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Transcript of Hearing - Day 1

Date: February 22, 2024

Case: Katzman -v- Leisure World (HR 23-01)

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Transcript of Hearing - Day 1
Conducted on February 22, 2024

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|----|----------------------------------------------|----|------------------------------------------------|---|
| 1 | BEFORE THE MONTGOMERY COUNTY COMMISSION | 1 | APPEARANCES: | 3 |
| 2 | ON HUMAN RIGHTS | 2 | | |
| 3 | -----x | 3 | ON BEHALF OF SHERYL KATZMAN | |
| 4 | SHERYL KATZMAN, : | 4 | SOPHIA JAYANTY, ESQUIRE | |
| 5 | Complainant, : | 5 | COLE SHARDELOW, ESQUIRE | |
| 6 | Vs. : | 6 | E. NELL PIPER, ESQUIRE | |
| 7 | CHAIR, BOARD OF DIRECTORS : | 7 | HANNAH ELSTER, ESQUIRE | |
| 8 | LEISURE WORLD COMMUNITY CORP., : | 8 | | |
| 9 | Respondent. : | 9 | ON BEHALF OF CHAIR, BOARD OF DIRECTORS LEISURE | |
| 10 | -----x | 10 | WORLD COMMUNITY CORP.: | |
| 11 | | 11 | CATHERINE R. SPALLUZZI, ESQUIRE | |
| 12 | DAY 1 HEARING | 12 | LUCAS WEBSTER, ESQUIRE | |
| 13 | Before Hearing Examiner KATHLEEN BYRNE | 13 | | |
| 14 | Rockville, Maryland | 14 | | |
| 15 | Thursday, February 22, 2024 | 15 | | |
| 16 | 9:31 a.m. | 16 | | |
| 17 | | 17 | | |
| 18 | Job No. 523819 | 18 | | |
| 19 | Pages: 1-245 | 19 | | |
| 20 | Transcribed by: Cynthia Bauerle, CSR | 20 | | |
| 21 | Notary Public/Court Reporter: Brendon Cuenca | 21 | | |
| 22 | | 22 | | |
| 23 | | 23 | | |
| 24 | | 24 | | |
| 25 | | 25 | | |

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| 5 | Phone: 240.777.6660 | 5 | Cross-Examination by Mr. Webster | 102 |
| 6 | | 6 | Redirect Examination by Ms. Piper | 173 |
| 7 | Pursuant to agreement, before Brendon Cuenca, | 7 | | |
| 8 | Notary Public in and for the State of | 8 | JACK DUNN | |
| 9 | Maryland. | 9 | Direct Examination by Mr. ShardeLOW | 179 |
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| 5 | | 7 |
| 1 | E X H I B I T S | 1 of Zoning and Administrative Hearings. Before |
| 2 | EXHIBIT DESCRIPTION EVD PAGE | 2 we get started, I'm going to check in with |
| 3 | Exhibit 1 Email, 56 A1 70 | 3 Brendon. Brendon, good to go? And I should |
| 4 | Exhibit 2 Email, 56 A2 74 | 4 have said we're on the record. I apologize |
| 5 | Exhibit 3 Email 56 A3 80 | 5 for that. So as soon as I started talking, we |
| 6 | Exhibit 4 Complaint, 56 A4 86 | 6 are on the record. Gentlemen, we're good to |
| 7 | Exhibit 71 Email 151 | 7 go? All right. So it seems our technology is |
| 8 | Exhibit 72 Document 162 | 8 working today, which is fantastic. We've got |
| 9 | | 9 Brendon here, who is our court reporter. |
| 10 | | 10 So just introductions. My name is |
| 11 | | 11 Katie Byrne. I'm the hearing examiner that's |
| 12 | | 12 been assigned to this case. So what that |
| 13 | | 13 means is that I will listen to testimony, I'll |
| 14 | | 14 review evidence and render a report and |
| 15 | | 15 recommendation within 45 days of the close of |
| 16 | | 16 the record. All parties will receive |
| 17 | | 17 notification of the final report and |
| 18 | | 18 recommendation once it's issued. Neither I, |
| 19 | | 19 nor OZAH have the authority to make a final |
| 20 | | 20 decision. That authority rests with the |
| 21 | | 21 referring agency, and that's the Human Rights |
| 22 | | 22 Commission. They may adopt all of my |
| 23 | | 23 recommendations. They may adopt some of them. |
| 24 | | 24 They may adopt -- they may adopt none of them. |
| 25 | | 25 So the idea for the referring agency is that |
| 6 | | 8 |
| 1 | P R O C E E D I N G S | 1 they ask OZAH to do the heavy lifting because |
| 2 | JUDGE BYRNE: Just real quick | 2 this is a lot, what we're going through for a |
| 3 | before we get started, do either of you have | 3 commission to do. So they ask us to do that |
| 4 | the glasses? All right. | 4 for them and issue reports and |
| 5 | Good morning, everyone. Welcome to the | 5 recommendations. So right now what I'd like |
| 6 | OZAH hearing room. Before we get started, I | 6 to do is identify the parties and Counsel. So |
| 7 | just have a few preliminary things we want to | 7 let's start with the Claimant, Ms. Katzman and |
| 8 | go through. This is a public hearing from the | 8 her attorneys. |
| 9 | referral of the Office of Human Rights for a | 9 MS. JAYANTY: Sophia Jayanty on |
| 10 | case regarding case number REH06711, stemming | 10 behalf of Ms. Katzman. |
| 11 | from the determination of the Human Rights | 11 JUDGE BYRNE: Okay. |
| 12 | office that reasonable grounds existed to | 12 MR. SHARDELOW: Cole Shardelow |
| 13 | warrant a hearing regarding the unlawful | 13 on behalf of Ms. Katzman. |
| 14 | discrimination in housing filed by Claimant, | 14 MS. PIPER: Nell Piper on behalf |
| 15 | Ms. Sheryl Katzman, against Respondent, | 15 of Ms. Katzman. |
| 16 | Leisure World Community Corp. Pursuant to | 16 JUDGE BYRNE: Okay. |
| 17 | Montgomery County code section 2712, this | 17 MS. ELSTER: Hannah Elster on |
| 18 | hearing is being conducted in a hybrid format, | 18 behalf of Ms. Katzman. |
| 19 | as we can all tell. That means we have | 19 JUDGE BYRNE: Thank you. Go |
| 20 | individuals here and we have individuals | 20 ahead. |
| 21 | remotely via Zoom. The rules of procedure | 21 MS. SPALLUZZI: Catherine |
| 22 | governing this hearing are pursuant to the | 22 Spalluzzi on behalf of Leisure World. |
| 23 | county's administrative procedure act, section | 23 JUDGE BYRNE: Okay. |
| 24 | 2A, and resolution 181276 regarding referrals | 24 MR. WEBSTER: Good morning, Your |
| 25 | from various agencies to OZAH, OZAH's Office | 25 Honor. I'm Lucas Webster. I'm Counsel for |

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3 (9 to 12)

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| <p>9</p> <p>1 Leisure World. And as a preliminary item, 2 I'll just note that the -- as styled, the case 3 is Chair Board of Directors, Leisure World 4 Community Corporation. Just we are Counsel 5 for all or one or however that is intended to 6 be. 7 JUDGE BYRNE: Understood. 8 Understood. Thank you very much. I know I've 9 used the LWCC acronym part and parcel to 10 encompass the complaint against all parties 11 for Leisure World. So we'll go from there 12 and Ms. Katzman's been referred to as 13 Claimant, complainant. You know, I mean, 14 there's a variety. So we're -- just to set 15 the record straight, we're capturing all of 16 those titles and names for the various 17 parties. I appreciate that. And before we 18 start, do you all need them to turn their 19 microphones on or maybe one? 20 THE REPORTER: Just whoever is 21 speaking. 22 JUDGE BYRNE: Just whoever is 23 speaking. Okay. So just -- and this is -- 24 THE REPORTER: That's how we get 25 that feedback.</p> | <p>11</p> <p>1 unless you are called as a witness. So for 2 those of you who are attending this public 3 hearing, just as if you were sitting here in 4 the gallery, you can't raise your hand, you 5 can't shout out, you can't interrupt. Okay? 6 So you are here to observe. Let's see if -- 7 before we get started, let's see if Ms. 8 Castillo is on Zoom. Is Crystal Castillo on 9 Zoom? If you are, please unmute and let's see 10 if we can hear you. All right. So we don't 11 see her yet. We'll cross that bridge when we 12 come to it. All right. So we'll just keep an 13 eye. If you see her pop in, if you guys could 14 just let me know and we'll road test her 15 microphone then. 16 All right. So all persons who are on 17 Zoom must remain on mute. We have a court 18 reporter with us today. Everything that we 19 say and discuss will be transcribed by the 20 court reporter. So just as important with 21 Zoom meetings as we are here, please try not 22 to talk over each other. I will do my best, 23 as well, not to interrupt and talk over each 24 other because Brendon can't capture 25 everything. Now, have y'all started the Zoom</p> |
| <p>10</p> <p>1 JUDGE BYRNE: Right. This is a 2 reminder for me that I do the same thing. So 3 those of you who are speaking when you start 4 to speak, turn -- push the little button for 5 your microphone to go on. We can hear each 6 other because we're in close quarters, but 7 those that are attending via Zoom may not. If 8 you want to stand when you speak, that's fine. 9 You don't have to stand when you speak. I 10 think it's a personal preference. When I was 11 on the other side, it helps me, like, to hold 12 something and stand, but, you know, hey, to 13 each of their own. Pretty flexible as far as 14 what your comfort level is as far as 15 delivering questioning, things like that. We 16 need to rearrange chairs if we need to have 17 obviously witnesses come back and forth to the 18 table. We'll cross that bridge when we get to 19 it. 20 All right. A little bit of -- let's 21 see. So because this is a Zoom hearing and we 22 know we have at least one person that's 23 participating via Zoom, let's just talk a 24 little bit about for those of you who are on 25 Zoom. No one should be speaking on Zoom</p> | <p>12</p> <p>1 recording? All right. So you might see the 2 light on that the Zoom is being recorded. 3 It's being recorded for the benefit of the 4 court reporter. So as he goes back to try to 5 transcribe, if he's missed something, he's 6 going to then use that Zoom recording in order 7 to make those determinations. So the 8 transcript that's generated will become part 9 of the official record. The Zoom recording, 10 no. The transcript, yes. All right. Let's 11 see. As far as sharing screen, the exhibits 12 will be shown on the screen. Our Zoom 13 operators, all the faith in the world in them, 14 they are going to be able to pull up exhibits. 15 They'll be pulling directly from the website. 16 It's great that both parties are here because 17 we also, you know, have the ability to see and 18 view at the same time. So I'm super excited 19 about that. All right. If you are on Zoom 20 and you want to pin to enlarge the screen, we 21 do have on our website instructions on how to 22 pin a video. Never done it myself, but I 23 don't think it's that difficult. All right. 24 So just as far as timing and process, a 25 little more housekeeping. We started at 9:30.</p> |

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4 (13 to 16)

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| <p>13</p> <p>1 My tendency is to try to roll, right? We try 2 to get through. If we need breaks, let me 3 know. We'll find out where that natural 4 stopping point is in the middle of the day. 5 If we need 30 minutes, 45 minutes I'd like to 6 try to keep it under an hour, if we could. We 7 have to end by four o'clock for technical 8 reasons. So if there's a natural stopping 9 point, say, at 3:30, we will -- we'll, again, 10 cross that bridge when we get to it. We have 11 two full days for this hearing. So as far as 12 the nature of the proceedings, again, they're 13 informal with certain formalities. They -- 14 it's, you know, it's still a structured 15 format; however, it's not as formal as a 16 normal court proceeding, but what you say will 17 be under oath. You may be asked questions 18 about your testimony and the proceeding order 19 will follow. 20 So opening statements from both 21 parties, if you desire. Don't have to do it 22 if you don't want to. Claimant will go first 23 with their presentation of their factual case 24 and the -- at the completion of Claimant's 25 case, obviously there'll be an opportunity for</p> | <p>15</p> <p>1 make that correction in -- in the final 2 document. I'm happy we can do the objections 3 as we go through, but if there's no objection 4 to anything on this paper, we can just go 5 ahead and have it be deemed admitted when 6 they're -- when they're entered. So I give 7 Counsel the opportunity for that. Any 8 thoughts? How do we feel about that? 9 MR. WEBSTER: I believe we'd 10 already discussed exhibits. 11 JUDGE BYRNE: Right. Yup. 12 MR. WEBSTER: So I thought we 13 had sort of -- 14 JUDGE BYRNE: Great. Okay. 15 Excellent. All right. So then all these -- 16 all of the exhibits then are going to be 17 deemed admitted so we won't have to go through 18 that particular process. And I didn't hear 19 anything back yesterday, so I just wanted to 20 reaffirm that. All right. So everything on 21 the exhibit list, say moving 39 under 22 Respondent will be deemed admitted. All 23 right. Again, the informality of this 24 process, the strict rules of evidence don't 25 apply in this particular administrative</p> |
| <p>14</p> <p>1 cross-examination on both sides, then the 2 Respondent will proceed with their factual 3 case with an opportunity for cross- 4 examination. There will be an opportunity for 5 rebuttal by Claimant after Respondent's case, 6 and then a surrebuttal by Respondent after 7 that opportunity, and then closing statements, 8 if you wish, again, for both parties. And I 9 know Nana passed out the exhibit list and we 10 went through that I think fairly well. I 11 tried to capture everything and so yesterday 12 as we were pulling things together, so if 13 Counsel will have an opportunity to take a 14 look at those exhibits. Is there any 15 objection to anything that we have right now 16 as far as the exhibits that are on this list 17 because I'd like to -- go ahead. 18 MS. ELSTER: I see our Exhibits 19 39 are under Claimants. 20 JUDGE BYRNE: Oh, are they? 21 They're wrong, okay. All right. So we can -- 22 we will move that. All right. Yeah. So 23 exhibit -- all right. So note that where it 24 says the number 2 under Claimant's exhibit 25 belongs under Respondent's exhibits. So we'll</p> | <p>16</p> <p>1 hearing. I'll admit and consider any 2 evidence, which possesses value to the matter 3 before me and all testimony should be 4 addressed to the claim of retaliation, right? 5 That is the sole claim before me is the claim 6 of retaliation. I reserve the right to 7 exclude any irrelevant, repetitive or 8 unreliable testimony and evidence. And we 9 want to talk specifically -- let's go through 10 preliminary matters. I appreciate everyone's 11 patience and time yesterday with our exchange 12 of emails. The -- and we have just a couple 13 of preliminary matters that I want to put on 14 the record. Mr. Webster. 15 MR. WEBSTER: And there's one 16 thing. I apologize, your Honor -- 17 JUDGE BYRNE: Sure. 18 MR. WEBSTER: -- to go 19 backwards, but under the Respondent's 20 exhibits, there have been and there remains 21 now a note that says to the effect that except 22 for the CCOC on meetings at 7/9/19 usable 23 accommodation letter. I had thought that in 24 further conversations from yesterday, the CCOC 25 letter was able to come in and it was</p> |

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| <p>17</p> <p>1 uploaded.</p> <p>2 JUDGE BYRNE: It is.</p> <p>3 MR. WEBSTER: Okay.</p> <p>4 JUDGE BYRNE: It is. So that</p> <p>5 was -- that was my error based on my notes</p> <p>6 originally. So that -- we can strike that,</p> <p>7 the accept part, from Exhibit 57 description.</p> <p>8 MR. WEBSTER: Thank you.</p> <p>9 JUDGE BYRNE: All right. So</p> <p>10 we'll make those notes, as well. All right.</p> <p>11 So just a few preliminary matters, given a</p> <p>12 little bit of history.</p> <p>13 We have had -- this case goes back to</p> <p>14 2019. So Ms. Katzman filed her complaint with</p> <p>15 the HRC in August of 2019. The case was</p> <p>16 referred to OZAH in October of 2022. First</p> <p>17 meeting with Counsel for both parties in</p> <p>18 January of 2023. No settlement was reached.</p> <p>19 Ms. Katzman no longer had Counsel all the way</p> <p>20 through the summer. I denied Leisure World's</p> <p>21 motion to dismiss. Back and forth multiple</p> <p>22 dispositive motions. Here we are today.</p> <p>23 We've narrowed the issue. I've made a report</p> <p>24 and recommendation on the reasonable</p> <p>25 accommodation that should be allowed to record</p> | <p>19</p> <p>1 them. I do not have them. The gentlemen here</p> <p>2 do have them. So you'll have to identify what</p> <p>3 it is that you'd like to call up. They will</p> <p>4 then call it up. Okay? And we'll go through</p> <p>5 those exhibits one at a time. Second is Ms.</p> <p>6 Katzman's ability to record. So pursuant to</p> <p>7 rule 1.7.8, it allows any participant to make</p> <p>8 certain recordings as long as the hearing</p> <p>9 examiner agrees. So yesterday I made the</p> <p>10 decision to make -- allow Ms. Katzman to make</p> <p>11 an audio recording of the proceedings subject</p> <p>12 to the following conditions. It being audio</p> <p>13 recording only. Audio recording only of</p> <p>14 on-the-record proceedings. If we are off the</p> <p>15 record, the recording must be turned off.</p> <p>16 The record -- the recording must not in any</p> <p>17 way disrupt the proceedings. If I deem the</p> <p>18 active recording to be disruptive, I may</p> <p>19 terminate it at any time. The authorization</p> <p>20 for her to record the proceedings, the</p> <p>21 recording for Ms. Katzman is for her reference</p> <p>22 only. Not to be distributed, either in full</p> <p>23 or in part, either as an audio recording or as</p> <p>24 any kind of transcription to any other</p> <p>25 individual. Ms. Katzman's recording is not</p> |
| <p>18</p> <p>1 based on her disability. Everyone has that</p> <p>2 copy of that report and recommendation. So</p> <p>3 where we are, we are left with the retaliation</p> <p>4 issue. So let's see. So the facts are</p> <p>5 whether or not Leisure World or LWCC and,</p> <p>6 again, capturing all that is under that --</p> <p>7 that title, retaliated against her in a</p> <p>8 discriminatory manner because of her</p> <p>9 insistence on the reasonable accommodation is</p> <p>10 a fact in dispute. So we're here solely on</p> <p>11 that question of retaliation. As far as</p> <p>12 evidence, so we've -- we had a couple of</p> <p>13 emails yesterday on procedural issues. So I</p> <p>14 just want to put it on the record and make it</p> <p>15 clear. Since this is a hybrid hearing, we ask</p> <p>16 that exhibits be uploaded so it's easy to be</p> <p>17 shared, but because this is more of a trial</p> <p>18 type hearing rather than a straight, you know,</p> <p>19 need to prove certain things in a land use</p> <p>20 case, and you go through the checklist, right?</p> <p>21 Not everything is going to be admitted. So we</p> <p>22 gave the parties the opportunity to submit to</p> <p>23 Ms. Johnson any exhibit that they would like</p> <p>24 to introduce as part of their case or</p> <p>25 cross-examination or rebuttal. I've not seen</p> | <p>20</p> <p>1 part of the official record, nor any</p> <p>2 transcript generated from it. So I remind</p> <p>3 Counsel, again, you will all get a copy of the</p> <p>4 transcript at the conclusion. And generally</p> <p>5 it will be 10 days at the -- after the end of</p> <p>6 this that we will get those and I will go</p> <p>7 ahead and forward that to you. So I know Ms.</p> <p>8 Spalluzzi, you had an objection to that. If</p> <p>9 you'd like to make any additional comment on</p> <p>10 that objection.</p> <p>11 MS. SPALLUZZI: Leisure World or</p> <p>12 LWCC is fine with the perimeters that you have</p> <p>13 placed on them.</p> <p>14 JUDGE BYRNE: Okay. All right.</p> <p>15 Thank you. All right.</p> <p>16 MS. JAYANTY: Your Honor.</p> <p>17 JUDGE BYRNE: Yes.</p> <p>18 MS. JAYANTY: I just got a</p> <p>19 message from Ms. Castillo.</p> <p>20 JUDGE BYRNE: Okay.</p> <p>21 MS. JAYANTY: And she said that</p> <p>22 she received the invite, but that it's for</p> <p>23 tomorrow. I don't know if that's -- if she</p> <p>24 used -- whether she used separate --</p> <p>25 JUDGE BYRNE: Yeah, there are</p> |

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6 (21 to 24)

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| <p>21</p> <p>1 two separate -- yeah, there should be two 2 separate Zoom links. See if she can go to 3 OZAH website and click on it. 4 MS. JAYANTY: Okay. 5 JUDGE BYRNE: And because the 6 one on the website is definitely for today. 7 MS. JAYANTY: Okay. That's 8 interesting. 9 JUDGE BYRNE: Okay. All right. 10 All right. So if you guys just alert me if 11 you see someone that comes on. All right. 12 Thank you. All right. That was a lot, but I 13 just wanted to make sure we put everything on 14 the record so that we had the full history. 15 We've identified all of the preliminary 16 matters, and we'll be able to move forward. 17 All right. Get to you one second to see if we 18 can get ahold of Ms. Castillo, and then we'll 19 go ahead and start. Okay. You know, she can 20 also call. Ms. Johnson is at her desk. She 21 can also call the OZAH number to get 22 assistance, as well. 23 MS. JAYANTY: Okay. 24 JUDGE BYRNE: All right. Sounds 25 good. So whenever you're ready, you can go</p> | <p>23</p> <p>1 becomes more involved, you'll hear that she 2 aims to make these meetings more accessible. 3 Not only for herself, but for those who cannot 4 attend. You'll learn that there's just one 5 problem. Ms. Katzman's disability severely 6 limits her ability to take notes. The 7 evidence will show that in November 1980, Ms. 8 Katzman is seriously injured in a car accident 9 after a vehicle slams into her wrist traveling 10 about 30 miles per hour. Ms. Katzman will 11 tell you her injuries from this accident will 12 never be fully healed. You'll hear that 13 during months of surgery and just as many 14 months of physical therapy, Ms. Katzman learns 15 that she has severe osteoarthritis. She will 16 explain that she no longer can fully rotate 17 her wrist. And tasks once seen as trivial, 18 such as holding utensils, lifting objects and 19 performing repetitive motions like typing or 20 writing, are now strenuous and very painful. 21 To ease the burden on her wrist, the evidence 22 will establish Ms. Katzman thinks a reasonable 23 solution that will allow her to accurately 24 understand and properly participate in 25 meetings is to audio record them. Testimony</p> |
| <p>22</p> <p>1 ahead and start with an opening, if you'd 2 like. 3 (OPENING STATEMENT.) 4 MR. SHARDELOW: May it please 5 the Court. Your Honor, we're here today 6 because the board of directors of a 7 homeowner's association has consistently 8 bullied, humiliated, and obstructed our 9 client, Sheryl Katzman, from requesting 10 accessible and transparent board of director 11 and committee meetings. 12 In June 2012, Ms. Katzman first joined 13 the Leisure World community. The testimony 14 will show that as a former reporter, Ms. 15 Katzman is eager to learn as much as she can 16 about Leisure World, the people within it, and 17 the way in which it's managed. You'll learn 18 that she's intrigued about the quasi 19 governmental structure that manages Leisure 20 World and that she wants to immerse herself in 21 the deliberations happening across the 22 community. She will explain that as a result, 23 she attends the various board of director and 24 advisory committee meetings that govern many 25 aspects of residents' lives. As Ms. Katzman</p> | <p>24</p> <p>1 will show that Leisure World thinks otherwise. 2 So much so that its board members are willing 3 to embarrass and ignore Ms. Katzman to prevent 4 her from doing so. You will hear that at a 5 March 8th, 2017 Leisure World Foundation 6 meeting, board chair Marian Altman denies Ms. 7 Katzman the ability to use her laptop. Ms. 8 Katzman responds by doing what she does best, 9 she advocates. You will learn that on March 10 10th, 2017, she requests a reasonable 11 accommodation to use her laptop by emailing 12 Ms. Altman and several other members of the 13 board. You will hear from Ms. Katzman about a 14 Leisure World Foundation meeting that takes 15 place a month later on April 12th, 2017. You 16 will learn that following a conversation in 17 which Ms. Katzman repeatedly asks to keep her 18 laptop and is refused, then Chair Altman calls 19 security and Ms. Katzman is escorted out. 20 Because Leisure World board and committee 21 meetings mean a lot to Ms. Katzman's life and 22 her community, testimony will show that she 23 emails an additional reasonable accommodation 24 request on June 19th, 2019 to board Chair Paul 25 Eisenhaur. And this time asked for the use of</p> |

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| <p>25</p> <p>1 a recording device during open meetings. Ms. 2 Katzman will tell you she (inaudible.) On 3 June 22nd, 2019, Ms. Katzman will explain that 4 she, again, emails Chair Eisenhaur and 5 requests a reasonable accommodation for a 6 recording device. Evidence will establish 7 that her request is again disregarded. Ms. 8 Katzman will explain that on July 8th, 2019, 9 she makes her final email request. You'll 10 hear that her effort is again met with 11 silence, but Ms. Katzman was not deterred. 12 She'll tell you that on August 27th, 2019, Ms. 13 Katzman files a complaint against Eisenhaur 14 and the corporation for denial of her 15 reasonable accommodation and retaliation. 16 You'll learn that Leisure World's hostile 17 response for a reporting request occurred 18 three weeks later at a September 18th, 2019 19 budget and finance committee meeting. You 20 will hear from Ms. Katzman and Jack Dunn, that 21 board member Phil Marks openly and 22 aggressively accuses Ms. Katzman of reporting 23 on her laptop. You will hear that this 24 accusation is made without any provocation by 25 Ms. Katzman, other than that she is using her</p> | <p>27</p> <p>1 protected activity and the adverse action. We 2 will prove that Ms. Katzman engaged in several 3 protected requests for reasonable 4 accommodations, that Leisure World was aware 5 of that request, and that Leisure World 6 retaliated against her because of that 7 request. To prove these elements to you, we 8 will call three witnesses to the stand today. 9 First, you will hear from Ms. Katzman. She 10 will show you how important the Leisure World 11 community is to her and how she wants to be 12 granted an equal opportunity to participate in 13 board meetings. She will provide a firsthand 14 account of the backlash she has faced because 15 of her accommodation request. 16 Jack Dunn, a member of the board, will 17 also take the stand today. He will elaborate 18 on the retaliatory actions taken by Mr. Marks 19 in the September 2019 meeting and also 20 elaborate on recording policies. Finally, 21 former employee Crystal Castillo, will provide 22 more context to Leisure World's recording, 23 security and accommodation policy. 24 In a moment the defense will speak with 25 you. They will insist Ms. Katzman was not</p> |
| <p>26</p> <p>1 laptop. Finally, you will hear that Mr. Marks 2 calls security on her for no other reason than 3 that she does not turn off her laptop. 4 This is why Ms. Katzman has brought her 5 claim for denial of her reasonable 6 accommodation against the Respondent, Leisure 7 World Community Corporation, to hold them 8 accountable for the emotional harm their 9 treatment has caused her from 2017 up until 10 this day. Leisure World has not only 11 abandoned its responsibility to recognize and 12 respond to Ms. Katzman's reasonable 13 accommodation request, but has exhibited a 14 pattern of punishing and shaming Ms. Katzman 15 for even suggesting it. As the Plaintiffs in 16 this case, we must prove by a preponderance of 17 the evidence that Ms. Katzman faced 18 retaliation because of her reasonable 19 accommodation request. The elements of 20 retaliation claim include that, one, Ms. 21 Katzman was engaged in a protected activity, 22 two, that Leisure World was aware of that 23 activity, three, that Leisure World took an 24 adverse action against her, and four, that a 25 causal connection existed between the</p> | <p>28</p> <p>1 adhering to a uniform recording policy 2 requiring all participants to consent. They 3 will attempt to color Ms. Katzman's advocacy 4 and persistence as a demand. They will tell 5 you that Ms. Katzman was difficult to work 6 with, but testimony will point out that these 7 assertions do not justify punishing Ms. 8 Katzman for requesting a reasonable 9 accommodation. They will claim that Leisure 10 World never retaliated against Ms. Katzman or 11 inhibited her attendance, but the evidence 12 will establish that calling security on a 13 resident for using a laptop not once, but 14 twice, is a clear message to Ms. Katzman. 15 That she is not welcome at such meetings and 16 that her persistent request to record meetings 17 is the reason why. At the end of this trial, 18 my co-counsel, Nell Piper, will review the 19 evidence with you. She will show you that Ms. 20 Katzman was embarrassed, ignored and punished 21 for her recording request and that the ability 22 to record meetings is necessary for Ms. 23 Katzman to use and enjoy the Leisure World 24 community. A community that she has cared 25 about deeply for years and will continue to</p> |

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8 (29 to 32)

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| <p>29</p> <p>1 care about for years to come. And then she 2 will ask that you find Leisure World Community 3 Corporation liable for retaliating against Ms. 4 Katzman. Thank you. 5 JUDGE BYRNE: Thank you. 6 MR. WEBSTER: I remembered to 7 turn it on this time. As I mentioned, my name 8 is Lucas Webster. I'm one of the attorneys 9 representing Leisure World chair, the board of 10 directors. The case that is before your Honor 11 is roughly as stated by Mr. Shardelow, we're 12 here for a retaliation claim. Essentially the 13 why did Leisure World do what it did during 14 this time. We obviously take issue or 15 disagree with much of the contentions made by 16 Ms. Katzman in this action. What I really 17 want to focus on, I guess, is going to be two 18 things in the opening. One are sort of the 19 responses to some of the comments that Mr. 20 Shardelow just made, and then a second, is 21 just a quick review of some of the -- to the 22 law, which I think everybody agrees with. 23 Just as a refresher to make sure we're all 24 staying on the same page. 25 With respect to Mr. Shardelow's</p> | <p>31</p> <p>1 out in Montgomery County. It's a Montgomery 2 County case. It is the Montgomery County code 3 action in Maryland state law action and fair 4 housing action. It's identical across the 5 board in terms of the law that the claimant in 6 that action, Ms. Rhodes, was asserting was a 7 discriminatory practice or it violated and is 8 exactly what Ms. Katzman was talking about 9 today. What's important from Rhodes 10 essentially are two things. One, is the 11 elements of retaliation that Mr. Shardelow 12 accurately reflected. Okay, which are -- and 13 I'll just to skip to the front, she was 14 engaged in a protected activity. The 15 Defendant was aware of that activity. The 16 Defendant took adverse action against the 17 Plaintiff, and a causal connection exists 18 between the protected activity and the adverse 19 action. And that actually comes from the case 20 of Hall versus Greystar Management Services, 21 L.P. 28.F Supp. 3d 490, 2014 case. Those are 22 the four factors that she must prove. We 23 submit she's not going to be able to carry her 24 burden of evidence and burden of proof on any 25 of those, on all four of those elements. In</p> |
| <p>30</p> <p>1 opening, one important item that I want to 2 point out, the foundations of Leisure World, 3 Inc. entity from the 2017 meetings, the 4 evidence will demonstrate they are a 5 completely and entirely separate entity from 6 Leisure World Community Corporation. They're 7 not owned by Leisure World Community 8 Corporation. It's a different issue. They're 9 a 501c3 charitable organization. They don't 10 provide housing. They have nothing to do with 11 housing. They're a charitable organization 12 that supports charitable and philanthropic 13 activities. Whatever happened at that 14 meeting, it doesn't have anything to do with 15 what's going on with Leisure World Community 16 Corporation and claim of housing 17 discrimination. It cannot, but you'll hear 18 evidence on that and you'll make your own 19 decision about it, but that's what we would 20 submit. The second item is -- the law on 21 retaliation in Maryland is largely announced 22 by two cases from the United States District 23 Court of Maryland. The first is Rhodes versus 24 Parklane Apartments, LLC, which is the 2019 25 case from the U.S. District Court. This came</p> | <p>32</p> <p>1 Rhodes there was also an allegation of sort of 2 hostile environment and that Rhodes took the 3 position or evaluated it and said it's 4 unsettled under the law whether hostile 5 environment even constitutes a discriminatory 6 practice. That question gets answered because 7 the HUD apartment housing passes a new CFR, 8 and the CFR in question is 24 CFR 100.600. 9 That CFR specifically talks about hostile 10 environment claims and hostile environment 11 harassment. It's under section A2. And what 12 it says and what it gets into is that hostile 13 environment harassment motivated by handicap, 14 you have to remember it is to be this 15 connection here that there's a hostility 16 driven towards the person because of their 17 handicap or disability, not for some other 18 reason, that is sufficiently severe and 19 pervasive as to interfere with the use and the 20 enjoyment under the law, or the provision of 21 enjoyment of services and facilities in 22 connection therewith. Severe and pervasive 23 is the language used in the CFR. Severe and 24 pervasive is the language used by Rhodes. And 25 what they find in Rhodes is that the actions</p> |

