have picked up a dog.

19 **A. Uh-huh.**

20 Q. And based on its physical characteristics,  
21 in your mind you say this is one – either it's a  
22 purebred, one of these prohibited purebreds, or it is  
23 predominantly one of these purebreds. Are you with  
24 me?

25 **A. Yeah.**

1 Q. So visually you make that determination.  
2 With me?

3 **A. Uh-huh.**

4 Q. Then that dog owner or the city, someone  
5 provi- – performs a DNA test on this dog.

6 **A. Okay.**

7 Q. And the DNA test results come back and  
8 10 percent, 12 percent of the dog's DNA turns out is  
9 one of those three purebreds.

10 **A. Okay.**

11 Q. The other 90 percent of the dog's DNA is not  
12 one of the breeds that is listed in the pit bull ban.

13 **A. Okay.**

14 Q. So you have your visual identification which  
15 tells you in your mind this is a prohibited pit bull.

16 **A. Uh-huh.**

17 Q. But then you have got this DNA evidence that  
18 says, no, it's not. It's a different type of dog.

19 What do you do there? What's your determination?

20 **A. I don't have a determination because we  
21 don't use DNA testing because it's inconclusive.**

22 Q. Would you reject the DNA testing and say, I  
23 am going with the visual identification then?

24 **A. Yes.**

25 Q. So the visual identification is going to

1 trump the DNA no matter what?  
 2 **A. I don't know. I – as far as what I do**  
 3 **right now, yes.**  
 4 Q. You can't think of a circumstance where  
 5 the – you would say, yep, that DNA test tells me  
 6 that's not a pro-...  
 7 **A. From the experience I have had with DNA**  
 8 **testing, yes, I can say that.**  
 9 Q. Is there a department policy or anything  
 10 standard in the department that tells you that's the  
 11 case? Is there a rule that says we don't accept DNA  
 12 testing?  
 13 **A. I don't know.**  
 14 Q. So what makes you say that DNA testing is  
 15 inconclusive?  
 16 **A. From my experience with people having their**  
 17 **dogs DNA tested and the results coming back entirely**  
 18 **of unknown breed. So I, personally, no. I...**  
 19 Q. So you just don't believe the validity of  
 20 DNA testing?  
 21 **A. From – that's why we don't DNA test is**  
 22 **because they were inconclusive.**  
 23 Q. Okay. So you're saying that the  
 24 department's policy, Hannah, Inc.'s policy is DNA  
 25 testing is unreliable?

1 **A. No, I am not saying that.**  
 2 Q. Okay. So what exact – I am just trying to  
 3 make sure I am understanding you here. Is it your  
 4 personal belief that DNA testing is not a reliable  
 5 indicator of...  
 6 **A. It's from my experience of dogs that I have**  
 7 **come across that have been – have had DNA testing**  
 8 **done on them that came back inconclusive.**  
 9 Q. Okay. So you will reject the results of a  
 10 DNA test for that reason?  
 11 **A. From my experience, yes.**  
 12 Q. Okay. So I will give you that hypothetical  
 13 where you pick up Fido.  
 14 **A. Uh-huh.**  
 15 Q. Fido looks like what you think one of these  
 16 pit bulls under the statute looks like.  
 17 **A. Uh-huh.**  
 18 Q. So you say, this is – I am certain this is  
 19 a prohibited pit bull. Fido's owner comes to you  
 20 with a DNA test that says, no, this is 95 percent  
 21 American Bulldog and 5 percent American Staffordshire  
 22 Terrier. Presents you that DNA test.  
 23 Are you going to tell Fido's owner that is a  
 24 prohibited pit bull because of the visual appearance?  
 25 **A. I don't know.**

1 Q. Would the DNA test ever – can you ever  
 2 think of a circumstance where the DNA testing would  
 3 persuade you?  
 4 **A. I don't know.**  
 5 Q. In your opinion are certain breeds more  
 6 aggressive than others?  
 7 **A. I don't know. I guess it's – I don't know.**  
 8 Q. How about being more prone to biting people?  
 9 **A. Is there specific breeds that are just more**  
 10 **likely to bite than others?**  
 11 Q. Yeah. What do you think?  
 12 **A. I don't have an opinion on that. I don't.**  
 13 Q. No?  
 14 **A. No.**  
 15 Q. You're saying that – when you say you don't  
 16 have an opinion, you're saying – you're saying you  
 17 don't know whether dogs are more like – certain  
 18 breeds of dogs are more likely to bite than others?  
 19 You just don't know?  
 20 **A. Do I know that certain breeds are more**  
 21 **likely to bite than others?**  
 22 Q. Your opinion. Yeah.  
 23 **A. I don't have an opinion.**  
 24 Q. You don't have an opinion one way or the  
 25 other?

1 **A. I don't have an opinion.**  
 2 Q. Okay. How about in your experience are the  
 3 physical or the outward physical characteristics of a  
 4 dog predictive of how that dog is going to behave?  
 5 **A. The physical characteristics predictive of**  
 6 **how the dog is going to behave?**  
 7 Q. Yeah.  
 8 **A. I don't know.**  
 9 Q. Well, in your experience would you say that  
 10 a dog that is – has short legs is more likely than a  
 11 dog with long legs to be aggressive?  
 12 **A. Not necessarily.**  
 13 Q. Well, in any circumstances can you think of  
 14 any physical feature that is going to be predictive  
 15 of how that dog is going to behave?  
 16 **A. I don't know.**  
 17 Q. You don't know or, no, you can't think of  
 18 any physical feature?  
 19 **A. I don't know. There's – there is – I**  
 20 **mean, you're basing physical features off of**  
 21 **behavior. No, I don't – I don't believe physical**  
 22 **features necessarily have anything to do with**  
 23 **behavior.**  
 24 Q. Okay. Let's play name that dog. Before  
 25 doing that, are you familiar with the plaintiff in

1 this case, Kali Myers?

2 **A. No.**

3 Q. So are you familiar that she had two  
4 different dogs, Tink and Radar, who were picked up?

5 **A. I wasn't.**

6 Q. Are you aware of who let the dogs out?

7 **A. No.**

8 MR. HASAN: Can we go off the record real  
9 quick?

10 (At 2:21 p.m. an  
11 off-the-record discussion  
was had.)

12 (Exhibit Numbers 1 through  
13 3 were marked for  
identification.)

14 Q. (By Mr. Hasan) All right. Megan, I am  
15 passing you a binder. In that binder we have  
16 multiple tabs. The tab that I have left it open on  
17 when I have passed it to you is titled "NACA  
18 Identification Page."

19 Before going through this, these pictures on  
20 this page, have you reviewed the dog identification  
21 quiz in the NACA training manual?

22 **A. No.**

23 Q. I will represent to you this is a page from  
24 that training manual that's provided during the dog  
25 identification course. It's marked as Exhibit 1 in

1 that sleeve you have got in front of you. And am I  
2 correct that there are 25 images of dogs on this  
3 page?

4 **A. Yes.**

5 Q. Each one of those is -- has a number in the  
6 picture?

7 **A. Yes.**

8 Q. I'd like you to go through -- I am just  
9 going to read out number one, two, three, and I want  
10 you to take as much time as you can, look at the dog  
11 in that picture and tell me whether you think it's  
12 predominantly one of the prohibited breeds here, it's  
13 predominantly an American Pit Bull Terrier, American  
14 Staffordshire Terrier or a Staffordshire Bull  
15 Terrier.

16 **A. I can't identify dog breeds through  
17 pictures.**

18 Q. You can never identify a dog through...

19 **A. We don't identify through pictures.**

20 Q. Okay. So I'd like you to go through and  
21 just humor me here.

22 **A. Okay.**

23 Q. And I am going to say a number, and you tell  
24 me whether or not when you look at the photo of the  
25 dog that's associated with that photo --

1 **A. Uh-huh.**

2 Q. -- whether you think on your experience that  
3 dog, one, is predominantly -- or, actually, no. I'd  
4 like you to tell me what you -- if you see this dog,  
5 what you think that breed of dog is.

6 **A. I am -- I can't do that off of a picture.**

7 Q. Okay. Just I'd like you to tell me, then,  
8 if you think that that dog has either American Pit  
9 Bull Terrier, American Staffordshire Terrier or  
10 Staffordshire Bull Terrier in its heritage.

11 **A. I can't do that off of a picture.**

12 Q. So you're saying no matter what, if you look  
13 at a picture, you're not going...

14 **A. I will not identify a dog from a picture.**

15 Q. Are you saying you're unable to do that, or  
16 are you saying you will not do that?

17 **A. I will not do that.**

18 Q. Are you saying -- is it possible for you to  
19 identify a -- whether a dog -- whether your belief of  
20 a dog having one of these breeds, whether it's in its  
21 DNA, whether it's -- strike all that.

22 Are you telling me that it is impossible for  
23 you to look at a photo of a dog and tell me whether  
24 you believe that dog has one of the three identified  
25 breeds in it?

1 **A. Me personally, I am -- I -- yes, I am not  
2 comfortable identifying a dog from a picture and  
3 telling you if it has characteristics of those three  
4 breeds.**

5 Q. Under what circumstances are you able to  
6 identify a dog?

7 **A. If it's physically here in front of me.**

8 Q. Are there -- is it fair to say that in your  
9 opinion the only way a person can accurately identify  
10 the breed of dog is by having that dog present?

11 **A. I don't have an opinion on somebody else  
12 being able to identify a dog.**

13 Q. Well, for you, in your experience, you  
14 couldn't tell me whether any of the pictures that I  
15 have got here in this tab, whether you think that any  
16 of them have a specific breed in their -- whether you  
17 think they're part a specific breed; right?

18 **A. I don't feel comfortable identifying dogs  
19 from pictures just because the pictures may depict  
20 different things than you can actually physically see  
21 when you have a dog in front of you.**

22 Q. Based on that, do you think that the only  
23 fair way to identify the breed of a dog is by having  
24 that dog, the live dog, in front of you?

25 **A. Yes.**

1 Q. During the appeal process --

2 **A. Okay.**

3 Q. -- how does the appeal process go? Is there

4 a physical dog present? Do you bring the dog in

5 during the appeal process?

6 **A. An appeal process for a pit bull?**

7 Q. Yeah.

8 **A. I had already stated that I wasn't aware of**

9 **an appeal process.**

10 Q. You're unaware that there is an appeal

11 process?

12 **A. I was una- -- unfamiliar with the appeal**

13 **process.**

14 MR. HASAN: Okay. Why don't we take a

15 break.

16 (A recess was taken from

17 2:28 p.m. to 2:41 p.m.)

18 Q. (By Mr. Hasan) Megan, let's flip to the tab

19 that says Voith Study Dog photos. Do you see in this

20 photo it's got the number one on it?

21 **A. Uh-huh.**

22 Q. Behind the dog that's depicted are those

23 black squares.

24 **A. Okay.**

25 Q. I will represent to you that each one of

1 those squares is exactly one square foot.

2 **A. Okay.**

3 Q. Can you tell me in this photo a breed that

4 is in this dog, that is depicted in the photo with

5 the number one on it?

6 **A. I can't.**

7 Q. Why?

8 **A. Because I am not comfortable identifying a**

9 **breed from a picture. I can't identify a breed from**

10 **a picture.**

11 Q. What about it is viewing a dog in person

12 versus viewing a dog in a picture, what is it that

13 makes you able to identify the dog in person versus

14 in the picture?

15 **A. It could be something as simple as lighting**

16 **in a picture that changes even the way muscle**

17 **definition is.**

18 Q. So let's say specifically using this dog as

19 the example that's number one in Exhibit 2, what else

20 would you have to see on this dog to be able to tell

21 me what breed -- a single breed that you think goes

22 into this dog?

23 **A. I...**

24 Q. What would it take?

25 **A. I can't tell you from a picture what it**

1 **would take in a breed.**

2 Q. I know. That's not what I am asking.

3 **A. I can't tell you a breed of the dog. I**

4 **can't.**

5 Q. Yeah. No, I understand that Megan. I am

6 not asking you what breed this dog is. I am asking

7 you that -- what more you would need besides this

8 picture to tell me what you think, what breeds are in

9 this dog.

10 **A. To physically see it.**

11 Q. Okay. And nothing else? Not another camera

12 angle?

13 **A. Not from a picture.**

14 Q. So what do you think about training people

15 to identify dogs based on pictures? Do you think

16 that's invalid?

17 **A. I don't have an opinion.**

18 Q. Well, is it your opinion that you can

19 identify a dog based on a picture, an individual is

20 capable of doing that, identifying a breed of dog by

21 a picture?

22 **A. I can't identify a breed of dog by a**

23 **picture.**

24 Q. Do you think anyone can?

25 **A. I don't know.**

1 Q. Is it possible that other people can but

2 maybe you can't?

3 **A. I don't know.**

4 Q. Well, I feel like -- is it you don't know as

5 far as, no, other people cannot, or is it -- I mean,

6 I feel like you're -- you don't want to answer my

7 question here.

8 **A. No, I do. I do want to answer your**

9 **question, but you're asking me a question based on**

10 **what other people can do, and I don't know.**

11 Q. So do you think that organizations such as

12 NACA, who use photos to train animal control officers

13 to identify dogs, do you think that's ineffective?

14 **A. I don't know. I haven't taken that**

15 **training.**

16 Q. Sure. I am representing to you that NACA

17 does that. And I am saying that if NACA does that

18 for -- it's the National Animal Control Association.

19 If they provide pictures for training people how to

20 identify dogs, do you think that's unreliable?

21 **A. I don't have an opinion on a course that I**

22 **am not familiar with. I am -- I understand what**

23 **you're asking me, and I am -- I want to answer your**

24 **question, but I don't feel comfortable giving you an**

25 **answer for something that I am not familiar with.**

1 Q. Okay. Do you think that pictures are  
2 inherently unreliable to identify a breed?  
3 **A. Yes.**  
4 Q. Specifically what about a picture makes it  
5 unreliable?  
6 **A. It's based on the picture.**  
7 Q. So tell me what.  
8 **A. It can be lighting, angle. I mean, it –**  
9 **it's just I am – I am not comfortable with**  
10 **photographs.**  
11 Q. Any photograph?  
12 **A. Of a – of identifying a dog, no.**  
13 Q. Ever?  
14 **A. I don't identify dogs based on picture, no.**  
15 Q. Okay. Hypothetically, what if it was over  
16 a -- like a web cam?  
17 **A. No.**  
18 Q. Has to be in person?  
19 **A. I -- yes, physically in person.**  
20 Q. Under no other circumstances are you going  
21 to offer an opinion of what breed would be in a dog?  
22 **A. Me, personally, no.**  
23 Q. So I won't make us go through all 80 of  
24 them, but I have got about 80 photos here, I think.  
25 Is it fair to say that your answer for every one of

1 these photos of a dog, you will not offer your  
2 personal experience -- your personal opinion, based  
3 on your experience, any breed that you believe is in  
4 any of the dogs depicted in the pictures?  
5 MR. VONDRAK: Can -- and I am going to  
6 object to that. And I will let her try to answer,  
7 but you lost me there.  
8 MR. HASAN: Yeah. Let me restate it.  
9 MR. VONDRAK: Because I don't want this to  
10 come back to haunt us on the -- that we have a  
11 witness who is not complying because I don't think  
12 that's the case.  
13 MR. HASAN: Yeah, I don't think either.  
14 MR. VONDRAK: The way you asked that  
15 question, it could be framed that way.  
16 MR. HASAN: Yeah. That's fair.  
17 Q. (By Mr. Hasan) Based on your previous  
18 testimony that you will not -- you cannot identify a  
19 breed that is in a dog that is depicted in a  
20 photograph -- is that true? Is that what you said  
21 earlier?  
22 **A. Yes.**  
23 Q. You cannot identify the breed of a dog based  
24 on a photograph?  
25 **A. Yes. Yes.**

1 Q. Any of the breeds that are -- comprise that  
2 dog's makeup?  
3 **A. Yes.**  
4 Q. Based on that, will your answer be the same  
5 for all about 80 photographs I have here --  
6 **A. Yes.**  
7 Q. -- that you cannot tell me a breed that's in  
8 any of these dogs because they are in photographs?  
9 **A. Yes.**  
10 Q. So is it also fair to say that if I were to  
11 come up with any photograph of a dog, if I were to  
12 take out my phone right now and show you my dog or  
13 any other dog on the face of the planet, for that  
14 matter, you could not tell me from that photograph  
15 what breed or breeds were in that dog?  
16 **A. Correct.**  
17 Q. Were you ever shown photographs of dogs when  
18 you were starting your job, in your training for  
19 animal control?  
20 **A. No.**  
21 Q. Anyone -- have you ever been given training  
22 by Hannah, Inc., to refer to photographs of dogs when  
23 determining the breed of a dog?  
24 **A. Besides a breed-specific chart, no.**  
25 Q. So for a breed-specific chart -- tell me

1 about that with regard to Hannah, Inc.  
2 **A. It was a breed-specific chart that hung in**  
3 **the back where dogs were in -- in intake, where dogs**  
4 **were brought in before they were impounded.**  
5 Q. Why was it there?  
6 **A. Breed identification.**  
7 Q. So for you to look at the photograph on that  
8 breed-specific chart to compare to the dog that was  
9 being impounded?  
10 **A. Potentially.**  
11 Q. To try to identify what breed the dog was  
12 that you had in person by referring to the photograph  
13 that was depicted on the chart?  
14 **A. Potentially.**  
15 Q. "Potentially" as in that's -- I mean, that's  
16 why they had the photos there, right, to...  
17 **A. It was a guideline, yes.**  
18 Q. A guideline saying --  
19 **A. Uh-huh.**  
20 Q. -- this dog is an American Staffordshire  
21 Terrier, with a picture of an American Staffordshire  
22 Terrier?  
23 **A. Uh-huh.**  
24 Q. And that was placed there so that when you  
25 brought in a subject dog, you could look at Fido and

1 then look at the picture of the American  
 2 Staffordshire Terrier and say, yep, looks like  
 3 American Staffordshire Terrier, Fido must be that?  
 4 **A. No. It was there for a guideline.**  
 5 Q. "Guideline." What do you mean by that then?  
 6 **A. If it was a mixed breed, you're not going to**  
 7 **be able to look at that chart and identify a breed**  
 8 **specific in that dog.**  
 9 Q. Would you be able to identify, based on that  
 10 photograph, what the predominant breed is?  
 11 **A. Not necessarily, no.**  
 12 Q. So if you couldn't under- -- you couldn't  
 13 identify the predominant breed based on comparison to  
 14 that photograph, for you what utility is that  
 15 photo -- or, is that chart for you?  
 16 **A. A guideline. It's just a guideline. But if**  
 17 **you want me to answer honestly about any photographs,**  
 18 **then that's the only, only picture of breed-specific**  
 19 **dogs that were ever used in any type of training.**  
 20 Q. But that -- and Hannah, Inc., provided that  
 21 as training to help identify what breed of dog  
 22 impounded dogs are?  
 23 **A. Yes, but it is not a foolproof. It was**  
 24 **there for a guideline.**  
 25 Q. Sure.

