

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

* * * * *

BRANDY SUCKLEY, REANNAN)	
SUCKLEY, JYL ALBERTSON,)	
MATHEW BAUMSTARK,)	
DANIKA OWAN, LYNETTE)	
COLE-PEREA, MANUEL)	Case No.
PEREA, and EMILY HOLLY,)	21-cv-00012-CRH
)	
Plaintiffs,)	
)	
vs.)	
)	
THE CITY OF WILLISTON,)	
NORTH DAKOTA,)	
)	
Defendant.)	
)	

* * * * *

DEPOSITION OF MADISON AMBROSINI

taken by Mr. V. Gene Summerlin, Attorney At Law,
pursuant to notice and pursuant to the Federal
Rules of Civil Procedure, before Lori L. Hauge, a
Notary Public in and for the County of Williams and
State of North Dakota, at the Second Floor
Conference Room of Williston City Hall, 22 East
Broadway, Williston, North Dakota, on Wednesday,
May 18, 2022, commencing at 9:57 a.m.

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*Appearances as noted herein.

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A P P E A R A N C E S

MR. V. GENE SUMMERLIN, Attorney At Law,
and MS. AMANDA L. WALL, Attorney At Law, of Husch
Blackwell LLP, 13330 California Street, Suite 200,
Omaha, Nebraska, appeared as counsel for and on
behalf of the Plaintiffs.

MR. BRIAN D. SCHMIDT, Attorney At Law, of
Smith Porsborg Schweigert Armstrong Moldenhauer &
Smith, 122 East Broadway Avenue, P.O. Box 460,
Bismarck, North Dakota, appeared as counsel for and
on behalf of the Defendant.

ALSO APPEARING: MS. MADISON AMBROSINI,
Deponent.

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T A B L E O F C O N T E N T S

MADISON AMBROSINI

Examination by Mr. Summerlin Page 4

EXHIBITS

<u>No.</u>	<u>Description</u>	<u>Marked</u>	<u>Identified</u>
1	Introduction to Animal Control By CSO Carli Wade	8	8
2	Williston Police Department Animal Control Officer Interview Questions, City 453-456	15	15
3	Photographs	55	55
4	Photographs	61	61
5	Williston Police Department Statement Form, Supplement to Statement Form, Inmate Animal Custody, Animal Relinquishment, Notice of Impoundment, Adoption Form, and Williston Police Department Basic Information, City 458-502	80	80
6	Photographs	83	86
	Certificate of Deponent		Page 96
	Certificate of Court Reporter		Page 97

1 (The proceedings commenced at 9:57 a.m.)

2 Whereupon,

3 MADISON AMBROSINI,

4 called as a witness by the plaintiffs, after having
5 been first duly sworn, was examined and testified
6 as follows:

7 EXAMINATION

8 BY MR. SUMMERLIN:

9 Q. Hi, Madison. My name is Gene Summerlin.
10 We met just a moment ago.

11 You understand that you're here today to
12 give a deposition in a case that's pending in
13 Federal District Court for the District of North
14 Dakota; correct?

15 A. Yes.

16 Q. Would you please state your name and
17 occupation.

18 A. Madison Ambrosini, community service
19 officer for the Williston Police Department.

20 Q. How long have you been a community service
21 officer?

22 A. About a year and a half.

23 Q. Okay. Were you employed by the City prior
24 to that?

25 A. No.

1 Q. Okay. Just briefly, what's your
2 educational and employment history?

3 A. You mean previous to this?

4 Q. Mm-hmm (nodding affirmatively).

5 A. I have a degree in geography. I worked at
6 a veterinary clinic for a short time, and I have
7 been a GIS analyst and a -- I used to be an intern
8 for the County as well.

9 THE COURT REPORTER: Excuse me. For a
10 county?

11 THE DEPONENT: Yeah. No. As --

12 THE COURT REPORTER: For the County as
13 well?

14 THE DEPONENT: For the County --

15 THE COURT REPORTER: Okay.

16 THE DEPONENT: -- from where I'm from,
17 Sonoma County.

18 BY MR. SUMMERLIN:

19 Q. Is that in North Dakota as well?

20 A. No.

21 Q. Where is that at?

22 A. California.

23 Q. Oh. Oh, the real Sonoma.

24 So you said you've been a -- a community
25 service officer for, what, a year and a half?

1 A. Mm-hmm (nodding affirmatively).

2 Q. Was it called a community service officer
3 the whole time you've been employed by the City?

4 A. My hiring paperwork put me as an animal
5 control officer, but very soon after I came, it
6 became community service.

7 Q. Okay. So from the time that you were
8 hired as an animal control officer until the time
9 that -- or until immediately after the time that
10 the title changed to community service officer, did
11 your job change at all, or was it just the title
12 that changed?

13 A. It was just the title.

14 Q. Okay. When you worked for a -- a
15 veterinarian, what did you do?

16 A. I was a kennel assistant.

17 Q. Okay. And was that in California?

18 A. Mm-hmm (nodding affirmatively).

19 Q. Okay. Just tell me generally, what are
20 your -- what are your job duties as a community
21 service officer?

22 A. Animal control and parking enforcement.

23 Q. Okay. So what does animal control mean?

24 A. Picking up stray animals, caring for the
25 animals at the pound, enforcing all of the animal

1 ordinances --

2 Q. Okay.

3 A. -- generally.

4 Q. And then parking, I assume, just -- is
5 that just driving around, looking for meter
6 violations, things like that?

7 A. We have a separate person to do downtown.
8 I do the rest of the city. So not meter, but other
9 parking violations.

10 Q. Okay. Is your job kind of -- I'm trying
11 to think of a good way to ask. Do you do both at
12 the same time, animal control and -- and parking,
13 or is it kind of divided up?

14 A. No. I do both.

15 Q. All right. What kind of training did you
16 get to become an animal control officer -- or for
17 the animal control portion of your duties?

18 A. I believe it was about a month and a half,
19 I rode along with our current -- at the time, she
20 was an animal control officer. She's now our
21 supervisor, Carli Wade.

22 Q. Okay. Currently, how many other people
23 are involved in animal control enforcement in
24 Williston?

25 A. There are two other officers like me, and

1 then Carli as our supervisor.

2 Q. Who are the two other officers?

3 A. Amber Pelzl and Yulissa Jimenez.

4 Q. I caught Amber. What was the second one?

5 A. Yulissa Jimenez.

6 Q. Okay. And as between you and Amber and
7 Yulissa, are your job duties all essentially the
8 same?

9 A. Yeah.

10 Q. Okay.

11 MR. SCHMIDT: Gene, could we go off the
12 record for just one second.

13 (There was a discussion off the record.
14 Deposition Exhibit Number 1 was marked for
15 identification by the court reporter.)

16 BY MR. SUMMERLIN:

17 Q. Madison, I'm going to hand you what the
18 court reporter just marked as Exhibit 1 (doing so),
19 and I will tell you that's a document that the City
20 produced that appears to be prepared by Carli Wade.
21 Would you take a -- a look at that and tell me if
22 you've ever seen this -- it's a PowerPoint -- if
23 you've ever seen this PowerPoint before.

24 A. Yes (complying with Counsel's request).

25 Q. Was that part of your training?

1 A. Mm-hmm (nodding affirmatively).

2 Q. So kind of describe for me, like, how that
3 worked. Did you sit down in a room with someone
4 and they walked through it, or --

5 A. Yeah.

6 Q. -- what happened?

7 A. I sat down with Carli, and she went over
8 the slides with me.

9 Q. Okay. About how long do you think you
10 spent going through this?

11 A. I don't know.

12 Q. Did it take multiple days?

13 A. No.

14 Q. Was it a day?

15 A. Yep. It was within a day.

16 Q. Okay.

17 A. I don't know how long.

18 Q. Do you think it took, like, the entire
19 morning or the entire afternoon?

20 A. I don't know.

21 Q. You don't remember if you broke for lunch?

22 A. No.

23 Q. Do you remember what time you started?

24 A. No.

25 Q. Okay. How long do you think we've been in

1 this deposition?

2 A. Four minutes (referring to her watch).

3 Q. Okay. Did it take longer than that?

4 A. Yes.

5 Q. Do you think it took longer than six
6 hours?

7 A. No.

8 Q. Do you think it took longer than three
9 hours?

10 A. I don't know.

11 Q. Okay. So somewhere between four minutes
12 and six hours is your best guess?

13 A. Somewhere in between that.

14 Q. Okay. And you can't get any more specific
15 than that?

16 A. I don't remember.

17 Q. Okay. So as you think about it in your
18 head, do you remember being in the room, looking at
19 this?

20 A. Mm-hmm.

21 Q. Okay. Where was it?

22 A. It -- it was within the police department
23 somewhere.

24 Q. Okay. Is there -- was it in a conference
25 room, or was it in a hallway?

1 A. I believe it was in the briefing room, but
2 I'm not positive.

3 Q. Okay. Did you look at the PowerPoint on a
4 screen, or did you have a hard copy?

5 A. I had a hard copy.

6 Q. Okay. Was there anybody else in the room?

7 A. To my recollection, it was just me and
8 Carli.

9 Q. Okay. Other than the PowerPoint, did you
10 go through any other documents that day?

11 A. I don't remember.

12 Q. Okay. And I'm -- I'm not trying to --
13 well, I guess I am trying to test your memory, but
14 I -- I -- I want to -- I want you to try and be as
15 detailed as you can on this. Can you describe for
16 me how Carli went through the PowerPoint with you?
17 Did you guys go, like, page by page, or did she
18 say, "Just review it"?

19 A. No. She walked me through each page and
20 explained what she needed to explain for each
21 slide.

22 Q. Okay. So -- and if I look at this, it's
23 64 pages. Do you think you spent more than a
24 minute on each page?

25 A. I don't know.

1 Q. Okay. So you --

2 A. I would assume, but I don't remember.

3 Q. Okay. Was there anything else that Carli
4 reviewed with you at that time as part of your
5 training to be an animal control officer?

6 A. At that time?

7 Q. (Mr. Summerlin nodded affirmatively.)

8 A. I don't remember.

9 Q. Okay. At other times, did Carli go
10 through other materials with you as part of your
11 training?

12 A. Yes.

13 Q. Okay. What other things did you review
14 with her?

15 A. We went over police department policy,
16 things like that.

17 Q. Okay. I want to step back for a second.
18 How did -- how did you learn about the position of
19 animal control or community service officer being
20 available in Williston?

21 A. Through Indeed.

22 Q. Okay. And that's a website that's got
23 jobs on it?

24 A. Mm-hmm (nodding affirmatively).

25 Q. What was involved in applying for the

1 position, from your standpoint? Like, what did you
2 have to do?

3 A. I sent my résumé and cover letter, and
4 then I was sent some more paperwork to fill out,
5 and then we set up an interview.

6 Q. Okay. How quickly after your interview
7 were you informed that the City would hire you?

8 A. I don't remember, but it was not a quick
9 process.

10 Q. Okay. So between submitting your résumé
11 and being notified of the hiring, you indicated
12 there was an interview --

13 A. Yeah.

14 Q. -- right?

15 A. There were two.

16 Q. Two interviews?

17 A. (The deponent nodded affirmatively.)

18 Q. Whom were the interviews with?

19 A. Catherine Larson, the HR person, and
20 Lieutenant Dustin Celander, and there were also
21 other people in the first interview, but I don't
22 remember who.

23 Q. Okay. So you said there were two
24 interviews?

25 A. (The deponent nodded affirmatively.)

1 Q. Was the first one with Catherine Larson,
2 Dustin Celander, and some other people that you
3 don't remember?

4 A. Mm-hmm (nodding affirmatively).

5 Q. Okay. Whom was the second interview with?

6 A. It was Catherine and Dustin.

7 Q. Okay. So same people in both interviews?

8 A. Yeah.

9 Q. Okay. Was Carli Wade part of the
10 interviews?

11 A. No, she was not present for it, but I did
12 do a ride-along with Carli as well.

13 Q. As part of the --

14 A. As part of the process.

15 Q. Okay. What did the ride-along consist of?

16 A. Riding along.

17 Q. So she was just out in an animal control
18 vehicle, and you were in the passenger seat?

19 A. Mm-hmm (nodding affirmatively).

20 Q. Did she talk about the job?

21 A. Yeah (nodding affirmatively).

22 Q. Talk about what she did?

23 A. Mm-hmm (nodding affirmatively).

24 Q. Okay. So we've got the two interviews,
25 the ride-along. Was there anything else you were

1 asked to do as part of the hiring process?

2 A. I -- in the interview, I was given a breed
3 test of identification.

4 (There was a discussion off the record
5 between Mr. Summerlin and Ms. Wall. Deposition
6 Exhibit Number 2 was marked for identification by
7 the court reporter.)

8 MR. SUMMERLIN: I'll let you guys share.
9 It's not a very long document.

10 BY MR. SUMMERLIN:

11 Q. Handing you what's been marked as
12 Exhibit 2 (doing so). Is that the -- the form that
13 you had to fill out as part of the process?

14 A. I don't believe I filled that out, no.

15 Q. Okay. Go to page -- what's Number 455.

16 A. (The deponent complied with Counsel's
17 request.)

18 Q. Is that at least the -- is that the format
19 of the breed test that you did?

20 A. Yes. So they showed me pictures of these
21 breeds and had me identify them verbally. I didn't
22 fill anything out, though.

23 Q. Okay. So it was just a -- like, a verbal
24 test?

25 A. Mm-hmm.

1 Q. Did you have this in front of you that
2 gave you the names of the breeds?

3 A. No.

4 Q. So you were just shown pictures and then
5 asked to -- to state what breed you thought that
6 dog was?

7 A. Yes.

8 Q. Okay. Did you know that you were going to
9 be taking a breed test?

10 A. No.

11 Q. Okay. Do you know how you did on it?

12 A. I got ten out of ten.

13 Q. Okay.

14 A. Or -- I thought there was ten.

15 Q. Well, and it may have been different than
16 this form, so --

17 A. Okay.

18 Q. -- it could have been ten.

19 A. I thought there was.

20 Q. All right. So you mentioned that you had
21 worked for a veterinarian in California. Did you
22 do anything else that provided you with experience
23 to be -- or preparation to be an animal control
24 officer?

25 A. Not professionally, but I had been around

1 animals my entire life. I grew up raising
2 livestock and volunteering with 4-H and FFA, and I
3 had always been very involved with animals, so I
4 had personal experience.

5 Q. Okay. Did any of that in -- experience
6 involve dogs?

7 A. Yeah. Personally, I had always had dogs.
8 I had always been interested in dogs. I read books
9 and was very familiar with the breeds already.

10 Q. Okay. Turn to page 23 of Exhibit 1.

11 A. (The deponent complied with Counsel's
12 request.)

13 Q. And I think that from that page 23 until
14 page 58 -- and I'll ask you to briefly look at that
15 in a second, but that kind of walks through the
16 laws and ordinances that apply to animals in the
17 city of Williston -- Williston with, also, some
18 reference to North Dakota. Would -- would you kind
19 of quickly look at that and tell me if my
20 assumption is correct.

21 A. (The deponent complied with Counsel's
22 request.) Yes.

23 Q. Okay. So would it be fair to say that as
24 part of this training session, going through this
25 PowerPoint with Carli Wade, did she walk you

1 through each page of this, you know, discussing how
2 animal control enforces the ordinances that are
3 referenced --

4 A. Yes.

5 Q. -- in the PowerPoint?

6 A. Yes.

7 Q. Okay. And go to page 24.

8 A. (The deponent complied with Counsel's
9 request.)

10 Q. And on the left side of that page, it
11 indicates "Citations" and walks through first
12 offense, second offense, third offense, and four --
13 fourth offense; correct?

14 A. Mm-hmm.

15 Q. And that's for nuisance animals; right?

16 A. The fourth offense is nuisance.

17 Q. Okay. So she would walk through with you
18 these -- you know, "If someone violates this
19 ordinance, here's the" -- "here are the penalties
20 for each offense and subsequent offense"?

21 A. Yes.

22 Q. Okay. So go to page 29.

23 A. (The deponent complied with Counsel's
24 request.)

25 Q. What is the violation that's being

1 discussed on page 29?

2 A. 4-5 "Animal Cruelty."

3 Q. Okay. And so it kind of walks you through
4 a definition of animal cruelty?

5 A. Mm-hmm (nodding affirmatively).

6 Q. Okay. Did you have discussions with
7 Carli, during the session, that kind of talked
8 about how animal control interprets this ordinance?

9 A. I don't recall.

10 Q. Okay. Well, because I -- I guess the
11 reason I'm asking, I mean, if -- if we look at the
12 definition that's provided on page 29, the first
13 definition is, "Torture, torment, deprive of
14 necessary food or water, or cruelly beat any
15 animal"; right?

16 A. Mm-hmm.

17 Q. And then the second definition is,
18 "Harmfully and knowingly expose any animal to heat
19 or cold"; correct?

20 A. Correct.

21 Q. Okay. So did you have a discussion about,
22 "Well, what does that mean? What's too much heat
23 or too much cold?"

24 A. I don't know if we had that discussion in
25 this moment, but we've had that discussion

1 regarding cases.

2 Q. Okay. So there's some discretion that an
3 animal control officer has to exercise in enforcing
4 this particular ordinance because you'd agree with
5 me, right, that all animals are exposed to heat or
6 cold?

7 A. Correct. I believe the wording in the
8 ordinance is extreme heat or cold.

9 Q. Okay. And then if you go to the next
10 page, 30, it walks through what the penalties are
11 for violating that ordinance; correct?

12 A. Correct.

13 Q. Okay. And for a first offense, it states
14 that the "owner is not physically arrested at this
15 time but given a PR bond with a \$400 citation";
16 correct?

17 A. Correct.

18 Q. Okay. And then it says for a second
19 offense, the "owner is physically arrested and
20 given a second offense violation with a \$400
21 citation"?

22 A. Correct.

23 Q. Okay. Did you have discussions with Carli
24 about how you would effectuate an arrest?

25 A. Yes.

1 Q. Okay. What were you told?

2 A. We would call a licensed police -- police
3 officer to do the arrest.

4 Q. Have you had training as a law enforcement
5 officer?

6 A. No.

7 Q. Okay. You didn't go to, like, the -- the
8 Law Enforcement Training Center in Bismarck or
9 anyplace else?

10 A. No.

11 Q. Okay. And you didn't understand that part
12 of your job as an animal control officer would be
13 to effectuate arrests?

14 MR. SCHMIDT: Object to form.

15 Go ahead.

16 MR. SUMMERLIN: Well, let me try and fix
17 it.

18 BY MR. SUMMERLIN:

19 Q. Did you have an understanding as to
20 whether your job as an animal control officer would
21 require you to actually physically arrest people?

22 A. I don't physically do the arresting.

23 Q. Okay. And so when you got hired, did you
24 expect that you would have to physically arrest
25 people?

1 A. Not myself, no.

2 Q. Okay. So it's just a question of whether,
3 as an animal control officer, you would ask a
4 police officer to arrest someone?

5 A. Correct.

6 Q. Okay. And you've not been trained on how
7 to arrest someone?

8 A. Correct.

9 Q. Did you have discussions with Carli or
10 anyone else, as part of your training, on when a
11 violation of Williston's animal control ordinances
12 would result in an arrest of the person?

13 A. Yes. It's the second offense of certain
14 violations of ordinances.

15 Q. Okay. Were you told why, for some
16 violations, a second offense would result in an
17 arrest?

18 A. Well, B misdemeanors are always arrestable
19 offenses, so it's just policy to not arrest on the
20 first offense.

21 Q. Okay. So every B misdemeanor requires an
22 arrest on the second offense?

23 MR. SCHMIDT: Object to form.

24 BY MR. SUMMERLIN:

25 Q. Well, what I -- I want to know your

1 understanding. So for the purposes of this
2 question, I'm just asking what you have been
3 instructed. Does every B misdemeanor require an
4 arrest if it's a second offense?

5 A. For certain ordinance violations.

6 Q. Is that -- do you know where that comes
7 from? Is that in the ordinance that says it's
8 arrestable, or is that a policy --

9 A. I --

10 Q. -- or what?

11 A. It's the department policy.

12 Q. Okay. When you say "the department," what
13 department are you referring to?

14 A. The police department.

15 Q. Okay. And I just want to make sure I'm
16 really clear on this. Is it every B misdemeanor,
17 or is it just some B misdemeanors?

18 A. I'm only familiar with animal ordinances,
19 so I don't deal with --

20 Q. Okay.

21 A. -- misdemeanors outside of that.

22 Q. Is it every animal B misdemeanor or just
23 some animal B misdemeanors?

24 A. I believe it's the second offense for all
25 B misdemeanors; however, I only have experience

1 with second-offense pit bull and second-offense --
2 I don't remember the other one. I believe it's
3 just second-offense pit bull that I've dealt with.

4 Q. I'm sorry?

5 A. I believe it's just second-offense pit
6 bull that I've dealt with --

7 Q. Okay.

8 A. -- and thoroughly read and had to deal
9 with it personally.

10 Q. Okay. What is a B misdemeanor?

11 MR. SCHMIDT: Object to form.

12 Go ahead.

13 BY MR. SUMMERLIN:

14 Q. For all of these questions, I'm just
15 asking your understanding as an animal control
16 officer employed by the City of Williston. Okay?

17 A. It's a criminal offense.

18 Q. What are the classifications of
19 misdemeanors -- animal control misdemeanors in
20 Williston other than B misdemeanors?

21 A. To my knowledge, I believe we only have
22 B misdemeanors for animal offenses --

23 Q. Okay.

24 A. -- for city ordinances.

25 Q. So is it your understanding, then, that

1 every Williston animal control ordinance violation
2 is a criminal offense?

3 A. No.

4 Q. All right. So I'm not -- I'm not
5 tracking.

6 A. Every animal violation is not a criminal
7 violation. The B misdemeanors are criminal.

8 Q. Okay. What animal control ordinances are
9 not criminal, based on your understanding?

10 A. For example, not having a city license.

11 Q. Okay. So if licensing is not a criminal
12 violation, what kind of a violation is it?

13 A. It's an infraction.

14 Q. Is the distinction between whether an
15 animal control or -- the violation of an animal
16 control ordinance results in an infraction or a
17 criminal misdemeanor set forth in the ordinance
18 itself, or is that policy that's set?