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| <p>33</p> <p>1 do not constitute severe and pervasive. And 2 is fact specific, and we can get in the facts 3 if we need to, but the bottom line is one off 4 events, individualized events. The 5 trivialities of having to endure rudeness and 6 instability that exists in society as a 7 general matter, do not rise to the level of 8 severe and pervasive and are not hostile 9 environment supported actions. It just 10 doesn't get there. We submit that's one of 11 the problems that Ms. Katzman has in this case 12 that she's not going to be able to overcome. 13 The second case is to talk about is 14 Williams versus Aurora Hills Homeowners 15 Association. This is decided in 2021, also 16 United States District Court case. This 17 action also comes out in Montgomery County. 18 Is primarily a racial discrimination action, 19 but it also has other discriminatory 20 practices, including claims under the Fair 21 Housing Act, Montgomery County code, so on and 22 so forth. It's very much like what we are 23 today. In this instance she -- the claimant 24 in this action also they repeat the factors, 25 the same factors that we always have known</p> | <p>35</p> <p>1 passage, if the Plaintiff has presented a 2 prima facie retaliation claim, the burden 3 shifts to the Defendant to articulate a 4 legitimate nondiscriminatory reason for its 5 decision. And if the Defendant articulates 6 such a reason, the Plaintiff bears the 7 ultimate burden of demonstrating that the 8 reason was merely a pretext for a 9 discriminatory motive. So McDonald Douglas 10 burden shifting out of it. We've already 11 discussed it and that we're familiar with, but 12 Judge Chasanow specifically identifies that 13 that burden shifting process still applies in 14 the context of a retaliation claim. Is still 15 part of the analysis. That is the applicable 16 law. The last thing that happens in Williams 17 is a value, is there is, again, a hostile 18 environment based on retaliation claim made 19 very similar to what Ms. Katzman is doing 20 here. It's the same law. Severe pervasive, 21 they cite the CFR code, all that stuff. 22 What's interesting in Williams is Judge 23 Chasanow again states the Fair Housing Act is 24 not to be construed as a general civility code 25 that prevents rude or undesirable behavior.</p> |
| <p>34</p> <p>1 about the four items that we just talked 2 about, engaged in a proactive activity, 3 Defendant was aware of the activity, Defendant 4 took adverse action against the Plaintiff, and 5 a causal connection exists between the 6 protected activity and the adverse action. 7 What's interesting in Williams is that Judge 8 Chasanow -- 9 JUDGE BYRNE: Ms. Katzman, 10 excuse me. Please don't talk to the court 11 reporter. 12 SPEAKER: Apparently feedback on 13 the Zoom. I think that's what -- 14 MS. KATZMAN: There are two 15 messages on the text that they cannot 16 understand. They say there's feedback on the 17 Zoom. 18 JUDGE BYRNE: Okay. That's not 19 him, that's -- all right. I'm going to turn 20 my microphone off. I bet you that will help. 21 MR. WEBSTER: Thank you. 22 JUDGE BYRNE: Let's try this. 23 MR. WEBSTER: Okay. What's 24 important from Williams in addition to 25 reiterate the factors is this following</p> | <p>36</p> <p>1 And that's actually a citation to the Faragher 2 versus City of Boca Raton case, which is the 3 U.S. Supreme Court case from 1998. Judge 4 Chasanow goes on to say, and this is also 5 quoting again from Faragher, thus offhand 6 comments, isolated incidents, unless extremely 7 serious, will not rise to the level of a 8 hostile environment claim. They're not severe 9 and pervasive. So under that legal backdrop, 10 the problem with the 2017 claims, in addition 11 to the fact that those are not Leisure World 12 Community Corporation and not housing 13 provider, is temporal. We submit to the 14 evidence is not going to be able to connect 15 the causal connection that is required to when 16 she makes her claim for discrimination and 17 when those events occurred. You can't 18 retaliate in reverse. You can't retaliate 19 before the claim has been made. The claim 20 isn't made until 2019. We submit that takes 21 everything in 2017 out, but it's going to be 22 an evidentiary submission and your Honor is 23 going to have to evaluate and make that 24 decision. So where are we? To prove her case 25 of retaliation, Ms. Katzman must show she was</p> |

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10 (37 to 40)

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| <p>37</p> <p>1 engaged in a protected activity. The 2 Defendant was aware of that activity. 3 Defendant took adverse action against the 4 Plaintiff, and a causal connection exists 5 between the protected activity and the adverse 6 action. We also know under Williams that the 7 McDonald Douglas burden should be process and 8 apply, and we also know that to prove a 9 hostile environment claim, she must show 10 severe and pervasive conduct that was 11 motivated by her handicap. Those are the 12 elements for a hostile environment claim under 13 the CFR. Our submission today is that the 14 evidence in this case from Ms. Katzman will 15 not satisfy any of those requirements, or at 16 least not all of those requirements, and that 17 the evidence will demonstrate that Leisure 18 World has done in this action is follow 19 consistently its understanding of the law, its 20 understanding of recommendations from board 21 agencies like the CCOC, and its own policies 22 to get to where we are. That's not 23 retaliatory. We don't even sub -- we 24 submitted that wasn't even discriminatory and 25 certainly not enough to either establish a</p> | <p>39</p> <p>1 standard, it is under 24 CFR 100.400a45. 2 Intimidating or threatening a person because 3 the person is engaged in a protected activity 4 or retaliating -- retaliating against any 5 person because that person has made a 6 complaint or assisted or participated in an 7 unfair housing matter. This is not a hostile 8 environment claim, nor is it a harassment 9 claim and those standards are not governing 10 here. 11 JUDGE BYRNE: Okay. 12 MR. WEBSTER: Thank you. 13 JUDGE BYRNE: All right. Okay. 14 So we'll go ahead and start. I'm going to 15 keep my microphone on for a moment. So we'll 16 start with your first witness. I guess 17 logistically, if Ms. Katzman is your first 18 witness, she's going to need a microphone, as 19 well. So I don't know -- 20 MS. JAYANTY: Should I -- I can 21 move back. 22 JUDGE BYRNE: Right. However 23 you would like to do that, to have her close 24 to a microphone. 25 MS. JAYANTY: Okay.</p> |
| <p>38</p> <p>1 hostile environment claim for a retaliation 2 claim. Thank you. 3 JUDGE BYRNE: All right. Before 4 we start, I want to see if we can address the 5 feedback issue. So what I'm going to do is 6 I'm going to check with Ms. Johnston, because 7 I know she has it up in her office right next 8 door. And let's see what she's hearing. 9 Let's take just a couple minute break, so 10 we're going to go off the record to see if we 11 can resolve this. 12 (Off the record.) 13 JUDGE BYRNE: So we're going to 14 go back on the record. And so Brendon's going 15 to go ahead and start with the recording. I 16 think our Zoom operation is ready to go. 17 We'll cross that bridge with Ms. Castillo 18 when we get there. So I'll turn it over to 19 Ms. Katzman to start with the first witness. 20 MS. JAYANTY: Sophia Jayanty for 21 the complainant side, Ms. Sheryl Katzman. We 22 just want to clarify that Ms. Katzman's claim 23 today is in relation to retaliation. It is 24 not a hostile environment claim, nor is it a 25 harassment claim. If any CFR governs this</p> | <p>40</p> <p>1 JUDGE BYRNE: So what -- so you 2 guys will share one, you know, have that 3 microphone kind of in the middle. And 4 they're sensitive enough that even where it is 5 for the two of you sitting there, it will 6 obviously pick it up, right? Okay. Good 7 morning. 8 MS. KATZMAN: Thank you. 9 JUDGE BYRNE: All right. Before 10 we begin, Ms. Katzman, I'm going to swear you 11 in. So if you could please raise your right 12 hand. 13 Do you promise to tell the truth, the 14 whole truth, and nothing but the truth? 15 MS. KATZMAN: I do. 16 SHERYL KATZMAN, 17 after having been first duly sworn, was 18 examined and testified as follows: 19 JUDGE BYRNE: Thank you. All 20 right. I'm going to turn my microphone off, 21 and I will turn it over to your attorneys to 22 start. 23 MS. KATZMAN: Thank you. 24 JUDGE BYRNE: Do you have a 25 microphone on? Push that. There you go.</p> |

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11 (41 to 44)

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| <p>41</p> <p>1 MS. PIPER: Thank you, your 2 Honor. DIRECT EXAMINATION 3 BY MS. PIPER: 4 Q. Good morning. Can you please 5 introduce yourself? 6 A. I'm Sheryl Katzman. 7 Q. And how old are you Ms. Katzman? 8 A. Eighty. 9 Q. And where do you live? 10 A. 3536 Chiswick Court in Silver 11 Spring. Leisure World. 12 Q. And what do you do for a living? 13 A. I'm retired. 14 Q. And before you retired, what did 15 you do for a living? 16 A. I was an artist, fine artist and 17 photographer. I have been a photographer all 18 of my life and started painting later in life 19 in my early thirties. And also a -- around 20 that time, prior to that time, I was an 21 investigative reporter, city editor, and 22 columnist in a -- the community in which I 23 resided at that time. 24 Q. And what did you like about 25 being a reporter and columnist?</p> | <p>43</p> <p>1 didn't know until after several days because I 2 was being heavily drugged in the hospital. 3 After surgery, I found out the severity of the 4 damage to my hand and wrist. 5 Q. So what was the severity of the 6 damage? 7 A. I had no function whatsoever at 8 that time. They had the chief of orthopedic 9 surgery at Washington Hospital Center had 10 during surgery that night installed -- 11 implanted what's known as a Hoffman Apparatus, 12 which is an external fixator to hold my bones 13 together and prevent me from having any 14 movement, and it's pretty devastating. 15 JUDGE BYRNE: I'm going to stop 16 really quickly. I just got a text from Nana 17 that there's still feedback. So do we have 18 all of the other microphones -- 19 THE REPORTER: Yeah. 20 JUDGE BYRNE: -- off? And the 21 sound is down -- 22 THE REPORTER: Yeah. 23 JUDGE BYRNE: -- on the TV? 24 THE REPORTER: Yes. 25 JUDGE BYRNE: Okay. I'm going</p> |
| <p>42</p> <p>1 A. I've been a longtime advocate 2 for community residents, and it enabled me to 3 dive deeper into that facet and also take on 4 issues that residents would bring to my 5 attention, investigate them, and then write 6 about it and publish. 7 Q. And how long were you a reporter 8 and columnist? 9 A. Well, officially for about three 10 years in that position, but I've been a 11 citizen journalist for many, many years. 12 Q. And do you still do any of the 13 painting or creative work that you talked 14 about? 15 A. I continue with my photography, 16 but I'm unable to withstand the rigors of 17 painting any longer. 18 Q. Okay. And why is that? 19 A. I had a devastating motorcycle 20 accident in 1980, and the impact of my hand 21 and wrist into the automobile that had turned, 22 quick turn left in front of me, left me 23 eyeball to eyeball with the traffic light and 24 then on the ground. I had no feeling 25 whatsoever in my arm. It was flung back and I</p> | <p>44</p> <p>1 to ask her just to monitor it a bit. All 2 right. Let's go ahead and keep doing it and 3 we'll see. 4 BY MS. PIPER: 5 Q. So what wrist was affected or 6 what hand? 7 A. My right hand. 8 Q. And is that your dominant hand? 9 A. Yes. 10 Q. So you talked a bit about the 11 Hoffman Apparatus that -- that you had. Can 12 you go a little bit -- tell me more about, 13 like, how severe was this injury? Were any 14 bones broken? 15 A. Yeah, that's an understatement. 16 The wrist bones were protruding through the 17 skin. 18 Q. And did you have any surgeries? 19 A. Several. 20 Q. And were you not able to use 21 your hand for a certain amount of time? 22 A. It was definitely not at all for 23 the first several months until they took the 24 fixator out. 25 Q. And then what did recovery look</p> |

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| <p>45</p> <p>1 like after they took the fixator out?</p> <p>2 A. It lasted intensely for about</p> <p>3 five years, but I was in occupational and</p> <p>4 physical therapy. I was in the hospital for</p> <p>5 about six months. And I mean, because of the</p> <p>6 need for occupational physical therapy dail --</p> <p>7 daily, but the physical injuries caused the --</p> <p>8 that was later diagnosed as posttraumatic</p> <p>9 stress disorder. And so it sent me into a</p> <p>10 deep depression and all of the ramifications</p> <p>11 of having that stress disorder. So it took a</p> <p>12 long, long time to come out of it.</p> <p>13 MR. WEBSTER: Your Honor, I</p> <p>14 don't mean to interrupt, but very quickly,</p> <p>15 one, I think the feedback issue might be</p> <p>16 because of the presence of Ms. Katzman's</p> <p>17 computer as close as it is to the microphone</p> <p>18 and then -- and then second, she keeps looking</p> <p>19 at the computer. I just want to make sure</p> <p>20 that she's not referring to notes while she's</p> <p>21 on the stand testifying. Otherwise, I don't</p> <p>22 have an objection --</p> <p>23 MS. KATZMAN: I'm not.</p> <p>24 MR. WEBSTER: -- to her having</p> <p>25 that. I'd just like to clarify that.</p> | <p>47</p> <p>1 MS. KATZMAN: Sure.</p> <p>2 JUDGE BYRNE: All right. Let's</p> <p>3 try it and let's see and we'll go from there.</p> <p>4 MS. KATZMAN: Thank you.</p> <p>5 JUDGE BYRNE: All right. So</p> <p>6 we'll try the next questions. All right. So</p> <p>7 I'm going to turn my mic off now and I'll</p> <p>8 check in with Nana. Thank you, all.</p> <p>9 BY MS. PIPER:</p> <p>10 Q. All right. So did your wrist</p> <p>11 injury ever fully heal?</p> <p>12 A. No. Well, it left me with the</p> <p>13 permanent disability.</p> <p>14 Q. And do you have any</p> <p>15 functionality issues after your recovery?</p> <p>16 A. Well, I have some function --</p> <p>17 daily functions such as eating, using utensils</p> <p>18 upside down and others from the top instead of</p> <p>19 the bottom. I keep what they call a suicide</p> <p>20 nob on my steering wheel so that I can, if</p> <p>21 need be, when using that hand, turn the wheel.</p> <p>22 As far as issues with the hand itself, is that</p> <p>23 what you're asking? Yes, most certainly. It</p> <p>24 radiates pain on a regular basis. It's cold</p> <p>25 most of the time. I keep it in a brace and to</p> |
| <p>46</p> <p>1 JUDGE BYRNE: Understood. So,</p> <p>2 again, Ms. Katzman, it has to be the testimony</p> <p>3 from the question.</p> <p>4 MS. KATZMAN: It is.</p> <p>5 JUDGE BYRNE: From your own</p> <p>6 mind, your own recollection, and the responses</p> <p>7 are in sync, correct?</p> <p>8 MS. KATZMAN: All that I have on</p> <p>9 my computer screen is the Zoom picture.</p> <p>10 JUDGE BYRNE: Okay. I wonder --</p> <p>11 I know that Nick went to check with Nana.</p> <p>12 MS. KATZMAN: I'm muted here.</p> <p>13 Yeah.</p> <p>14 JUDGE BYRNE: Okay. So if she</p> <p>15 -- all right. So if you're muted -- all</p> <p>16 right. Well, let's see and if maybe put it in</p> <p>17 the chair. Would that -- where you were</p> <p>18 sitting. The computer or keep the recording</p> <p>19 on, but maybe if we move the computer.</p> <p>20 MS. KATZMAN: I can just shut</p> <p>21 it.</p> <p>22 JUDGE BYRNE: Okay. Okay.</p> <p>23 MS. KATZMAN: Is that better?</p> <p>24 JUDGE BYRNE: Well, let's try</p> <p>25 it.</p> | <p>48</p> <p>1 warm it up, I sometimes have to keep the silly</p> <p>2 vinyl glove on. I use a Paraffin dip, which</p> <p>3 is what I learned to use in therapy to warm</p> <p>4 the hand up and keep it limber.</p> <p>5 Q. And are you able to do things</p> <p>6 like, write with the pen? You mentioned</p> <p>7 utensils. Can you write with the pen?</p> <p>8 A. I do, but not for any length of</p> <p>9 time. And it winds up being, if I'm taking a</p> <p>10 note, it's scratch. It's difficult for --</p> <p>11 nobody else could read it.</p> <p>12 Q. And did your injury impact your</p> <p>13 ability to paint?</p> <p>14 A. Oh, yes. The -- Dr. Gunther,</p> <p>15 the surgeon, really tried to empower me to</p> <p>16 continue doing so even during rehabilitation.</p> <p>17 And it -- I used to be able to stand up 12</p> <p>18 hours a day, take breaks for, you know, food</p> <p>19 and showers and bathroom breaks and just</p> <p>20 continue because the work that I did as a fine</p> <p>21 artist was -- documented me into what's known</p> <p>22 as the fourth dimension of art. Einstein's</p> <p>23 theory of relativity on the static plane. And</p> <p>24 it's very intense work, layer upon layer and</p> <p>25 very miniscule and some -- and I did not have</p> |

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| <p>49</p> <p>1 the capability of doing that any longer.</p> <p>2 Q. And do you still see a doctor</p> <p>3 for your injury?</p> <p>4 A. I don't see the doctor I had</p> <p>5 regularly. I -- I had the -- I had an</p> <p>6 orthopedic -- a doctor X-ray my hand because I</p> <p>7 was experiencing some of these symptoms more</p> <p>8 regularly than I liked a couple of years ago.</p> <p>9 And he informed me that the results of what he</p> <p>10 saw in the X-ray were severe osteoarthritis.</p> <p>11 Q. Can you tell me again what some</p> <p>12 of those symptoms were? Why -- what drove you</p> <p>13 to the doctor?</p> <p>14 A. Pain, ache.</p> <p>15 Q. So you said that your injury</p> <p>16 affects your ability to use a pen. So does it</p> <p>17 affect your ability to do anything else to --</p> <p>18 to write notes or anything like that?</p> <p>19 A. Well, using a pen to write</p> <p>20 notes, as I say. And as an example, when I</p> <p>21 attend meetings, having the background as an</p> <p>22 investigative reporter, I would have to take</p> <p>23 copious notes, and that's just not possible.</p> <p>24 Q. Yeah. And how important is note</p> <p>25 taking to you as a former journalist and</p> | <p>51</p> <p>1 the middle of the night and the first thing in</p> <p>2 the morning thinking about what's happening.</p> <p>3 It invades my sleep, changes my sleep</p> <p>4 patterns, digestive issues, loss of appetite</p> <p>5 many times. I mean, you know, not eating a</p> <p>6 full meal, just --</p> <p>7 Q. And I just want to clarify.</p> <p>8 When you said you experienced these because of</p> <p>9 what's happening, what are you referring to?</p> <p>10 A. Well, this past several years in</p> <p>11 Leisure World has been an extraordinary</p> <p>12 experience. When I reflect back to the time</p> <p>13 that I had the position having been asked to</p> <p>14 do that of city editor and columnist and I was</p> <p>15 dealing with the city government, a real</p> <p>16 elected city government, and I would come out</p> <p>17 with investigative reports that, of course,</p> <p>18 they didn't want to be acknowledged or seen,</p> <p>19 that I never experienced the form of</p> <p>20 retaliation that I've been experiencing over</p> <p>21 the past several years in Leisure World. And</p> <p>22 that has -- maybe it's age. I don't know.</p> <p>23 Maybe it's because I'm older and that it's</p> <p>24 experienced differently than back then.</p> <p>25 Q. So I want to move now more</p> |
| <p>50</p> <p>1 columnist?</p> <p>2 A. Extraordinarily important to be</p> <p>3 able to -- to be correct in what you're</p> <p>4 reporting.</p> <p>5 Q. And I want to touch back.</p> <p>6 Earlier you mentioned PTSD. Can you tell me a</p> <p>7 little bit more about how that has affected</p> <p>8 you from the accident?</p> <p>9 A. At its height when it first</p> <p>10 took -- began to take hold, it was -- and the</p> <p>11 ramifications of that still take place now.</p> <p>12 Certainly not as it did then, but I seclude</p> <p>13 myself. This is very difficult because I'm</p> <p>14 not -- I never talk about this. My best</p> <p>15 friends I don't talk to about -- about it. I</p> <p>16 withdraw. I experienced stress symptoms. And</p> <p>17 during the past couple of years, I've</p> <p>18 developed high blood pressure, been on two</p> <p>19 different medications. I mean, very high.</p> <p>20 Like, yesterday it was, like, 188/118. I have</p> <p>21 to -- the doctor makes me take my blood</p> <p>22 pressure twice a day and not panic, but, like,</p> <p>23 very shallow breathing, and then I catch</p> <p>24 myself and I have to take very deep breaths.</p> <p>25 Sleep disturbance. Definitely I wake up in</p> | <p>52</p> <p>1 towards Leisure World. So how long have you</p> <p>2 lived at Leisure World?</p> <p>3 A. Since May 20th of 2012. Twelve</p> <p>4 years. Going on 12 years.</p> <p>5 Q. And why did you choose to move</p> <p>6 to Leisure World?</p> <p>7 A. I have a very -- my oldest</p> <p>8 dearest friend had moved here, and in coming</p> <p>9 to visit her, it piqued my interest because of</p> <p>10 the esthetics of the community. It's</p> <p>11 absolutely beautiful. And that struck the</p> <p>12 artistic side of me and certainly the</p> <p>13 photographer. And at that time it was</p> <p>14 affordable.</p> <p>15 Q. And do you like living at</p> <p>16 Leisure World?</p> <p>17 A. Very much. I love my home. I</p> <p>18 like the people. I like what I do.</p> <p>19 Q. And do you enjoy being a part of</p> <p>20 the Leisure World community?</p> <p>21 A. Yes.</p> <p>22 Q. And what ways do you interact</p> <p>23 with the other residents in the community?</p> <p>24 A. Well, in addition to my daily,</p> <p>25 twice daily, I try walks through my -- my</p> |

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| <p>53</p> <p>1 section, my mutual, which has this park-like 2 walkway known as the broadwalk in Montgomery 3 Mutual. And I try to do that in the morning 4 and the evening, and, of course, along the way 5 see people, people with their dogs. And I 6 carry dog biscuits with me to feed the dogs 7 with the owner's permission. And I received 8 emails and texts and phone calls from 9 residents in the community asking for -- 10 informing me and/or asking for assistance or 11 advice on what to do about an issue that might 12 be in their life having to do with Leisure 13 World governance, be it their individual 14 section or mutual or with the board of 15 directors of the community, The Big Board, as 16 they call it, the umbrella board. And I 17 communicate with the community through the 18 Just Us Network to keep those people on the 19 various email lists through the Just Us domain 20 aware of what's going on during the meetings, 21 the board meetings, the executive committee 22 meetings, the committee meetings, and that's 23 how I stay in touch with the community. 24 Q. And can you clarify for me a 25 little bit more of what is Just Us?</p> | <p>55</p> <p>1 came before the board, after all of those 2 forums, they decided not to pass that 3 contract. 4 Q. So how did the Just Us 5 community, the community then come out of that 6 situation? 7 A. It evolved because of that 8 activity and also taking before the county 9 council and them introducing a bill on the 10 issue of pesticide use in Leisure World 11 specifically and throughout Montgomery County. 12 As a result of that bill, 5214 was passed 13 banning use of pesticides. We had formed the 14 base of a group then of residents advocating 15 for the best interests of the residents in the 16 community and Montgomery County at large and 17 the state. And that's how I founded and 18 formed with my associates at the time, the 19 group known as Just Us. 20 Q. So is there anything else that 21 Just Us does for the Leisure World community? 22 A. Well, we act as an advocate for 23 the residents. As a matter of fact, the line 24 after the signature, on the signature line is 25 resident advocates -- advocacy for the</p> |
| <p>54</p> <p>1 A. Back in 2013 or '14, there were 2 a couple of very significant issues that arose 3 that I became acutely aware of. One was the 4 attempt to bring about board approval for a 5 contract of deer hunters under the guise of 6 sharp shooters to come onto the golf course at 7 sunset -- at sunrise and shoot and kill all 8 the deer that they could see in Leisure World. 9 I was going to have no part of that and 10 contacted -- when I found out that this was 11 coming for the board, this was on a Sunday 12 night, every wildlife rescue group I could 13 find on Google and let them know what was 14 coming and asked their help. I got a call at 15 7:30 the next morning from the Human Society 16 of the United States, and they said they're 17 in. They will help. And they contacted an 18 associate of theirs, a woman who owns, runs a 19 wildlife rescue. They rescue deer up in 20 outside of Baltimore and she joined forces. 21 We were able to have community forums held 22 that included the county environmental 23 protection, the state DNR I think it is, and 24 they spoke to the community, as well as the 25 Humane Society and Enid Feldman. And when it</p> | <p>56</p> <p>1 community. 2 Q. And have you had any negative 3 experiences with staff or board of directors 4 at Leisure World? 5 A. Yes. 6 Q. So how do you -- do you 7 participate in any governance yourself at 8 Leisure World? 9 A. Well, I attend the board 10 executive committee and committee meetings. 11 At one time I served on both the landscape 12 advisory committee and for the purpose of 13 specifically -- and several of our Just Us 14 members also volunteered at that time for the 15 purpose of attempting to ensure a green 16 contract for the landscaping vendor to follow, 17 and also on the Leisure World news advisory 18 committee. 19 Q. And do you participate in any of 20 the board or committee meetings? 21 A. I attend. 22 Q. So how do you attend the 23 meetings? 24 A. Well, up until Covid, I attended 25 in person. And then since Covid, I attend by</p> |

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| <p>57</p> <p>1 Zoom.</p> <p>2 Q. And is that just because of the</p> <p>3 pandemic?</p> <p>4 A. Do you mean attending by Zoom?</p> <p>5 As you see, I'm wearing a mask and I do not</p> <p>6 normally. I was convinced I should be here,</p> <p>7 but I do not normally attend any setting that</p> <p>8 has a group of people.</p> <p>9 Q. So what's the general content of</p> <p>10 board meetings?</p> <p>11 A. They have an agenda that they</p> <p>12 published along with the packet of action</p> <p>13 items that they will be discussing and loading</p> <p>14 upon. There's old business, new business,</p> <p>15 which are mainly action items, but the primary</p> <p>16 bottom line on it is the approximately last</p> <p>17 figure I knew, \$25,000,000 budget, which is</p> <p>18 primarily 90 plus percent brought in by</p> <p>19 resident required mandatory monthly resident</p> <p>20 fees. And so it's important to know the</p> <p>21 actions that are taken and how they're</p> <p>22 spending our money.</p> <p>23 Q. And how often do these board</p> <p>24 meetings take place?</p> <p>25 A. Once a month regularly, unless</p> | <p>59</p> <p>1 would like to attend these meetings or who --</p> <p>2 who can, they can attend in Zoom or in person.</p> <p>3 Have there been other ways, either presently</p> <p>4 or in the past, that residents could access</p> <p>5 the content of board and committee meetings?</p> <p>6 A. Much after the fact there had</p> <p>7 been both -- there had been video setup in the</p> <p>8 board meetings and the executive committee,</p> <p>9 and then that was re-broad or it was</p> <p>10 broadcast, like, maybe two weeks after the</p> <p>11 fact. After the meetings were held on both</p> <p>12 the closed circuit TV channel and the Leisure</p> <p>13 World website.</p> <p>14 Q. And do you attend all the</p> <p>15 Leisure World board meetings?</p> <p>16 A. I try to. Yes.</p> <p>17 Q. When did you start attending</p> <p>18 those meetings?</p> <p>19 A. Oh, I think it dates back to</p> <p>20 2013.</p> <p>21 Q. And do you attend committee</p> <p>22 meetings?</p> <p>23 A. Yes. Those committees that I</p> <p>24 feel are most significant. Yes.</p> <p>25 Q. And how often do you attend the</p> |
| <p>58</p> <p>1 there's special meetings or workshops. And</p> <p>2 there's once a month executive committee, and</p> <p>3 then the committee meetings are once a month</p> <p>4 also, but scattered.</p> <p>5 Q. And generally, who attends board</p> <p>6 meetings?</p> <p>7 A. Well, in addition to the board</p> <p>8 of directors, representatives and management</p> <p>9 representatives, the community, those who are</p> <p>10 able and are interested enough to attend.</p> <p>11 Q. And who attends committee</p> <p>12 meetings?</p> <p>13 A. The committee representatives.</p> <p>14 Oh, and in those board and executive committee</p> <p>15 meetings, of course, there's the management,</p> <p>16 the administrative assistant. And committee</p> <p>17 meetings are the committee representatives who</p> <p>18 are appointed and any resident who wishes to</p> <p>19 attend, as well as an administrative assistant</p> <p>20 from management.</p> <p>21 Q. So do residents have a right to</p> <p>22 attend these Leisure World board and committee</p> <p>23 meetings?</p> <p>24 A. Absolutely.</p> <p>25 Q. So you mentioned that people who</p> | <p>60</p> <p>1 board meetings?</p> <p>2 A. Once a month for each, the board</p> <p>3 and the executive committee.</p> <p>4 Q. And how often do you attend</p> <p>5 committee meetings?</p> <p>6 A. Every month that -- of those</p> <p>7 committees that I attend.</p> <p>8 Q. So overall, how many Leisure</p> <p>9 World related meetings do you attend per week?</p> <p>10 A. I'd say five.</p> <p>11 Q. Five. So when are the board and</p> <p>12 committee meetings generally held?</p> <p>13 A. The board meets at the end of</p> <p>14 the month. I think it's the last Tuesday of</p> <p>15 the month. The executive committee meets,</p> <p>16 like, I think it's the second Friday of the</p> <p>17 month. And the committee meetings, as I say,</p> <p>18 are scattered depending upon their regular</p> <p>19 schedule.</p> <p>20 Q. Is there a time of day they</p> <p>21 normally meet?</p> <p>22 A. Normally 9:30. Some start at</p> <p>23 10.</p> <p>24 Q. Okay. And how does your</p> <p>25 attendance at these meetings, both committee</p> |

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16 (61 to 64)

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| <p>61</p> <p>1 and board, matter for your Just Us community?</p> <p>2 A. It's very important that I</p> <p>3 attend because I'm regular in my attendance.</p> <p>4 And they -- those in the community who are</p> <p>5 aware of what Just Us stands for and -- and</p> <p>6 does rely upon those reports out of what has</p> <p>7 taken place in their community.</p> <p>8 Q. And what do you do during these</p> <p>9 meetings?</p> <p>10 A. I sit and listen.</p> <p>11 Q. In any of your times attending</p> <p>12 board or committee meetings, did you ever</p> <p>13 observe anyone taking handwritten notes?</p> <p>14 A. Yes.</p> <p>15 Q. Yes. Did you observe this in</p> <p>16 both board and committee meetings?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Were any board members or</p> <p>19 committee leaders taking handwritten notes?</p> <p>20 MR. WEBSTER: I'm going to</p> <p>21 object. There's a lot of leading going on.</p> <p>22 I've let it go way past just background stuff.</p> <p>23 We'd like to have nonleading questions of the</p> <p>24 witness, please.</p> <p>25 JUDGE BYRNE: Understood. So</p> | <p>63</p> <p>1 device.</p> <p>2 MR. WEBSTER: I'll object to the</p> <p>3 speculation. I don't think there was a</p> <p>4 question pending either.</p> <p>5 A. I witnessed that myself.</p> <p>6 JUDGE BYRNE: I'll take that for</p> <p>7 what it's worth, understanding it's based on</p> <p>8 her observation. Whether or not those things</p> <p>9 are actually happening, yes or no, I will take</p> <p>10 it as Mrs. Katzman's observation of what she</p> <p>11 sees in the meeting. I didn't turn my</p> <p>12 microphone on, so hopefully everybody heard</p> <p>13 that.</p> <p>14 BY MS. PIPER:</p> <p>15 Q. So why was it your understanding</p> <p>16 that there were recordings going on?</p> <p>17 A. For note taking. For purposes</p> <p>18 of notes being transcribed for minutes to be</p> <p>19 approved by the board at the next meeting if</p> <p>20 that's -- if you're referring to the staff.</p> <p>21 As far as what I observed with other people</p> <p>22 taking notes, I'm sure that it was just for</p> <p>23 their reminders of what they heard and saw.</p> <p>24 Q. Were you ever asked permission</p> <p>25 to be recorded during these meetings, either</p> |
| <p>62</p> <p>1 essentially you're getting yes and no</p> <p>2 responses from your witness because you're</p> <p>3 providing the answer to her ahead of time. So</p> <p>4 if you could try to rephrase your questions so</p> <p>5 that she responds with the answer rather than</p> <p>6 a yes or no. Does that make sense?</p> <p>7 MS. PIPER: Absolutely. Yes,</p> <p>8 your Honor.</p> <p>9 JUDGE BYRNE: Thank you.</p> <p>10 BY MS. PIPER:</p> <p>11 Q. Did you ever observe anyone --</p> <p>12 or let's see.</p> <p>13 JUDGE BYRNE: That's all right.</p> <p>14 Take your time.</p> <p>15 Q. So generally, how do people take</p> <p>16 notes in board and committee meetings?</p> <p>17 A. I've seen some people take</p> <p>18 handwritten notes. I've seen people and</p> <p>19 members of the board with laptops, smart</p> <p>20 phones.</p> <p>21 Q. And is --</p> <p>22 A. And also the administrative</p> <p>23 assistant using -- I don't know if they're</p> <p>24 taking notes or -- but certainly up until</p> <p>25 earlier this year, using recorder -- recording</p> | <p>64</p> <p>1 board or committee?</p> <p>2 A. For me to record, yes.</p> <p>3 MR. WEBSTER: Object to the</p> <p>4 form. Leading.</p> <p>5 JUDGE BYRNE: If you could</p> <p>6 rephrase.</p> <p>7 MS. PIPER: Yeah. Could I have</p> <p>8 a moment, your Honor?</p> <p>9 JUDGE BYRNE: Absolutely.</p> <p>10 MS. PIPER: Thank you.</p> <p>11 MS. ELSTER: Your Honor, may I</p> <p>12 respond, as well?</p> <p>13 JUDGE BYRNE: Yes.</p> <p>14 MS. ELSTER: I would just like</p> <p>15 to add that there are some questions that</p> <p>16 aren't leading if they're responded with a yes</p> <p>17 or no answer.</p> <p>18 JUDGE BYRNE: Understood, but</p> <p>19 the phrase -- I was just trying to explain it</p> <p>20 a little better for Mrs. Katzman so that she</p> <p>21 could understand what the objection was, that</p> <p>22 was just a simplistic explanation, but I</p> <p>23 understand that.</p> <p>24 MS. ELSTER: Thank you, your</p> <p>25 Honor.</p> |