1 **A. Yeah.**  
 2 Q. But it's training on how to identify the  
 3 predominant breed of a dog?  
 4 **A. It's not training. It's there for a**  
 5 **reference.**  
 6 Q. Okay. It's a reference for you to identify  
 7 what type of dog it is?  
 8 **A. It is. It is, yes. Yes.**  
 9 Q. In your experience do other individuals rely  
 10 on that?  
 11 **A. No.**  
 12 Q. None of the animal control officers do?  
 13 **A. Not necessarily, no.**  
 14 Q. When you say "not necessarily," do -- or, in  
 15 your experience do any of the animal control officers  
 16 ever reference those photos?  
 17 **A. I don't know if they have or have not.**  
 18 Q. In your experience have you ever seen them?  
 19 **A. No.**  
 20 Q. In your experience has anyone ever told you  
 21 that that -- those photographs are pointless?  
 22 **A. No.**  
 23 Q. In your experience has anyone ever told you  
 24 that referring to a photograph can be useful?  
 25 **A. No.**

1 Q. Does that include Hannah, Inc.?  
 2 **A. That it -- that somebody has told me that a**  
 3 **photograph is useful.**  
 4 Q. Yeah, let's step back. Let's say that --  
 5 has Cindy ever told you that looking at a comparator  
 6 photograph can be useful to determine whether a dog  
 7 is a specific breed or could -- has a specific breed  
 8 in it?  
 9 **A. Me personally, no.**  
 10 Q. So when you -- you said that you really  
 11 didn't have any -- aside from owner -- owning dogs --  
 12 **A. Yeah.**  
 13 Q. -- you didn't have any experience before  
 14 your current position. So when you were training to  
 15 start getting experience on how to identify dogs --  
 16 **A. Uh-huh.**  
 17 Q. -- was that based exclusively on the dogs  
 18 that you saw in person?  
 19 **A. Yes.**  
 20 Q. And how was it that you came to know that  
 21 certain dogs that you encountered were specific  
 22 breeds?  
 23 **A. Some dogs are papered. Owners. That works.**  
 24 **It's -- it's -- I don't know how to explain**  
 25 **experience. I don't -- I don't know. I mean, from**

1 **seeing the dog and going through, you know, dealing**  
 2 **with owners and that they're identifying their dog as**  
 3 **whatever breed, they're identifying their dog as --**  
 4 **that's -- I mean, it's just from experience of**  
 5 **dealing with several different situations of knowing**  
 6 **what breeds are.**  
 7 Q. I am asking for the knowing what breeds are  
 8 aspect of it.  
 9 **A. It's from those situations.**  
 10 Q. Not from referring to photographs?  
 11 **A. No.**  
 12 Q. From going to a call where there is a dog  
 13 and looking at that dog and having the owner tell  
 14 you, my dog is a bulldog? That's how you learned  
 15 what a bulldog was?  
 16 **A. Along with, you know, other employees, yes.**  
 17 Q. Other employees telling you?  
 18 **A. During training, yes. Yes.**  
 19 Q. So if you were to be shadowing someone and  
 20 you show up at a call, and let's use another one,  
 21 let's say Officer Johnson --  
 22 **A. Okay.**  
 23 Q. -- were to say, that dog is a bulldog,  
 24 that's how you learned what a bulldog was?  
 25 **A. Yes.**



1 Q. Can the same be said for all of the  
2 different breeds out there? I don't want to go  
3 through as many breeds as I am sure there are out  
4 there.

5 **A. Was I familiar with any breeds before I  
6 started that job? Yes. Yes, I was.**

7 Q. Sure.

8 **A. But, yes. As a rule, yes, it was from  
9 shadowing and training and going on calls.**

10 Q. How long did you -- well, first off, who did  
11 you shadow with when you started?

12 **A. I don't know. I don't even know.**

13 Q. How long was the shadowing period?

14 **A. I don't know. I can't -- I -- I don't know.**

15 Q. Was it like a two-week training period?

16 **A. I really don't know.**

17 Q. Do you think a month?

18 **A. I don't know.**

19 Q. Six months?

20 **A. I don't know.**

21 Q. A year?

22 **A. I can't even -- I can't even tell an idea  
23 because I don't remember. I don't know.**

24 Q. Okay. That's fair. I mean, that's fair.

25 During that experience training, whether it was

1 shadowing or you personally coming across the dog,  
2 how did you learn that certain breeds had certain  
3 physical characteristics?

4 For example, I am going to -- that's a  
5 pretty broad question, so I want to narrow it down a  
6 little bit for you. Did you ever come to understand  
7 that Rottweilers tend to have cropped tails?

8 **A. Yes.**

9 Q. So that's one example. How did you come to  
10 learn of that? Was that through your shadowing? Was  
11 it from owners telling you, my dog is a Rottweiler?  
12 How did that come about?

13 **A. That's more from shadowing, the different  
14 features of specific dog breeds such as dog tails and  
15 maybe color, markings. So it just comes from, yeah,  
16 the more experienced workers.**

17 Q. So what do those more experienced workers  
18 tell you with regards to the three specific breeds  
19 that are banned under the pit bull ban, if anything?

20 **A. What do they tell me?**

21 Q. Yeah. Do they tell you there are any -- I  
22 don't want to say red flag, but anything that if you  
23 see this on the dog that's how you know it's going to  
24 be one of these three pit bull dogs?

25 **A. No, not necessarily. There wasn't any**

1 **specific training on any specific breed. It was by a  
2 call-by-call basis. So did we have training as far  
3 as, you know, specific features that these three dogs  
4 have when I went through training? No, we didn't.  
5 So we didn't do it for any breed. We just didn't.**

6 Q. So over time is it your own personal  
7 experience of what you believe these three breeds are  
8 that makes up your definition of what -- a dog  
9 predominantly is one of these three breeds?

10 **A. Can you rephrase your question?**

11 Q. Yeah. Since you didn't have any training on  
12 specifically what these three breeds were when the  
13 pit bull ban was enacted --

14 **A. Uh-huh.**

15 Q. -- is it your own personal experience of  
16 viewing dogs that you believe to be one of these  
17 three specific breeds or a dog that is predominantly  
18 one of these three specific breeds, does that form  
19 the entire basis of your belief of what a dog must  
20 look like to be one of these three breeds or  
21 predominantly one of these three breeds? Is that...

22 **A. Yes. Yes.**

23 Q. I know we mentioned -- earlier I asked if  
24 you had reviewed any of the genetic science behind  
25 visual identification. I think you said no; is that

1 right?

2 **A. Uh-huh.**

3 Q. So are you familiar with recent studies that  
4 discuss a human's ability to iden- -- to visually  
5 identify the correct predominant breed of a dog  
6 compared to its genetic background?

7 **A. No.**

8 Q. I am -- let me rephrase that.

9 MR. HASAN: Is that okay, Julie?

10 Q. (By Mr. Hasan) Are you familiar with recent  
11 studies on a human's ability to identify the  
12 predominant breed of a mixed-breed dog based on  
13 visual identification?

14 **A. No, I am not aware.**

15 Q. I am going to represent to you that those  
16 recent studies say that at least 60 percent of the  
17 time even trained individuals are wrong on picking  
18 the predominant breed of a mixed-breed dog. Would  
19 that change your opinion as far as how you go about  
20 identifying whether a dog fits into the pit bull ban,  
21 whether it fits under the definition?

22 **A. I don't know. It's something that I would  
23 have to understand before I...**

24 Q. So if I were to tell you that more than half  
25 of the time even trained people are wrong at picking

1 the predominant breed, would that make you question  
2 using visual identification to identify whether a  
3 subject dog fits the definition? Would that affect  
4 your thinking at all if you knew that over half the  
5 time people were wrong about the -- picking the  
6 predominant breed of a dog?

7 **A. For me personally?**

8 Q. Yes.

9 **A. Or just as a rule in general that it should  
10 change the way that people view?**

11 Q. Let's start with you personally.

12 **A. No.**

13 Q. How about the broader view?

14 **A. That one, I don't know. I don't know.**

15 Q. For you personally, why not?

16 **A. Because I am not familiar with what you're  
17 referring to as far as not being able to identify  
18 dogs. And I -- even if I was, I don't know. I don't  
19 know. I'd feel more comfortable having information  
20 before I...**

21 Q. So I just want you to assume that for  
22 purposes of this discussion --

23 **A. Yeah.**

24 Q. -- assume that that science is there, that  
25 over 50 percent of the time when even trained people,

1 control officers, dog show judges, trained people,  
2 50 percent of the time if they're picking a  
3 mixed-breed dog's predominant breed, over half the  
4 time they're going to get it wrong.

5 So assume that that's true. And I want to  
6 ask you that -- you mentioned that the way you pick  
7 up dogs and identify that they're subject to the pit  
8 bull ban --

9 **A. Uh-huh.**

10 Q. -- is based on visual identification.

11 **A. Uh-huh.**

12 Q. So if over half the time that's wrong, that  
13 means that over half the time that determination  
14 could be wrong --

15 **A. Uh-huh.**

16 Q. -- does that change your thinking at all?

17 **A. For me personally, no.**

18 Q. Even when you consider that it is -- I  
19 believe you also testified earlier -- did you testify  
20 earlier that in order to combat your determination  
21 the dog owner would have to show actual paperwork or  
22 vet records that showed it's not that dog?

23 **A. Yes.**

24 Q. So if that owner didn't have any paperwork  
25 showing it's not what you think is one of these

1 predominant pit bulls and you're wrong over  
2 50 percent of the time, is your change -- does that  
3 change your thinking at all on whether visual  
4 identification is a good way to identify if a dog --  
5 if a mixed-breed dog fits under the definition of pit  
6 bull?

7 **A. Yes, I do believe that visual identification  
8 is a good way to determine a breed of a dog.**

9 Q. I think my question may have been a little  
10 misleading because I don't think that was the answer  
11 to that question. So let me see if I can rephrase  
12 it.

13 If an animal control officer, just the best  
14 animal control officer, if it's shown that over half  
15 the time they get it wrong --

16 **A. Uh-huh.**

17 Q. -- but that animal control officer, the only  
18 way they're going to accept a dog owner's challenge  
19 as to the breed identification -- if the only way  
20 they're going to accept that is vet record or  
21 paperwork --

22 **A. Uh-huh.**

23 Q. -- and if the owner doesn't have that, would  
24 you agree with me that that means that over half the  
25 time that animal control officer is going to get the

1 determination wrong if the science...

2 **A. Based on your research that you have?**

3 Q. Yes. If the science shows that, would you  
4 agree with that?

5 **A. Yes.**

6 Q. And because the dog owner doesn't have any  
7 paperwork to dispute that, it means that they're  
8 going to have their dog removed from them or  
9 otherwise enforced under the statutes; is that right?

10 **A. Yes.**

11 Q. Does that seem fair?

12 **A. I don't have an opinion of fair or not fair.**

13 Q. Well, let's say you had a dog that was  
14 picked up under the pit bull ban.

15 **A. Uh-huh.**

16 Q. Say you're a citizen.

17 **A. Uh-huh.**

18 Q. And an animal control officer says, you're  
19 dog's a pit bull. You don't have any paperwork. You  
20 picked it up from the shelter. You don't have any  
21 vet records. You don't have any papers showing its  
22 heritage, and you say that's not a pit bull; it's a  
23 Colorado bulldog.

24 **A. Okay.**

25 Q. That animal control officer, if the

1 science -- what I am telling you the science, if  
 2 that's right, and the animal control officer is wrong  
 3 more often than right, but you don't have any  
 4 paperwork to disprove that, which means you're going  
 5 to lose your dog, does that seem fair to you?  
 6 **A. I don't have an opinion of fair or not fair.**  
 7 Q. So are you saying that you wouldn't care  
 8 under those circumstances that your dog was removed?  
 9 **A. No. I am not saying in the least that I**  
 10 **would not care at all. I am saying that I don't have**  
 11 **an opinion on somebody's emotional state in a**  
 12 **situation like that. I -- I...**  
 13 Q. How about property ownership stake? Having  
 14 your dog taken away from you --  
 15 **A. Okay.**  
 16 Q. -- do you have an opinion on that, setting  
 17 aside the emotional aspect of it?  
 18 **A. Having your dog removed for being a pit**  
 19 **bull?**  
 20 Q. Yeah, if it's not.  
 21 **A. That would be de- -- to be determined.**  
 22 Q. Well, if you were to determine, what would  
 23 you say?  
 24 **A. I don't know.**  
 25 Q. Megan, did you review any documents when

1 you -- before you came in here today?  
 2 **A. No.**  
 3 Q. Did you talk to anyone other than your  
 4 attorneys?  
 5 **A. No.**  
 6 Q. Are there ever circumstances where you pick  
 7 up a dog that you determine to be a pit bull and  
 8 return that dog to the owner?  
 9 **A. No.**  
 10 Q. Has that ever happened with you?  
 11 **A. With me, no.**  
 12 Q. Do you know of any circumstances where  
 13 that's happened with other enforcement officers?  
 14 **A. I don't.**  
 15 MR. HASAN: Okay. Do you guys have  
 16 anything?  
 17 MR. VONDRAK: Yeah. Do you have an exhibit  
 18 that I think is the pit bull definition?  
 19 MR. HASAN: Yeah. Sure. Is it okay if I  
 20 rip it out?  
 21 MR. VONDRAK: Yeah. That's fine.  
 22 Otherwise, I'll go get -- let's go off the record.  
 23 (At 3:07 p.m. an  
 24 off-the-record discussion  
 25 was had.)

1 (Exhibit Number 4 was  
 2 marked for identification.)  
 3 CROSS-EXAMINATION  
 4 BY MR. VONDRAK:  
 5 Q. Megan, I am going to read to you pit bulls  
 6 prohibited. "A pit bull is defined" -- and this is  
 7 Exhibit 4, and it's Sioux City Municipal Code  
 8 7.10.010. "A pit bull is defined as any dog that is  
 9 an American Pit Bull Terrier, American Staffordshire  
 10 Terrier, Staffordshire Bull Terrier, or any dog which  
 11 has the appearance and characteristics of being  
 12 predominantly of the breeds of Staffordshire Bull  
 13 Terrier, American Pit Bull terrier or American  
 14 Staffordshire Terrier."  
 15 It goes on, but that doesn't matter. If you  
 16 read this and you're able to visually identify a dog  
 17 that has these characteristics, do you need DNA  
 18 sampling? Do you need DNA testing?  
 19 **A. No.**  
 20 Q. Okay. Opposing counsel has asked you a ton  
 21 of questions about a 60 percent study. And I am  
 22 assuming -- and let's assume for this example that  
 23 they're asking individuals to look at a picture of a  
 24 dog and make an assumption as to what breed that dog  
 25 is. You have already told me you don't feel

1 comfortable. But wouldn't you assume that they're  
 2 using -- let's assume that they're using DNA testing  
 3 to do that. But when you look at our -- in the Sioux  
 4 City's Municipal Code, the DNA testing doesn't  
 5 matter, does it?  
 6 **A. No.**  
 7 MR. HASAN: Object to form and foundation.  
 8 Q. (By Mr. Vondrak) Megan, what do you think  
 9 is the best way to identify a dog? I have got three  
 10 examples here: In-person, by a video, or in a  
 11 picture.  
 12 **A. In person.**  
 13 Q. Why is in person so much better, in your  
 14 opinion?  
 15 **A. Because you can actually physically put your**  
 16 **hands on the dog, walk around the dog, see every**  
 17 **aspect of the dog in person.**  
 18 Q. Okay. If you were going to buy a car, spend  
 19 a whole bunch of money, would you rather look at it  
 20 in a picture or actually go see the car, feel the  
 21 car, touch the car?  
 22 **A. In person.**  
 23 Q. Okay. And why is that?  
 24 **A. To make sure everything is what it's**  
 25 **supposed to be for -- if you're referring to a car.**

1 Q. Okay. And so in looking at these pictures,  
 2 specifically, Exhibit 2, you're not saying that you  
 3 won't identify this dog or that you won't make an  
 4 attempt to identify this dog, but rather are you  
 5 saying you can't with certainty make an  
 6 identification of that dog because it's just a photo?  
 7 **A. I cannot accurately – accurately identify**  
 8 **the dog, I feel, in a picture.**  
 9 Q. Okay. Could you take a guess at it?  
 10 **A. I could take a guess, yes.**  
 11 MR. VONDRAK: Okay. That's all I have got.  
 12 MR. HASAN: Oh, man. I am going to have  
 13 follow-up. Let's take some guesses.  
 14 THE WITNESS: That's fine.  
 15 REDIRECT EXAMINATION  
 16 BY MR. HASAN:  
 17 Q. Will you flip to Exhibit 1 for me?  
 18 **A. Okay.**  
 19 Q. I have got 25 photos here. I am just going  
 20 to list them 1 through 25, and I want you to tell me  
 21 your guess as to what the predominant breed of dog  
 22 is.  
 23 **A. Okay.**  
 24 Q. One?  
 25 **A. Can I take this out.**

1 Q. Sure.  
 2 **A. I have got a glare off the light.**  
 3 Q. No. Absolutely. We couldn't put hole  
 4 punches in there because it would have put a hole in  
 5 number three.  
 6 **A. Oh, that's fine. Number one, I really don't**  
 7 **know, and I only say that because it looks young.**  
 8 **And it's majority white, and it doesn't have the best**  
 9 **features.**  
 10 Q. So is age going to factor in as to whether  
 11 you can accurately identify the predominant dog  
 12 breed?  
 13 **A. I don't know. I am just telling you what I**  
 14 **see from this picture.**  
 15 Q. Well, I think you said here with number one  
 16 that it looks...  
 17 **A. I said it looks young, but I can't**  
 18 **accurately say that it is young –**  
 19 Q. No.  
 20 **A. – or that's going to matter, but – no, not**  
 21 **necessarily.**  
 22 Q. Generally speaking, is age going to factor  
 23 in – the age of the dog going to factor in to your  
 24 ability to determine what predominant breed you think  
 25 it is?

1 **A. It could.**  
 2 Q. Okay. Number two?  
 3 **A. Mastiff.**  
 4 Q. Three?  
 5 **A. I can't – I can't see that.**  
 6 Q. Okay.  
 7 **A. I am...**  
 8 Q. Four?  
 9 **A. Bernese Mountain Dog.**  
 10 Q. Five?  
 11 **A. I can't tell.**  
 12 Q. Six?  
 13 **A. I don't know.**  
 14 Q. Seven?  
 15 **A. I don't know.**  
 16 Q. Eight?  
 17 **A. I don't know.**  
 18 Q. Nine?  
 19 **A. I could guess Mastiff.**  
 20 Q. Okay. And you mentioned earlier you can  
 21 guess to dogs based on...  
 22 **A. Well, I really am trying.**  
 23 Q. Yeah.  
 24 **A. But some of these aren't the best quality of**  
 25 **pictures.**

1 Q. No. That's fair. If you can't guess, tell  
 2 me you can't guess. I thought earlier in response to  
 3 Justin's question you said you could guess based on a  
 4 picture. So I'd like to do that.  
 5 **A. No. That's fine. That's fine.**  
 6 Q. So number ten?  
 7 **A. A possibly terrier mix, or one of them.**  
 8 Q. Okay. How about 11?  
 9 **A. I don't know.**  
 10 Q. Twelve?  
 11 **A. Just looks like a mixed breed.**  
 12 Q. Thirteen – actually, 12, can you tell me  
 13 what you think what breed goes into that?  
 14 **A. I can't.**  
 15 Q. Can you guess what breed's in that mixed  
 16 breed?  
 17 **A. Possible a Rot.**  
 18 Q. Thirteen?  
 19 **A. Looks like Cane Corso.**  
 20 Q. Fourteen?  
 21 **A. I don't know.**  
 22 Q. Fifteen?  
 23 **A. I can't see faces in 15.**  
 24 Q. How about 16?  
 25 **A. Same thing.**

1 Q. Seventeen?  
 2 **A. I can't.**  
 3 Q. Okay. Eighteen?  
 4 **A. Maybe a Saint Bernard mix.**  
 5 Q. Okay. Nineteen?  
 6 **A. Catahoula.**  
 7 Q. Twenty?  
 8 **A. Looks like a bull terrier.**  
 9 Q. Twenty-one?  
 10 **A. I don't know.**  
 11 Q. Twenty-two?  
 12 **A. I don't know.**  
 13 Q. Twenty-three?  
 14 **A. Lab mix.**  
 15 Q. Twenty-four?  
 16 **A. I don't know.**  
 17 Q. Twenty-five?  
 18 **A. Looks like Pharaoh Hound.**  
 19 Q. Flip to Exhibit 2. We've got to go through  
 20 the pictures now. I am sorry.  
 21 **A. That's okay.**  
 22 Q. It's the Voith study. These ones should be  
 23 better photos for you. So how about number one?  
 24 **A. Um...**  
 25 MR. VONDRAK: Can we clarify just your

1 question?  
 2 MR. HASAN: Sure.  
 3 MR. VONDRAK: Can you clarify for the  
 4 record that you're asking her to take a guess at what  
 5 these are?  
 6 MR. HASAN: Sure. Yeah. Yeah.  
 7 MR. VONDRAK: Because it sounded like you  
 8 wanted her to identify them.  
 9 MR. HASAN: Yeah.  
 10 Q. (By Mr. Hasan) Megan, earlier in response  
 11 to Justin's question you said that when you look at a  
 12 picture, you can guess at the dog's breed. I am  
 13 asking you now with regard – first with regard to  
 14 Exhibit 1, now with regard to all of the photographs  
 15 in Exhibit 2, based on these photographs, to guess  
 16 what the dog is.  
 17 **A. Okay. Yeah.**  
 18 Q. So number one?  
 19 **A. All I can say is mixed breed. I can't even**  
 20 **tell you which breed.**  
 21 Q. What about number two?  
 22 **A. Again, mixed breed.**  
 23 Q. Can you name the breed in there?  
 24 **A. I can't. Not on that one I can't.**  
 25 Q. Number three?

