

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 AMBER DIANE PELZL

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 Thursday,
May 19, 2022, commencing at 9:36 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. AMBER DIANE PELZL,
Deponent.

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

AMBER DIANE PELZL

Examination by Mr. Summerlin Page 4

Examination by Mr. Schmidt Page 41

Examination by Mr. Summerlin Page 44

Certificate of Deponent Page 46

Certificate of Court Reporter Page 47

1 (The proceedings commenced at 9:36 a.m.)

2 Whereupon,

3 AMBER DIANE PELZL,

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. Amber, my name is Gene Summerlin. We just
10 met a moment ago.

11 A. Yep.

12 Q. You understand that you're here to give a
13 deposition today in a lawsuit that was filed in the
14 United States District Court for the District of
15 North Dakota?

16 A. Yes.

17 Q. Okay. Would you please state your full
18 name.

19 A. Amber Diane Pelzl.

20 Q. Okay. And you are currently employed as a
21 community service officer by the City of Williston?

22 A. Correct.

23 Q. Okay. And as a community service officer,
24 are your primary responsibilities in the area of
25 animal control?

1 A. Yes.

2 Q. All right. When did you begin working
3 as -- were -- were you a community servicer --
4 blah-blah-blah.

5 Were you a community service officer the
6 entire time you've been employed by Williston?

7 A. No.

8 Q. Okay. When did you first start to work
9 for Williston?

10 A. 2015 --

11 Q. Okay.

12 A. -- I believe.

13 Q. When you first started, in the 2015 time
14 range, what was your job?

15 A. I was downtown parking.

16 Q. Okay. And I think we've heard from some
17 other witnesses this week that parking enforcement
18 in Williston is separate in downtown from other
19 areas of Williston?

20 A. Correct.

21 Q. Okay.

22 A. Yeah.

23 Q. So you just did downtown parking?

24 A. At the time, yes.

25 Q. Okay. At some time, did your job within

1 Williston change?

2 A. Yep.

3 Q. Okay. So --

4 A. It was about April 1, 2016, I went to
5 parking enforcement for the whole city.

6 Q. Okay. And then after that, did your job
7 change again?

8 A. Correct.

9 Q. Okay. And --

10 A. Yep.

11 Q. -- approximately when was that?

12 A. Last -- I believe it was last year when we
13 moved everybody together for CSO.

14 Q. Okay. So sometime in 2021, there was a
15 reorganization of animal control and probably other
16 departments as well, and everyone became community
17 ser -- not everyone.

18 Let me start over.

19 A. Okay.

20 Q. At some point in 2021, there was a
21 reorganization within the City, and some people
22 became community service officers; correct?

23 A. Parking and animal control became one --

24 Q. Okay.

25 A. -- yes.

1 Q. And at that point in time, did you start
2 to perform animal control-related duties?

3 A. More than usual, yes.

4 Q. Okay. Today, do you primarily do animal
5 control?

6 A. Yeah.

7 Q. And it kind of -- why don't you just tell
8 me, like, today, like, how -- just describe your
9 job for me. That's maybe the easiest way to do it.

10 A. On a day-to-day basis, I mean, nothing's
11 ever the same.

12 Q. Okay.

13 A. I mean, when we're not doing animal calls,
14 we're doing parking complaints, writing parking
15 tickets, towing vehicles, just basically doing the
16 city ordinances --

17 Q. Okay.

18 A. -- throughout the city.

19 Q. So currently, I mean, your -- your time is
20 split in varying amounts between animal control and
21 parking enforcement?

22 A. Yeah (nodding affirmatively).

23 Q. Okay. And day to day, that varies?

24 A. Yeah.

25 Q. Okay.

1 (Extraneous noise at 9:40 a.m.)

2 MR. SUMMERLIN: Well, I guess we're done.

3 (Laughter.)

4 THE DEPONENT: Bye. That was fast.

5 BY MR. SUMMERLIN:

6 Q. Prior to taking on animal control duties
7 in 2021, did you have any prior experience in
8 animal control?

9 A. Yes.

10 Q. Okay. What was that?

11 A. I did help the previous animal control
12 officer with some pound duties and some -- if she
13 needed backup catching a cat in a small area, then
14 I would just go and help her. But I would never
15 really cite anything. That was all basically her.

16 Q. Okay. And who was that person?

17 A. Susan Moeller.

18 Q. Okay. So when you were kind of
19 occasionally providing assistance to Susan, did you
20 receive any training as an animal control officer
21 at that point, or was it just kind of like, "Oh,
22 she needs help"? Amy was out because she hurt her
23 knee, so you were just going to pitch in?

24 A. Yeah.

25 Q. Okay.

1 A. And then I would kind of sort of read up
2 on the animal ordinances so I knew what I was
3 getting into with her, so --

4 Q. Okay.

5 A. Yep.

6 Q. And then in 2021 when the departments all
7 got combined as community service officers, did you
8 get any more formalized training --

9 A. Yes.

10 Q. -- at -- for animal control?

11 A. Yes.

12 Q. Okay. And who provided that training?

13 A. My supervisor, Carli.

14 Q. And that's Carli Wade?

15 A. Yes.

16 Q. Just generally describe for me what
17 training you received from Carli in 2021.

18 A. Basically, I would ride with her every now
19 and then. Since I already sort of knew the
20 ordinances, I just watched her do what she was
21 hired to do for animal control.

22 Q. Just kind of your basic on-the-job
23 training?

24 A. Yeah (nodding affirmatively).

25 Q. Okay. Was there any educational component

1 to it aside from the ride-alongs? Like, did you
2 guys go through any materials together or anything
3 like that?

4 A. It's been so long, I don't know.

5 Q. Okay. This was 2021, right, last year?

6 A. Yep.

7 Q. All right. I'm going to hand you what's
8 been marked as Ambrosini Deposition Exhibit
9 Number 1 (doing so) and ask you to take a look at
10 that. It's a -- a PowerPoint presentation that on
11 the cover page, it says it's by CSO Carli Wade.

12 Is that something that you ever reviewed
13 with Carli?

14 A. I don't know. I don't think so.

15 Q. Okay.

16 A. Oh, maybe. Yes. Yes, I did, now that I'm
17 actually looking at it.

18 Q. So now that you've looked at it, you --
19 you do think that's something that you've seen
20 before?

21 A. Yes.

22 Q. Okay.

23 A. Yep.

24 Q. So is that something that you and Carli
25 sat down and walked through together, or do you

1 recall?

2 A. I don't recall sitting down and going
3 through it, as I already knew some of it already.

4 Q. Okay. Do you think it's something that
5 she gave you and asked you to review?

6 A. I don't recall.

7 Q. You just don't know?

8 A. No.

9 Q. But you know you've seen it?

10 A. Yeah.

11 Q. Okay. And I am -- you're lucky because
12 you're, like, the -- I don't know how many
13 depositions we've done this week, so the -- the
14 first ones are always way longer because we know
15 nothing, and then hopefully, we learn a little bit
16 with each deposition. So I'm going to summarize
17 some of the things that I think I've learned, and
18 you can tell me if I'm right or if I'm not. Okay?

19 A. Oh, boy.

20 Q. All right.

21 A. Okay.

22 Q. So based on some of the other -- other
23 depositions, my understanding is that animal
24 control officers or community service officers that
25 are charged with enforcing animal control

1 ordinances --

2 A. Mm-hmm.

3 Q. -- your jurisdiction is limited to the
4 city of Williston --

5 A. Correct.

6 Q. -- is it -- okay.

7 And with respect to the animal control
8 aspects of your job, you enforce the city
9 ordinances that are related to animal control?

10 A. Correct.

11 Q. Okay. For a number of those ordinances,
12 you would issue citations if you found a violation
13 of the ordinance?

14 A. Correct.

15 Q. Okay. And for some of the ordinances, if
16 you find a violation and it's a second offense,
17 that would become an arrestable offense?

18 A. Correct.

19 Q. Okay. In those situations where it is an
20 arrestable offense, the animal control person would
21 not effectuate the arrest. They would --

22 A. Correct.

23 Q. -- instead call a Williston police officer
24 that's a sworn peace officer to effectuate the
25 arrest?

1 A. Correct.

2 Q. Okay. I got them all right?

3 A. Yeah.

4 Q. All right. With respect to your
5 transition to doing more animal control work, did
6 you receive any training on how to identify dog
7 breeds?

8 A. That's a tough one. Yes and no.

9 Q. Okay. Fill that in for me a little bit.

10 A. At -- from my knowledge, I know what to
11 look for, and then I did go and hang out with Carli
12 for a while and see what she's -- she had for -- I
13 believe, for Madi, and I just looked at some of
14 those pictures that she had. But it was basically
15 just by knowledge and looking at an animal.

16 Q. Okay. You mentioned "Madi" in your
17 answer. Who's --

18 A. Madison.

19 Q. Oh. Okay. Madison Ambrosini?

20 A. Yeah.

21 Q. Okay. All right. "Oh, there's a new
22 person I haven't heard of yet." Never mind.

23 Before 2021, did you have prior experience
24 working with animals?

25 A. Yes.

1 Q. Okay. What was that?

2 A. With Susan.

3 Q. Okay. Oh, yeah.

4 So before -- before working with Susan as
5 an animal control officer or part-time animal
6 control officer just helping out animal control,
7 did you have prior experience working with animals?

8 A. No.

9 Q. Okay. Did you have any prior experience
10 in recognizing dog breeds beyond what just kind of
11 everyone has?

12 A. No.

13 Q. Okay. What's your educational background?

14 A. I graduated.

15 Q. All right. From?

16 A. Two Harbors --

17 Q. Okay.

18 A. -- High School.

19 Q. Is that in North Dakota?

20 A. In Minnesota.

21 Q. All right. Any education after high
22 school?

23 A. I went to college, but that was for my
24 generals.

25 Q. Okay.

1 A. Never finished.

2 Q. Where did you go to college at?

3 A. NDSCS.

4 Q. Okay. What is NDSCS?

5 A. North Dakota State College of Science in
6 Wahpeton.

7 Q. Did you ever declare a major?

8 A. Nope.

9 Q. Just doing generals?

10 A. (The deponent nodded affirmatively.)

11 Q. Do you recall how long you did ride-alongs
12 with -- with Carli?

13 A. I don't recall. No.

14 Q. Okay. I think when we talked to Amy, she
15 did, like, a 12-week ride-along. Do you think
16 yours was that long, or was it --

17 A. No.

18 Q. It was --

19 A. No.

20 Q. And you kind of --

21 A. It wasn't 12 weeks --

22 Q. Okay.

23 A. -- for me, at least.

24 Q. Okay. I'm trying to think of the right
25 way to ask this. If we kind of try and divide up

1 time, you had this period where you were doing
2 parking enforcement and then occasionally helping
3 Susan with animal control issues, and then at some
4 point, there's a reorganization and, you know, all
5 community service officers are encompassing, now,
6 parking and animal control.