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17 (65 to 68)

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| <p>65</p> <p>1 BY MS. PIPER:</p> <p>2 Q. Thank you, your Honor. So you</p> <p>3 mentioned that you observed recording. How</p> <p>4 were you aware -- how did you know that there</p> <p>5 were recordings?</p> <p>6 MR. WEBSTER: I'm going to</p> <p>7 object and just ask for clarification as to</p> <p>8 who she was observing recording. I think</p> <p>9 we're talking about the staff. I just want to</p> <p>10 get that clarified.</p> <p>11 JUDGE BYRNE: Okay. So --</p> <p>12 Q. So how did you --</p> <p>13 JUDGE BYRNE: Go ahead.</p> <p>14 Q. Sorry, your Honor. Who did you</p> <p>15 see recording?</p> <p>16 A. Well, I saw at the time every --</p> <p>17 before each meeting, board meeting would start</p> <p>18 at that time the assistant general manager,</p> <p>19 Tim Corson, would be setting up a video camera</p> <p>20 in one place in the room stationary and there</p> <p>21 were also -- and as far as the audio</p> <p>22 recording, if there were any mishaps in the --</p> <p>23 in or during, before or during the meeting,</p> <p>24 you could hear the mumbling and I mean, I was</p> <p>25 listening and watching every action of</p> | <p>67</p> <p>1 helpful.</p> <p>2 MS. KATZMAN: Let me think. I'm</p> <p>3 going to take a wild shoot at this and say,</p> <p>4 like, from 2016 through '19.</p> <p>5 JUDGE BYRNE: Based on your</p> <p>6 recollection 2016 to '19?</p> <p>7 MS. KATZMAN: Yeah, exactly.</p> <p>8 And I might be off --</p> <p>9 JUDGE BYRNE: Okay.</p> <p>10 MS. KATZMAN: -- on the years,</p> <p>11 but certainly there was -- it was very</p> <p>12 obvious.</p> <p>13 BY MS. PIPER:</p> <p>14 Q. And were you ever asked</p> <p>15 permission to be recorded?</p> <p>16 A. No.</p> <p>17 Q. At either board or committee</p> <p>18 meetings?</p> <p>19 A. No where.</p> <p>20 Q. Let the record reflect I am</p> <p>21 showing opposing Counsel what's been marked as</p> <p>22 Exhibit 1.</p> <p>23 MS. PIPER: Would your Honor</p> <p>24 like a courtesy copy?</p> <p>25 JUDGE BYRNE: Sure. Is the --</p> |
| <p>66</p> <p>1 everybody around the table. So I don't know</p> <p>2 if other people picked it up, but I certainly</p> <p>3 did. And, you know, the confusion or the</p> <p>4 discussion about what to do about the recorder</p> <p>5 not working or something to that extent. And</p> <p>6 you could see it sitting on the table. And I</p> <p>7 would, you know, in my entry or to the -- I</p> <p>8 would always go up to that part of the room to</p> <p>9 pick up the paper agenda. So you could see</p> <p>10 the administrative assistant or whoever from</p> <p>11 management was in charge of the recording</p> <p>12 device, see it right there on the table in</p> <p>13 front of them.</p> <p>14 Q. So you mentioned mumblings. Was</p> <p>15 there any other discussion about the</p> <p>16 recordings in committee or board meet -- board</p> <p>17 meetings?</p> <p>18 A. No. Not at that time.</p> <p>19 JUDGE BYRNE: And what time was</p> <p>20 this, Ms. Katzman?</p> <p>21 MS. KATZMAN: At the time that</p> <p>22 -- well, as an example when they were still</p> <p>23 doing the video recordings.</p> <p>24 JUDGE BYRNE: If you can give me</p> <p>25 a frame of reference as to year, that would be</p> | <p>68</p> <p>1 well, that's okay. Is it the OHR</p> <p>2 determination?</p> <p>3 MS. PIPER: No.</p> <p>4 JUDGE BYRNE: Which Exhibit 1</p> <p>5 are we talking about?</p> <p>6 MS. PIPER: This is the 56 AI.</p> <p>7 JUDGE BYRNE: Okay. 56 AI. No,</p> <p>8 I have a copy of it. Good to go. Thank you.</p> <p>9 SPEAKER: Do you need that on</p> <p>10 the screen?</p> <p>11 JUDGE BYRNE: Yes.</p> <p>12 SPEAKER: Okay.</p> <p>13 JUDGE BYRNE: So every time she</p> <p>14 refers to an exhibit, we'll need that one</p> <p>15 pulled up. So just for clarification, so</p> <p>16 whenever you refer to an exhibit, like, just</p> <p>17 like you did was perfect 56 AI because then</p> <p>18 they can go to the website and pull 56 AI.</p> <p>19 That way everybody can also see that and we</p> <p>20 can also see that here. Okay. Thank you.</p> <p>21 That's for everybody.</p> <p>22 BY MS. PIPER:</p> <p>23 Q. So the record will show, I'm</p> <p>24 show -- handing Ms. Katzman Exhibit 56 AI.</p> <p>25 JUDGE BYRNE: We're going to go</p> |

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18 (69 to 72)

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| <p>69</p> <p>1 off the record for a couple of minutes because 2 I'm going to help them pull up the website. 3 (Off the record.) 4 (On the record.) 5 JUDGE BYRNE: Okay. All right. 6 So we now should have 56 AI, which is 7 essentially Exhibit 1 for claimant up on the 8 screen. And I'm going to turn my microphone 9 off and you guys go ahead. 10 MS. PIPER: Thank you, your 11 Honor. 12 By MS. PIPER: 13 Q. Ms. Katzman, do you recognize 14 this document? 15 A. I do. 16 Q. Can you describe this document? 17 A. It's an email that I sent from 18 one of my personal addresses, email addresses, 19 to Marian Altman, Jim Olson, Robert Stromberg, 20 Phil Marks, Jonas Weiss, Rita Penn, Billy 21 Saunders, and copied to Ellen Solomon and 22 David Frager. 23 Q. And was this email accurate at 24 the time you wrote it? 25 A. Absolutely.</p> | <p>71</p> <p>1 A. March 10th, 2017. 2 Q. And were any of the individuals 3 -- what were the positions of some of the 4 individuals that you sent the email to? 5 A. Well, Marian Altman was a board 6 member. Jim Olson was a board member. Phil 7 Marks was a board member. I think Billy 8 Saunders at the time was a board member. 9 David Frager was the chairman of the board at 10 that time. 11 Q. And could you please read the 12 first part of that email out loud starting at 13 the March 8th? 14 A. Sure. At the March 8th, 2017 15 foundation of Leisure World, Inc. meeting, 16 Chairwoman Marian Altman and Director James 17 Olson violated my right to maintain possession 18 of my laptop. 19 Q. So what happened at the March 20 8th, 2017 foundation meeting in which the 21 email references? 22 A. I attended with my laptop. I 23 was confronted by Marian Altman saying that I 24 could not -- that I had to close my laptop. 25 And it escalated with Phil Marks and Jim Olsen</p> |
| <p>70</p> <p>1 Q. Okay. Is this exhibit a fair 2 and accurate copy of that email? 3 A. Yes. 4 MS. PIPER: Okay. Your Honor, 5 we move Exhibit 56 AI into evidence. 6 JUDGE BYRNE: Okay. No worries. 7 And everything that's on this list is going to 8 be deemed admitted, so. 9 MS. PIPER: Perfect. 10 JUDGE BYRNE: I'm fine with -- 11 want to go through the exercise, 100 percent 12 fine with it, but you don't need to -- to 13 enter it. It's been -- essentially all of 14 those exhibits are admitted. 15 MS. PIPER: Thank you. 16 JUDGE BYRNE: You can just refer 17 to them however you need. 18 (Exhibit 1, email, 56 AI, marked 19 in evidence.) 20 BY MS. PIPER: 21 Q. So tell me again, who sent this 22 email? 23 A. I did. 24 Q. Okay. And you stated to -- when 25 did you send this email?</p> | <p>72</p> <p>1 shouting out that they wanted the laptop 2 removed from the room. And so it became a 3 real confrontive assault of situation. 4 Q. How did having, in your words, 5 the confrontive assaulted situation affect 6 you? 7 MR. WEBSTER: Object to the 8 relevance. This is not the same entity. Her 9 email makes this clear. It's foundation of 10 Leisure World, Inc. Meaning, they're not a 11 party to this case. They're not a part of 12 this case. I don't think this is relevant to 13 them. 14 MS. KATZMAN: Could I -- 15 JUDGE BYRNE: Hold on one 16 second, Ms. Katzman. I understand completely, 17 and I'm going to allow you the opportunity to 18 explain to me what the difference is because 19 right now she's filed her complaint against 20 the Chair, the Board and Leisure World 21 Community Corporation. I don't know the 22 relationship of the foundation of Leisure 23 World, Inc. to those. So until I understand 24 that and know that, I'm going to allow her to 25 continue to say what happened.</p> |

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| <p>73</p> <p>1 MS. KATZMAN: Thank you.</p> <p>2 BY MS. PIPER:</p> <p>3 Q. So let me -- let me restate my</p> <p>4 question. So how did that, from your words,</p> <p>5 make you feel?</p> <p>6 A. Demeaned. Discriminated</p> <p>7 against. Retaliated against the other.</p> <p>8 Q. And can you -- going back to the</p> <p>9 exhibit, can you please read the second</p> <p>10 paragraph of that email out loud?</p> <p>11 A. In accord with the ADA and Fair</p> <p>12 Housing Act, says a person with a disability,</p> <p>13 you are hereby requested to provide a</p> <p>14 reasonable accommodation for use of my laptop</p> <p>15 while in attendance as a Leisure World member</p> <p>16 unit owner at any and all future foundation</p> <p>17 meetings.</p> <p>18 Q. And why did you request the</p> <p>19 reasonable accommodation in this email?</p> <p>20 A. Because of the actions taken by</p> <p>21 this group led by Marian Altman.</p> <p>22 Q. And did you receive a response</p> <p>23 from anyone from -- to this email?</p> <p>24 A. No.</p> <p>25 Q. No. Did anyone from management</p> | <p>75</p> <p>1 Q. Okay. And who was Octavia?</p> <p>2 A. She is -- was the civil rights</p> <p>3 officer at the Maryland commission on civil</p> <p>4 rights in Baltimore.</p> <p>5 Q. Okay. And why did you send this</p> <p>6 email to them?</p> <p>7 A. It was a follow up to the</p> <p>8 complaint that I filed.</p> <p>9 Q. And can you please tell us about</p> <p>10 the interaction that this email describes?</p> <p>11 A. I referenced the April 4th --</p> <p>12 I'm sorry. April 12th, 2017, Leisure World</p> <p>13 Foundation meeting agenda for her reference</p> <p>14 and identified that, again, subsequent to the</p> <p>15 filing of the complaint, based upon the first</p> <p>16 incident, I identified what had taken place at</p> <p>17 that meeting, the second meeting.</p> <p>18 Q. And can you tell me a bit what</p> <p>19 happened at that second meeting?</p> <p>20 A. Having full knowledge that the</p> <p>21 Leisure World Foundation is a separate entity</p> <p>22 from the Leisure World Community Corporation,</p> <p>23 but yet having full use of the facilities as</p> <p>24 any recognized organization in Leisure World</p> <p>25 and there are several do, and that a staff</p> |
| <p>74</p> <p>1 or anyone else in Leisure World contact you</p> <p>2 about it?</p> <p>3 A. No.</p> <p>4 Q. Okay. And what was your</p> <p>5 reaction to not receiving any response to this</p> <p>6 accommodation request?</p> <p>7 A. I think that it was -- at that</p> <p>8 time I filed a -- an action with -- I filed a</p> <p>9 complaint with the Department of Justice, the</p> <p>10 U.S. Department of Justice, who accepted and</p> <p>11 -- and sent the complaint to the state agency</p> <p>12 to handle and investigate.</p> <p>13 Q. So moving on. Thank you. We're</p> <p>14 moving to --</p> <p>15 JUDGE BYRNE: Take that one</p> <p>16 down?</p> <p>17 MS. PIPER: Yes, the second one.</p> <p>18 Yeah. Let the record reflect I'm -- Exhibit</p> <p>19 56 A2.</p> <p>20 (Exhibit 2, email, 56 A2, marked</p> <p>21 in evidence.)</p> <p>22 Q. Ms. Katzman, what's this</p> <p>23 document?</p> <p>24 A. It's an email that I sent to</p> <p>25 Octavia Marshall Browning on April 12th, 2017.</p> | <p>76</p> <p>1 employee had been assigned by Leisure World</p> <p>2 and that employee being Ellen Solomon, for the</p> <p>3 purpose of recording and taking notes,</p> <p>4 transcribing them for this organization for</p> <p>5 their minutes to be approved at the following</p> <p>6 meeting. I attended this meeting as any</p> <p>7 resident can and I was once again confronted</p> <p>8 by -- I can read, but, again, today I was</p> <p>9 discriminated against, harassed and bullied by</p> <p>10 Marian Altman, James Olson, Jonas Weiss, and</p> <p>11 Phil Marks when I attended the Leisure World</p> <p>12 Foundation meeting this morning. I was told</p> <p>13 by -- before the meeting even started, as I</p> <p>14 sat down and opened my laptop, I was told, you</p> <p>15 cannot use your computer. No computer. And I</p> <p>16 responded asking her if you received my</p> <p>17 request for reasonable accommodation, did you</p> <p>18 not? And she said she wanted to see a</p> <p>19 doctor's note. Is there more to this?</p> <p>20 Q. It was taken out. Apologies on</p> <p>21 that.</p> <p>22 A. Thank you.</p> <p>23 JUDGE BYRNE: Ms. Katzman, you</p> <p>24 don't have to read the whole thing. I can.</p> <p>25 MS. KATZMAN: Okay.</p> |

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| <p>77</p> <p>1 JUDGE BYRNE: I mean, I'll take 2 notice of the entire email. I've read the 3 entire exchange all the way through. You can 4 speak to essentially what happened. 5 A. Okay. So as this dialogue back 6 and forth took place and during which Altman 7 violated my rights not only to be there with 8 the laptop, but by asking me these invasive 9 questions demanding proof of my disability, 10 asking me, what is your disability and I 11 reminded her that as a disabled individual 12 herself, she knows that that's in violation of 13 law. She can't ask me that. Demanded a 14 doctor's letter. I let her know that she had 15 no right to do that either and kept insisting, 16 no computer, no computer. And the other 17 participants chimed in once again and one 18 yelled out, call security and that's what 19 Marion Altman instructed the administrative -- 20 the Leisure World employee to do. And so I 21 waited, sat there because they did not 22 continue to conduct any business. They just 23 chatted back and forth and I waited for a 24 while. Nobody showed up. So I just 25 eventually closed my laptop, put it away, and</p> | <p>79</p> <p>1 where she had shouted out an example, the 2 landscape advisory committee when she was the 3 chairman and I was a member of that committee. 4 And at that meeting -- I mean, so there was a 5 history with her of doing this to me earlier 6 from 2014 on. And at that meeting, I, as a 7 member, called for a motion on the subject 8 that she was attacking me on and the 9 membership voted her down. Had no problem 10 whatsoever with my having my laptop there. 11 Q. So back to this second 12 foundation meeting. Who all attended that 13 meeting generally? 14 A. Well, the parties that were 15 addressed or the -- whoops, sorry. In the 16 first email that -- or the one prior to this. 17 I don't recall if there were other members of 18 the community there or not. I know that there 19 was one time and maybe it was the next 20 meeting, but I know that former resident, 21 Janice McClain, was there and she witnessed 22 what was going on and experienced her own 23 difficulties just by being a resident there 24 that had been hoisted upon her, and she wrote 25 a letter to the board president about it</p> |
| <p>78</p> <p>1 walked to the door to wait for security. And 2 then when the young man showed up, I walked 3 out in the hall and told him what had happened 4 and that I had requested, although I didn't 5 expect him to necessarily understand it, but 6 that I wanted him to know that I had requested 7 a reasonable accommodation as a result of the 8 circumstances from the previous meeting, and 9 that this -- having been ignored, this became 10 a -- a situation that then Marian Altman 11 called or directed that security be there. 12 And then his senior officer showed up and we 13 went through it again and he apologized to me 14 that I had -- had to undergo that and that he 15 would be writing what he called a short or 16 small report, and I thanked him and left. 17 Q. Where was that meeting held? 18 A. In the Leisure World facility 19 known as clubhouse 2. In a meeting room. 20 Q. And were you aware at that time 21 of any policy about not allowing you to use 22 your laptop at meetings? 23 A. None whatsoever. That which 24 took place was historical with Marian Altman. 25 In her other meetings, Leisure World meetings</p> | <p>80</p> <p>1 documenting it. 2 MR. WEBSTER: I'll object to the 3 hearsay. It's also not relevant. 4 JUDGE BYRNE: What -- yeah. So 5 Ms. Katzman, if you could just focus on your 6 observations, your interaction, that would be 7 great. Thank you. 8 BY MS. PIPER: 9 Q. And so final question about this 10 -- this meeting. How did the events of having 11 the security called affect you? 12 A. It was -- it was so sad, it was 13 comedy. It was bordered on humiliation. It 14 was obviously retaliatory for whatever reason 15 she conjured and it sparked all of those same 16 feelings that are conjured up as a result of 17 this kind of a confrontation. Totally 18 unnecessary. I didn't start any of this. I 19 tried to defend myself by simply letting it be 20 known this is only because of my disability. 21 P.S. by the way, but for that, I wouldn't have 22 engaged, been engaged in any of this. 23 (Exhibit 3, email 56 A3, marked 24 in evidence.) 25 Q. So we can move on to the next</p> |

Transcript of Hearing - Day 1
Conducted on February 22, 2024

21 (81 to 84)

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| <p>81</p> <p>1 exhibit, exhibit 56 A3. So Ms. Katzman, what 2 -- what is this exhibit? 3 A. It's an email that I -- a 4 series, a thread of emails that I generated 5 and, yes. 6 Q. Okay. So who did you send this 7 series of emails to? 8 A. Well, Ivan Howard Chairman of 9 the Leisure World Community Corporation board 10 of directors. 11 Q. Okay. So I'd like to draw your 12 attention to page two of the exhibit, please. 13 When did you send this first email? 14 A. June 19th, 2019. 15 Q. And what were you -- what's the 16 contents of this email? 17 A. It was reminding him of I -- I 18 wrote reason -- regarding reasonable 19 accommodation for use of recording device 20 dating back to 2017, or would you prefer this 21 be resubmitted. 22 Q. And what is the 2017 item that 23 you're referencing in this email? 24 A. I believe it was an email that 25 had been directed to be sent out by, and</p> | <p>83</p> <p>1 A. State agency. 2 Q. Okay. So did you -- back to 3 page two with that request, did you ever 4 receive a response to this June 19th email? 5 A. No. 6 Q. No. After that, did you make 7 another email to this individual Paul 8 Eisenhaur? 9 A. Yes. 10 Q. So let's go to page one. Bottom 11 of page one. Who sent this particular email? 12 A. Oh, I did. 13 Q. Okay. Who did you send it to? 14 A. Paul Eisenhaur. 15 Q. And when did you send it? 16 A. On June 22nd, 2019. 17 Q. Okay. All right. What did you 18 write in this email? 19 A. We're talking about June 22nd, 20 correct? 21 Q. Yes. 22 A. I addressed it to Paul 23 Eisenhaur, Chair LWCC board of directors. As 24 previously informed of it, I am unable to 25 write copious notes as a result of my right</p> |
| <p>82</p> <p>1 signed, by then board chair David Frager, 2 which was sent to -- shall I go on? 3 Q. Yeah. 4 A. Okay, which was sent to every 5 then current board member, their alternate, 6 every chairman of every advisory committee, 7 and the members of those committees. 8 Q. And what's the content of that 9 email? 10 A. He wrote, just a reminder, if 11 someone desires to use an electronic device 12 to, quote, take notes, end quote, during an 13 open meeting, they should be allowed to do so. 14 All print, this has been the subject of a 15 discrimination complaint, regular print, and I 16 believe our current organizations are 17 complying with this policy and will continue 18 to do so. David Frager, Board Chair. 19 Q. And do you know what 20 discrimination complaint he's referring to in 21 that email? 22 A. He's referring to the one that I 23 had filed with the DOJ and was being 24 investigated by the state. 25 Q. Okay.</p> | <p>84</p> <p>1 hand wrist being permanently disabled in an 2 accident. This is to reiterate the request 3 that you acknowledge the reasonable 4 accommodation previously approved for 5 recording minutes. 6 Q. And also you can just, you know, 7 tell me the general content. You don't have 8 to read each of them. 9 A. Okay. 10 Q. So what is the reasonable 11 accommodation that you are referencing in this 12 email? 13 A. The -- first of all, my request, 14 multiple requests and the email from David 15 Frager or the notice, email notice from David 16 -- David Frager. 17 Q. And did you receive a response 18 from Paul Eisenhaur to this email? 19 A. No. 20 Q. And did you make any other 21 request for reasonable accommodation? 22 A. Well, on July 8th, I reiterated 23 that on 19th of June he was asked to confirm 24 his understanding of this reasonable 25 accommodation and that there had been still no</p> |

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| <p>85</p> <p>1 reply.</p> <p>2 Q. And just to confirm, who was</p> <p>3 that email sent to?</p> <p>4 A. The July 8th email?</p> <p>5 Q. Uh-huh.</p> <p>6 A. Paul Eisenhaur.</p> <p>7 Q. Okay. And did you receive a</p> <p>8 response from Paul Eisenhaur to the July 8th</p> <p>9 email?</p> <p>10 A. No. I've never received a</p> <p>11 response from Paul Eisenhaur to any of my</p> <p>12 requests for reasonable accommodation.</p> <p>13 Q. Okay. So after the third time</p> <p>14 you had emailed Paul Eisenhaur and this</p> <p>15 consistent lack of response. How did that</p> <p>16 affect you?</p> <p>17 A. Well, it just -- it continued</p> <p>18 what I recognize as pattern and practice and</p> <p>19 it -- it remained an overall effect of stress.</p> <p>20 That this was being ignored, my request,</p> <p>21 although I knew that this was my right as a</p> <p>22 person with a disability and that they were</p> <p>23 just completely dis -- he and the board were</p> <p>24 completely disregarding me.</p> <p>25 Q. Okay. And when you didn't</p> | <p>87</p> <p>1 Q. And what was your claim in the</p> <p>2 complaint?</p> <p>3 A. That I had been subjected to</p> <p>4 unlawful discrimination based upon my physical</p> <p>5 disability in violation of my civil rights</p> <p>6 under the Americans with Disabilities Act and</p> <p>7 chapter and verse of the Montgomery County</p> <p>8 code. And I let it be known that I had made</p> <p>9 several requests beginning in June of '19 to</p> <p>10 Eisenhaur and the board for reasonable</p> <p>11 accommodation and the reason why. And that my</p> <p>12 doctor had also made this -- a report of the</p> <p>13 status of my disability and took it upon</p> <p>14 himself to actually in that same letter</p> <p>15 suggesting request that a reasonable</p> <p>16 accommodation be provided and that I felt that</p> <p>17 as a result of my insistence on obtaining that</p> <p>18 my rights -- that management had been given or</p> <p>19 shown they thought they had reason to</p> <p>20 retaliate against me by ignoring my demand and</p> <p>21 treating me in a discriminatory manner.</p> <p>22 Q. Okay. Did you tell anyone that</p> <p>23 you had made a complaint with the Office of</p> <p>24 Human Rights?</p> <p>25 A. Anyone in the world? Certainly,</p> |
| <p>86</p> <p>1 receive responses, did you take any action in</p> <p>2 response to that?</p> <p>3 A. Yes. I filed a formal complaint</p> <p>4 with the Office of Human Rights in Montgomery</p> <p>5 County.</p> <p>6 Q. You can move on to the next</p> <p>7 exhibit.</p> <p>8 (Exhibit 4, complaint, 56 A4,</p> <p>9 marked in evidence.)</p> <p>10 JUDGE BYRNE: 56 A4 or?</p> <p>11 MS. PIPER: Oh, Exhibit 70.</p> <p>12 JUDGE BYRNE: Okay. OHR</p> <p>13 complaint from the last one.</p> <p>14 Q. Okay. So Ms. Katzman, what is</p> <p>15 this document?</p> <p>16 A. This is the signed and dated</p> <p>17 complaint filed with the -- of discrimination</p> <p>18 and housing filed with the Office of Human</p> <p>19 Rights.</p> <p>20 Q. Okay. And when did you file</p> <p>21 this complaint?</p> <p>22 A. This was the official complaint</p> <p>23 I had filed with them by email and</p> <p>24 communicated with them that this was the</p> <p>25 official document on 8/27/19.</p> | <p>88</p> <p>1 yes.</p> <p>2 Q. Okay. And did the Office of</p> <p>3 Human Rights conduct an investigation?</p> <p>4 A. Yes. Very lengthy.</p> <p>5 Q. So we can move to the next</p> <p>6 exhibit, Exhibit 2. So Ms. Katzman, can you</p> <p>7 tell me what this document is?</p> <p>8 A. This was the determination of my</p> <p>9 complaint and based upon the investigation</p> <p>10 findings from the Office of Human Rights</p> <p>11 director, James Stell.</p> <p>12 Q. I'd like to draw your attention</p> <p>13 to page six, Ms. Katzman. So did the Office</p> <p>14 of Human Rights ever make a finding in their</p> <p>15 investigation of your complaint?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And what was their</p> <p>18 finding?</p> <p>19 MR. WEBSTER: I'm just going to</p> <p>20 object. She doesn't need to read it. We know</p> <p>21 what it is.</p> <p>22 JUDGE BYRNE: Yeah. There's no</p> <p>23 reason to read it. It's in the record.</p> <p>24 That's the reason I show these. So we're</p> <p>25 good. No need to go into it.</p> |

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| <p>89</p> <p>1 Q. Okay. So we can move on to 2 Exhibit 56 A4. And Ms. Katzman, what is this 3 document? 4 A. Just a minute. 5 Q. Oh, sorry about that. 6 A. Thank you. This is a narrative 7 of what took place on September 18th of 2019 8 addressed to the investigator, Rafael Alvarez, 9 and others. 10 Q. And who was Rafael? 11 A. He was the investigator from the 12 Office of Human Rights. 13 Q. Okay. And why did you send this 14 to them? 15 A. Because I -- it was in the midst 16 of the ongoing investigation that this took 17 place, and I wanted it documented that yet 18 another instance of blatant discrimination had 19 taken place. 20 Q. And when did you send this 21 email? 22 A. September 18th, 2019. 23 Q. Okay. And what meeting does 24 this email portray? 25 A. This is one of the Leisure World</p> | <p>91</p> <p>1 other board member, et cetera, that policy 2 that Frager had published, documented. And he 3 said, but recordings are not, and so it was a 4 false accusation because I was not using my 5 laptop and never have to record and I let him 6 know that, that I am not recording on that 7 computer, on my computer. He doubt -- he cast 8 his doubts and entered the room sometime 9 later, the chief of security himself, Richard 10 Schultz. And in that interim between the time 11 that this took place with Mr. Marks and 12 myself, I had pulled up on my laptop David 13 Frager's email because I wanted to refer that 14 to whoever showed up from security to show 15 this was my right. And so as he entered the 16 room, he bent down next to me. "He" being Mr. 17 Schultz and I pointed to my laptop and said, 18 please read this. And he looked at me and 19 said, proceed, thanked me and left the room. 20 Q. And who attended that meeting? 21 A. Oh -- 22 Q. Generally. 23 A. All -- well, all of the members 24 of that committee, which included members of 25 the Leisure World board of directors and</p> |
| <p>90</p> <p>1 advisory committees, and that is the Leisure 2 World budget and finance committee. 3 Q. When did this meeting take 4 place? 5 A. I believe it was that same day. 6 Q. Okay. And can you tell me what 7 took place at this meeting? 8 A. Before the meeting or just as it 9 was starting, the Chairman Phil Marks, who was 10 on the board of directors and executive 11 committee at the time, shouted out to me that 12 I was to close my laptop and I -- or turn it 13 off and accused me falsely of recording on it. 14 And I said, absolutely not. And he said that 15 I -- he shouted -- he was shouting in a room 16 full of 30 plus people, shut it off, shut it 17 down. And I said, no, I'm not going to. And 18 he said then you -- he told me I would have to 19 leave the room and I said, no, I'm not. And 20 he said, you want to bet and I said, yes, I 21 do. He then turned to the Leisure World 22 management administrative assistant and told 23 her to call security. I tried to make him 24 recognize what he knew and that was David 25 Frager's email identifying to him and every</p> | <p>92</p> <p>1 including Mr. Eisenhaur himself was in 2 attendance and numerous residents of the 3 community. 4 Q. So how did this interaction with 5 Phil Marks and the board and as well as having 6 security called on you again affect you? 7 A. It was astounding that there was 8 such conduct being -- taking place by -- 9 taking place by this man, and the audience was 10 aghast. You could hear comments, mumbling as 11 it -- and, of course, it made me feel, once 12 again, humiliated obviously being 13 discriminated against blatantly. And I 14 venture to say that it was blatant retaliation 15 for having filed the complaint, the 16 complaints, and so it was a pattern. It was a 17 series of events that happened time and time 18 again. How would anybody feel as a member of 19 the community being subjected to this 20 needlessly? And a person with a disability. 21 I mean, it -- and it's invisible. I know that 22 people can't see it, but it's there. It's 23 real. It's documented. So, of course, I felt 24 -- I felt horrible inside. 25 Q. So moving to -- let's move on to</p> |

Transcript of Hearing - Day 1
Conducted on February 22, 2024

24 (93 to 96)

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| <p>93</p> <p>1 2023. Was there any -- did any other board 2 activity affect you in that year? 3 A. Well, that was when the board, 4 upon counsel's recommendation, passed a motion 5 to have no recording whatsoever by anybody, 6 including themselves. No recording by staff 7 for note taking. And the most egregious part 8 of this whole action was that they would 9 destroy all previous historical record via 10 that was taken by video and/or audio for all 11 time wiping out the history, the -- the visual 12 and audio history of every meeting that had 13 ever been conducted in Leisure World. 14 Q. And at some point, were you 15 aware of any -- the board hiring any legal 16 counsel at this time? 17 A. Yes. 18 Q. Okay. And so you mentioned the 19 details of the policy that was voted on. Have 20 you seen how this policy has been implemented? 21 A. Well, I -- there's no 22 transmission or broadcast of anything for the 23 residents as a direct result of all of this. 24 If they're not there on Zoom or in person, the 25 only report they have is from Just Us of what</p> | <p>95</p> <p>1 the record -- the part of the policy of having 2 records destroyed? 3 MR. WEBSTER: Object to the 4 form. Leading. 5 JUDGE BYRNE: If you could 6 rephrase. 7 MS. PIPER: Yup. 8 JUDGE BYRNE: Rephrase that. 9 MS. PIPER: Let me rephrase. 10 JUDGE BYRNE: Good. 11 BY MS. PIPER: 12 Q. At any time did you become aware 13 of why they implemented the second part of the 14 policy destroying the records? 15 A. It was destruction of evidence. 16 MR. WEBSTER: I'll object and 17 move to strike. Speculation. 18 JUDGE BYRNE: I'll take it as 19 Mrs. Katzman's opinion. 20 MS. KATZMAN: But could I 21 continue on with in that regard? 22 JUDGE BYRNE: You can. And just 23 note that I'm taking this testimony as from 24 you as an individual, what your opinion -- 25 MS. KATZMAN: Of course.</p> |
| <p>94</p> <p>1 has taken place in those meetings. If because 2 the -- the policy then became that there would 3 be nothing other than actions and votes on 4 motions, there would be no dialogue who said 5 what or anything in the minutes. And so there 6 was no record for transparency. 7 Q. So how is what you're describing 8 different than before? 9 A. There were the video and at 10 least, you know, that those who wanted to play 11 catch up a couple of weeks later after these 12 meetings would be able to, in their living 13 rooms, watch the actual dialogue that went 14 forth, back and forth in the meetings, which I 15 think in order to participate in this 16 community is extraordinarily important to know 17 what you're -- the representatives from 18 sitting around that table have to say on 19 issues. None of that exists now. 20 Q. And how -- what was the 21 justification of the policy? 22 A. That this had to be done because 23 otherwise, they were in violation of the 24 Wiretap Act. 25 Q. Was there a justification for</p> | <p>96</p> <p>1 JUDGE BYRNE: -- of the Leisure 2 World action is -- 3 MS. KATZMAN: Of course. 4 JUDGE BYRNE: -- not as a board 5 member, but as an observant. 6 MS. KATZMAN: Of course. 7 BY MS. PIPER: 8 A. In so doing, there was no -- no 9 ability to reflect back in asking any 10 questions or performing books and records 11 requests, a formal HOA act, as a records 12 request of listening to what actually 13 transpired. It also rem -- therefore, it 14 removed any legal responsibility that they 15 were instructed they had not to record. It 16 was a scurrilous act in this -- for as -- as 17 far as this community was concerned. The 18 people who found out about it was just the 19 residents in an uproar. 20 MR. WEBSTER: Object and move to 21 strike the last comments. 22 MS. KATZMAN: Well, I know that 23 from my own personal experience. 24 JUDGE BYRNE: Ms. Katzman, that 25 -- that would be -- you can't really speak</p> |