1 **A. Mixed breed. I would say possibly Pug mix.**  
 2 Q. Number four? Oh, sorry. I think you were  
 3 on number four already.  
 4 Number three?  
 5 **A. Did I skip one? Oh, I did. I would say a**  
 6 **Border Collie mix.**  
 7 Q. Okay. And number four, you said Pug mix?  
 8 **A. Yes.**  
 9 Q. Number five?  
 10 **A. Five, Shepherd mix.**  
 11 Q. Number six?  
 12 **A. Pointer.**  
 13 Q. Number seven?  
 14 **A. I'd say Shepherd mix.**  
 15 Q. Okay. Number eight?  
 16 **A. It's a mixed breed, but I can't tell what**  
 17 **the breed is.**  
 18 Q. No predominant breed?  
 19 **A. I can't tell.**  
 20 Q. Okay. Number nine?  
 21 **A. A Dalmation.**  
 22 Q. Okay. And, again, you can see all of these  
 23 pictures have those one-square-foot squares behind  
 24 them.  
 25 **A. Yep. Yeah. A Yorkie maybe, Schnauzer. I**

1 **don't know.**  
 2 Q. Eleven?  
 3 **A. I'd say Shepherd mix.**  
 4 Q. Twelve?  
 5 **A. A mixed breed, but I don't know what breed.**  
 6 Q. Thirteen?  
 7 **A. Again, I don't – I don't know.**  
 8 Q. Fourteen?  
 9 **A. I don't know.**  
 10 Q. Fifteen?  
 11 **A. Chihuahua mix.**  
 12 Q. On number 15?  
 13 **A. Fifteen?**  
 14 Q. Yeah. Sorry. What number were you on? I  
 15 think you were on 17, based on size.  
 16 **A. We're on 15?**  
 17 Q. Yes.  
 18 **A. Lab.**  
 19 Q. Okay. Sixteen?  
 20 **A. I don't know.**  
 21 Q. Seventeen? Is that the – based on size...  
 22 **A. Looks like a...**  
 23 MR. VONDRAK: That's 18.  
 24 **A. How am I missing that?**  
 25 Q. (By Mr. Hasan) There is, I think, 20 of

1 them. Full disclosure.  
 2 **A. Okay. Chihuahua mix.**  
 3 Q. Okay. Eighteen?  
 4 **A. Yorkie.**  
 5 Q. Nineteen?  
 6 **A. I don't know.**  
 7 Q. Twenty?  
 8 **A. A Shih Tzu.**  
 9 Q. Okay. So the next tab is Exhibit 3. Same  
 10 question, that you said that based on a photograph,  
 11 understanding these photographs were printed off, so  
 12 onl- – you know, same thing. If the picture quality  
 13 is too dark, I understand. But let's do our best to  
 14 get through all of these.  
 15 **A. Okay.**  
 16 Q. This is Exhibit 3. And then based off of  
 17 Justin's question as to whether you can guess to a  
 18 dog's breed based off of a photograph, with that  
 19 premise in mind, I'd like you to look at these and  
 20 give me your guesses for Exhibit 3. Every one of  
 21 these has UF in front of the number. And it's not  
 22 UF 1, 2, 3, 4. It's going to jump around a little  
 23 bit.  
 24 So this – I am not going to say the UF  
 25 before every page, but number three?

1 **A. I can't tell anything from that face.**  
 2 Q. Yeah. Number four?  
 3 **A. I don't know.**  
 4 Q. That's fine. Let's jump ahead because there  
 5 are a few of these ones that are a little dark.  
 6 Let's go to number nine. That's a little lighter.  
 7 **A. I don't know.**  
 8 Q. What about number 11? It's the next one.  
 9 **A. I can tell you that may be a small-breed**  
 10 **dog. That's about...**  
 11 Q. Okay. How about 12?  
 12 **A. Mixed breed. I can't tell you what the mix**  
 13 **is.**  
 14 Q. Thirteen?  
 15 **A. No idea.**  
 16 Q. Satellite dish ears. Sixteen?  
 17 **A. Just a mixed breed.**  
 18 Q. Seventeen?  
 19 **A. I don't even know.**  
 20 Q. Let's skip ahead because there are a couple  
 21 of – a few dark ones. Let's go to 42.  
 22 **A. It's mixed breed.**  
 23 Q. Forty-seven?  
 24 **A. I can't tell.**  
 25 Q. Fifty-four?

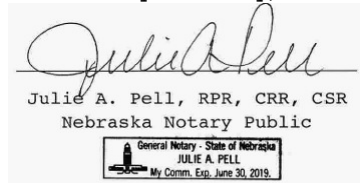
1 **A. Maybe Boxer mix.**  
 2 Q. Fifty-seven?  
 3 **A. I don't know.**  
 4 Q. Fifty-eight?  
 5 **A. I don't know.**  
 6 Q. Sixty-three? Should be the next one.  
 7 **A. Mixed breed.**  
 8 Q. For all these mixed breeds, are you saying  
 9 mixed breed...  
 10 **A. I am not – saying mixed breed because I**  
 11 **don't have a breed that I can give you.**  
 12 Q. Yeah.  
 13 **A. I – I am looking. I am...**  
 14 Q. Yeah. No. I just want to confirm, you're  
 15 saying mixed breed and you can't – you're not  
 16 guessing as to...  
 17 **A. I can't identify a specific breed, no.**  
 18 Q. That's true for all of these that you're  
 19 saying mixed breed for?  
 20 **A. Yes.**  
 21 Q. Okay. Sixty-seven?  
 22 **A. A mixed breed.**  
 23 Q. Okay. The next couple it looks like are a  
 24 little dark. Let's go to 79.  
 25 **A. Possibly a Boxer mix.**

1 Q. Eighty-three?  
 2 **A. I don't know.**  
 3 Q. Eighty-eight? That's the next one.  
 4 **A. I don't know.**  
 5 Q. Let's skip ahead to 95.  
 6 **A. Lab mix.**  
 7 Q. Ninety-six?  
 8 **A. I don't know.**  
 9 Q. Ninety-nine?  
 10 **A. Maybe a Pointer mix.**  
 11 Q. One-o-eight?  
 12 **A. I don't know.**  
 13 Q. One eleven?  
 14 **A. Basset mix.**  
 15 Q. One sixteen?  
 16 **A. I don't know.**  
 17 Q. Okay. One seventeen? That's the last one.  
 18 **A. That one I really don't know. That's –**  
 19 **that's just a mixed breed. I don't...**  
 20 Q. Okay. I – that's all of them.  
 21 MR. HASAN: With that, I don't have any  
 22 more pictures and no more questions.  
 23 THE WITNESS: Okay.  
 24 MR. HASAN: Do you guys have any other  
 25 follow-up off of those?

1 MR. VONDRAK: I -- yeah, just briefly.  
 2 RE-CROSS-EXAMINATION  
 3 BY MR. VONDRAK:  
 4 Q. In all of the second round of photos, you  
 5 couldn't tell the height, could you, of the dog?  
 6 A. No.  
 7 Q. Pictures were pretty terrible?  
 8 A. Yeah.  
 9 Q. And so when you say, I don't know...  
 10 A. I really don't know.  
 11 Q. And it's not -- are you confident that if  
 12 you were -- had that dog in person you would be able  
 13 to make a more educated guess and perhaps even  
 14 identify the dog?  
 15 A. Absolutely.  
 16 MR. VONDRAK: Thank you.  
 17 MR. HASAN: All right. I am done. Am I  
 18 read and sign?  
 19 MR. VONDRAK: (Indicating.)  
 20 MR. HASAN: Megan, you have the right to  
 21 read and sign the transcript of this deposition.  
 22 THE WITNESS: Uh-huh.  
 23 MR. HASAN: So if you want to go over  
 24 everything, all of the questions and the answers, you  
 25 have the right to go over that and make any changes

1 that you feel need to be made.  
 2 You also have the right to waive that, a  
 3 right to waive the read and sign. Would you like to  
 4 waive your right?  
 5 THE WITNESS: I'd like a copy of the  
 6 transcript.  
 7 MR. HASAN: All right. Great. Julie we'll  
 8 get it to the city's attorneys, and we'll go from  
 9 there. So...  
 10 (The deposition concluded at 3:29 p.m.)  
 11  
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1 C E R T I F I C A T E  
 2 I, Julie A. Pell, RPR, CRR, CSR, CCR, duly  
 3 commissioned, qualified, and acting under a general  
 4 notarial commission within and for the State of  
 5 Nebraska, do hereby certify that:  
 6 MEGAN LALK  
 7 was by me first duly sworn to tell the truth, the  
 8 whole truth, and nothing but the truth; that the  
 9 foregoing deposition was taken by me at the time and  
 10 place herein specified and in accordance with the  
 11 within stipulations; that I am not counsel, attorney,  
 12 or relative of either party or otherwise interested  
 13 in the event of this suit.  
 14 IN TESTIMONY WHEREOF, I have hereunto set my  
 15 hand officially and attached my notarial seal at  
 16 Lincoln, Nebraska, this 23rd day of January, 2018.



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1 AMENDMENT TO DEPOSITION  
 2 CASE: Kali Myers v. City of Sioux City, et al.  
 3 WITNESS: MEGAN LALK \_\_\_\_\_ No Changes  
 4 The Witness herein states that he/she wishes  
 5 to make the following changes in his/her deposition:  
 6 PAGE LINE CURRENTLY SHOULD REASON  
 7 READS READ FOR CHANGE  
 8 \_\_\_\_\_  
 9 \_\_\_\_\_  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_  
 15 \_\_\_\_\_  
 16 \_\_\_\_\_  
 17 \_\_\_\_\_  
 18 DEPONENT'S SIGNATURE \_\_\_\_\_  
 19 ACKNOWLEDGEMENT State of \_\_\_\_\_  
 20 County of \_\_\_\_\_  
 21 The foregoing instrument was acknowledged  
 22 before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.  
 23 \_\_\_\_\_  
 24 ^ Affix Seal Here ^ GENERAL NOTARY PUBLIC  
 25

<b>1</b>	<b>A</b>	9/23 10/1 10/24 11/10 11/17 11/21 14/7 14/13 14/21 14/21 14/21 16/23 17/1 17/20 19/13 34/6 39/24 41/10 48/13 48/14 48/18 52/14 52/15 57/11 58/3 58/4 59/1 59/8 59/11 59/13 61/17 61/19 62/15 63/11 63/13 65/5 66/21 66/25 67/1 67/5 67/11 67/24 70/24 72/6 72/19 72/20 72/21 73/3 73/25 74/12 75/8 75/10 88/21 88/24 89/25 <b>anyone</b> [9] 12/6 13/13 13/19 14/25 55/24 59/21 62/20 62/23 74/3 <b>anything</b> [21] 5/15 7/13 7/16 9/18 9/19 10/12 12/3 14/22 16/23 25/23 26/2 30/1 31/15 38/1 41/2 45/9 48/22 66/19 66/22 74/16 86/1 <b>anyway</b> [1] 40/16 <b>appeal</b> [10] 41/8 41/12 41/15 53/1 53/3 53/5 53/6 53/9 53/10 53/12 <b>appearance</b> [6] 27/16 32/19 35/13 36/23 46/24 75/11 <b>Appearances</b> [1] 3/2 <b>approach</b> [1] 32/4 <b>area</b> [1] 8/22 <b>aren't</b> [1] 79/24 <b>arise</b> [1] 33/4 <b>Armando</b> [2] 13/1 13/18 <b>around</b> [2] 76/16 85/22 <b>arrive</b> [1] 18/1 <b>aside</b> [4] 11/2 14/14 63/11 73/17 <b>ask</b> [11] 6/15 6/18 7/10 7/11 17/14 20/18 28/16 28/20 32/7 43/14 70/6 <b>asked</b> [4] 15/10 58/14 67/23 75/20 <b>asking</b> [21] 14/9 16/4 17/24 18/4 21/8 21/10 27/5 30/23 32/5 35/5 35/7 40/19 55/2 55/6 55/6 56/9 56/23 64/7 75/23 82/4 82/13 <b>aspect</b> [3] 64/8 73/17 76/17 <b>Assistant</b> [1] 2/9 <b>associated</b> [1] 50/25 <b>Association</b> [3] 37/11 37/12 56/18 <b>assume</b> [6] 69/21 69/24 70/5 75/22 76/1 76/2 <b>assuming</b> [1] 75/22 <b>assumption</b> [1] 75/24 <b>attached</b> [1] 91/15 <b>attempt</b> [1] 77/4 <b>attend</b> [1] 9/23 <b>attended</b> [1] 9/23 <b>attorney</b> [2] 4/13 91/11 <b>attorneys</b> [5] 2/9 7/8 7/10 74/4 90/8 <b>attributes</b> [3] 26/8 30/13 42/23 <b>audible</b> [2] 6/11 6/13 <b>aware</b> [7] 17/7 17/7 17/10 17/15 49/6 53/8 68/14 <b>away</b> [1] 73/14
<b>2</b>	<b>ability</b> [5] 40/5 41/12 68/4 68/11 78/24 <b>able</b> [10] 40/10 52/5 52/12 54/13 54/20 61/7 61/9 69/17 75/16 89/12 <b>Absolutely</b> [5] 21/15 21/16 21/18 78/3 89/15 <b>accept</b> [3] 45/11 71/18 71/20 <b>accordance</b> [1] 91/10 <b>accurately</b> [5] 52/9 77/7 77/7 78/11 78/18 <b>acknowledged</b> [1] 92/21 <b>ACKNOWLEDGEMENT</b> [1] 92/18 <b>across</b> [7] 19/24 36/1 36/4 36/7 36/10 46/7 66/1 <b>acting</b> [1] 91/3 <b>actual</b> [3] 29/23 31/11 70/21 <b>actually</b> [13] 13/6 20/22 22/4 26/23 29/21 32/15 33/17 41/19 51/3 52/20 76/15 76/20 80/12 <b>additional</b> [3] 10/1 10/24 17/1 <b>address</b> [2] 19/24 19/24 <b>adopt</b> [2] 11/24 12/3 <b>adopt-a-thons</b> [2] 11/24 12/3 <b>Adoption</b> [4] 8/10 8/12 8/17 10/23 <b>affect</b> [1] 69/3 <b>Affix</b> [1] 92/24 <b>after</b> [10] 19/8 20/8 37/17 37/18 38/1 38/3 38/6 38/13 38/15 41/5 <b>again</b> [8] 6/4 7/12 13/5 15/8 20/18 82/22 83/22 84/7 <b>age</b> [4] 5/2 78/10 78/22 78/23 <b>aggressive</b> [2] 47/6 48/11 <b>agile</b> [1] 25/13 <b>ago</b> [1] 5/24 <b>agree</b> [2] 71/24 72/4 <b>agreed</b> [1] 4/2 <b>ahead</b> [3] 86/4 86/20 88/5 <b>AKC</b> [4] 33/16 33/22 34/5 34/14 <b>al</b> [1] 92/2 <b>alcohol</b> [1] 7/23 <b>along</b> [4] 22/21 38/9 42/9 64/16 <b>aloud</b> [1] 4/20 <b>already</b> [4] 14/17 53/8 75/25 83/3 <b>also</b> [7] 6/13 7/8 25/13 43/1 59/10 70/19 90/2 <b>always</b> [1] 19/16 <b>Amendment</b> [2] 3/5 92/1 <b>American</b> [24] 29/7 30/9 31/20 33/20 33/24 35/9 35/10 35/25 36/4 36/8 46/21 46/21 50/13 50/13 51/8 51/9 60/20 60/21 61/1 61/3 75/9 75/9 75/13 75/13 <b>Anastasia</b> [2] 13/5 13/18 <b>Anderson</b> [1] 13/6 <b>angle</b> [4] 24/2 24/3 55/12 57/8 <b>animal</b> [30] 8/6 8/10 8/12 8/16 9/5 9/7 9/21 10/15 10/23 11/21 14/5 14/6 17/18 24/25 25/13 25/16 37/11 38/6 56/12 56/18 59/19 62/12 62/15 71/13 71/14 71/17 71/25 72/18 72/25 73/2 <b>animal's</b> [1] 25/11 <b>animal-related</b> [1] 11/21 <b>animals</b> [7] 11/5 11/24 12/2 14/1 17/8 17/8 17/9 <b>another</b> [6] 14/16 19/9 21/3 32/4 55/11 64/20 <b>answer</b> [18] 6/9 7/11 7/12 11/21 18/6 21/13 25/2 26/16 33/7 56/6 56/8 56/23 56/25 57/25 58/6 59/4 61/17 71/10 <b>answering</b> [3] 7/20 8/1 12/1 <b>answers</b> [3] 6/11 6/13 89/24 <b>any</b> [61] 5/15 7/9 7/23 8/24 8/24 9/21	
<b>3</b>	<b>9/23</b> 10/1 10/24 11/10 11/17 11/21 14/7 14/13 14/21 14/21 14/21 16/23 17/1 17/20 19/13 34/6 39/24 41/10 48/13 48/14 48/18 52/14 52/15 57/11 58/3 58/4 59/1 59/8 59/11 59/13 61/17 61/19 62/15 63/11 63/13 65/5 66/21 66/25 67/1 67/5 67/11 67/24 70/24 72/6 72/19 72/20 72/21 73/3 73/25 74/12 75/8 75/10 88/21 88/24 89/25 <b>anyone</b> [9] 12/6 13/13 13/19 14/25 55/24 59/21 62/20 62/23 74/3 <b>anything</b> [21] 5/15 7/13 7/16 9/18 9/19 10/12 12/3 14/22 16/23 25/23 26/2 30/1 31/15 38/1 41/2 45/9 48/22 66/19 66/22 74/16 86/1 <b>anyway</b> [1] 40/16 <b>appeal</b> [10] 41/8 41/12 41/15 53/1 53/3 53/5 53/6 53/9 53/10 53/12 <b>appearance</b> [6] 27/16 32/19 35/13 36/23 46/24 75/11 <b>Appearances</b> [1] 3/2 <b>approach</b> [1] 32/4 <b>area</b> [1] 8/22 <b>aren't</b> [1] 79/24 <b>arise</b> [1] 33/4 <b>Armando</b> [2] 13/1 13/18 <b>around</b> [2] 76/16 85/22 <b>arrive</b> [1] 18/1 <b>aside</b> [4] 11/2 14/14 63/11 73/17 <b>ask</b> [11] 6/15 6/18 7/10 7/11 17/14 20/18 28/16 28/20 32/7 43/14 70/6 <b>asked</b> [4] 15/10 58/14 67/23 75/20 <b>asking</b> [21] 14/9 16/4 17/24 18/4 21/8 21/10 27/5 30/23 32/5 35/5 35/7 40/19 55/2 55/6 55/6 56/9 56/23 64/7 75/23 82/4 82/13 <b>aspect</b> [3] 64/8 73/17 76/17 <b>Assistant</b> [1] 2/9 <b>associated</b> [1] 50/25 <b>Association</b> [3] 37/11 37/12 56/18 <b>assume</b> [6] 69/21 69/24 70/5 75/22 76/1 76/2 <b>assuming</b> [1] 75/22 <b>assumption</b> [1] 75/24 <b>attached</b> [1] 91/15 <b>attempt</b> [1] 77/4 <b>attend</b> [1] 9/23 <b>attended</b> [1] 9/23 <b>attorney</b> [2] 4/13 91/11 <b>attorneys</b> [5] 2/9 7/8 7/10 74/4 90/8 <b>attributes</b> [3] 26/8 30/13 42/23 <b>audible</b> [2] 6/11 6/13 <b>aware</b> [7] 17/7 17/7 17/10 17/15 49/6 53/8 68/14 <b>away</b> [1] 73/14	
<b>4</b>	<b>30</b> [1] 4/18 <b>3:07</b> [1] 74/23 <b>3:29</b> [2] 1/24 90/10	
<b>5</b>	<b>5 percent</b> [1] 46/21 <b>50 percent</b> [3] 69/25 70/2 71/2 <b>5000</b> [1] 2/5 <b>5050</b> [1] 2/5 <b>511</b> [2] 1/20 2/9 <b>51102</b> [1] 2/10 <b>5203</b> [1] 2/11 <b>5:16-cv-04107-LRR</b> [1] 1/3	
<b>6</b>	<b>60 percent</b> [2] 68/16 75/21 <b>6318</b> [2] 1/22 2/11 <b>68154</b> [1] 2/4	
<b>7</b>	<b>7.10.010</b> [1] 75/8 <b>7.10.010.....75</b> [1] 3/18 <b>712</b> [3] 1/22 2/11 2/11 <b>75</b> [1] 3/10 <b>77</b> [1] 3/11 <b>79</b> [1] 87/24	
<b>8</b>	<b>80</b> [3] 57/23 57/24 59/5 <b>89</b> [1] 3/12	
<b>9</b>	<b>90 percent</b> [2] 43/4 44/11 <b>91</b> [1] 3/4 <b>92</b> [1] 3/5 <b>95</b> [1] 88/5 <b>95 percent</b> [1] 46/20 <b>964-5000</b> [1] 2/5 <b>964-5050</b> [1] 2/5	
	<b>B</b>	
	<b>back</b> [16] 16/11 21/6 24/3 28/4 32/10 33/18 34/4 37/20 38/15 39/21 44/7 45/17 46/8 58/10 60/3 63/4 <b>background</b> [2] 8/19 68/6 <b>bad</b> [1] 7/13 <b>ban</b> [18] 15/18 15/20 15/23 16/7 16/11 16/16 18/9 27/4 29/22 31/8 41/7 42/5 44/12 66/19 67/13 68/20 70/8 72/14 <b>banned</b> [1] 66/19 <b>based</b> [35] 6/25 16/2 16/9 18/13 21/14 26/25 32/18 35/14 35/17 36/14 43/20 52/22 55/15 55/19 56/9 57/6 57/14 58/2 58/17 58/23 59/4 61/9 61/13 63/17 68/12 70/10 72/2 79/21 80/3 82/15 84/15 84/21 85/10 85/16 85/18 <b>basically</b> [1] 16/9	