7 Other than the reorganization, did you
8 apply for and get transferred to a different job
9 when you started doing more animal control, or was
10 it just kind of a natural evolution of, This is how
11 we've reorganized the department?

12 A. That's a tricky one.

13 Q. I'm not trying to ask trick questions.

14 A. I mean, I don't really -- would think I
15 got rehired into animal control. I guess I would
16 say I got promoted.

17 Q. Okay.

18 A. Like, moving up, I -- I guess.

19 Q. Okay. But there was, like, a point where
20 your job kind of changed where it went from mostly
21 doing parking to now kind of --

22 A. More doing animal stuff, I guess.

23 Q. Okay. All right. So we've talked about
24 kind of the -- the ride-alongs that you did with
25 Carli as part of your on-the-job training. You

1 mentioned that you -- you've at least seen the
2 "Introduction to Animal Control" exhibit that Carli
3 Wade put together.

4 Was there anything else that you were
5 provided or reviewed as part of that transition
6 into doing more animal control work as training for
7 that job?

8 A. I think she gave me a book of all the
9 breeds, but I can't specifically say that she
10 gave -- I remember visibly, like, seeing a book
11 with all the stuff in it, but that was years ago.

12 Q. Okay. And was that a book -- like, not
13 something that Carli put together, but, like, a --
14 a book that was published?

15 A. Correct.

16 Q. All right. Does *The Complete Dog* --

17 A. I don't even know what the name of it was.

18 Q. Well, I was just going to ask does *The*
19 *Complete Dog Book* sound familiar?

20 A. Could be.

21 Q. Okay.

22 A. I don't know.

23 Q. All right. So other than that book,
24 anything else that you were provided, say, "Hey,"
25 you know, "review this as part of your preparation

1 to do animal control work"?

2 A. Not that I know of --

3 Q. Okay.

4 A. -- off the top of my head.

5 MR. SUMMERLIN: Let's look at Exhibit 5.

6 BY MR. SUMMERLIN:

7 Q. So you've just been handed Exhibit 5 from
8 the Ambrosini deposition, and if you take a look
9 at -- I think it begins on page 479.

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

12 Q. And it runs, I think, from 479 to 499.
13 Those pages all deal with animal control-related
14 issues.

15 A. (The deponent nodded affirmatively.)

16 Q. Just take a quick look at that and let me
17 know whether you recall ever receiving a packet
18 like that.

19 A. (The deponent complied with Counsel's
20 request.) I believe so. I have so many packets, I
21 don't know. I'm pretty sure I did --

22 Q. Okay.

23 A. -- somewhere, some -- somewhere, but --

24 Q. During the time that you have been
25 involved in enforcement of animal control

1 ordinances, either, you know, before or after the
2 transition, have you occasionally been called on to
3 enforce the limitation on pit bulls within the city
4 of Williston?

5 A. Yep.

6 Q. Okay. I'm going to show you --

7 MR. SUMMERLIN: Yeah.

8 BY MR. SUMMERLIN:

9 Q. -- Exhibit 1 from the Johnson deposition
10 (doing so).

11 MR. SUMMERLIN: Sorry.

12 BY MR. SUMMERLIN:

13 Q. So that document is a citation list that
14 was provided by the City through its attorneys that
15 identifies citations that reference pit bull in
16 some manner. Most of them are pit bull in city
17 limits, but I -- I think if you go through and look
18 at it, there -- there are some other charges that
19 are included in there as well. And it includes the
20 officer, so your name is on there --

21 A. Mm-hmm (nodding affirmatively).

22 Q. -- for some of these charges. I think the
23 first one is maybe August 4 of '21.

24 A. Mm-hmm (nodding affirmatively).

25 Q. And--I don't know--just -- I want to be

1 transparent on this. Like, I don't know how --
2 however this report was generated, like, how it was
3 determined what officer was identified. So it may
4 be, like, that's the officer that actually issued
5 the citation, but I don't know that.

6 A. Okay.

7 Q. So if you look at this report, there's --
8 your name appears on 10/12/21 and also appears on
9 8/4/21 on pages 838 and 839?

10 A. Correct.

11 Q. Do you recall, prior -- with the exception
12 of those two circumstances, have you been involved
13 in other calls that resulted in a citation for pit
14 bull within city limits?

15 A. Yep (nodding affirmatively).

16 Q. Okay. And then, obviously, this report
17 only identifies situations in which a citation was
18 issued. So I assume -- have you also been involved
19 in other calls where there was a suspicion of a
20 possible pit bull within city limits where no
21 citation was actually issued?

22 A. Correct.

23 Q. Okay. So let's -- let's talk first about
24 the other calls where a citation was issued other
25 than the two that are identified with your name on

1 Johnson Exhibit 1. Tell me about those. Like,
2 how -- how many of those calls do you guess you've
3 been involved in?

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

5 Q. Okay. Do you think it's more than ten?

6 A. Probably.

7 Q. Okay. Do you think it's more than 20?

8 A. Over the last few years?

9 Q. Yeah.

10 A. Yeah. I'm assuming. I --

11 Q. Well, maybe, let me -- let me ask it this
12 way: Can you estimate about how many total pit
13 bull-related calls you've been on? And -- and I
14 get, like, you know, you can't give me a number,
15 but, you know, is it, do you think, more or less
16 than 50? more or less than a hundred?

17 A. I would say about a little more than 50.

18 Q. Okay. In terms of, like, what you do day
19 to day on the animal control side, is addressing
20 pit bull-related issues something that you would
21 consider common in your job?

22 A. Yeah.

23 Q. Okay. What do you think the most common
24 call you get is on the animal control side?

25 A. Dog barking.

1 MR. SUMMERLIN: I have a neighbor that
2 just got a --

3 THE DEPONENT: Dog at large.

4 MR. SUMMERLIN: -- puppy that I can
5 totally relate to that now.

6 THE DEPONENT: Nuisance.

7 BY MR. SUMMERLIN:

8 Q. Okay. Where does -- where does pit bull
9 within city limits kind of fall on the hierarchy?
10 Is it in the top ten?

11 A. Yeah.

12 Q. Okay. When you --

13 Wait. What did I miss? Is that --

14 A. My candy --

15 Q. -- super sour?

16 A. -- fell out, so I threw it in my pocket.
17 It's really sour. Ooh. We're good.

18 Q. All right. There's no other hard candy in
19 there. Sorry. I was trying to be helpful.

20 All right. Let's just kind of walk
21 through. When you get a call that -- where someone
22 has stated they think there may be a pit bull
23 within city limits, kind of walk through what do
24 you do?

25 A. We basically try to follow up on the

1 situation, and if we can't make contact, then we go
2 available.

3 Q. I'm sorry. You said you go what?

4 A. We go available.

5 Q. Okay. So someone calls in and says, "Hey,
6 I saw a neighbor with a pit bull," or, "I saw a pit
7 bull at large," or whatever, you're going to go try
8 and make contact with the person?

9 A. The owner.

10 Q. The owner?

11 A. (The deponent nodded affirmatively.)

12 Q. If you are able to make contact with the
13 owner, what do you do?

14 A. We basically just ask if we can see the
15 dog --

16 Q. Okay.

17 A. -- and if they own a pit bull.

18 Q. If you're able to see the dog, what are
19 you looking for?

20 A. Characteristics.

21 Q. Okay. When you say "characteristics,"
22 you're talking the physical appearance of the dog?

23 A. Correct.

24 Q. Does it look like what you think a pit
25 bull looks like?

1 A. Yep.

2 Q. Okay. My understanding of the
3 Ordinance 4-89 which prohibits pit bull dogs, it
4 identifies several breeds that are banned from the
5 city. Correct?

6 A. Correct.

7 Q. And so it's bull terriers, Staffordshire
8 bull terriers, American pit bull terriers, and
9 American Staffordshire terriers; right?

10 A. Correct.

11 Q. And then it also precludes dogs of mixed
12 breeds or of other breeds than those that we just
13 listed if the other breed or the mixed breed is
14 known as a pit bull or a pit bull terrier; correct?

15 A. Mm-hmm (nodding affirmatively). Yes.

16 Q. And then it also prohibits any dog which
17 has the appearance and characteristics of being
18 predominantly of the breeds of those other breeds
19 that we listed?

20 A. Correct.

21 Q. Okay. So is it your understanding that
22 what Section 4-89 does is it prohibits these breeds
23 of dogs that are pit bull-type breeds?

24 A. Correct.

25 Q. And for mixed-breed dogs, it prohibits

1 those dogs based on physical characteristics?

2 A. Correct.

3 Q. Okay. And so when you are looking at a
4 dog to determine if it falls within the ordinance,
5 you're using the physical characteristics of that
6 dog to decide whether that dog is actually one of
7 these prohibited breeds?

8 A. Correct.

9 Q. Okay. And it can either be completely one
10 of the prohibited breeds or it could be a mix --

11 A. Right.

12 Q. -- that predominantly is one of those
13 prohibited breeds?

14 A. Right.

15 Q. Okay. So the physical characteristics
16 operate as a proxy to determine what the actual
17 breed of that dog is?

18 A. Correct.

19 Q. All right. When you're looking at a
20 dog--and you said, you know, you'd look at the
21 characteristics--are there specific things that you
22 are looking for to determine whether the dog is or
23 is not one of the banned breeds?

24 A. You can't really describe it. It's just
25 something that you -- you know.

1 Q. That seems to be a common theme.

2 A. It -- it --

3 Q. Yeah, I think someone else said, "I can't
4 describe it, but I know it when I see it."

5 Is that accurate --

6 A. Yeah.

7 Q. -- for you as well?

8 A. Correct. Yeah.

9 MR. SUMMERLIN: It's one of those days,
10 man.

11 BY MR. SUMMERLIN:

12 Q. When you're looking at -- at mixed-breed
13 dogs -- and I assume in -- in your experience, at
14 least, you have run into some situations where you
15 looked at a dog to determine whether it was subject
16 to 4-89 where, visually, that dog looked very, very
17 close to what you would say, "In my mind,
18 that's" -- "that's what one of these banned breeds
19 would look like"?