19 A. I believe it's in the ordinance.

20 Q. Okay. Is there language in the ordinance
21 that says, "This is an infraction," or, "This is an
22 in" -- "a misdemeanor," or is it based on the
23 penalty that the ordinance provides?

24 MR. SCHMIDT: Object to form.

25 Go ahead.

1 MR. SUMMERLIN: Well, no. I want to fix
2 it.

3 BY MR. SUMMERLIN:

4 Q. So you understand that I'm asking for your
5 understanding as an animal control officer in the
6 city of Williston; right?

7 A. Mm-hmm.

8 Q. I'll say it again just to make sure. For
9 all of these questions about the ordinances that
10 I'm asking you, I'm only asking for your
11 understanding as an animal control
12 officer/community service officer employed by the
13 City of Williston. Okay?

14 A. Okay (nodding affirmatively).

15 Q. All right. Now I forgot the question.

16 MR. SUMMERLIN: Would you read it back.

17 (A previous question was read back by the
18 court reporter:

19 "Q. Okay. Is there language in the
20 ordinance that says, 'This is an infraction,' or,
21 'This is an in' -- 'a misdemeanor,' or is it based
22 on the penalty that the ordinance provides?")

23 THE DEPONENT: Off the top of my head, I
24 believe there is language in the ordinance when it
25 states it's a misdemeanor.

1 BY MR. SUMMERLIN:

2 Q. Okay. All right. So let's go to page 30.
3 Actually, I guess page 29. Well, it's the same
4 one.

5 I'm sorry. Page 31.

6 A. (The deponent complied with Counsel's
7 request.)

8 Q. And this one deals with Ordinance 4-6,
9 "Animals Declared a Nuisance"; correct?

10 A. Correct.

11 Q. So is that a misdemeanor or an infraction?

12 A. That is a B misdemeanor.

13 Q. Okay. And so if we go to page 32 --

14 A. (The deponent complied with Counsel's
15 request.)

16 Q. -- the second offense of having a nuisance
17 animal results in the physical arrest of the owner;
18 correct?

19 A. Can you say that one more time?

20 Q. Yeah.

21 So the second offense of having an animal
22 declared a nuisance results in the arrest of the
23 owner?

24 A. Yeah, second offense.

25 Q. Okay. And so if we go back to page 31 to

1 see, like, what a nuisance animal would be, that
2 would include, if you look at the third bullet
3 point from the bottom, doesn't have on a collar and
4 registration and license tag; correct?

5 A. Correct.

6 Q. So the second time animal control would
7 encounter a dog without a collar and a license tag,
8 that could result in the arrest of the owner?

9 A. Technically, it could be; however, we have
10 discretion in the field.

11 Q. Okay. And similarly, like, a dog that
12 barks, the second-from-the-bottom bullet point, the
13 second time animal control cited someone for a
14 barking dog, they could arrest the owner or have
15 the owner arrested?

16 A. It could be, yes.

17 Q. Okay. And you said that you've got
18 discretion on whether you would require the arrest
19 of the owner?

20 A. No, discretion on if we would charge for a
21 nuisance on -- for that offense.

22 Q. Okay. But if it's a second offense, you
23 have no discretion on whether the person's going to
24 be arrested?

25 A. If we decided to charge them with that and

1 it was the second offense, then they would be
2 arrested.

3 Q. Okay. Do you know why that is?

4 A. That's the policy.

5 Q. Okay. And, again, you said that policy is
6 set by the police department?

7 A. To my knowledge.

8 Q. Do you know who at the police department
9 sets that policy?

10 A. No.

11 Q. Okay. Let's go to page 35.

12 A. (The deponent complied with Counsel's
13 request.)

14 MR. SUMMERLIN: Can I take two minutes?

15 MR. SCHMIDT: Sure.

16 (The proceedings recessed at 10:32 a.m. and
17 reconvened with everyone present at 10:34 a.m.)

18 MR. SUMMERLIN: All right. Sorry about
19 that.

20 BY MR. SUMMERLIN:

21 Q. Okay. So if we look at page 35, this is
22 Ordinance 4-8, which is "Pet Shops and Kennels";
23 correct?

24 A. Correct.

25 Q. And it requires that if you have a pet

1 shop, you have a license?

2 A. If you have more than the allowed number
3 of animals, you have to have a pet shop license as
4 well.

5 Q. Okay. Yeah, and the first line in the
6 first bullet point says, "License required. It
7 shall be unlawful to operate a kennel or pet shop
8 anywhere in the city without first securing a
9 license from the city auditor's office"; correct?

10 A. Correct.

11 Q. So am I reading that incorrectly to say if
12 you have a pet shop in the city of Williston, you
13 have to have a license?

14 A. No. That's correct.

15 Q. Okay. And then if we go to page 36 --

16 A. (The deponent complied with Counsel's
17 request.)

18 Q. -- the second offense of operating a pet
19 sop -- shop without a license would require the
20 arrest of the owner?

21 A. Correct.

22 Q. Okay. Okay. Let's go to page 39.

23 A. (The deponent complied with Counsel's
24 request.)

25 Q. And this section deals with

1 Ordinance 4-10, "Vicious Animal"?

2 A. Correct.

3 Q. Okay. And I just wanted to ask about
4 the -- the last bullet point on that page. "Any
5 animal found to be vicious may be destroyed or may
6 be removed from the city limits of the city of
7 Williston"; correct?

8 A. Correct.

9 Q. Is that your understanding of how the
10 ordinance operates?

11 A. Yes.

12 Q. Okay. So if there's a determination that
13 an animal is vicious, the animal can either be
14 euthanized or removed from the city limits?

15 A. Yes. There are rare instances where we
16 are able to get them to rescue where they can be
17 trained if we feel that the dog is not a major
18 threat.

19 Q. Okay. So if an owner has a dog that's
20 been declared vicious and they find a home for the
21 dog outside of the -- the city of Williston limits,
22 will animal control release the dog to the owner to
23 have it removed from the city?

24 A. It's up to the judge to decide if the
25 animal is returned to the owner to remove from the

1 city or if it is relinquished to the City of
2 Williston.

3 Q. Okay. So that's just part of the -- the
4 legal process?

5 A. Correct.

6 Q. It's not animal control that determines
7 that; it's a judge?

8 A. Correct.

9 Q. Okay. And then if you go to page 40 --

10 A. (The deponent complied with Counsel's
11 request.)

12 Q. -- these are the penalties for violating
13 the vicious dog ordinance; correct?

14 A. Correct.

15 Q. And, again, like these others that we've
16 talked about, if it's a second offense, the owner
17 is physically arrested?

18 A. Correct.

19 Q. And that's pursuant to police department
20 policy?

21 A. Correct.

22 Q. And you don't know who it is at the police
23 department that sets that policy?

24 A. Correct.

25 Q. Okay. If you look at the little -- the

1 last bullet point on this page with the asterisks,
2 it says, "Typically, if convicted, the dog is
3 returned to the owner. The owner is given five to
4 ten days to remove the dog from the city limits."

5 Do you see that?

6 A. Mm-hmm (nodding affirmatively).

7 Q. Is that your understanding of, typically,
8 how this ordinance operates?

9 A. Yeah. It depends on the judge's decision,
10 and her decision is usually dependent upon what the
11 dog did.

12 Q. Okay. And maybe this is obvious, but,
13 again, based on your understanding as an animal
14 control officer, is the reason that the City has to
15 be -- or that the dog has to be removed from the
16 city limits is because Williston only exercises
17 jurisdiction within the city limits?

18 A. I don't know why they require it to be
19 removed.

20 Q. Okay. As an animal control officer, do
21 you patrol outside of the city limits?

22 A. No.

23 Q. Okay. So you wouldn't -- you wouldn't
24 cite someone for a violation of Williston's animal
25 control ordinances if the violation took place

1 outside of the city limits?

2 A. No.

3 Q. And is that something that you were
4 instructed on as an animal control officer?

5 A. Yes.

6 Q. Okay. You can only enforce the ordinances
7 within the city limits of Williston?

8 A. Correct.

9 Q. Go to page 44.

10 A. (The deponent complied with Counsel's
11 request.)

12 Q. And this page deals with Ordinance 4-23,
13 "Dogs and Cat License" -- "Dogs and Cat Tags and
14 Licenses"; correct?

15 A. Correct.

16 Q. And then if you look at page 45 --

17 A. (The deponent complied with Counsel's
18 request.)

19 Q. -- that has the penalties for a violation
20 of the ordinance related to tags and licenses;
21 correct?

22 A. Correct.

23 Q. Okay. And on this one, it's a little bit
24 different because the second offense does not
25 result in the arrest; correct?

1 A. Correct.

2 Q. But it states that a fourth offense would
3 result in the arrest; correct?

4 A. It's arrestable. It typically does not
5 result in an arrest, but all B misdemeanors are
6 arrestable.

7 Q. Okay. So -- and I guess that's why I
8 wanted to talk about this. So a fourth offense of
9 not having your pet licensed is a B misdemeanor;
10 correct?

11 A. It becomes nuisance animal after the third
12 offense, which is an -- a B misdemeanor.

13 Q. Okay. So that's like -- we talked about
14 that before, because under nuisance animal, it
15 talked about a dog without a collar and tags?

16 A. Correct.

17 Q. Okay. And so is that determination that a
18 fourth offense of an unlicensed pet will be treated
19 as a nuisance animal and a B misdemeanor, again,
20 policy of the police department?

21 A. Yes.

22 Q. Okay. But here, because it says
23 "arrestable," does that mean that the policy gives
24 you discretion on whether to arrest?

25 A. No. No. It becomes nuisance, so we would

1 refer to the nuisance ordinance, which the first
2 offense, they're not arrested. They're PR-bonded.

3 Q. Okay. So "arrestable" here doesn't mean
4 you could or you couldn't; it means you must?

5 A. Not on the first offense, no.

6 Q. Well, it doesn't say "arrestable" on the
7 first offense; right?

8 A. So after the third offense, it becomes --
9 the fourth offense is first-offense nuisance.

10 Q. Okay. So when -- the fourth offense is a
11 nuisance but not an arrestable nuisance unless
12 you've got a prior nuisance?

13 A. Correct.

14 Q. All right. And for B misdemeanors, is the
15 first offense on a B misdemeanor not typically an
16 arrestable offense?

17 A. It is arrestable, but it's not policy to
18 arrest on the first offense.

19 Q. Okay. So when we say "arrestable" for a
20 first-offense B misdemeanor, it means discretion to
21 arrest?

22 A. It means that the B misdemeanor is an
23 arrestable offense, but it is our policy to not
24 arrest for the first offense.

25 Q. Okay. I think I understand.

1 Okay. Let's go to page 50.

2 A. (The deponent complied with Counsel's
3 request.)

4 Q. This page discusses Ordinance 4-89, "Pit
5 Bull Dogs - Keeping and Prohibited"; correct?

6 A. Correct.

7 Q. Okay. And that's the ordinance in
8 Williston that prohibits, in most cases, keeping a
9 pit bull-type dog within the city limits; right?

10 A. Correct.

11 Q. Okay. What kinds of dogs are subject to
12 this ordinance?

13 A. Any pit bull-type dog.

14 Q. Okay. And then the ordinance defines that
15 as bull terriers, Staffordshire bull terriers,
16 American pit bull terriers, and American
17 Staffordshire terriers?

18 A. Correct.

19 Q. Okay. And then the ordinance also
20 includes dogs of mixed breed or of other breeds
21 than those we just mentioned if that breed or mixed
22 breed is known as a pit bull, a pit bull dog, or a
23 pit bull terrier?

24 A. Correct.

25 Q. Okay. And then the ordinance also

1 includes "Any dog which has the appearance and
2 characteristics of being predominantly of the
3 breeds of bull terrier, Staffordshire bull terrier,
4 American pit bull terrier, American Staffordshire
5 terrier, or any other breed commonly known as a pit
6 bull"?

7 A. Correct.

8 Q. Okay. Or any combination of those breeds?

9 A. Correct.

10 Q. All right. So how do you figure out if a
11 dog is subject to those breed restrictions?

12 A. Appearance.

13 Q. Okay. Anything else?

14 A. Occasionally, the owners will admit that
15 they are pit bulls or pit bull mixes.

16 Q. Okay. When you say "appearance," does
17 that mean that you physically look at the dog and
18 its physical characteristics to make your
19 determination on whether it falls within the ban?

20 A. Correct.

21 Q. Okay. What do you look for when you're
22 examining a dog to determine if it has the physical
23 characteristics of a pit bull or one of the other
24 banned breeds?

25 A. It's difficult to describe, but it -- you

1 know it when you see it.

2 Q. It's like obscenity.

3 Okay. So how do you know it when you see
4 it?

5 A. Experience and knowledge.

6 Q. Okay. What experience and knowledge
7 allows you to know it when you see it?

8 A. I'm familiar with the breeds.

9 Q. Okay. What breeds are you familiar with?

10 A. All of the listed breeds --

11 Q. Okay.

12 A. -- that are banned.

13 Q. Okay. Tell me about your experience with
14 those breeds.

15 A. I'm familiar with what they look like.

16 Q. Okay. How did you become familiar with
17 what they look like?

18 A. Personal experience being around them,
19 reading books.

20 Q. Okay. Let's start off with the "reading
21 books" part. What books did you review that
22 provided you with experience to know what these
23 dogs look like?

24 A. I don't remember them.

25 Q. You don't have a title?

1 A. No.

2 Q. Do you know how many books you looked at?

3 A. No.

4 Q. Do you know when you looked at them?

5 A. I do not. We do have a breed book as well
6 at the police department that we can refer to.

7 Q. Okay. Is that *The Complete Dog Breeds*
8 *Book*?

9 A. Yes. I believe so.

10 Q. Okay. Have you -- have you studied that
11 book?

12 A. Not that book. Not -- I have flipped
13 through it, but I haven't studied it.

14 Q. Okay. So, for example, if I asked you how
15 does *The Complete Dog Book* -- *The Complete Dog*
16 *Breeds Book* describe the personality of a pit bull,
17 could you tell me what it says?

18 A. No.

19 Q. Any other book?

20 A. Not -- I don't have names.

21 Q. You think there are other books; you just
22 don't know what they are?

23 A. Yeah. And my personal time growing up
24 and -- I've just been familiar with dogs and read
25 books, but I don't have any specific titles.

1 Q. Okay. So let -- yeah, let's talk about
2 that, because you said your personal experience is
3 based on reading books but also being around dogs;
4 correct?

5 A. Correct.

6 Q. Okay. So I take it in your job as an
7 animal control officer, that's part of your
8 personal experience?

9 A. That -- I'm counting experience before the
10 job, but I have obviously gotten experience from
11 the job as well.

12 Q. Okay. So before you became an animal
13 control officer, were you called upon to look at
14 dogs based on their physical characteristics and
15 identify breed?

16 A. Before this job?

17 Q. Yes.

18 A. No.

19 Q. Okay. In this job, obviously, you're --
20 you're asked to look at a dog and, based on its
21 physical experience [sic], identify a breed?

22 A. Correct.

23 Q. Okay. And that's part of your experience
24 that you've got in breed identification?

25 A. I guess.

1 Q. I mean, you do that; right? That's part
2 of your job?

3 A. Yes.

4 Q. And everything you do is part of your past
5 experience?

6 A. Correct.

7 Q. All right. How many times do you think
8 that you have, as an animal control officer, been
9 called to look at a dog and determine if it's one
10 of the banned breeds?

11 A. I don't know.

12 Q. Is it a lot?

13 A. I don't know.

14 Q. Have you done it more than twice?

15 A. Yes.

16 Q. Have you done it more than ten times?

17 A. I don't know.

18 Q. So somewhere between two and ten?

19 A. I don't know if it's more or less than
20 ten.

21 Q. Well, is it more or less than a hundred?

22 A. Less.

23 Q. Okay. More or less than 50?

24 A. Less.

25 Q. More or less than 25?

1 A. I don't know.

2 Q. Okay. So we're kind of getting to the --
3 the gray range; right?

4 A. Mm-hmm (nodding affirmatively).

5 Q. When you've looked at a dog, whether
6 it's 2 times or 25 times or 24 times, and made a
7 determination that it either is or is not one of
8 the banned breeds, how do you know if you're right?

9 A. I don't cite unless I am confident that
10 I'm right. I also refer to Carli to make sure that
11 she agrees, and in most of my cases, I believe the
12 dogs were DNA-tested.

13 Q. Okay. What makes you -- so you said that
14 you don't make a breed determination unless you're
15 confident that you're right. What is it that makes
16 you confident?

17 A. My knowledge.

18 Q. Okay. But specifically with respect to an
19 individual dog, what is it that gives you
20 confidence in saying, "I'm going to assign a breed
21 to this dog"?

22 A. Its appearance.

23 Q. Okay. And I guess this applies generally
24 to the enforcement of this ordinance. When you're
25 looking at appearance, so what the dog looks like,

1 to determine -- you're -- you're trying to
2 determine what the dog's breed is; right?

3 A. Mm-hmm (nodding affirmatively).

4 Q. So you're using physical appearance as a
5 proxy for that dog's genetic breed makeup?

6 A. Correct.

7 Q. Okay. And as an animal control officer in
8 Williston, your understanding is that this
9 ordinance is intended to prohibit having dogs that
10 are predominantly the breed of pit bulls or the
11 other banned breeds in the city of Williston?

12 A. Correct.

13 Q. Okay. And is it your understanding that
14 the reason these breeds are banned is because
15 they're comparatively more dangerous than other
16 breeds?

17 A. I believe that's why it was put in place.

18 Q. Okay. And when we say "more dangerous,"
19 we're saying they're more likely to cause harm to a
20 human or another animal?

21 A. I believe that they are capable of doing
22 more damage when they do attack.

23 Q. What is it about these breeds that make
24 them capable of doing more damage as compared to
25 other breeds?

1 A. I don't know.

2 Q. Okay. So that's just -- your
3 understanding is the reason these breeds are banned
4 is that they're capable of doing more damage if
5 they attack, but you don't know why that is?

6 A. Yeah, I didn't put the ordinance in place.

7 Q. Okay. Have you ever studied or been
8 educated on canine genetics and how that affects a
9 dog's physical appearance?

10 A. No.

11 Q. Do you have any knowledge of how physical
12 appearance relates to breed in mixed-breed dogs?

13 A. Phenotype.

14 Q. So phenotype is just physical appearance.

15 A. Correct.

16 Q. So do you know, with mixed-breed dogs,
17 how, genetically, it's determined which physical
18 characteristics the offspring of a mixed-breed dog
19 will express?

20 A. No.

21 Q. Okay. For mixed-breed dogs, do you know
22 how accurate the physical exper -- the physical
23 appearance of offspring is in relation to that
24 dog's actual breed makeup?

25 A. No.

1 Q. Do you know what Mendelian genetics are?

2 A. No.

3 Q. Or Mendelian traits?

4 A. (The deponent shook her head negatively.)

5 Q. When you look at a dog and you're making a
6 breed determination--I know you said that, like,
7 it's you know it when you see it, but it's hard to
8 describe--I want you to describe as best you can
9 what it is you look for.

10 A. It's a combination of traits. It's
11 difficult to describe.

12 Q. Okay. Well, what traits do you look at,
13 either alone or in combination?

14 A. Whether they exhibit characteristics that
15 these banned breeds are known to have.

16 Q. Okay. What characteristics?

17 A. Physical.

18 Q. What physical characteristics?

19 A. Head shape, jaw shape, tail, ear shape.

20 Q. Any others?

21 A. There's many. Stature, nose shape, color.
22 That's all I have off the top of my head.

23 Q. What about hair type?

24 A. Yeah.

25 Q. Short hair versus long hair?

1 A. Mm-hmm (nodding affirmatively).

2 Q. Curly hair versus straight hair?

3 A. (The deponent nodded affirmatively.) Yep.

4 Q. Okay. Color patterns?

5 A. Mm-hmm (nodding affirmatively).

6 Q. What color patterns do you look for?

7 A. For example, if an owner tells me that a
8 dog is a boxer, and it's blue, boxers don't come in
9 blue.

10 Q. Okay. With respect to pit bull-type dogs,
11 are there certain color patterns that you look for?

12 A. If a dog is a pattern that I know to be a
13 pit bull pattern, then it makes it slightly more
14 likely.

15 Q. Okay. And what is a pit bull pattern?

16 A. Blue, brindle. There's few -- none of
17 them are exclusive to pit bulls, but it's in a
18 combination of it --

19 Q. Okay. Patches?

20 A. -- char -- characteristics.

21 They can, yes.

22 Q. Well, are patches something that you look
23 for?

24 A. No.

25 Q. Okay. All right.

1 (There was a discussion off the record
2 between Mr. Summerlin and Ms. Wall.)

3 BY MR. SUMMERLIN:

4 Q. Okay. I want to talk about the -- the
5 last bullet point on page 50. So it's a "dog which
6 has the appearance and characteristics of being
7 predominantly of the breeds," and then it lists all
8 the things that are banned; right?

9 A. Correct.

10 Q. Okay. So when it says "predominantly"
11 here, what does that mean to you?

12 A. Personally, I don't cite unless the dog
13 looks mostly pit bull --

14 Q. Okay.

15 A. -- or any combination of those breeds.

16 Q. All right. So I'll ask it this way, then:
17 What does "mostly pit bull" mean?

18 A. For example, if I look at a dog and I
19 think that it might be pure pit bull or a
20 combination of pit bull and Staffordshire terrier,
21 then I would cite. We generally don't cite if they
22 look like they have a small amount, because we only
23 cite if we're sure.