<p><b>B</b></p> <p><b>basing</b> [1] 48/20  <b>basis</b> [2] 67/2 67/19  <b>Basset</b> [1] 88/14  <b>became</b> [1] 14/6  <b>become</b> [1] 14/4  <b>becomes</b> [1] 33/5  <b>Becoming</b> [1] 14/5  <b>before</b> [22] 4/5 6/2 20/5 20/9 26/1 28/16 29/20 30/1 31/17 38/14 38/15 38/18 48/24 49/19 60/4 63/13 65/5 68/23 69/20 74/1 85/25 92/21  <b>begin</b> [1] 16/18  <b>beginning</b> [1] 14/10  <b>behave</b> [3] 48/4 48/6 48/15  <b>behavior</b> [3] 25/19 48/21 48/23  <b>behind</b> [3] 53/22 67/24 83/23  <b>being</b> [12] 5/2 14/14 15/9 33/13 38/20 42/8 47/8 52/12 60/9 69/17 73/18 75/11  <b>belief</b> [3] 46/4 51/19 67/19  <b>believe</b> [20] 9/17 9/17 11/25 16/2 24/2 26/21 28/20 29/12 29/24 39/12 39/13 39/20 45/19 48/21 51/24 58/3 67/7 67/16 70/19 71/7  <b>believed</b> [1] 26/18  <b>Bernard</b> [1] 81/4  <b>Bernese</b> [1] 79/9  <b>besides</b> [2] 55/7 59/24  <b>best</b> [11] 6/13 6/21 19/14 26/16 27/25 32/18 71/13 76/9 78/8 79/24 85/13  <b>better</b> [2] 76/13 81/23  <b>between</b> [2] 4/2 20/24  <b>big</b> [1] 18/23  <b>binder</b> [2] 49/15 49/15  <b>bit</b> [3] 43/11 66/6 85/23  <b>bite</b> [4] 18/19 47/10 47/18 47/21  <b>biting</b> [1] 47/8  <b>black</b> [1] 53/23  <b>Blackwell</b> [1] 2/3  <b>blood</b> [1] 9/16  <b>body</b> [10] 22/20 23/15 23/17 23/19 26/2 26/6 29/1 29/4 30/16 31/11  <b>Border</b> [2] 11/15 83/6  <b>boss</b> [1] 33/14  <b>Box</b> [1] 2/10  <b>Boxer</b> [2] 87/1 87/25  <b>break</b> [5] 6/24 7/3 7/6 43/9 53/15  <b>breed</b> [121]  <b>breed's</b> [1] 80/15  <b>breed-specific</b> [5] 59/24 59/25 60/2 60/8 61/18  <b>breeds</b> [49] 21/15 22/22 26/15 27/3 27/4 27/14 27/23 29/5 29/14 30/12 30/13 31/22 33/17 33/23 34/6 34/8 35/8 38/21 44/12 47/5 47/9 47/18 47/20 50/12 50/16 51/20 51/25 52/4 55/8 59/1 59/15 63/22 64/6 64/7 65/2 65/3 65/5 66/2 66/14 66/18 67/7 67/9 67/12 67/17 67/18 67/20 67/21 75/12 87/8  <b>briefly</b> [1] 89/1  <b>bring</b> [5] 18/20 28/4 28/19 29/25 53/4  <b>broad</b> [1] 66/5  <b>broader</b> [1] 69/13  <b>brought</b> [5] 20/22 29/16 37/20 60/4 60/25  <b>building</b> [1] 8/14  <b>bull</b> [61] 15/18 15/20 15/23 16/7 16/11 16/16 17/2 18/9 18/14 18/19 27/4 27/6 29/8 31/7 33/20 34/1 34/7 35/3 35/5 35/9 35/10 35/25 36/4 36/12 38/12</p>	<p>39/12 39/17 39/20 40/6 40/14 40/23 42/12 42/15 44/12 44/15 46/19 46/24 50/13 50/14 51/9 51/10 53/6 66/19 66/24 67/13 68/20 70/8 71/6 72/14 72/19 72/22 73/19 74/7 74/18 75/6 75/8 75/9 75/10 75/12 75/13 81/8  <b>bulldog</b> [8] 39/7 39/17 46/21 64/14 64/15 64/23 64/24 72/23  <b>bulls</b> [7] 34/11 34/23 35/18 41/6 46/16 71/1 75/5  <b>bunch</b> [1] 76/19  <b>buy</b> [1] 76/18</p>	<p><b>chemical</b> [1] 10/4  <b>chest</b> [1] 23/25  <b>Chihuahua</b> [2] 84/11 85/2  <b>chime</b> [1] 10/12  <b>Chris</b> [4] 13/14 13/15 13/17 41/11  <b>CHRISTOPHERSON</b> [1] 2/8  <b>CINDY</b> [6] 1/8 12/9 13/17 33/13 41/11 63/5  <b>circumstance</b> [2] 45/4 47/2  <b>circumstances</b> [7] 26/23 48/13 52/5 57/20 73/8 74/6 74/12  <b>citation</b> [1] 38/8  <b>citizen</b> [1] 72/16  <b>city</b> [18] 1/6 1/6 1/20 1/20 1/21 2/9 2/10 5/23 8/11 8/14 11/22 12/2 13/23 17/8 44/4 75/7 92/2 92/2  <b>city's</b> [2] 76/4 90/8  <b>city.org</b> [2] 2/11 2/12  <b>Civil</b> [1] 4/18  <b>clarify</b> [2] 81/25 82/3  <b>Club</b> [2] 31/21 31/21  <b>coat</b> [2] 23/11 23/13  <b>code</b> [10] 13/24 14/2 14/4 14/7 17/5 17/20 17/23 40/4 75/7 76/4  <b>codes</b> [1] 40/3  <b>collectively</b> [1] 33/1  <b>Collie</b> [2] 11/15 83/6  <b>color</b> [5] 23/7 23/9 24/17 25/5 66/15  <b>Colorado</b> [1] 72/23  <b>coloring</b> [4] 22/20 26/5 26/6 26/6  <b>combat</b> [1] 70/20  <b>come</b> [22] 16/11 18/9 26/10 26/13 27/21 29/17 32/10 32/10 33/1 35/2 35/14 36/1 36/7 36/10 36/18 44/7 46/7 58/10 59/11 66/6 66/9 66/12  <b>comes</b> [6] 18/15 34/22 34/25 39/16 46/19 66/15  <b>comfortable</b> [7] 52/2 52/18 54/8 56/24 57/9 69/19 76/1  <b>coming</b> [4] 34/9 34/10 45/17 66/1  <b>COMMENCED</b> [1] 1/23  <b>commission</b> [1] 91/4  <b>commissioned</b> [1] 91/3  <b>common</b> [3] 21/4 21/4 21/11  <b>commonly</b> [2] 18/9 21/12  <b>comparator</b> [1] 63/5  <b>compare</b> [4] 35/19 35/20 35/21 60/8  <b>compared</b> [1] 68/6  <b>comparison</b> [1] 61/13  <b>complaint</b> [8] 16/20 16/21 16/21 18/3 18/10 18/11 18/12 18/13  <b>complaints</b> [2] 11/21 12/2  <b>completely</b> [2] 7/21 8/2  <b>complying</b> [1] 58/11  <b>comprise</b> [1] 59/1  <b>concluded</b> [2] 1/24 90/10  <b>conclusion</b> [1] 26/13  <b>conferences</b> [1] 9/24  <b>confident</b> [5] 31/2 31/4 31/5 31/8 89/11  <b>confirm</b> [1] 87/14  <b>confused</b> [1] 6/21  <b>consider</b> [3] 23/4 24/25 70/18  <b>consideration</b> [1] 25/20  <b>considered</b> [1] 13/6  <b>contact</b> [5] 34/9 34/9 34/10 36/18 39/24  <b>context</b> [2] 5/22 32/9  <b>contracted</b> [1] 8/14  <b>control</b> [22] 8/6 9/6 9/7 14/5 14/6 17/19 24/25 25/16 37/12 56/12 56/18 59/19 62/12 62/15 70/1 71/13 71/14 71/17 71/25 72/18 72/25 73/2  <b>conversation</b> [1] 19/9</p>
	<p><b>C</b></p> <p><b>CALEB</b> [1] 2/8  <b>California</b> [1] 2/4  <b>call</b> [5] 5/14 64/12 64/20 67/2 67/2  <b>call-by-call</b> [1] 67/2  <b>called</b> [1] 19/3  <b>calls</b> [3] 18/7 33/10 65/9  <b>cam</b> [1] 57/16  <b>came</b> [4] 36/4 46/8 63/20 74/1  <b>camera</b> [1] 55/11  <b>can't</b> [42] 25/2 26/4 29/23 32/14 36/15 36/17 42/4 45/4 48/17 50/16 51/6 51/11 54/6 54/9 54/25 55/3 55/4 55/22 56/2 65/14 65/22 65/22 77/5 78/17 79/5 79/5 79/11 80/1 80/2 80/14 80/23 81/2 82/19 82/24 82/24 83/16 83/19 86/1 86/12 86/24 87/15 87/17  <b>Cane</b> [1] 80/19  <b>cannot</b> [5] 56/5 58/18 58/23 59/7 77/7  <b>capable</b> [1] 55/20  <b>capacity</b> [2] 1/7 1/8  <b>Captioner</b> [1] 4/7  <b>car</b> [5] 76/18 76/20 76/21 76/21 76/25  <b>card</b> [3] 28/6 28/15 30/1  <b>care</b> [2] 73/7 73/10  <b>carries</b> [1] 35/12  <b>case</b> [7] 1/3 39/9 39/9 45/11 49/1 58/12 92/2  <b>Castaneda</b> [1] 13/1  <b>Catahoula</b> [1] 81/6  <b>catch</b> [2] 19/7 19/17  <b>catching</b> [2] 20/8 20/10  <b>caught</b> [2] 19/8 19/10  <b>cautioned</b> [1] 5/2  <b>cchristopherson</b> [1] 2/12  <b>CCR</b> [1] 91/2  <b>Center</b> [3] 8/10 8/12 10/24  <b>certain</b> [13] 21/8 22/9 22/22 26/19 30/3 30/11 46/18 47/5 47/17 47/20 63/21 66/2 66/2  <b>certainty</b> [1] 77/5  <b>Certificate</b> [1] 3/4  <b>certification</b> [1] 9/10  <b>certifications</b> [1] 8/24  <b>certified</b> [7] 4/6 4/6 4/7 5/3 8/25 9/2 9/4  <b>certify</b> [1] 91/5  <b>challenge</b> [4] 40/5 40/24 41/12 71/18  <b>challenging</b> [1] 39/25  <b>chang</b> [1] 71/2  <b>change</b> [6] 38/25 68/19 69/10 70/16 71/3 92/6  <b>changes</b> [4] 54/16 89/25 92/3 92/4  <b>characteristics</b> [13] 26/12 27/17 29/13 35/13 38/20 42/24 43/20 48/3 48/5 52/3 66/3 75/11 75/17  <b>charge</b> [2] 12/7 12/9  <b>chart</b> [7] 59/24 59/25 60/2 60/8 60/13 61/7 61/15  <b>check</b> [2] 14/22 19/14  <b>checked</b> [1] 14/25</p>	