20 A. Correct.

21 Q. Okay. And then you've had other
22 situations where the dog didn't look exactly like
23 one of the banned breeds. Then you have to make a
24 determination, Do I think it's predominantly one of
25 the banned breeds? Correct?

1 A. Correct.

2 Q. Okay. And so there's kind of this --
3 particularly with that second classification;
4 right?

5 A. Mm-hmm (nodding affirmatively).

6 Q. It's not a perfect representation --

7 A. Right.

8 Q. -- but it does kind of look like a banned
9 breed, there's an implicit assumption there that
10 that dog looks somewhat like its parents?

11 A. Right.

12 Q. And so if that dog looks predominantly
13 like a banned breed, I'm assuming that dog comes
14 from dogs that were predominantly a banned breed?

15 A. Correct.

16 Q. Okay. And I -- I think this is obvious,
17 but under the ordinance, the actual behavior of the
18 dog is really irrelevant?

19 A. Yeah.

20 Q. It's just did it come from one of these
21 banned breeds?

22 A. Correct.

23 Q. And I know I -- and so, like, you can't
24 really describe exactly what it is you're looking
25 for, but are there certain physical characteristics

1 that are more important to you than other physical
2 characteristics when you're trying to analyze
3 whether a dog is subject to 4-89?

4 A. No.

5 Q. Okay. It's just kind of a combination of
6 everything?

7 A. Yeah.

8 MR. SUMMERLIN: Let's pull out Exhibit 4.

9 BY MR. SUMMERLIN:

10 Q. This is a fun little game. We're going to
11 look at dog pictures, and it just, again -- so I'm
12 trying to just kind of understand -- and I -- and I
13 totally get what you're saying, like, "I can't tell
14 you specifically what I'm looking for." So we're
15 going to run through some -- some pictures. And
16 these are just, like, pictures of dogs.

17 A. Right.

18 Q. And if I were to ask you can you look at
19 these photos and tell me what you think the
20 predominant breed of dog is -- we'll just kind of
21 walk through each one of these pictures and do
22 that.

23 So when we look at page 1 of Exhibit 4,
24 you see a brindle dog with a red leash. When you
25 look at that dog, do you have any sense of what

1 that dog's predominant breed would be?

2 A. I would say Lab.

3 Q. Okay. And then pages 2 and 3 are the same
4 dog, so the same question. As you look at that
5 dog, what's your sense of a predominant breed or
6 breeds? I mean, if you want to say, "Well, I
7 believe it's this and this," or, you know --

8 A. I think it's husky-German shepherd --

9 Q. All right.

10 A. -- thing.

11 Q. And then 4 and 5, also the same dog.

12 A. Shepherd.

13 Q. Okay. 6 and 7, same dog.

14 A. I have no idea what kind of dog that is.

15 Q. Okay. Which is a perfectly acceptable
16 answer.

17 8 and 9.

18 A. And that's a cute one.

19 Q. I was going to say that's the one I want
20 to take home, except my boxer would eat it.

21 A. It's definitely got collie. I think a
22 heeler-collie.

23 Q. Okay. Like, for that, so what -- what are
24 the physical characteristics, as you look at this
25 cute one, that make you think heeler, make you

1 think collie?

2 A. The nose has the --

3 Q. Mottled?

4 A. -- the dots --

5 Q. Yeah.

6 A. -- from a heeler, and then the coloring --

7 Q. Okay.

8 A. -- looks like a collie.

9 Q. Yeah, it's kind of got that --

10 A. Black and white.

11 Q. -- white stripe around the neck?

12 A. Yeah.

13 Q. And 10?

14 A. Looks like a Rottie -- Rottweiler --

15 Q. Okay.

16 A. -- mixed with something else. Cute.

17 Q. 11?

18 A. I have no idea.

19 Q. Okay. And 12 and 13 are the same dog.

20 A. Oh, that's -- that's a pit mix.

21 Q. Okay. 14 and 15?

22 A. That looks like a Lab mix.

23 Q. Okay. And 16 and 17?

24 A. I have no idea.

25 Q. Okay. Okay. Now we're going to do a

1 couple more dog pictures.

2 MR. SUMMERLIN: Yeah. The court
3 reporter's got me figured out. It's like, "I've
4 done this drill before."

5 BY MR. SUMMERLIN:

6 Q. So she just handed you Exhibit 6 from the
7 Ambrosini deposition. And so what this one is --
8 you know, there are a couple pictures of dogs, and
9 then it's got the Embark DNA breed analysis for
10 each dog. And so I want to walk through these, and
11 I assume --

12 Go ahead and take a look at the pictures
13 first so you're kind of familiar with what we're
14 going to talk about.

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

17 Q. Yeah, some of them are kind of surprising;
18 right?

19 A. Reminds me of my dog. Just a mutt. Oh, I
20 like that one (indicating).

21 Q. Okay. So we're -- we're kind of cheating
22 here because we have the DNA that shows the breed
23 analysis.

24 A. Right.

25 Q. So if you didn't have the DNA, are there

1 any of these dogs that if you were sent out on a
2 call and you looked at a dog that looked like
3 these, you would say, "Oh, that dog is subject to
4 4-89"?

5 A. Just by looking at --

6 Q. Just by looking, yeah, without knowing
7 what their DNA is.

8 A. I mean, there's some in here that I would
9 guess just to get a second opinion.

10 Q. Okay. What -- what are the page numbers
11 of the ones that you would be like, "Ah, maybe"?

12 A. Definitely probably Number 6 --

13 Q. The American bulldog.

14 A. -- 7, 8, 9, and that's it.

15 Q. Okay. Now, if -- and let's just start
16 with the dog on page 1.

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

19 Q. If you were to go out on a call and you
20 see this dog, without the DNA, you would not -- you
21 would not issue a citation for a violation of 4-89?

22 A. Correct.

23 Q. Okay. If the owner said, "Hey, I had the
24 dog DNA'd. It's 20.3 percent American pit bull
25 terrier," would you then issue a citation?

1 A. Yep.

2 Q. Okay. And that's because the dog has
3 American pit bull terrier in its pedigree?

4 A. Correct.

5 Q. Okay. And also, I guess, American
6 Staffordshire terrier.

7 So for any of these dogs that have one of
8 the banned breeds in their DNA result, even if --
9 based on physical appearance alone, you would not
10 cite; if you knew what the DNA was, you would cite?

11 A. Correct.

12 Q. Okay. Does the -- does the amount or the
13 percentage of banned breed matter for citation
14 purposes?

15 A. You cannot have any -- any -- like, you
16 have to have zero percent.

17 Q. Okay. So, like, if there was a --

18 A. Like, a 1 percent --

19 Q. -- 0.001, you'd still have to cite?

20 A. Yeah.

21 Q. Okay. And you'd agree with me, right,
22 that there are some of these dogs that have a
23 significant amount of a banned breed in their
24 pedigree that really don't look at all like one of
25 the banned breeds?

1 A. Correct.

2 Q. And so for dogs like that, if you didn't
3 have a DNA test, you would never cite them?

4 A. Correct.

5 Q. So let -- let's talk about DNA, and I'm
6 going to, again, summarize based on what I've kind
7 of learned from other depositions. Since sometime
8 early last year, if a dog is -- or if an owner is
9 cited for a dog that's subject to 4-89, the City
10 does a DNA test unless the dog owner admits that
11 the dog is one of the banned breeds; is that right?

12 A. Yep (nodding affirmatively).

13 Q. Okay. And prior to that kind of change in
14 policy sometime last year, would the City ever do
15 DNA tests?

16 A. I don't recall.

17 Q. Okay.

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

19 Q. So, like, an owner might do one --

20 A. Mm-hmm (nodding affirmatively).

21 Q. -- but the City wouldn't inform them, "Oh,
22 hey," you know, "if you don't think your dog's a
23 pit bull," you know, "we'll pull DNA on it"?

24 MR. SCHMIDT: Object to foundation.

25 Go ahead.

1 BY MR. SUMMERLIN:

2 Q. If you know. Yeah.

3 A. Yeah, I -- I have no idea.

4 Q. Okay. All right. Let's do Spitz
5 Exhibit 1.

6 MR. SUMMERLIN: Yeah.

7 BY MR. SUMMERLIN:

8 Q. I meant to give that to you earlier, and I
9 forgot. Sorry. So that -- that's just an exhibit
10 that has the 4-89 and 4-90, the two pit bull
11 ordinances.

12 I want to talk for a second about the
13 service dog part of this. Have you ever gone on a
14 call where you've looked at an animal and thought
15 that it may be subject to the pit bull prohibition
16 and the owner asserted that it was a service dog?

17 A. Mm-hmm (nodding affirmatively).

18 Q. Okay. So what -- what do you do when
19 there is a claim that a -- a dog is a service dog?
20 Is there a policy that you follow?

21 A. Yeah. We just ask the ADA questions.

22 Q. Okay. What are the ADA questions?

23 A. Oh, you had to ask. "Do they perform a
24 task? What duties do they provide?" and I can't
25 remember the other one.

1 Q. I guess maybe assumed in there is you're
2 asking does the person have a disability?

3 A. Correct.

4 Q. Okay. Is that the third one that you were
5 trying to think of?

6 A. Yeah.

7 Q. Okay. So first question: Does the dog
8 perform a task? Right?

9 A. Correct.

10 Q. Second question: What duties does the
11 dog -- or tasks does the dog provide?

12 A. Correct.

13 Q. Okay. What kinds of tasks are acceptable?

14 A. Seizures, epilepsy.

15 Q. So when you -- the dog is somehow
16 notifying --

17 A. It -- it aler --

18 Q. Alerts?

19 A. -- basically, alerts.

20 Q. Okay.

21 A. Yep.

22 Q. So seizures, epilepsy?

23 A. I've heard of back problems.

24 Q. Okay.

25 A. Just basically any med -- medical at --

1 attention that you would need.

2 Q. Okay. So for the dog, not providing
3 that -- alerting to some medical condition?

4 A. Correct.

5 Q. Okay. If you look at page four -- go to
6 547 and 548 of Spitz Exhibit 1. So under 4-90,
7 there are some subsections: (a)(1) to, I think,
8 like, (a)(8) are various requirements for dogs that
9 are allowed -- for -- for banned breeds that are
10 allowed to remain in the city as a service animal.
11 Is that correct?