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| <p>97</p> <p>1 to -- I'm trying to limit the hearsay. So I 2 don't necessarily want you to speak to what 3 others told you. I want you to speak to -- so 4 you can say, from my perspective, it was a 5 scurrilous that I think they were X, Y, Z. 6 MS. KATZMAN: Certainly from my 7 perspective, it was. 8 JUDGE BYRNE: Okay, but from 9 everybody else's perspective, I don't need it. 10 Okay. Thank you. 11 BY MS. PIPER: 12 Q. So generally, how have these 13 interactions with the board affected your 14 overall well being at Leisure world? 15 A. Well, feeling the sense of anger 16 and outrage and the stress levels that come 17 along with that from knowing that the actions 18 and the opinion issued by the investigative 19 agency that this was discriminatory and done 20 with animus, and knowing all that and still 21 continuing to conduct business as if none of 22 this matters is like the high -- highest level 23 of stress that one can imagine because it's of 24 its frustrations in dealing with such a group 25 of individuals that would allow this to</p> | <p>99</p> <p>1 to me yesterday and I was so humbled by that. 2 So it's -- it's taken an overwhelming part of 3 my life and the total on it that it's totally 4 unnecessary. 5 Q. And earlier you mentioned 6 stress. Have there been any effects of, like, 7 physical effects of what you've been 8 experiencing? 9 A. Yeah. High blood pressure most 10 predominantly. Shallow when it -- when it's 11 in full, you know, when it blooms. Shallow 12 breathing and I have to remind myself to take 13 deep breaths. Sleepless, you know, being 14 awakened in the middle -- of the middle of the 15 night and the -- because of the thoughts. And 16 then the first thing in the morning and it's 17 so intrusive. 18 Q. Thank you, Ms. Katzman. 19 MS. PIPER: No further 20 questions, your Honor. 21 A. Could -- could I say one thing? 22 Thank you. Although I know this is my right, 23 but thank you for allowing me to speak. 24 JUDGE BYRNE: Okay. So it is 25 five of 12. I think at this point, I don't</p> |
| <p>98</p> <p>1 happen. So the way that it affects me, of 2 course, is the stress level, but it also, you 3 know, and the stress is all of those symptoms 4 that -- that I described, but it also makes me 5 want to fight back and make sure that not only 6 my rights, but the rights of every individual 7 that lives and pays those bills is made known 8 and there's -- they're rectified for any 9 wrongdoing that has been done to me and 10 others. 11 Q. And how is the -- one minute, 12 your Honor. 13 JUDGE BYRNE: Sure. 14 Q. Overall, how has -- how have 15 these experiences, everything, you know, that 16 we've talked about today, impacted your life? 17 A. It's overtaken my life. I have 18 three things that I focused on in life and one 19 of them of most importance is the care of my 20 son, who's a dialysis patient. My own life, I 21 feel like I live two. And when I said to one 22 of my associates that I feel like I lived two 23 lives, she said, you live the life -- not only 24 two lives, you live the life of 9,000 people 25 for their benefit. I mean, that was just said</p> | <p>100</p> <p>1 know what the cross-examination -- how long 2 it's going to take or what we're going to do. 3 So I'm going to suggest we go off the record. 4 Now, there are limited selections within 5 walking distance. 6 (Off the record.) 7 (On the record.) 8 JUDGE BYRNE: Okay. All right. 9 We'll go ahead and we are now back on the 10 record getting ready to get started. For 11 those of you joining by Zoom again, same rules 12 apply. Please be sure that you are muted. We 13 only have one person testifying later via 14 Zoom. All right. So we'll pick up where we 15 left off. So we had the finish of the direct 16 of Ms. Katzman. So now turn to 17 cross-examination. 18 MR. WEBSTER: Thank you. Thank 19 you, your Honor. Just for everybody's 20 understanding, we printed our exhibits in 21 addition to having them available online. I 22 had a set for your Honor and a set for the 23 witness. Just make it easy to look at them. 24 JUDGE BYRNE: Okay. 25 MR. WEBSTER: Have you handed</p> |

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| <p>101</p> <p>1 them up, or if we just want to use the ones on 2 the screen, we can just use the ones on the 3 screen. It tends to work a little easier this 4 way.</p> <p>5 JUDGE BYRNE: I look at paper, 6 as well. So sure, happy to take it. I think 7 I printed yours out, but they might not be 8 because I realized that do not -- not be in 9 the order that you're calling them, so.</p> <p>10 MR. WEBSTER: That's for you 11 guys and for Ms. Katzman.</p> <p>12 JUDGE BYRNE: So they are in the 13 order that they were, okay. Just for 14 everyone. So it's the 30 minutes. If you go 15 to the website. It should flow straight 16 through.</p> <p>17 All right. So we're all on the same 18 page. All right. So, again, still on the 19 record. Just a little bit of housekeeping 20 here. So we can go ahead and start. Oh, 21 let's -- let's see if we're getting some 22 feedback because I know you have your computer 23 up, Ms. Katzman. You may have to do the same 24 thing. Either move it to a different location 25 away from the microphone or from there. So</p> | <p>103</p> <p>1 in journalism? Classes? Things of that 2 nature.</p> <p>3 A. No.</p> <p>4 Q. When you had mentioned before 5 that you were a longtime advocate for 6 community residents, were you referring to 7 that within the context of the Bowie, Maryland 8 News Express, or was that for something else?</p> <p>9 A. As an individual resident, as 10 well as my position with the paper.</p> <p>11 Q. And you talked about the city 12 government sort of being the -- I won't say 13 adversary, but being the other entity that you 14 were reporting on. What city government were 15 you talking about?</p> <p>16 A. City of Bowie.</p> <p>17 Q. And was the community that you 18 lived in sometimes at odds with the city of 19 Bowie? Is that what was happening?</p> <p>20 A. Well, sometimes.</p> <p>21 Q. And that -- is that what you 22 were reporting on?</p> <p>23 A. It was a pioneering community. 24 It was a brand new community at the time. So 25 people were all just trying to get used to</p> |
| <p>102</p> <p>1 I'm going to ask.</p> <p>2 MS. PIPER: Yeah. You can put 3 it on top of mine.</p> <p>4 MS. KATZMAN: Let's try it a 5 little bit further away.</p> <p>6 JUDGE BYRNE: From the 7 microphone. Let's see.</p> <p>8 CROSS-EXAMINATION 9 BY MR. WEBSTER:</p> <p>10 Q. Okay. Ms. Katzman, good 11 afternoon. In your direct testimony you 12 mentioned that for three years you were a 13 citizen journalist, as you called it. Been a 14 longtime advocate for community residence. 15 Can you tell me what that community was?</p> <p>16 A. Bowie, Maryland, but it was not 17 citizen journalist for those three years. I 18 was actually staff of -- of a news 19 publication.</p> <p>20 Q. Okay. What was the publication?</p> <p>21 A. The Bowie News Express.</p> <p>22 Q. Was that a vocation? Were you 23 compensated for your work?</p> <p>24 A. No. It was volunteer.</p> <p>25 Q. Do you have any formal training</p> | <p>104</p> <p>1 each other in the governance system.</p> <p>2 Q. Okay. All right. You talked 3 about Just Us and founding and forming Just Us 4 as an advocate for residents. Resident 5 advocacy for the community, I believe, was the 6 quote or the slogan that you referenced. Can 7 you give me the date when Just Us was created?</p> <p>8 A. I could look it up on my 9 computer, but I can't other than just give you 10 it was 2013 or '14.</p> <p>11 Q. That's fine. Was it after you 12 had moved into the Leisure World community?</p> <p>13 A. Oh, yeah. Absolutely.</p> <p>14 Q. Did you create Just Us for the 15 Leisure World community?</p> <p>16 A. Absolutely.</p> <p>17 Q. You talked about associates that 18 were with you in the founding and formation of 19 Just Us. Can you identify who those 20 associates were?</p> <p>21 A. They're no longer residents in 22 the community, if that's of any --</p> <p>23 Q. That's good enough. Totally 24 fine. All right. Okay. What I want to make 25 sure that I understand, Ms. Katzman, are the</p> |

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| <p>105</p> <p>1 examples of retaliation that you're claiming 2 in this case against Leisure World. All 3 right? And as I've tried my best to listen to 4 your testimony on direct, I thought I 5 identified a couple, but I would really like 6 you, if at all possible, to make clear what 7 are you saying is the retaliation that Leisure 8 World committed? And if you can do it in date 9 order, that's wonderful. If you can't do it 10 in date order, do it whatever order you can do 11 it in.</p> <p>12 A. As far as this complaint is 13 concerned, this incident complaint is 14 concerned the ignoring, refusing to respond to 15 my request for reasonable accommodation and 16 some of the subsequent actions of those that 17 I've named who are also board members against 18 me in various meetings.</p> <p>19 Q. Is that -- that's what you can 20 think of while you're sitting here now. I 21 didn't want to cut you off if you weren't 22 finished. I do want to let you finish.</p> <p>23 A. I appreciate that.</p> <p>24 Q. Okay. That's -- you're 25 finished?</p> | <p>107</p> <p>1 A. I believe that it would probably 2 go back to at least 2017 where the original 3 complaint was filed and those instances and 4 ignoring the request.</p> <p>5 Q. Okay. And we can look at them, 6 but in 2017, those were meetings of 7 foundations of Leisure World, Inc., correct?</p> <p>8 A. In community building, yes.</p> <p>9 Q. And your request at that time 10 was to use a computer. That's what you were 11 asking for, correct?</p> <p>12 A. Correct.</p> <p>13 Q. You weren't asking in 2017 to 14 record, were you?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. So thank you. So we're 17 in 2019. That's the first time you asked to 18 record as a reasonable accommodation, correct?</p> <p>19 A. I believe so.</p> <p>20 Q. All right. The second one that 21 I wrote down was actions of those named in 22 various meetings, right? And that's broad, so 23 let's try to put some form on it. All right. 24 One of the notes that I made from your direct 25 was the September 8th, 2019 meeting for the</p> |
| <p>106</p> <p>1 A. It's just off the top of my 2 head. I mean, I -- there were examples of 3 outbursts by members of the board, which I 4 considered retaliatory, indirect, directly to 5 me.</p> <p>6 Q. Just to confirm, are you 7 finished?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay. That's fine. All right. 10 So I have -- I wrote down three things, right? 11 I wrote down ignoring/refusing to there's -- 12 or refusing to respond to a request for the 13 reasonable accommodation. That was the first 14 one you mentioned.</p> <p>15 A. Well, the con -- the -- as was 16 documented earlier today, the actions taken by 17 some of those same people in various meetings 18 having been requested for the accommodation, 19 but yet still those outbursts and the 20 embarrassment that they brought forth.</p> <p>21 Q. Okay. Good. Thank you. When 22 we're talking about the ignoring or refusing 23 to respond to the request, that's the June and 24 July 2019 emails to Mr. Eisenhour. That's 25 what you're referring to there, isn't it?</p> | <p>108</p> <p>1 budget and finance committee. That's one of 2 the moments I think that you're claiming 3 retaliation by Leisure World, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Thank you. For the benefit of 6 all, do I need my mic on or is it --</p> <p>7 A. You're fine.</p> <p>8 THE SPEAKER: We still need it 9 for Zoom.</p> <p>10 JUDGE BYRNE: You know what? 11 We've got her mic -- you're right. We got her 12 mic on.</p> <p>13 THE SPEAKER: They're pretty 14 good at picking up just so I can hear.</p> <p>15 MR. WEBSTER: Okay.</p> <p>16 JUDGE BYRNE: Okay. All right.</p> <p>17 MR. WEBSTER: I can turn -- 18 sure. They will let us know. Somebody will, 19 right? I can turn it on.</p> <p>20 JUDGE BYRNE: And Nana said 21 every -- everything was clear and she didn't 22 get any feedback when we were looking at that 23 before.</p> <p>24 MR. WEBSTER: Okay.</p> <p>25 JUDGE BYRNE: I'll ask her if</p> |

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| <p>109</p> <p>1 she can hear you, so continue. And if she 2 can't, I will let you know. 3 BY MR. WEBSTER: 4 Q. Okay. In general, I guess 5 heard. So that's just how that goes. 6 So one of the items for the -- those 7 named in various meetings, you talked about 8 the September 8th, 2019 budget and finance 9 committee meeting, correct? 10 A. Yes. 11 Q. And the interaction at that 12 moment in time was relating to the belief by 13 the Leisure World folks that you were using 14 your computer to record -- 15 A. Correct. 16 Q. -- correct? 17 A. Yes. 18 Q. Were you using your meeting or 19 your computer to record that meeting? 20 A. No. 21 Q. You prepare a transcript 22 essentially of what goes on in that meeting. 23 You sure you didn't have a recording to create 24 that transcript from? 25 A. Number one I was being accused</p> | <p>111</p> <p>1 Q. Okay. 2 A. When he knew that there had been 3 requests for reasonable accommodation and he 4 knew most definitely as a member of the board 5 and executive committee of Mr. Frager's 6 issuance of his instruction to the board and 7 all committees. 8 Q. Okay. Have you read Mr. 9 Frager's email? 10 A. Absolutely. 11 Q. What does it say about 12 recording? 13 A. It says electronic recording 14 device. 15 Q. Do you think that's what it 16 says? 17 A. I think. 18 Q. Let's take a look at it. And 19 you're going to have to give me one moment. 20 So is that in their exhibits? 21 SPEAKER: We have it. 22 MR. WEBSTER: Okay. So let me 23 give this to everybody. 24 JUDGE BYRNE: Well, she says she 25 cannot hear, Mr. Webster. So we're going to</p> |
| <p>110</p> <p>1 of using -- falsely accused of using my laptop 2 to record. I have a very good memory, 3 especially of incidents like that. 4 Q. Okay. So the recitation that 5 you provided in that email, you believe that 6 was complete and accurate? 7 A. Correct. 8 Q. You remember all of that in your 9 own memory? 10 A. I do. 11 Q. Word for word? 12 A. I did. 13 Q. Quote for quote? 14 A. That's how I remember the same 15 day. 16 Q. Quote for quote? 17 A. Yep. I went home and I typed it 18 up. 19 Q. Okay. And the retaliatory act 20 that you're claiming in that -- that occurred 21 in that September 8th, 2019 meeting was what? 22 A. The outburst by Mr. Marks in 23 front of a crowd of people accusing, falsely 24 accusing me of something that was not true or 25 correct.</p> | <p>112</p> <p>1 have to sit. 2 MR. WEBSTER: There you go. 3 JUDGE BYRNE: All right. 4 MR. WEBSTER: Okay. Thank you. 5 Now I got to remember to turn it off. Okay. 6 So let's -- we -- okay? 7 JUDGE BYRNE: Keep going. 8 BY MR. WEBSTER: 9 Q. Let's go ahead. Please look at 10 it's 57 A3. And if you want to look on in the 11 binder, it is labeled as 57A (III) Frager 12 email. 13 SPEAKER: Do you guys want to 14 give it to her? 15 MR. SHARDELOW: Yeah. Sorry. 16 JUDGE BYRNE: What page are we 17 on? I'm sorry. 18 MR. WEBSTER: It's not page 19 number. 20 JUDGE BYRNE: It's exhibit -- 21 Q. Tab 57 A (3III) and it says 22 Frager email and you can -- and you can go all 23 the way to the last page. It's page five of 24 five, which has the actual text. Are you 25 there?</p> |

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| <p>113</p> <p>1 A. I am.</p> <p>2 Q. Go ahead and please read that</p> <p>3 first sentence.</p> <p>4 A. Just a reminder. If someone</p> <p>5 desires to use an electronic device to take</p> <p>6 notes during an open meeting.</p> <p>7 Q. You can stop there. You believe</p> <p>8 that means that you had the ability to record?</p> <p>9 A. Electronic device, yes.</p> <p>10 Q. Okay. So your interpretation of</p> <p>11 that is not to take notes, but is to record?</p> <p>12 MS. ELSTER: Objection. Asked</p> <p>13 and answered.</p> <p>14 MR. WEBSTER: It's cross.</p> <p>15 JUDGE BYRNE: Yeah. He has the</p> <p>16 ability to ask again for clarification. And</p> <p>17 just so we all know, there's no feedback. It</p> <p>18 might -- I might be the problem. So I will</p> <p>19 make sure that my mic goes off.</p> <p>20 Q. You can answer.</p> <p>21 A. Would you restate the question?</p> <p>22 Q. I would. Your position is your</p> <p>23 interpretation is the language if someone</p> <p>24 desires to use an electronic device to take</p> <p>25 notes, that that means you had the right to</p> | <p>115</p> <p>1 A. The two events that Paul</p> <p>2 Eisenhaur in two different meetings. One, I</p> <p>3 believe, an executive committee meeting and</p> <p>4 one, a board meeting overcame my ability to be</p> <p>5 able to speak in open form.</p> <p>6 Q. Do you know when those occurred?</p> <p>7 A. Certainly during his tenure. I</p> <p>8 don't remember exact dates.</p> <p>9 Q. And your statement was he</p> <p>10 overcame my ability to speak.</p> <p>11 A. He, as I was speaking, was</p> <p>12 banging his -- loudly banging, his gavel</p> <p>13 saying, you're through. You're through. And</p> <p>14 in the second event banging his gavel and</p> <p>15 said, you're -- you're through and don't come</p> <p>16 back.</p> <p>17 Q. At the board meetings, residents</p> <p>18 get allotted a specific amount of time to be</p> <p>19 able to present whatever they want to present,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. How much is it?</p> <p>23 A. Two or three minutes. It's</p> <p>24 changed. It keeps changing.</p> <p>25 Q. And when you -- when the</p> |
| <p>114</p> <p>1 record?</p> <p>2 A. Yes.</p> <p>3 Q. That's your interpretation of</p> <p>4 this email?</p> <p>5 A. I think that the quotes around</p> <p>6 take notes says it all.</p> <p>7 Q. Okay.</p> <p>8 A. And absolutely my request was</p> <p>9 because of the inability to, quote, take</p> <p>10 notes.</p> <p>11 Q. Now, typically when you attend</p> <p>12 these meetings, you bring your laptop with</p> <p>13 you, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you take notes on your</p> <p>16 laptop, do you not?</p> <p>17 A. I do.</p> <p>18 Q. Typing?</p> <p>19 A. Yes. To some certain extent,</p> <p>20 yes.</p> <p>21 Q. Okay. Any other actions of</p> <p>22 those named in the various meetings, this is</p> <p>23 category two of your retaliation event or of</p> <p>24 events, other than the September 8th, 2019</p> <p>25 meeting?</p> | <p>116</p> <p>1 resident exceeds that limit, the chair gavels</p> <p>2 them and tells them that their time is up,</p> <p>3 does he not?</p> <p>4 A. Correct, but this was not a</p> <p>5 minute matter of time.</p> <p>6 Q. You don't think that's what that</p> <p>7 was?</p> <p>8 A. I know it wasn't because it was</p> <p>9 the subject.</p> <p>10 Q. Okay. Any other examples of</p> <p>11 retaliation under the actions of those named</p> <p>12 in various meetings category?</p> <p>13 A. Do you have a partic -- may I</p> <p>14 ask, do you have a particular date that you're</p> <p>15 asking about or a date timeline?</p> <p>16 Q. I'm interested in what you can</p> <p>17 tell Judge Byrne and I.</p> <p>18 A. Okay. One would be the history</p> <p>19 with Marian Altman having this kind of</p> <p>20 demeanor and actions from 2014 on.</p> <p>21 Q. Okay.</p> <p>22 A. Culminating with her actions in</p> <p>23 -- was in 2017, those two meetings and the</p> <p>24 multitudes of requests that I made for</p> <p>25 information, books and records, taking formal</p> |

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| <p>117</p> <p>1 -- formal request form. And the either 2 nonresponse or ignoring or attempting to 3 charge outrageous amounts of money. 4 Q. Okay. So it now sounds like 5 we've added one more, which is books and 6 records requests; is that right? 7 A. Yes. 8 Q. Are you contending that Leisure 9 World's responses to your book and records 10 requests were retaliation for your 11 discrimination? 12 A. It felt that way, but I don't 13 know. 14 Q. Okay. Anything more under the 15 second category of actions of those named in 16 various meetings? 17 A. I can't think of any at the 18 moment. 19 Q. The third category that you 20 mentioned was outbursts by members of the 21 board. Can you give me an example, unless 22 we've already covered it or if we have already 23 covered it, you can say the second time, 24 that's fine, but what are the outbursts by 25 members of the board that you contend are a</p> | <p>119</p> <p>1 Q. And it's your contention that 2 that was a retaliatory action? 3 A. Yes. 4 Q. What was the logo? 5 A. It was the symbol that the then 6 parliamentarian, who is now the secretary and 7 treasurer of the board of directors, has 8 handed out to the board of directors in pin 9 form several years before where it said in a 10 circle with a red outline, but that's the way 11 we've always done it with a cross, a line 12 through it. 13 Q. Okay. So your symbol was, but 14 that's the way we've always done it with a 15 circle and a line through it, suggesting we 16 didn't want to do it the way we've always done 17 it. 18 A. No. 19 Q. Is that right? 20 A. No. 21 Q. I don't understand. 22 A. Suggesting that that was the 23 philosophy of the board of directors and it 24 needed to change. 25 Q. And when was that? What year</p> |
| <p>118</p> <p>1 retaliation? 2 A. A couple of examples. One would 3 be those board members who were on the 4 foundation in -- at the foundation meetings. 5 And the sec -- second of all would be Phil 6 Marks at the beginning of a board meeting 7 prompted by mem -- voices of members of the 8 board on Zoom to make me either remove my logo 9 on my window or be cut off from the meeting. 10 Q. Okay. So I think that's a new 11 one that we hadn't talked about yet. So the 12 first one you mentioned was the board members 13 at the foundations meetings. We've -- I think 14 we talked about that at some extent. That's 15 the 2017 stuff and before. 16 A. Yes. 17 Q. Okay. So now you're talking 18 about Phil Marks at a board meeting mentioned 19 to you that the logo you had displayed in your 20 background of the Zoom connection, he wanted 21 you to remove your logo? 22 A. Well, it wasn't asking me or 23 wanted me to. He demanded so. 24 Q. And did you do so? 25 A. Yes.</p> | <p>120</p> <p>1 was that? 2 A. That that event took place? 3 Q. Yes, ma'am. 4 A. '21. 5 Q. Okay. The new one that you've 6 added -- well, let me stop and say this. I'm 7 sorry. Give me one moment. Had these events 8 of treatment changed over time? 9 A. No. 10 Q. It's been the same from when you 11 first experienced them in Leisure World? 12 A. Yes. 13 Q. And have they continued through 14 the current time? 15 A. Well, it's all by Zoom now, so 16 there's no in person. 17 Q. Okay, but have these treatments, 18 have these retaliatory treatments of you, you 19 said they've -- they've been the same since 20 you've been there. Have they continued to the 21 current time? 22 A. Through the virtue of the books 23 and records request, yes. 24 Q. Has it gotten better? 25 A. No.</p> |

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| <p>121</p> <p>1 Q. The treatment of you? No?</p> <p>2 A. No.</p> <p>3 Q. Has it improved?</p> <p>4 A. No.</p> <p>5 Q. It's exactly the same today as</p> <p>6 it was in 2014?</p> <p>7 A. No.</p> <p>8 Q. Okay. Well --</p> <p>9 A. Because they are in-person</p> <p>10 meetings.</p> <p>11 Q. Okay. Okay. So what's changed</p> <p>12 is online meetings versus in-person meetings?</p> <p>13 A. The treatment that I experienced</p> <p>14 and the ramifications of it personally have</p> <p>15 changed in that I'm not in front of them in</p> <p>16 their eyesight.</p> <p>17 Q. Okay. Other than not being in</p> <p>18 front of them and in their eyesight, has the</p> <p>19 -- the animus, have the -- has the -- the way</p> <p>20 they treat you changed?</p> <p>21 A. No.</p> <p>22 Q. It's the same as it was in 2014,</p> <p>23 2017 is what it is now?</p> <p>24 A. It feels worse.</p> <p>25 Q. Feels worse?</p> | <p>123</p> <p>1 Katzman, let me know when you're there.</p> <p>2 A. I'm going to hand this to my</p> <p>3 Counsel to find what you're referring to for</p> <p>4 me.</p> <p>5 Q. Take your time. Page six,</p> <p>6 please. Okay. Ms. Katzman, do you have that</p> <p>7 in front of you on page six?</p> <p>8 A. I do.</p> <p>9 Q. You see the section that says</p> <p>10 conclusion?</p> <p>11 A. Yes.</p> <p>12 Q. Do you see the last sentence of</p> <p>13 -- or I'm sorry. The third sentence up from</p> <p>14 this paragraph starts the investigation failed</p> <p>15 to show. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. The complainant have a physical</p> <p>18 or mental impairment that substantially limits</p> <p>19 one or more major life activities. Do you see</p> <p>20 that --</p> <p>21 A. Yes.</p> <p>22 Q. -- finding there?</p> <p>23 A. Uh-huh.</p> <p>24 Q. And then it goes on to say that</p> <p>25 the investigation failed to substantiate the</p> |
| <p>122</p> <p>1 A. Yeah.</p> <p>2 Q. Okay. It hasn't improved?</p> <p>3 A. Obviously. It feels worse.</p> <p>4 Q. You believe you've been</p> <p>5 mistreated by Leisure World continuously since</p> <p>6 you've arrived at their community?</p> <p>7 A. Whenever the opportunity arises,</p> <p>8 yes.</p> <p>9 Q. Okay. You filed an action with</p> <p>10 the Department of Justice in 2017. That's</p> <p>11 what you I believe. Is what you testified to?</p> <p>12 A. Yes.</p> <p>13 Q. And it was referred to the</p> <p>14 Maryland Commission on Civil Rights, correct?</p> <p>15 A. Yes.</p> <p>16 Q. What was the outcome of that?</p> <p>17 A. It was an incomplete</p> <p>18 investigation and the outcome was that they</p> <p>19 refused to provide me and the opportunity to</p> <p>20 -- I forget the term, but to dispute it.</p> <p>21 Q. Let's go ahead, please, and pull</p> <p>22 up Respondent's Exhibit 57 A10. Should be the</p> <p>23 findings of the Maryland Commission on Civil</p> <p>24 Rights. And let's go ahead, please, and go to</p> <p>25 page -- go to page six, please. And Ms.</p> | <p>124</p> <p>1 Complainants discriminated against her. Do</p> <p>2 you see that?</p> <p>3 A. I do.</p> <p>4 Q. And then if you go to the next</p> <p>5 page, page seven of eight, the section header</p> <p>6 is finding of no probable cause. Are you with</p> <p>7 me there?</p> <p>8 A. Yes.</p> <p>9 Q. And here it reads, based on the</p> <p>10 evidence gathered by the commission staff</p> <p>11 during this investigation, it has been</p> <p>12 determined that there is no probable cause to</p> <p>13 believe that the Respondent discriminated</p> <p>14 against the Complainant because of disability</p> <p>15 and retaliation under so on and so forth state</p> <p>16 government audit. You see all that?</p> <p>17 A. Yes.</p> <p>18 Q. You received a copy of this,</p> <p>19 didn't you?</p> <p>20 A. Yes.</p> <p>21 Q. Did you take any action after</p> <p>22 you received it?</p> <p>23 A. Yes.</p> <p>24 Q. Did you take an appeal?</p> <p>25 A. I requested whatever I thought</p> |

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| <p>125</p> <p>1 was the proper request, and that was to be 2 able to have time to whatever. It wasn't -- I 3 don't think the word appeal was used, but also 4 in addition to that, there were seven 5 complaints filed against the investigator who 6 had -- by Leisure World residents who had 7 attended the meeting that was conducted in 8 Leisure World for purposes of his 9 investigation and -- 10 Q. Oh, oh, okay. Well, what I 11 cared about was after you got this, what -- 12 did you take some action to dispute it or to 13 hire a lawyer or to file suit or to do 14 anything more with this complaint? 15 A. I filed those individual 16 complaints that had been written by several 17 individuals, including an attorney who was 18 present in that meeting, against the 19 investigator for them that agency to take into 20 consideration in -- in review of his 21 investigation or lack thereof. He was -- he 22 was the second investigator. He came in very 23 late in the game. 24 Q. Okay. So this -- right below 25 the finding of no probable cause section,</p> | <p>127</p> <p>1 that, right, for a long, long time, right? 2 A. Yes. 3 Q. You understand the law and what 4 it says about requests for documents? 5 A. Yes, I do. 6 Q. I'm sorry. Are you okay? 7 A. Just a hearing aid. And so 8 yeah. 9 Q. Okay. All right. You believe 10 these rules have retaliated against you in the 11 processing of your books and records requests? 12 A. I think it's continuing and 13 carries over to everything that I request be 14 done. 15 Q. You agree that the applicable 16 law for this is the real property article 17 titled 11 B section 11, or 11 B-112. 18 A. Which is exactly what I cite in 19 my official books and records requests. 20 Q. Yeah, you're familiar with this, 21 right? 22 A. Yes, I am. 23 Q. You're familiar that it allows 24 or require -- 25 MS. JAYANTY: Objection. Calls</p> |
| <p>126</p> <p>1 there's a section that talks about the ability 2 to request reconsideration. And that's really 3 what I'm getting at. 4 A. That's what I asked for, yes. 5 Q. You did do that? 6 A. Yes. 7 Q. Okay. What happened? 8 A. I never heard a word. 9 Astounding like. It was -- and -- and it was 10 my understanding that this was based upon my 11 failure to have provided the physician's 12 letter. 13 Q. Okay. The new item that you 14 added when we discussed retaliation and 15 indicated that it continues to the current 16 time, is the books and records request. 17 A. We through with this? 18 Q. You can keep it, but, yes, we're 19 not going to talk about that one right at this 20 very second. You understand that there is a 21 right of a resident to ask for certain books 22 and records from the homeowner's association, 23 correct? 24 A. Yes. 25 Q. And you have availed yourself of</p> | <p>128</p> <p>1 for a legal conclusion. This is a lay -- this 2 is the Plaintiff. 3 JUDGE BYRNE: I agree. 4 Actually, could you start over with that 5 particular question because I started to get 6 confused with the question. So if I was 7 confused, I think Ms. Katzman might be 8 confused. So if you could start over with I 9 think where we left off was Ms. Katzman was 10 saying that pursuant to this section, I asked 11 for books and records. So if you could pick 12 it up from there. And -- and I agree Ms. 13 Jayanty is, like, she can't say why it is the 14 way that it is. She can only say these are 15 the rules and how she follows them. 16 BY MR. WEBSTER: 17 Q. Absolutely. And that's my 18 question for you. And I can show you a 19 section of the code if you'd like to, but what 20 I was going to ask you about 11 B-112 is the 21 language says books and records kept by or on 22 behalf of the homeowner's association shall be 23 made available for examination or copying or 24 both by a lot owner, a lot owner's mortgagee, 25 or their respective duly authorized agents or</p> |

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| <p>129</p> <p>1 attorneys during normal business hours and 2 after reasonable notice. You're familiar with 3 that provision, correct? 4 A. Yes. 5 Q. The act also provides for a way 6 for certain documents to be delivered as 7 opposed to made available, does it not? 8 A. I don't know that. 9 Q. Okay. You're not familiar with 10 subsection -- 11 A. I -- I can't read it from memory 12 to you. 13 Q. And it's not a test. I'm 14 really -- that's not what I'm trying to do, 15 okay? But if I told you, for example, 16 subsection three, it says that if a lot owner 17 requests in writing a copy of financial 18 statements of the homeowner's association or 19 the minutes of a meeting of the governing body 20 of the homeowner's association to be 21 delivered, the governing body of the 22 homeowner's association shall compile and send 23 the requested information by mail, electronic 24 transmission, or personal delivery. Were you 25 aware of that?</p> | <p>131</p> <p>1 retaliatory? 2 A. Ignored the request. Did not 3 respond to them in some instances. Withheld 4 other, legally available under the law, 5 documentation that was requested. And let me 6 preface this, premise this by saying to you, 7 all of my requests started off with the 8 citation of law. So they are all formally 9 documented as legal requests. I'm aware of 10 certain documents being precluded from those 11 requests, and I don't ask for those. The ones 12 that I asked for are all covered under the 13 act. And in many instances over the years and 14 most rec -- definitely over the past several 15 years, they have been either not answered, 16 answered in a very long timeframe, if at all, 17 after my continuing to make the request over 18 and over again and refusing to provide them 19 over the past couple of years as they had been 20 in the past in electronic format. 21 Q. Okay. So let's break it down 22 again and let's talk about one. 23 MR. WEBSTER: So if I could, 24 your Honor, this is one of the 25 cross-examination exhibits that we're going to</p> |
| <p>130</p> <p>1 A. Electronic transmission, yes. 2 Q. As to financial statements of 3 the homeowner's association or minutes of the 4 meeting, that's what section three says. 5 A. So it -- you're saying that it 6 specifies only those areas? 7 Q. Yeah. So my question is, were 8 you aware of it? If you weren't aware of it, 9 you weren't aware of it. It's not a test. 10 A. I interpreted that as all 11 documents requested through the official 12 request format was available in those formats. 13 Q. So you were aware of that 14 section and you believed that it applied to 15 any kind of request that was made? 16 A. I knew that there was a time and 17 answer to you. I knew that there was a time 18 element involved for specific kinds of 19 requests, such as minutes sub or financial 20 whatever, but I also interpreted that to mean 21 that all requests for books and records were 22 available by those methods of delivery. 23 Q. Okay. What is it that you 24 contend that Leisure World did in connection 25 with the books and records request that was</p> | <p>132</p> <p>1 ask to be put up on the screen, and I don't 2 think I have an extra copy of it from Ms. 3 Katzman. I apologize. I didn't make an extra 4 of this. This -- that's how we did this one. 5 All right. So -- 6 JUDGE BYRNE: So it's not -- so 7 it's not going to be on the exhibit list. 8 MS. SPALLUZZI: It -- it was 9 pulled up. I know they have it on the other 10 side. 11 JUDGE BYRNE: Okay. So that -- 12 those files that you guys were looking at 13 earlier, those are the ones they're talking 14 about. 15 MS. SPALLUZZI: It says cross in 16 big letters. 17 MR. WEBSTER: Hold on one 18 second. And the one in particular that I'm 19 looking for is an email string that starts Re: 20 Books and records request. That's it. Thank 21 you. 22 BY MR. WEBSTER: 23 Q. And Ms. Katzman, before I get 24 there, do you understand that section 11 B-112 25 of the books and records request statute</p> |