<p><b>C</b></p> <p><b>copy</b> [3] 4/25 27/9 90/5  <b>correct</b> [3] 50/2 59/16 68/5  <b>Corso</b> [1] 80/19  <b>could</b> [20] 15/10 18/16 18/19 18/19 20/9 20/14 20/18 38/8 54/15 58/15 59/14 60/25 63/7 70/14 77/9 77/10 79/1 79/19 80/3 89/5  <b>couldn't</b> [5] 52/14 61/12 61/12 78/3 89/5  <b>counsel</b> [2] 75/20 91/11  <b>County</b> [1] 92/19  <b>couple</b> [2] 86/20 87/23  <b>course</b> [2] 49/25 56/21  <b>court</b> [2] 1/1 4/21  <b>covers</b> [4] 9/15 11/25 12/4 13/11  <b>crime</b> [1] 9/15  <b>cropped</b> [1] 66/7  <b>Cross</b> [2] 3/10 75/3  <b>Cross-Examination</b> [2] 3/10 75/3  <b>CRR</b> [1] 91/2  <b>CSR</b> [1] 91/2  <b>current</b> [3] 11/2 11/3 63/14  <b>CURRENTLY</b> [1] 92/5  <b>cv</b> [1] 1/3</p>	<p>65/10 65/10 66/2 66/6 66/9 66/12 67/2 70/19 73/25 74/3 83/5 83/5  <b>didn't</b> [7] 63/11 63/13 67/4 67/5 67/5 67/11 70/24  <b>different</b> [10] 17/3 26/8 26/12 26/15 44/18 49/4 52/20 64/5 65/2 66/13  <b>difficult</b> [1] 21/13  <b>diploma</b> [1] 8/20  <b>Direct</b> [2] 3/9 5/6  <b>dis</b> [1] 40/10  <b>disagree</b> [2] 32/17 32/24  <b>disagreement</b> [2] 33/5 33/9  <b>disclosure</b> [1] 85/1  <b>discretion</b> [2] 39/11 39/19  <b>discuss</b> [1] 68/4  <b>discussion</b> [3] 49/10 69/22 74/23  <b>dish</b> [1] 86/16  <b>display</b> [2] 36/23 37/5  <b>disprove</b> [1] 73/4  <b>dispute</b> [4] 40/20 41/3 41/7 72/7  <b>disputed</b> [1] 41/19  <b>disputes</b> [4] 38/11 38/22 40/13 40/17  <b>disputing</b> [1] 40/18  <b>DISTRICT</b> [2] 1/1 1/1  <b>DIVISION</b> [2] 1/2 1/20  <b>DNA</b> [37] 42/6 42/10 42/14 42/18 42/20 42/22 43/1 43/2 43/2 44/5 44/7 44/8 44/11 44/17 44/21 44/22 45/1 45/5 45/7 45/11 45/14 45/17 45/20 45/21 45/24 46/4 46/7 46/10 46/20 46/22 47/1 47/2 51/21 75/17 75/18 76/2 76/4  <b>do</b> [121]  <b>documents</b> [1] 73/25  <b>does</b> [18] 9/10 10/23 12/11 13/9 15/4 18/9 26/15 39/4 53/3 56/17 56/17 63/1 67/18 70/16 71/2 72/11 73/5 76/5  <b>doesn't</b> [6] 18/18 71/23 72/6 75/15 76/4 78/8  <b>dog</b> [212]  <b>dog's</b> [11] 29/25 30/3 38/6 38/12 44/8 44/11 59/2 70/3 72/19 82/12 85/18  <b>dogs</b> [49] 11/10 11/12 11/14 11/18 17/1 17/16 19/16 21/8 21/8 26/17 27/18 34/13 35/12 35/13 35/15 36/22 43/6 43/7 45/17 46/6 47/17 47/18 49/4 49/6 50/2 52/18 55/15 56/13 56/20 57/14 58/4 59/8 59/17 59/22 60/3 60/3 61/19 61/22 63/11 63/15 63/17 63/21 63/23 66/24 67/3 67/16 69/18 70/7 79/21  <b>doing</b> [4] 32/6 42/6 48/25 55/20  <b>dominant</b> [2] 22/10 22/11  <b>don't</b> [129]  <b>done</b> [4] 10/7 13/14 46/8 89/17  <b>door</b> [1] 18/14  <b>Douglas</b> [1] 1/21  <b>down</b> [10] 6/12 19/21 24/3 28/10 28/14 28/16 30/1 37/9 43/9 66/5  <b>driven</b> [5] 16/20 18/10 18/11 18/12 18/13  <b>duly</b> [3] 5/2 91/2 91/7  <b>during</b> [10] 5/12 5/16 6/24 7/9 15/8 49/24 53/1 53/5 64/18 65/25</p>	<p><b>easily</b> [1] 21/9  <b>educated</b> [1] 89/13  <b>education</b> [1] 8/19  <b>effect</b> [1] 42/6  <b>eight</b> [5] 79/16 83/15 87/4 88/3 88/11  <b>Eighteen</b> [2] 81/3 85/3  <b>Eighty</b> [2] 88/1 88/3  <b>Eighty-eight</b> [1] 88/3  <b>Eighty-three</b> [1] 88/1  <b>either</b> [8] 10/15 20/6 39/3 41/11 43/21 51/8 58/13 91/12  <b>elements</b> [1] 4/17  <b>eleven</b> [2] 84/2 88/13  <b>else</b> [13] 9/18 9/19 10/12 11/23 12/3 13/13 13/19 25/23 26/2 31/15 52/11 54/19 55/11  <b>emotional</b> [3] 7/17 73/11 73/17  <b>employees</b> [2] 64/16 64/17  <b>enacted</b> [1] 67/13  <b>encountered</b> [2] 36/11 63/21  <b>encouraged</b> [1] 72/9  <b>enforcement</b> [2] 16/19 74/13  <b>enforcing</b> [4] 15/12 17/5 18/5 18/8  <b>enough</b> [1] 39/7  <b>entail</b> [1] 9/14  <b>entire</b> [1] 67/19  <b>entirely</b> [1] 45/17  <b>especially</b> [1] 6/25  <b>ESQ</b> [3] 2/3 2/8 2/8  <b>et</b> [1] 92/2  <b>even</b> [14] 20/9 28/12 54/16 65/12 65/22 65/22 68/17 68/25 69/18 69/25 70/18 82/19 86/19 89/13  <b>event</b> [1] 91/13  <b>ever</b> [25] 5/17 10/21 14/25 25/16 26/23 38/3 38/6 41/5 41/10 41/15 41/18 47/1 47/1 57/13 59/17 59/21 61/19 62/16 62/18 62/20 62/23 63/5 66/6 74/6 74/10  <b>every</b> [7] 19/19 20/3 21/14 57/25 76/16 85/20 85/25  <b>everything</b> [3] 6/12 76/24 89/24  <b>evidence</b> [1] 44/17  <b>ex</b> [1] 40/10  <b>exact</b> [1] 46/2  <b>exactly</b> [3] 27/10 31/25 54/1  <b>Examination</b> [8] 3/9 3/10 3/11 3/12 5/6 75/3 77/15 89/2  <b>examined</b> [1] 5/3  <b>example</b> [11] 18/1 19/1 32/8 32/9 37/19 42/2 42/3 54/19 66/4 66/9 75/22  <b>examples</b> [1] 76/10  <b>except</b> [1] 4/15  <b>exception</b> [1] 38/5  <b>exclusively</b> [1] 63/17  <b>Excuse</b> [1] 9/4  <b>exhibit</b> [14] 49/12 49/25 54/19 74/17 75/1 75/7 77/2 77/17 81/19 82/14 82/15 85/9 85/16 85/20  <b>Exhibit 1</b> [3] 49/25 77/17 82/14  <b>Exhibit 2</b> [4] 54/19 77/2 81/19 82/15  <b>Exhibit 3</b> [2] 85/9 85/20  <b>EXHIBITS</b> [1] 3/14  <b>expect</b> [1] 6/24  <b>experience</b> [38] 11/3 11/7 21/2 22/16 22/17 26/14 26/14 26/16 32/19 32/21 32/24 34/20 34/22 34/25 36/14 36/15 45/7 45/16 46/6 46/11 48/2 48/9 51/2 52/13 58/2 58/3 62/9 62/15 62/18 62/20 62/23 63/13 63/15 63/25 64/4 65/25 67/7 67/15  <b>experienced</b> [2] 66/16 66/17  <b>explain</b> [1] 63/24</p>
<p><b>D</b></p> <p><b>Dalmation</b> [1] 83/21  <b>dangerous</b> [1] 17/8  <b>dark</b> [4] 85/13 86/5 86/21 87/24  <b>DATE</b> [1] 1/19  <b>day</b> [5] 17/18 17/18 19/9 91/16 92/21  <b>day-to-day</b> [1] 17/18  <b>days</b> [1] 13/11  <b>de</b> [1] 73/21  <b>dealing</b> [3] 34/22 64/1 64/5  <b>deciding</b> [1] 29/21  <b>decision</b> [3] 31/18 33/8 39/22  <b>decision-maker</b> [1] 33/8  <b>decision-making</b> [1] 31/18  <b>Defendants</b> [2] 1/9 2/7  <b>defer</b> [1] 32/20  <b>defined</b> [3] 17/10 75/6 75/8  <b>defines</b> [1] 17/8  <b>definition</b> [9] 15/22 16/1 40/14 54/17 67/8 68/21 69/3 71/5 74/18  <b>definitions</b> [3] 17/15 35/8 41/21  <b>degrees</b> [1] 32/23  <b>delivered</b> [1] 4/13  <b>department</b> [3] 16/15 45/9 45/10  <b>department's</b> [1] 45/24  <b>depict</b> [1] 52/19  <b>depicted</b> [5] 53/22 54/4 58/4 58/19 60/13  <b>DEPONENT'S</b> [1] 92/17  <b>deposition</b> [13] 1/13 3/5 4/4 4/10 4/12 4/25 5/17 6/1 89/21 90/10 91/9 92/1 92/4  <b>describe</b> [3] 11/20 12/6 12/8  <b>description</b> [4] 16/3 16/7 16/8 16/9  <b>determination</b> [25] 21/3 21/7 27/21 28/14 29/10 29/18 29/20 29/23 32/18 35/11 35/14 35/17 38/11 40/1 40/5 40/18 40/23 41/13 41/20 44/1 44/19 44/20 70/13 70/20 72/1  <b>determinative</b> [2] 29/6 30/8  <b>determine</b> [12] 20/12 20/16 20/16 21/19 22/3 22/11 27/2 63/6 71/8 73/22 74/7 78/24  <b>determined</b> [1] 73/21  <b>determining</b> [1] 59/23  <b>did</b> [17] 14/4 16/18 16/22 34/6 42/13</p>	<p><b>E</b></p> <p><b>E-mail</b> [3] 2/5 2/11 2/12  <b>each</b> [3] 6/14 50/5 53/25  <b>Ear</b> [2] 24/19 24/21  <b>earlier</b> [9] 33/15 37/19 58/21 67/23 70/19 70/20 79/20 80/2 82/10  <b>early</b> [1] 42/5  <b>ears</b> [1] 86/16</p>	

<b>E</b>	85/21 <b>Full [1]</b> 85/1 <b>fully [1]</b> 6/9 <b>functions [2]</b> 11/20 12/1	<b>happens [5]</b> 32/17 37/1 37/17 37/18 37/23 <b>happy [1]</b> 7/5 <b>has [26]</b> 14/25 19/23 20/4 29/4 29/6 29/13 32/20 34/15 34/18 41/19 48/10 50/5 51/8 51/24 52/3 57/18 62/20 62/23 63/2 63/5 63/7 74/10 75/11 75/17 75/20 85/21 <b>HASAN [5]</b> 2/3 3/9 3/11 4/13 5/14 <b>haunt [1]</b> 58/10 <b>have [143]</b> <b>haven't [6]</b> 25/18 34/5 34/13 34/14 35/8 56/14 <b>having [9]</b> 17/2 45/16 51/20 52/10 52/23 64/13 69/19 73/13 73/18 <b>he/she [1]</b> 92/4 <b>head [17]</b> 9/20 19/21 22/20 24/9 24/11 26/2 26/3 26/6 29/1 29/4 29/7 30/8 30/16 31/10 35/2 35/15 37/9 <b>height [1]</b> 89/5 <b>help [2]</b> 27/8 61/21 <b>here [18]</b> 6/11 8/21 15/15 15/19 32/9 46/3 50/12 50/21 52/7 52/15 56/7 57/24 59/5 74/1 76/10 77/19 78/15 92/24 <b>hereby [1]</b> 91/5 <b>herein [2]</b> 91/10 92/4 <b>hereinafter [1]</b> 5/3 <b>hereof [1]</b> 4/9 <b>hereto [1]</b> 4/3 <b>hereunto [1]</b> 91/14 <b>heritage [3]</b> 37/14 51/10 72/22 <b>hey [2]</b> 18/14 32/13 <b>hierarchy [3]</b> 12/6 12/9 12/10 <b>high [2]</b> 8/20 17/8 <b>high-risk [1]</b> 17/8 <b>him [1]</b> 19/12 <b>hips [1]</b> 24/3 <b>his [2]</b> 1/7 92/4 <b>his/her [1]</b> 92/4 <b>history [1]</b> 11/5 <b>hole [2]</b> 78/3 78/4 <b>home [2]</b> 20/3 20/5 <b>honestly [1]</b> 61/17 <b>Hound [1]</b> 81/18 <b>how [76]</b> 6/25 10/1 12/17 14/4 14/8 15/4 15/6 15/7 16/12 17/19 17/22 17/25 18/1 18/4 18/9 18/15 18/25 19/9 21/19 22/3 22/11 24/9 25/3 25/13 25/19 26/10 26/12 27/2 27/5 27/20 27/21 32/4 32/6 33/1 33/6 34/12 34/18 34/25 35/25 36/10 36/22 36/23 36/25 37/1 38/5 40/8 40/10 41/23 43/10 47/8 48/2 48/4 48/6 48/15 53/3 56/19 62/2 63/15 63/20 63/24 64/14 64/24 65/10 65/13 66/2 66/9 66/12 66/23 68/19 69/13 73/13 80/8 80/24 81/23 84/24 86/11 <b>huge [1]</b> 33/5 <b>huh [43]</b> 9/13 11/4 13/16 18/24 19/5 20/11 22/7 26/9 27/15 27/19 28/7 30/4 30/22 31/19 32/12 32/25 34/17 37/21 39/18 40/15 40/15 42/25 43/13 43/19 44/3 44/16 46/14 46/17 51/1 53/21 60/19 60/23 63/16 67/14 68/2 70/9 70/11 70/15 71/16 71/22 72/15 72/17 89/22 <b>human's [2]</b> 68/4 68/11 <b>humor [1]</b> 50/21 <b>hung [1]</b> 60/2 <b>Husch [1]</b> 2/3 <b>huschblackwell.com [1]</b> 2/5 <b>hypothetical [3]</b> 43/12 43/17 46/12
<b>Eye [1]</b> 24/17 <b>eyes [1]</b> 22/6		
<b>F</b>	<b>G</b>	
<b>face [2]</b> 59/13 86/1 <b>faces [1]</b> 80/23 <b>fact [1]</b> 30/9 <b>factor [4]</b> 25/24 78/10 78/22 78/23 <b>fair [19]</b> 6/22 19/8 31/24 35/1 37/3 52/8 52/23 57/25 58/16 59/10 65/24 65/24 72/11 72/12 72/12 73/5 73/6 73/6 80/1 14/17 15/22 31/25 36/22 36/25 37/2 37/3 37/10 37/12 40/3 40/4 48/25 49/3 56/22 56/25 65/5 68/3 68/10 69/16 <b>far [8]</b> 18/18 19/20 25/23 45/2 56/5 67/2 68/19 69/17 <b>fast [1]</b> 6/25 <b>Fax [2]</b> 2/5 2/11 <b>feat [1]</b> 31/14 <b>feature [2]</b> 48/14 48/18 <b>features [13]</b> 21/21 22/10 22/12 22/18 22/21 22/23 23/5 31/13 48/20 48/22 66/14 67/3 78/9 <b>Federal [1]</b> 4/17 <b>feel [11]</b> 30/17 38/19 52/18 56/4 56/6 56/24 69/19 75/25 76/20 77/8 90/1 <b>few [2]</b> 86/5 86/21 <b>Fido [15]</b> 19/4 19/7 19/8 19/10 20/9 20/10 37/19 37/19 37/20 37/22 37/24 46/13 46/15 60/25 61/3 <b>Fido's [2]</b> 46/19 46/23 <b>field [2]</b> 28/3 39/16 <b>Fifteen [3]</b> 80/22 84/10 84/13 <b>Fifty [3]</b> 86/25 87/2 87/4 <b>Fifty-eight [1]</b> 87/4 <b>Fifty-four [1]</b> 86/25 <b>Fifty-seven [1]</b> 87/2 <b>filed [2]</b> 11/22 16/21 <b>fills [1]</b> 28/5 <b>find [2]</b> 18/5 21/10 <b>fine [7]</b> 43/16 74/21 77/14 78/6 80/5 80/5 86/4 <b>finish [1]</b> 7/4 <b>first [10]</b> 5/2 12/21 13/3 16/12 42/5 42/6 43/17 65/10 82/13 91/7 <b>fits [6]</b> 28/21 41/20 68/20 68/21 69/3 71/5 <b>five [4]</b> 79/10 81/17 83/9 83/10 <b>flag [1]</b> 66/22 <b>flip [3]</b> 53/18 77/17 81/19 <b>floating [2]</b> 13/7 13/9 <b>follow [2]</b> 77/13 88/25 <b>follow-up [2]</b> 77/13 88/25 <b>following [1]</b> 92/4 <b>follows [1]</b> 5/3 <b>foolproof [1]</b> 61/23 <b>foot [2]</b> 54/1 83/23 <b>foregoing [2]</b> 91/9 92/21 <b>form [3]</b> 4/15 67/18 76/7 <b>forth [2]</b> 4/9 4/19 <b>Forty [1]</b> 86/23 <b>Forty-seven [1]</b> 86/23 <b>foundation [2]</b> 4/16 76/7 <b>four [7]</b> 79/8 81/15 83/2 83/3 83/7 86/2 86/25 <b>Fourteen [2]</b> 80/20 84/8 <b>fourth [1]</b> 30/18 <b>framed [1]</b> 58/15 <b>frankly [1]</b> 38/14 <b>front [6]</b> 16/6 50/1 52/7 52/21 52/24	<b>gait [1]</b> 25/11 <b>gathering [1]</b> 10/10 <b>general [6]</b> 4/8 16/7 33/3 69/9 91/3 92/24 <b>generally [2]</b> 18/12 78/22 <b>genetic [2]</b> 67/24 68/6 <b>genetically [1]</b> 37/1 <b>genetics [1]</b> 37/2 <b>get [11]</b> 6/5 30/24 36/23 36/25 38/25 70/4 71/15 71/25 74/22 85/14 90/8 <b>getting [1]</b> 63/15 <b>give [10]</b> 6/13 12/21 26/16 27/8 32/8 42/4 42/5 46/12 85/20 87/11 <b>given [6]</b> 12/2 14/7 14/11 14/14 41/10 59/21 <b>giving [1]</b> 56/24 <b>glare [1]</b> 78/2 <b>go [30]</b> 6/3 7/1 10/21 12/11 12/16 14/16 18/3 22/21 32/6 33/18 38/14 38/15 39/21 49/8 50/8 50/20 53/3 57/23 65/2 68/19 74/22 74/22 76/20 81/19 86/6 86/21 87/24 89/23 89/25 90/8 <b>goes [4]</b> 29/21 54/21 75/15 80/13 <b>going [44]</b> 6/3 6/25 15/18 17/14 32/2 34/4 35/15 43/10 44/23 44/25 46/23 48/4 48/6 48/14 48/15 49/19 50/9 50/23 51/13 57/20 58/5 61/6 64/1 64/12 65/9 66/4 66/23 68/15 70/4 71/18 71/20 71/25 72/8 73/4 75/5 76/18 77/12 77/19 78/10 78/20 78/22 78/23 85/22 85/24 <b>gone [1]</b> 41/15 <b>good [2]</b> 71/4 71/8 <b>got [15]</b> 13/14 13/17 22/23 42/23 43/1 44/17 50/1 52/15 53/20 57/24 76/9 77/11 77/19 78/2 81/19 <b>grandparents [1]</b> 37/8 <b>Great [1]</b> 90/7 <b>Greyhound [1]</b> 21/5 <b>ground [1]</b> 6/4 <b>group [2]</b> 31/17 32/5 <b>guess [20]</b> 14/8 14/10 20/9 33/3 34/12 47/7 77/9 77/10 77/21 79/19 79/21 80/1 80/2 80/3 80/15 82/4 82/12 82/15 85/17 89/13 <b>guesses [2]</b> 77/13 85/20 <b>guessing [2]</b> 18/23 87/16 <b>guide [1]</b> 10/18 <b>guideline [7]</b> 60/17 60/18 61/4 61/5 61/16 61/16 61/24 <b>guys [3]</b> 32/13 74/15 88/24	
	<b>H</b>	
	<b>half [8]</b> 16/14 68/24 69/4 70/3 70/12 70/13 71/14 71/24 <b>Hall [1]</b> 1/20 <b>hand [1]</b> 91/15 <b>handed [1]</b> 14/14 <b>handle [1]</b> 38/1 <b>handled [1]</b> 38/16 <b>hands [1]</b> 76/16 <b>Hannah [12]</b> 8/13 8/14 8/17 8/18 10/23 12/5 13/13 45/24 59/22 60/1 61/20 63/1 <b>happen [1]</b> 15/8 <b>happened [3]</b> 16/18 74/10 74/13	