12 A. Correct.

13 Q. Okay. So if someone has a banned breed
14 and says that it's a service animal, they would
15 still have to, for example, keep the dog leashed
16 and muzzled when it was outside? Under (a)(1).

17 A. Accord -- yeah.

18 Q. Yeah.

19 And, like, you know, Subsection (5), there
20 are insurance requirements. So they would have to
21 comply with those insurance requirements?

22 A. Correct.

23 Q. Okay. And they need to register the dog
24 with the City?

25 A. Correct.

1 Q. Okay. For service animals that are not
2 one of the banned breeds, they don't need to do
3 those things; correct?

4 A. I -- I don't recall.

5 Q. Okay. You're not aware of any ordinance
6 that would require a Labrador service animal to be
7 muzzled when it's outside?

8 A. No.

9 Q. Okay. Or specific insurance requirements
10 for a Labrador service animal?

11 A. I think all registered animals, I believe,
12 have to be insured with the Willis -- insured with
13 Williston for any of the ADA stuff. That, I didn't
14 really get into when --

15 Q. Okay.

16 A. -- I was in all this other stuff, so I'm
17 at a loss.

18 Q. All right. So if someone has a banned
19 breed and they say it's a service animal but it's
20 not registered with the City, could that person be
21 cited under 4-89 and 4-90?

22 A. Yes.

23 Q. Okay. Currently, do you know who sets
24 the -- the policies that community service officers
25 follow with respect to animal control?

1 A. I believe it's the -- the police
2 department.

3 Q. Okay. Is there someone specifically
4 within the police department that does that?

5 A. The chief --

6 Q. Okay.

7 A. -- I believe.

8 Q. All right.

9 A. Uff da.

10 Q. And currently, Carli Wade is the person
11 that's your -- kind of direct report to?

12 A. Yes.

13 Q. Okay. How many community service officers
14 currently are involved in enforcing animal
15 control-related ordinances?

16 A. There's just four of us.

17 Q. Okay. So it's you, Carli Wade, Madi, and
18 who else?

19 A. Yulissa.

20 Q. Okay. With the exception of Carli Wade
21 who has some supervisory responsibilities, are the
22 job duties of the other three of you all similar?

23 A. Mm-hmm (nodding affirmatively).

24 MR. SUMMERLIN: Okay. Take two minutes?

25 MR. SCHMIDT: Sure.

1 (The proceedings recessed at 10:32 a.m. and
2 reconvened with everyone present at 10:39 a.m.)

3 BY MR. SUMMERLIN:

4 Q. If we go back to Exhibit 6, which is the
5 pictures and the breed --

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

8 Q. -- and on page 6, you mentioned this dog.
9 It's a hundred percent American bulldog. When you
10 looked at it, you'd be like, "Ah, could be." But
11 if you saw that the DNA was a hundred percent
12 American bulldog, that -- you wouldn't cite the dog
13 or the owner?

14 A. Correct.

15 Q. Okay. So American bulldog is not one of
16 the breeds that's banned by 4-89?

17 A. Correct.

18 Q. Yeah. Seems obvious; right? Because it's
19 not listed.

20 When you initially started performing
21 animal control-type duties and were called or --
22 and went on calls related to pit bulls within city
23 limits, if the dog was not aggressive, was it the
24 policy at that time to allow the dog to remain with
25 the owner?

1 A. I -- from what I can remember, I believe
2 it would just stay with the owner.

3 Q. Okay. And then my understanding, based on
4 some of the other depositions, is that sometime in
5 2021, that policy changed, and now for any dog that
6 was cited as being a prohibited breed, the dog
7 would be impounded?

8 A. Correct.

9 Q. Okay. Do you know why that policy was
10 changed?

11 A. No.

12 Q. Okay. Do you know whether that policy was
13 put in writing anywhere?

14 A. Not that I know of.

15 MR. SUMMERLIN: Okay. That's all I've
16 got. Thank you very much.

17 MR. SCHMIDT: I just have a couple of
18 things.

19 MR. SUMMERLIN: No. No. That's not
20 allowed.

21 EXAMINATION

22 BY MR. SCHMIDT:

23 Q. Ambrosini Exhibit Number 4.

24 A. Too many papers.

25 Q. Remember when Mr. Summerlin asked you to

1 go through those and say if you knew the breeds of
2 any of those dogs by looking at the pictures?

3 A. Yes.

4 Q. Were you a hundred percent sure on any of
5 those dogs in Exhibit Number 4?

6 A. No.

7 Q. Okay. And then on Exhibit Number 6, you
8 indicated that there were a few dogs that you would
9 call for a second opinion on. Do you recall that?

10 A. Correct.

11 Q. What did you mean by you'd call for a
12 second opinion? Whom would you call?

13 A. I would call either Carli or any of the
14 other girls just for a second opinion.

15 Q. And why would you call for a second
16 opinion?

17 A. Because I wouldn't be a hundred percent
18 sure.

19 Q. Do you issue citations when you're not
20 sure -- at least in your mind, that you're not
21 sure?

22 A. Yes and no.

23 Q. Okay. Explain to me what you mean.

24 A. Yes, I would, and then they would have to
25 take it to court and get a DNA test --

1 Q. Okay.

2 A. -- done.

3 Q. So, like, what -- how sure would you have
4 to be to issue a citation? If you're 5 percent
5 sure, would you issue a citation?

6 A. No. I would have to be a hundred percent.

7 Q. Okay. Let me unpack that a little bit.
8 When you say -- I -- I guess, what do you mean by
9 you'd have to be a hundred percent sure?

10 A. If I knew a hundred percent that it
11 was--like, a blue nose pit or an American
12 bully--just by looking at the animal --

13 Q. Okay. So what --

14 A. -- I would know.

15 Q. Okay. So what's the -- what's the
16 threshold that you need to meet to -- to issue a
17 citation, in your mind? If you're 50 percent sure
18 it's a prohibited breed, are you issuing a
19 citation?

20 A. Yeah.

21 Q. Okay. And is that after -- would you
22 consult with someone else before you did that?

23 A. Correct.

24 Q. So you wouldn't just base it on your own
25 opinion if your level of confidence is that low?

1 A. Correct.

2 Q. Okay. And if the owner would admit that
3 their dog is a banned breed, you'd issue a
4 citation; right?

5 A. Yeah.

6 MR. SCHMIDT: Okay. Nothing further.

7 MR. SUMMERLIN: I do have a follow-up to
8 that.

9 EXAMINATION

10 BY MR. SUMMERLIN:

11 Q. Do you recall a situation where you cited
12 and impounded a dog as being a banned breed and
13 then changed your mind?

14 A. No.

15 Q. You don't recall that ever happening?

16 A. (The deponent shook her head negatively.)
17 Not that I --

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

20 MR. SUMMERLIN: I don't know what -- what
21 you -- I didn't touch it. Okay. Got it?

22 MS. WALL: No.

23 MR. SUMMERLIN: Okay.

24 MS. WALL: Sorry.

25 MR. SUMMERLIN: Never mind. Thanks,

1 Amber.

2 MR. SCHMIDT: We'll -- we'll read and
3 sign.

4 You're done.

5 THE DEPONENT: Oh.

6 (The proceedings concluded at 10:45 a.m.)
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I, Amber Diane Pelzl, the deponent in the foregoing deposition, certify that I have read the attached 45 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 Williston, North Dakota, this _____ day of _____, 2022.