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34 (133 to 136)

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| <p>133</p> <p>1 permits the homeowner's association to charge 2 a fee for the records it is being asked to 3 produce? 4 A. It says a reasonable fee. 5 Q. Okay. On the screen -- and I'm 6 sorry. You're going to have to look on the 7 screen with this one because I only have the 8 one copy printed. Let's -- actually, let's go 9 to the very last page. It's an email string, 10 so we're going to start -- 11 JUDGE BYRNE: Can you see it, 12 Ms. Katzman? 13 MS. KATZMAN: I'm watching it on 14 my -- but for I would not be able to read 15 that. 16 JUDGE BYRNE: Okay. 17 MS. KATZMAN: I -- I only see it 18 because I have Zoom up on my computer. 19 MR. WEBSTER: Okay, but you can 20 see it okay, or do you need -- 21 JUDGE BYRNE: Can you see it on 22 Zoom or do you need -- we can make a cop -- I 23 can make a copy really quickly. I have a 24 copier in the other room. 25 MS. KATZMAN: No, that's okay.</p> | <p>135</p> <p>1 I'm sorry. It's not page numbered. 4:53:12 2 p.m. Okay. Great. And as all email chains, 3 it spills from one page to the next. Now, 4 this is an email to you from Ms. Muse talking 5 about minutes. If you go to the top of the 6 next page. Thank you. Talking about minutes 7 of the 2023 security and transportation 8 committee meetings and then a number of other 9 items that you had requested, correct? Do you 10 remember this request? 11 A. I remember the request. I'm -- 12 I'm seeing that part of it, though, states 13 that records were destroyed. 14 Q. Yeah. That you're talking about 15 the 2022 signed and dated conflict of interest 16 and code of ethics forms were destroyed in 17 January of 2023 as they were no longer 18 relevant? 19 A. Correct. 20 Q. Okay. So if you keep going 21 down, I'm interested in the last paragraph 22 where Ms. Muse tells you that you can make an 23 appointment to view the documents at the 24 administration building, and if you want 25 copies, they're 50 cents a page. And she says</p> |
| <p>134</p> <p>1 I'll just lean over and read what I have shown 2 on the -- 3 JUDGE BYRNE: Okay. 4 MS. KATZMAN: -- Zoom screen. 5 BY MR. WEBSTER: 6 Q. Okay. So the very last page of 7 this is an Angela Muse email of October 27, 8 2023, correct? Do you see what I'm looking 9 at? 10 A. Yes. 11 Q. Okay. And she is emailing to 12 you per your books and records request for the 13 security and transportation committee meeting 14 minutes for 2023. She's providing all of 15 them, correct? 16 A. That's what it says. 17 Q. And meeting minutes are one of 18 the items under the act that are to be 19 provided electronically, correct? 20 A. Well, I don't agree with that 21 interpretation. 22 Q. Totally fine. You don't have 23 to. Okay. Let's go up two pages, please. At 24 the bottom we should see an email from Angela 25 Muse dated September 20, 2023 to Ms. Katzman.</p> | <p>136</p> <p>1 that typically staff time for the preparation 2 of documents and inspection appointments is 3 charged at \$30 per hour. As a one time 4 courtesy, we will waive the staff fee for this 5 appointment. See all that? 6 A. I do. 7 Q. Did you make an appointment to 8 go in and see these records? 9 A. I did. 10 Q. You did? 11 A. Yes. 12 Q. Okay. Let's make sure we're all 13 on the same page. You responded to this email 14 first, though, didn't you? 15 A. I don't recall. 16 Q. Okay. Well, let's look at it. 17 Go back up to one page above Angela Muse's 18 email, and you will see -- there you go. An 19 email from SLK admin at Just Us group. You 20 see that? 21 A. Yes. 22 Q. September 20th. This is yours. 23 And you say, thank you, Angela. As a 24 courtesy, due to the current Covid resurgence, 25 the items in red below are those which are</p> |

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35 (137 to 140)

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| <p>1 requested to be transmitted by email PDF to 2 me. You see that? 3 A. Yes. 4 Q. You ask -- and if we go back to 5 the first page or the last page of this, it -- 6 it doesn't show up as red, but there are some 7 different shadings in the version that I have. 8 Under 2023 organizational meeting vote 9 tallies, certain items are in red. Do you 10 remember that? Go down one more email all the 11 way to the -- all the way to the bottom. It's 12 the second to last page. We're going to work 13 backwards through this document. Thank you 14 very much. So if you go up a little bit more, 15 you will see -- down just a touch. That 16 section right there. It's not in red, but it 17 is slightly different font or a different 18 look. Starting with resumes, applications 19 submitted by each LW committee chair 20 candidate. Do you recollect, Ms. Katzman, 21 were those the items you had marked in red? 22 A. I don't see what you're 23 referring to. 24 Q. Okay. That's all right. You 25 would agree with me that you sent the email</p> | <p>137 1 Q. What was your response to this 2 email? 3 A. That it was attempting to extort 4 funds from me. 5 Q. Okay. Let's scroll up one page, 6 please. Thank you very much. There's Ms. 7 Katzman's response. She says, Angela, or you 8 say Ms. Katzman, on September 25th at 1:48, I 9 do not want, nor have I ever requested 10 physical copies. All B and R requests are to 11 be electronically transmitted as PDFs, or in 12 the alternative, I will bring my laptop and 13 scanner to scan in each document to my 14 computer for which there is no cost to me, as 15 has always been the practice until management 16 provided PDFs by email. Do you see your 17 response there? 18 A. Yes. 19 Q. And in response to that, let's 20 go up one more page. Again, these are all 21 breaking at the bottom and onto the next page 22 ms. Muse's response to you on September 26, 23 correct? 24 A. Yes. 25 Q. She states in her second</p> |
| <p>138 1 identifying certain items in red that you 2 wanted and you wanted to have them emailed to 3 you? 4 A. As that had been that had the -- 5 the way in which they were done for years. 6 Q. If we go -- so we're going to go 7 to the preceding email. So we're going to go 8 up to the exhibit. There's an email from 9 Angela Muse, dated September 25, 2023 at 1:41 10 eastern time, p.m. at the very bottom of the 11 page and spills onto the next and Ms. Muse 12 says, if you do not wish to come into the 13 office and view the records, so on and so 14 forth, the other option to this request is to 15 send us -- is for us to send physical copies 16 to you at the cost of 50 cents per page. She 17 then goes through and she lists all of the 18 items that I believe were in red, but you 19 don't have to agree with me, it's okay, with a 20 page number for each one of those items coming 21 up to 318 pages. Do you see that? 22 A. Yes, I see that. 23 Q. Do you remember getting this 24 email? 25 A. I think so. I wouldn't say not.</p> | <p>139 140 1 paragraph, now that you do wish to come into 2 the office for requests other than minutes and 3 financial statements, you may inspect all 4 other books and records during regular 5 business hours and upon reasonable notice. 6 She also says, spilling onto the next page, 7 you may bring your computer and scan all the 8 responsive documents that we have already 9 compiled due to your request. She then says, 10 please be advised you will be responsible for 11 prepaying a sum of \$180 to cover the 12 administrative time already expended in 13 locating said responsive documents and the 14 anticipated time for you to review and scan 15 said documents during your inspection 16 appointment. Overpayment, if any, will be 17 refunded to you. Do you see all of that? 18 A. Yeah. 19 Q. You believe that is improper, 20 correct? 21 A. I think you should look at my 22 response. 23 Q. Let's do it. Let's do it. So 24 let's go up to that next page again. Yeah. 25 You guys are kicking it right now. Okay. So</p> |

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36 (141 to 144)

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| <p>141</p> <p>1 on -- this is your response on September 26th, 2 right? Number one, are you saying that the 3 documents have already been prepared? Number 4 two, at no time do I ever wish to come into 5 the office. And number three, this continued 6 attempt to extort funds for B and R will be 7 reported as ongoing harassment and 8 retaliation. You see that?</p> <p>9 A. Yes.</p> <p>10 Q. That's what you said?</p> <p>11 A. Absolutely.</p> <p>12 Q. Then that's what you felt?</p> <p>13 That's what you believe?</p> <p>14 A. That's right.</p> <p>15 Q. All right. If we go up to the 16 next email, please. Ms. Muse responds to you, 17 doesn't she, on September 27th? Do you see 18 the email there, September 27th?</p> <p>19 A. Yeah.</p> <p>20 Q. She directs you to the HOA act 21 in its entirety, correct?</p> <p>22 A. Yes.</p> <p>23 Q. She talks about the HOA act 24 providing that minutes, only minutes and 25 financial statements are to be delivered to</p> | <p>143</p> <p>1 Q. Okay. Your email here says, 2 would you prefer simply emailing the documents 3 from your computer or I bring my computer and 4 scanner for which there are no copies being 5 made in, and then you as a reminder, you say 6 -- you wrote and you talked about the waiving 7 of the staff fee offer that she had previously 8 made. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. You didn't want her to mail you 11 the records, did you?</p> <p>12 A. No. I never want physical 13 records. It's outdated.</p> <p>14 Q. If you go up to the email above, 15 please. It starts the middle of the page from 16 Ms. Muse of September 28th at 9:25 and this 17 email Ms. Muse states to you that in my first 18 email, I offered you the option of coming in 19 and reviewing the documents yourself. The 20 offer to waive the staff time fee was based on 21 viewing the documents for up to two hours. 22 Not anticipating the additional time it would 23 take for you to scan each document. Any time 24 over the courtesy two hours will require 25 additional appointment and must be paid in</p> |
| <p>142</p> <p>1 the requestor. Your document request does not 2 reference minutes or financial statements. Do 3 you see that?</p> <p>4 A. Yeah. And I see earlier she 5 referred to it upon advice of Counsel.</p> <p>6 Q. Yes. Yes. You see in the 7 second to last paragraph on this page, 8 regardless of which of the two options that 9 are chosen, the statute permits charges by 10 Leisure World for reasonable administrative 11 time, as well as copy charges if copies are, 12 in fact, made. You see that?</p> <p>13 A. Yes.</p> <p>14 Q. If you go up to the top of this 15 page, please. In your email response of 16 September 27 at 2:57 p.m. you say, first of 17 all, now, you have copied Karen Strong. Do 18 you see that?</p> <p>19 A. She was copied on earlier 20 emails, yes.</p> <p>21 Q. Oh, I'm sorry. I might have 22 missed that. Who's Ms. Strong?</p> <p>23 A. She's copied on all of my emails 24 for books and records. She is the assistant 25 attorney general of the State of Maryland.</p> | <p>144</p> <p>1 advance. Please make an appointment with me 2 so I can ensure the Sullivan room is available 3 and my time is not booked elsewhere. Do you 4 see that?</p> <p>5 A. Yes.</p> <p>6 Q. And then you responded, didn't 7 you? If we scroll up a little ways, you'll 8 see Ms. Katzman's response at September 28th 9 at 9:52 a.m.</p> <p>10 A. Yes.</p> <p>11 Q. You say at no time to Ms. Muse 12 did you specify an arbitrary two hours. You 13 ask if the scanning will be of the original 14 documents or copies thereof, and then you say 15 the previous regime didn't feel the need to 16 waste the staff member being present when 17 scanning documents into the laptop and so on. 18 You talk about the process by which you would 19 be located and where you would do your 20 scanning. Do you see all that?</p> <p>21 A. Yes. And that they had 22 previously photocopied because that was your 23 choice, rather than presenting the originals. 24 That was their choice. Never did I ask that 25 that be done.</p> |

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| <p>145</p> <p>1 Q. Correct. And Ms. Muse wasn't</p> <p>2 asking you to pay for that photocopy session,</p> <p>3 was she?</p> <p>4 A. I don't know. I -- it's hard to</p> <p>5 interpret what she meant in that.</p> <p>6 Q. Okay. Wasn't she suggesting</p> <p>7 that or saying that if you wanted copies, hard</p> <p>8 copies to be taken, there would be a 50 cent</p> <p>9 per page charge?</p> <p>10 A. Yes, that's what I interpreted</p> <p>11 to mean.</p> <p>12 Q. If you go up one more email,</p> <p>13 please, gentlemen. Thank you. You should see</p> <p>14 an Angela Muse email of September 29 to you in</p> <p>15 which she explains how she came up with her</p> <p>16 estimate. In the middle of this first page,</p> <p>17 she says, or this first paragraph rather,</p> <p>18 thus, we anticipated you would need three to</p> <p>19 six hours to complete your inspection if you</p> <p>20 were to scan all 300 plus pages. And indeed,</p> <p>21 \$30 an hour times six hours is \$180, isn't it?</p> <p>22 SPEAKER: No.</p> <p>23 Q. \$30 an hour times six hours is a</p> <p>24 \$180, isn't it?</p> <p>25 SPEAKER: Sorry.</p> | <p>147</p> <p>1 you to be charged?</p> <p>2 A. A reasonable fee. And could I</p> <p>3 expound on that?</p> <p>4 Q. No, but your Counsel can ask you</p> <p>5 questions if they want to.</p> <p>6 A. Okay.</p> <p>7 Q. You didn't want to pay anything</p> <p>8 for this, did you?</p> <p>9 A. No.</p> <p>10 Q. In all the books and records</p> <p>11 requests that you have made of Leisure World,</p> <p>12 have you ever paid any money associated with</p> <p>13 those books and records?</p> <p>14 A. Absolutely not. I've never was</p> <p>15 -- never had to.</p> <p>16 Q. Okay. Let me find it. You said</p> <p>17 one of the reasons why you wanted to be able</p> <p>18 to record meetings, was so that you could be,</p> <p>19 quote, and this is what I wrote down. To be</p> <p>20 correct in what you are reporting.</p> <p>21 A. Okay.</p> <p>22 Q. Do you see that?</p> <p>23 A. Okay.</p> <p>24 Q. Do you agree with that?</p> <p>25 A. Yes.</p> |
| <p>146</p> <p>1 A. No. I think it's 190, isn't it?</p> <p>2 SPEAKER: No, I'm sorry.</p> <p>3 Q. Thirty times six.</p> <p>4 A. Is it 180? Fair enough.</p> <p>5 JUDGE BYRNE: Don't ask him.</p> <p>6 BY MR. WEBSTER:</p> <p>7 Q. Again, not a trick question.</p> <p>8 Okay. If you go up to the top of this page,</p> <p>9 you'll see your email back to her. You can</p> <p>10 scroll up a little bit. Thank you. Yeah,</p> <p>11 right there. Perfect. Which you sent to her</p> <p>12 on September 29th, 2023, and you say, have the</p> <p>13 copies been made? Question mark. And then</p> <p>14 you say, wouldn't it be more time efficient</p> <p>15 for you to email the PDF documents? Isn't</p> <p>16 that what you wanted?</p> <p>17 A. All -- that's all I had ever</p> <p>18 received.</p> <p>19 Q. You just -- you wanted them</p> <p>20 emailed to you. That's what you wanted?</p> <p>21 A. Absolutely.</p> <p>22 Q. And you didn't want to pay for</p> <p>23 them, right?</p> <p>24 A. Why should I?</p> <p>25 Q. Doesn't the statute allow for</p> | <p>148</p> <p>1 Q. And you also believe that --</p> <p>2 strike that.</p> <p>3 At the meeting where Mr. Marks</p> <p>4 confronted you and accused you of recording, I</p> <p>5 believe your testimony in that was that you</p> <p>6 were, quote, not using my laptop to record.</p> <p>7 And then you further said that you have never</p> <p>8 recorded a meeting.</p> <p>9 A. I think I said I've never used</p> <p>10 my laptop to record.</p> <p>11 Q. Never used your laptop to record</p> <p>12 a meeting.</p> <p>13 A. I mean to be precise.</p> <p>14 Q. That's what I'm asking. That's</p> <p>15 what you intended to say? I may have written</p> <p>16 it down wrong.</p> <p>17 A. Oh, good. Okay.</p> <p>18 Q. That's what I'm asking.</p> <p>19 A. I never have said that. No.</p> <p>20 Q. Okay.</p> <p>21 A. I've never used my laptop to</p> <p>22 record.</p> <p>23 Q. Have you ever recorded a Leisure</p> <p>24 World meeting?</p> <p>25 A. Yes. Subsequent to David</p> |

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38 (149 to 152)

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| <p>149</p> <p>1 Frager's directive.</p> <p>2 Q. So from 2017 forward, you</p> <p>3 recorded Leisure World meetings?</p> <p>4 A. Yes.</p> <p>5 Q. Did you tell people you were</p> <p>6 recording the meetings?</p> <p>7 A. I felt no need. That he had</p> <p>8 identified as a result of the complaint that</p> <p>9 was filed that he referenced that there was no</p> <p>10 need to identify or say anything. It was</p> <p>11 everybody's right and most definitely anybody,</p> <p>12 the person with disability for the purpose of</p> <p>13 taking notes.</p> <p>14 Q. There was a lot going on in that</p> <p>15 last sentence. Okay. The first one was you</p> <p>16 didn't think you needed to tell anybody that</p> <p>17 you were making a recording of what they were</p> <p>18 saying or doing?</p> <p>19 A. That's correct. And as far as</p> <p>20 the -- there's a lot going on about the</p> <p>21 statement I made about taking notes. That was</p> <p>22 the whole purpose.</p> <p>23 Q. Okay. You'll get a chance. Let</p> <p>24 me get there. Okay. You also said that you</p> <p>25 have recorded?</p> | <p>151</p> <p>1 to move it in?</p> <p>2 MR. WEBSTER: Sure.</p> <p>3 JUDGE BYRNE: Okay. So we've</p> <p>4 marked it potentially as Exhibit 1. He's</p> <p>5 moving it in. Do you have objection to moving</p> <p>6 it in?</p> <p>7 MS. JAYANTY: This is the Muse</p> <p>8 email that we just went through. No, your</p> <p>9 Honor, it's fine.</p> <p>10 JUDGE BYRNE: Okay. All right.</p> <p>11 So it's going to be admitted into evidence,</p> <p>12 and it'll be admitted, marked and now admitted</p> <p>13 as Exhibit 71. So become part of the record.</p> <p>14 (Exhibit 71, email, marked in</p> <p>15 evidence.)</p> <p>16 BY MR. WEBSTER:</p> <p>17 Q. Thank you. So Ms. Katzman,</p> <p>18 we're taking a look at Respondents Exhibit</p> <p>19 39E. Thank you. No, that's not it. Hold on.</p> <p>20 We thought 39E.</p> <p>21 MR. SHARDELOW: Oh, it's E. I</p> <p>22 thought you said B. I'm sorry.</p> <p>23 MR. WEBSTER: That's quite all</p> <p>24 right. It should be an email and there we go.</p> <p>25 BY MR. WEBSTER:</p> |
| <p>150</p> <p>1 A. Yes, but never on my laptop.</p> <p>2 Q. How did you record?</p> <p>3 A. A handheld electronic device.</p> <p>4 Q. Okay. Audio only?</p> <p>5 A. Yes.</p> <p>6 Q. All right. Let's take a look,</p> <p>7 please, at this one is in the binder. It's 39</p> <p>8 E.</p> <p>9 MR. WEBSTER: And your Honor,</p> <p>10 actually hold on a second. Before we move</p> <p>11 away from this exhibit, this was not marked.</p> <p>12 Should we mark it at this point in time?</p> <p>13 JUDGE BYRNE: Yeah, we should</p> <p>14 mark it the -- I think where we left off on</p> <p>15 the master exhibit was 70. So this should be</p> <p>16 marked as Exhibit 71.</p> <p>17 MR. WEBSTER: Thank you.</p> <p>18 MS. JAYANTY: Wait, your Honor.</p> <p>19 Is this -- this exhibit is not being admitted.</p> <p>20 This is just for impeachment, or are you</p> <p>21 moving to enter it right now? I'm sorry.</p> <p>22 MR. WEBSTER: It was used for</p> <p>23 cross. I'll move it in, but it's for cross,</p> <p>24 so.</p> <p>25 JUDGE BYRNE: So are you seeking</p> | <p>152</p> <p>1 Q. Ms. Katzman, this is an email</p> <p>2 that you sent, correct?</p> <p>3 A. Yes.</p> <p>4 Q. You prepared this email? Well,</p> <p>5 let me back up. Let's go all the way to the</p> <p>6 bottom as, again, emails always start from the</p> <p>7 bottom. So the bottom of this email is an</p> <p>8 email from Rob Kimble, the president and</p> <p>9 general manager of Leisure World Maryland</p> <p>10 Corporation discussing or announcing to</p> <p>11 Leisure World residents that Mr. Robert Alonzo</p> <p>12 has left the organization. Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. That part you didn't write.</p> <p>15 That's not what I meant to say.</p> <p>16 A. That's right.</p> <p>17 Q. The part above that is what I'm</p> <p>18 interested in. The subject line and the photo</p> <p>19 and the text. You prepared all of that,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. The subject line that you use</p> <p>23 says Bonzo Alonzo is gone from the LW</p> <p>24 management, CFO departure.</p> <p>25 A. Yes.</p> |

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| <p>153</p> <p>1 Q. Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. You entered the text, Bonzo</p> <p>4 Alonzo, right?</p> <p>5 A. Yes.</p> <p>6 MS. JAYANTY: Objection, your</p> <p>7 Honor. Relevance.</p> <p>8 JUDGE BYRNE: You want to speak</p> <p>9 to that?</p> <p>10 MR. WEBSTER: I can. This is</p> <p>11 all about the why. This is all about the why.</p> <p>12 JUDGE BYRNE: Understood. He</p> <p>13 can continue with this line of cross. I mean,</p> <p>14 cross, yes.</p> <p>15 Q. So Ms. Katzman, you used the</p> <p>16 word Bonzo. That's not his name, is it?</p> <p>17 A. It's how he was referred to</p> <p>18 amongst the community residents.</p> <p>19 Q. By you?</p> <p>20 A. No. By other members of the --</p> <p>21 of the community.</p> <p>22 Q. But by you in this instance,</p> <p>23 right?</p> <p>24 A. Well, I reflected it, yes.</p> <p>25 Q. Do you think that's a positive</p> | <p>155</p> <p>1 community in that his -- a man, who I assume</p> <p>2 is his partner, is laying on the bed to the</p> <p>3 far right. This picture has been cut off from</p> <p>4 the original email, but if you look to the</p> <p>5 right, you will see the image or partial image</p> <p>6 of a man laying in bed while Mr. Alonzo is</p> <p>7 conducting his duties as the CFO of the</p> <p>8 community in -- in a meeting of the board of</p> <p>9 directors or executive committee. I don't</p> <p>10 remember which.</p> <p>11 Q. Okay. You took that to mean --</p> <p>12 A. Probably -- excuse me. Probably</p> <p>13 the board in that the date is the end of the</p> <p>14 month.</p> <p>15 Q. You took that screenshot?</p> <p>16 A. Yes, I did for the purpose that</p> <p>17 I just stated.</p> <p>18 Q. Yeah. I heard you. I just</p> <p>19 don't believe it.</p> <p>20 A. Well, that was --</p> <p>21 Q. You say the screenshot that you</p> <p>22 take is of Mr. Alonzo taking a bite of food,</p> <p>23 correct?</p> <p>24 A. Right.</p> <p>25 Q. Food is served at the general</p> |
| <p>154</p> <p>1 reflection on Mr. Alonzo or a negative</p> <p>2 reflection?</p> <p>3 A. It's a reflection of his conduct</p> <p>4 during his time as an employee at Leisure</p> <p>5 World.</p> <p>6 Q. Do think it's positive or</p> <p>7 negative?</p> <p>8 A. I don't see it as either one.</p> <p>9 Q. How did you mean it? You used</p> <p>10 it. How did you mean it?</p> <p>11 A. I meant it the way that the</p> <p>12 community reported back to me his actions.</p> <p>13 They considered him to be a clown.</p> <p>14 Q. Did you agree? Did you feel he</p> <p>15 was a clown?</p> <p>16 A. I did. I thought that he was</p> <p>17 inapt.</p> <p>18 Q. So what meeting was this image</p> <p>19 taken from?</p> <p>20 A. It was either -- it was either a</p> <p>21 board or executive committee meeting. I don't</p> <p>22 know, but it was a screenshot off of a Zoom</p> <p>23 meeting. And the purpose of that was to show</p> <p>24 that this was not a closed or sorry. Not</p> <p>25 closed. Not a private meeting. Only to the</p> | <p>156</p> <p>1 meetings of the board meetings, isn't it?</p> <p>2 A. He was not --</p> <p>3 Q. There's snacks --</p> <p>4 A. He was not in the meeting. He</p> <p>5 was at his home.</p> <p>6 Q. The people at the meeting are</p> <p>7 offered snacks and beverages, aren't they?</p> <p>8 A. Well, yes, but the majority of</p> <p>9 them don't sit there in the camera on their</p> <p>10 face eating.</p> <p>11 Q. So you took this moment to</p> <p>12 capture Mr. Alonzo as he, in your words, feeds</p> <p>13 his face? That's what you recorded?</p> <p>14 A. I was most offended -- not by</p> <p>15 that. I thought that was comical. And</p> <p>16 certainly --</p> <p>17 MS. JAYANTY: Objection, your</p> <p>18 Honor. This isn't -- well, first of all, this</p> <p>19 is not a recording. It's a screenshot. And</p> <p>20 second of all, I'm not sure what is relevant</p> <p>21 more so about -- she's already agreed that she</p> <p>22 took a screenshot.</p> <p>23 MR. WEBSTER: This is what she</p> <p>24 knows. This is why we don't want her to</p> <p>25 record.</p> |

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| <p>157</p> <p>1 MS. JAYANTY: Objection. This</p> <p>2 is -- one in past instance does not establish</p> <p>3 a pattern, if that's what counsel is trying to</p> <p>4 do to here. Objection. Undue prejudice.</p> <p>5 JUDGE BYRNE: Okay. I think --</p> <p>6 I think we can move on. I think the exhibit</p> <p>7 actually speaks for itself. I think I can</p> <p>8 interpret what Ms. Katzman said when she said</p> <p>9 Bonzo Alonzo. I think I can interpret her</p> <p>10 what -- I can interpret what the text is. So</p> <p>11 I think that we're not going to get any</p> <p>12 further here.</p> <p>13 BY MR. WEBSTER:</p> <p>14 Q. Okay. You transmitted this to a</p> <p>15 large group of people, did you not, Ms.</p> <p>16 Katzman?</p> <p>17 A. To the Just Us mailing list.</p> <p>18 Q. Did you tell Mr. Alonzo that you</p> <p>19 had taken a picture of him and asked for his</p> <p>20 permission to do so?</p> <p>21 A. There was no need to.</p> <p>22 Q. So you didn't?</p> <p>23 A. He was in a public meeting.</p> <p>24 Q. But you -- you didn't tell him,</p> <p>25 hey, I'm going to take a picture of you? You</p> | <p>159</p> <p>1 that you emailed it to the Just Us list. How</p> <p>2 many people are -- I see that you've got</p> <p>3 several different groupings of Just Us. How</p> <p>4 many people are -- would that -- would this</p> <p>5 email have gone to?</p> <p>6 MS. KATZMAN: In total?</p> <p>7 JUDGE BYRNE: Yeah. Give me a</p> <p>8 round number?</p> <p>9 MS. KATZMAN: Directly perhaps</p> <p>10 500, and then I know that many of them --</p> <p>11 JUDGE BYRNE: Then forward.</p> <p>12 MS. KATZMAN: -- recirculate it.</p> <p>13 JUDGE BYRNE: Okay. All right.</p> <p>14 Thank you.</p> <p>15 BY MR. WEBSTER:</p> <p>16 Q. You had discussed that taking</p> <p>17 notes was important because you need to take</p> <p>18 -- take on or being an investigated advocate</p> <p>19 -- I'm sorry. A long time advocate to take on</p> <p>20 issues, investigate them, report on them, and</p> <p>21 then the notes are important to be correct in</p> <p>22 what you are reporting. How does this</p> <p>23 snapshot further any of those goals?</p> <p>24 A. Well, as I pointed out, there</p> <p>25 was a stranger in that meeting or allowed to</p> |
| <p>158</p> <p>1 didn't tell him that?</p> <p>2 A. I felt no reason to.</p> <p>3 JUDGE BYRNE: Can I ask who Mr.</p> <p>4 Alonzo is? Is he a board member resident, or</p> <p>5 is he a paid employee?</p> <p>6 MR. WEBSTER: Paid employee.</p> <p>7 JUDGE BYRNE: Okay. Thank you.</p> <p>8 MR. WEBSTER: I know he was the</p> <p>9 former CFO. I wasn't sure if he was a</p> <p>10 resident or a employee, but was not a</p> <p>11 resident.</p> <p>12 JUDGE BYRNE: Okay. Employee.</p> <p>13 Okay. Thank you.</p> <p>14 BY MR. WEBSTER:</p> <p>15 Q. Okay. You had testified</p> <p>16 previously that -- and, again, resident</p> <p>17 advocacy for the community is what Just Us is</p> <p>18 for and that the important -- importance of</p> <p>19 notes --</p> <p>20 MS. JAYANTY: Objection. Is</p> <p>21 this a question?</p> <p>22 MR. WEBSTER: It will be.</p> <p>23 JUDGE BYRNE: I think he's</p> <p>24 getting there, but can I ask one -- one</p> <p>25 question in follow up? Ms. Katzman, you said</p> | <p>160</p> <p>1 be listening in that meeting, which is not</p> <p>2 allowed unless it's known in front.</p> <p>3 Q. Leisure World meetings are for</p> <p>4 residents only, right?</p> <p>5 A. Residents and staff and invited</p> <p>6 guests.</p> <p>7 Q. Outside folks are not supposed</p> <p>8 to be present or are not allowed to be present</p> <p>9 in those meetings, are they?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Let's take a look at</p> <p>12 another cross exhibit, please. This one is</p> <p>13 also not marked, so we need to do so. It's</p> <p>14 the one that says Just Us at the August 17,</p> <p>15 2018 executive committee meeting.</p> <p>16 MS. SPALLUZZI: It's the website</p> <p>17 link that was provided to you.</p> <p>18 MS. JAYANTY: Can you tell us</p> <p>19 where in the binder it is? Is it in your</p> <p>20 binder?</p> <p>21 MR. WEBSTER: It's not.</p> <p>22 MS. JAYANTY: Oh, okay.</p> <p>23 MR. WEBSTER: So there should be</p> <p>24 in the cross exhibits.</p> <p>25 MS. SPALLUZZI: Ms. Johnson said</p> |

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| <p>161</p> <p>1 she'd emailed it to you guys, as it was just a 2 link. 3 MR. WEBSTER: It's a link to a 4 web page, to a Just Us web page. 5 JUDGE BYRNE: She can -- do you 6 have an email up? 7 MR. WEBSTER: I can give you the 8 web address, but it's really long. 9 JUDGE BYRNE: Is a -- hold on a 10 second. All right. We're going to go off the 11 record for a couple of seconds. I'm going to 12 see if there's a way we can get that link. 13 All right. So we'll be right back. 14 (Off the record.) 15 (On the record.) 16 JUDGE BYRNE: Back on the 17 record. We have the link that Mr. Webster was 18 referring to. So I'm going to turn my 19 microphone off. 20 MR. WEBSTER: And for marking 21 purposes, I printed it. So we can print sort 22 of the web page. 23 JUDGE BYRNE: Okay. 24 MR. WEBSTER: I don't really 25 know how to document a web page as an exhibit.</p> | <p>163</p> <p>1 Q. Of Leisure World? 2 A. Yes. 3 Q. You don't talk about other 4 communities, do you, or report on meetings of 5 other communities? 6 A. No. 7 Q. The web pages that you have 8 used -- and there's a variety of different web 9 pages that you have used over the years from 10 what we can tell, who posts content to that 11 website or those websites? 12 A. Nobody anymore. We had a 13 webmaster, but since -- I don't know. Many 14 years ago, we don't post -- it's not been 15 updated. 16 Q. Who made the decision to post 17 data to the website? Is that you? 18 A. He did. 19 Q. He did. Would you submit 20 something to him and say, hey, please post 21 this to the website? 22 A. No. He was aware of everything 23 that I was doing. I mean, we both together 24 daily. 25 Q. Okay. What I'm getting at is,</p> |
| <p>162</p> <p>1 It's another wonderful exercise -- 2 JUDGE BYRNE: Right. 3 MR. WEBSTER: -- in todays -- 4 JUDGE BYRNE: That will be 5 something fun for me to figure out. So I will 6 -- I appreciate that. So we -- 7 MR. WEBSTER: I can give you a 8 document. 9 JUDGE BYRNE: Okay. So we can 10 have something to mark. 11 MS. JAYANTY: So that is not an 12 exhibit. It's -- hasn't been admitted. 13 That's -- you use for your impeachment. 14 JUDGE BYRNE: Correct. So right 15 now it's just been marked as 72. We'll see 16 where it goes. 17 MS. JAYANTY: Okay. 18 (Exhibit 72, document, marked in 19 evidence.) 20 BY MR. WEBSTER: 21 Q. Ms. Katzman, you previously 22 testified that Just Us is for Leisure World, 23 correct? 24 A. Well, to be exactly -- exact, 25 the conscious of the community.</p> | <p>164</p> <p>1 and maybe if we go back up to the top of this 2 page, all the way to the beginning. So this 3 says Just Us at the August 17, 2018 executive 4 committee meeting. Do you see that? 5 A. Yes. 6 Q. Who made the decision to put 7 this up on the website? 8 A. The webmaster who worked with 9 me. 10 Q. Okay. You were involved. You 11 approved this going up onto your web page, 12 correct? 13 A. We communicated every day about 14 everything that was going on. 15 Q. And who captured the actual 16 content that was put up on the web page? 17 A. The -- from what I recall back 18 in 2018, it was probably captured on -- 19 recorded off of the Leisure World website in 20 the re -- rebroadcast. 21 Q. So there would of been a 22 recording of the meeting because that was in 23 time when they were doing the closed circuit 24 or the closed -- yeah. Closed circuit TV 25 broadcast?</p> |