24 Q. Okay. A second ago, you just said "pure
25 pit bull." What do you mean by "pure pit bull"?

1 A. If most of its characteristics align with
2 a banned breed.

3 Q. Okay. Is pit bull itself a breed?

4 A. There's American pit bull terriers, but
5 the term "pit bull" is an umbrella term in our
6 ordinance.

7 Q. Okay. What is a breed of dog?

8 A. I don't know how to describe it.

9 Q. Okay. Let me ask you kind of a
10 hypothetical. If you looked at a dog and, based on
11 your physical appearance -- or your physical
12 inspection of the dog's appearance --

13 Sorry about that.

14 MR. SUMMERLIN: You know what's sad is
15 that's not going to be the stupidest thing I say
16 today. It may be close, though.

17 BY MR. SUMMERLIN:

18 Q. Okay. So if you look at a dog and, based
19 on the dog's physical appearance, you make the
20 determination that it's mostly pit bull, and then a
21 DNA test would show that that dog is less than 50
22 percent of any banned breed, as an animal control
23 officer, is it your understanding that that dog
24 would still be in violation of the ordinance?

25 A. Yes.

1 Q. "Yes"?

2 A. (The deponent nodded affirmatively.)

3 Q. Why?

4 A. Because it has the appearance and
5 characteristics, predominantly.

6 Q. Okay. So what if a DNA result showed that
7 that dog had zero percent of one of the banned
8 breeds in its genetic makeup? Would it still be a
9 violation of the ordinance?

10 A. No, but that has never happened.

11 Q. Okay. What if the dog had 25 percent of
12 the banned breeds in its genetic makeup?

13 A. That still would be in violation.

14 Q. Okay. What if the dog had 2 percent of a
15 banned -- of the banned breeds in its genetic
16 makeup?

17 MR. SCHMIDT: I just want to make sure
18 you're asking for her opinion based on an animal --

19 MR. SUMMERLIN: Yeah.

20 MR. SCHMIDT: -- control officer. Okay.

21 THE DEPONENT: Technically, it is still a
22 mixed breed, so it still would be in violation.
23 This ordinance states any dog mixed with the breed
24 and has the appearance.

25

1 BY MR. SUMMERLIN:

2 Q. And you said earlier that you don't make a
3 breed determination unless you're confident that
4 the dog has an appearance of a certain breed;
5 correct?

6 A. Correct.

7 Q. You have to answer out loud.

8 A. Correct.

9 Q. So if you looked at a dog and, in your
10 mind, the dog half looked like a pit bull and half
11 looked like a collie, you would not make a breed
12 determination that that dog was one of the banned
13 breeds; right?

14 A. Correct. If I'm unsure. Collies can --
15 when they're mixed with other -- other dogs, they
16 can look similar to pit bull heads.

17 Q. And Labradors can, too; right?

18 A. Correct.

19 Q. Any dog with a blocky head can potentially
20 look like a pit bull?

21 A. Correct, so I don't cite unless it clearly
22 looks pit bull.

23 Q. And when we talk about whether a dog
24 "clearly looks pit bull," that's where you can't
25 describe it, but you know it when you see it?

1 A. It has more -- more of the traits that
2 combine to make it look like one, rather than just
3 head shape or ear shape. It's -- if the dog has
4 basically all of them --

5 Q. Okay.

6 A. -- all of the traits that we look at, then
7 it's pretty positive.

8 Q. Are some traits more important than other
9 traits in terms of your physical examination?

10 A. It's more of a combination, if they have a
11 large combination of all of the traits.

12 Q. Okay. When we look at the combination, is
13 it a mathematical formula where it's like, "Okay.
14 I've got ten traits that I'm looking at. If there
15 are four traits, it's not a pit bull, but if there
16 are six traits, it is"?

17 A. No. It's -- you know it when you see it.

18 Q. Okay. And you've never done any kind of
19 experiment where you've looked at a number of
20 different dogs and said, "Okay. This is the breed
21 that I think these are," and then compared your
22 breed determinations with breed characteristics
23 based on DNA?

24 A. I haven't done an experiment, no, but we
25 have DNA-tested almost all of the dogs I've cited.

1 Q. Okay. Do you know how many dogs you've
2 cited?

3 A. No.

4 Q. Okay. That's where we said it was
5 somewhere between two and ten?

6 A. I don't know if it's more or less than
7 ten.

8 Q. Okay. Have all of the dogs that you've
9 cited and that have been DNA-tested had more than
10 50 percent pit bull?

11 A. I don't remember.

12 Q. Okay. Have any of the dogs that you've --
13 And when we say "pit bull," for the
14 purposes of this deposition, we're talking about
15 all the banned breeds; right?

16 A. Mm-hmm (nodding affirmatively).

17 Q. Okay. Have any of the dogs that you've
18 cited been DNA-tested and had none of the banned
19 breeds?

20 A. No.

21 Q. Okay. Have any had just a small
22 percentage? Say, less than 25 percent.

23 A. I don't believe any have been less than 25
24 percent, to my knowledge.

25 Q. Have some been less than 50 percent?

1 A. I believe so.

2 Q. Okay. Have some been a hundred percent?

3 A. Yes.

4 Q. Okay. Do you know what the National
5 Animal Control Association is?

6 A. Yes.

7 Q. Okay. Are you a member?

8 A. No.

9 Q. Okay. What is -- is it called NACA?

10 A. Yes.

11 Q. What is NACA?

12 A. I don't know how to describe it, except
13 for its title.

14 Q. Okay. Is it -- let me offer a -- an
15 explanation. You can tell me if you disagree. Is
16 it, like, a professional association for animal
17 control officers?

18 A. Yes.

19 Q. Okay. Do you know if NACA has taken a
20 position on the validity of visual breed
21 identification?

22 A. I do not.

23 Q. Okay. Would it surprise you to learn that
24 NACA has publicly stated that using visual
25 identification to identify the breed of a

1 mixed-breed dog is almost impossible?

2 A. I don't know if I'd be surprised. I don't
3 really have an opinion.

4 Q. Okay. This is maybe more of a
5 philosophical question, but do you think that a
6 dog's breed affects the dog's behavior?

7 A. Yes.

8 Q. Okay. It's kind of the idea that
9 retrievers retrieve and pointers point?

10 A. Yes.

11 Q. Okay. Do you know how breed affects
12 behavior in dogs that are multiple breeds?

13 A. No.

14 Q. Do you know whether all dogs of a given
15 breed will express the behaviors that people
16 associate with that breed?

17 A. I don't know, no.

18 Q. Okay.

19 (Deposition Exhibit Number 3 was marked
20 for identification by the court reporter.)

21 BY MR. SUMMERLIN:

22 Q. Okay. I'll hand you what's been marked as
23 Exhibit 3 (doing so). Are these photographs --
24 take a look at them.

25 A. (The deponent complied with Counsel's

1 request.)

2 Q. Have you seen these photographs before?

3 A. I don't know.

4 Q. Okay. Let's just go through them page by
5 page. Looking at the dog that appears on page 1,
6 what breed would you attribute to that dog?

7 A. Bull terrier.

8 Q. Okay. And page 2?

9 A. Some type of dog falling under the term
10 pit bull.

11 Q. Okay. And page 3?

12 A. Again, falling under the term pit bull.

13 Q. Okay. Page 4?

14 A. Falling under the term pit bull.

15 Q. Okay. Page 5?

16 A. Under the term pit bull.

17 Q. Okay. Page 6?

18 A. That looks like a cane corso.

19 Q. Okay. And page 7?

20 A. I -- some kind of mastiff, I believe, cane
21 corso.

22 Q. Okay. And page 8?

23 A. This one is hard to tell without seeing it
24 standing, but I believe that's an American bulldog.

25 Q. Okay. And page 9?

1 A. That looks like a cane corso again.

2 Q. Okay. So the dogs on pages 1, 2, 3, 4,
3 and 5 would be subject to the ordinance?

4 A. Yes.

5 Q. Okay. And the dogs on pages 6 through 9
6 would not be?

7 A. Correct.

8 Q. Okay. And then if you go to page 52 and
9 page 53 --

10 A. (The deponent complied with Counsel's
11 request.)

12 Q. -- those are pictures of the dogs that we
13 just looked at in Exhibit 3; correct?

14 A. Mm-hmm (nodding affirmatively).

15 Q. Okay. So what I'd like you to do for me,
16 if you can, is look at -- well, let's take the
17 bullmastiff at page 7 of Exhibit 3.

18 A. (The deponent complied with Counsel's
19 request.)

20 Q. And comparing the physical appearance of
21 the bullmastiff on page 7 of Exhibit 3 with the
22 appearance of the dogs on page 52 of Exhibit --

23 MR. SUMMERLIN: What is this one? 1?

24 MR. SCHMIDT: 1.

25 MR. SUMMERLIN: Yeah.

1 BY MR. SUMMERLIN:

2 Q. -- of Exhibit 1, what is it that you see
3 about the physical characteristics of the
4 bullmastiff that allows you to say that dog is not
5 one of the banned breeds?

6 A. Stature, ears, nose, head, no --

7 Q. Okay. So I -- I want you to be a little
8 bit more specific. So when you say "stature," tell
9 me what it is about the stature that you look at
10 and say, "Okay. That doesn't look like one of the
11 banned breeds."

12 A. They're taller, leaner, much larger.

13 Q. Okay. And then you said ears?

14 A. Yep.

15 Q. So what is it about the ears of that breed
16 that aren't like the ears of a banned breed?

17 A. They have a totally different shape.

18 Q. What about the shape is different?

19 A. Shape. I don't know how to describe it.
20 They're different.

21 Q. Okay. What about the -- did you say coat
22 color?

23 A. No.

24 Q. Okay. So would the coat color be similar
25 to what you might see in a banned breed?

1 A. They can be brindle, yes.

2 Q. Okay. And it looks like hair type, this
3 would be short hair?

4 A. Mm-hmm.

5 Q. And short hair would also potentially be
6 in a banned breed?

7 A. Yep. Any dog can have short hair.

8 Q. Okay. What else did you say? Nose?

9 A. Mm-hmm.

10 Q. So how is the nose different in a
11 bullmastiff from an American pit bull terrier?

12 A. Like I said, it's difficult to describe.
13 You just know it when you see it.

14 Q. Okay. So does every American pit bull
15 terrier have the same nose?

16 A. No.

17 Q. Boy. So understanding that it's difficult
18 to describe, I want you to do your best to describe
19 the difference between this bullmastiff's nose on
20 page 7 of Exhibit --

21 MR. SCHMIDT: 3.

22 BY MR. SUMMERLIN:

23 Q. -- 3--I should write the exhibit numbers
24 on this--with the pit bull terrier -- or the
25 American pit bull terrier on the top right corner

1 of page 52 of Exhibit 1.

2 A. It's not something I can describe.

3 Q. Like, words fail you?

4 A. I don't have the words to describe it.
5 Mastiffs also have much larger jowls than --

6 Q. Okay. Well, we're just talking about the
7 nose right now.

8 A. I don't have the words to describe a --
9 the differences in a dog's nose.

10 Q. Okay. So if you don't have the words to
11 describe it, how can your brain process that?

12 A. I got all of the breeds correct. It's
13 something you know when you see, from experience
14 and knowledge.

15 Q. But you can't tell me the difference
16 between a bullmastiff's nose and a pit bull's nose?
17 It's not size or shape? It's some undis --
18 unarticulable factor?

19 A. It is the size and the shape. Like I
20 said, bullmastiffs are much larger. They have much
21 larger heads. Therefore, much larger noses.
22 They're very different.

23 Q. Okay. So it's -- the nose of a
24 bullmastiff is bigger --

25 A. Mm-hmm (nodding affirmatively).

1 Q. -- than a pit bull?

2 A. They're altogether larger dogs.
3 Everything on them is larger.

4 Q. Okay.

5 (There was a discussion off the record
6 between Mr. Summerlin and Ms. Wall. Deposition
7 Exhibit Number 4 was marked for identification by
8 the court reporter.)

9 BY MR. SUMMERLIN:

10 Q. Okay. I hand you what's been marked
11 Exhibit 4 (doing so). Take a look at the dog on
12 page 1 of Exhibit 4. Tell me what breed or breeds
13 you think that dog is.

14 A. It doesn't have characteristics enough for
15 me to be able to tell you with any certainty what
16 breed it is.

17 Q. Okay.

18 MS. WALL: I don't think they were
19 paginated.

20 MR. SUMMERLIN: Okay. All right. I'll
21 just do it as I go.

22 BY MR. SUMMERLIN:

23 Q. So for this dog, you have no breed
24 determination?

25 A. No.

1 Q. Okay. So let's go to page 2.

2 A. (The deponent complied with Counsel's
3 request.)

4 Q. And page 3 is also the same dog. Can you
5 make a breed determination on that dog?

6 A. Not with any certainty, no.

7 Q. Okay. What about page 4?

8 A. Not with certainty.

9 Q. And page 5 is the same dog.

10 What about page 6? And that's the
11 white -- yeah. Okay.

12 A. Without seeing the dog in person, seeing
13 their size, I wouldn't be able to tell you.

14 Q. Okay. Why -- so based on head shape, nose
15 shape, ears, coat color, coat, that's not enough
16 for you to make a determination on the dog -- for
17 the dog on page 6?

18 A. If I saw it in person and I felt like, in
19 person, its characteristics -- characteristics were
20 consistent with a banned breed, then it would be,
21 but I can't --

22 Q. Okay. So what would you need to see in
23 person that you can't see in the picture?

24 A. The actual size of the dog, the tail.

25 Q. Okay. So let's say this is a 60-pound

1 dog.

2 A. Then it would likely be enough to cite.

3 Q. So -- I'm sorry. Enough to cite?

4 A. Mm-hmm.

5 Q. Okay. Okay. Page 7 is the same dog.

6 What about page 8? That's the dog with
7 the little scarf on; right?

8 A. Mm-hmm (nodding affirmatively).

9 Q. And page 9 is also that same dog.

10 A. Yeah, it doesn't show the characteristics
11 enough to determine.

12 Q. Okay. So from this dog, head shape and
13 size, ear shape, nose shape, color pattern, that's
14 not enough for you to make a breed determination at
15 all?

16 A. I could give a guess, but not -- it -- I
17 would guess some kind of border collie mix --

18 Q. Okay.

19 A. -- but I wouldn't have a definite answer.

20 Q. Okay. Let's go to page 10.

21 A. (The deponent complied with Counsel's
22 request.)

23 Q. What about this dog?

24 A. It doesn't show characteristics enough to
25 determine.

1 Q. I'm sorry?

2 A. It doesn't show characteristics enough to
3 determine.

4 Q. Okay. What characteristics would you need
5 to make a determination on this dog?

6 A. Are you asking if I would determine it as
7 a pit bull or just any breed determination?

8 Q. Both. So what would you need to determine
9 it as a pit bull, and what would you need to
10 determine any guess on breed?

11 A. I don't see the characteristics of a pit
12 bull in it.

13 Q. Okay.

14 A. I don't see a dominant breed in it
15 enough -- especially with this picture, it's hard
16 to tell how big the dog is at all, so I wouldn't
17 have a guess for breed.

18 Q. Okay. So if that dog were roughly a foot
19 tall when standing--at the shoulders--would that
20 assist you in making a breed determination?

21 A. No.

22 Q. No?

23 What else would you need to see?

24 A. I -- I don't see enough pit bull
25 characteristics to cite for it, and I don't --

1 Q. Okay.

2 A. -- typically go around just guessing
3 random breeds of dogs.

4 Q. So when you look at a dog like this one on
5 page 10 and you say you don't see enough pit bull
6 characteristics to -- that you would be confident
7 in citing this dog, right --

8 A. (The deponent nodded affirmatively.)

9 Q. -- does that just mean that as you look at
10 the physical characteristics of this dog, it's your
11 impression that the dog is not sufficiently one of
12 the banned breeds?

13 A. It's my determination that I am not able
14 to say with any certainty if it does have a banned
15 breed in it, so I would not cite.

16 Q. Okay. So you're not saying that it's not
17 one of the banned --

18 A. It could --

19 Q. -- breeds --

20 A. -- but I don't have enough evidence in
21 order for me to cite, in my personal opinion.

22 Q. Okay. So if you looked at this dog, based
23 on physical appearance alone, you would not cite
24 this dog?

25 A. Correct.

1 Q. Okay. If you were provided a DNA test for
2 this dog that showed he was 74.6 percent American
3 pit bull terrier and 16.6 percent American
4 Staffordshire terrier and 4.9 percent bull terrier,
5 would you cite this dog?

6 A. If the owner told me that they knew it was
7 pit bull, then I would, yes.

8 Q. Yeah.

9 So if you have the DNA test and -- and it
10 showed that this dog was the breeds and the
11 percentages I just mentioned, then you would cite
12 this dog?

13 A. Then I would have enough evidence to cite,
14 yes.

15 Q. Okay. So when you look at a dog and
16 decide not to cite it, you're not making the
17 determination that the dog is not one of the banned
18 breeds; it's just that you don't have enough
19 evidence?

20 A. In my discretion, I -- yeah.

21 Q. Yeah, you don't have enough evidence to --
22 to justify a citation?

23 A. Yeah, in my own personal opinion.

24 Q. Okay. Let's look at 11.

25 A. (The deponent complied with Counsel's

1 request.)

2 Q. What about that dog?

3 A. I don't see characteristics enough to make
4 a determination.

5 Q. And if you were provided evidence by an
6 owner that that dog was 33.9 percent American pit
7 bull terrier, would you then cite the dog?

8 A. Yeah, if they gave me that information.

9 Q. Okay. Even though it doesn't look like a
10 pit bull?

11 A. It has characteristics that could be
12 consistent with it; however, not enough for me to
13 cite on appearance alone.

14 Q. Okay. So looking at the dog on page 11,
15 what are the characteristics that you say -- that
16 you see that are consistent with a pit bull?

17 A. Based on this picture alone, the head
18 shape, possi -- I can't tell the other
19 characteristics.

20 Q. Okay. So when you look at this picture on
21 page 11, you would -- you would call that a blocky
22 head?

23 A. It's consistent with a pit bull-type
24 breed. It can be.

25 Q. Okay. What about the dog on page 12?

1 A. I wouldn't cite without further
2 evidence --

3 Q. Okay.

4 A. -- especially because it looks like a
5 puppy, and puppies can be difficult to determine.

6 Q. Okay. So is there an age that you feel
7 comfortable making a breed determination based on
8 physical appearance?

9 A. No. It just varies on the dog. If it's a
10 purebred pit bull puppy, then that's obvious. But
11 puppies can change as they grow, so if it appears
12 to be a mix of something, we are more cautious.

13 Q. Okay. Okay. Let's go to the dog on
14 page 14.

15 A. (The deponent complied with Counsel's
16 request.)

17 Q. And page 15 is the same dog. What about
18 that dog?

19 MR. SCHMIDT: 14 and 15 are the same dog?

20 MR. SUMMERLIN: Oops. Did I get off? I
21 must have. Let's see. So that -- what do you
22 have --

23 MR. SCHMIDT: So that's --

24 MR. SUMMERLIN: Is that --

25 MR. SCHMIDT: This is what I have for 14

1 (indicating).

2 MR. SUMMERLIN: Okay. So I meant 15 and
3 16.

4 MR. SCHMIDT: Okay. When you said 14 and
5 15 are the same dog, that's --

6 MR. SUMMERLIN: He's a master of disguise.

7 MS. WALL: Show me what your page 12 was.

8 THE DEPONENT: Page -- mine aren't
9 numbered.

10 MS. WALL: Then this should be -- the next
11 page should be 13.

12 MR. SUMMERLIN: Yep.

13 MS. WALL: Yeah, so that was the same dog
14 as this one (indicating)?

15 MR. SUMMERLIN: Yep.

16 MS. WALL: So then 14 should be this one
17 (indicating).

18 THE DEPONENT: Okay.

19 MS. WALL: And 15 should be this one
20 (indicating). Sorry it's not --

21 MR. SCHMIDT: Okay.

22 MS. WALL: -- paginated.

23 MR. SUMMERLIN: Yeah. Okay. So is this
24 page --

25 MS. WALL: 14.

1 MR. SUMMERLIN: -- 14 for everyone
2 (indicating)? So we're talking about the same
3 thing --

4 MR. SCHMIDT: Okay.

5 MR. SUMMERLIN: -- is that -- is that
6 right in your numbers? Okay.

7 MR. SCHMIDT: I think we had skipped 13
8 the first time and called it page 14 --

9 MR. SUMMERLIN: Ah. That's --

10 MR. SCHMIDT: -- and that's how we ended
11 up where we are, so --

12 MR. SUMMERLIN: Okay.

13 BY MR. SUMMERLIN:

14 Q. All right. So 14 and 15, we're looking at
15 a brindle-colored dog that in -- on 14, is lying
16 down with what appears to be a harness on and on
17 15, also lying down with a red bandanna around its
18 neck. So can you make a breed determination on
19 that dog?

20 A. No.

21 Q. No? Okay.

22 And then 17 [sic] and 18 [sic]?

23 A. No.

24 Q. And that is a dog, in 17, with a blue
25 collar and, in 18, same dog with a red collar, and

1 you can't make a breed determination on that dog?

2 A. No.

3 Q. Okay. So when we looked at the
4 photographs in Exhibit 3 right there (indicating),
5 you were looking at --

6 Well, do you know the source of these
7 photographs, I mean, other than they were in your
8 training materials?

9 A. No.

10 Q. When you look at a dog -- a purebred dog
11 of a given breed, you would expect, generally,
12 all -- let me start over.

13 When you look at purebred dogs of a given
14 breed, you would expect uniformity in appearance
15 among purebred dogs of a given breed; correct?

16 A. Somewhat.

17 Q. Okay. What is the "somewhat"? What areas
18 of uniformity do you think there would exist in
19 purebreds, or nonuniformity?

20 A. Well, it depends on their breeding, so --
21 they can vary even in the same breed.

22 Q. What kind of characteristics vary within a
23 purebred breed?

24 A. Any can. You can get different strains of
25 Labs that look different.

1 Q. Okay. So let -- let -- let's talk about
2 Labs. That's a good one. There are black Labs;
3 there are yellow Labs; there are chocolate Labs.
4 Right?