AMBER DIANE PELZL

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	38:21 41 [1] - 3:5 44 [1] - 3:6 45 [1] - 46:4 46 [1] - 3:24 460 [1] - 2:15 47 [1] - 3:25 479 [2] - 18:9, 18:12 499 [1] - 18:12	addressing [1] - 21:19 admit [1] - 44:2 admits [1] - 34:10 affirmatively [3] - 15:10, 18:15, 23:11 affirmatively [1] [1] - 7:22, 9:24, 19:21, 19:24, 20:15, 24:15, 27:5, 34:12, 34:20, 35:17, 39:23 aggressive [1] - 40:23 ago [2] - 4:10, 17:11 agree [1] - 33:21 ahead [2] - 31:12, 34:25 ALBERTSON [1] - 1:4 aler [1] - 36:17 alerting [1] - 37:3 alerts [2] - 36:18, 36:19 allow [1] - 40:24 allowed [3] - 37:9, 37:10, 41:20 alone [1] - 33:9 alongs [3] - 10:1, 15:11, 16:24 ALSO [1] - 2:19 AMANDA [1] - 2:8 Amber [4] - 4:9, 4:19, 45:1, 46:2 AMBER [5] - 1:14, 2:19, 3:3, 4:3, 46:15 Ambrosini [5] - 10:8, 13:19, 18:8, 31:7, 41:23 American [10] - 24:8, 24:9, 32:13, 32:24, 33:3, 33:5, 40:9, 40:12, 40:15, 43:11 amount [2] - 33:12, 33:23 amounts [1] - 7:20 Amy [2] - 8:22, 15:14 analysis [2] - 31:9, 31:23 analyze [1] - 28:2 animal [45] - 4:25, 6:15, 6:23, 7:2, 7:4, 7:13, 7:20, 8:6, 8:8, 8:11, 8:20, 9:2, 9:10, 9:21, 11:23, 11:25, 12:7, 12:9, 12:20, 13:5, 13:15, 14:5, 14:6, 16:3, 16:6, 16:9, 16:15, 16:22, 17:6, 18:1, 18:13, 18:25, 21:19, 21:24, 35:14,	37:10, 37:14, 38:6, 38:10, 38:19, 38:25, 39:14, 40:21, 43:12 Animal [1] - 17:2 animals [4] - 13:24, 14:7, 38:1, 38:11 answer [2] - 13:17, 29:16 appearance [3] - 23:22, 24:17, 33:9 Appearances [1] - 1:24 appeared [2] - 2:10, 2:16 APPEARING [1] - 2:19 apply [1] - 16:8 April [1] - 6:4 area [2] - 4:24, 8:13 areas [1] - 5:19 Armstrong [1] - 2:14 arrest [2] - 12:21, 12:25 arrestable [2] - 12:17, 12:20 aside [1] - 10:1 aspects [1] - 12:8 asserted [1] - 35:16 assistance [1] - 8:19 assume [3] - 20:18, 26:13, 31:11 assumed [1] - 36:1 assuming [2] - 21:10, 27:13 assumption [1] - 27:9 attached [1] - 46:4 attention [1] - 37:1 Attorney [4] - 1:15, 2:7, 2:8, 2:13 attorneys [1] - 19:14 August [1] - 19:23 available [2] - 23:2, 23:4 Avenue [1] - 2:15 aware [1] - 38:5	barking [1] - 21:25 base [1] - 43:24 based [5] - 11:22, 25:1, 33:9, 34:6, 41:3 basic [1] - 9:22 basis [1] - 7:10 BAUMSTARK [1] - 1:5 became [3] - 6:16, 6:22, 6:23 become [1] - 12:17 begin [1] - 5:2 begins [1] - 18:9 behalf [2] - 2:11, 2:17 behavior [1] - 27:17 between [2] - 7:20, 44:19 beyond [1] - 14:10 Bismarck [1] - 2:16 bit [3] - 11:15, 13:9, 43:7 black [1] - 30:10 Blackwell [1] - 2:9 blah [3] - 5:4 blah-blah-blah [1] - 5:4 blue [1] - 43:11 book [5] - 17:8, 17:10, 17:12, 17:14, 17:23 Book [1] - 17:19 Box [1] - 2:15 boxer [1] - 29:20 boy [1] - 11:19 BRANDY [1] - 1:4 breed [2] - 24:13, 24:25, 25:17, 26:12, 27:9, 27:13, 27:14, 28:20, 29:1, 29:5, 31:9, 31:22, 33:13, 33:23, 37:13, 38:19, 40:5, 41:6, 43:18, 44:3, 44:12 breeds [26] - 13:7, 14:10, 17:9, 24:4, 24:12, 24:18, 24:22, 24:23, 25:7, 25:10, 25:13, 25:23, 26:18, 26:23, 26:25, 27:21, 29:6, 33:8, 33:25, 34:11, 37:9, 38:2, 40:16, 42:1 BRIAN [1] - 2:13 brindle [1] - 28:24 Broadway [2] - 1:21, 2:15 bull [24] - 19:15, 19:16, 20:14, 20:20, 21:13, 21:20, 22:8,
'21 [1] - 19:23				
0				
0.001 [1] - 33:19				
1	5			
1 [9] - 6:4, 10:9, 19:9, 21:1, 28:23, 32:16, 33:18, 35:5, 37:6 10 [1] - 30:13 10/12/21 [1] - 20:8 10:32 [1] - 40:1 10:39 [1] - 40:2 10:45 [1] - 45:6 11 [1] - 30:17 12 [2] - 15:21, 30:19 12-week [1] - 15:15 122 [1] - 2:15 13 [1] - 30:19 13330 [1] - 2:9 14 [1] - 30:21 15 [1] - 30:21 16 [1] - 30:23 17 [1] - 30:23 19 [1] - 1:22	5 [5] - 18:5, 18:7, 29:11, 37:19, 43:4 50 [3] - 21:16, 21:17, 43:17 547 [1] - 37:6 548 [1] - 37:6			
	6			
	6 [6] - 29:13, 31:6, 32:12, 40:4, 40:8, 42:7			
	7			
	7 [2] - 29:13, 32:14			
	8			
	8 [2] - 29:17, 32:14 8/4/21 [1] - 20:9 838 [1] - 20:9 839 [1] - 20:9			
	9			
	9 [2] - 29:17, 32:14 9:36 [2] - 1:22, 4:1 9:40 [1] - 8:1			
2	A			
2 [1] - 29:3 20 [1] - 21:7 20.3 [1] - 32:24 200 [1] - 2:9 2015 [2] - 5:10, 5:13 2016 [1] - 6:4 2021 [8] - 6:14, 6:20, 8:7, 9:6, 9:17, 10:5, 13:23, 41:5 2022 [2] - 1:22, 46:12 21-cv-00012-CRH [1] - 1:6 22 [1] - 1:20	a)(1 [1] - 37:7 a)(1) [1] - 37:16 a)(8 [1] - 37:8 a.m [6] - 1:22, 4:1, 8:1, 40:1, 40:2, 45:6 able [2] - 23:12, 23:18 acceptable [2] - 29:15, 36:13 accord [1] - 37:17 accurate [2] - 26:5, 46:6 actual [2] - 25:16, 27:17 ADA [3] - 35:21, 35:22, 38:13			
3				
3 [1] - 29:3				
4				
4 [7] - 3:4, 19:23, 28:8, 28:23, 29:11, 41:23, 42:5 4-89 [10] - 24:3, 24:22, 26:16, 28:3, 32:4, 32:21, 34:9, 35:10, 38:21, 40:16 4-90 [3] - 35:10, 37:6,				
			B	
			background [1] - 14:13 backup [1] - 8:13 banned [2] - 24:4, 25:23, 26:18, 26:23, 26:25, 27:8, 27:13, 27:14, 27:21, 33:8, 33:13, 33:23, 33:25, 34:11, 37:9, 37:13, 38:2, 38:18, 40:16, 44:3, 44:12	

<p>22:22, 23:6, 23:7, 23:17, 23:25, 24:3, 24:7, 24:8, 24:14, 24:23, 32:24, 33:3, 34:23, 35:10, 35:15</p> <p>bull-related [2] - 21:13, 21:20</p> <p>bull-type [1] - 24:23</p> <p>bulldog [4] - 32:13, 40:9, 40:12, 40:15</p> <p>bulls [2] - 19:3, 40:22</p> <p>bully [1] - 43:12</p> <p>BY [14] - 4:8, 8:5, 18:6, 19:8, 19:12, 22:7, 26:11, 28:9, 31:5, 35:1, 35:7, 40:3, 41:22, 44:10</p> <p>bye [1] - 8:4</p>	<p>20:5, 20:13, 20:17, 20:21, 20:24, 32:21, 32:25, 33:13, 43:4, 43:5, 43:17, 43:19, 44:4</p> <p>citations [3] - 12:12, 19:15, 42:19</p> <p>cite [6] - 8:15, 33:10, 33:19, 34:3, 40:12</p> <p>cited [4] - 34:9, 38:21, 41:6, 44:11</p> <p>city [14] - 6:5, 7:16, 7:18, 12:4, 12:8, 19:3, 19:16, 20:14, 20:20, 22:9, 22:23, 24:5, 37:10, 40:22</p> <p>CITY [1] - 1:9</p> <p>City [9] - 1:20, 4:21, 6:21, 19:14, 34:9, 34:14, 34:21, 37:24, 38:20</p> <p>Civil [1] - 1:17</p> <p>claim [1] - 35:19</p> <p>classification [1] - 27:3</p> <p>close [1] - 26:17</p> <p>COLE [1] - 1:6</p> <p>COLE-PEREA [1] - 1:6</p> <p>college [2] - 14:23, 15:2</p> <p>College [1] - 15:5</p> <p>collie [4] - 29:21, 29:22, 30:1, 30:8</p> <p>coloring [1] - 30:6</p> <p>combination [1] - 28:5</p> <p>combined [1] - 9:7</p> <p>commenced [1] - 4:1</p> <p>commencing [1] - 1:22</p> <p>common [3] - 21:21, 21:23, 26:1</p> <p>community [11] - 4:21, 4:23, 5:3, 5:5, 6:16, 6:22, 9:7, 11:24, 16:5, 38:24, 39:13</p> <p>complaints [1] - 7:14</p> <p>Complete [2] - 17:16, 17:19</p> <p>complete [1] - 46:6</p> <p>completely [1] - 25:9</p> <p>complied [5] - 18:10, 18:19, 31:15, 32:17, 40:6</p> <p>comply [1] - 37:21</p> <p>component [1] - 9:25</p> <p>concluded [1] - 45:6</p> <p>condition [1] - 37:3</p>	<p>Conference [1] - 1:20</p> <p>confidence [1] - 43:25</p> <p>consider [1] - 21:21</p> <p>consult [1] - 43:22</p> <p>contact [3] - 23:1, 23:8, 23:12</p> <p>Control [1] - 17:2</p> <p>control [34] - 4:25, 6:15, 6:23, 7:2, 7:5, 7:20, 8:6, 8:8, 8:11, 8:20, 9:10, 9:21, 11:24, 11:25, 12:7, 12:9, 12:20, 13:5, 14:5, 14:6, 16:3, 16:6, 16:9, 16:15, 17:6, 18:1, 18:13, 18:25, 21:19, 21:24, 38:25, 39:15, 40:21</p> <p>control-related [3] - 7:2, 18:13, 39:15</p> <p>control-type [1] - 40:21</p> <p>correct [49] - 4:22, 5:20, 6:8, 6:22, 12:5, 12:10, 12:14, 12:18, 12:22, 13:1, 17:15, 20:10, 20:22, 23:23, 24:5, 24:6, 24:10, 24:14, 24:20, 24:24, 25:2, 25:8, 25:18, 26:8, 26:20, 26:25, 27:1, 27:15, 27:22, 32:22, 33:4, 33:11, 34:1, 34:4, 36:3, 36:9, 36:12, 37:4, 37:11, 37:12, 37:22, 37:25, 38:3, 40:14, 40:17, 41:8, 42:10, 43:23, 44:1</p> <p>correction [1] - 46:9</p> <p>corrections [1] - 46:7</p> <p>counsel [2] - 2:10, 2:16</p> <p>Counsel's [5] - 18:10, 18:19, 31:15, 32:17, 40:6</p> <p>County [1] - 1:18</p> <p>couple [3] - 31:1, 31:8, 41:17</p> <p>court [2] - 31:2, 42:25</p> <p>Court [2] - 3:25, 4:14</p> <p>COURT [1] - 1:1</p> <p>cover [1] - 10:11</p> <p>CSO [2] - 6:13, 10:11</p> <p>cute [3] - 29:18, 29:25, 30:16</p>	<p style="text-align: center;">D</p> <p>DAKOTA [2] - 1:2, 1:10</p> <p>Dakota [7] - 1:19, 1:21, 2:16, 4:15, 14:19, 15:5, 46:11</p> <p>DANIKA [1] - 1:5</p> <p>Dated [1] - 46:11</p> <p>day-to-day [1] - 7:10</p> <p>days [1] - 26:9</p> <p>deal [1] - 18:13</p> <p>decide [1] - 25:6</p> <p>declare [1] - 15:7</p> <p>Defendant [2] - 1:11, 2:17</p> <p>definitely [2] - 29:21, 32:12</p> <p>department [3] - 16:11, 39:2, 39:4</p> <p>departments [2] - 6:16, 9:6</p> <p>DEPONENT [5] - 8:4, 22:3, 22:6, 45:5, 46:1</p> <p>deponent [10] - 15:10, 18:10, 18:15, 18:19, 23:11, 31:15, 32:17, 40:6, 44:16, 46:2</p> <p>Deponent [2] - 2:20, 3:24</p> <p>deposition [8] - 4:13, 11:16, 18:8, 19:9, 31:7, 46:3, 46:4, 46:7</p> <p>DEPOSITION [1] - 1:14</p> <p>Deposition [1] - 10:8</p> <p>depositions [4] - 11:13, 11:23, 34:7, 41:4</p> <p>describe [5] - 7:8, 9:16, 25:24, 26:4, 27:24</p> <p>determination [1] - 26:24</p> <p>determine [4] - 25:4, 25:16, 25:22, 26:15</p> <p>determined [1] - 20:3</p> <p>Diane [2] - 4:19, 46:2</p> <p>DIANE [5] - 1:14, 2:19, 3:3, 4:3, 46:15</p> <p>different [1] - 16:8</p> <p>direct [1] - 39:11</p> <p>disability [1] - 36:2</p> <p>discussion [1] - 44:18</p> <p>DISTRICT [2] - 1:1, 1:2</p> <p>District [2] - 4:14</p>	<p>divide [1] - 15:25</p> <p>DNA [14] - 31:9, 31:22, 31:25, 32:7, 32:20, 33:8, 33:10, 34:3, 34:5, 34:10, 34:15, 34:23, 40:11, 42:25</p> <p>DNA'd [1] - 32:24</p> <p>document [1] - 19:13</p> <p>Dog [2] - 17:16, 17:19</p> <p>dog [64] - 13:6, 14:10, 21:25, 22:3, 23:15, 23:18, 23:22, 24:16, 25:4, 25:6, 25:17, 25:20, 25:22, 26:15, 26:16, 26:22, 27:10, 27:12, 27:13, 27:18, 28:3, 28:11, 28:20, 28:24, 28:25, 29:4, 29:5, 29:11, 29:13, 29:14, 30:19, 31:1, 31:10, 31:19, 32:2, 32:3, 32:16, 32:20, 32:24, 33:2, 34:8, 34:9, 34:10, 34:11, 35:13, 35:16, 35:19, 36:7, 36:11, 36:15, 37:2, 37:15, 37:23, 40:8, 40:12, 40:23, 40:24, 41:5, 41:6, 44:3, 44:12</p> <p>dog's [2] - 29:1, 34:22</p> <p>dogs [17] - 24:3, 24:11, 24:23, 24:25, 25:1, 26:13, 27:14, 28:16, 31:8, 32:1, 33:7, 33:22, 34:2, 37:8, 42:2, 42:5, 42:8</p> <p>done [5] - 8:2, 11:13, 31:4, 43:2, 45:4</p> <p>dots [1] - 30:4</p> <p>down [2] - 10:25, 11:2</p> <p>downtown [3] - 5:15, 5:18, 5:23</p> <p>drill [1] - 31:4</p> <p>duly [1] - 4:5</p> <p>during [1] - 18:24</p> <p>duties [7] - 7:2, 8:6, 8:12, 35:24, 36:10, 39:22, 40:21</p>
		E		
		<p>early [1] - 34:8</p> <p>easiest [1] - 7:9</p> <p>East [2] - 1:20, 2:15</p> <p>eat [1] - 29:20</p>		