<b>H</b>	involved [1] 42/9 IOWA [5] 1/1 1/7 1/21 8/11 13/24 is [235]	48/24 53/18 54/18 63/4 63/4 64/20 64/21 69/11 72/13 74/22 75/22 76/2 77/13 85/13 86/4 86/6 86/20 86/21 87/24 88/5 level [11] 8/25 8/25 9/4 9/8 9/10 10/3 10/5 10/7 10/7 10/14 28/12 level-two [1] 9/10 light [1] 7/8/2 lighter [1] 86/6 lighting [2] 54/15 57/8 likely [4] 47/10 47/18 47/21 48/10 Lincoln [1] 91/16 line [2] 7/4 92/6 lines [2] 38/10 42/9 list [4] 22/23 26/1 26/7 77/20 listed [3] 33/19 33/22 44/12 little [7] 43/11 66/6 71/9 85/22 86/5 86/6 87/24 live [1] 52/24 lives [1] 19/23 living [1] 8/5 LLP [1] 2/3 LOCATION [1] 1/20 lodge [1] 7/8 long [6] 7/1 16/12 26/1 48/11 65/10 65/13 longer [1] 12/12 look [24] 21/22 21/25 23/5 25/5 25/13 27/1 28/2 30/8 31/2 35/15 50/10 50/24 51/12 51/23 60/7 60/25 61/1 61/7 67/20 75/23 76/3 76/19 82/11 85/19 looked [4] 12/12 18/22 22/3 26/19 looking [14] 22/6 22/13 22/14 23/1 23/1 25/17 25/23 30/5 35/4 43/5 63/5 64/13 77/1 87/13 looks [14] 35/6 43/6 46/15 46/16 61/2 78/7 78/16 78/17 80/11 80/19 81/8 81/18 84/22 87/23 lose [1] 73/5 lost [1] 58/7 lot [2] 30/15 33/4 LRR [1] 1/3	
<b>Hypothetically [1] 57/15</b>	isn't [1] 39/16 issue [1] 33/5 it [184] it's [87] 7/13 9/12 16/2 17/22 20/6 20/19 21/6 21/14 21/14 21/25 21/25 22/5 22/8 22/14 22/17 26/15 26/17 27/1 27/3 27/24 27/25 27/25 27/25 28/1 29/23 30/13 31/10 31/10 32/15 32/18 33/3 33/3 35/1 36/14 38/13 38/18 38/22 39/4 39/6 39/11 39/14 39/17 43/7 43/10 43/21 44/18 44/18 44/21 46/6 47/7 49/25 50/11 50/12 51/20 51/21 52/7 53/20 56/18 57/6 57/9 61/16 62/2 62/4 62/4 62/6 63/24 63/24 64/4 64/9 66/23 68/22 70/22 70/25 71/14 72/22 73/20 75/7 76/24 77/6 78/8 81/22 83/16 85/21 85/22 86/8 86/22 89/11 its [10] 16/19 19/23 22/10 22/11 37/5 43/20 51/10 51/20 68/6 72/21 itself [1] 31/12	<b>I</b> I'd [11] 23/4 50/8 50/20 51/3 51/7 69/19 80/4 83/14 84/3 85/19 90/5 I'll [1] 74/22 I've [1] 35/24 IA [1] 2/10 idea [3] 36/2 65/22 86/15 iden [1] 68/4 identification [20] 9/21 10/16 22/1 44/14 44/23 44/25 49/13 49/18 49/20 49/25 60/6 67/25 68/13 69/2 70/10 71/4 71/7 71/19 75/1 77/6 identified [4] 19/1 21/9 43/18 51/24 identify [50] 17/19 19/14 20/21 21/11 27/5 28/13 32/7 50/16 50/18 50/19 51/14 51/19 52/6 52/9 52/12 52/23 54/9 54/13 55/15 55/19 55/22 56/13 56/20 57/2 57/14 58/18 58/23 60/11 61/7 61/9 61/13 61/21 62/2 62/6 63/15 68/5 68/11 69/2 69/17 70/7 71/4 75/16 76/9 77/3 77/4 77/7 78/11 82/8 87/17 89/14 identifying [10] 17/1 37/14 52/2 52/18 54/8 55/20 57/12 64/2 64/3 68/20 image [2] 35/2 35/22 images [1] 50/2 immobilization [1] 10/4 important [1] 6/13 impossible [2] 37/15 51/22 impound [10] 19/12 19/16 28/5 28/6 28/15 30/1 32/11 37/18 38/21 39/22 impounded [10] 32/13 37/22 37/24 38/7 38/13 38/18 42/13 60/4 60/9 61/22 impounding [4] 20/24 20/25 40/16 41/6 in [148] In-person [1] 76/10 Inc [10] 8/13 8/17 8/18 10/23 12/5 13/13 59/22 60/1 61/20 63/1 Inc.'s [1] 45/24 incident [1] 36/17 include [2] 12/1 63/1 inconclusive [7] 42/7 42/10 42/16 44/21 45/15 45/22 46/8 Incorporated [1] 8/15 indicating [1] 89/19 indicator [1] 46/5 individual [5] 1/3 27/24 28/1 32/4 55/19 individuals [4] 32/5 62/9 68/17 75/23 ineffective [1] 56/13 information [2] 10/10 69/19 inherently [1] 57/2 initial [1] 29/20 insight [1] 32/5 instance [3] 36/3 36/7 36/11 instruct [1] 7/10 instruction [2] 14/14 41/10 instructions [2] 14/7 14/15 instrument [1] 92/21 intake [1] 60/3 interested [1] 91/12 into [15] 6/5 16/16 16/22 19/21 20/2 20/23 25/19 28/19 28/21 34/9 34/10 42/6 54/22 68/20 80/13 introduced [1] 14/8 invalid [1] 55/16 investigation [1] 9/16 involve [1] 10/15	<b>J</b> January [2] 1/19 91/16 jaws [1] 25/3 job [8] 9/24 11/3 11/6 11/7 11/20 12/1 59/18 65/6 Johnson [3] 12/24 13/17 64/21 judges [1] 70/1 Julie [5] 4/5 6/12 68/9 90/7 91/2 jump [2] 85/22 86/4 JUSTIN [1] 2/8 Justin's [3] 80/3 82/11 85/17 jvondrak [1] 2/11
<b>I</b>	<b>K</b> KALI [3] 1/3 49/1 92/2 KAMRON [4] 2/3 4/13 5/14 5/15 kamron.hasan [1] 2/5 keep [5] 7/18 7/20 7/24 8/1 15/6 Kenna [2] 13/6 13/18 kennel [5] 13/20 13/22 31/20 31/21 37/25 Kent [2] 13/1 13/18 kind [6] 8/24 11/14 13/7 14/19 18/2 35/1 knew [2] 14/22 69/4 knowing [2] 64/5 64/7	<b>M</b> M-e-g-a-n [1] 5/10 ma'am [1] 5/4 made [1] 90/1 mail [3] 2/5 2/11 2/12 majority [3] 9/17 9/19 78/8 make [21] 15/11 21/2 21/7 29/9 30/17 32/8 35/11 35/17 43/9 43/11 44/1 46/3 57/23 69/1 75/24 76/24 77/3 77/5 89/13 89/25 92/4 maker [1] 33/8 makes [9] 28/23 30/11 31/4 31/5 31/8 45/14 54/13 57/4 67/8 makeup [1] 59/2 making [3] 28/13 29/20 31/18 man [1] 77/12 mandatory [2] 20/16 20/19 manual [5] 10/19 23/2 37/13 49/21 49/24 many [4] 12/17 35/25 41/23 65/3 marked [5] 3/14 3/17 49/12 49/25 75/1 markings [1] 66/15 mass [1] 23/23 Mastiff [2] 79/3 79/19 matter [6] 45/1 51/12 59/14 75/15 76/5 78/20 may [12] 4/4 4/22 7/4 7/8 7/12 17/20 17/24 28/16 28/20 52/19 71/9 86/9 maybe [7] 24/7 56/2 66/15 81/4 83/25 87/1 88/10	
<b>J</b>	<b>L</b> L-a-l-k [1] 5/10 lab [4] 11/15 81/14 84/18 88/6 LALK [7] 1/14 3/8 4/4 5/1 5/10 91/6 92/3 large [2] 18/23 19/1 last [5] 13/2 13/4 13/5 36/18 88/17 lawful [1] 5/2 lawsuit [1] 15/16 leads [1] 26/20 learn [4] 14/15 34/7 66/2 66/10 learned [2] 64/14 64/24 least [2] 68/16 73/9 led [1] 24/2 left [5] 27/24 28/1 29/9 33/13 49/16 leg [2] 24/5 24/7 Legal [1] 1/20 legs [2] 48/10 48/11 length [5] 23/13 23/19 24/5 24/7 24/11 let's [31] 17/5 17/25 17/25 19/1 21/19 33/18 37/17 38/14 38/15 42/22 43/11	<b>M</b>	

<p><b>M</b></p> <p><b>mean</b> [24] 13/9 14/8 14/12 15/5 21/21 22/21 27/7 30/7 33/12 34/24 39/3 39/4 39/15 39/21 40/2 42/11 48/20 56/5 57/8 60/15 61/5 63/25 64/4 65/24</p> <p><b>means</b> [5] 11/17 70/13 71/24 72/7 73/4</p> <p><b>meant</b> [1] 21/24</p> <p><b>medication</b> [1] 7/23</p> <p><b>MEGAN</b> [17] 1/14 3/8 4/4 5/1 5/10 5/11 8/4 49/14 53/18 55/5 73/25 75/5 76/8 82/10 89/20 91/6 92/3</p> <p><b>mental</b> [2] 7/17 35/22</p> <p><b>mentioned</b> [8] 26/2 26/3 33/15 34/4 37/10 67/23 70/6 79/20</p> <p><b>middle</b> [1] 5/16</p> <p><b>mind</b> [6] 12/19 22/15 38/25 43/21 44/15 85/19</p> <p><b>misleading</b> [1] 71/10</p> <p><b>missing</b> [1] 84/24</p> <p><b>Mitchell</b> [3] 13/2 13/3 13/18</p> <p><b>mix</b> [18] 27/6 80/7 81/4 81/14 83/1 83/6 83/7 83/10 83/14 84/3 84/11 85/2 86/12 87/1 87/25 88/6 88/10 88/14</p> <p><b>mixed</b> [32] 27/2 27/7 27/20 28/20 28/21 28/24 36/22 37/4 37/14 61/6 68/12 68/18 70/3 71/5 80/11 80/15 82/19 82/22 83/1 83/16 84/5 86/12 86/17 86/22 87/7 87/8 87/9 87/10 87/15 87/19 87/22 88/19</p> <p><b>mixed-breed</b> [9] 27/2 27/7 36/22 37/4 37/14 68/12 68/18 70/3 71/5</p> <p><b>moment</b> [1] 11/11</p> <p><b>money</b> [1] 76/19</p> <p><b>month</b> [1] 65/17</p> <p><b>months</b> [1] 65/19</p> <p><b>more</b> [24] 19/22 21/4 21/4 21/9 21/11 29/17 39/24 47/5 47/8 47/9 47/17 47/18 47/20 48/10 55/7 66/13 66/16 66/17 68/24 69/19 73/3 88/22 88/22 89/13</p> <p><b>morning</b> [1] 7/1</p> <p><b>most</b> [5] 21/12 22/10 22/11 29/2 32/21</p> <p><b>Mountain</b> [1] 79/9</p> <p><b>MR</b> [8] 2/3 2/8 2/8 3/9 3/10 3/11 3/12 4/13</p> <p><b>much</b> [3] 11/25 50/10 76/13</p> <p><b>multiple</b> [1] 49/16</p> <p><b>municipal</b> [3] 13/24 75/7 76/4</p> <p><b>muscle</b> [5] 23/23 24/15 30/16 31/10 54/16</p> <p><b>must</b> [2] 61/3 67/19</p> <p><b>MYERS</b> [3] 1/3 49/1 92/2</p> <p><b>myself</b> [1] 12/24</p>	<p><b>need</b> [16] 4/20 6/5 6/11 6/24 7/3 27/11 29/24 30/17 30/21 30/24 31/1 31/6 55/7 75/17 75/18 90/1</p> <p><b>needed</b> [1] 38/9</p> <p><b>needing</b> [1] 31/9</p> <p><b>never</b> [1] 50/18</p> <p><b>new</b> [1] 12/21</p> <p><b>next</b> [8] 18/14 19/11 37/23 85/9 86/8 87/6 87/23 88/3</p> <p><b>nine</b> [4] 79/18 83/20 86/6 88/9</p> <p><b>Nineteen</b> [2] 81/5 85/5</p> <p><b>Ninety</b> [2] 88/7 88/9</p> <p><b>Ninety-nine</b> [1] 88/9</p> <p><b>Ninety-six</b> [1] 88/7</p> <p><b>nods</b> [2] 19/21 37/9</p> <p><b>none</b> [2] 11/9 62/12</p> <p><b>Nope</b> [4] 25/25 27/11 27/11 27/11</p> <p><b>NORTHERN</b> [1] 1/1</p> <p><b>notarial</b> [2] 91/4 91/15</p> <p><b>Notary</b> [2] 4/8 92/24</p> <p><b>notes</b> [1] 19/13</p> <p><b>nothing</b> [2] 55/11 91/8</p> <p><b>notice</b> [1] 4/11</p> <p><b>now</b> [7] 12/17 16/6 45/3 59/12 81/20 82/13 82/14</p> <p><b>number</b> [32] 50/5 50/9 50/23 53/20 54/5 54/19 75/1 78/5 78/6 78/15 79/2 80/6 81/23 82/18 82/21 82/25 83/2 83/3 83/4 83/7 83/9 83/11 83/13 83/15 83/20 84/12 84/14 85/21 85/25 86/2 86/6 86/8</p> <p><b>Numbers</b> [1] 49/12</p> <p><b>numbers.....49</b> [1] 3/17</p>	<p><b>once</b> [3] 18/25 19/10 22/3</p> <p><b>One-o-eight</b> [1] 88/11</p> <p><b>one-square-foot</b> [1] 83/23</p> <p><b>ones</b> [5] 12/21 12/22 81/22 86/5 86/21</p> <p><b>ongoing</b> [1] 15/13</p> <p><b>onl</b> [1] 85/12</p> <p><b>only</b> [11] 18/3 18/11 18/12 42/8 52/9 52/22 61/18 61/18 71/17 71/19 78/7</p> <p><b>open</b> [1] 49/16</p> <p><b>opinion</b> [29] 28/16 30/18 30/21 30/24 31/1 31/6 31/9 32/2 43/2 47/5 47/12 47/16 47/22 47/23 47/24 48/1 52/9 52/11 55/17 55/18 56/21 57/21 58/2 68/19 72/12 73/6 73/11 73/16 76/14</p> <p><b>opposed</b> [1] 17/2</p> <p><b>Opposing</b> [1] 75/20</p> <p><b>options</b> [1] 39/25</p> <p><b>order</b> [1] 70/20</p> <p><b>ordinance</b> [2] 16/22 17/11</p> <p><b>ordinances</b> [7] 14/11 14/12 14/15 14/18 14/23 15/1 15/7</p> <p><b>organizations</b> [1] 56/11</p> <p><b>original</b> [1] 4/12</p> <p><b>others</b> [5] 21/9 47/6 47/10 47/18 47/21</p> <p><b>otherwise</b> [3] 72/9 74/22 91/12</p> <p><b>out</b> [15] 15/4 17/2 19/20 28/3 28/5 29/3 39/15 44/8 49/6 50/9 59/12 65/2 65/3 74/20 77/25</p> <p><b>outcome</b> [2] 29/6 30/7</p> <p><b>outside</b> [1] 4/23</p> <p><b>outward</b> [1] 48/3</p> <p><b>over</b> [18] 6/3 6/14 6/15 26/7 36/17 37/25 57/15 67/6 69/4 69/25 70/3 70/12 70/13 71/1 71/14 71/24 89/23 89/25</p> <p><b>own</b> [3] 11/10 67/6 67/15</p> <p><b>owned</b> [3] 11/12 11/15 34/23</p> <p><b>owner</b> [30] 38/3 38/11 38/21 38/24 39/12 39/13 39/16 39/20 39/24 40/8 40/12 40/13 40/16 40/19 40/21 40/22 40/23 41/2 41/5 41/19 44/4 46/19 46/23 63/11 64/13 70/21 70/24 71/23 72/6 74/8</p> <p><b>owner's</b> [4] 39/25 40/18 41/12 71/18</p> <p><b>owners</b> [5] 38/6 40/4 63/23 64/2 66/11</p> <p><b>ownership</b> [1] 73/13</p> <p><b>owning</b> [2] 11/9 63/11</p>
<p><b>N</b></p> <p><b>N-A-C-A</b> [1] 9/12</p> <p><b>NACA</b> [17] 3/15 8/25 9/2 9/4 9/5 9/11 9/14 10/2 10/3 23/2 37/10 37/13 49/17 49/21 56/12 56/16 56/17</p> <p><b>NACA's</b> [1] 10/18</p> <p><b>name</b> [8] 5/8 5/14 13/2 13/3 13/4 13/5 48/24 82/23</p> <p><b>names</b> [1] 12/22</p> <p><b>narrow</b> [1] 66/5</p> <p><b>National</b> [4] 9/5 37/11 37/11 56/18</p> <p><b>NE</b> [1] 2/4</p> <p><b>nearly</b> [1] 37/15</p> <p><b>Nebraska</b> [2] 91/5 91/16</p> <p><b>necessarily</b> [10] 18/18 32/22 42/8 48/12 48/22 61/11 62/13 62/14 66/25 78/21</p> <p><b>neck</b> [1] 24/23</p>	<p><b>O</b></p> <p><b>oath</b> [2] 5/4 6/7</p> <p><b>object</b> [2] 58/6 76/7</p> <p><b>objections</b> [2] 4/15 7/8</p> <p><b>observed</b> [1] 25/16</p> <p><b>obviously</b> [5] 16/5 22/5 39/21 40/17 42/23</p> <p><b>occasionally</b> [1] 14/25</p> <p><b>off</b> [15] 9/20 26/3 48/20 49/8 49/10 51/6 51/11 65/10 74/22 74/23 78/2 85/11 85/16 85/18 88/25</p> <p><b>off-the-record</b> [2] 49/10 74/23</p> <p><b>offer</b> [2] 57/21 58/1</p> <p><b>office</b> [2] 13/8 38/16</p> <p><b>officer</b> [17] 8/6 13/6 13/7 13/10 13/17 14/5 14/6 14/17 17/19 64/21 71/13 71/14 71/17 71/25 72/18 72/25 73/2</p> <p><b>officers</b> [9] 12/11 12/17 24/25 25/17 56/12 62/12 62/15 70/1 74/13</p> <p><b>official</b> [2] 1/7 1/8</p> <p><b>officially</b> [1] 91/15</p> <p><b>often</b> [1] 73/3</p> <p><b>Oh</b> [6] 10/5 18/6 77/12 78/6 83/2 83/5</p> <p><b>okay</b> [99]</p> <p><b>Omaha</b> [1] 2/4</p> <p><b>on</b> [81] 4/9 4/20 6/25 16/2 16/9 17/1 18/13 19/4 19/23 21/14 26/25 28/14 29/21 30/1 30/18 32/18 33/6 33/18 35/14 35/17 36/14 42/5 43/20 44/5 46/8 47/12 49/16 49/19 50/2 51/2 52/11 52/22 53/20 54/5 54/20 55/15 55/19 56/9 56/21 57/6 57/14 58/3 58/10 58/17 58/24 59/4 59/13 60/7 60/13 61/9 61/13 62/2 62/10 63/15 63/17 65/9 66/23 67/1 67/11 68/11 68/12 68/17 70/10 71/3 72/2 73/11 73/16 75/15 76/16 79/21 80/3 82/15 82/24 83/3 84/12 84/14 84/15 84/15 84/16 84/21 85/10</p>	<p><b>P</b></p> <p><b>p.m</b> [7] 1/23 1/24 49/10 53/16 53/16 74/23 90/10</p> <p><b>P.O</b> [1] 2/10</p> <p><b>PADMORE</b> [1] 1/7</p> <p><b>page</b> [8] 3/5 4/9 49/18 49/20 49/23 50/3 85/25 92/6</p> <p><b>page.....49</b> [1] 3/15</p> <p><b>papered</b> [4] 11/17 39/1 39/3 63/23</p> <p><b>papers</b> [1] 72/21</p> <p><b>paperwork</b> [7] 39/6 70/21 70/24 71/21 72/7 72/19 73/4</p> <p><b>parent</b> [1] 37/6</p> <p><b>parents</b> [1] 37/5</p> <p><b>part</b> [2] 43/17 52/17</p> <p><b>parties</b> [1] 4/3</p> <p><b>party</b> [1] 91/12</p> <p><b>passed</b> [1] 49/17</p> <p><b>passing</b> [1] 49/15</p> <p><b>patrol</b> [2] 18/2 18/6</p> <p><b>pattern</b> [1] 23/9</p> <p><b>peers</b> [1] 12/7</p> <p><b>Pell</b> [2] 4/5 91/2</p> <p><b>people</b> [22] 15/6 25/2 28/2 28/13 29/21 32/17 32/20 32/23 34/23 42/6 45/16</p>