5 A. There are English and American Labs.

6 Q. Okay. So you can have color variation?

7 A. Mm-hmm.

8 Q. What other kinds of variation would you
9 expect to see within a purebred breed?

10 A. Well, like I said, depending on their
11 breeding, there's -- English Labs and American Labs
12 have different statures.

13 Q. Okay. Are those different breeds?

14 A. I believe they're technically the same
15 breed but a different breeding.

16 Q. Okay. And when you say "stature," you're
17 talking about size?

18 A. Size and body shape.

19 Q. Okay. Do you think you see more variation
20 in mixed-breed dogs as compared to purebred dogs of
21 one breed?

22 A. Yes.

23 Q. Okay. Is it more difficult to determine
24 breed, based on visual identification, for
25 mixed-breed dogs as compared to purebred dogs?

1 A. Yes.

2 Q. Why is that?

3 A. Because the -- it depends, in mixed
4 breeds, how the phenotypes show.

5 Q. Yeah.

6 So you have --

7 A. It varies.

8 Q. -- a mom and dad that look different.

9 Their offspring will get some characteristics from
10 the mother and some characteristics from the
11 father?

12 A. Correct.

13 Q. Okay. Okay. Let's go to page 51 of
14 Exhibit 1.

15 A. (The deponent complied with Counsel's
16 request.)

17 Q. And this is the part of your training that
18 discusses the penalties for violations of the pit
19 bull ban in Williston?

20 A. Yes.

21 Q. Okay. So, again, a first offense, the
22 owner is not physically arrested; second offense,
23 the owner would be arrested?

24 A. Correct.

25 Q. Okay. Does it matter whether the first

1 offense was for the same dog?

2 A. No.

3 Q. So any second offense; it can be a
4 different dog?

5 A. Correct.

6 Q. All right. All right. And then on
7 page 52 and page 53, you have the -- the
8 photographs that we looked at in Exhibit 3. What
9 do you recall Carli Wade discussing with you as you
10 looked at these photographs?

11 A. I don't recall. That was a long time ago.

12 Q. Okay. Have you had discussions with
13 Ms. Wade or anyone else involved in animal control
14 about how to identify dogs that are subject to the
15 ban in Williston?

16 A. I believe so.

17 Q. Okay. What -- what were those
18 discussions?

19 A. Talking about what we look for.

20 Q. All right. And that's the combination of
21 traits that you talked about earlier?

22 A. Correct.

23 Q. Okay. And I think when you were talking
24 about that and your personal experience in
25 identifying breeds, you mentioned that you'll talk

1 to other people in animal control to see whether
2 they agree with you about your breed determination?

3 A. I usually ask Carli if she agrees with me.

4 Q. Okay. Have you had situations where she
5 didn't agree with you?

6 A. I don't believe so.

7 Q. Okay. So she's always agreed with your
8 breed determination?

9 A. To the best of my knowledge, yeah.

10 Q. Okay. When you're asking for Ms. Wade's
11 opinion on your breed determination, is that
12 because you've cited a dog, or do you do that also
13 before you cite?

14 A. I ask her before I cite.

15 Q. Okay. And I think you just said she's
16 never disagreed with you?

17 A. Not to my knowledge.

18 Q. Well, that reminds me, you -- so you said
19 that with the cases that you've been involved in,
20 you've always done a DNA test?

21 A. I believe in most of them, we have, yes.

22 Q. Okay. And has that been true since you
23 were initially hired by the City, that you do DNA
24 tests on dogs that you've cited for pit bull?

25 A. They've always had the option to request

1 it; however, it recently -- we recently started
2 doing it for all of them, regardless if they
3 request it.

4 Q. Okay. And so when did you start
5 automatically doing DNA tests?

6 A. Sometime last year.

7 Q. And you said that "they" always had the
8 option. When you say "they," are you referring to
9 owners?

10 A. Yes.

11 Q. So owners have always had the option to
12 DNA their dog?

13 A. Yes, they're -- to my knowledge, they've
14 always had the option in court to request a DNA
15 test if they disagree with their charge.

16 Q. Were owners informed of that option?

17 A. To my knowledge, yes.

18 Q. Do you know how they were informed?

19 A. Either told by an animal control officer
20 or -- I'm not sure if they told them in court, but
21 I think for the most part, animal control officers
22 informed them. I can't speak for other officers.

23 Q. It's been your practice to inform owners?

24 A. Yeah --

25 Q. Okay.

1 A. -- when we -- before we did mandatory
2 ones, I would tell them.

3 Q. Okay. Is there a -- a policy in writing
4 somewhere about the -- either the optional DNA or
5 mandatory DNA?

6 A. I don't know if it's in writing.

7 Q. Okay. When the City submits DNA on a dog,
8 what lab do they use for analysis?

9 A. Wisdom Panel™.

10 Q. Do you know who collects the sample?

11 A. It's usually whatever officer is doing the
12 citation.

13 Q. Okay. Do you know, are the samples cheek
14 swabs?

15 A. Yes.

16 Q. Okay. And so would the officer take the
17 cheap -- excuse me -- take the cheek swab and then
18 send that sample to GeneSeek for the Wisdom Panel™
19 to be run?

20 A. Yeah, we mail it through Wisdom Panel™.

21 Q. Okay. When the results come back, what do
22 you do with the results?

23 A. We typically add it to the report.

24 Q. Do you provide a copy of the results to
25 the owner?

1 A. They can request it through records.

2 Q. Okay. So if they don't request it, do you
3 provide a copy?

4 A. No. Everything for their case has to be
5 requested through records.

6 Q. Well, what does "requested through
7 records" mean?

8 A. A formal records request to our records
9 department.

10 Q. Are owners informed that they have to make
11 a formal record request to get DNA results?

12 A. If they ask for the results, we tell them
13 that, yes.

14 Q. Okay. If they -- if they don't ask about
15 the results, then they're not informed the results
16 came in?

17 A. No.

18 Q. Okay.

19 MR. SCHMIDT: On this line of questioning,
20 I'm just going to -- I don't want to interpose all
21 the time --

22 MR. SUMMERLIN: Oh.

23 MR. SCHMIDT: -- on this, but just for
24 your understanding, she's testifying in her
25 capacity as an animal control officer.

1 Understanding these cases are in litigation, there
2 are different rules that apply to the --

3 MR. SUMMERLIN: Yes.

4 MR. SCHMIDT: -- exchange of information.

5 MR. SUMMERLIN: Sure.

6 BY MR. SUMMERLIN:

7 Q. So since the City has started to DNA-test
8 every dog that's been cited, do you know whether
9 every animal control officer informs the owner that
10 a DNA test will be run on their dog?

11 A. I don't know.

12 Q. Okay.

13 A. If the owner pleads not guilty, it's also
14 something that gets brought into court. So they
15 would be informed that way, so --

16 Q. Okay. But if an owner pled guilty, they
17 may never know that the DNA test was run?

18 A. It depends on the circumstance.

19 Q. Okay.

20 A. If the dog is in our custody, we can take
21 the DNA. If the dog is in their custody, then we
22 have them sign an authorization to collect DNA.

23 Q. Okay. So if the dog is in your custody,
24 you don't necessarily get the owner's permission to
25 collect DNA from the dog?

1 A. If it's being held as evidence, it's my
2 understanding we don't need permission.

3 Q. Okay. Okay.

4 (There was a discussion off the record
5 between Mr. Summerlin and Ms. Wall. Deposition
6 Exhibit Number 5 was marked for identification by
7 the court reporter.)

8 BY MR. SUMMERLIN:

9 Q. All right. I'll hand you what's been
10 marked as Exhibit 5 (doing so) and ask you to take
11 a look at that.

12 A. (The deponent complied with Counsel's
13 request.)

14 Q. Do you recognize that?

15 A. Yes.

16 Q. What is it?

17 A. Which part?

18 Q. Well, if you need to break it up, break it
19 up for me.

20 A. Well, the first two pages are our
21 Statement Forms, the Inmate Animal Custody form,
22 Animal Relinquishment form, Notice of Impoundment
23 form, Adoption Form, and then our basic training
24 packet.

25 Q. Okay. So from page 464 to the end, is

1 that the training packet?

2 A. Yes.

3 Q. Okay. All right. So if you go to
4 page 483, the top of that is titled "Animal Control
5 Procedures."

6 A. (The deponent complied with Counsel's
7 request.)

8 Q. Correct?

9 A. Yes.

10 Q. Okay. And that's part of your training
11 packet?

12 A. Yes.

13 Q. All right. So I want to look at paragraph
14 number 3 on page 483, and that's titled "Pit Bull
15 Car" -- "Calls"?

16 A. Yes.

17 Q. Okay. So this portion of the animal
18 control procedures relates to enforcement of the
19 Williston pit bull ban?

20 A. Yes.

21 Q. Okay. So a couple questions on this. If
22 you look at paragraph 3(g) and 3(h) on page 483 and
23 484 --

24 A. (The deponent complied with Counsel's
25 request.)

1 Q. -- this states that "The dog is left with
2 the owner unless vicious, and owner is cited with
3 pit bull in the city limits and given a mandatory
4 court appearance" in 3(g); correct?

5 A. Yeah, that's what it states.

6 Q. Okay. That's not the practice?

7 A. It previously was until we were advised by
8 the city attorney to impound all pit bulls.

9 Q. Okay. When were you instructed to begin
10 impounding all pit bulls?

11 A. Early last year.

12 Q. Okay. Were you told why this policy was
13 being changed?

14 A. No.

15 Q. Do you know whether the written policy has
16 been changed?

17 A. I don't know.

18 Q. Okay. You've not been provided with a new
19 animal control procedures booklet or printout?

20 A. I'm not sure.

21 Q. Okay. Well, do you recall seeing anything
22 in writing telling you that Section 3(g) of the
23 animal control procedures is being amended and
24 you'll now impound every pit bull?

25 A. No.

1 Q. Okay. So were you just, like -- were you
2 told, at work, by someone, "Oh, start impounding
3 these dogs"?

4 A. I don't know if it was via phone or email,
5 but the city attorney advised Carli Wade to impound
6 all pit bulls.

7 Q. Okay.

8 (There was a discussion off the record
9 between Mr. Summerlin and Ms. Wall.)

10 MR. SUMMERLIN: You guys, do you want to
11 take a couple-minute break?

12 MR. SCHMIDT: Yeah.

13 (The proceedings recessed at 12:01 p.m.
14 Deposition Exhibit Number 6 was marked for
15 identification by the court reporter. The
16 proceedings reconvened with everyone present at
17 12:05 p.m.)

18 BY MR. SUMMERLIN:

19 Q. Okay. I just want to -- let's grab
20 Exhibit 4, which is the dog photos. Before we go
21 on to anything else, I want to make sure that we've
22 got our page numbers --

23 MR. SUMMERLIN: Brian, do you mind if I
24 mark page numbers on the exhibit?

25 MR. SCHMIDT: No. I think that would be

1 pretty helpful, actually.

2 MR. SUMMERLIN: And then that way, if
3 we've got a mistake, we'll figure it out before
4 it's too late.

5 MR. SCHMIDT: Yeah. No, let's -- let's
6 for sure do that.

7 MR. SUMMERLIN: Okay. So page 1 of
8 Exhibit 4 is the dog sitting on a bench.

9 Page 2 is a dog lying on a wooden floor --
10 a brown dog lying on a wooden floor with a yellow
11 dog lying next to it.

12 Page 3 is that same brown dog sitting on a
13 floor.

14 Page 4 is a dog with unusually large ears
15 on grass.

16 Page 5 is a picture of that same dog.

17 Page 6 is a picture of a yellow dog
18 sitting on grass.

19 Page 7 is a picture of the same dog lying
20 on grass.

21 Page 8 is a picture of a dog with a green
22 neckerchief.

23 Page 9 is a picture of the same dog lying
24 on a mat.

25 Page 10 is a picture of a small dog with a

1 red collar that is black and brown.

2 Page 11 is a picture of a dog with a
3 multicolored handkerchief around its neck and its
4 tongue hanging out.

5 Page 12 is a picture of a brown dog with a
6 vampire-shape-head coloring pattern on his head.

7 Page 13 is a picture of the same dog
8 sitting on a footstool.

9 Page 14 is a picture of a brindle dog
10 lying on what appears to be sand.

11 Page 15 is a picture of that same dog with
12 a red collar on.

13 And then these -- page 16 and page 17 is a
14 brown dog standing on brick and then standing on a
15 floor. And I believe for pages 16 and 17, earlier
16 in the deposition, I referred to that as pages 17
17 and 18 because I had --

18 MR. SCHMIDT: Okay.

19 MR. SUMMERLIN: -- misnumbered. Hopefully
20 that will be clear as mud at some point.

21 MR. SCHMIDT: And, Gene, just so we're
22 clear on the -- on the record on this, I'm
23 preserving objections to this --

24 MR. SUMMERLIN: Sure.

25 MR. SCHMIDT: -- I guess it would be

1 Exhibit Number 4.

2 MR. SUMMERLIN: Correct.

3 Okay. And I gave you what we've marked as
4 Exhibit 6.

5 BY MR. SUMMERLIN:

6 Q. So I hand you what's been marked as
7 Exhibit 6 (doing so) and ask you -- well, first,
8 let me tell you what this is. So this is just
9 pictures of several dogs -- it appear -- it is 14
10 pages -- along with Embark DNA breed tests for
11 those dogs.

12 Would you just take a look at those
13 pictures, and I want to ask you a couple questions.

14 A. (The deponent complied with Counsel's
15 request.)

16 MR. SCHMIDT: And, again, Gene, I think we
17 have an understanding on it --

18 MR. SUMMERLIN: Yeah.

19 MR. SCHMIDT: -- but I'm preserving all
20 objections to Exhibit Number 6, but you can
21 certainly ask questions about it.

22 BY MR. SUMMERLIN:

23 Q. Have you had a chance to review the -- the
24 photographs in Exhibit 6?

25 A. Yep.

1 Q. Okay. Would you agree with me that the
2 dogs that are represented in these photographs have
3 a variety of phenotypic -- have a variety of
4 phenotypes?

5 A. Yes.

6 Q. So it's kind of a spectrum of dogs?

7 A. Yes.

8 Q. Okay. Would you also agree with me
9 that all of the dogs identified in Exhibit 6,
10 according to the Embark DNA test, are--well,
11 with the exception of the dog that appears on
12 page 6--mixed-breed dogs?

13 A. Yes.

14 Q. And you may not know this, or you might.
15 Do you know what the -- the makeup of an American
16 bulldog is?

17 A. What --

18 Q. The breed makeup.

19 A. What do you mean?

20 Q. Are you familiar with the American
21 bulldog?

22 A. Yes.

23 Q. Okay. That's a breed?

24 A. Yes.

25 Q. Do you know if that's a breed that's a

1 combination of two other breeds?

2 A. No. I'm --

3 Q. Okay.

4 A. I don't know.

5 Q. All right. If we look at the dogs that
6 appear on pages 1 through 5 of Exhibit 6, all of
7 those dogs contain some percentage of a breed that
8 is banned under the Williston ordinance; correct?

9 A. Correct.

10 Q. Okay. If you were to look at the
11 photographs of those dogs, without knowing their
12 breed makeup, are there any of those dogs that,
13 based on the photographs, you would cite as being
14 in violation of the Williston ordinance?

15 A. No.

16 Q. Okay. Are there any of those dogs that if
17 you had the genetic makeup, you would cite under
18 the Williston ordinance?

19 A. If the owner told me that they are part
20 pit bull.

21 Q. Okay. So all of those dogs, if the owner
22 said, "Hey, I got this Embark test. Here are the
23 results," each one of those dogs on pages 1 through
24 5, you would cite as being in violation of the
25 ordinance?

1 A. Yes, because they would be admitting to
2 violating it.

3 Q. Okay. I'd like you to take a look at
4 pages 7 and 8 of Exhibit 6.

5 A. (The deponent complied with Counsel's
6 request.)

7 Q. If you didn't have the DNA test results of
8 the dogs that appear on pages 7 and 8, would you
9 cite either of those dogs under the Williston
10 ordinance?

11 A. Number 8, for sure no.

12 Number 7 is a little trickier. However,
13 it would be difficult to determine without seeing
14 the dog in person.

15 Q. Okay. So Number -- Number 7 possibly, but
16 you'd want to see the dog in person; Number 8, you
17 said no?

18 A. Correct.

19 Q. Okay. What about the dog on Number 9, if
20 you didn't have the DNA?

21 A. No.

22 Q. Okay. And for Number 9, if you did have
23 the DNA, you would cite?

24 A. Yes, if the owners admitted to violating
25 the ordinance.

1 Q. Okay. Well, and, again, I -- I'm not
2 saying the owner is admitting to violating the
3 ordinance. What I'm saying is the owner would say,
4 "Here's the DNA for the dog." And so the DNA would
5 show, for the dog on 9, 39 percent American pit
6 bull terrier.

7 A. Yes. So they'd be admitting to violating
8 it.

9 Q. Okay. So that's -- when you've said
10 "admitted to violation" as we've talked about these
11 photos, you're meaning you would show me the DNA
12 that shows the percentage of a banned breed?

13 A. Yep.

14 Q. Okay.

15 A. Yes.

16 Q. So on page 10, again, without the DNA, is
17 there anything about those photos that would cause
18 you to think you would cite that dog?

19 A. No.

20 Q. Okay. And if the owner did provide the
21 DNA that shows the dog is thir -- is 35.8 percent
22 pit bull terrier, you would cite?

23 A. Hmm, yeah.

24 Q. Okay. Same thing for 11? Without the
25 DNA, would you cite?

1 A. No.

2 Q. With the DNA, would you cite?

3 A. Yes.

4 Q. And then for 12, without the DNA, would
5 you cite?

6 A. No.

7 Q. With the DNA, would you cite?

8 A. Yeah, if they admitted that it had pit
9 bull in it.

10 Q. Okay. And then 13, without the DNA, would
11 you cite?

12 A. No.

13 Q. With the DNA, would you cite?

14 A. Mm-hmm. Yeah.

15 Q. Okay. And then 14, without the DNA, would
16 you cite?

17 A. No.

18 Q. With the DNA, would you cite?

19 A. Yes.

20 Q. All right. All right. When you have
21 looked at dogs, as an animal control officer, to
22 see if they violate Williston's pit bull ordinance,
23 I know, like, as we've looked at photographs--and,
24 obviously, photographs aren't the same as having
25 the dog in the room with us--you've said a couple

1 times that you'd like to see the dog in person;
2 right?

3 A. Mm-hmm.

4 Q. Have you ever cited an owner when you've
5 not been able to physically inspect the dog?

6 A. I believe so.

7 Q. Okay. Tell me about those or that
8 situation.

9 A. The one occasion that I recall, we were
10 sent pictures of the dog, and the pictures were
11 definite. There was no question in my mind based
12 off of those. It was not a scenario where I felt I
13 needed to see it to prove that it was.

14 And the owner would not open the door for
15 us. They would not call us. They would not make
16 contact with us at all. So we created a warrant
17 for pit bull in the city limits for them.

18 Q. Okay. Have you ever had situations where
19 you've cited just based on looking at a dog, like,
20 through a window?

21 A. I -- yes, I believe so.

22 Q. Okay. So is it fair to say that while
23 physically inspecting a dog right in front of you
24 may be preferable, it's not always necessary?

25 A. Correct.

1 Q. Okay. So I've asked you a lot of
2 questions this morning about, you know, your
3 understanding, as an animal control officer, about
4 various things. So I want to ask you outside of
5 your role as an animal control officer, do you have
6 a personal opinion as to whether pit bulls are more
7 dangerous than other dogs of similar size?

8 A. I'm pretty neutral.

9 Q. Okay.

10 (There was a discussion off the record
11 between Mr. Summerlin and Ms. Wall.)

12 MR. SUMMERLIN: Sorry.

13 MS. WALL: We'll go off the record just
14 briefly. Thank you.

15 (The proceedings recessed at 12:19 p.m. and
16 reconvened with everyone present at 12:20 p.m.)

17 BY MR. SUMMERLIN:

18 Q. So outside of your interaction with pit
19 bull-type dogs as an animal control officer, do you
20 have other personal experience interacting with pit
21 bull-type dogs?

22 A. Yeah.

23 Q. Okay. Kind of generally, what's that?

24 A. I've known people who have owned them.
25 I've spent some time with them outside of

1 Williston, not here.

2 Q. Okay. And in the interaction that you've
3 had with pit bull dogs, those dogs that you've had
4 interactions with, did they appear to be unusually
5 aggressive or dangerous?

6 A. Outside of work?

7 Q. Correct.

8 A. No, they didn't.

9 Q. Okay. Have you ever, in your capacity as
10 an animal control officer, sought a search warrant
11 for a pit bull-type dog?

12 A. I believe so.

13 Q. Okay. In what kind of circumstances do
14 you do that?

15 A. I can't -- I can't recall a circumstance
16 except in an ongoing case --

17 Q. So there's a --

18 A. -- to my -- to my recollection.

19 Q. There's an ongoing case that you obtained
20 a search warrant?

21 A. We didn't obtain one, but we were going
22 to.

23 Q. Okay.

24 A. It didn't end up being necessary.

25 Q. And then other than that ongoing case, you

1 don't recall --

2 A. Not that I recall, no.

3 Q. Okay. So you -- other than the on --
4 well, and in the ongoing case, you didn't end up
5 getting a search warrant; is that correct?

6 A. Correct.

7 Q. So you're not aware -- are you aware of
8 situations where someone else within animal control
9 obtained and executed a search warrant specifically
10 to look for a pit bull dog?

11 A. Not that I can think of.

12 MR. SUMMERLIN: Okay. Thank you very
13 much. I appreciate you spending your morning with
14 us.

15 MR. SCHMIDT: Read and sign.

16 (The proceedings concluded at 12:23 p.m.)
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CERTIFICATE OF DEPONENT

I, Madison Ambrosini, the deponent in the foregoing deposition, certify that I have read the attached 95 typewritten pages of my deposition upon oral examination, taken at the time and place indicated, and that it is a complete and accurate transcript of my deposition, with corrections, if any, noted herein along with the reason for each correction.