<p>education [1] - 14:21 educational [2] - 9:25, 14:13 effectuate [2] - 12:21, 12:24 either [3] - 19:1, 25:9, 42:13 Embark [1] - 31:9 EMILY [1] - 1:6 employed [2] - 4:20, 5:6 encompassing [1] - 16:5 enforce [2] - 12:8, 19:3 enforcement [5] - 5:17, 6:5, 7:21, 16:2, 18:25 enforcing [2] - 11:25, 39:14 entire [1] - 5:6 epilepsy [2] - 36:14, 36:22 estimate [1] - 21:12 evolution [1] - 16:10 exactly [2] - 26:22, 27:24 Examination [3] - 3:4, 3:5, 3:6 examination [1] - 46:5 EXAMINATION [3] - 4:7, 41:21, 44:9 examined [1] - 4:5 example [1] - 37:15 except [1] - 29:20 exception [2] - 20:11, 39:20 Exhibit [14] - 10:8, 18:5, 18:7, 19:9, 21:1, 28:8, 28:23, 31:6, 35:5, 37:6, 40:4, 41:23, 42:5, 42:7 exhibit [2] - 17:2, 35:9 experience [5] - 8:7, 13:23, 14:7, 14:9, 26:13 explain [1] - 42:23 extraneous [1] - 8:1</p>	<p>few [2] - 21:8, 42:8 figured [1] - 31:3 filed [1] - 4:13 fill [1] - 13:9 finished [1] - 15:1 first [8] - 4:5, 5:8, 5:13, 11:14, 19:23, 20:23, 31:13, 36:7 Floor [1] - 1:19 follow [4] - 22:25, 35:20, 38:25, 44:7 follow-up [1] - 44:7 follows [1] - 4:6 FOR [1] - 1:2 foregoing [1] - 46:3 forgot [1] - 35:9 formalized [1] - 9:8 foundation [1] - 34:24 four [2] - 37:5, 39:16 full [1] - 4:17 fun [1] - 28:10</p>	<p>help [3] - 8:11, 8:14, 8:22 helpful [1] - 22:19 helping [2] - 14:6, 16:2 herein [2] - 1:24, 46:8 hierarchy [1] - 22:9 High [1] - 14:18 high [1] - 14:21 hired [1] - 9:21 hmm [8] - 12:2, 19:21, 19:24, 24:15, 27:5, 34:20, 35:17, 39:23 HOLLY [1] - 1:6 home [1] - 29:20 hopefully [1] - 11:15 hundred [8] - 21:16, 40:9, 40:11, 42:4, 42:17, 43:6, 43:9, 43:10 hurt [1] - 8:22 Husch [1] - 2:8 husky [1] - 29:8 husky-German [1] - 29:8</p>	<p>32:21, 32:25, 42:19, 43:4, 43:5, 43:16, 44:3 issued [4] - 20:4, 20:18, 20:21, 20:24 issues [3] - 16:3, 18:14, 21:20 issuing [1] - 43:18</p>	<p>less [2] - 21:15, 21:16 level [1] - 43:25 limitation [1] - 19:3 limited [1] - 12:3 limits [6] - 19:17, 20:14, 20:20, 22:9, 22:23, 40:23 LINE [4] - 46:18, 46:20, 46:22, 46:24 list [1] - 19:13 listed [3] - 24:13, 24:19, 40:19 LLP [1] - 2:9 look [21] - 10:9, 13:11, 18:5, 18:8, 18:16, 19:17, 20:7, 23:24, 25:20, 26:19, 26:22, 27:8, 28:11, 28:18, 28:23, 28:25, 29:4, 29:24, 31:12, 33:24, 37:5 looked [8] - 10:18, 13:13, 26:15, 26:16, 32:2, 35:14, 40:10 looking [13] - 10:17, 13:15, 23:19, 25:3, 25:19, 25:22, 26:12, 27:24, 28:14, 32:5, 32:6, 42:2, 43:12 looks [6] - 23:25, 27:10, 27:12, 30:8, 30:14, 30:22 Lori [1] - 1:17 loss [1] - 38:17 low [1] - 43:25 lucky [1] - 11:11 LYNETTE [1] - 1:5</p>	
G		G		J	
<p>game [1] - 28:10 GENE [1] - 2:7 Gene [2] - 1:15, 4:9 generally [1] - 9:16 generals [2] - 14:24, 15:9 generated [1] - 20:2 German [1] - 29:8 girls [1] - 42:14 graduated [1] - 14:14 guess [9] - 8:2, 16:15, 16:18, 16:22, 21:2, 32:9, 33:5, 36:1, 43:8 guys [1] - 10:2</p>	<p>game [1] - 28:10 GENE [1] - 2:7 Gene [2] - 1:15, 4:9 generally [1] - 9:16 generals [2] - 14:24, 15:9 generated [1] - 20:2 German [1] - 29:8 girls [1] - 42:14 graduated [1] - 14:14 guess [9] - 8:2, 16:15, 16:18, 16:22, 21:2, 32:9, 33:5, 36:1, 43:8 guys [1] - 10:2</p>	I	<p>job [12] - 5:14, 5:25, 6:6, 7:9, 9:22, 12:8, 16:8, 16:20, 16:25, 17:7, 21:21, 39:22 Johnson [2] - 19:9, 21:1 jurisdiction [1] - 12:3 JYL [1] - 1:4</p>	K	
H	H	<p>idea [4] - 29:14, 30:18, 30:24, 35:3 identified [2] - 20:3, 20:25 identifies [3] - 19:15, 20:17, 24:4 identify [1] - 13:6 implicit [1] - 27:9 important [1] - 28:1 impounded [2] - 41:7, 44:12 IN [1] - 1:1 included [1] - 19:19 includes [1] - 19:19 indicated [2] - 42:8, 46:6 indicating [1] - 31:20 inform [1] - 34:21 instead [1] - 12:23 insurance [3] - 37:20, 37:21, 38:9 insured [2] - 38:12 Introduction [1] - 17:2 involved [5] - 18:25, 20:12, 20:18, 21:3, 39:14 irrelevant [1] - 27:18 issue [8] - 12:12,</p>	<p>keep [1] - 37:15 kind [28] - 7:7, 8:18, 8:21, 9:1, 9:22, 14:10, 15:20, 15:25, 16:10, 16:20, 16:21, 16:24, 22:9, 22:20, 22:23, 27:2, 27:8, 28:5, 28:12, 28:20, 29:14, 30:9, 31:13, 31:17, 31:21, 34:6, 34:13, 39:11 kinds [1] - 36:13 knee [1] - 8:23 knowing [1] - 32:6 knowledge [2] - 13:10, 13:15 known [1] - 24:14</p>	M	
F	<p>Hall [1] - 1:20 hand [1] - 10:7 handed [2] - 18:7, 31:6 hang [1] - 13:11 Harbors [1] - 14:16 hard [1] - 22:18 Hauge [1] - 1:17 head [2] - 18:4, 44:16 heard [3] - 5:16, 13:22, 36:23 heeler [3] - 29:22, 29:25, 30:6 heeler-collie [1] - 29:22</p>	<p>idea [4] - 29:14, 30:18, 30:24, 35:3 identified [2] - 20:3, 20:25 identifies [3] - 19:15, 20:17, 24:4 identify [1] - 13:6 implicit [1] - 27:9 important [1] - 28:1 impounded [2] - 41:7, 44:12 IN [1] - 1:1 included [1] - 19:19 includes [1] - 19:19 indicated [2] - 42:8, 46:6 indicating [1] - 31:20 inform [1] - 34:21 instead [1] - 12:23 insurance [3] - 37:20, 37:21, 38:9 insured [2] - 38:12 Introduction [1] - 17:2 involved [5] - 18:25, 20:12, 20:18, 21:3, 39:14 irrelevant [1] - 27:18 issue [8] - 12:12,</p>	<p>Lab [2] - 29:2, 30:22 Labrador [2] - 38:6, 38:10 large [2] - 22:3, 23:7 last [6] - 6:12, 10:5, 21:8, 34:8, 34:14 Laughter [1] - 8:3 Law [4] - 1:15, 2:7, 2:8, 2:13 lawsuit [1] - 4:13 learn [1] - 11:15 learned [2] - 11:17, 34:7 leash [1] - 28:24 leashed [1] - 37:15 least [4] - 15:23, 17:1, 26:14, 42:20</p>	<p>Madi [3] - 13:13, 13:16, 39:17 Madison [2] - 13:18, 13:19 major [1] - 15:7 man [1] - 26:10 manner [1] - 19:16 MANUEL [1] - 1:6 marked [1] - 10:8 materials [1] - 10:2 MATHEW [1] - 1:5 matter [1] - 33:13 mean [9] - 7:10, 7:13, 7:19, 16:14, 29:6, 32:8, 42:11, 42:23, 43:8 meant [1] - 35:8 med [1] - 36:25 medical [2] - 36:25,</p>	