<p><b>P</b></p> <p><b>people...</b> [11] 47/8 55/14 56/1 56/5 56/10 56/19 68/25 69/5 69/10 69/25 70/1</p> <p><b>people's</b> [1] 34/10</p> <p><b>per</b> [1] 12/10</p> <p><b>percent</b> [12] 43/3 43/4 44/8 44/8 44/11 46/20 46/21 68/16 69/25 70/2 71/2 75/21</p> <p><b>percentages</b> [1] 37/4</p> <p><b>perfectly</b> [1] 6/19</p> <p><b>performs</b> [1] 44/5</p> <p><b>perhaps</b> [1] 89/13</p> <p><b>period</b> [2] 65/13 65/15</p> <p><b>person</b> [20] 28/5 29/9 29/17 32/20 33/9 33/10 39/14 52/9 54/11 54/13 57/18 57/19 60/12 63/18 76/10 76/12 76/13 76/17 76/22 89/12</p> <p><b>personal</b> [5] 46/4 58/2 58/2 67/6 67/15</p> <p><b>personally</b> [12] 11/9 24/24 25/15 45/18 52/1 57/22 63/9 66/1 69/7 69/11 69/15 70/17</p> <p><b>persuade</b> [1] 47/3</p> <p><b>Pharaoh</b> [1] 81/18</p> <p><b>phone</b> [1] 59/12</p> <p><b>photo</b> [9] 3/15 50/24 50/25 51/23 53/20 54/3 54/4 61/15 77/6</p> <p><b>photograph</b> [14] 57/11 58/20 58/24 59/11 59/14 60/7 60/12 61/10 61/14 62/24 63/3 63/6 85/10 85/18</p> <p><b>photographs</b> [11] 57/10 59/5 59/8 59/17 59/22 61/17 62/21 64/10 82/14 82/15 85/11</p> <p><b>photography</b> [1] 9/15</p> <p><b>photos</b> [10] 3/17 53/19 56/12 57/24 58/1 60/16 62/16 77/19 81/23 89/4</p> <p><b>photos.....</b>49 [1] 3/16</p> <p><b>phrased</b> [1] 6/18</p> <p><b>physical</b> [23] 7/17 21/21 22/21 26/8 26/12 27/1 30/13 31/5 36/23 36/24 37/5 42/23 42/23 43/20 48/3 48/3 48/5 48/14 48/18 48/20 48/21 53/4 66/3</p> <p><b>physically</b> [8] 20/22 34/10 35/24 52/7 52/20 55/10 57/19 76/15</p> <p><b>pick</b> [8] 17/2 19/22 27/20 28/4 28/4 46/13 70/6 74/6</p> <p><b>picked</b> [5] 37/19 43/18 49/4 72/14 72/20</p> <p><b>picking</b> [6] 26/20 41/5 68/17 68/25 69/5 70/2</p> <p><b>picture</b> [32] 50/6 50/11 51/6 51/11 51/13 51/14 52/2 54/9 54/10 54/12 54/14 54/16 54/25 55/8 55/13 55/19 55/21 55/23 57/4 57/6 57/14 60/21 61/1 61/18 75/23 76/11 76/20 77/8 78/14 80/4 82/12 85/12</p> <p><b>pictures</b> [18] 35/20 35/21 49/19 50/17 50/19 52/14 52/19 52/19 55/15 56/19 57/1 58/4 77/1 79/25 81/20 83/23 88/22 89/7</p> <p><b>pit</b> [60] 15/18 15/20 15/22 16/7 16/11 16/16 17/2 18/9 18/14 18/19 27/4 27/6 29/8 31/7 33/20 34/7 34/10 34/23 35/3 35/5 35/9 35/18 35/25 36/4 38/12 39/12 39/17 39/20 40/6 40/13 40/23 41/6 42/12 42/15 44/12 44/15 46/16 46/19 46/24 50/13 51/8 53/6 66/19 66/24 67/13 68/20 70/7 71/1 71/5 72/14 72/19 72/22 73/18 74/7 74/18 75/5 75/6 75/8 75/9 75/13</p> <p><b>place</b> [5] 4/8 8/13 16/16 16/22 91/10</p> <p><b>placed</b> [1] 60/24</p>	<p><b>plaintiff</b> [4] 1/4 2/2 4/14 48/25</p> <p><b>planet</b> [1] 59/13</p> <p><b>play</b> [2] 15/4 48/24</p> <p><b>please</b> [9] 5/8 5/14 5/16 6/12 6/19 7/3 11/20 12/6 12/8</p> <p><b>point</b> [8] 7/9 10/9 20/8 20/12 20/15 20/19 20/20 28/10</p> <p><b>Pointer</b> [2] 83/12 88/10</p> <p><b>pointless</b> [1] 62/21</p> <p><b>policy</b> [3] 45/9 45/24 45/24</p> <p><b>position</b> [7] 12/15 14/11 15/9 15/11 16/13 33/13 63/14</p> <p><b>possible</b> [3] 51/18 56/1 80/17</p> <p><b>possibly</b> [3] 80/7 83/1 87/25</p> <p><b>Potentially</b> [4] 39/8 60/10 60/14 60/15</p> <p><b>predictive</b> [3] 48/4 48/5 48/14</p> <p><b>predominant</b> [16] 29/2 29/13 61/10 61/13 62/3 68/5 68/12 68/18 69/1 69/6 70/3 71/1 77/21 78/11 78/24 83/18</p> <p><b>predominantly</b> [19] 22/19 26/11 27/3 27/17 27/22 28/24 30/6 30/11 31/3 35/12 38/19 43/23 50/12 50/13 51/3 67/9 67/17 67/21 75/12</p> <p><b>premise</b> [2] 27/13 85/19</p> <p><b>presence</b> [1] 4/23</p> <p><b>present</b> [2] 52/10 53/4</p> <p><b>Presents</b> [1] 46/22</p> <p><b>pretty</b> [3] 11/25 66/5 89/7</p> <p><b>previous</b> [1] 58/17</p> <p><b>previously</b> [2] 11/12 26/18</p> <p><b>printed</b> [1] 85/11</p> <p><b>Prior</b> [1] 11/6</p> <p><b>pro</b> [1] 45/6</p> <p><b>probably</b> [1] 6/18</p> <p><b>procedure</b> [2] 4/18 20/20</p> <p><b>process</b> [10] 5/20 31/18 41/16 53/1 53/3 53/5 53/6 53/9 53/11 53/13</p> <p><b>Professional</b> [1] 4/5</p> <p><b>prohibited</b> [12] 33/23 40/6 41/7 43/4 43/5 43/7 43/22 44/15 46/19 46/24 50/12 75/6</p> <p><b>prone</b> [1] 47/8</p> <p><b>proof</b> [3] 38/22 38/24 40/25</p> <p><b>property</b> [1] 73/13</p> <p><b>prove</b> [1] 42/14</p> <p><b>provi</b> [1] 44/5</p> <p><b>provide</b> [6] 10/24 31/25 38/22 38/24 40/25 56/19</p> <p><b>provided</b> [2] 49/24 61/20</p> <p><b>provides</b> [1] 40/4</p> <p><b>Public</b> [2] 4/8 92/24</p> <p><b>Pug</b> [2] 83/1 83/7</p> <p><b>punches</b> [1] 78/4</p> <p><b>purebred</b> [8] 27/18 33/19 35/25 36/4 36/7 36/11 39/4 43/22</p> <p><b>purebreeds</b> [11] 11/16 28/25 31/3 34/16 34/19 36/16 43/4 43/5 43/22 43/23 44/9</p> <p><b>purposes</b> [1] 69/22</p> <p><b>pursuant</b> [1] 4/10</p> <p><b>put</b> [9] 16/16 16/22 28/10 28/14 28/16 30/1 76/15 78/3 78/4</p>	<p>75/21 88/22 89/24</p> <p><b>quick</b> [1] 49/9</p> <p><b>quiz</b> [1] 49/21</p> <p><b>quizzes</b> [1] 14/21</p>
	<p><b>Q</b></p> <p><b>qualified</b> [1] 91/3</p> <p><b>quality</b> [2] 79/24 85/12</p> <p><b>question</b> [28] 6/20 7/11 7/12 7/13 19/22 21/13 21/24 27/12 29/25 30/2 33/7 34/12 43/15 56/7 56/9 56/9 56/24 58/15 66/5 67/10 69/1 71/9 71/11 80/3 82/1 82/11 85/10 85/17</p> <p><b>questioning</b> [2] 7/4 7/9</p> <p><b>questions</b> [7] 5/15 6/19 7/18 7/24</p>	<p><b>R</b></p> <p><b>Radar</b> [1] 49/4</p> <p><b>RARRAT</b> [2] 1/8 12/9</p> <p><b>rather</b> [2] 76/19 77/4</p> <p><b>read</b> [11] 14/12 16/5 34/5 35/8 50/9 75/5 75/16 89/18 89/21 90/3 92/6</p> <p><b>READS</b> [1] 92/6</p> <p><b>real</b> [1] 49/8</p> <p><b>really</b> [8] 17/24 33/6 63/10 65/16 78/6 79/22 88/18 89/10</p> <p><b>Realtime</b> [2] 4/6 4/7</p> <p><b>reason</b> [6] 18/20 29/24 30/2 42/13 46/10 92/5</p> <p><b>receive</b> [1] 16/23</p> <p><b>recent</b> [3] 68/3 68/10 68/16</p> <p><b>recess</b> [1] 53/16</p> <p><b>record</b> [9] 4/21 5/9 33/18 49/8 49/10 71/20 74/22 74/23 82/4</p> <p><b>records</b> [3] 18/22 70/22 72/21</p> <p><b>Recross-Examination</b> [2] 3/12 89/2</p> <p><b>red</b> [1] 66/22</p> <p><b>Redirect</b> [2] 3/11 77/15</p> <p><b>refer</b> [2] 5/11 59/22</p> <p><b>reference</b> [3] 62/5 62/6 62/16</p> <p><b>referring</b> [5] 60/12 62/24 64/10 69/17 76/25</p> <p><b>regard</b> [5] 39/25 60/1 82/13 82/13 82/14</p> <p><b>regarding</b> [1] 41/11</p> <p><b>regards</b> [2] 4/12 66/18</p> <p><b>registered</b> [2] 4/5 35/18</p> <p><b>reject</b> [2] 44/22 46/9</p> <p><b>related</b> [4] 9/24 11/21 14/1 14/7</p> <p><b>relates</b> [1] 19/22</p> <p><b>relative</b> [1] 91/12</p> <p><b>reliable</b> [1] 46/4</p> <p><b>rely</b> [1] 62/9</p> <p><b>remember</b> [2] 26/4 65/23</p> <p><b>removed</b> [3] 72/8 73/8 73/18</p> <p><b>rephrase</b> [5] 7/12 17/21 67/10 68/8 71/11</p> <p><b>report</b> [1] 12/7</p> <p><b>reporter</b> [4] 4/6 4/6 4/7 4/21</p> <p><b>Reporter's</b> [1] 3/4</p> <p><b>represent</b> [3] 49/23 53/25 68/15</p> <p><b>representing</b> [1] 56/16</p> <p><b>required</b> [1] 4/17</p> <p><b>Rescue</b> [4] 8/10 8/12 8/17 10/24</p> <p><b>research</b> [1] 72/2</p> <p><b>reserved</b> [1] 4/16</p> <p><b>residence</b> [1] 18/21</p> <p><b>respond</b> [2] 16/21 18/25</p> <p><b>response</b> [3] 5/4 80/2 82/10</p> <p><b>restate</b> [2] 6/21 58/8</p> <p><b>results</b> [4] 43/2 44/7 45/17 46/9</p> <p><b>return</b> [2] 20/3 74/8</p> <p><b>returned</b> [1] 20/4</p> <p><b>review</b> [1] 73/25</p> <p><b>reviewed</b> [6] 10/18 31/20 33/16 34/13 49/20 67/24</p> <p><b>right</b> [31] 5/11 8/4 9/5 12/17 16/6 19/24 28/6 29/15 29/19 33/20 36/20 38/14 41/7 41/8 42/24 45/3 49/14 52/17 59/12 60/16 68/1 72/9 73/2 73/3 89/17 89/20 89/25 90/2 90/3 90/4 90/7</p> <p><b>rights</b> [2] 40/18 41/3</p> <p><b>rip</b> [1] 74/20</p>

<p><b>R</b></p> <p>risk [1] 17/8 road [1] 19/4 ROBERT [1] 1/7 role [3] 11/2 12/5 17/18 room [1] 32/19 Rot [1] 80/17 Rottweiler [2] 21/5 66/11 Rottweilers [1] 66/7 round [1] 89/4 route [1] 40/19 RPR [1] 91/2 rule [6] 4/18 38/4 38/5 45/11 65/8 69/9 rules [2] 4/18 6/4 Running [1] 11/24</p>	<p>shots [1] 33/10 should [4] 69/9 81/22 87/6 92/5 shoulders [1] 24/3 shouldn't [1] 7/1 show [7] 17/25 30/14 43/3 59/12 64/20 70/1 70/21 showed [1] 70/22 showing [3] 38/20 70/25 72/21 shown [3] 29/17 59/17 71/14 shows [2] 10/21 72/3 side [1] 19/4 sign [3] 89/18 89/21 90/3 signature [2] 4/24 92/17 similar [3] 5/23 5/23 26/19 simple [2] 32/15 54/15 since [2] 35/8 67/11 single [4] 19/19 20/3 21/14 54/21 sioux [11] 1/6 1/20 1/21 2/10 2/11 2/12 8/10 13/23 75/7 76/3 92/2 sioux-city.org [2] 2/11 2/12 situation [6] 17/19 17/23 19/3 40/13 41/19 73/12 situations [4] 33/4 41/23 64/5 64/9 six [5] 12/18 65/19 79/12 83/11 88/7 sixteen [3] 84/19 86/16 88/15 Sixth [1] 2/9 Sixty [2] 87/6 87/21 Sixty-seven [1] 87/21 Sixty-three [1] 87/6 size [8] 23/15 23/25 24/21 25/9 31/10 31/11 84/15 84/21 skip [3] 83/5 86/20 88/5 sleeve [1] 50/1 small [1] 86/9 small-breed [1] 86/9 solely [1] 27/24 solemnly [1] 5/2 somebody [3] 12/16 52/11 63/2 somebody's [1] 73/11 someone [3] 18/13 44/4 64/19 something [6] 32/15 38/9 42/9 54/15 56/25 68/22 sometime [1] 20/24 somewhat [1] 5/19 soon [1] 20/14 sorry [6] 9/1 10/8 37/11 81/20 83/2 84/14 sort [1] 14/19 sounded [1] 82/7 speaking [1] 78/22 specific [32] 22/18 27/14 28/25 29/5 36/3 36/6 36/10 36/17 36/19 40/12 42/2 43/14 47/9 52/16 52/17 59/24 59/25 60/2 60/8 61/8 61/18 63/7 63/7 63/21 66/14 66/18 67/1 67/1 67/3 67/17 67/18 87/17 specifically [11] 14/1 15/15 15/18 16/12 17/22 27/5 28/23 54/18 57/4 67/12 77/2 specifics [2] 6/5 42/4 specified [1] 91/10 spell [1] 5/8 spend [1] 76/18 sport [1] 9/16 square [2] 54/1 83/23 squares [3] 53/23 54/1 83/23 staff [4] 13/21 13/22 37/25 38/16 Staffordshire [21] 29/7 30/10 33/24 34/1 35/10 35/10 36/8 36/12 46/21 50/14 50/14 51/9 51/10 60/20 60/21 61/2 61/3 75/9 75/10 75/12 75/14 stake [1] 73/13 stand [1] 7/11</p>	<p>standard [3] 33/19 33/19 45/10 standards [7] 31/21 31/25 33/16 33/22 34/5 34/13 35/9 start [3] 38/15 63/15 69/11 started [3] 42/5 65/6 65/11 starting [1] 59/18 state [6] 5/8 7/16 7/17 73/11 91/4 92/18 stated [2] 4/20 53/8 states [3] 1/1 37/13 92/4 statute [3] 27/9 27/13 46/16 statutes [1] 72/9 stays [1] 13/7 step [1] 63/4 stick [1] 29/3 still [1] 13/12 stipulated [1] 4/2 stipulations [2] 3/3 91/11 street [4] 1/21 2/4 2/9 19/25 streets [2] 13/12 18/2 strike [2] 26/24 51/21 structure [4] 22/20 30/17 31/11 31/11 studies [3] 68/3 68/11 68/16 study [4] 3/16 53/19 75/21 81/22 style [3] 29/1 29/4 30/16 subject [7] 27/3 27/4 29/22 31/7 60/25 69/3 70/7 such [3] 12/6 56/11 66/14 suit [1] 91/13 Suite [3] 1/20 2/4 2/9 super [1] 7/1 superior [1] 12/13 supplemental [1] 16/23 supposed [1] 76/25 sure [22] 12/23 13/1 13/2 13/4 13/5 15/11 25/22 29/11 32/8 33/17 36/15 43/11 46/3 56/16 61/25 65/3 65/7 74/19 76/24 78/1 82/2 82/6 sworn [2] 5/2 91/7</p>
<p><b>S</b></p> <p>Saint [1] 81/4 same [8] 6/15 8/13 37/8 59/4 65/1 80/25 85/9 85/12 sampling [1] 75/18 Satellite [1] 86/16 saw [1] 63/18 saying [22] 14/15 18/14 45/23 46/1 47/15 47/16 47/16 51/12 51/15 51/16 51/18 56/17 60/18 73/7 73/9 73/10 77/2 77/5 87/8 87/10 87/15 87/19 says [9] 19/23 27/10 27/13 39/16 44/18 45/11 46/20 53/19 72/18 scene [1] 9/15 Schnauzer [1] 83/25 school [1] 8/20 science [6] 67/24 69/24 72/1 72/3 73/1 73/1 se [1] 12/10 seal [2] 91/15 92/24 search [1] 9/16 second [9] 28/12 30/18 30/21 30/24 31/1 31/6 31/9 32/2 89/4 Section [1] 3/18 sections [2] 17/20 17/23 see [22] 14/22 14/25 15/6 18/6 20/14 21/4 21/15 27/9 30/10 51/4 52/20 53/19 54/20 55/10 66/23 71/11 76/16 76/20 78/14 79/5 80/23 83/22 seeing [3] 20/24 34/23 64/1 seem [2] 72/11 73/5 seen [6] 26/17 34/14 35/18 35/24 36/15 62/18 seizure [1] 9/16 seminars [1] 9/24 seniority [1] 12/11 served [1] 38/9 set [3] 4/8 4/19 91/14 setting [1] 73/16 seven [5] 79/14 83/13 86/23 87/2 87/21 seventeen [4] 81/1 84/21 86/18 88/17 several [2] 28/2 64/5 shadow [2] 14/19 65/11 shadowing [6] 64/19 65/9 65/13 66/1 66/10 66/13 shape [4] 24/9 24/15 24/19 25/7 she [5] 13/7 13/11 33/14 49/3 92/4 she's [1] 13/7 shelter [10] 11/18 11/19 19/12 19/21 20/2 20/23 21/6 28/19 32/10 72/20 Shepherd [3] 83/10 83/14 84/3 Shih [1] 85/8 short [1] 48/10 shorter [1] 43/9 Shorthand [1] 4/7</p>	<p>single [4] 19/19 20/3 21/14 54/21 sioux [11] 1/6 1/20 1/21 2/10 2/11 2/12 8/10 13/23 75/7 76/3 92/2 sioux-city.org [2] 2/11 2/12 situation [6] 17/19 17/23 19/3 40/13 41/19 73/12 situations [4] 33/4 41/23 64/5 64/9 six [5] 12/18 65/19 79/12 83/11 88/7 sixteen [3] 84/19 86/16 88/15 Sixth [1] 2/9 Sixty [2] 87/6 87/21 Sixty-seven [1] 87/21 Sixty-three [1] 87/6 size [8] 23/15 23/25 24/21 25/9 31/10 31/11 84/15 84/21 skip [3] 83/5 86/20 88/5 sleeve [1] 50/1 small [1] 86/9 small-breed [1] 86/9 solely [1] 27/24 solemnly [1] 5/2 somebody [3] 12/16 52/11 63/2 somebody's [1] 73/11 someone [3] 18/13 44/4 64/19 something [6] 32/15 38/9 42/9 54/15 56/25 68/22 sometime [1] 20/24 somewhat [1] 5/19 soon [1] 20/14 sorry [6] 9/1 10/8 37/11 81/20 83/2 84/14 sort [1] 14/19 sounded [1] 82/7 speaking [1] 78/22 specific [32] 22/18 27/14 28/25 29/5 36/3 36/6 36/10 36/17 36/19 40/12 42/2 43/14 47/9 52/16 52/17 59/24 59/25 60/2 60/8 61/8 61/18 63/7 63/7 63/21 66/14 66/18 67/1 67/1 67/3 67/17 67/18 87/17 specifically [11] 14/1 15/15 15/18 16/12 17/22 27/5 28/23 54/18 57/4 67/12 77/2 specifics [2] 6/5 42/4 specified [1] 91/10 spell [1] 5/8 spend [1] 76/18 sport [1] 9/16 square [2] 54/1 83/23 squares [3] 53/23 54/1 83/23 staff [4] 13/21 13/22 37/25 38/16 Staffordshire [21] 29/7 30/10 33/24 34/1 35/10 35/10 36/8 36/12 46/21 50/14 50/14 51/9 51/10 60/20 60/21 61/2 61/3 75/9 75/10 75/12 75/14 stake [1] 73/13 stand [1] 7/11</p>	<p><b>T</b></p> <p>T.M [1] 2/3 tab [4] 49/16 52/15 53/18 85/9 tabs [1] 49/16 tag [1] 19/23 Tail [2] 25/7 25/9 tails [2] 66/7 66/14 take [16] 7/5 19/13 20/2 25/19 40/20 43/11 50/10 53/14 54/24 55/1 59/12 77/9 77/10 77/13 77/25 82/4 taken [7] 4/5 4/10 5/17 53/16 56/14 73/14 91/9 takes [1] 37/25 taking [3] 6/12 12/2 19/20 talk [10] 6/14 6/14 17/5 21/19 31/17 37/17 38/3 38/6 42/22 74/3 talking [4] 10/2 13/15 15/16 15/20 technically [1] 20/9 teeth [1] 25/3 tell [42] 23/4 28/1 32/14 36/17 41/2 42/2 42/2 46/23 50/11 50/23 51/4 51/7 51/23 52/14 54/3 54/20 54/25 55/3 55/8 57/7 59/7 59/14 59/25 64/13 65/22 66/18 66/20 66/21 68/24 77/20 79/11 80/1 80/12 82/20 83/16 83/19 86/1 86/9 86/12 86/24 89/5 91/7 telling [7] 12/20 51/22 52/3 64/17 66/11 73/1 78/13 tells [6] 22/8 22/15 22/19 44/15 45/5 45/10 ten [4] 16/14 36/1 36/18 80/6 tend [1] 66/7 terrible [1] 89/7</p>