Dated at Bedford, Texas, this _____ day of _____, 2022.

MADISON AMBROSINI

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\$	- 1:6 22 [1] - 1:20 23 [2] - 17:10, 17:13 24 [2] - 18:7, 43:6 25 [5] - 42:25, 43:6, 50:11, 53:22, 53:23 29 [4] - 18:22, 19:1, 19:12, 27:3	80:10, 84:16, 88:6, 88:24 50 [6] - 37:1, 42:23, 48:5, 49:21, 53:10, 53:25 51 [1] - 73:13 52 [4] - 57:8, 57:22, 60:1, 74:7 53 [2] - 57:9, 74:7 55 [2] - 3:14 58 [1] - 17:14	96:6 actual [2] - 45:24, 62:24 add [1] - 77:23 admit [1] - 38:14 admitted [3] - 89:24, 90:10, 91:8 admitting [3] - 89:1, 90:2, 90:7 Adoption [2] - 3:19, 80:23 advised [2] - 82:7, 83:5 affects [3] - 45:8, 55:6, 55:11 affirmatively [6] - 12:7, 13:17, 13:25, 47:3, 50:2, 65:8 affirmatively) [20] - 5:4, 6:1, 6:18, 9:1, 12:24, 14:4, 14:19, 14:21, 14:23, 19:5, 26:14, 33:6, 43:4, 44:3, 47:1, 47:5, 53:16, 57:14, 60:25, 63:8 afternoon [1] - 9:19 age [1] - 68:6 aggressive [1] - 94:5 ago [3] - 4:10, 48:24, 74:11 agree [5] - 20:4, 75:2, 75:5, 87:1, 87:8 agreed [1] - 75:7 agrees [2] - 43:11, 75:3 ahead [3] - 21:15, 24:12, 25:25 ALBERTSON [1] - 1:4 align [1] - 49:1 allowed [1] - 30:2 allows [2] - 39:7, 58:4 almost [2] - 52:25, 55:1 alone [4] - 46:13, 65:23, 67:13, 67:17 ALSO [1] - 2:19 altogether [1] - 61:2 AMANDA [1] - 2:8 Amber [3] - 8:3, 8:4, 8:6 Ambrosini [2] - 4:18, 96:2 AMBROSINI [5] - 1:14, 2:19, 3:3, 4:3, 96:15 amended [1] - 82:23 American [17] -	37:16, 38:4, 49:4, 56:24, 59:11, 59:14, 59:25, 66:2, 66:3, 67:6, 72:5, 72:11, 87:15, 87:20, 90:5 amount [1] - 48:22 analysis [1] - 77:8 analyst [1] - 5:7 Animal [9] - 3:9, 3:11, 3:18, 19:2, 31:1, 54:5, 80:21, 80:22 animal [79] - 6:4, 6:8, 6:22, 6:23, 6:25, 7:12, 7:16, 7:17, 7:20, 7:23, 12:5, 12:19, 14:17, 16:23, 18:2, 19:4, 19:8, 19:15, 19:18, 20:3, 21:12, 21:20, 22:3, 22:11, 23:18, 23:22, 23:23, 24:15, 24:19, 24:22, 25:1, 25:6, 25:8, 25:15, 26:5, 26:11, 27:17, 27:21, 28:1, 28:6, 28:13, 31:5, 31:13, 31:22, 31:25, 32:6, 33:13, 33:20, 33:24, 34:4, 35:11, 35:14, 35:19, 41:7, 41:12, 42:8, 44:7, 44:20, 49:22, 50:18, 54:16, 74:13, 75:1, 76:19, 76:21, 78:25, 79:9, 81:4, 81:17, 82:19, 82:23, 91:21, 93:3, 93:5, 93:19, 94:10, 95:8 Animals [1] - 27:9 animals [8] - 6:24, 6:25, 17:1, 17:3, 17:16, 18:15, 20:5, 30:3 answer [2] - 51:7, 63:19 anyplace [1] - 21:9 appear [4] - 86:9, 88:6, 89:8, 94:4 appearance [24] - 38:1, 38:12, 38:16, 43:22, 43:25, 44:4, 45:9, 45:12, 45:14, 45:23, 48:6, 49:11, 49:12, 49:19, 50:4, 50:24, 51:4, 57:20, 57:22, 65:23, 67:13, 68:8, 71:14, 82:4 Appearances [1] - 1:24 appeared [2] - 2:10, 2:16
'				
'This [2] - 26:20, 26:21				
1	3	6	9	
1 [15] - 3:9, 8:14, 8:18, 17:10, 56:5, 57:2, 57:23, 57:24, 58:2, 60:1, 61:12, 73:14, 84:7, 88:6, 88:23 10 [4] - 63:20, 65:5, 84:25, 90:16 10:32 [1] - 29:16 10:34 [1] - 29:17 11 [5] - 66:24, 67:14, 67:21, 85:2, 90:24 12 [4] - 67:25, 69:7, 85:5, 91:4 122 [1] - 2:15 12:01 [1] - 83:13 12:05 [1] - 83:17 12:19 [1] - 93:15 12:20 [1] - 93:16 12:23 [1] - 95:16 13 [4] - 69:11, 70:7, 85:7, 91:10 13330 [1] - 2:9 14 [13] - 68:14, 68:19, 68:25, 69:4, 69:16, 69:25, 70:1, 70:8, 70:14, 70:15, 85:9, 86:9, 91:15 15 [10] - 3:13, 68:17, 68:19, 69:2, 69:5, 69:19, 70:14, 70:17, 85:11 16 [3] - 69:3, 85:13, 85:15 16.6 [1] - 66:3 17 [5] - 70:22, 70:24, 85:13, 85:15, 85:16 18 [4] - 1:22, 70:22, 70:25, 85:17	3 [15] - 3:14, 55:19, 55:23, 56:11, 57:2, 57:13, 57:17, 57:21, 59:21, 59:23, 62:4, 71:4, 74:8, 81:14, 84:12 3(g) [3] - 81:22, 82:4, 82:22 3(h) [1] - 81:22 30 [2] - 20:10, 27:2 31 [2] - 27:5, 27:25 32 [1] - 27:13 33.9 [1] - 67:6 35 [2] - 29:11, 29:21 35.8 [1] - 90:21 36 [1] - 30:15 39 [2] - 30:22, 90:5	6 [15] - 3:22, 56:17, 57:5, 62:10, 62:17, 83:14, 84:17, 86:4, 86:7, 86:20, 86:24, 87:9, 87:12, 88:6, 89:4 60-pound [1] - 62:25 61 [2] - 3:15 64 [1] - 11:23	9 [7] - 56:25, 57:5, 63:9, 84:23, 89:19, 89:22, 90:5 95 [1] - 96:4 96 [1] - 3:24 97 [1] - 3:25 9:57 [2] - 1:22, 4:1	
	4	7	A	
	4 [12] - 3:4, 3:15, 56:13, 57:2, 61:7, 61:11, 61:12, 62:7, 83:20, 84:8, 84:14, 86:1 4-10 [1] - 31:1 4-23 [1] - 34:12 4-5 [1] - 19:2 4-6 [1] - 27:8 4-8 [1] - 29:22 4-89 [1] - 37:4 4-H [1] - 17:2 4.9 [1] - 66:4 40 [1] - 32:9 44 [1] - 34:9 45 [1] - 34:16 453-456 [1] - 3:13 455 [1] - 15:15 458-502 [1] - 3:21 460 [1] - 2:15 464 [1] - 80:25 483 [3] - 81:4, 81:14, 81:22 484 [1] - 81:23	7 [10] - 56:19, 57:17, 57:21, 59:20, 63:5, 84:19, 89:4, 89:8, 89:12, 89:15 74.6 [1] - 66:2	a.m [4] - 1:22, 4:1, 29:16, 29:17 able [5] - 31:16, 61:15, 62:13, 65:13, 92:5 according [1] - 87:10 accurate [2] - 45:22,	
	5	8		
2 [9] - 3:11, 15:6, 15:12, 43:6, 50:14, 56:8, 57:2, 62:1, 84:9 200 [1] - 2:9 2022 [2] - 1:22, 96:12 21-cv-00012-CRH [1]	5 [9] - 3:16, 56:15, 57:3, 62:9, 80:6,	8 [9] - 3:10, 56:22, 63:6, 84:21, 89:4, 89:8, 89:11, 89:16 80 [2] - 3:21 83 [1] - 3:22 86 [1] - 3:22		

<p>APPEARING [1] - 2:19</p> <p>applies [1] - 43:23</p> <p>apply [2] - 17:16, 79:2</p> <p>applying [1] - 12:25</p> <p>appreciate [1] - 95:13</p> <p>areas [1] - 71:17</p> <p>Armstrong [1] - 2:14</p> <p>arrest [24] - 20:24, 21:3, 21:21, 21:24, 22:4, 22:7, 22:12, 22:17, 22:19, 22:22, 23:4, 27:17, 27:22, 28:8, 28:14, 28:18, 30:20, 34:25, 35:3, 35:5, 35:24, 36:18, 36:21, 36:24</p> <p>arrestable [12] - 22:18, 23:8, 35:4, 35:6, 35:23, 36:3, 36:6, 36:11, 36:16, 36:17, 36:19, 36:23</p> <p>arrested [9] - 20:14, 20:19, 28:15, 28:24, 29:2, 32:17, 36:2, 73:22, 73:23</p> <p>arresting [1] - 21:22</p> <p>arrests [1] - 21:13</p> <p>assign [1] - 43:20</p> <p>assist [1] - 64:20</p> <p>assistant [1] - 6:16</p> <p>associate [1] - 55:16</p> <p>Association [1] - 54:5</p> <p>association [1] - 54:16</p> <p>assume [2] - 7:4, 12:2</p> <p>assumption [1] - 17:20</p> <p>asterisks [1] - 33:1</p> <p>attached [1] - 96:4</p> <p>attack [2] - 44:22, 45:5</p> <p>Attorney [4] - 1:15, 2:7, 2:8, 2:13</p> <p>attorney [2] - 82:8, 83:5</p> <p>attribute [1] - 56:6</p> <p>auditor's [1] - 30:9</p> <p>authorization [1] - 79:22</p> <p>automatically [1] - 76:5</p> <p>available [1] - 12:20</p> <p>Avenue [1] - 2:15</p> <p>aware [2] - 95:7</p>	<p style="text-align: center;">B</p> <p>ban [4] - 38:19, 73:19, 74:15, 81:19</p> <p>bandanna [1] - 70:17</p> <p>banned [30] - 38:24, 39:12, 42:10, 43:8, 44:11, 44:14, 45:3, 46:15, 48:8, 49:2, 49:22, 50:7, 50:12, 50:15, 51:12, 53:15, 53:18, 58:5, 58:11, 58:16, 58:25, 59:6, 62:20, 65:12, 65:14, 65:17, 66:17, 88:8, 90:12</p> <p>barking [1] - 28:14</p> <p>barks [1] - 28:12</p> <p>based [19] - 25:9, 25:22, 26:21, 33:13, 41:3, 41:14, 41:20, 49:10, 49:18, 50:18, 52:23, 62:14, 65:22, 67:17, 68:7, 72:24, 88:13, 92:11, 92:19</p> <p>basic [1] - 80:23</p> <p>Basic [1] - 3:20</p> <p>BAUMSTARK [1] - 1:5</p> <p>beat [1] - 19:14</p> <p>became [2] - 6:6, 41:12</p> <p>become [2] - 7:16, 39:16</p> <p>becomes [3] - 35:11, 35:25, 36:8</p> <p>Bedford [1] - 96:11</p> <p>begin [1] - 82:9</p> <p>behalf [2] - 2:11, 2:17</p> <p>behavior [2] - 55:6, 55:12</p> <p>behaviors [1] - 55:15</p> <p>bench [1] - 84:8</p> <p>best [4] - 10:12, 46:8, 59:18, 75:9</p> <p>between [15] - 8:6, 10:11, 10:13, 13:10, 15:5, 25:14, 42:18, 48:2, 53:5, 59:19, 60:16, 61:6, 80:5, 83:9, 93:11</p> <p>big [1] - 64:16</p> <p>bigger [1] - 60:24</p> <p>Bismarck [2] - 2:16, 21:8</p> <p>bit [2] - 34:23, 58:8</p> <p>black [2] - 72:2, 85:1</p> <p>Blackwell [1] - 2:9</p> <p>blocky [2] - 51:19,</p>	<p>67:21</p> <p>blue [4] - 47:8, 47:9, 47:16, 70:24</p> <p>body [1] - 72:18</p> <p>bond [1] - 20:15</p> <p>bonded [1] - 36:2</p> <p>book [4] - 40:5, 40:11, 40:12, 40:19</p> <p>Book [3] - 40:8, 40:15, 40:16</p> <p>booklet [1] - 82:19</p> <p>books [8] - 17:8, 39:19, 39:21, 40:2, 40:21, 40:25, 41:3</p> <p>border [1] - 63:17</p> <p>bottom [2] - 28:3, 28:12</p> <p>Box [1] - 2:15</p> <p>boxer [1] - 47:8</p> <p>boxers [1] - 47:8</p> <p>boy [1] - 59:17</p> <p>brain [1] - 60:11</p> <p>BRANDY [1] - 1:4</p> <p>break [3] - 80:18, 83:11</p> <p>breed [87] - 15:2, 15:19, 16:5, 16:9, 37:20, 37:21, 37:22, 38:5, 38:11, 40:5, 41:15, 41:21, 41:24, 43:14, 43:20, 44:2, 44:5, 44:10, 45:12, 45:16, 45:18, 45:21, 45:24, 46:6, 49:2, 49:3, 49:7, 49:22, 50:22, 50:23, 51:3, 51:4, 51:11, 52:20, 52:22, 54:20, 54:25, 55:1, 55:6, 55:11, 55:15, 55:16, 56:6, 58:15, 58:16, 58:25, 59:6, 61:12, 61:16, 61:23, 62:5, 62:20, 63:14, 64:7, 64:10, 64:14, 64:17, 64:20, 65:15, 67:24, 68:7, 70:18, 71:1, 71:11, 71:14, 71:15, 71:21, 71:23, 72:9, 72:15, 72:20, 72:21, 72:24, 72:25, 75:2, 75:8, 75:11, 86:10, 87:12, 87:18, 87:23, 87:25, 88:7, 88:12, 90:12</p> <p>breeding [3] - 71:20, 72:11, 72:15</p> <p>Breeds [2] - 40:7, 40:16</p> <p>breeds [42] - 15:21, 16:2, 17:9, 37:20,</p>	<p>38:3, 38:8, 38:24, 39:8, 39:9, 39:10, 39:14, 42:10, 43:8, 44:11, 44:14, 44:16, 44:23, 44:25, 45:3, 46:15, 48:7, 48:15, 50:8, 50:12, 50:15, 51:13, 53:15, 53:19, 55:12, 58:5, 58:11, 60:12, 61:12, 65:3, 65:12, 65:19, 66:10, 66:18, 72:13, 73:4, 74:25, 88:1</p> <p>BRIAN [1] - 2:13</p> <p>Brian [1] - 83:23</p> <p>brick [1] - 85:14</p> <p>briefing [1] - 11:1</p> <p>briefly [3] - 5:1, 17:14, 93:14</p> <p>brindle [4] - 47:16, 59:1, 70:15, 85:9</p> <p>brindle-colored [1] - 70:15</p> <p>Broadway [2] - 1:21, 2:15</p> <p>broke [1] - 9:21</p> <p>brought [1] - 79:14</p> <p>brown [5] - 84:10, 84:12, 85:1, 85:5, 85:14</p> <p>bull [79] - 24:1, 24:3, 24:6, 37:9, 37:13, 37:15, 37:16, 37:22, 37:23, 38:3, 38:4, 38:6, 38:15, 38:23, 40:16, 47:10, 47:13, 47:15, 48:13, 48:17, 48:19, 48:20, 48:25, 49:3, 49:4, 49:5, 49:20, 51:10, 51:16, 51:20, 51:22, 51:24, 52:15, 53:10, 53:13, 56:7, 56:10, 56:12, 56:14, 56:16, 59:11, 59:14, 59:24, 59:25, 61:1, 64:7, 64:9, 64:12, 64:24, 65:5, 66:3, 66:4, 66:7, 67:7, 67:10, 67:16, 67:23, 68:10, 73:19, 75:24, 81:14, 81:19, 82:3, 82:24, 88:20, 90:6, 90:22, 91:9, 91:22, 92:17, 93:19, 93:21, 94:3, 94:11, 95:10</p> <p>Bull [1] - 37:5</p> <p>bull's [1] - 60:16</p> <p>bull-type [7] - 37:9, 37:13, 47:10, 67:23, 93:19, 93:21, 94:11</p>	<p>bulldog [3] - 56:24, 87:16, 87:21</p> <p>bullet [6] - 28:2, 28:12, 30:6, 31:4, 33:1, 48:5</p> <p>bullmastiff [5] - 57:17, 57:21, 58:4, 59:11, 60:24</p> <p>bullmastiff's [2] - 59:19, 60:16</p> <p>bullmastiffs [1] - 60:20</p> <p>bulls [7] - 38:15, 44:10, 47:17, 82:8, 82:10, 83:6, 93:6</p> <p>BY [25] - 4:8, 5:18, 8:16, 15:10, 21:18, 22:24, 24:13, 26:3, 27:1, 29:20, 48:3, 49:17, 51:1, 55:21, 58:1, 59:22, 61:9, 61:22, 70:13, 79:6, 80:8, 83:18, 86:5, 86:22, 93:17</p> <p style="text-align: center;">C</p> <p>California [4] - 2:9, 5:22, 6:17, 16:21</p> <p>cane [3] - 56:18, 56:20, 57:1</p> <p>canine [1] - 45:8</p> <p>capable [3] - 44:21, 44:24, 45:4</p> <p>capacity [2] - 78:25, 94:9</p> <p>Car [1] - 81:15</p> <p>caring [1] - 6:24</p> <p>Carli [19] - 3:9, 7:21, 8:1, 8:20, 9:7, 11:8, 11:16, 12:3, 12:9, 14:9, 14:12, 17:25, 19:7, 20:23, 22:9, 43:10, 74:9, 75:3, 83:5</p> <p>case [6] - 4:12, 78:4, 94:16, 94:19, 94:25, 95:4</p> <p>Case [1] - 1:6</p> <p>cases [5] - 20:1, 37:8, 43:11, 75:19, 79:1</p> <p>Cat [2] - 34:13</p> <p>Catherine [3] - 13:19, 14:1, 14:6</p> <p>caught [1] - 8:4</p> <p>cautious [1] - 68:12</p> <p>Celander [2] - 13:20, 14:2</p> <p>Center [1] - 21:8</p>
--	---	--	---	---