<p>37:3 meet [1] - 43:16 mentioned [3] - 13:16, 17:1, 40:8 met [1] - 4:10 might [1] - 34:19 mind [6] - 13:22, 26:17, 42:20, 43:17, 44:13, 44:25 Minnesota [1] - 14:20 minutes [1] - 39:24 miss [1] - 22:13 mix [3] - 25:10, 30:20, 30:22 mixed [5] - 24:11, 24:13, 24:25, 26:12, 30:16 mixed-breed [2] - 24:25, 26:12 Moeller [1] - 8:17 Moldenhauer [1] - 2:14 moment [1] - 4:10 most [2] - 19:16, 21:23 mostly [1] - 16:20 mottled [1] - 30:3 moved [1] - 6:13 moving [1] - 16:18 MR [38] - 2:7, 2:13, 4:8, 8:2, 8:5, 18:5, 18:6, 19:7, 19:8, 19:11, 19:12, 22:1, 22:4, 22:7, 26:9, 26:11, 28:8, 28:9, 31:2, 31:5, 34:24, 35:1, 35:6, 35:7, 39:24, 39:25, 40:3, 41:15, 41:17, 41:19, 41:22, 44:6, 44:7, 44:10, 44:20, 44:23, 44:25, 45:2 MS [4] - 2:8, 2:19, 44:22, 44:24 mutt [1] - 31:19 muzzled [2] - 37:16, 38:7</p>	<p>37:23, 38:2, 43:16 needed [1] - 8:13 needs [1] - 8:22 negatively [1] - 44:16 neighbor [2] - 22:1, 23:6 never [5] - 8:14, 13:22, 15:1, 34:3, 44:25 new [1] - 13:21 noise [1] - 8:1 NORTH [2] - 1:2, 1:10 North [7] - 1:19, 1:21, 2:16, 4:15, 14:19, 15:5, 46:11 nose [2] - 30:2, 43:11 Notary [1] - 1:18 noted [2] - 1:24, 46:8 nothing [2] - 11:15, 44:6 nothing's [1] - 7:10 notice [1] - 1:16 notifying [1] - 36:16 nuisance [1] - 22:6 Number [5] - 10:9, 32:12, 41:23, 42:5, 42:7 number [2] - 12:11, 21:14 numbers [1] - 32:10</p>	<p>26:9, 26:18, 26:23, 26:24, 27:20, 28:21, 29:18, 29:19, 29:25, 31:7, 31:20, 33:7, 33:24, 34:11, 34:19, 35:25, 36:4, 38:2, 40:15 ones [2] - 11:14, 32:11 ooh [1] - 22:17 operate [1] - 25:16 opinion [6] - 32:9, 42:9, 42:12, 42:14, 42:16, 43:25 oral [1] - 46:5 ordinance [4] - 12:13, 25:4, 27:17, 38:5 Ordinance [1] - 24:3 ordinances [10] - 7:16, 9:2, 9:20, 12:1, 12:9, 12:11, 12:15, 19:1, 35:11, 39:15 outside [2] - 37:16, 38:7 OWAN [1] - 1:5 own [2] - 23:17, 43:24 owner [12] - 23:9, 23:10, 23:13, 32:23, 34:8, 34:10, 34:19, 35:16, 40:13, 40:25, 41:2, 44:2</p>	<p>pedigree [2] - 33:3, 33:24 Pekingese [1] - 31:16 PELZL [5] - 1:14, 2:19, 3:3, 4:3, 46:15 Pelzl [2] - 4:19, 46:2 people [1] - 6:21 percent [12] - 32:24, 33:16, 33:18, 40:9, 40:11, 42:4, 42:17, 43:4, 43:6, 43:9, 43:10, 43:17 percentage [1] - 33:13 PEREA [2] - 1:6, 1:6 perfect [1] - 27:6 perfectly [1] - 29:15 perform [3] - 7:2, 35:23, 36:8 performing [1] - 40:20 period [1] - 16:1 person [7] - 8:16, 12:20, 13:22, 23:8, 36:2, 38:20, 39:10 photos [1] - 28:19 physical [8] - 23:22, 25:1, 25:5, 25:15, 27:25, 28:1, 29:24, 33:9 pictures [10] - 13:14, 28:11, 28:15, 28:16, 28:21, 31:1, 31:8, 31:12, 40:5, 42:2 pit [26] - 19:3, 19:15, 19:16, 20:13, 20:20, 21:12, 21:20, 22:8, 22:22, 23:6, 23:17, 23:24, 24:3, 24:8, 24:14, 24:23, 30:20, 32:24, 33:3, 34:23, 35:10, 35:15, 40:22, 43:11 pitch [1] - 8:23 place [1] - 46:5 Plaintiffs [2] - 1:7, 2:11 plaintiffs [1] - 4:4 pocket [1] - 22:16 point [5] - 6:20, 7:1, 8:21, 16:4, 16:19 police [3] - 12:23, 39:1, 39:4 policies [1] - 38:24 policy [6] - 34:14, 35:20, 40:24, 41:5, 41:9, 41:12 Porsborg [1] - 2:14 possible [1] - 20:20</p>	<p>pound [1] - 8:12 PowerPoint [1] - 10:10 precludes [1] - 24:11 predominant [3] - 28:20, 29:1, 29:5 predominantly [5] - 24:18, 25:12, 26:24, 27:12, 27:14 preparation [1] - 17:25 present [1] - 40:2 presentation [1] - 10:10 pretty [1] - 18:21 previous [1] - 8:11 primarily [1] - 7:4 primary [1] - 4:24 problems [1] - 36:23 Procedure [1] - 1:17 proceedings [3] - 4:1, 40:1, 45:6 prohibited [5] - 25:7, 25:10, 25:13, 41:6, 43:18 prohibition [1] - 35:15 prohibits [4] - 24:3, 24:16, 24:22, 24:25 promoted [1] - 16:16 provide [2] - 35:24, 36:11 provided [4] - 9:12, 17:5, 17:24, 19:14 providing [2] - 8:19, 37:2 proxy [1] - 25:16 Public [1] - 1:18 published [1] - 17:14 pull [2] - 28:8, 34:23 puppy [1] - 22:4 purposes [1] - 33:14 pursuant [2] - 1:16 put [3] - 17:3, 17:13, 41:13</p>
N	O	P		Q
<p>name [6] - 4:9, 4:18, 17:17, 19:20, 20:8, 20:25 natural [1] - 16:10 NDSCS [2] - 15:3, 15:4 Nebraska [1] - 2:10 neck [1] - 30:11 need [4] - 37:1,</p>	<p>object [1] - 34:24 obvious [2] - 27:16, 40:18 obviously [1] - 20:16 occasionally [3] - 8:19, 16:2, 19:2 OF [4] - 1:2, 1:9, 1:14, 46:1 offense [3] - 12:16, 12:17, 12:20 officer [12] - 4:21, 4:23, 5:5, 8:12, 8:20, 12:23, 12:24, 14:5, 14:6, 19:20, 20:3, 20:4 officers [7] - 6:22, 9:7, 11:24, 16:5, 38:24, 39:13 Omaha [1] - 2:10 on-the-job [2] - 9:22, 16:25 one [27] - 6:23, 13:8, 16:12, 19:23, 25:6, 25:9, 25:12, 25:23,</p>	<p>P.O [1] - 2:15 packet [1] - 18:17 packets [1] - 18:20 PAGE [4] - 46:18, 46:20, 46:22, 46:24 Page [5] - 3:4, 3:5, 3:6, 3:24, 3:25 page [7] - 10:11, 18:9, 28:23, 32:10, 32:16, 37:5, 40:8 pages [4] - 18:13, 20:9, 29:3, 46:4 papers [1] - 41:24 parents [1] - 27:10 parking [1] - 5:15, 5:17, 5:23, 6:5, 6:23, 7:14, 7:21, 16:2, 16:6, 16:21 part [5] - 14:5, 16:25, 17:5, 17:25, 35:13 part-time [1] - 14:5 particularly [1] - 27:3 peace [1] - 12:24</p>		R
				<p>range [1] - 5:14 read [3] - 9:1, 45:2, 46:3 really [8] - 8:15, 16:14, 22:17, 25:24, 27:18, 27:24, 33:24,</p>