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| <p>165</p> <p>1 A. Yes.</p> <p>2 Q. Correct?</p> <p>3 A. Yes.</p> <p>4 Q. And so when we scroll down a</p> <p>5 little ways, you'll see a vid -- the beginning</p> <p>6 of a video clip. We don't need to play it</p> <p>7 yet, but that would have been something you</p> <p>8 captured off of that replay?</p> <p>9 A. No, not me.</p> <p>10 Q. Who would have captured it?</p> <p>11 A. I think it must have been the</p> <p>12 webmaster who's a resident in Leisure World.</p> <p>13 Q. Okay. If we scrolled down</p> <p>14 through this web page a little ways, that's</p> <p>15 fine. You'll see various audio clips with</p> <p>16 headings. So, for example, Barbara Broswell</p> <p>17 addresses the budget and finance communication</p> <p>18 committees somewhat and so forth, and some</p> <p>19 others.</p> <p>20 A. Yes.</p> <p>21 Q. Who captured those audio</p> <p>22 recordings?</p> <p>23 A. I don't recall. I mean, once</p> <p>24 again, I was working with a man that was</p> <p>25 extraordinarily electronically savvy.</p> | <p>167</p> <p>1 would have been me and all that was a staff</p> <p>2 employee. And they're all acutely aware that</p> <p>3 the camera was fixed in a particular location.</p> <p>4 And that employee who's no longer with them</p> <p>5 never uttered any negative comment about it.</p> <p>6 If she saw it.</p> <p>7 Q. If she even saw it?</p> <p>8 A. If she saw it. I don't know. I</p> <p>9 have no idea.</p> <p>10 Q. You didn't ask her -- you didn't</p> <p>11 ask her permission before you put this up on</p> <p>12 the web page did you?</p> <p>13 A. Once again, this was a public</p> <p>14 meeting.</p> <p>15 Q. You didn't ask permission before</p> <p>16 you put this up on the web page, right?</p> <p>17 A. Before it was put up on the web</p> <p>18 page?</p> <p>19 Q. Before it was put up on the</p> <p>20 website?</p> <p>21 A. No.</p> <p>22 Q. Let's go to the top to the video</p> <p>23 and go ahead and play the video clip, please.</p> <p>24 You can play it again when we get the volume</p> <p>25 sorted. That's fine. It's on pause. The</p> |
| <p>166</p> <p>1 Q. Okay, but was he attending the</p> <p>2 meetings, as well?</p> <p>3 A. Well, these are recordings that</p> <p>4 were taken from the website.</p> <p>5 Q. Gotcha. Gotcha. Okay. If you</p> <p>6 go all the way to the bottom, there's a</p> <p>7 picture of a woman bent over with the phrase,</p> <p>8 in your face. Did you prepare that?</p> <p>9 A. No. He did.</p> <p>10 Q. He did. Do you think it's</p> <p>11 humorous?</p> <p>12 A. I'm telling you the feedback I</p> <p>13 got from the community when they saw this,</p> <p>14 they were howling. Not when they saw it</p> <p>15 happening in the video, not this, but the</p> <p>16 video.</p> <p>17 Q. They thought it was humorous?</p> <p>18 A. Absolutely.</p> <p>19 Q. If that was you, would you think</p> <p>20 it was humorous?</p> <p>21 A. I wouldn't have done that. So</p> <p>22 it wouldn't have been me.</p> <p>23 Q. If that had been you, do you</p> <p>24 think it would have been humorous?</p> <p>25 A. Well, to begin with, it never</p> | <p>168</p> <p>1 volume may not go. It's okay.</p> <p>2 (VIDEO WAS PLAYED.)</p> <p>3 "I like big butts and I cannot lie."</p> <p>4 MR. WEBSTER: Okay. That's it.</p> <p>5 You got it. Thank you.</p> <p>6 BY MR. WEBSTER:</p> <p>7 Q. You think it's funny, right?</p> <p>8 A. It's hilarious.</p> <p>9 Q. You think it's hilarious?</p> <p>10 A. I do.</p> <p>11 Q. Do you think that she thinks</p> <p>12 it's hilarious?</p> <p>13 A. I have no clue what she thinks.</p> <p>14 Q. Do you think she felt humiliated</p> <p>15 about it?</p> <p>16 MS. JAYANTY: Objection. Calls</p> <p>17 for speculation.</p> <p>18 Q. If it had been you, would that</p> <p>19 be hilarious or humiliating?</p> <p>20 A. It would never be me.</p> <p>21 Q. Would it be hilarious or</p> <p>22 humiliating if it was you?</p> <p>23 A. I can't answer that. I don't</p> <p>24 know how I would feel. I would probably laugh</p> <p>25 about it, but it was meant as a -- as a comedy</p> |

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| <p>169</p> <p>1 comment.</p> <p>2 Q. A comedy comment. Is that</p> <p>3 newsworthy?</p> <p>4 A. I don't think it was reported as</p> <p>5 news.</p> <p>6 Q. Is it something that you believe</p> <p>7 was necessary to be a resident advocacy for</p> <p>8 the community?</p> <p>9 A. I think we should clarify</p> <p>10 between the difference of humor and reporting</p> <p>11 serious journalism. And this was not serious</p> <p>12 journalism.</p> <p>13 Q. I completely agree. So why did</p> <p>14 it get posted to your web page?</p> <p>15 A. Because it was hilarious.</p> <p>16 Q. In your opinion?</p> <p>17 A. In everybody's opinion that was</p> <p>18 knowledgeable.</p> <p>19 Q. Did you ask her?</p> <p>20 A. I repeat, no, because there was</p> <p>21 no need to ask her, nor did she ever respond</p> <p>22 if, in fact, she ever saw it.</p> <p>23 JUDGE BYRNE: I think you made</p> <p>24 your point.</p> <p>25 A. I did.</p> | <p>171</p> <p>1 Relevance.</p> <p>2 MR. WEBSTER: She said that it</p> <p>3 was showing that there was other people</p> <p>4 allowed into the meetings.</p> <p>5 Q. It's hard to see, but you see</p> <p>6 the white earbud in his ear, Ms. Katzman?</p> <p>7 A. It could be a hearing aid. I</p> <p>8 don't know what it was.</p> <p>9 Q. Okay.</p> <p>10 MS. JAYANTY: Calls for</p> <p>11 speculation. She doesn't know if they're on</p> <p>12 or off. They're just in.</p> <p>13 MR. WEBSTER: She answered.</p> <p>14 JUDGE BYRNE: Okay.</p> <p>15 Q. The behavior that Leisure World</p> <p>16 works on your -- or that visited upon you that</p> <p>17 you believe is retaliatory, did it ever</p> <p>18 dissuade you from taking any actions you</p> <p>19 wanted to take?</p> <p>20 A. The only actions per se that I</p> <p>21 took were filing formal complaints, no.</p> <p>22 Q. Right.</p> <p>23 A. That was my right.</p> <p>24 Q. Yes. And it seems to me, Ms.</p> <p>25 Katzman, that you are a person who knows your</p> |
| <p>170</p> <p>1 Q. Did you talk to the webmaster</p> <p>2 before this was posted about it being uploaded</p> <p>3 to the web page?</p> <p>4 A. I guess that we probably did</p> <p>5 discuss it, yes.</p> <p>6 Q. You didn't say that's a bad</p> <p>7 idea, don't do that?</p> <p>8 A. No, I didn't.</p> <p>9 Q. Okay. Oh, Ms. Katzman, you</p> <p>10 mentioned when talking about the closed</p> <p>11 circuit TV broadcast that there was a camera</p> <p>12 and that, your words were, it was very obvious</p> <p>13 that the proceedings were being recorded. Do</p> <p>14 you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you agree with that still?</p> <p>17 A. Yes. Absolutely.</p> <p>18 Q. Do you know whether when Mr.</p> <p>19 Alonzo was on the call, he was wearing</p> <p>20 headphones?</p> <p>21 A. You have to show me the picture</p> <p>22 again.</p> <p>23 Q. Let's pull that back up. I'm</p> <p>24 sorry. It is 39E like Edward.</p> <p>25 MS. JAYANTY: Objection.</p> | <p>172</p> <p>1 rights and -- and seeks to actively protect or</p> <p>2 advance them. Do you agree with that?</p> <p>3 A. Yes.</p> <p>4 Q. And so nothing that Leisure</p> <p>5 World did ever stopped you from doing what you</p> <p>6 believe was right to enforce your rights;</p> <p>7 correct?</p> <p>8 A. My rights were to do as</p> <p>9 requested. It was as a result of failure to</p> <p>10 allow or permit my rights to exist. Was the</p> <p>11 cause -- was the effect, direct effect of</p> <p>12 their actions or lack of actions.</p> <p>13 Q. So listen to my question.</p> <p>14 Again, not a trick. What I'm asking you is</p> <p>15 whatever it was that you think Leisure World</p> <p>16 did that was retaliatory or harmful to you, it</p> <p>17 didn't dissuade you or stop you from taking</p> <p>18 some action that you felt you were entitled to</p> <p>19 take, right?</p> <p>20 A. That's correct.</p> <p>21 MR. WEBSTER: Thank you, your</p> <p>22 Honor. Thank you, Ms. Katzman. I have no</p> <p>23 further question.</p> <p>24 JUDGE BYRNE: Any rebuttal for</p> <p>25 Ms. Katzman?</p> |

Transcript of Hearing - Day 1
Conducted on February 22, 2024

44 (173 to 176)

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| <p>173</p> <p>1 MS. PIPER: Yes, your Honor. 2 REDIRECT EXAMINATION 3 BY MS. PIPER: 4 Q. Ms. Katzman, for the meetings 5 that have been brought up in 2017 and 2019, 6 how did those meetings end? 7 A. All -- all three? 8 Q. Specifically the second 2017 9 one. 10 A. That was -- from what I recall, 11 wasn't that the -- that was the one where 12 security came? 13 Q. Yes. Is that how it ended? 14 A. As far as my being there, yes. 15 Q. And how did the 2019 meeting 16 end? 17 A. The meeting went on after Mr. 18 Schultz showed up and smiled and said proceed 19 after reading Mr. Frager's email on my 20 computer screen. 21 Q. And who is Mr. Schultz? 22 A. He was the chief of security. 23 Q. And in the 2017 one meeting, who 24 -- who called the security in that? 25 A. Marian Altman demanded that</p> | <p>175</p> <p>1 would you say have you requested to be scanned 2 for your books and records requests? 3 A. I don't know about the number of 4 pages. I might be able to come closer to the 5 number of requests that necessitated the 6 filing of a formal complaint with the office 7 of attorney general for their failure to 8 provide. It would be thousands of pages over 9 a long period of time. 10 Q. And what is your source of 11 income, Ms. Katzman? 12 A. Social security. 13 Q. Okay. And how much do you 14 receive from social security per month? 15 MR. WEBSTER: Object to the 16 relevance. 17 MS. PIPER: I'm establishing the 18 -- 19 MS. JAYANTY: Your Honor, 20 opposing Counsel asked about the fees with 21 respect to the books and records. This goes 22 directly to the monetary, the financial, the 23 types of concerns that Ms. Katzman had with 24 the charged fees that she was required for 25 copies.</p> |
| <p>174</p> <p>1 Ellen Solomon, then a Leisure World employee 2 who was there assigned to that Leisure World 3 foundation, although she was an employee of 4 Leisure World, to call, leave the room and 5 call security. 6 Q. Okay. And for the 2019 7 committee meeting, who called security in that 8 meeting? 9 A. Phil Marks tasked the employee, 10 the Leisure World employee, to go and get or 11 call security. 12 Q. I want to touch base on that 13 2017 meeting again. Who are the members of 14 the leadership for the foundation meetings? 15 MR. WEBSTER: I'll object. This 16 is beyond the scope of cross, and I think it 17 was also already covered in direct. 18 JUDGE BYRNE: It was. That 19 leadership wasn't brought up during cross- 20 examination, and I think it was fully flushed 21 out as far as her recollection. 22 Q. Ms. Katzman, how are you -- 23 Court's indulgence, your Honor. 24 JUDGE BYRNE: No worries. 25 Q. Ms. Katzman, how many documents</p> | <p>176</p> <p>1 JUDGE BYRNE: I'll allow her to 2 answer. 3 Q. Thank you. So how much -- how 4 much of social security do you receive per 5 month? 6 A. For Medicare, about 2,000, 7 2,100. Something like that. 8 Q. Okay. And how much do you -- do 9 you pay per month or how -- how much does it 10 cost to -- to live at Leisure World? 11 A. I think it's about \$1,450 a 12 month. 13 Q. Okay. 14 A. At this time. It keeps going up 15 every year. 16 MS. PIPER: No further 17 questions. 18 JUDGE BYRNE: Okay. Thank you. 19 RE-CROSS-EXAMINATION 20 BY MR. WEBSTER: 21 Q. Just very quickly. Did you ever 22 tell Leisure World that you couldn't afford to 23 pay the fees being assessed for the books and 24 records and requests that the fees be waived? 25 A. No.</p> |

Transcript of Hearing - Day 1
Conducted on February 22, 2024

45 (177 to 180)

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| <p>177</p> <p>1 MS. JAYANTY: One more further 2 question, your Honor. May we -- are they 3 allowed to do -- can we do a surrebuttal or -- 4 JUDGE BYRNE: Well, we only have 5 -- we had the one. So I guess it would be 6 surrebuttal to the one. 7 MS. JAYANTY: Okay. 8 JUDGE BYRNE: Right. Does that 9 make sense? Okay. 10 RE CROSS-EXAMINATION 11 BY MS. JAYANTY: 12 Q. Were you informed that you were 13 allowed to request that fees be waived? 14 A. Never. Never heard of it 15 before. The first mention of it ever. 16 Q. Okay. Thank you. 17 JUDGE BYRNE: All right. I 18 think -- I think we might -- might be done 19 here. 20 MS. ELSTER: May we ask that 21 this witness be excused at this time? 22 JUDGE BYRNE: Yes. 23 MS. ELSTER: Thank you, your 24 Honor. 25 MR. SHARDELOW: Next, we'd like</p> | <p>179</p> <p>1 DIRECT EXAMINATION 2 BY MR. SHARDELOW: 3 Q. Mr. Dunn, could you introduce 4 yourself? 5 A. My name is John Dunn, Jr. I'm a 6 member of the board of directors of the 7 Leisure World Community Corporation. I'm vice 8 president of mutual 19B, which is one of the 9 constituent mutuals of Leisure World, and I'm 10 a resident of Leisure World since 2010. 11 Retired. Background, graduate work is in 12 economics and most of my work was in 13 government. 14 Q. And when did you begin those 15 roles on the board of directors? 16 A. Well, I'm not sure because I'm 17 old now and forget, but I'm going to guess 18 2012, 2013. I started first with my mutual 19 board and that was in 2011, and then a year 20 after that they asked me two years to take the 21 position of board representative. 22 JUDGE BYRNE: Just for my own 23 education, can you explain the difference 24 between a mutual board and the other boards at 25 Leisure World?</p> |
| <p>178</p> <p>1 to call Jack Dunn to the stand. 2 JUDGE BYRNE: Okay. Mr. Dunn, 3 if you could come up and I guess take the same 4 seat that Ms. Katzman was just sitting in. 5 MR. DUNN: Can I? 6 JUDGE BYRNE: You can sit or 7 stand; however you wish to take your oath. 8 So, Mr. Dunn, could you raise your right hand, 9 please? 10 Do you swear to tell the truth, the 11 whole truth, and nothing but the truth? 12 MR. DUNN: I do. 13 JACK DUNN, 14 after having been first duly sworn, was 15 examined and testified as follows: 16 JUDGE BYRNE: Thank you. And 17 Mr. -- and you know what? I should've had -- 18 I think Brendon has Ms. Katzman's spelling, 19 but I'm going to ask you to spell your first 20 and last name for the court reporter. 21 MR. DUNN: First name is John, 22 J-O-H-N. My last name is Dunn, D-U-N-N. 23 JUDGE BYRNE: Well, that was 24 easy. Thank you. 25 MR. DUNN: Yes.</p> | <p>180</p> <p>1 MR. DUNN: There are 29 2 corporations in Leisure World that are 3 defined, you would call them cooperate. No 4 condominiums. 5 JUDGE BYRNE: Okay. 6 MR. DUNN: One is the 7 homeowner's association. One actually is a 8 cooperative. Those 29 corporations are the 9 entirety of Leisure World. The Leisure World 10 Community Corporation manages the common 11 facilities and provides common support 12 services for the 29 mutuals. It's -- it's all 13 -- all of it is directed by two land trusts. 14 And in those two trusts, the board of Leisure 15 World Community Corporation, community -- 16 community corporation is the trustee for the 17 -- for the Leisure World promise to the 18 mutuals. 19 JUDGE BYRNE: Okay. 20 MR. DUNN: So they -- they are 21 our trustees and we are the trustors. 22 JUDGE BYRNE: Okay. Very 23 helpful. Thank you. 24 MR. DUNN: You're welcome. 25 BY MR. SHARDELOW:</p> |

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| <p>181</p> <p>1 Q. So you mentioned that you're a 2 representative to the board of directors. 3 Within the board of directors, what sorts of 4 positions do you have? 5 A. I have served on the executive 6 committee for a couple of years. Otherwise, 7 I'm a member. 8 Q. Could you explain what's the 9 role of an executive committee member? What 10 they do? 11 A. The executive committee is 12 intended to facilitate the agenda for the -- 13 for the board. It meets two weeks or 10 days 14 before the board meeting, and it considers 15 matters to come before the board, makes 16 certain that the motions that are presented 17 are written in English and comprehensive and 18 comprehensible and generally speaking, 19 facilitates the operation of the board. 20 During the pandemic, it was delegated as the 21 operating body of Leisure World Community 22 Corporation because they could meet and meet 23 the 10 person pandem -- pandemonium 24 requirement. They could have -- there's only 25 seven people on the board, so you could have</p> | <p>183</p> <p>1 to read all that documentation because 2 governance at Leisure World is complicated. 3 It's complex. I guess that's the answer. 4 Q. You mentioned that you also read 5 up on the rules. What sorts of subjects did 6 these rules touch on? 7 A. Well, for example, there's a 8 rule that requires the general manager to 9 bring a contract or an agreement or an 10 extension or a modification of any agreement 11 to the board for approval if it's going to 12 cost more than \$50,000. That's a rule. It's 13 not in our bylaws. So the rules are the way 14 we operate. We have a rule that requires 15 everyone on the board to have a valid 16 certification from the CCOC that they pass the 17 board member training to have signed a 18 confidentiality agreement. I'm embarrassed. 19 Colette, what's the other document that we 20 have to sign? Oh, wait. Conflict of 21 interest. 22 JUDGE BYRNE: Sorry. You can't 23 ask her. 24 A. Conflict of interest. I 25 apologize.</p> |
| <p>182</p> <p>1 10 of them spread out in the ballroom to have 2 a meeting. And that operation existed for a 3 couple years. Other than that, they -- they 4 make the board work better. 5 Q. And how did you become a 6 representative to the executive committee? 7 A. You get elected by the board to 8 be on the executive committee. There's 34 9 members to the board. At the beginning of 10 each year, the board has an organizational 11 meeting and it elects its officers. There are 12 three of them, and then it elects four at 13 large members to the executive committee, 14 which makes a total of seven. 15 Q. And when you joined the board, 16 did you review the board's bylaws? 17 A. Yes. I did not commit them to 18 memory, but I read them. At the time we were 19 given a handbook and they were contained in 20 it. 21 Q. And what other policies did you 22 review when you came on to the board? 23 A. Well, there's bylaws. There's 24 also rules that the board operates under. And 25 -- and I read the trusts. Eventually, I had</p> | <p>184</p> <p>1 JUDGE BYRNE: All right. 2 MR. DUNN: I apologize, your 3 Honor. I won't do it again. 4 JUDGE BYRNE: That's okay. 5 MR. DUNN: I won't correct math 6 again either. 7 JUDGE BYRNE: I don't do the 8 math myself either. 9 Q. And how are those new rules -- 10 how do they come into being? Are they passed 11 in some way? 12 A. Rules are presented to the board 13 along with the rationale and the board 14 votes -- votes on them. Bylaws have to be 15 approved by the mutuals. 16 JUDGE BYRNE: So just to be 17 clear, if a -- the board adopts a rule, it's a 18 board function only? 19 MR. DUNN: I think the answer is 20 yes to that, your Honor. 21 JUDGE BYRNE: Okay, but a change 22 to a bylaw requires the -- 23 MR. DUNN: Well, the approval 24 is different because it's -- 25 JUDGE BYRNE: The 29 mutuals for</p> |

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| <p>185</p> <p>1 a change to the bylaw.</p> <p>2 MR. DUNN: That's correct.</p> <p>3 JUDGE BYRNE: But a rule is a</p> <p>4 function of the board of -- an addition or a</p> <p>5 change of the rule is a function of the board</p> <p>6 of directors?</p> <p>7 MR. DUNN: Yes. Yes, your</p> <p>8 Honor.</p> <p>9 MS. JAYANTY: Your Honor, may I</p> <p>10 just request that I believe Cole's voice is a</p> <p>11 little low on the mike.</p> <p>12 MR. SHARDELOW: Okay.</p> <p>13 MS. JAYANTY: So if you just</p> <p>14 elevate it.</p> <p>15 JUDGE BYRNE: Okay. Or scooch</p> <p>16 in a little bit.</p> <p>17 MR. SHARDELOW: Yup. No</p> <p>18 problem.</p> <p>19 BY MR. SHARDELOW:</p> <p>20 Q. So how do these -- do these</p> <p>21 rules or how do these rules affect committee</p> <p>22 meetings, if at all?</p> <p>23 A. I think the rules are the way</p> <p>24 that the committees are defined and the -- the</p> <p>25 rules for governing the operation of</p> | <p>187</p> <p>1 meter. So we talk to each other about the</p> <p>2 trials and tribulations of being a mass</p> <p>3 electric meter mutual. High rise mutuals talk</p> <p>4 to themselves about being high rise mutuals.</p> <p>5 I number half a dozen people on the board as</p> <p>6 friends of mine. I've coordinated with or</p> <p>7 cooperated with some in preparing research</p> <p>8 papers. Particularly with regard to the --the</p> <p>9 water bill and how it's inequitably applied to</p> <p>10 the citizens.</p> <p>11 Q. Okay. So let's turn to your</p> <p>12 relationship with Ms. Katzman. So have you</p> <p>13 ever met Ms. Katzman?</p> <p>14 A. Yes.</p> <p>15 Q. And when was the first time you</p> <p>16 met her?</p> <p>17 A. Oh, we've been friends for quite</p> <p>18 a while. So I'm not certain. I certainly was</p> <p>19 a friend of hers in 2019 when the BF's AC</p> <p>20 meeting took place that's been discussed here.</p> <p>21 And we were friends before, I'm going to say</p> <p>22 professional friends, the -- but it turns out</p> <p>23 that we have -- all my friends are personal</p> <p>24 friends eventually. I've had some distinct</p> <p>25 arguments and differences with Ms. Katzman</p> |
| <p>186</p> <p>1 committees and the board flow from the state</p> <p>2 -- state HOA law, real estate 11. And -- and</p> <p>3 the rules of the board affect how you conduct</p> <p>4 committee meetings of the board.</p> <p>5 Q. And how often does the board of</p> <p>6 directors hold board meetings?</p> <p>7 A. Regularly scheduled once a month</p> <p>8 and otherwise as needed.</p> <p>9 Q. And how often do you attend</p> <p>10 those meetings?</p> <p>11 A. I try to make them all. And</p> <p>12 I -- I don't have a record that I could tell</p> <p>13 you, but I missed -- I haven't missed very</p> <p>14 many.</p> <p>15 Q. And how often do you interact</p> <p>16 with members of the board of directors outside</p> <p>17 of those meetings?</p> <p>18 A. I have friends on the board, so</p> <p>19 I interact with them regularly. I interact</p> <p>20 with other members of the board on board</p> <p>21 business or if there's a business with my</p> <p>22 mutual, mutuals are in a couple of mutual self</p> <p>23 interest groups, depending on peculiar</p> <p>24 circumstances of our mutuals. We all enjoy,</p> <p>25 16 of us enjoy a thing called a mass electric</p> | <p>188</p> <p>1 over the years, which has cemented our</p> <p>2 friendship. I've called her out on things</p> <p>3 where I thought she was wrong both personally</p> <p>4 and in writing, and -- and we end up knowing</p> <p>5 each other better as a result.</p> <p>6 Q. Okay. And how often do you</p> <p>7 interact with Ms. Katzman?</p> <p>8 A. Frequently. My new wife, I got</p> <p>9 married in Summer, has said that I spend a lot</p> <p>10 of time with these people, and one of these</p> <p>11 people is Sheryl Katzman. There are a few</p> <p>12 others because recreation -- my major</p> <p>13 recreation at Leisure World is government. So</p> <p>14 I've put time in it and my friends do, too.</p> <p>15 Q. So you would say your</p> <p>16 relationship with Ms. Katzman is good?</p> <p>17 A. Yes. Yeah.</p> <p>18 Q. Does Ms. Katzman attend board</p> <p>19 meetings with you?</p> <p>20 A. She never misses a board</p> <p>21 meeting. And now she attends them by Zoom.</p> <p>22 Q. Okay. What about committee</p> <p>23 meetings?</p> <p>24 A. She -- I don't go to -- I'm not</p> <p>25 as many -- on many committees. I'm actually</p> |

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| <p>189</p> <p>1 now only on one, but she comes to every 2 meeting of the committees I'm on. 3 Q. Okay. And how does Ms. Katzman 4 participate in these board and committee 5 meetings? 6 A. Well, she follows the rules that 7 the meetings are set up. So she speaks 8 only -- almost only when -- let's talk about 9 the committee meetings first. Committee 10 meetings are relatively open. Budget and 11 finance is the one that I'm on. And -- and 12 Bernie lets people talk about topics by 13 getting committee members first. And then 14 there's a group of people who are committee 15 advisors, and then there is the -- the general 16 public or people who are neither of the first 17 two groups, and he goes to them each when him 18 -- whenever there's a -- whenever there's a 19 decision in front of the committee. And -- 20 and he -- he will -- if Sheryl puts her hand 21 up on Zoom, he'll say, not yet, Sheryl. I'm 22 going through the committee members. She 23 speaks and she's -- she -- she follows all of 24 our rules and she's very polite. And Bernie 25 treats her and anyone else who is observing</p> | <p>191</p> <p>1 is defined that it's a -- it's a logical 2 construction. All meetings of the HOA, let's 3 call it that or the LWCC, are open meetings 4 unless they are closed. So the open meeting 5 is any meeting that isn't closed. And there 6 are seven reasons you can close a meeting 7 under the law. So I -- I think I'm -- I'm 8 right in saying that only unit owners, 9 mortgagees, I think tenants can come to our 10 meetings, I think. And owners, landlord or 11 owners, residents, owners, residents and 12 mortgagees have a right to attend our 13 meetings. That -- or attend our open 14 meetings. I'm not sure that I have that 15 correct. That's my understanding. 16 Q. So I wanted to go back to the 17 training policies of the board. So when you 18 became a representative, what sorts of 19 training did you receive? 20 A. Well, we got a handbook. The 21 first year that I was on, I got a handbook, 22 and it contained all the board's rules and the 23 bylaws, and it eventually contained the trust 24 agreements, too. The training requirement, 25 then there wasn't much. Now, you are required</p> |
| <p>190</p> <p>1 the meeting with a very high level of 2 professionalism. He runs a really good group 3 and he -- consequently, it's a good committee 4 to work on. And she behaves herself very well 5 because he didn't tolerate any nonsense. 6 Q. And what types of questions does 7 she ask at these meetings? 8 A. Her questions have two el -- she 9 has two kinds of involvement. Sometimes they 10 are, do you think this is a wise policy? So 11 she will ask a policy question. More 12 frequently she will ask a budget question 13 because that is the primary focus. And the 14 budget questions there are -- the budget 15 questions of this mo -- this percentage of 16 money going into that function kind of thing, 17 so or how are we -- we not doing -- how come 18 we're not spending more on this than that, so. 19 Q. And what is an open meeting? 20 A. Well, I -- I have a government 21 background. I worked for Montgomery County 22 for eight years. So an open meeting is -- in 23 that context is anybody can come in and if you 24 follow the rules of the meeting, anyone can 25 speak or attend. Here an open meeting is --</p> | <p>192</p> <p>1 to pass the CCOC training. They offered 2 training for board members of HOAs and they 3 have one session that is sort of the de 4 minimis, and you gotta pass that and give you 5 a certificate. And you have to have that 6 certificate presented and in the board 7 records, and you have to renew it every three 8 years. 9 Q. And what's involved with the 10 CCOC trainings? 11 A. Well, those are -- they're 12 online. Of all the -- they did come to 13 Leisure World and train a bunch of us at one 14 point. They -- they have -- they're a lecture 15 and a test. It's just like you think it was. 16 And the lectures are about the laws and the 17 regulations and the responsibilities of a 18 member of the board of directors. 19 Q. Okay. What sorts of fair 20 housing training did those include, if any? 21 A. I cannot recall specifically 22 fair housing training. That's an honest 23 answer. And I think my knowledge is not -- 24 not something I gained from CCOC or Leisure 25 World. I -- I came to Leisure World with at</p> |

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49 (193 to 196)