<p>certain [4] - 22:13, 23:5, 47:11, 51:4</p> <p>certainly [1] - 86:21</p> <p>certainty [4] - 61:15, 62:6, 62:8, 65:14</p> <p>Certificate [2] - 3:24, 3:25</p> <p>CERTIFICATE [1] - 96:1</p> <p>certify [1] - 96:3</p> <p>chance [1] - 86:23</p> <p>change [2] - 6:11, 68:11</p> <p>CHANGE [4] - 96:19, 96:21, 96:23, 96:25</p> <p>changed [4] - 6:10, 6:12, 82:13, 82:16</p> <p>char [1] - 47:20</p> <p>characteristics [32] - 38:2, 38:18, 38:23, 41:14, 45:18, 46:14, 46:16, 46:18, 47:20, 48:6, 49:1, 50:5, 52:22, 58:3, 61:14, 62:19, 63:10, 63:24, 64:2, 64:4, 64:11, 64:25, 65:6, 65:10, 67:3, 67:11, 67:15, 67:19, 71:22, 73:9, 73:10</p> <p>charge [3] - 28:20, 28:25, 76:15</p> <p>cheap [1] - 77:17</p> <p>cheek [2] - 77:13, 77:17</p> <p>chocolate [1] - 72:3</p> <p>circumstance [2] - 79:18, 94:15</p> <p>circumstances [1] - 94:13</p> <p>citation [4] - 20:15, 20:21, 66:22, 77:12</p> <p>Citations [1] - 18:11</p> <p>cite [37] - 33:24, 43:9, 48:12, 48:21, 48:23, 51:21, 63:2, 63:3, 64:25, 65:15, 65:21, 65:23, 66:5, 66:11, 66:13, 66:16, 67:7, 67:13, 68:1, 75:13, 75:14, 88:13, 88:17, 88:24, 89:9, 89:23, 90:18, 90:22, 90:25, 91:2, 91:5, 91:7, 91:11, 91:13, 91:16, 91:18</p> <p>cited [11] - 28:13, 52:25, 53:2, 53:9, 53:18, 75:12, 75:24, 79:8, 82:2, 92:4,</p>	<p>92:19</p> <p>citing [1] - 65:7</p> <p>city [26] - 7:8, 17:17, 24:24, 25:10, 26:6, 30:8, 30:9, 30:12, 31:6, 31:14, 31:21, 31:23, 32:1, 33:4, 33:16, 33:17, 33:21, 34:1, 34:7, 37:9, 44:11, 82:3, 82:8, 83:5, 92:17</p> <p>CITY [1] - 1:9</p> <p>City [14] - 1:20, 3:13, 3:21, 4:23, 6:3, 8:19, 13:7, 24:16, 26:13, 32:1, 33:14, 75:23, 77:7, 79:7</p> <p>Civil [1] - 1:17</p> <p>classifications [1] - 24:18</p> <p>clear [3] - 23:16, 85:20, 85:22</p> <p>clearly [2] - 51:21, 51:24</p> <p>clinic [1] - 5:6</p> <p>close [1] - 49:16</p> <p>coat [4] - 58:21, 58:24, 62:15</p> <p>cold [4] - 19:19, 19:23, 20:6, 20:8</p> <p>COLE [1] - 1:6</p> <p>COLE-PEREA [1] - 1:6</p> <p>collar [7] - 28:3, 28:7, 35:15, 70:25, 85:1, 85:12</p> <p>collect [2] - 79:22, 79:25</p> <p>collects [1] - 77:10</p> <p>collie [2] - 51:11, 63:17</p> <p>collies [1] - 51:14</p> <p>color [9] - 46:21, 47:4, 47:6, 47:11, 58:22, 58:24, 62:15, 63:13, 72:6</p> <p>colored [1] - 70:15</p> <p>coloring [1] - 85:6</p> <p>combination [11] - 38:8, 46:10, 46:13, 47:18, 48:15, 48:20, 52:10, 52:11, 52:12, 74:20, 88:1</p> <p>combine [1] - 52:2</p> <p>comfortable [1] - 68:7</p> <p>commenced [1] - 4:1</p> <p>commencing [1] - 1:22</p> <p>commonly [1] - 38:5</p>	<p>community [8] - 4:18, 4:20, 5:24, 6:2, 6:6, 6:10, 6:20, 12:19</p> <p>comparatively [1] - 44:15</p> <p>compared [4] - 44:24, 52:21, 72:20, 72:25</p> <p>comparing [1] - 57:20</p> <p>Complete [3] - 40:7, 40:15</p> <p>complete [1] - 96:6</p> <p>complied [27] - 15:16, 17:11, 17:21, 18:8, 18:23, 27:6, 27:14, 29:12, 30:16, 30:23, 32:10, 34:10, 34:17, 37:2, 55:25, 57:10, 57:18, 62:2, 63:21, 66:25, 68:15, 73:15, 80:12, 81:6, 81:24, 86:14, 89:5</p> <p>complying [1] - 8:24</p> <p>concluded [1] - 95:16</p> <p>Conference [1] - 1:20</p> <p>conference [1] - 10:24</p> <p>confidence [1] - 43:20</p> <p>confident [5] - 43:9, 43:15, 43:16, 51:3, 65:6</p> <p>consist [1] - 14:15</p> <p>consistent [4] - 62:20, 67:12, 67:16, 67:23</p> <p>contact [1] - 92:16</p> <p>contain [1] - 88:7</p> <p>Control [3] - 3:9, 3:12, 54:5</p> <p>control [59] - 6:5, 6:8, 6:22, 6:23, 7:12, 7:16, 7:17, 7:20, 7:23, 12:5, 12:19, 14:17, 16:23, 18:2, 19:8, 20:3, 21:12, 21:20, 22:3, 22:11, 24:15, 24:19, 25:1, 25:8, 25:15, 25:16, 26:5, 26:11, 28:6, 28:13, 31:22, 32:6, 33:14, 33:20, 33:25, 34:4, 41:7, 41:13, 42:8, 44:7, 49:22, 50:20, 54:17, 74:13, 75:1, 76:19, 76:21, 78:25, 79:9, 81:4, 81:18,</p>	<p>82:19, 82:23, 91:21, 93:3, 93:5, 93:19, 94:10, 95:8</p> <p>convicted [1] - 33:2</p> <p>copy [4] - 11:4, 11:5, 77:24, 78:3</p> <p>corner [1] - 59:25</p> <p>correct [86] - 4:14, 17:20, 18:13, 19:19, 19:20, 20:7, 20:11, 20:12, 20:16, 20:17, 20:22, 22:5, 22:8, 27:9, 27:10, 27:18, 28:4, 28:5, 29:23, 29:24, 30:9, 30:10, 30:14, 30:21, 31:2, 31:7, 31:8, 32:5, 32:8, 32:13, 32:14, 32:18, 32:21, 32:24, 34:8, 34:14, 34:15, 34:21, 34:22, 34:25, 35:1, 35:3, 35:10, 35:16, 36:13, 37:5, 37:6, 37:10, 37:18, 37:24, 38:7, 38:9, 38:20, 41:4, 41:5, 41:22, 42:6, 44:6, 44:12, 45:15, 48:9, 51:5, 51:6, 51:8, 51:14, 51:18, 51:21, 57:7, 57:13, 60:12, 65:25, 71:15, 73:12, 73:24, 74:5, 74:22, 81:8, 82:4, 86:2, 88:8, 88:9, 89:18, 92:25, 94:7, 95:5, 95:6</p> <p>correction [1] - 96:9</p> <p>corrections [1] - 96:7</p> <p>corso [3] - 56:18, 56:21, 57:1</p> <p>counsel [2] - 2:10, 2:16</p> <p>Counsel's [28] - 8:24, 15:16, 17:11, 17:21, 18:8, 18:23, 27:6, 27:14, 29:12, 30:16, 30:23, 32:10, 34:10, 34:17, 37:2, 55:25, 57:10, 57:18, 62:2, 63:21, 66:25, 68:15, 73:15, 80:12, 81:6, 81:24, 86:14, 89:5</p> <p>counting [1] - 41:9</p> <p>County [5] - 1:18, 5:8, 5:12, 5:14, 5:17</p> <p>county [1] - 5:10</p> <p>couple [4] - 81:21, 83:11, 86:13, 91:25</p>	<p>couple-minute [1] - 83:11</p> <p>Court [2] - 3:25, 4:13</p> <p>COURT [4] - 1:1, 5:9, 5:12, 5:15</p> <p>court [12] - 8:15, 8:18, 15:7, 26:18, 55:20, 61:8, 76:14, 76:20, 79:14, 80:7, 82:4, 83:15</p> <p>cover [1] - 13:3</p> <p>created [1] - 92:16</p> <p>criminal [7] - 24:17, 25:2, 25:6, 25:7, 25:9, 25:11, 25:17</p> <p>cruelly [1] - 19:14</p> <p>Cruelty [1] - 19:2</p> <p>cruelty [1] - 19:4</p> <p>CSO [1] - 3:9</p> <p>curly [1] - 47:2</p> <p>current [1] - 7:19</p> <p>Custody [2] - 3:18, 80:21</p> <p>custody [3] - 79:20, 79:21, 79:23</p>
D				
<p>dad [1] - 73:8</p> <p>DAKOTA [2] - 1:2, 1:10</p> <p>Dakota [6] - 1:19, 1:21, 2:16, 4:14, 5:19, 17:18</p> <p>damage [3] - 44:22, 44:24, 45:4</p> <p>dangerous [4] - 44:15, 44:18, 93:7, 94:5</p> <p>DANIKA [1] - 1:5</p> <p>Dated [1] - 96:11</p> <p>days [2] - 9:12, 33:4</p> <p>deal [2] - 23:19, 24:8</p> <p>deals [3] - 27:8, 30:25, 34:12</p> <p>dealt [2] - 24:3, 24:6</p> <p>decide [2] - 31:24, 66:16</p> <p>decided [1] - 28:25</p> <p>decision [2] - 33:9, 33:10</p> <p>Declared [1] - 27:9</p> <p>declared [2] - 27:22, 31:20</p> <p>Defendant [2] - 1:11, 2:17</p> <p>defines [1] - 37:14</p> <p>definite [2] - 63:19, 92:11</p> <p>definition [4] - 19:4,</p>				

<p>19:12, 19:13, 19:17 degree [1] - 5:5 department [13] - 10:22, 12:15, 23:11, 23:12, 23:13, 23:14, 29:6, 29:8, 32:19, 32:23, 35:20, 40:6, 78:9 Department [4] - 3:11, 3:16, 3:20, 4:19 dependent [1] - 33:10 DEPONENT [8] - 5:11, 5:14, 5:16, 26:23, 50:21, 69:8, 69:18, 96:1 deponent [34] - 13:17, 13:25, 15:16, 17:11, 17:21, 18:8, 18:23, 27:6, 27:14, 29:12, 30:16, 30:23, 32:10, 34:10, 34:17, 37:2, 46:4, 47:3, 50:2, 55:25, 57:10, 57:18, 62:2, 63:21, 65:8, 66:25, 68:15, 73:15, 80:12, 81:6, 81:24, 86:14, 89:5, 96:2 Deponent [2] - 2:20, 3:24 deposition [7] - 4:12, 10:1, 53:14, 85:16, 96:3, 96:4, 96:7 DEPOSITION [1] - 1:14 Deposition [6] - 8:14, 15:5, 55:19, 61:6, 80:5, 83:14 deprive [1] - 19:13 describe [18] - 9:2, 11:15, 38:25, 40:16, 46:8, 46:11, 49:8, 51:25, 54:12, 58:19, 59:12, 59:18, 60:2, 60:4, 60:8, 60:11 Description [1] - 3:8 destroyed [1] - 31:5 detailed [1] - 11:15 determination [25] - 31:12, 35:17, 38:19, 43:7, 43:14, 46:6, 49:20, 51:3, 51:12, 61:24, 62:5, 62:16, 63:14, 64:5, 64:7, 64:20, 65:13, 66:17, 67:4, 68:7, 70:18, 71:1, 75:2, 75:8, 75:11 determinations [1] - 52:22</p>	<p>determine [13] - 38:22, 42:9, 44:1, 44:2, 63:11, 63:25, 64:3, 64:6, 64:8, 64:10, 68:5, 72:23, 89:13 determined [1] - 45:17 determines [1] - 32:6 difference [2] - 59:19, 60:15 differences [1] - 60:9 different [16] - 16:15, 34:24, 52:20, 58:17, 58:18, 58:20, 59:10, 60:22, 71:24, 71:25, 72:12, 72:13, 72:15, 73:8, 74:4, 79:2 difficult [7] - 38:25, 46:11, 59:12, 59:17, 68:5, 72:23, 89:13 disagree [2] - 54:15, 76:15 disagreed [1] - 75:16 discretion [8] - 20:2, 28:10, 28:18, 28:20, 28:23, 35:24, 36:20, 66:20 discussed [1] - 19:1 discusses [2] - 37:4, 73:18 discussing [2] - 18:1, 74:9 discussion [10] - 8:13, 15:4, 19:21, 19:24, 19:25, 48:1, 61:5, 80:4, 83:8, 93:10 discussions [5] - 19:6, 20:23, 22:9, 74:12, 74:18 disguise [1] - 69:6 distinction [1] - 25:14 District [2] - 4:13 DISTRICT [2] - 1:1, 1:2 divided [1] - 7:13 DNA [42] - 43:12, 49:21, 50:6, 52:23, 52:25, 53:9, 53:18, 66:1, 66:9, 75:20, 75:23, 76:5, 76:12, 76:14, 77:4, 77:5, 77:7, 78:11, 79:7, 79:10, 79:17, 79:21, 79:22, 79:25, 86:10, 87:10, 89:7, 89:20, 89:23, 90:4, 90:11, 90:16, 90:21, 90:25,</p>	<p>91:2, 91:4, 91:7, 91:10, 91:13, 91:15, 91:18 DNA-test [1] - 79:7 DNA-tested [4] - 43:12, 52:25, 53:9, 53:18 document [2] - 8:19, 15:9 documents [1] - 11:10 dog [153] - 16:6, 28:7, 28:11, 28:14, 31:17, 31:19, 31:21, 31:22, 32:13, 33:2, 33:4, 33:11, 33:15, 35:15, 37:9, 37:13, 37:22, 38:1, 38:11, 38:17, 38:22, 41:20, 42:9, 43:5, 43:19, 43:21, 43:25, 45:18, 46:5, 47:8, 47:12, 48:5, 48:12, 48:18, 49:7, 49:10, 49:18, 49:21, 49:23, 50:7, 50:11, 50:14, 50:23, 51:4, 51:9, 51:10, 51:12, 51:19, 51:23, 52:3, 55:1, 56:5, 56:6, 56:9, 58:4, 59:7, 61:11, 61:13, 61:23, 62:4, 62:5, 62:9, 62:12, 62:16, 62:17, 62:24, 63:1, 63:5, 63:6, 63:9, 63:12, 63:23, 64:5, 64:16, 64:18, 65:4, 65:7, 65:10, 65:11, 65:22, 65:24, 66:2, 66:5, 66:10, 66:12, 66:15, 66:17, 67:2, 67:6, 67:7, 67:14, 67:25, 68:9, 68:13, 68:17, 68:18, 68:19, 69:5, 69:13, 70:15, 70:19, 70:24, 70:25, 71:1, 71:10, 74:1, 74:4, 75:12, 76:12, 77:7, 79:8, 79:10, 79:20, 79:21, 79:23, 79:25, 82:1, 83:20, 84:8, 84:9, 84:10, 84:11, 84:12, 84:14, 84:16, 84:17, 84:19, 84:21, 84:23, 84:25, 85:2, 85:5, 85:7, 85:9, 85:11, 85:14, 87:11, 89:14, 89:16, 89:19, 90:4, 90:5, 90:18, 90:21, 91:25, 92:1,</p>	<p>92:5, 92:10, 92:19, 92:23, 94:11, 95:10 Dog [3] - 40:7, 40:15 dog's [9] - 44:2, 44:5, 45:9, 45:24, 49:12, 49:19, 55:6, 60:9 dogs [60] - 17:6, 17:7, 17:8, 37:11, 37:20, 39:23, 40:24, 41:3, 41:14, 43:12, 44:9, 45:12, 45:16, 45:21, 47:10, 51:15, 52:20, 52:25, 53:1, 53:8, 53:12, 53:17, 55:12, 55:14, 57:2, 57:5, 57:12, 57:22, 61:2, 65:3, 71:13, 71:15, 72:20, 72:25, 74:14, 75:24, 83:3, 86:9, 86:11, 87:2, 87:6, 87:9, 87:12, 88:5, 88:7, 88:11, 88:12, 88:16, 88:21, 88:23, 89:8, 89:9, 91:21, 93:7, 93:19, 93:21, 94:3 Dogs [3] - 34:13, 37:5 dominant [1] - 64:14 done [5] - 42:14, 42:16, 52:18, 52:24, 75:20 door [1] - 92:14 down [4] - 9:3, 9:7, 70:16, 70:17 downtown [1] - 7:7 driving [1] - 7:5 duly [1] - 4:5 during [1] - 19:7 Dustin [3] - 13:20, 14:2, 14:6 duties [3] - 6:20, 7:17, 8:7</p>	<p>77:4, 89:9 email [1] - 83:4 Embark [3] - 86:10, 87:10, 88:22 EMILY [1] - 1:6 employed [4] - 4:23, 6:3, 24:16, 26:12 employment [1] - 5:2 encounter [1] - 28:7 end [3] - 80:25, 94:24, 95:4 ended [1] - 70:10 enforce [1] - 34:6 Enforcement [1] - 21:8 enforcement [5] - 6:22, 7:23, 21:4, 43:24, 81:18 enforces [1] - 18:2 enforcing [2] - 6:25, 20:3 English [2] - 72:5, 72:11 entire [3] - 9:18, 9:19, 17:1 especially [2] - 64:15, 68:4 essentially [1] - 8:7 ethanized [1] - 31:14 evidence [7] - 65:20, 66:13, 66:19, 66:21, 67:5, 68:2, 80:1 Examination [1] - 3:4 EXAMINATION [1] - 4:7 examination [2] - 52:9, 96:5 examined [1] - 4:5 examining [1] - 38:22 example [4] - 25:10, 40:14, 47:7, 48:18 except [2] - 54:12, 94:16 exception [1] - 87:11 exchange [1] - 79:4 exclusive [1] - 47:17 excuse [2] - 5:9, 77:17 executed [1] - 95:9 exercise [1] - 20:3 exercises [1] - 33:16 exhibit [4] - 46:14, 59:23, 83:14, 83:24 Exhibit [32] - 8:14, 8:18, 15:6, 15:12, 17:10, 55:19, 55:23, 57:13, 57:17, 57:21,</p>
---	---	--	--	---

E

<p>57:22, 58:2, 59:20, 60:1, 61:7, 61:11, 61:12, 71:4, 73:14, 74:8, 80:6, 80:10, 83:20, 84:8, 86:1, 86:4, 86:7, 86:20, 86:24, 87:9, 88:6, 89:4</p> <p>EXHIBITS [1] - 3:7</p> <p>exist [1] - 71:18</p> <p>expect [4] - 21:24, 71:11, 71:14, 72:9</p> <p>exper [1] - 45:22</p> <p>experience [19] - 16:22, 17:4, 17:5, 23:25, 39:5, 39:6, 39:13, 39:18, 39:22, 41:2, 41:8, 41:9, 41:10, 41:21, 41:23, 42:5, 60:13, 74:24, 93:20</p> <p>experiment [2] - 52:19, 52:24</p> <p>explain [1] - 11:20</p> <p>explained [1] - 11:20</p> <p>explanation [1] - 54:15</p> <p>expose [1] - 19:18</p> <p>exposed [1] - 20:5</p> <p>express [2] - 45:19, 55:15</p> <p>extreme [1] - 20:8</p>	<p>30:6, 30:8, 36:1, 36:5, 36:7, 36:9, 36:15, 36:18, 36:20, 36:24, 70:8, 73:21, 73:25, 80:20, 86:7</p> <p>first-offense [2] - 36:9, 36:20</p> <p>five [1] - 33:3</p> <p>fix [2] - 21:16, 26:1</p> <p>flipped [1] - 40:12</p> <p>Floor [1] - 1:19</p> <p>floor [4] - 84:9, 84:10, 84:13, 85:15</p> <p>follows [1] - 4:6</p> <p>food [1] - 19:14</p> <p>foot [1] - 64:18</p> <p>footstool [1] - 85:8</p> <p>FOR [1] - 1:2</p> <p>foregoing [1] - 96:3</p> <p>forgot [1] - 26:15</p> <p>Form [4] - 3:17, 3:17, 3:19, 80:23</p> <p>form [9] - 15:12, 16:16, 21:14, 22:23, 24:11, 25:24, 80:21, 80:22, 80:23</p> <p>formal [2] - 78:8, 78:11</p> <p>format [1] - 15:18</p> <p>Forms [1] - 80:21</p> <p>formula [1] - 52:13</p> <p>forth [1] - 25:17</p> <p>four [4] - 10:2, 10:11, 18:12, 52:15</p> <p>fourth [7] - 18:13, 18:16, 35:2, 35:8, 35:18, 36:9, 36:10</p> <p>front [2] - 16:1, 92:23</p>	<p>55:14, 71:11, 71:13, 71:15, 82:3</p> <p>grab [1] - 83:19</p> <p>grass [3] - 84:15, 84:18, 84:20</p> <p>gray [1] - 43:3</p> <p>green [1] - 84:21</p> <p>grew [1] - 17:1</p> <p>grow [1] - 68:11</p> <p>growing [1] - 40:23</p> <p>guess [12] - 10:12, 11:13, 19:10, 27:3, 35:7, 41:25, 43:23, 63:16, 63:17, 64:10, 64:17, 85:25</p> <p>guessing [1] - 65:2</p> <p>guilty [2] - 79:13, 79:16</p> <p>guys [3] - 11:17, 15:8, 83:10</p>	<p>hiring [3] - 6:4, 13:11, 15:1</p> <p>history [1] - 5:2</p> <p>hmm [30] - 5:4, 6:1, 6:18, 9:1, 10:20, 12:24, 14:4, 14:19, 14:23, 15:25, 18:14, 19:5, 19:16, 26:7, 33:6, 43:4, 44:3, 47:1, 47:5, 53:16, 57:14, 59:4, 59:9, 60:25, 63:4, 63:8, 72:7, 90:23, 91:14, 92:3</p> <p>HOLLY [1] - 1:6</p> <p>home [1] - 31:20</p> <p>hopefully [1] - 85:19</p> <p>hours [3] - 10:6, 10:9, 10:12</p> <p>HR [1] - 13:19</p> <p>human [1] - 44:20</p> <p>hundred [2] - 42:21, 54:2</p> <p>Husch [1] - 2:8</p> <p>hypothetical [1] - 49:10</p>	<p>indicated [2] - 13:11, 96:6</p> <p>indicates [1] - 18:11</p> <p>indicating [3] - 69:14, 70:2, 71:4</p> <p>indicating [3] - 69:1, 69:17, 69:20</p> <p>individual [1] - 43:19</p> <p>inform [1] - 76:23</p> <p>information [2] - 67:8, 79:4</p> <p>Information [1] - 3:21</p> <p>informed [7] - 13:7, 76:16, 76:18, 76:22, 78:10, 78:15, 79:15</p> <p>informs [1] - 79:9</p> <p>infraction [5] - 25:13, 25:16, 25:21, 26:20, 27:11</p> <p>Inmate [2] - 3:17, 80:21</p> <p>inspect [1] - 92:5</p> <p>inspecting [1] - 92:23</p> <p>inspection [1] - 49:12</p> <p>instances [1] - 31:15</p> <p>instructed [3] - 23:3, 34:4, 82:9</p> <p>intended [1] - 44:9</p> <p>interacting [1] - 93:20</p> <p>interaction [2] - 93:18, 94:2</p> <p>interactions [1] - 94:4</p> <p>interested [1] - 17:8</p> <p>intern [1] - 5:7</p> <p>interpose [1] - 78:20</p> <p>interprets [1] - 19:8</p> <p>Interview [1] - 3:12</p> <p>interview [6] - 13:5, 13:6, 13:12, 13:21, 14:5, 15:2</p> <p>interviews [6] - 13:16, 13:18, 13:24, 14:7, 14:10, 14:24</p> <p>Introduction [1] - 3:9</p> <p>involve [1] - 17:6</p> <p>involved [5] - 7:23, 12:25, 17:3, 74:13, 75:19</p> <p>itself [2] - 25:18, 49:3</p>	
F		H		J	
<p>factor [1] - 60:18</p> <p>fail [1] - 60:3</p> <p>fair [2] - 17:23, 92:22</p> <p>falling [3] - 56:9, 56:12, 56:14</p> <p>falls [1] - 38:19</p> <p>familiar [8] - 17:9, 23:18, 39:8, 39:9, 39:15, 39:16, 40:24, 87:20</p> <p>father [1] - 73:11</p> <p>Federal [2] - 1:16, 4:13</p> <p>felt [2] - 62:18, 92:12</p> <p>few [1] - 47:16</p> <p>FFA [1] - 17:2</p> <p>field [1] - 28:10</p> <p>figure [2] - 38:10, 84:3</p> <p>fill [3] - 13:4, 15:13, 15:22</p> <p>filled [1] - 15:14</p> <p>first [23] - 4:5, 13:21, 14:1, 18:11, 19:12, 20:13, 22:20, 30:5,</p>	G	<p>hair [9] - 46:23, 46:25, 47:2, 59:2, 59:3, 59:5, 59:7</p> <p>half [5] - 4:22, 5:25, 7:18, 51:10</p> <p>Hall [1] - 1:20</p> <p>hallway [1] - 10:25</p> <p>hand [5] - 8:17, 55:22, 61:10, 80:9, 86:6</p> <p>handing [1] - 15:11</p> <p>handkerchief [1] - 85:3</p> <p>hanging [1] - 85:4</p> <p>hard [5] - 11:4, 11:5, 46:7, 56:23, 64:15</p> <p>harm [1] - 44:19</p> <p>harmfully [1] - 19:18</p> <p>harness [1] - 70:16</p> <p>Hauge [1] - 1:17</p> <p>head [14] - 10:18, 26:23, 46:4, 46:19, 46:22, 51:19, 52:3, 58:6, 62:14, 63:12, 67:17, 67:22, 85:6</p> <p>heads [2] - 51:16, 60:21</p> <p>heat [4] - 19:18, 19:22, 20:5, 20:8</p> <p>held [1] - 80:1</p> <p>helpful [1] - 84:1</p> <p>herein [2] - 1:24, 96:8</p> <p>hi [1] - 4:9</p> <p>hire [1] - 13:7</p> <p>hired [3] - 6:8, 21:23, 75:23</p>	I	<p>jaw [1] - 46:19</p> <p>Jimenez [2] - 8:3, 8:5</p>	

job [13] - 6:11, 6:20, 7:10, 8:7, 14:20, 21:12, 21:20, 41:6, 41:10, 41:11, 41:16, 41:19, 42:2
jobs [1] - 12:23
jowls [1] - 60:5
judge [2] - 31:24, 32:7
judge's [1] - 33:9
jurisdiction [1] - 33:17
justify [1] - 66:22
JYL [1] - 1:4