<p>38:14 REANNAN [1] - 1:4 reason [1] - 46:8 REASON [4] - 46:18, 46:20, 46:22, 46:24 receive [2] - 8:20, 13:6 received [1] - 9:17 receiving [1] - 18:17 recessed [1] - 40:1 recognizing [1] - 14:10 reconvened [1] - 40:2 record [1] - 44:18 red [1] - 28:24 reference [1] - 19:15 register [1] - 37:23 registered [2] - 38:11, 38:20 rehired [1] - 16:15 relate [1] - 22:5 related [7] - 7:2, 12:9, 18:13, 21:13, 21:20, 39:15, 40:22 remain [2] - 37:10, 40:24 remember [4] - 17:10, 35:25, 41:1, 41:25 reminds [1] - 31:19 reorganization [4] - 6:15, 6:21, 16:4, 16:7 reorganized [1] - 16:11 report [4] - 20:2, 20:7, 20:16, 39:11 Reporter [1] - 3:25 reporter's [1] - 31:3 representation [1] - 27:6 request [5] - 18:11, 18:20, 31:16, 32:18, 40:7 require [1] - 38:6 requirements [4] - 37:8, 37:20, 37:21, 38:9 respect [3] - 12:7, 13:4, 38:25 responsibilities [2] - 4:24, 39:21 result [1] - 33:8 resulted [1] - 20:13 review [2] - 11:5, 17:25 reviewed [2] - 10:12, 17:5 ride [5] - 9:18, 10:1, 15:11, 15:15, 16:24</p>	<p>ride-along [1] - 15:15 ride-alongs [3] - 10:1, 15:11, 16:24 Room [1] - 1:20 Rottie [1] - 30:14 Rottweiler [1] - 30:14 Rules [1] - 1:17 run [2] - 26:14, 28:15 runs [1] - 18:12</p>	<p>33:23 similar [1] - 39:22 sitting [1] - 11:2 situation [2] - 23:1, 44:11 situations [4] - 12:19, 20:17, 26:14, 26:22 small [1] - 8:13 Smith [2] - 2:14, 2:15 so [1] - 19:10 someone [7] - 22:21, 23:5, 26:3, 37:13, 38:18, 39:3, 43:22 sometimes [4] - 6:14, 34:7, 34:14, 41:4 somewhat [1] - 27:10 somewhere [2] - 18:23 sorry [5] - 19:11, 22:19, 23:3, 35:9, 44:24 sort [2] - 9:1, 9:19 sound [1] - 17:19 sour [2] - 22:15, 22:17 specific [2] - 25:21, 38:9 specifically [3] - 17:9, 28:14, 39:3 Spitz [2] - 35:4, 37:6 split [1] - 7:20 Staffordshire [3] - 24:7, 24:9, 33:6 start [4] - 5:8, 6:18, 7:1, 32:15 started [3] - 5:13, 16:9, 40:20 State [2] - 1:19, 15:5 state [1] - 4:17 STATES [1] - 1:1 States [1] - 4:14 stay [1] - 41:2 still [2] - 33:19, 37:15 Street [1] - 2:9 stripe [1] - 30:11 stuff [4] - 16:22, 17:11, 38:13, 38:16 subject [5] - 26:15, 28:3, 32:3, 34:9, 35:15 Subsection [1] - 37:19 subsections [1] - 37:7 SUCKLEY [2] - 1:4, 1:4 Suite [1] - 2:9 summarize [2] -</p>	<p>11:16, 34:6 SUMMERLIN [31] - 2:7, 4:8, 8:2, 8:5, 18:5, 18:6, 19:7, 19:8, 19:11, 19:12, 22:1, 22:4, 22:7, 26:9, 26:11, 28:8, 28:9, 31:2, 31:5, 35:1, 35:6, 35:7, 39:24, 40:3, 41:15, 41:19, 44:7, 44:10, 44:20, 44:23, 44:25 Summerlin [6] - 1:15, 3:4, 3:6, 4:9, 41:25, 44:19 super [1] - 22:15 supervisor [1] - 9:13 supervisory [1] - 39:21 surprising [1] - 31:17 Susan [5] - 8:17, 8:19, 14:2, 14:4, 16:3 suspicion [1] - 20:19 sworn [2] - 4:5, 12:24</p>	<p>totally [2] - 22:5, 28:13 touch [1] - 44:21 tough [1] - 13:8 towing [1] - 7:15 training [8] - 8:20, 9:8, 9:12, 9:17, 9:23, 13:6, 16:25, 17:6 transcript [1] - 46:7 transferred [1] - 16:8 transition [3] - 13:5, 17:5, 19:2 transparent [1] - 20:1 trick [1] - 16:13 tricky [1] - 16:12 try [3] - 15:25, 22:25, 23:7 trying [6] - 15:24, 16:13, 22:19, 28:2, 28:12, 36:5 two [4] - 20:12, 20:25, 35:10, 39:24 Two [1] - 14:16 type [2] - 24:23, 40:21 typewritten [1] - 46:4</p>
S		T		
<p>sat [1] - 10:25 saw [3] - 23:6, 40:11 SCHMIDT [7] - 2:13, 34:24, 39:25, 41:17, 41:22, 44:6, 45:2 Schmidt [1] - 3:5 School [1] - 14:18 school [1] - 14:22 Schweigert [1] - 2:14 Science [1] - 15:5 Second [1] - 1:19 second [9] - 12:16, 27:3, 32:9, 35:12, 36:10, 42:9, 42:12, 42:14, 42:15 Section [1] - 24:22 see [6] - 13:12, 23:14, 23:18, 26:4, 28:24, 32:20 seeing [1] - 17:10 seizures [2] - 36:14, 36:22 sense [2] - 28:25, 29:5 sent [1] - 32:1 separate [1] - 5:18 ser [1] - 6:17 service [18] - 4:21, 4:23, 5:5, 6:22, 9:7, 11:24, 16:5, 35:13, 35:16, 35:19, 37:10, 37:14, 38:1, 38:6, 38:10, 38:19, 38:24, 39:13 servicer [1] - 5:3 sets [1] - 38:23 several [1] - 24:4 shepherd [2] - 29:8, 29:12 shook [1] - 44:16 show [1] - 19:6 shows [1] - 31:22 side [2] - 21:19, 21:24 sign [1] - 45:3 significant [1] -</p>	U	<p>specific [2] - 25:21, 38:9 specifically [3] - 17:9, 28:14, 39:3 Spitz [2] - 35:4, 37:6 split [1] - 7:20 Staffordshire [3] - 24:7, 24:9, 33:6 start [4] - 5:8, 6:18, 7:1, 32:15 started [3] - 5:13, 16:9, 40:20 State [2] - 1:19, 15:5 state [1] - 4:17 STATES [1] - 1:1 States [1] - 4:14 stay [1] - 41:2 still [2] - 33:19, 37:15 Street [1] - 2:9 stripe [1] - 30:11 stuff [4] - 16:22, 17:11, 38:13, 38:16 subject [5] - 26:15, 28:3, 32:3, 34:9, 35:15 Subsection [1] - 37:19 subsections [1] - 37:7 SUCKLEY [2] - 1:4, 1:4 Suite [1] - 2:9 summarize [2] -</p>	U	
<p>uff [1] - 39:9 under [4] - 27:17, 37:6, 37:16, 38:21 United [1] - 4:14 UNITED [1] - 1:1 unless [1] - 34:10 unpack [1] - 43:7 up [5] - 9:1, 15:25, 16:18, 22:25, 44:7 usual [1] - 7:3</p>	V	<p>task [2] - 35:24, 36:8 tasks [2] - 36:11, 36:13 ten [2] - 21:5, 22:10 terms [1] - 21:18 terrier [4] - 24:14, 32:25, 33:3, 33:6 terriers [4] - 24:7, 24:8, 24:9 test [3] - 34:3, 34:10, 42:25 testified [1] - 4:5 tests [1] - 34:15 THE [7] - 1:1, 1:2, 1:9, 8:4, 22:3, 22:6, 45:5 theme [1] - 26:1 third [1] - 36:4 three [1] - 39:22 threshold [1] - 43:16 threw [1] - 22:16 throughout [1] - 7:18 Thursday [1] - 1:21 tickets [1] - 7:15 today [3] - 4:13, 7:4, 7:8 together [5] - 6:13, 10:2, 10:25, 17:3, 17:13 top [2] - 18:4, 22:10 total [1] - 21:12</p>	V	
<p>varies [1] - 7:23 various [1] - 37:8 varying [1] - 7:20 vehicles [1] - 7:15 violation [3] - 12:12, 12:16, 32:21 visibly [1] - 17:10 visually [1] - 26:16 vs [1] - 1:8</p>	W	<p>varies [1] - 7:23 various [1] - 37:8 varying [1] - 7:20 vehicles [1] - 7:15 violation [3] - 12:12, 12:16, 32:21 visibly [1] - 17:10 visually [1] - 26:16 vs [1] - 1:8</p>	W	
<p>Wade [6] - 9:14, 10:11, 17:3, 39:10, 39:17, 39:20 Wahpeton [1] - 15:6 wait [1] - 22:13</p>	<p>Wade [6] - 9:14, 10:11, 17:3, 39:10, 39:17, 39:20 Wahpeton [1] - 15:6 wait [1] - 22:13</p>	<p>Wade [6] - 9:14, 10:11, 17:3, 39:10, 39:17, 39:20 Wahpeton [1] - 15:6 wait [1] - 22:13</p>	<p>Wade [6] - 9:14, 10:11, 17:3, 39:10, 39:17, 39:20 Wahpeton [1] - 15:6 wait [1] - 22:13</p>	

<p>walk ^[4] - 22:20, 22:23, 28:21, 31:10 walked ^[1] - 10:25 Wall ^[1] - 44:19 WALL ^[3] - 2:8, 44:22, 44:24 watched ^[1] - 9:20 week ^[2] - 5:17, 11:13 weeks ^[1] - 15:21 white ^[2] - 30:10, 30:11 whole ^[1] - 6:5 Williams ^[1] - 1:18 Willis ^[1] - 38:12 WILLISTON ^[1] - 1:9 Williston ^[13] - 1:20, 1:21, 4:21, 5:6, 5:9, 5:18, 5:19, 6:1, 12:4, 12:23, 19:4, 38:13, 46:11 witness ^[1] - 4:4 witnesses ^[1] - 5:17 writing ^[2] - 7:14, 41:13</p>
<p>Y</p>
<p>year ^[4] - 6:12, 10:5, 34:8, 34:14 years ^[2] - 17:11, 21:8 Yulissa ^[1] - 39:19</p>
<p>Z</p>
<p>zero ^[1] - 33:16</p>