<p><b>T</b></p> <p><b>terrier [30]</b> 29/7 30/10 33/20 33/24 34/2 35/9 35/10 35/11 36/4 36/8 36/12 46/22 50/13 50/14 50/15 51/9 51/9 51/10 60/21 60/22 61/2 61/3 75/9 75/10 75/10 75/13 75/13 75/14 80/7 81/8</p> <p><b>Terriers [1]</b> 35/25</p> <p><b>test [11]</b> 42/14 42/18 42/20 44/5 44/7 45/5 45/21 46/10 46/20 46/22 47/1</p> <p><b>tested [1]</b> 45/17</p> <p><b>testified [2]</b> 5/3 70/19</p> <p><b>testify [1]</b> 70/19</p> <p><b>testimony [3]</b> 4/22 58/18 91/14</p> <p><b>testing [14]</b> 42/7 44/21 44/22 45/8 45/12 45/14 45/20 45/25 46/4 46/7 47/2 75/18 76/2 76/4</p> <p><b>tests [2]</b> 14/22 43/2</p> <p><b>texture [1]</b> 23/11</p> <p><b>than [15]</b> 10/1 11/7 11/9 13/20 21/9 29/17 47/6 47/10 47/18 47/21 48/10 52/20 68/24 73/3 74/3</p> <p><b>Thank [1]</b> 89/16</p> <p><b>that [447]</b></p> <p><b>them [22]</b> 11/9 12/19 15/2 19/14 19/20 32/7 33/23 34/23 35/19 35/20 38/22 46/8 52/16 57/24 62/18 72/8 77/20 80/7 82/8 83/24 85/1 88/20</p> <p><b>then [10]</b> 38/21 43/14 44/4 44/17 44/23 51/7 61/1 61/5 61/18 85/16</p> <p><b>there's [11]</b> 12/10 12/10 18/3 18/14 19/3 22/21 27/7 30/15 33/4 33/5 48/19</p> <p><b>therefore [1]</b> 4/20</p> <p><b>these [49]</b> 14/15 17/20 17/23 23/5 26/11 29/5 30/6 30/12 31/3 31/21 34/7 34/13 34/15 34/19 35/7 36/16 43/6 43/7 43/22 43/23 46/15 49/19 51/20 58/1 59/8 66/24 67/3 67/7 67/9 67/12 67/16 67/18 67/20 67/21 70/25 75/17 77/1 79/24 81/22 82/5 82/15 83/22 85/11 85/14 85/19 85/21 86/5 87/8 87/18</p> <p><b>they're [15]</b> 6/25 17/10 40/10 52/17 64/2 64/3 70/2 70/4 70/7 71/18 71/20 72/7 75/23 76/1 76/2</p> <p><b>thing [5]</b> 14/19 15/13 37/8 80/25 85/12</p> <p><b>things [2]</b> 29/2 52/20</p> <p><b>thinking [3]</b> 69/4 70/16 71/3</p> <p><b>third [1]</b> 30/18</p> <p><b>Thirteen [4]</b> 80/12 80/18 84/6 86/14</p> <p><b>this [78]</b> 4/19 5/12 5/16 6/24 6/25 8/21 10/9 11/6 11/7 14/11 15/16 20/16 20/17 20/20 22/19 22/19 26/10 26/11 26/21 29/6 29/7 29/13 29/21 29/25 30/9 30/19 31/2 31/6 31/6 31/7 32/14 32/16 33/1 33/9 39/11 39/16 39/20 43/10 43/21 44/5 44/15 44/17 46/18 46/18 46/20 49/1 49/19 49/20 49/23 50/2 51/4 52/15 53/19 54/3 54/4 54/18 54/20 54/22 55/6 55/7 55/9 58/9 60/20 66/23 69/22 75/6 75/16 75/22 77/3 77/4 77/25 78/14 85/16 85/24 89/21 91/13 91/16 92/21</p> <p><b>thons [2]</b> 11/24 12/3</p> <p><b>thought [2]</b> 22/24 80/2</p> <p><b>three [41]</b> 10/3 10/5 10/7 10/14 27/14 27/18 27/22 28/25 29/5 29/14 30/6 30/12 31/3 33/16 35/8 38/20 43/3 43/5 44/9 50/9 51/24 52/3 66/18 66/24 67/3 67/7 67/9 67/12 67/17 67/18 67/20 67/21 76/9 78/5 79/4 81/13 82/25 83/4 85/25 87/6 88/1</p>	<p><b>through [22]</b> 10/3 18/22 23/2 26/1 30/14 41/15 42/20 49/12 49/19 50/8 50/16 50/18 50/19 50/20 57/23 64/1 65/3 66/10 67/4 77/20 81/19 85/14</p> <p><b>time [22]</b> 1/23 1/24 4/8 4/16 11/2 20/3 21/3 42/8 50/10 67/6 68/17 68/25 69/5 69/25 70/2 70/4 70/12 70/13 71/2 71/15 71/25 91/9</p> <p><b>Tink [1]</b> 49/4</p> <p><b>tips [1]</b> 17/1</p> <p><b>title [2]</b> 4/9 8/7</p> <p><b>titled [1]</b> 49/17</p> <p><b>today [5]</b> 6/7 7/16 7/23 15/16 74/1</p> <p><b>told [7]</b> 26/18 41/5 62/20 62/23 63/2 63/5 75/25</p> <p><b>ton [1]</b> 75/20</p> <p><b>tongue [1]</b> 25/5</p> <p><b>too [1]</b> 85/13</p> <p><b>top [2]</b> 9/20 26/3</p> <p><b>Topline [1]</b> 24/2</p> <p><b>touch [1]</b> 76/21</p> <p><b>track [1]</b> 15/6</p> <p><b>train [1]</b> 56/12</p> <p><b>trained [5]</b> 15/9 68/17 68/25 69/25 70/1</p> <p><b>training [31]</b> 10/1 10/18 10/19 10/25 14/10 14/13 15/8 16/23 23/2 34/6 37/13 49/21 49/24 55/14 56/15 56/19 59/18 59/21 61/19 61/21 62/2 62/4 63/14 64/18 65/9 65/15 65/25 67/1 67/2 67/4 67/11</p> <p><b>traits [6]</b> 27/1 31/5 34/15 34/19 36/24 37/5</p> <p><b>transcribed [2]</b> 4/23 4/25</p> <p><b>transcript [3]</b> 4/19 89/21 90/6</p> <p><b>Travis [1]</b> 12/24</p> <p><b>trial [1]</b> 4/16</p> <p><b>tricky [1]</b> 21/24</p> <p><b>truck [1]</b> 19/20</p> <p><b>true [3]</b> 58/20 70/5 87/18</p> <p><b>trump [1]</b> 45/1</p> <p><b>truth [3]</b> 91/7 91/8 91/8</p> <p><b>truthfully [3]</b> 6/9 7/21 8/2</p> <p><b>try [4]</b> 6/14 42/14 58/6 60/11</p> <p><b>trying [4]</b> 28/13 30/10 46/2 79/22</p> <p><b>turns [1]</b> 44/8</p> <p><b>Twelve [2]</b> 80/10 84/4</p> <p><b>Twenty [7]</b> 81/7 81/9 81/11 81/13 81/15 81/17 85/7</p> <p><b>Twenty-five [1]</b> 81/17</p> <p><b>Twenty-four [1]</b> 81/15</p> <p><b>Twenty-one [1]</b> 81/9</p> <p><b>Twenty-three [1]</b> 81/13</p> <p><b>Twenty-two [1]</b> 81/11</p> <p><b>two [14]</b> 8/25 9/4 9/8 9/10 10/7 10/14 29/2 33/22 49/3 50/9 65/15 79/2 81/11 82/21</p> <p><b>two-week [1]</b> 65/15</p> <p><b>type [7]</b> 23/17 26/2 26/6 26/21 44/18 61/19 62/7</p> <p><b>types [1]</b> 17/16</p> <p><b>Tzu [1]</b> 85/8</p>	<p>72/9 72/14 73/8 91/3</p> <p><b>understand [18]</b> 6/7 6/20 7/14 15/1 15/11 15/19 22/14 27/12 29/11 29/19 30/20 32/9 43/11 55/5 56/22 66/6 68/23 85/13</p> <p><b>understanding [9]</b> 7/18 7/24 15/25 22/17 40/8 40/17 40/22 46/3 85/11</p> <p><b>unfamiliar [1]</b> 53/12</p> <p><b>UNITED [2]</b> 1/1 31/21</p> <p><b>unknown [3]</b> 42/19 42/20 45/18</p> <p><b>Unless [1]</b> 7/9</p> <p><b>unreliable [4]</b> 45/25 56/20 57/2 57/5</p> <p><b>until [2]</b> 4/16 21/6</p> <p><b>up [39]</b> 12/12 17/25 18/15 19/21 19/22 26/10 26/20 27/20 27/24 28/1 28/4 28/4 29/9 29/16 30/1 33/1 33/13 35/2 35/14 37/9 37/19 38/22 39/11 39/14 39/16 39/19 41/6 43/18 46/13 49/4 59/11 64/20 67/8 70/7 72/14 72/20 74/7 77/13 88/25</p> <p><b>us [3]</b> 18/20 57/23 58/10</p> <p><b>use [5]</b> 18/1 19/1 44/21 56/12 64/20</p> <p><b>used [2]</b> 37/19 61/19</p> <p><b>useful [3]</b> 62/24 63/3 63/6</p> <p><b>using [5]</b> 22/6 54/18 69/2 76/2 76/2</p> <p><b>utility [1]</b> 61/14</p>
		<p><b>V</b></p> <p><b>vacation [1]</b> 13/11</p> <p><b>validity [1]</b> 45/19</p> <p><b>varying [1]</b> 32/23</p> <p><b>verbatim [1]</b> 16/5</p> <p><b>versus [4]</b> 37/6 39/12 54/12 54/13</p> <p><b>vet [5]</b> 39/2 39/6 70/22 71/20 72/21</p> <p><b>vets [2]</b> 11/24 12/2</p> <p><b>vicious [1]</b> 17/9</p> <p><b>video [1]</b> 76/10</p> <p><b>view [2]</b> 69/10 69/13</p> <p><b>viewing [3]</b> 54/11 54/12 67/16</p> <p><b>violation [2]</b> 17/20 17/24</p> <p><b>visual [12]</b> 21/25 22/5 44/14 44/23 44/25 46/24 67/25 68/13 69/2 70/10 71/3 71/7</p> <p><b>visually [4]</b> 37/13 44/1 68/4 75/16</p> <p><b>Voith [3]</b> 3/16 53/19 81/22</p> <p><b>VONDRAK [3]</b> 2/8 3/10 3/12</p>
	<p><b>U</b></p> <p><b>UF [4]</b> 3/17 85/21 85/22 85/24</p> <p><b>UF 1 [1]</b> 85/22</p> <p><b>UKC [4]</b> 33/16 33/18 34/5 34/14</p> <p><b>ultimate [2]</b> 26/13 33/8</p> <p><b>Um [1]</b> 81/24</p> <p><b>una [1]</b> 53/12</p> <p><b>unable [1]</b> 51/15</p> <p><b>unaware [1]</b> 53/10</p> <p><b>under [15]</b> 6/7 15/23 40/14 41/6 46/16 52/5 57/20 61/12 66/19 68/21 71/5</p>	<p><b>W</b></p> <p><b>wait [1]</b> 21/6</p> <p><b>waive [3]</b> 90/2 90/3 90/4</p> <p><b>waived [1]</b> 4/25</p> <p><b>walk [1]</b> 76/16</p> <p><b>Wall [3]</b> 13/14 13/15 41/11</p> <p><b>want [14]</b> 50/9 56/6 56/8 56/23 58/9 61/17 65/2 66/5 66/22 69/21 70/5 77/20 87/14 89/23</p> <p><b>wanted [1]</b> 82/8</p> <p><b>wants [1]</b> 40/24</p> <p><b>wasn't [5]</b> 21/24 41/1 49/5 53/8 66/25</p> <p><b>watch [1]</b> 25/11</p> <p><b>way [14]</b> 33/10 47/24 52/9 52/23 54/16 58/14 58/15 69/10 70/6 71/4 71/8 71/18 71/19 76/9</p> <p><b>ways [1]</b> 18/17</p> <p><b>we'll [5]</b> 16/11 30/24 38/15 90/7 90/8</p> <p><b>we're [3]</b> 15/11 15/16 84/16</p> <p><b>we've [2]</b> 13/17 81/19</p> <p><b>web [1]</b> 57/16</p> <p><b>Wednesday [1]</b> 1/19</p> <p><b>week [1]</b> 65/15</p> <p><b>Weight [1]</b> 23/21</p> <p><b>went [5]</b> 26/1 26/7 28/12 42/6 67/4</p> <p><b>WESTERN [1]</b> 1/2</p>



**W**

**what's** [5] 8/19 11/5 15/25 40/17 44/19  
**whatever** [3] 18/20 42/13 64/3  
**whenever** [1] 7/6  
**WHEREOF** [1] 91/14  
**whether** [21] 21/10 47/17 50/11 50/24  
 51/2 51/19 51/19 51/20 51/21 51/23  
 52/14 52/15 52/16 63/6 65/25 68/20  
 68/21 69/2 71/3 78/10 85/17  
**white** [1] 78/8  
**who's** [1] 12/7  
**whole** [4] 14/10 33/4 76/19 91/8  
**whose** [1] 27/16  
**why** [10] 15/15 42/2 45/21 53/14 54/7  
 60/5 60/16 69/15 76/13 76/23  
**Width** [1] 24/13  
**will** [35] 4/12 4/19 5/8 6/9 6/14 6/18  
 6/21 7/11 7/11 7/17 7/20 7/23 8/1 12/5  
 12/12 28/20 29/16 29/16 29/17 29/25  
 37/4 38/21 43/14 46/9 46/12 49/23  
 51/14 51/16 51/17 53/25 58/1 58/6  
 58/18 59/4 77/17  
**wishes** [1] 92/4  
**within** [3] 4/19 91/4 91/11  
**witness** [8] 3/7 4/22 4/23 4/24 37/9  
 58/11 92/3 92/4  
**Witness'** [1] 5/4  
**won't** [3] 57/23 77/3 77/3  
**wording** [2] 15/1 27/9  
**work** [8] 8/9 8/16 12/22 13/11 13/14  
 13/19 13/20 39/2  
**workers** [2] 66/16 66/17  
**works** [1] 63/23  
**would** [51] 6/15 12/24 14/16 15/8  
 15/10 15/10 16/21 18/8 18/20 24/25  
 25/24 27/8 28/11 29/1 29/2 29/2 30/17  
 33/13 38/16 38/24 39/1 39/7 40/25  
 42/12 44/22 45/5 47/1 47/2 48/9 54/20  
 54/24 55/1 55/7 57/21 61/9 68/18  
 68/22 69/1 69/3 70/21 71/23 72/3  
 73/10 73/21 73/22 76/19 78/4 83/1  
 83/5 89/12 90/3  
**wouldn't** [3] 28/15 73/7 76/1  
**wrong** [10] 68/17 68/25 69/5 70/4  
 70/12 70/14 71/1 71/15 72/1 73/2

**Y**

**year** [1] 65/21  
**years** [4] 5/24 16/14 36/1 36/18  
**yep** [8] 10/11 10/14 18/24 18/24 30/25  
 45/5 61/2 83/25  
**yet** [1] 33/18  
**Yorkie** [2] 83/25 85/4  
**you'd** [2] 28/10 28/13  
**you're** [47] 5/19 6/4 6/7 6/21 7/5 15/15  
 19/3 22/5 22/6 26/20 28/3 28/5 29/11  
 29/20 30/3 31/2 31/24 35/3 35/5 37/3  
 39/15 40/16 45/23 47/15 47/16 47/16  
 48/20 51/12 51/13 51/15 53/10 56/6  
 56/9 56/23 61/6 69/16 71/1 72/16  
 72/18 73/4 75/16 76/25 77/2 82/4  
 87/14 87/15 87/18  
**you've** [3] 26/17 36/11 36/15  
**young** [3] 78/7 78/17 78/18  
**yourself** [2] 18/5 28/3