K

Keeping [1] - 37:5
keeping [1] - 37:8
kennel [2] - 6:16, 30:7
Kennels [1] - 29:22
kind [19] - 7:10, 7:13, 7:15, 9:2, 17:15, 17:18, 19:3, 19:7, 25:12, 43:2, 49:9, 52:18, 55:8, 56:20, 63:17, 71:22, 87:6, 93:23, 94:13
kinds [2] - 37:11, 72:8
knowing [1] - 88:11
knowingly [1] - 19:18
knowledge [12] - 24:21, 29:7, 39:5, 39:6, 43:17, 45:11, 53:24, 60:14, 75:9, 75:17, 76:13, 76:17
known [4] - 37:22, 38:5, 46:15, 93:24

L

lab [1] - 77:8
Labradors [1] - 51:17
labs [4] - 71:25, 72:2, 72:11
Labs [4] - 72:2, 72:3, 72:5
language [3] - 25:20, 26:19, 26:24
large [2] - 52:11, 84:14
larger [7] - 58:12, 60:5, 60:20, 60:21, 61:2, 61:3
Larson [2] - 13:19, 14:1

last [5] - 31:4, 33:1, 48:5, 76:6, 82:11
late [1] - 84:4
law [1] - 21:4
Law [5] - 1:15, 2:7, 2:8, 2:13, 21:8
laws [1] - 17:16
leaner [1] - 58:12
learn [2] - 12:18, 54:23
least [1] - 15:18
left [2] - 18:10, 82:1
legal [1] - 32:4
less [11] - 42:19, 42:21, 42:22, 42:23, 42:24, 42:25, 49:21, 53:6, 53:22, 53:23, 53:25
letter [1] - 13:3
license [9] - 25:10, 28:4, 28:7, 30:1, 30:3, 30:6, 30:9, 30:13, 30:19
License [1] - 34:13
licensed [2] - 21:2, 35:9
Licenses [1] - 34:14
licenses [1] - 34:20
licensing [1] - 25:11
Lieutenant [1] - 13:20
life [1] - 17:1
likely [3] - 44:19, 47:14, 63:2
limits [12] - 31:6, 31:14, 31:21, 33:4, 33:16, 33:17, 33:21, 34:1, 34:7, 37:9, 82:3, 92:17
LINE [4] - 96:18, 96:20, 96:22, 96:24
line [2] - 30:5, 78:19
listed [1] - 39:10
lists [1] - 48:7
litigation [1] - 79:1
livestock [1] - 17:2
LLP [1] - 2:9
look [56] - 8:21, 11:3, 11:22, 17:14, 17:19, 19:11, 28:2, 29:21, 32:25, 34:16, 38:17, 38:21, 39:15, 39:17, 39:23, 41:13, 41:20, 42:9, 46:5, 46:9, 46:12, 47:6, 47:11, 47:22, 48:18, 48:22, 49:18, 51:16, 51:20, 52:2, 52:6, 52:12, 55:24, 57:16, 58:9, 58:10, 61:11, 65:4,

65:9, 66:15, 66:24, 67:9, 67:20, 71:10, 71:13, 71:25, 73:8, 74:19, 80:11, 81:13, 81:22, 86:12, 88:5, 88:10, 89:3, 95:10
looked [15] - 40:2, 40:4, 43:5, 49:10, 51:9, 51:10, 51:11, 52:19, 57:13, 65:22, 71:3, 74:8, 74:10, 91:21, 91:23
looking [9] - 7:5, 10:18, 43:25, 52:14, 56:5, 67:14, 70:14, 71:5, 92:19
looks [8] - 43:25, 48:13, 51:22, 51:24, 56:18, 57:1, 59:2, 68:4
Lori [1] - 1:17
loud [1] - 51:7
lunch [1] - 9:21
lying [8] - 70:15, 70:17, 84:9, 84:10, 84:11, 84:19, 84:23, 85:10
LYNETTE [1] - 1:5

M

Madison [4] - 4:9, 4:18, 8:17, 96:2
MADISON [5] - 1:14, 2:19, 3:3, 4:3, 96:15
mail [1] - 77:20
major [1] - 31:17
makeup [9] - 44:5, 45:24, 50:8, 50:12, 50:16, 87:15, 87:18, 88:12, 88:17
mandatory [3] - 77:1, 77:5, 82:3
MANUEL [1] - 1:6
mark [1] - 83:24
Marked [1] - 3:8
marked [13] - 8:14, 8:18, 15:6, 15:11, 55:19, 55:22, 61:7, 61:10, 80:6, 80:10, 83:14, 86:3, 86:6
master [1] - 69:6
mastiff [1] - 56:20
mastiffs [1] - 60:5
mat [1] - 84:24
materials [2] - 12:10, 71:8
mathematical [1] - 52:13
MATHEW [1] - 1:5

matter [1] - 73:25
mean [15] - 5:3, 6:23, 19:11, 19:22, 35:23, 36:3, 38:17, 42:1, 48:11, 48:17, 48:25, 65:9, 71:7, 78:7, 87:19
meaning [1] - 90:11
means [3] - 36:4, 36:20, 36:22
meant [1] - 69:2
member [1] - 54:7
memory [1] - 11:13
Mendelian [2] - 46:1, 46:3
mentioned [4] - 16:20, 37:21, 66:11, 74:25
met [1] - 4:10
meter [2] - 7:5, 7:8
might [3] - 48:19, 58:25, 87:14
mind [3] - 51:10, 83:23, 92:11
mine [1] - 69:8
minute [2] - 11:24, 83:11
minutes [3] - 10:2, 10:11, 29:14
misdemeanor [17] - 22:21, 23:3, 23:16, 23:22, 24:10, 25:17, 25:22, 26:21, 26:25, 27:11, 27:12, 35:9, 35:12, 35:19, 36:15, 36:20, 36:22
misdemeanors [12] - 22:18, 23:17, 23:21, 23:23, 23:25, 24:19, 24:20, 24:22, 25:7, 35:5, 36:14
misnumbered [1] - 85:19
mistake [1] - 84:3
mix [2] - 63:17, 68:12
mixed [14] - 37:20, 37:21, 45:12, 45:16, 45:18, 45:21, 50:22, 50:23, 51:15, 55:1, 72:20, 72:25, 73:3, 87:12
mixed-breed [8] - 45:12, 45:16, 45:18, 45:21, 55:1, 72:20, 72:25, 87:12
mixes [1] - 38:15
Moldenhauer [1] - 2:14
mom [1] - 73:8
moment [2] - 4:10,

19:25
month [1] - 7:18
morning [3] - 9:19, 93:2, 95:13
most [5] - 37:8, 43:11, 49:1, 75:21, 76:21
mostly [3] - 48:13, 48:17, 49:20
mother [1] - 73:10
MR [92] - 2:7, 2:13, 4:8, 5:18, 8:11, 8:16, 15:8, 15:10, 21:14, 21:16, 21:18, 22:23, 22:24, 24:11, 24:13, 25:24, 26:1, 26:3, 26:16, 27:1, 29:14, 29:15, 29:18, 29:20, 48:3, 49:14, 49:17, 50:17, 50:19, 50:20, 51:1, 55:21, 57:23, 57:24, 57:25, 58:1, 59:21, 59:22, 61:9, 61:20, 61:22, 68:19, 68:20, 68:23, 68:24, 68:25, 69:2, 69:4, 69:6, 69:12, 69:15, 69:21, 69:23, 70:1, 70:4, 70:5, 70:7, 70:9, 70:10, 70:12, 70:13, 78:19, 78:22, 78:23, 79:3, 79:4, 79:5, 79:6, 80:8, 83:10, 83:12, 83:18, 83:23, 83:25, 84:2, 84:5, 84:7, 85:18, 85:19, 85:21, 85:24, 85:25, 86:2, 86:5, 86:16, 86:18, 86:19, 86:22, 93:12, 93:17, 95:12, 95:15
MS [11] - 2:8, 2:19, 61:18, 69:7, 69:10, 69:13, 69:16, 69:19, 69:22, 69:25, 93:13
mud [1] - 85:20
multicolored [1] - 85:3
multiple [2] - 9:12, 55:12
must [2] - 36:4, 68:21

N

NACA [4] - 54:9, 54:11, 54:19, 54:24
name [2] - 4:9, 4:16
names [2] - 16:2, 40:20
National [1] - 54:4

<p>Nebraska [1] - 2:10 necessarily [1] - 79:24 necessary [3] - 19:14, 92:24, 94:24 neck [2] - 70:18, 85:3 neckchief [1] - 84:22 need [7] - 62:22, 64:4, 64:8, 64:9, 64:23, 80:2, 80:18 needed [2] - 11:20, 92:13 negatively [1] - 46:4 neutral [1] - 93:8 never [4] - 50:10, 52:18, 75:16, 79:17 new [1] - 82:18 next [3] - 20:9, 69:10, 84:11 none [2] - 47:16, 53:18 nonuniformity [1] - 71:19 NORTH [2] - 1:2, 1:10 North [6] - 1:19, 1:21, 2:16, 4:13, 5:19, 17:18 nose [13] - 46:21, 58:6, 59:8, 59:10, 59:15, 59:19, 60:7, 60:9, 60:16, 60:23, 62:14, 63:13 nosés [1] - 60:21 Notary [1] - 1:18 noted [2] - 1:24, 96:8 Notice [2] - 3:18, 80:22 notice [1] - 1:16 notified [1] - 13:11 nuisance [15] - 18:15, 18:16, 27:16, 27:22, 28:1, 28:21, 35:11, 35:14, 35:19, 35:25, 36:1, 36:9, 36:11, 36:12 Nuisance [1] - 27:9 Number [14] - 8:14, 15:6, 15:15, 55:19, 61:7, 80:6, 86:1, 86:20, 89:11, 89:15, 89:16, 89:19, 89:22 number [5] - 30:2, 52:19, 81:14, 83:14, 89:12 numbered [1] - 69:9 numbers [4] - 59:23, 70:6, 83:22, 83:24</p>	<p style="text-align: center;">O</p> <p>object [4] - 21:14, 22:23, 24:11, 25:24 objections [2] - 85:23, 86:20 obscenity [1] - 39:2 obtain [1] - 94:21 obtained [2] - 94:19, 95:9 obvious [2] - 33:12, 68:10 obviously [3] - 41:10, 41:19, 91:24 occasion [1] - 92:9 occasionally [1] - 38:14 occupation [1] - 4:17 OF [4] - 1:2, 1:9, 1:14, 96:1 offense [52] - 18:12, 18:13, 18:16, 18:20, 20:13, 20:19, 20:20, 22:13, 22:16, 22:20, 22:22, 23:4, 23:24, 24:1, 24:3, 24:5, 24:17, 25:2, 27:16, 27:21, 27:24, 28:21, 28:22, 29:1, 30:18, 32:16, 34:24, 35:2, 35:8, 35:12, 35:18, 36:2, 36:5, 36:7, 36:8, 36:9, 36:10, 36:15, 36:16, 36:18, 36:20, 36:23, 36:24, 73:21, 73:22, 74:1, 74:3 offenses [2] - 22:19, 24:22 offer [1] - 54:14 office [1] - 30:9 officer [42] - 4:19, 4:21, 5:25, 6:2, 6:5, 6:8, 6:10, 6:21, 7:16, 7:20, 12:5, 12:19, 16:24, 20:3, 21:3, 21:5, 21:12, 21:20, 22:3, 22:4, 24:16, 26:5, 26:12, 33:14, 33:20, 34:4, 41:7, 41:13, 42:8, 44:7, 49:23, 50:20, 76:19, 77:11, 77:16, 78:25, 79:9, 91:21, 93:3, 93:5, 93:19, 94:10 Officer [1] - 3:12 officer/community [1] - 26:12 officers [5] - 7:25, 8:2, 54:17, 76:21, 76:22</p>	<p>offspring [3] - 45:18, 45:23, 73:9 Omaha [1] - 2:10 one [30] - 8:4, 8:12, 14:1, 24:2, 27:4, 27:8, 27:19, 34:23, 38:23, 42:9, 43:7, 50:7, 51:12, 52:2, 56:23, 57:23, 58:5, 58:10, 65:4, 65:11, 65:17, 66:17, 69:14, 69:16, 69:19, 72:2, 72:21, 88:23, 92:9, 94:21 ones [1] - 77:2 ongoing [4] - 94:16, 94:19, 94:25, 95:4 oops [1] - 68:20 open [1] - 92:14 operate [1] - 30:7 operates [2] - 31:10, 33:8 operating [1] - 30:18 opinion [6] - 50:18, 55:3, 65:21, 66:23, 75:11, 93:6 option [5] - 75:25, 76:8, 76:11, 76:14, 76:16 optional [1] - 77:4 oral [1] - 96:5 order [1] - 65:21 ordinance [42] - 18:19, 19:8, 20:4, 20:8, 20:11, 23:5, 23:7, 25:1, 25:16, 25:17, 25:19, 25:20, 25:23, 26:20, 26:22, 26:24, 31:10, 32:13, 33:8, 34:20, 36:1, 37:7, 37:12, 37:14, 37:19, 37:25, 43:24, 44:9, 45:6, 49:6, 49:24, 50:9, 50:23, 57:3, 88:8, 88:14, 88:18, 88:25, 89:10, 89:25, 90:3, 91:22 Ordinance [5] - 27:8, 29:22, 31:1, 34:12, 37:4 ordinances [11] - 7:1, 17:16, 18:2, 22:11, 22:14, 23:18, 24:24, 25:8, 26:9, 33:25, 34:6 outside [8] - 23:21, 31:21, 33:21, 34:1, 93:4, 93:18, 93:25, 94:6 OWAN [1] - 1:5 own [1] - 66:23</p>	<p>owned [1] - 93:24 owner [33] - 20:14, 20:19, 27:17, 27:23, 28:8, 28:14, 28:15, 28:19, 30:20, 31:19, 31:22, 31:25, 32:16, 33:3, 47:7, 66:6, 67:6, 73:22, 73:23, 77:25, 79:9, 79:13, 79:16, 82:2, 88:19, 88:21, 90:2, 90:3, 90:20, 92:4, 92:14 owner's [1] - 79:24 owners [7] - 38:14, 76:9, 76:11, 76:16, 76:23, 78:10, 89:24</p> <p style="text-align: center;">P</p> <p>p.m [5] - 83:13, 83:17, 93:15, 93:16, 95:16 P.O [1] - 2:15 packet [3] - 80:24, 81:1, 81:11 PAGE [4] - 96:18, 96:20, 96:22, 96:24 page [101] - 11:17, 11:19, 11:24, 15:15, 17:10, 17:13, 17:14, 18:1, 18:7, 18:10, 18:22, 19:1, 19:12, 20:10, 27:2, 27:3, 27:5, 27:13, 27:25, 29:11, 29:21, 30:15, 30:22, 31:4, 32:9, 33:1, 34:9, 34:12, 34:16, 37:1, 37:4, 48:5, 56:4, 56:5, 56:8, 56:11, 56:13, 56:15, 56:17, 56:19, 56:22, 56:25, 57:8, 57:9, 57:17, 57:21, 57:22, 59:20, 60:1, 61:12, 62:1, 62:4, 62:7, 62:9, 62:10, 62:17, 63:5, 63:6, 63:9, 63:20, 65:5, 67:14, 67:21, 67:25, 68:14, 68:17, 69:7, 69:8, 69:11, 69:24, 70:8, 73:13, 74:7, 80:25, 81:4, 81:14, 81:22, 83:22, 83:24, 84:7, 84:9, 84:12, 84:14, 84:16, 84:17, 84:19, 84:21, 84:23, 84:25, 85:2, 85:5, 85:7, 85:9, 85:11, 85:13, 87:12, 90:16</p>	<p>Page [3] - 3:4, 3:24, 3:25 pages [12] - 11:23, 57:2, 57:5, 80:20, 85:15, 85:16, 86:10, 88:6, 88:23, 89:4, 89:8, 96:4 paginated [2] - 61:19, 69:22 Panel™ [3] - 77:9, 77:18, 77:20 paperwork [2] - 6:4, 13:4 paragraph [2] - 81:13, 81:22 parking [4] - 6:22, 7:4, 7:9, 7:12 part [22] - 8:25, 12:4, 12:10, 14:9, 14:13, 14:14, 15:1, 15:13, 17:24, 21:11, 22:10, 32:3, 39:21, 41:7, 41:23, 42:1, 42:4, 73:17, 76:21, 80:17, 81:10, 88:19 particular [1] - 20:4 passenger [1] - 14:18 past [1] - 42:4 patches [2] - 47:19, 47:22 patrol [1] - 33:21 pattern [5] - 47:12, 47:13, 47:15, 63:13, 85:6 patterns [3] - 47:4, 47:6, 47:11 Pelzl [1] - 8:3 penalties [5] - 18:19, 20:10, 32:12, 34:19, 73:18 penalty [2] - 25:23, 26:22 pending [1] - 4:12 people [9] - 7:22, 13:21, 14:2, 14:7, 21:21, 21:25, 55:15, 75:1, 93:24 percent [15] - 49:22, 50:7, 50:11, 50:14, 53:10, 53:22, 53:24, 53:25, 54:2, 66:2, 66:3, 66:4, 67:6, 90:5, 90:21 percentage [3] - 53:22, 88:7, 90:12 percentages [1] - 66:11 PEREA [2] - 1:6, 1:6 permission [2] -</p>
--	--	---	--	---