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| <p>193</p> <p>1 least opinions about fair housing.</p> <p>2 Q. Does Leisure World have a policy</p> <p>3 or process to address reasonable accommodation</p> <p>4 requests?</p> <p>5 MR. WEBSTER: Object to the</p> <p>6 form. Also that I don't know that it's</p> <p>7 relevant. I think in each individual</p> <p>8 incidence, you're going to have to evaluate</p> <p>9 what the request is and what the accommodation</p> <p>10 is. I don't know if that's even the right way</p> <p>11 to present it, but I also -- it is leading,</p> <p>12 but I don't -- I don't know that it's even</p> <p>13 relevant.</p> <p>14 MR. DUNN: Well, I'm -- I'm</p> <p>15 going to be able to say I don't have any idea</p> <p>16 what their procedure is because I -- I mean --</p> <p>17 JUDGE BYRNE: Well, Mr. Webster,</p> <p>18 I think --</p> <p>19 MR. DUNN: No. You know.</p> <p>20 JUDGE BYRNE: Well -- well, Mr.</p> <p>21 Dunn, what I say --</p> <p>22 MR. DUNN: Let me tell you</p> <p>23 why -- I'm sorry, your Honor.</p> <p>24 JUDGE BYRNE: Well, hold your</p> <p>25 horses. So he's going to make an objection</p> | <p>195</p> <p>1 It also goes to any legitimate policies. They</p> <p>2 might try to show that there's no causation</p> <p>3 between the protected activity and an adverse</p> <p>4 action.</p> <p>5 JUDGE BYRNE: Okay. I'm -- Mr.</p> <p>6 Webster?</p> <p>7 MR. WEBSTER: So whether there</p> <p>8 is a policy printed or otherwise, reasonable</p> <p>9 accommodation requests come up whenever they</p> <p>10 come up and they get addressed whenever they</p> <p>11 get addressed. I don't know that if there's</p> <p>12 an overarching policy it matters. What</p> <p>13 matters is what happened with Ms. Katzman in</p> <p>14 this particular instance. I'll also say that</p> <p>15 I don't know that you could fashion whatever,</p> <p>16 that's irrelevant, but I'll also say that part</p> <p>17 of this the causation element of factor four</p> <p>18 and the retaliation process is that there's a</p> <p>19 causal connection between the retaliation and</p> <p>20 the disability or the -- the conduct requested</p> <p>21 in connection with the disability. I don't</p> <p>22 think having a policy has anything to do with</p> <p>23 that causal connection, but I --</p> <p>24 JUDGE BYRNE: I understand where</p> <p>25 you're going from, going -- going with that,</p> |
| <p>194</p> <p>1 that I'm going to hear --</p> <p>2 MR. DUNN: All right.</p> <p>3 JUDGE BYRNE: -- from your</p> <p>4 Counsel.</p> <p>5 MR. DUNN: I misspoke.</p> <p>6 JUDGE BYRNE: And then we'll go</p> <p>7 from there.</p> <p>8 MR. DUNN: All right.</p> <p>9 JUDGE BYRNE: And so I would</p> <p>10 like to hear what you have to say to his</p> <p>11 objection.</p> <p>12 MR. SHARDELOW: Yeah, I think</p> <p>13 it'd be relevant to the causation element, the</p> <p>14 fourth one in determining how they process the</p> <p>15 reasonable accommodation request that Ms.</p> <p>16 Katzman made.</p> <p>17 JUDGE BYRNE: Okay. So I</p> <p>18 understand that from the retail -- I guess</p> <p>19 from the re -- because remember, I want us to</p> <p>20 try to stay in that retaliation lane. So if</p> <p>21 you're telling me that this goes to the fourth</p> <p>22 element as to whether or not they have a</p> <p>23 reasonable accommodation process, is that --</p> <p>24 is that why you're asking?</p> <p>25 MR. SHARDELOW: Right. Right.</p> | <p>196</p> <p>1 but I think whether you have a policy or not,</p> <p>2 did you adhere to that policy, yay or nay,</p> <p>3 could potentially go to causation or</p> <p>4 retaliation. So I'm going to go ahead and let</p> <p>5 him ask it, but I think Mr Dunn already said I</p> <p>6 don't know.</p> <p>7 MR. DUNN: I apologize, your</p> <p>8 Honor.</p> <p>9 JUDGE BYRNE: So, but I -- I</p> <p>10 understand 100 percent where you're coming</p> <p>11 from, but I also understand the basis of his</p> <p>12 question and I think it's allowed to be asked.</p> <p>13 Remember, Lucy goosy rules here. So I think</p> <p>14 I -- I take that information and I give it the</p> <p>15 weight that it deserves.</p> <p>16 MR. DUNN: Go ahead and ask me.</p> <p>17 BY MR. SHARDELOW:</p> <p>18 Q. So what policy does Leisure</p> <p>19 World have to address or process reasonable</p> <p>20 accommodation requests?</p> <p>21 A. I don't know of any policy that</p> <p>22 Leisure World has. When they come up to our</p> <p>23 mutual, we accommodate them. They've all come</p> <p>24 up in the case of people who are deaf and we</p> <p>25 employ ASL interpreters for our meetings.</p> |

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50 (197 to 200)

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| <p>197</p> <p>1 JUDGE BYRNE: So case-by-case 2 basis? 3 MR. DUNN: In our case, 4 case-by-case basis. 5 JUDGE BYRNE: For your mutual? 6 MR. DUNN: For our mutual. Yes, 7 ma'am. That's a better answer. 8 BY MR. SHARDELOW: 9 Q. Yes. So now I'd like to turn to 10 Leisure World's other policies. Has Leisure 11 World ever implemented a policy to allow 12 residents to record board meetings? 13 A. Well, you have Mr. Frager's 14 email. That is the only written document that 15 I think gave the general residents permission 16 to record. Prior to that, it hadn't been an 17 issue, then it got raised in that period of 18 time and Mr. Frager, I thought, resolved it. 19 So but then it was -- no, they've never had, 20 for most of my time on the board, there was no 21 policy. Mr. Frager stated if someone wanted 22 to record -- that's what I thought his email 23 said, they were to be able to go ahead and do 24 it. 25 JUDGE BYRNE: Can I ask a</p> | <p>199</p> <p>1 MR. DUNN: For example, a policy 2 would be how much will the increase in the 3 condo fee be this year to pay for trust 4 services. That's not a rule. The rule is you 5 got to adopt a budget. The policy is this 6 year it'll be a buck. So a policy is just the 7 -- is an action, is the result of an action of 8 the board. If it becomes more than just if 9 it's -- if it's a policy about speech at 10 meetings, we have a speech. We have a policy 11 about how long you can talk and when you can 12 be asked to allow to speak and you get to a -- 13 and that's a policy, and that's in the rules, 14 but the policy is a lot -- is a loser term, 15 and it doesn't necessarily have a -- it's not 16 a law. It's not a rule. 17 JUDGE BYRNE: Okay. 18 MR. DUNN: It is -- 19 JUDGE BYRNE: All right. 20 MR. DUNN: -- an adjective. 21 JUDGE BYRNE: Sorry. Sorry. I 22 kinda hijacked him a little bit, but I just -- 23 it was an important distinction for me to 24 understand how policies are developed and the 25 distinction between -- between the two and now</p> |
| <p>198</p> <p>1 question between the difference between a 2 policy and a rule? 3 MR. DUNN: Yes, ma'am, you can. 4 JUDGE BYRNE: What is -- what is 5 the difference between a policy and a rule? 6 MR. DUNN: How you have to get 7 it approved. 8 JUDGE BYRNE: All right. 9 MR. DUNN: Board approves the 10 rules, the trust approves policies. Oh, no. 11 JUDGE BYRNE: Start again. 12 MR. DUNN: Bylaws and rules. 13 Policies are embodied in our rules. 14 JUDGE BYRNE: Okay. So a policy 15 is -- I guess I'm just -- I'm trying to 16 understand the distinction so I completely 17 understand bylaws. All right. Whole 18 different beast, whole different animal, super 19 onerous rules, if my notes are correct, are 20 things that are adopted and by the board 21 essentially promulgated, right? The executive 22 committee makes the board look good. They 23 flesh things out. They put things before 24 them. The board makes the determination as a 25 rule. Where does the policy fall?</p> | <p>200</p> <p>1 turn my mic on at the wrong time. So I turn 2 it off. 3 BY MR. SHARDELOW: 4 Q. So in terms of this Frager 5 policy that you mentioned, what -- how did 6 that develop after it came about? 7 A. I do not know how it started. I 8 came into the board when Barbara Broswell was 9 operating as our parliamentary. She was a 10 resident of Leisure World and a professional 11 parliamentarian, and she acted informally as 12 one. She was also a member of the board. And 13 so at some point the question was raised, did 14 the Maryland state wiretap law prevent anyone 15 from recording a meeting? And -- and Ms. 16 Broswell concluded that there was no 17 expectation of -- these are words in her 18 letter. So there is no expectation of privacy 19 at any of our meetings. 20 MR. WEBSTER: I'm going to 21 object to the hearsay and I'm also going to 22 object to the legal opinion, the lay opinion. 23 It's not -- none of this is appropriate for 24 what we are doing here today, I don't think. 25 JUDGE BYRNE: Understood. So as</p> |

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51 (201 to 204)

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| <p>201</p> <p>1 far as any of what you heard --</p> <p>2 MR. DUNN: I think -- oh, sorry,</p> <p>3 your Honor.</p> <p>4 JUDGE BYRNE: It's okay. It's</p> <p>5 all right. So I'm going to --</p> <p>6 MR. DUNN: That I won't --</p> <p>7 JUDGE BYRNE: -- I acknowledge</p> <p>8 Mr. Dunn is a layperson. I acknowledge that</p> <p>9 he's not a lawyer, and that I'm going to take</p> <p>10 his -- what he thought happened at the time</p> <p>11 for what he thought happened at the time. Not</p> <p>12 as the truth or what Ms. Broswell said or</p> <p>13 didn't say. I'm going to -- it's where he was</p> <p>14 at that time, at that moment, what his</p> <p>15 thoughts and observations were and simply</p> <p>16 that.</p> <p>17 MR. WEBSTER: Thank you.</p> <p>18 MR. DUNN: I'll try and be</p> <p>19 better. I really -- I'm sorry.</p> <p>20 JUDGE BYRNE: It's okay.</p> <p>21 MR. DUNN: No, I apologize.</p> <p>22 JUDGE BYRNE: It's not an easy</p> <p>23 -- it's not an easy process.</p> <p>24 A. At any rate, an opinion was</p> <p>25 offered and Mr. Frager accepted it as -- and</p> | <p>203</p> <p>1 A. I know that in a couple of the</p> <p>2 committees I worked for, a recording device</p> <p>3 was used to verify minutes, your Honor.</p> <p>4 JUDGE BYRNE: Thank you.</p> <p>5 Q. So I'd like to turn to some</p> <p>6 particular -- a particular meeting that you</p> <p>7 attended. Are you aware of any meetings in</p> <p>8 which Ms. Katzman was told to leave the</p> <p>9 meeting?</p> <p>10 A. No.</p> <p>11 Q. Are you aware of any meetings in</p> <p>12 which Ms. Katzman had security called on her?</p> <p>13 A. Yes.</p> <p>14 Q. What meeting was this?</p> <p>15 A. A meeting of the budget finance</p> <p>16 advisory committee.</p> <p>17 Q. And do you recall when that</p> <p>18 meeting was?</p> <p>19 A. Well, I think it was in</p> <p>20 September of 2019. It's been referenced here</p> <p>21 several times. I -- I -- I'm not going to</p> <p>22 tell you I know the date.</p> <p>23 Q. And what happened at this</p> <p>24 meeting?</p> <p>25 A. As soon as the meeting was</p> |
| <p>202</p> <p>1 the email that was presented here is the</p> <p>2 result of that process. And that's as much as</p> <p>3 I knew about it until it became an issue more</p> <p>4 recently.</p> <p>5 Q. And during 2017 and 2019, could</p> <p>6 you generally describe how board meetings were</p> <p>7 recorded at Leisure World?</p> <p>8 A. I'm pretty sure 2017 was when</p> <p>9 they -- when they had the stationary camera</p> <p>10 and they were broad -- they were recorded and</p> <p>11 broadcast on closed TV. On CCTV throughout</p> <p>12 the community. One of the things that our</p> <p>13 contract with Comcast gave us is community</p> <p>14 channels that they would broadcast them on</p> <p>15 that.</p> <p>16 Q. And during those same times, how</p> <p>17 were committee meetings recorded, if at all?</p> <p>18 A. Minutes were taken and I think</p> <p>19 many of the administrative assistants who ran</p> <p>20 the meeting used a recording device to record</p> <p>21 minutes.</p> <p>22 MR. WEBSTER: I object to</p> <p>23 speculation.</p> <p>24 JUDGE BYRNE: Okay. Noted. You</p> <p>25 can really only testify to what you know.</p> | <p>204</p> <p>1 called to order, Mr. Marks spoke very sharply</p> <p>2 to Sheryl and told her to stop recording the</p> <p>3 meeting. I know you're recording the meeting</p> <p>4 on your laptop. If you don't stop and close</p> <p>5 your laptop, I'm going to call security. She</p> <p>6 said, no, and he did. And Mr. Schultz came</p> <p>7 in, came over to Sheryl, looked at her laptop</p> <p>8 and said, I didn't hear what he said as he</p> <p>9 left.</p> <p>10 JUDGE BYRNE: Excellent.</p> <p>11 Excellent, Mr. Dunn.</p> <p>12 MR. DUNN: That better?</p> <p>13 JUDGE BYRNE: That's better.</p> <p>14 MR. DUNN: All right. I'm</p> <p>15 working on it.</p> <p>16 BY MR. SHARDELOW:</p> <p>17 Q. And what was Ms. Katzman's</p> <p>18 response to this whole situation?</p> <p>19 A. She was irritated and</p> <p>20 embarrassed and at least publicly held up to</p> <p>21 attention, if not ridicule. I don't know how</p> <p>22 she felt about it. She didn't say anything.</p> <p>23 She stayed for the meeting.</p> <p>24 Q. And what was Ms. Katzman</p> <p>25 physically doing before she was asked to shut</p> |

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52 (205 to 208)

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| <p>205</p> <p>1 down her computer.</p> <p>2 A. She was sitting at a little</p> <p>3 table where she always sat for our meetings,</p> <p>4 and she had her laptop in front of her and she</p> <p>5 was making notes, or doing something. She</p> <p>6 could have been playing Tic Tac Toe. Now, I'm</p> <p>7 trying to stick to what I actually know.</p> <p>8 Q. So what did Ms. Katzman do or</p> <p>9 say that was or could be construed as</p> <p>10 threatening, if anything?</p> <p>11 A. I don't think she said anything</p> <p>12 threatening. I heard no threatening. I heard</p> <p>13 a lot of no, I'm not going to close the laptop</p> <p>14 and I'm not going to leave. So there was</p> <p>15 intransigence. I don't think she threatened</p> <p>16 anyone. I've never heard Ms. Katzman threaten</p> <p>17 anyone.</p> <p>18 Q. And was Ms. Katzman actually</p> <p>19 escorted out of the meeting?</p> <p>20 A. I don't think she left. I'm</p> <p>21 quite certain that she did not leave that</p> <p>22 meeting.</p> <p>23 Q. Okay. And why was it that she</p> <p>24 wasn't escorted out?</p> <p>25 A. Whatever review that Mr. Schultz</p> | <p>207</p> <p>1 is she serving as an attorney and Counsel?</p> <p>2 I'm -- it's unclear to me that she's to be the</p> <p>3 client or as serving as Counsel.</p> <p>4 JUDGE BYRNE: Mr. Webster, can</p> <p>5 you answer that?</p> <p>6 MR. WEBSTER: She's a client</p> <p>7 representative.</p> <p>8 JUDGE BYRNE: She's the client</p> <p>9 representative. Okay.</p> <p>10 MR. WEBSTER: She's -- she's the</p> <p>11 chairwoman of the board.</p> <p>12 JUDGE BYRNE: Okay. Thank you.</p> <p>13 MR. WEBSTER: Currently.</p> <p>14 BY MR. SHARDELOW:</p> <p>15 Q. Did you speak to Ms. Katzman</p> <p>16 after this incident?</p> <p>17 A. I don't think so.</p> <p>18 Q. Did you speak to Mr. Marks about</p> <p>19 this incident afterwards?</p> <p>20 A. I did.</p> <p>21 Q. And what did you say?</p> <p>22 A. I said to Mr. Marks, why did you</p> <p>23 do that? And he really didn't answer me. We</p> <p>24 were acquaintances and becoming friends at</p> <p>25 that point. I also said to him, you know I</p> |
| <p>206</p> <p>1 took did satisfy him.</p> <p>2 JUDGE BYRNE: Again, I think,</p> <p>3 Mr. Dunn, you're straying.</p> <p>4 MR. DUNN: How can you say that.</p> <p>5 He walked away, your Honor. Is that what I</p> <p>6 heard you say?</p> <p>7 JUDGE BYRNE: What I heard you</p> <p>8 say --</p> <p>9 MR. DUNN: All right.</p> <p>10 JUDGE BYRNE: -- is that he came</p> <p>11 over and then he walked away.</p> <p>12 MR. DUNN: That's correct.</p> <p>13 That's what I said.</p> <p>14 JUDGE BYRNE: And then Ms.</p> <p>15 Katzman stayed. Is that -- I think --</p> <p>16 MR. DUNN: That is what I said.</p> <p>17 JUDGE BYRNE: Right. Okay.</p> <p>18 MR. SHARDELOW: The Court's</p> <p>19 indulgence?</p> <p>20 JUDGE BYRNE: No worries. Go</p> <p>21 ahead.</p> <p>22 MS. JAYANTY: Your Honor.</p> <p>23 JUDGE BYRNE: Sure.</p> <p>24 MS. JAYANTY: I just wanted to</p> <p>25 know, Ms. Hemstead, is she here to testify, or</p> | <p>208</p> <p>1 don't think Sheryl was doing anything wrong.</p> <p>2 Why don't you be a mensch and let this go.</p> <p>3 And that's -- I remembered that because he</p> <p>4 said, I'm not going to talk about being a</p> <p>5 mensch to a Catholic.</p> <p>6 MR. SHARDELOW: No further</p> <p>7 questions, your Honor.</p> <p>8 JUDGE BYRNE: All right. Mr.</p> <p>9 Webster?</p> <p>10 CROSS-EXAMINATION</p> <p>11 BY MR. WEBSTER:</p> <p>12 Q. Thank you. Mr. Dunn, how are</p> <p>13 you?</p> <p>14 A. I am well.</p> <p>15 Q. Good to see you again. Let's do</p> <p>16 real quick, you indicated you're friends with</p> <p>17 Ms. Katzman?</p> <p>18 A. I am.</p> <p>19 Q. She came to your wedding?</p> <p>20 A. She did.</p> <p>21 Q. She took photographs of you and</p> <p>22 your wife at the wedding?</p> <p>23 A. She did.</p> <p>24 Q. You indicated earlier that there</p> <p>25 have been times in the past of your</p> |

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53 (209 to 212)

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| <p>209</p> <p>1 relationship where you have called her out 2 when you think she's done -- 3 A. Yes. 4 Q. -- something that were in 5 Leisure World -- 6 JUDGE BYRNE: Mr. Webster, go 7 ahead and turn your mic on. I think -- I 8 think we're okay with those, and then we'll 9 need Mr. Dunn's mic. I think those two are 10 fine together. I'm the problem, so. 11 MR. WEBSTER: I'm sorry. 12 JUDGE BYRNE: That's all right. 13 MR. WEBSTER: You want me to do 14 it again? Do it again? 15 JUDGE BYRNE: I think we're okay 16 because Brendon can hear everything. It's 17 just you might fade in and out with the Zoom 18 audience. 19 MR. WEBSTER: I gotcha you. 20 BY MR. WEBSTER: 21 Q. You indicated that you had 22 called her out in times past where you thought 23 she did something that she should not have 24 done? 25 A. Yes.</p> | <p>211</p> <p>1 in the Leisure World community, is she? 2 A. I think so. 3 Q. You think she is a unit owner? 4 A. Yes. 5 Q. Okay. 6 A. I think she owns two units. 7 Q. Do you know? 8 A. Well, you know, I'm not sure 9 what no means in this world. Yes, I know for 10 certain. She's told me so, but I haven't seen 11 written records. 12 Q. Okay. You believe she's a unit 13 owner? 14 A. I do. Yes. 15 Q. You talk about CCOC training and 16 CCOC activities associated with Leisure World 17 board and that kind of stuff? 18 A. Yes. 19 Q. You've done all those trainings? 20 A. I not only did the one that's 21 required, I did all -- whatever eight or ten 22 of them. Yeah. Is there a test? 23 Q. I promise that'll be easy. 24 Okay. Could we have Exhibit 39 B, 25 Respondent's 39 B brought up, please?</p> |
| <p>210</p> <p>1 Q. And you felt that that only 2 solidified the relationship you had with her? 3 A. We have a very honest 4 relationship. 5 Q. When you were at meetings with 6 Ms. Katzman, have you observed her using her 7 computer? 8 A. Yes. 9 Q. Do you know what she's doing on 10 it? 11 A. No. 12 Q. Do you see her typing? 13 A. Yes. 14 Q. Does she appear to have any 15 issues or difficulties in typing? 16 A. I can't say. 17 Q. You talked about the meetings of 18 the Leisure World board, and I believe what 19 you said was open meetings are allowable for 20 attendance by unit owners, unit mortgages or 21 mortgages or something like that and you 22 thought tenants. 23 A. Yes, that is correct what I 24 said. 25 Q. Ms. Katzman isn't a unit owner</p> | <p>212</p> <p>1 And, Mr. Dunn, there should be a 2 binder. Thank you. Would you hand that down 3 to him, please? And what I'd like us to do is 4 to go to the last page, please. So, Mr. Dunn, 5 would you please go to the last page of this 6 exhibit for me? 7 A. Heading our open meetings 8 required? 9 Q. I think it starts with what 10 should I know of running effective meetings. 11 A. No. I'm not there yet. Yes. 12 Q. Okay. You had talked about 13 recordings in some different contexts, and I 14 just wanted to -- and direct you to letter F 15 on this -- on this page from the CCOC, and 16 it's entitled Recordings. Do you see that? 17 A. I do. 18 Q. I don't need you to read it word 19 for word. What I'm going to ask you to look 20 at is, does the CCOC provide a provision for 21 secretaries to record meetings in connection 22 with taking minutes? 23 A. Yes. 24 Q. And you believe that's what your 25 subcommittee folks were doing for your</p> |

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54 (213 to 216)

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| <p>213</p> <p>1 committee folks?</p> <p>2 A. Yes, I do believe that.</p> <p>3 Q. What does the CCOC then say</p> <p>4 after the minutes have been approved should</p> <p>5 happen to the recordings? And it starts the</p> <p>6 phrase, but the tapes.</p> <p>7 A. Oh, to be erased after the</p> <p>8 minutes have been approved.</p> <p>9 Q. And is that -- do you know if</p> <p>10 that's what your committee did?</p> <p>11 A. I do not know.</p> <p>12 Q. While we're here, I want to do</p> <p>13 it very quickly and -- and for the benefit of</p> <p>14 the group, it's Exhibit 57 A7. So 57 A7 is</p> <p>15 the designation on the web page. Mr. Dunn,</p> <p>16 it's about halfway through. It's called 57 A</p> <p>17 parentheses VII vessel resolution.</p> <p>18 A. Okay. 57 A AI. 57 AI?</p> <p>19 MS. JAYANTY: 57 A VII.</p> <p>20 A. VII.</p> <p>21 Q. And then it should say --</p> <p>22 A. Double I, triple I. Hold on.</p> <p>23 IV. V. Dam. VI 1, VI 2.</p> <p>24 Q. You got it.</p> <p>25 A. Maybe. I got it.</p> | <p>215</p> <p>1 reason for it, as well.</p> <p>2 Q. Okay. That's fine. Did you</p> <p>3 know that Leisure World -- that the board had</p> <p>4 passed this resolution regarding recording of</p> <p>5 meetings? And if you can -- feel free to read</p> <p>6 it. Get comfortable with it. Whatever you</p> <p>7 need to do.</p> <p>8 A. It says after discussion, we</p> <p>9 agreed to it.</p> <p>10 Q. Mr. Dunn, I'm sorry. Read it to</p> <p>11 yourself.</p> <p>12 A. Read it to myself. Okay. I've</p> <p>13 read it.</p> <p>14 Q. Did you know that this was out</p> <p>15 there?</p> <p>16 A. No.</p> <p>17 Q. Totally.</p> <p>18 A. So I can -- yeah, no, that's not</p> <p>19 here.</p> <p>20 Q. You're doing great.</p> <p>21 A. Yeah.</p> <p>22 Q. Did you know that Ms. Katzman</p> <p>23 had filed a discrimination action in 2017?</p> <p>24 A. I knew that she thought she was</p> <p>25 discriminated against in the events that we've</p> |
| <p>214</p> <p>1 Q. Okay.</p> <p>2 A. All right.</p> <p>3 Q. Mr. Dunn, when did you become a</p> <p>4 member of the Leisure World board of</p> <p>5 directors?</p> <p>6 A. Oh, you're going to embarrass</p> <p>7 me. I'm not sure. 2012, probably.</p> <p>8 Q. Okay. If you look at this</p> <p>9 resolution, can you tell me what the date is?</p> <p>10 It's resolution number 15. What's the date on</p> <p>11 it?</p> <p>12 A. 3/11. 3/11/11.</p> <p>13 Q. This predates you, doesn't it,</p> <p>14 sir?</p> <p>15 A. Well, it may not, but I happen</p> <p>16 to know Paul Bessel.</p> <p>17 Q. Okay.</p> <p>18 A. And I have researched his CCOC</p> <p>19 Cook Count -- I was not -- to answer your</p> <p>20 question specifically, I was not on the board</p> <p>21 at this time.</p> <p>22 Q. Okay, but you've since then --</p> <p>23 for whatever reason, you took it upon yourself</p> <p>24 to take a look at this and see what went down?</p> <p>25 A. That's actually a professional</p> | <p>216</p> <p>1 talked about today. She and I discussed it.</p> <p>2 I can't tell you when it was. I know for</p> <p>3 certain about that. I knew that an -- that an</p> <p>4 investigation was done by the Office of Human</p> <p>5 Rights and that a report was issued. That was</p> <p>6 discussed at board meetings that I attended.</p> <p>7 Q. Okay. Mr. Dunn, I'd like you to</p> <p>8 very quickly look at Respondent's Exhibit 39 F</p> <p>9 as in Frank. So it's much closer to the</p> <p>10 front. Go all the way to the front. It's the</p> <p>11 fourth one in, I believe.</p> <p>12 A. All right. Is that the -- no.</p> <p>13 Your exhib -- exhibits are behind the tab?</p> <p>14 Q. Yes, sir. Yes, sir. You should</p> <p>15 -- sideways.</p> <p>16 A. I got it.</p> <p>17 Q. You should be looking at some --</p> <p>18 A. Yes.</p> <p>19 Q. -- involving Mr. Eisenhour and</p> <p>20 Mr. Alvarez.</p> <p>21 A. Okay.</p> <p>22 Q. What I'm looking at is Mr.</p> <p>23 Eisenhour's email in the middle of the page of</p> <p>24 October 1. Do you see that?</p> <p>25 A. Yes.</p> |

Transcript of Hearing - Day 1
Conducted on February 22, 2024

55 (217 to 220)

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| <p>217</p> <p>1 Q. Mr. Eisenhour says, hello, I 2 have just received your certified letter 3 requesting a response complaint. Do you see 4 what I'm talking about? 5 A. Yes. 6 Q. My question for you, sir, is in 7 connection with your role on the board in 8 2019, when did the board learn that Ms. 9 Katzman had filed a discrimination action in 10 2019? 11 A. I don't know. 12 Q. Okay. Would you agree with me, 13 sir, that this letter is dated October 1, 2019 14 to Mr. Eisenhour? 15 A. I -- yeah. 16 Q. And then what was Mr. 17 Eisenhour's role at that time? 18 A. What date is this? 2019 he was 19 the chairman. 20 Q. That's -- okay. Thank you, sir. 21 A. Yeah. 22 Q. You indicated that you 23 understood that Ms. Katzman felt ridiculed and 24 embarrassed after the events at the September 25 2019 budget and finance meeting?</p> | <p>219</p> <p>1 it. Do you think that email that she sent 2 about Mr. Alonzo was one of those times? 3 A. No. 4 Q. You also were here for the video 5 of the woman in the camera -- 6 A. I was. 7 Q. -- I like big butts. Do you 8 think that was out a line? 9 A. Since you've asked me, no. 10 Q. All right. 11 A. I -- I said I'm not a good 12 person. I -- I think dumb things are funny, 13 so. 14 Q. Okay. Have you ever had your 15 likeness captured and then portrayed in a way 16 that was less than flattering? 17 A. Yes. 18 Q. By Ms. Katzman? 19 A. No. 20 Q. Well, okay. Mr. Dunn, do you 21 know what Foundations of Leisure World, Inc. 22 is? 23 A. I do. 24 Q. Please explain. 25 A. It's a 501C3 that is -- that the</p> |
| <p>218</p> <p>1 A. That's my understanding. 2 Q. You were here earlier. You saw 3 the email that Ms. Katzman sent with Mr. 4 Alonzo eating. Do you think Mr. Alonzo would 5 have felt ridiculed and embarrassed by that 6 email? 7 MS. JAYANTY: Objection. 8 Speculation. 9 A. I don't -- I don't have any 10 idea. 11 JUDGE BYRNE: Yeah, that -- 12 MR. DUNN: It might -- 13 JUDGE BYRNE: Well, again, it 14 does call for speculation. I mean, I guess -- 15 MR. WEBSTER: I got to core it 16 somehow. 17 JUDGE BYRNE: You did, but 18 that's okay, but -- 19 MR. DUNN: I'm not a good one to 20 ask because I have a really course sense of 21 humor. 22 BY MR. WEBSTER: 23 Q. Mr. Dunn, you had indicated 24 there were times when you felt Ms. Katzman 25 had stepped out of line and you called her on</p> | <p>220</p> <p>1 board created. That is created in one of the 2 -- in one of the board bylaws, I think. And 3 it is a way to fund things that are outside 4 the normal budget process. The reason I'm 5 saying that that way is that I'm most familiar 6 with how the equipment in the woodworking shop 7 has been procured. It's been procured by 8 people making contributions to the foundation 9 and then the foundation buying. And I'm a 10 member there and they have every tool made to 11 man. 12 Q. You just said you're a member 13 there. You're a member of the -- 14 A. The woodworking club. 15 Q. Thank you. Have you ever served 16 on the board of Foundations of Leisure World? 17 A. No. 18 Q. You said that they are a 19 charitable organization. Do you -- 20 A. Yes. 21 Q. -- do you know if they're a 22 501C3? 23 A. I think so. That's what I have 24 been told. 25 Q. Okay.</p> |

Transcript of Hearing - Day 1
Conducted on February 22, 2024

56 (221 to 224)

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| <p>221</p> <p>1 A. I don't know of my own 2 knowledge. 3 Q. Fair enough. Fair enough. Do 4 they have anything to do with housing at the 5 Leisure World community? In terms of 6 providing housing, are they a housing 7 provider? Do they own property, rent or offer 8 -- 9 A. I'm certain that they do not. 10 Q. That's all that I have. Thank 11 you. Thank you, sir. 12 MR. SHARDELOW: Yes. Court's 13 indulgence. 14 JUDGE BYRNE: Sure. 15 REDIRECT EXAMINATION 16 BY MR. SHARDELOW: 17 Q. How often do board members 18 attend foundation meetings? 19 A. I don't have any idea. I have 20 never attended one. 21 Q. And in what ways do board 22 members participate in the foundation in 23 general? 24 A. I don't think they -- 25 MR. WEBSTER: I object that he</p> | <p>223</p> <p>1 him to testify because you specifically 2 brought it up. You asked him questions about 3 it. He might have gone off the rails a little 4 bit, but we'll go ahead and have Mr. Dunn 5 explain what was on his report. 6 MR. DUNN: I'm the IT director 7 for a very specialized consulting company, and 8 we consult very large companies about records 9 management requirements and physi -- physical 10 asset computer systems. And in -- and in the 11 case of recordings of meetings, our advice, 12 our professional advice to our clients is 13 record the meetings, use them for making your 14 minutes accurate and destroy them. 15 JUDGE BYRNE: So this is for 16 your work outside of Leisure World? 17 MR. DUNN: That's correct. 18 JUDGE BYRNE: That's where your 19 interest came from? 20 MR. DUNN: That is correct. And 21 furthermore, I offered this advice to the 22 board at the same time because and I will -- 23 since you asked and it is because the new 24 GD -- GDPR regulation in the EU and the one in 25 California and others is eventually going to</p> |
| <p>222</p> <p>1 just said he doesn't know. 2 A. I'm going to say I still don't 3 know. 4 JUDGE BYRNE: He can testify to 5 the extent that he has knowledge and personal 6 knowledge. 7 A. I -- I don't know. I -- I 8 really don't know. 9 Q. You mentioned that you had a 10 professional responsibility for researching 11 the Bessel complaints. 12 A. That's correct. 13 Q. Could you explain what that 14 professional responsibility was? 15 MR. WEBSTER: I'm going to 16 object to it's not relevant. It doesn't 17 matter what he did with Bessel. Bessel's not 18 part of what's going on. The only purpose for 19 Bessel was to identify that resolution that 20 was passed. 21 MR. SHARDELOW: Your Honor, the 22 Bessel complaint eventually led to the 23 resolution that we're talking about, that 24 allowed him. 25 JUDGE BYRNE: I'm going to allow</p> | <p>224</p> <p>1 require us to, as a corporation, to be able to 2 produce upon demand the digital record of 3 anyone who asks for it. And if you have to 4 produce the digital record of me who speaks at 5 every single board meeting and you have to 6 search through all those recordings, you're 7 going to spend a fortune on -- on very 8 expensive lawyers. And so my advice to the 9 board was that this policy is a reasonable 10 one. It is the one we recommend to our 11 clients. 12 JUDGE BYRNE: Okay. Thank you. 13 MR. SHARDELOW: No further 14 questions. 15 MR. DUNN: Sorry you asked. 16 JUDGE BYRNE: Mr. Webster, 17 sorry we asked, right? 18 MR. WEBSTER: That's all right. 19 Thank you. 20 JUDGE BYRNE: All right. Thank 21 you, Mr. Dunn. If there's no further 22 questions, you can be excused. 23 We have an hour. Do you think we can 24 get through or at least get through the first 25 part of the testimony with Ms. Castillo in the</p> |

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Conducted on February 22, 2024

57 (225 to 228)