<p>79:24, 80:2 person [10] - 7:7, 13:19, 22:12, 62:12, 62:18, 62:19, 62:23, 89:14, 89:16, 92:1 person's [1] - 28:23 personal [10] - 17:4, 39:18, 40:23, 41:2, 41:8, 65:21, 66:23, 74:24, 93:6, 93:20 personality [1] - 40:16 personally [3] - 17:7, 24:9, 48:12 Pet [1] - 29:22 pet [7] - 29:25, 30:3, 30:7, 30:12, 30:18, 35:9, 35:18 phenotype [2] - 45:13, 45:14 phenotypes [2] - 73:4, 87:4 phenotypic [1] - 87:3 philosophical [1] - 55:5 phone [1] - 83:4 photographs [12] - 55:23, 56:2, 71:4, 71:7, 74:8, 74:10, 86:24, 87:2, 88:11, 88:13, 91:23, 91:24 Photographs [3] - 3:14, 3:15, 3:22 photos [3] - 83:20, 90:11, 90:17 physical [23] - 27:17, 38:18, 38:22, 41:14, 41:21, 44:4, 45:9, 45:11, 45:14, 45:17, 45:22, 46:17, 46:18, 49:11, 49:19, 52:9, 57:20, 58:3, 65:10, 65:23, 68:8 physically [10] - 20:14, 20:19, 21:21, 21:22, 21:24, 32:17, 38:17, 73:22, 92:5, 92:23 picking [1] - 6:24 picture [15] - 62:23, 64:15, 67:17, 67:20, 84:16, 84:17, 84:19, 84:21, 84:23, 84:25, 85:2, 85:5, 85:7, 85:9, 85:11 pictures [7] - 15:20, 16:4, 57:12, 86:9, 86:13, 92:10 pit [81] - 24:1, 24:3, 24:5, 37:9, 37:13,</p>	<p>37:16, 37:22, 37:23, 38:4, 38:5, 38:15, 38:23, 40:16, 44:10, 47:10, 47:13, 47:15, 47:17, 48:13, 48:17, 48:19, 48:20, 48:25, 49:3, 49:4, 49:5, 49:20, 51:10, 51:16, 51:20, 51:22, 51:24, 52:15, 53:10, 53:13, 56:10, 56:12, 56:14, 56:16, 59:11, 59:14, 59:24, 59:25, 60:16, 61:1, 64:7, 64:9, 64:11, 64:24, 65:5, 66:3, 66:7, 67:6, 67:10, 67:16, 67:23, 68:10, 73:18, 75:24, 81:14, 81:19, 82:3, 82:8, 82:10, 82:24, 83:6, 88:20, 90:5, 90:22, 91:8, 91:22, 92:17, 93:6, 93:18, 93:20, 94:3, 94:11, 95:10 Pit [1] - 37:4 place [4] - 33:25, 44:17, 45:6, 96:5 Plaintiffs [2] - 1:7, 2:11 plaintiffs [1] - 4:4 pleads [1] - 79:13 pled [1] - 79:16 point [8] - 28:3, 28:12, 30:6, 31:4, 33:1, 48:5, 55:9, 85:20 pointers [1] - 55:9 police [12] - 10:22, 12:15, 21:2, 22:4, 23:14, 29:6, 29:8, 32:19, 32:22, 35:20, 40:6 Police [4] - 3:11, 3:16, 3:20, 4:19 policy [17] - 12:15, 22:19, 23:8, 23:11, 25:18, 29:4, 29:5, 29:9, 32:20, 32:23, 35:20, 35:23, 36:17, 36:23, 77:3, 82:12, 82:15 Porsborg [1] - 2:14 portion [2] - 7:17, 81:17 position [3] - 12:18, 13:1, 54:20 positive [2] - 11:2, 52:7 possi [1] - 67:18</p>	<p>possibly [1] - 89:15 potentially [2] - 51:19, 59:5 pound [1] - 6:25 PowerPoint [7] - 8:22, 8:23, 11:3, 11:9, 11:16, 17:25, 18:5 PR [2] - 20:15, 36:2 PR-bonded [1] - 36:2 practice [2] - 76:23, 82:6 predominantly [5] - 38:2, 44:10, 48:7, 48:10, 50:5 preferable [1] - 92:24 preparation [1] - 16:23 prepared [1] - 8:20 present [4] - 14:11, 29:17, 83:16, 93:16 preserving [2] - 85:23, 86:19 pretty [3] - 52:7, 84:1, 93:8 previous [2] - 5:3, 26:17 previously [1] - 82:7 printout [1] - 82:19 Procedure [1] - 1:17 procedures [4] - 81:5, 81:18, 82:19, 82:23 proceedings [6] - 4:1, 29:16, 83:13, 83:16, 93:15, 95:16 process [6] - 13:9, 14:14, 15:1, 15:13, 32:4, 60:11 produced [1] - 8:20 professional [1] - 54:16 professionally [1] - 16:25 prohibit [1] - 44:9 Prohibited [1] - 37:5 prohibits [1] - 37:8 prove [1] - 92:13 provide [3] - 77:24, 78:3, 90:20 provided [6] - 16:22, 19:12, 39:22, 66:1, 67:5, 82:18 provides [2] - 25:23, 26:22 proxy [1] - 44:5 Public [1] - 1:18 publicly [1] - 54:24 puppies [2] - 68:5, 68:11</p>	<p>puppy [2] - 68:5, 68:10 pure [3] - 48:19, 48:24, 48:25 purebred [8] - 68:10, 71:10, 71:13, 71:15, 71:23, 72:9, 72:20, 72:25 purebreds [1] - 71:19 purposes [2] - 23:1, 53:14 pursuant [3] - 1:16, 32:19 put [3] - 6:4, 44:17, 45:6</p> <p style="text-align: center;">Q</p> <p>questioning [1] - 78:19 Questions [1] - 3:12 questions [6] - 24:14, 26:9, 81:21, 86:13, 86:21, 93:2 quick [1] - 13:8 quickly [2] - 13:6, 17:19</p> <p style="text-align: center;">R</p> <p>raising [1] - 17:1 random [1] - 65:3 range [1] - 43:3 rare [1] - 31:15 rather [1] - 52:2 read [7] - 17:8, 24:8, 26:16, 26:17, 40:24, 95:15, 96:3 reading [4] - 30:11, 39:19, 39:20, 41:3 real [1] - 5:23 really [2] - 23:16, 55:3 REANNAN [1] - 1:4 REASON [4] - 96:18, 96:20, 96:22, 96:24 reason [5] - 19:11, 33:14, 44:14, 45:3, 96:8 recently [2] - 76:1 recessed [3] - 29:16, 83:13, 93:15 recognize [1] - 80:14 recollection [2] - 11:7, 94:18 reconvened [3] - 29:17, 83:16, 93:16 record [11] - 8:12, 8:13, 15:4, 48:1, 61:5,</p>	<p>78:11, 80:4, 83:8, 85:22, 93:10, 93:13 records [5] - 78:1, 78:5, 78:7, 78:8 red [4] - 70:17, 70:25, 85:1, 85:12 refer [3] - 36:1, 40:6, 43:10 reference [1] - 17:18 referenced [1] - 18:3 referred [1] - 85:16 referring [3] - 10:2, 23:13, 76:8 regarding [1] - 20:1 regardless [1] - 76:2 registration [1] - 28:4 related [1] - 34:20 relates [2] - 45:12, 81:18 relation [1] - 45:23 release [1] - 31:22 relinquished [1] - 32:1 Relinquishment [2] - 3:18, 80:22 remember [13] - 9:21, 9:23, 10:16, 10:18, 11:11, 12:2, 12:8, 13:8, 13:22, 14:3, 24:2, 39:24, 53:11 reminds [1] - 75:18 remove [2] - 31:25, 33:4 removed [5] - 31:6, 31:14, 31:23, 33:15, 33:19 report [1] - 77:23 Reporter [1] - 3:25 REPORTER [3] - 5:9, 5:12, 5:15 reporter [8] - 8:15, 8:18, 15:7, 26:18, 55:20, 61:8, 80:7, 83:15 represented [1] - 87:2 request [34] - 15:17, 17:12, 17:22, 18:9, 18:24, 27:7, 27:15, 29:13, 30:17, 30:24, 32:11, 34:11, 34:18, 37:3, 56:1, 57:11, 57:19, 62:3, 63:22, 67:1, 68:16, 73:16, 75:25, 76:3, 76:14, 78:1, 78:2, 78:8, 78:11, 80:13, 81:7, 81:25, 86:15, 89:6</p>
---	--	---	---	--

<p>request [1] - 8:24 requested [2] - 78:5, 78:6 require [5] - 21:21, 23:3, 28:18, 30:19, 33:18 required [1] - 30:6 requires [2] - 22:21, 29:25 rescue [1] - 31:16 respect [2] - 43:18, 47:10 rest [1] - 7:8 restrictions [1] - 38:11 result [7] - 22:12, 22:16, 28:8, 34:25, 35:3, 35:5, 50:6 results [12] - 25:16, 27:17, 27:22, 77:21, 77:22, 77:24, 78:11, 78:12, 78:15, 88:23, 89:7 retrieve [1] - 55:9 retrievers [1] - 55:9 returned [2] - 31:25, 33:3 review [4] - 11:18, 12:13, 39:21, 86:23 reviewed [1] - 12:4 ride [3] - 14:12, 14:15, 14:25 ride-along [3] - 14:12, 14:15, 14:25 riding [1] - 14:16 rode [1] - 7:19 role [1] - 93:5 Room [1] - 1:20 room [6] - 9:3, 10:18, 10:25, 11:1, 11:6, 91:25 roughly [1] - 64:18 rules [1] - 79:2 Rules [1] - 1:17 run [3] - 77:19, 79:10, 79:17 résumé [2] - 13:3, 13:10</p>	<p>SCHMIDT [31] - 2:13, 8:11, 21:14, 22:23, 24:11, 25:24, 29:15, 50:17, 50:20, 57:24, 59:21, 68:19, 68:23, 68:25, 69:4, 69:21, 70:4, 70:7, 70:10, 78:19, 78:23, 79:4, 83:12, 83:25, 84:5, 85:18, 85:21, 85:25, 86:16, 86:19, 95:15 Schweigert [1] - 2:14 screen [1] - 11:4 search [4] - 94:10, 94:20, 95:5, 95:9 seat [1] - 14:18 Second [1] - 1:19 second [32] - 8:4, 8:12, 12:17, 14:5, 17:15, 18:12, 19:17, 20:18, 20:20, 22:13, 22:16, 22:22, 23:4, 23:24, 24:1, 24:3, 24:5, 27:16, 27:21, 27:24, 28:6, 28:12, 28:13, 28:22, 29:1, 30:18, 32:16, 34:24, 48:24, 73:22, 74:3 second-from-the-bottom [1] - 28:12 second-offense [4] - 24:1, 24:3, 24:5 section [2] - 30:25, 82:22 securing [1] - 30:8 see [29] - 28:1, 33:5, 39:1, 39:3, 39:7, 46:7, 51:25, 52:17, 58:2, 58:25, 59:13, 60:13, 62:22, 62:23, 64:11, 64:14, 64:23, 64:24, 65:5, 67:3, 67:16, 68:21, 72:9, 72:19, 75:1, 89:16, 91:22, 92:1, 92:13 seeing [5] - 56:23, 62:12, 82:21, 89:13 send [1] - 77:18 sent [3] - 13:3, 13:4, 92:10 separate [1] - 7:7 service [9] - 4:18, 4:20, 5:25, 6:2, 6:6, 6:10, 6:21, 12:19, 26:12 session [2] - 17:24, 19:7 set [4] - 13:5, 25:17, 25:18, 29:6 sets [2] - 29:9, 32:23</p>	<p>several [1] - 86:9 shall [1] - 30:7 shape [19] - 46:19, 46:21, 52:3, 58:17, 58:18, 58:19, 60:17, 60:19, 62:14, 62:15, 63:12, 63:13, 67:18, 72:18, 85:6 share [1] - 15:8 shook [1] - 46:4 shop [5] - 30:1, 30:3, 30:7, 30:12, 30:19 Shops [1] - 29:22 short [5] - 5:6, 46:25, 59:3, 59:5, 59:7 shoulders [1] - 64:19 show [8] - 49:21, 63:10, 63:24, 64:2, 69:7, 73:4, 90:5, 90:11 showed [4] - 15:20, 50:6, 66:2, 66:10 shown [1] - 16:4 shows [2] - 90:12, 90:21 sic [3] - 41:21, 70:22 side [1] - 18:10 sign [2] - 79:22, 95:15 similar [3] - 51:16, 58:24, 93:7 similarly [1] - 28:11 sit [1] - 9:3 sitting [4] - 84:8, 84:12, 84:18, 85:8 situation [1] - 92:8 situations [3] - 75:4, 92:18, 95:8 six [3] - 10:5, 10:12, 52:16 size [8] - 60:17, 60:19, 62:13, 62:24, 63:13, 72:17, 72:18, 93:7 skipped [1] - 70:7 slide [1] - 11:21 slides [1] - 9:8 slightly [1] - 47:13 small [3] - 48:22, 53:21, 84:25 Smith [2] - 2:14, 2:15 so [3] - 15:12, 55:23, 61:11 someone [8] - 9:3, 18:18, 22:4, 22:7, 28:13, 33:24, 83:2, 95:8 sometime [1] - 76:6 somewhat [2] - 71:16, 71:17</p>	<p>somewhere [6] - 10:11, 10:13, 10:23, 42:18, 53:5, 77:4 Sonoma [2] - 5:17, 5:23 soon [1] - 6:5 sop [1] - 30:19 sorry [8] - 24:4, 27:5, 29:18, 49:13, 63:3, 64:1, 69:20, 93:12 sought [1] - 94:10 source [1] - 71:6 specific [3] - 10:14, 40:25, 58:8 specifically [2] - 43:18, 95:9 spectrum [1] - 87:6 spending [1] - 95:13 spent [3] - 9:10, 11:23, 93:25 Staffordshire [6] - 37:15, 37:17, 38:3, 38:4, 48:20, 66:4 standing [4] - 56:24, 64:19, 85:14 standpoint [1] - 13:1 start [4] - 39:20, 71:12, 76:4, 83:2 started [3] - 9:23, 76:1, 79:7 State [1] - 1:19 state [2] - 4:16, 16:5 Statement [3] - 3:16, 3:17, 80:21 states [6] - 20:13, 26:25, 35:2, 50:23, 82:1, 82:5 STATES [1] - 1:1 stature [5] - 46:21, 58:6, 58:8, 58:9, 72:16 statures [1] - 72:12 step [1] - 12:17 still [5] - 49:24, 50:8, 50:13, 50:21, 50:22 straight [1] - 47:2 strains [1] - 71:24 stray [1] - 6:24 Street [1] - 2:9 studied [3] - 40:10, 40:13, 45:7 stupidest [1] - 49:15 subject [4] - 37:11, 38:11, 57:3, 74:14 submits [1] - 77:7 submitting [1] - 13:10 subsequent [1] - 18:20 SUCKLEY [2] - 1:4,</p>	<p>1:4 sufficiently [1] - 65:11 Suite [1] - 2:9 Summerlin [10] - 1:15, 3:4, 4:9, 12:7, 15:5, 48:2, 61:6, 80:5, 83:9, 93:11 SUMMERLIN [61] - 2:7, 4:8, 5:18, 8:16, 15:8, 15:10, 21:16, 21:18, 22:24, 24:13, 26:1, 26:3, 26:16, 27:1, 29:14, 29:18, 29:20, 48:3, 49:14, 49:17, 50:19, 51:1, 55:21, 57:23, 57:25, 58:1, 59:22, 61:9, 61:20, 61:22, 68:20, 68:24, 69:2, 69:6, 69:12, 69:15, 69:23, 70:1, 70:5, 70:9, 70:12, 70:13, 78:22, 79:3, 79:5, 79:6, 80:8, 83:10, 83:18, 83:23, 84:2, 84:7, 85:19, 85:24, 86:2, 86:5, 86:18, 86:22, 93:12, 93:17, 95:12 supervisor [2] - 7:21, 8:1 Supplement [1] - 3:17 surprise [1] - 54:23 surprised [1] - 55:2 swab [1] - 77:17 swabs [1] - 77:14 sworn [1] - 4:5</p>
T				
<p>tag [2] - 28:4, 28:7 Tags [1] - 34:13 tags [2] - 34:20, 35:15 tail [2] - 46:19, 62:24 tall [1] - 64:19 taller [1] - 58:12 technically [3] - 28:9, 50:21, 72:14 ten [11] - 16:12, 16:14, 16:18, 33:4, 42:16, 42:18, 42:20, 52:14, 53:5, 53:7 term [6] - 49:5, 56:9, 56:12, 56:14, 56:16 terms [1] - 52:9 terrier [17] - 37:23, 38:3, 38:4, 38:5, 48:20, 56:7, 59:11,</p>				

<p>59:15, 59:24, 59:25, 66:3, 66:4, 67:7, 90:6, 90:22</p> <p>terriers [5] - 37:15, 37:16, 37:17, 49:4</p> <p>test [16] - 11:13, 15:3, 15:19, 15:24, 16:9, 49:21, 66:1, 66:9, 75:20, 76:15, 79:7, 79:10, 79:17, 87:10, 88:22, 89:7</p> <p>tested [4] - 43:12, 52:25, 53:9, 53:18</p> <p>testified [1] - 4:5</p> <p>testifying [1] - 78:24</p> <p>tests [3] - 75:24, 76:5, 86:10</p> <p>Texas [1] - 96:11</p> <p>THE [13] - 1:1, 1:2, 1:9, 5:9, 5:11, 5:12, 5:14, 5:15, 5:16, 26:23, 50:21, 69:8, 69:18</p> <p>therefore [1] - 60:21</p> <p>they've [2] - 75:25, 76:13</p> <p>thir [1] - 90:21</p> <p>third [4] - 18:12, 28:2, 35:11, 36:8</p> <p>thoroughly [1] - 24:8</p> <p>threat [1] - 31:18</p> <p>three [1] - 10:8</p> <p>title [5] - 6:10, 6:11, 6:13, 39:25, 54:13</p> <p>titled [2] - 81:4, 81:14</p> <p>titles [1] - 40:25</p> <p>today [2] - 4:11, 49:16</p> <p>tongue [1] - 85:4</p> <p>took [4] - 9:18, 10:5, 10:8, 33:25</p> <p>top [4] - 26:23, 46:22, 59:25, 81:4</p> <p>torment [1] - 19:13</p> <p>torture [1] - 19:13</p> <p>totally [1] - 58:17</p> <p>tracking [1] - 25:5</p> <p>trained [2] - 22:6, 31:17</p> <p>training [12] - 7:15, 8:25, 12:5, 12:11, 17:24, 21:4, 22:10, 71:8, 73:17, 80:23, 81:1, 81:10</p> <p>Training [1] - 21:8</p> <p>traits [12] - 46:3, 46:10, 46:12, 52:1, 52:6, 52:8, 52:9, 52:11, 52:14, 52:15,</p>	<p>52:16, 74:21</p> <p>transcript [1] - 96:7</p> <p>treated [1] - 35:18</p> <p>trickier [1] - 89:12</p> <p>true [1] - 75:22</p> <p>try [2] - 11:14, 21:16</p> <p>trying [4] - 7:10, 11:12, 11:13, 44:1</p> <p>turn [1] - 17:10</p> <p>twice [1] - 42:14</p> <p>two [11] - 7:25, 8:2, 13:15, 13:16, 13:23, 14:24, 29:14, 42:18, 53:5, 80:20, 88:1</p> <p>type [10] - 37:9, 37:13, 46:23, 47:10, 56:9, 59:2, 67:23, 93:19, 93:21, 94:11</p> <p>typewritten [1] - 96:4</p> <p>typically [6] - 33:2, 33:7, 35:4, 36:15, 65:2, 77:23</p>	<p>variety [2] - 87:3</p> <p>various [1] - 93:4</p> <p>vary [2] - 71:21, 71:22</p> <p>vehicle [1] - 14:18</p> <p>verbal [1] - 15:23</p> <p>verbally [1] - 15:21</p> <p>versus [2] - 46:25, 47:2</p> <p>veterinarian [2] - 6:15, 16:21</p> <p>veterinary [1] - 5:6</p> <p>via [1] - 83:4</p> <p>Vicious [1] - 31:1</p> <p>vicious [5] - 31:5, 31:13, 31:20, 32:13, 82:2</p> <p>violate [1] - 91:22</p> <p>violates [1] - 18:18</p> <p>violating [6] - 20:11, 32:12, 89:2, 89:24, 90:2, 90:7</p> <p>violation [19] - 18:25, 20:20, 22:11, 25:1, 25:6, 25:7, 25:12, 25:15, 33:24, 33:25, 34:19, 49:24, 50:9, 50:13, 50:22, 88:14, 88:24, 90:10</p> <p>violations [6] - 7:6, 7:9, 22:14, 22:16, 23:5, 73:18</p> <p>visual [3] - 54:20, 54:24, 72:24</p> <p>volunteering [1] - 17:2</p> <p>vs [1] - 1:8</p>	<p>95:9</p> <p>watch [1] - 10:2</p> <p>water [1] - 19:14</p> <p>website [1] - 12:22</p> <p>Wednesday [1] - 1:21</p> <p>white [1] - 62:11</p> <p>whole [1] - 6:3</p> <p>Williams [1] - 1:18</p> <p>WILLISTON [1] - 1:9</p> <p>Williston [32] - 1:20, 1:21, 3:11, 3:16, 3:20, 4:19, 7:24, 12:20, 17:17, 24:16, 24:20, 25:1, 26:6, 26:13, 30:12, 31:7, 31:21, 32:2, 33:16, 34:7, 37:8, 44:8, 44:11, 73:19, 74:15, 81:19, 88:8, 88:14, 88:18, 89:9, 94:1</p> <p>Williston's [3] - 22:11, 33:24, 91:22</p> <p>window [1] - 92:20</p> <p>Wisdom [3] - 77:9, 77:18, 77:20</p> <p>witness [1] - 4:4</p> <p>wooden [2] - 84:9, 84:10</p> <p>wording [1] - 20:7</p> <p>words [4] - 60:3, 60:4, 60:8, 60:10</p> <p>write [1] - 59:23</p> <p>writing [3] - 77:3, 77:6, 82:22</p> <p>written [1] - 82:15</p>	
	U			
	<p>umbrella [1] - 49:5</p> <p>unarticulable [1] - 60:18</p> <p>under [8] - 35:14, 56:9, 56:12, 56:14, 56:16, 88:8, 88:17, 89:9</p> <p>undis [1] - 60:17</p> <p>uniformity [2] - 71:14, 71:18</p> <p>UNITED [1] - 1:1</p> <p>unlawful [1] - 30:7</p> <p>unless [7] - 36:11, 43:9, 43:14, 48:12, 51:3, 51:21, 82:2</p> <p>unlicensed [1] - 35:18</p> <p>unsure [1] - 51:14</p> <p>unusually [2] - 84:14, 94:4</p> <p>up [11] - 6:24, 7:13, 13:5, 17:1, 31:24, 40:23, 70:11, 80:18, 80:19, 94:24, 95:4</p>			
	V			
	<p>validity [1] - 54:20</p> <p>vampire [1] - 85:6</p> <p>vampire-shape-head [1] - 85:6</p> <p>variation [3] - 72:6, 72:8, 72:19</p> <p>varies [2] - 68:9, 73:7</p>	<p>Wade [8] - 3:10, 7:21, 8:20, 14:9, 17:25, 74:9, 74:13, 83:5</p> <p>Wade's [1] - 75:10</p> <p>walk [2] - 17:25, 18:17</p> <p>walked [2] - 9:4, 11:19</p> <p>walks [4] - 17:15, 18:11, 19:3, 20:10</p> <p>WALL [10] - 2:8, 61:18, 69:7, 69:10, 69:13, 69:16, 69:19, 69:22, 69:25, 93:13</p> <p>Wall [6] - 15:5, 48:2, 61:6, 80:5, 83:9, 93:11</p> <p>warrant [5] - 92:16, 94:10, 94:20, 95:5,</p>	Y	<p>year [4] - 4:22, 5:25, 76:6, 82:11</p> <p>yellow [3] - 72:3, 84:10, 84:17</p> <p>Yulissa [3] - 8:3, 8:5, 8:7</p>
		W		
			Z	
			zero [1] - 50:7	