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| <p>225</p> <p>1 next hour?</p> <p>2 MS. ELSTER: Yes, your Honor.</p> <p>3 JUDGE BYRNE: Okay. All right.</p> <p>4 So now we need Nick.</p> <p>5 THE REPORTER: Should we stay</p> <p>6 on?</p> <p>7 JUDGE BYRNE: No, we can stay</p> <p>8 on. I think it's only just going to take a</p> <p>9 couple of minutes so that it's hard for you</p> <p>10 because we're not going to do anything. Just</p> <p>11 sit tight. Ms. Castillo, can you try again,</p> <p>12 please?</p> <p>13 MS. CASTILLO: Yes. Good</p> <p>14 afternoon.</p> <p>15 JUDGE BYRNE: I think that's</p> <p>16 perfect. We're all going to try on our end to</p> <p>17 keep our microphones tight. So at this point,</p> <p>18 do you have your camera on, ma'am? There you</p> <p>19 are. Thank you so much. All right. We'll go</p> <p>20 ahead and we'll get started.</p> <p>21 DIRECT EXAMINATION</p> <p>22 BY MR. SHARDELOW:</p> <p>23 Q. Could you please introduce</p> <p>24 yourself?</p> <p>25 A. Yes. Good afternoon. My name</p> | <p>227</p> <p>1 Leisure World?</p> <p>2 A. I used to work for Leisure</p> <p>3 World.</p> <p>4 Q. And what dates did you work for</p> <p>5 Leisure World?</p> <p>6 A. I worked for Leisure World from</p> <p>7 January 2017 through June 2023.</p> <p>8 Q. And what positions did you work</p> <p>9 in while at Leisure World?</p> <p>10 A. I was assistant general manager,</p> <p>11 and when I left Leisure World, I was vice</p> <p>12 president and chief op -- chief operating</p> <p>13 officer.</p> <p>14 Q. And what were your</p> <p>15 responsibilities in those positions?</p> <p>16 A. In those positions, I managed a</p> <p>17 lot of the supporting services at Leisure</p> <p>18 World. So the security department reported to</p> <p>19 me, the resales department, communication,</p> <p>20 education, recreation, the supporting staff,</p> <p>21 such as the trust assistants, the people that</p> <p>22 basically took the minutes at the committee</p> <p>23 meetings. The executive assistant at one</p> <p>24 point reported to me, also. Although that</p> <p>25 person did not report to me when I left</p> |
| <p>226</p> <p>1 is Crystal Castillo.</p> <p>2 Q. And are you --</p> <p>3 JUDGE BYRNE: Oh, and I need to</p> <p>4 swear you in. Sorry. And I also need you to</p> <p>5 spell your first and last name, but since I</p> <p>6 can now see you, can you raise your right hand</p> <p>7 for me? Do you swear to tell the truth, the</p> <p>8 whole truth, and nothing but the truth?</p> <p>9 MS. CASTILLO: Yes, I do.</p> <p>10 CRYSTAL CASTILLO,</p> <p>11 after having been first duly sworn, was</p> <p>12 examined and testified as follows:</p> <p>13 JUDGE BYRNE: Thank you. And,</p> <p>14 Ms. Castillo, could you spell your first and</p> <p>15 last name for the court reporter?</p> <p>16 MS. CASTILLO: Of course. It's</p> <p>17 C-R-Y-S-T-A-L, and my last name is</p> <p>18 C-A-S-T-I-L-L-O.</p> <p>19 JUDGE BYRNE: Thank you. You</p> <p>20 can go ahead and proceed.</p> <p>21 BY MR. SHARDELOW:</p> <p>22 Q. Are you familiar with Leisure</p> <p>23 World?</p> <p>24 A. Yes, sir.</p> <p>25 Q. And how are you familiar with</p> | <p>228</p> <p>1 Leisure World, and the property management</p> <p>2 team also reported to me.</p> <p>3 Q. So you mentioned you're on the</p> <p>4 management team. How does the management team</p> <p>5 work with the board of directors?</p> <p>6 A. So it mostly is going through</p> <p>7 the general manager. I got most of my</p> <p>8 direction from the general manager.</p> <p>9 Q. And how do you specifically work</p> <p>10 with the boards in any way?</p> <p>11 A. Mostly in an administrative</p> <p>12 capacity. At one time I was making sure that</p> <p>13 the board agendas and things are posted.</p> <p>14 Little things such as scheduling the chair</p> <p>15 holiday party, creating the invitation for</p> <p>16 said holiday party. That kinda thing. It was</p> <p>17 mostly administrative.</p> <p>18 Q. And how does the general manager</p> <p>19 work with the board to implement the board's</p> <p>20 policies?</p> <p>21 A. So a lot of that happens during</p> <p>22 board meetings. The -- the general manager</p> <p>23 request, you know, approval for certain things</p> <p>24 that needed to be done that were over his</p> <p>25 threshold, which is -- is usual. I mean,</p> |

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| <p>229</p> <p>1 that's -- that's normal.</p> <p>2 Q. And who were your general</p> <p>3 managers while you were working at Leisure</p> <p>4 World?</p> <p>5 A. At the time it was Kevin</p> <p>6 Planner, and then when Bob came on the scene,</p> <p>7 it was Bob Kimble.</p> <p>8 Q. Are you familiar with Ms.</p> <p>9 Katzman?</p> <p>10 A. Yes.</p> <p>11 Q. How do you know her?</p> <p>12 A. I used to see her at the</p> <p>13 meetings. The Leisure World board meeting,</p> <p>14 the executive committee meetings, pre-Covid</p> <p>15 when they were in person.</p> <p>16 Q. And how frequently did you</p> <p>17 attend those meetings?</p> <p>18 A. I attended every board meeting</p> <p>19 unless I was on vacation and also when I was</p> <p>20 on maternity leave in 2018.</p> <p>21 Q. And how frequently did Ms.</p> <p>22 Katzman attend those meetings?</p> <p>23 A. She attended almost all of the</p> <p>24 meetings. All the ones that I was at, she was</p> <p>25 at.</p> | <p>231</p> <p>1 ShardeLOW, essentially what he made a</p> <p>2 connection that she worked for the board.</p> <p>3 She's identified that she did administrative</p> <p>4 work, but I don't know the relationship</p> <p>5 between Ms. Castillo and the policies. So if</p> <p>6 you could ask her a few more questions so we</p> <p>7 know what her relationship to those policies</p> <p>8 are before you ask her those.</p> <p>9 BY MR. SHARDELOW:</p> <p>10 Q. Did you oversee staff that</p> <p>11 worked in these board meetings?</p> <p>12 A. Yes. The trust assistants that</p> <p>13 took the minutes, I oversaw them. And also</p> <p>14 the IT team, I also oversaw them.</p> <p>15 Q. Could you describe in more</p> <p>16 detail what those roles entail?</p> <p>17 A. As far as the -- what the</p> <p>18 individual did or how I oversaw them?</p> <p>19 Q. Both.</p> <p>20 A. Okay. So I attended most of the</p> <p>21 meetings that my staff was at -- were</p> <p>22 attending. So a lot of the committees I did</p> <p>23 attend a lot of those meetings. I attended</p> <p>24 every board meeting, an executive committee</p> <p>25 meeting as I previously stated. Part of the</p> |
| <p>230</p> <p>1 Q. And how did Ms. Katzman conduct</p> <p>2 herself at those meetings?</p> <p>3 A. Usually she sat in the back</p> <p>4 quiet, didn't really say anything until the</p> <p>5 opportunity for open forum, which it -- it was</p> <p>6 at every meeting. There was an opportunity</p> <p>7 for residents to speak and she would then ask</p> <p>8 a question during that time. Otherwise, she</p> <p>9 sat quietly in the back.</p> <p>10 Q. So let's turn to the specifics</p> <p>11 around the policies of those meetings. So</p> <p>12 what, if any, policies did you oversee with</p> <p>13 respect to those board meetings?</p> <p>14 A. So there were --</p> <p>15 MR. WEBSTER: I object to the</p> <p>16 foundation.</p> <p>17 A. -- a couple of different things.</p> <p>18 JUDGE BYRNE: Okay. Hold on</p> <p>19 one -- hold on one moment, Ms. Castillo.</p> <p>20 MS. CASTILLO: Sure.</p> <p>21 MR. WEBSTER: Objection as to</p> <p>22 foundation. I don't know what the basis of</p> <p>23 the knowledge is. I think he's laid the</p> <p>24 foundation for this question. Yeah.</p> <p>25 JUDGE BYRNE: Okay. So, Mr.</p> | <p>232</p> <p>1 reason behind that was because I needed to</p> <p>2 know what was going on. The other part was so</p> <p>3 that I could review the minutes that were</p> <p>4 prepared, ensure that the -- the meeting set</p> <p>5 up took place the way that it should have</p> <p>6 because that was my team's responsibility.</p> <p>7 JUDGE BYRNE: All right. I</p> <p>8 think there's sufficient foundation because</p> <p>9 she's identified she had to be familiar with</p> <p>10 those policies in order to supervise her team.</p> <p>11 So you can go ahead and proceed with that</p> <p>12 prior question.</p> <p>13 BY MR. SHARDELOW:</p> <p>14 Q. So what, if any, policies did</p> <p>15 you oversee with respect to the board</p> <p>16 meetings?</p> <p>17 A. For the board meetings, it was</p> <p>18 more just the -- the recording of the meeting.</p> <p>19 So the board mem -- the board meetings and</p> <p>20 executive committee meetings were both</p> <p>21 audiotaped for the purpose of the minutes, and</p> <p>22 they were videotaped for the playback. At</p> <p>23 least pre-Covid there was a playback of the</p> <p>24 video recording of the meeting. So making</p> <p>25 sure that both of those things occurred and</p> |

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| <p>233</p> <p>1 the playback happened when it was supposed to 2 happen. 3 Q. And how did these policies 4 evolve as you worked at Leisure World? 5 A. So when I started, all of the 6 meetings, executive committee and board -- and 7 board meetings only were videotaped and 8 audiotaped for the purpose of the minutes. It 9 did change several years later once Ms. Trohan 10 became on the board and it was announced that 11 recording was against the law. So at that 12 time it transitioned to we weren't allowed to 13 do recordings of the meetings, both audio 14 recording even for the purpose of the minutes 15 and the video recordings also ended at that 16 time. 17 Q. And when did this occur? 18 A. So I don't know. I don't 19 remember the exact timeframe that that 20 happened, but I know it was -- it was after 21 Ms. Trohan was on the board. 22 Q. Prior to this incident, had you 23 ever heard the recordings or audio were 24 against the law? 25 A. I had not personally heard that.</p> | <p>235</p> <p>1 a time where the board explicitly asked 2 consent to recordings or to be recorded prior 3 to using those Zoom meetings? 4 A. Not that I remember. 5 Q. All right. I'd like to turn to 6 the security policies of Leisure World. So 7 how are security staff utilized at Leisure 8 World? 9 A. Okay. So there are basically 10 three different types of security staff at 11 Leisure World. The first type are gate staff. 12 They work inside the three gate houses. At 13 the time that I left Leisure World, the main 14 gate was open 24 hours, seven days a week. 15 The other two gates were open from 6 a.m. to 16 10 p.m. every day. So the gate staff were 17 those that allowed access into the community 18 by vehicles, bicycles, pedestrians. That kind 19 of thing. The second type are the special 20 police officers. The special police officers, 21 they're on patrol in the community. They -- 22 they respond to certain calls that come in. 23 They follow first responders when they enter 24 the community to -- to see if they can assist. 25 Oftentimes, providing a key so that a door</p> |
| <p>234</p> <p>1 No. 2 Q. So how did the board or 3 management inform participants of the 4 recording at these meetings? 5 A. So the -- at least early on when 6 I started with Leisure World, the video 7 recording, it was obvious because there's a 8 huge camera in the room. Many people even 9 tripped on it. So the camera was evident in 10 the room. As things transitioned into Covid 11 timeframe and everyone was on Zoom, the Zoom 12 capability actually acknowledge -- you had to 13 acknowledge it physically that you were being 14 recorded. The audio recordings earlier on, 15 you know, like 2017 timeframe, I don't recall 16 anybody announcing that the meetings were 17 being audio recorded for the purpose of the 18 minutes, but at some point it did transition 19 where it was actually on the agenda that the 20 meetings were being audio recorded for the 21 purpose of the minutes. I don't remember the 22 transition, though. 23 Q. So you mentioned you needed to 24 explicitly acknowledge that you were being 25 recorded at the Zoom meetings. Was there ever</p> | <p>236</p> <p>1 doesn't get broken. They respond in -- in the 2 event that somebody falls or needs any 3 assistance in any way. A welfare check is -- 4 is requested by someone's family. They will 5 go and check on that person. So they're 6 essentially the boots on the ground. And then 7 the third facet is the management and 8 administrative team. So there's a director, 9 and then that director has an assistant, and 10 then they oversee the SPOs and the gate staff. 11 Q. And for the special police 12 officers, the ones that work within Leisure 13 World, how frequently are they called for 14 incidents within Leisure World? 15 A. Multiple times a day. Because 16 of the wide range of incidents that they 17 respond to, it's pretty much everything. 18 Q. And has security ever been 19 called during a board meeting? 20 A. Not that I'm a witness to. 21 Q. Had you ever heard of security 22 being called at all during these meetings? 23 A. No. Not -- not while I was 24 there. I was aware of one incident where 25 security was asked to be there at the</p> |

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| <p>237</p> <p>1 beginning of a meeting because somebody 2 thought that things might get escalated, but 3 that nothing happened and it wasn't because of 4 an incident that occurred. 5 Q. And that was the only time you 6 had heard security used for board meetings? 7 A. Correct. 8 MR. SHARDELOW: No further 9 questions. 10 JUDGE BYRNE: Thank you. Any 11 cross-examination, Mr. Webster. 12 MR. WEBSTER: One moment, 13 please. 14 JUDGE BYRNE: Hang tight, Ms. 15 Castillo. 16 CROSS-EXAMINATION 17 BY MR. WEBSTER: 18 Q. Hi, Ms. Castillo. I'm Lucas 19 Webster. How are you? 20 A. I'm good. How are you? 21 Q. Good. Real quick. You 22 indicated in your testimony with Mr. Shardelow 23 that you were familiar with Ms. Katzman. 24 A. Yes. 25 Q. How would you describe your</p> | <p>239</p> <p>1 correct? 2 A. Correct. 3 Q. And was there a scheduled time 4 for that playback? 5 A. Yes. And they were pretty tight 6 on that schedule. 7 Q. And that announcement was made 8 to the community, correct, as to when the 9 playback would take place? 10 A. Correct. 11 Q. You also indicated that people 12 attending the meetings, in addition to -- to 13 the announcement that it would be played back, 14 could also evidently see a camera for the 15 recording, correct? 16 A. It was at the very front of the 17 room. 18 Q. You talked also about gatehouses 19 at the community. This is a gated community, 20 isn't it? 21 A. Yes. 22 Q. Can the public just gain 23 entrance to the facilities? 24 MS. JAYANTY: Objection. 25 Relevance.</p> |
| <p>238</p> <p>1 interactions with Ms. Katzman? 2 A. A lot of them were via email. 3 So there's -- there's not much as far as 4 context when it comes to an email. A lot of 5 times for books and records requests and just 6 the pleasantries of attending a board meeting 7 and having people in the room. 8 Q. You worked on books and record 9 requests made by Ms. Katzman? 10 A. There were several that she sent 11 directly to me. Yes. 12 Q. Did you provide responses to her 13 requests? 14 A. If I had the items that were 15 requested, yes. 16 Q. You talked about audio taping 17 for minutes and also videotaping for playback 18 of meetings. Do you remember that? 19 A. Yes. 20 Q. Those video playbacks, that was 21 playback on what? 22 A. It was actually on the CCTV 23 channels. There are two that were utilized 24 for that purpose. 25 Q. It is specific to Leisure World,</p> | <p>240</p> <p>1 A. No. 2 MR. WEBSTER: Those questions 3 that Mr. Shardelow asked, he asked about -- 4 JUDGE BYRNE: Regarding 5 security? 6 MR. WEBSTER: Yeah. 7 JUDGE BYRNE: Okay. You can -- 8 I'll go ahead and allow it. 9 BY MR. WEBSTER: 10 Q. So I'm sorry, Ms. Castillo. 11 Please repeat the -- I asked can the public 12 just walk onto the campus of Leisure World 13 community? 14 A. No, they cannot. 15 Q. You said the gatehouses are 16 staffed by security, right? I'm sorry. Say 17 yes. You need to make a verbal response. 18 Shaking your head doesn't always work. 19 A. Yes. 20 Q. And I think what you were saying 21 was there are three gatehouses. One of the 22 gatehouses is manned 24 hours and the other 23 two gatehouses are manned less than 24 hours; 24 is that right? 25 A. Correct. Yes.</p> |

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| <p>241</p> <p>1 Q. I don't have anything else. 2 Thank you, Ms. Castillo. 3 A. You're welcome. 4 JUDGE BYRNE: Thank you, Ms. 5 Castillo. Mr. ShardeLOW any -- okay. One. A 6 few more questions. 7 REDIRECT EXAMINATION 8 BY MR. SHARDELOW: 9 Q. How often did you receive books 10 and records requests from Ms. Katzman? 11 A. It depended on the time of year. 12 Sometimes if there would be, you know, a 13 couple months with no request, and then other 14 times during the year there would be multiple 15 requests. Sometimes one request would have, 16 like, four or five things included in it. So 17 I guess the short answer is pretty frequently. 18 Q. Was there ever a time where you 19 were sending documents to Ms. Katzman, and 20 then at some point were told to stop? 21 A. No. 22 Q. Who can attend open board 23 meetings? 24 A. All residents can attend open 25 meetings.</p> | <p>243</p> <p>1 case-in-chief. 2 MR. WEBSTER: Your Honor, there 3 is a potential for a motion for judgment. 4 JUDGE BYRNE: And there always 5 is. 6 MR. WEBSTER: And that would be 7 at this moment in time. So I guess I would 8 ask, your Honor, I don't think I'm going to 9 argue for more than 10 minutes. Do you want 10 to do it now or do you want to start it in the 11 morning? 12 JUDGE BYRNE: I'd like to start 13 it in the morning. 14 MR. WEBSTER: Okay. 15 JUDGE BYRNE: So let's -- let's 16 all regroup and start it in the morning 17 because I think at this point we're all a 18 little fried and I think it would be best to 19 start fresh. 20 MR. WEBSTER: Very good. Thank 21 you. 22 JUDGE BYRNE: All right. So 23 that concludes for today. So we are now off 24 the record. 25 (Concluded 3:27 p.m.)</p> |
| <p>242</p> <p>1 Q. Is Ms. Katzman a resident? 2 A. Yes, she is. 3 MR. SHARDELOW: No further 4 questions. 5 JUDGE BYRNE: All right. Let me 6 see if we have one. And remember, it's got to 7 relate to the questions that he just asked. 8 Okay. All right. So there is no additional 9 questions from Counsel for Leisure World. I 10 believe that was it. So any -- Ms. Castillo, 11 you are excused. Thank you for being patient 12 all day, hanging out with us on Zoom. 13 MS. CASTILLO: Thank you. 14 JUDGE BYRNE: Thank you. It is 15 3:25. Are there anymore -- I believe you 16 identified the three witnesses. So we've had 17 Ms. Katzman, Mr. Dunn and Ms. Castillo. So is 18 this the conclusion of your evidentiary case? 19 MS. ELSTER: Yes, your Honor. 20 Q. Okay. Thank you. And we're 21 going to take this opportunity, since it's 22 3:25, I don't want to run these guys past four 23 o'clock. We'd like to start right away at 24 9:30 tomorrow. Same place, same time. And 25 we'll start with Mr. Webster and your</p> | <p>244</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 3 I, Cynthia Bauerle, do hereby certify 4 that this transcript was prepared from the 5 digital audio recording of the foregoing 6 proceeding; that said transcript is a true and 7 accurate record of the proceedings to the best 8 of my knowledge, skills, and ability; and that 9 I am neither counsel for, related to, nor 10 employed by any of the parties to the case and 11 have no interest, financial or otherwise, in 12 its outcome. 13 14 15 16 <u>Cynthia Bauerle</u> 17 CYNTHIA BAUERLE, CSR 18 3/3/24 19 20 21 22 23 24 25</p> |

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1 CERTIFICATE OF COURT REPORTER-NOTARY PUBLIC

2 I, Brendon Cuenca, the officer before
3 whom the foregoing proceedings were taken, do
4 hereby certify that any witness(es) in the
5 foregoing proceedings were fully sworn; that
6 the proceedings were recorded by me and
7 thereafter reduced to typewriting by a
8 qualified transcriptionist; that said digital
9 audio recording of said proceedings are a true
10 and accurate record to the best of my
11 knowledge, skills, and ability; and that I am
12 neither counsel for, related to, nor employed
13 by any of the parties to this case and have no
14 interest, financial or otherwise, in its
15 outcome.

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20 Brendon Cuenca,

21 NOTARY PUBLIC FOR THE STATE OF MARYLAND

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Transcript of Hearing - Day 2

Date: February 23, 2024

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Transcript of Hearing - Day 2
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1 (1 to 4)

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| 1 | 3 |
| 1 BEFORE THE MONTGOMERY COUNTY COMMISSION | 1 APPEARANCES: |
| 2 ON HUMAN RIGHTS | 2 |
| 3 -----x | 3 ON BEHALF OF SHERYL KATZMAN |
| 4 SHERYL KATZMAN, : | 4 SOPHIA JAYANTY, ESQUIRE |
| 5 Complainant, : Case No. | 5 COLE SHARDELOW, ESQUIRE |
| 6 Vs. : REH-06711; | 6 E. NELL PIPER, ESQUIRE |
| 7 CHAIR, BOARD OF DIRECTORS : HR 23-02 | 7 HANNAH ELSTER, ESQUIRE |
| 8 LEISURE WORLD COMMUNITY CORP., : | 8 |
| 9 Respondent. : | 9 ON BEHALF OF CHAIR, BOARD OF DIRECTORS LEISURE |
| 10 -----x | 10 WORLD COMMUNITY CORP.: |
| 11 | 11 CATHERINE R. SPALLUZZI, ESQUIRE |
| 12 DAY 2 HEARING | 12 LUCAS WEBSTER, ESQUIRE |
| 13 Before Hearing Examiner KATHLEEN BYRNE | 13 |
| 14 Rockville, Maryland | 14 |
| 15 Friday, February 23, 2024 | 15 |
| 16 9:41 a.m. | 16 |
| 17 | 17 |
| 18 Job No. 523820 | 18 |
| 19 Pages: 1-178 | 19 |
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| 21 Notary Public/Court Reporter: Brendon Cuenca | 21 |
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| 25 | 25 |
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| <p>5</p> <p>1 PROCEEDINGS</p> <p>2 JUDGE BYRNE: Good morning,</p> <p>3 everyone. We are here for day two of our</p> <p>4 hearing on -- and, of course, I've got lying</p> <p>5 in front of me. I do hear a little echo?</p> <p>6 MS. JAYANTY: Yes.</p> <p>7 JUDGE BYRNE: How about now? Is</p> <p>8 that better?</p> <p>9 MS. JAYANTY: Still a little</p> <p>10 bit.</p> <p>11 JUDGE BYRNE: Is it the TV</p> <p>12 sound? All right. Can you turn it that way?</p> <p>13 Is that better? Away -- towards me maybe a</p> <p>14 little more.</p> <p>15 SPEAKER: No. Just going to</p> <p>16 manually turn it down.</p> <p>17 JUDGE BYRNE: All right. We'll</p> <p>18 give it a second. Better? Okay. Thank you.</p> <p>19 All right. Good morning. We're here</p> <p>20 for a second day of hearing on human rights</p> <p>21 commission number HR -- HRC and all right.</p> <p>22 Let's start again. REH 06711 OSO referral</p> <p>23 number HR 2302. Sheryl Katzman Versus Chair,</p> <p>24 Board of Directors, Leisure World Community</p> <p>25 Court. I'll continue to refer to it just</p> | <p>7</p> <p>1 after having been first duly sworn, was</p> <p>2 examined and testified as follows:</p> <p>3 JUDGE BYRNE: And could you</p> <p>4 spell your full name for the court reporter?</p> <p>5 MS. TROHAN: Yes. My first name</p> <p>6 is Colette. That's C-O-L-E-T-T-E. Middle</p> <p>7 name is Collier, C-O-L-L-I-E-R, and the last</p> <p>8 name is Trohan, T-R-O-H-A-N.</p> <p>9 JUDGE BYRNE: Thank you.</p> <p>10 MR. WEBSTER: Your Honor,</p> <p>11 normally I stand during examination, but since</p> <p>12 I'm directly adjacent to the witness, I'm not</p> <p>13 going to stand over the top of her.</p> <p>14 JUDGE BYRNE: Perfect. It's</p> <p>15 fine.</p> <p>16 MS. TROHAN: I appreciate that.</p> <p>17 DIRECT EXAMINATION</p> <p>18 BY MR. WEBSTER:</p> <p>19 Q. Well, Ms. Trohan, would you</p> <p>20 please identify your current address?</p> <p>21 A. My current address is 15301</p> <p>22 Barningham Court, Silver Springs. It's in</p> <p>23 Leisure World.</p> <p>24 Q. You are a Leisure World member?</p> <p>25 A. Yes, I am.</p> |
| <p>6</p> <p>1 generically as Leisure World, if that's okay</p> <p>2 with everyone.</p> <p>3 When we concluded yesterday, we</p> <p>4 finished with claimant's case. I believe, Mr.</p> <p>5 Webster, you wanted to make a motion for</p> <p>6 judgment.</p> <p>7 MR. WEBSTER: I did, but Your</p> <p>8 Honor, we're just going to decide at the</p> <p>9 moment and we'll just proceed with our case to</p> <p>10 just take everything out on the table and</p> <p>11 finish up today.</p> <p>12 JUDGE BYRNE: Okay. Sounds</p> <p>13 great. All right. So Mr. Webster, your first</p> <p>14 witness.</p> <p>15 MR. WEBSTER: Respondents, will</p> <p>16 call Colette Trohan.</p> <p>17 JUDGE BYRNE: Good morning, Ms.</p> <p>18 Trohan.</p> <p>19 MS. TROHAN: Good morning.</p> <p>20 JUDGE BYRNE: If you could raise</p> <p>21 your right hand for me.</p> <p>22 Do you promise to tell the truth, the</p> <p>23 whole truth, and nothing but the truth?</p> <p>24 MS. TROHAN: I do.</p> <p>25 COLETTE COLLIER TROHAN,</p> | <p>8</p> <p>1 Q. How long have you lived within</p> <p>2 the Leisure World community?</p> <p>3 A. Yeah. We purchased our house in</p> <p>4 September of 2011.</p> <p>5 Q. Can you tell me a little bit</p> <p>6 about your educational background, please?</p> <p>7 A. Yes. I have a bachelor of music</p> <p>8 education, a master of science in nonprofit</p> <p>9 management, and I hold three professional</p> <p>10 credentials. One is the certified association</p> <p>11 executive from the American Society of</p> <p>12 Association executives. Another is the</p> <p>13 professional registered parliamentarian from</p> <p>14 the National Association of Parliamentarians,</p> <p>15 and the last one is the certified professional</p> <p>16 parliamentarian teacher from the American</p> <p>17 Institute of Parliamentarians.</p> <p>18 Q. Your master's degree in</p> <p>19 particular, how does that -- how do you use</p> <p>20 that in your current activities?</p> <p>21 A. Well, my current business and</p> <p>22 activities is serving as a professional</p> <p>23 parliamentarian is being a governance</p> <p>24 consultant and writing opinions and bylaws,</p> <p>25 revisions, and I do a lot of training, so the</p> |

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| <p>9</p> <p>1 master's degree helps me relate. 2 MS. JAYANTY: Objection, Your 3 Honor. With all due respect, are you 4 proffering this witness as an expert, or is 5 this just merely background on this? This is 6 related to their presentation as a board 7 member or what is the specifics of their 8 background here and its relevance? 9 MR. WEBSTER: This is background 10 for the witness. 11 MS. JAYANTY: Okay, but they're 12 not an expert witness, correct, on governance 13 or -- 14 MR. WEBSTER: I think they are 15 an expert, but we're not offering them in this 16 case as an expert, if that's her question. 17 MS. JAYANTY: Thank you. 18 Q. You can continue. 19 A. Thank you. I work with a lot of 20 boards and staff, a lot of executive 21 directors. So in my work, understanding the 22 management of the nonprofit helps me a lot, 23 especially in dealing with writing bylaws, 24 policies, things like that because I get it. 25 I know what they're doing.</p> | <p>11</p> <p>1 years. One on being a chair, one on being a 2 board. I train community boards and stuff. 3 That's -- those are usually individual 4 assignments or in conjunction with my 5 parliamentary work where I will travel, 6 which also cut down during Covid and 7 everything went online, but traveling to 8 usually their annual meeting or their board 9 meeting, and then I -- from my desk, I do 10 consulting on bylaws, policies, work on 11 bylaws, revisions, and sometimes I'm asked to 12 offer an opinion on how to interpret 13 something. 14 Q. Great. You're currently working 15 or have you retired? 16 A. I am not retired. 17 Q. All these activities that you 18 just discussed, those are things that you're 19 currently involved in? 20 A. Yes, I am. 21 Q. All right. Are you currently a 22 board member at Leisure World? 23 A. Yes. 24 Q. What is your position on the 25 board?</p> |
| <p>10</p> <p>1 Q. And just for reference, when did 2 you get your master's degree? 3 A. I completed it in 2018. I 4 believe in lifelong learning. 5 Q. When your certifications that 6 you talked about, the three certifications, 7 can you tell me when you achieved those 8 professional certifications? 9 A. I received my CAE about four 10 years ago. I have renewed it once. I started 11 that after the masters. I -- there are two 12 exams. You have to take a prep exam before 13 the PRP. So I finished that, I believe, in 14 1997, and then somewhere in that neighborhood, 15 I took the CP written exam, but I completed 16 the oral exam in 1998. 17 Q. And you spoke a little bit about 18 your profession, but tell me what do you 19 currently do professionally? 20 A. Well, my company is called A 21 Great Meeting, and I basically travel to do 22 training. I train boards. I train chairs. I 23 have done a class for the National Rural 24 Electric Cooperative Association in their 25 education and training department for 23</p> | <p>12</p> <p>1 A. I'm the secretary of the board. 2 Q. How long have you held that 3 position? 4 A. I was elected in January 2022. 5 Q. And other than serving as 6 secretary on the board, have you also done 7 anything else in conjunction with the board? 8 A. Yes. In January 2021, the then 9 chair of Bill Marks asked me if I would assist 10 him at the board meetings, and I did that for 11 about eight months, and then my representative 12 from my mutual and I agreed that he wanted me 13 to step in. So I became a board member for 14 that four months, and then I was elected 15 secretary. 16 Q. What other positions, if any, 17 have you held with the Leisure World board? 18 A. Those are the only positions 19 I've held in the Leisure World board. 20 Q. All right. Have you also been a 21 board member for your specific mutual? 22 A. Yes, I have. I served one, 23 three year term and then I took off because I 24 was working on my masters. I went back on the 25 board. I believe this is my going to be my</p> |

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| <p>13</p> <p>1 third year. I'm the current vice president of 2 my mutual. 3 Q. Do you recall the date when you 4 first became a member of your mutual board? 5 A. Probably 2013 or '14. 2014. It 6 was 2014 to 2017. 7 Q. And currently you're the vice 8 president of your mutual board? 9 A. Yes. 10 Q. So we had a little conversation 11 earlier yesterday about sort of Leisure World 12 and its structure and the mutual and Judge 13 Burn asked that question. Can you please give 14 a little understanding to the folks about how 15 Leisure World and the mutuals interact, what 16 the different structures are, all that sort of 17 on stuff? 18 A. Sure. Well, Leisure World is 19 extraordinarily unique in the country. It was 20 conceived back in the 1960s. We are a private 21 610 acre gated community and the community is 22 made up of the trust that governs the 23 properties, like the clubhouses and all of 24 those, and then the members of the Leisure 25 World community corporation are the 29</p> | <p>15</p> <p>1 community. 2 Q. So, again, in terms of 3 responsibilities for maintenance or management 4 of physical structures or real property, 5 what's the distinction between a mutual and 6 Leisure World Community Corp.? 7 A. Leisure World Community Corp. is 8 a corporation made up of those mutuals. 9 Leisure World Community Corporation is not at 10 all responsible for the maintenance within the 11 mutuals, but it provides the infrastructure. 12 So the mutuals are completely self governed. 13 They have their own articles of incorporation. 14 They have their own boards, but there are 15 arrangements where Leisure World as a 16 management or Leisure World Management 17 Corporation. I keep saying that. It's really 18 Leisure World of Maryland Corporation is also 19 a managing agent, and some of the mutuals like 20 mine, contract with them to provide services 21 such as administrative assistance services and 22 those kinds of things. 23 Q. Okay. So we've introduced a new 24 name, so let's try to identify the structure. 25 We've got Leisure World Community Corporation</p> |
| <p>14</p> <p>1 separate mutuals and I believe they got the 2 name mutual because the first four that were 3 constructed were cooperatives, and then they 4 started building condominiums, and this was 5 done in stages over probably about 20 or 30 6 years, then there's one homeowner's 7 association that is 85 homes in a fee simple 8 arrangement. So rather than saying 9 condominiums, you know, cooperatives and so 10 on, the name mutual, I believe, just kind of 11 rose up, then Montgomery Mutual is the -- it 12 was a merger of the first four mutuals that is 13 -- now it's one cooperative, but it started 14 out as four. 15 Q. Do the mutuals each have their 16 own work directors? 17 A. Mutuals have their own articles 18 of incorporation. They own and control the 19 boundaries of that mutual. Each mutual has 20 its own boundaries. They maintain -- we 21 maintain the streets that go through our 22 mutual. We handle the landscaping and all of 23 that, and then we also support and pay into 24 the master, which would be the roads that are 25 the community roads and the upkeep of the</p> | <p>16</p> <p>1 at the top? 2 A. Yes. 3 Q. We have Leisure World of 4 Maryland Corporation, and then we have 5 mutuals? 6 A. Yes. 7 Q. Can you describe -- 8 JUDGE BYRNE: I'm going to 9 interrupt really quickly. I just got a text 10 from Nana, another person in our office, 11 saying that they're getting calls that the 12 volume is too low and they can't hear. Is 13 anybody else getting that info from anyone? 14 SPEAKER: Even in the room, 15 there's just not volume. 16 MS. TROHAN: I'll use my 17 training voice. 18 JUDGE BYRNE: Are you getting 19 those same messages? Okay. All right. So 20 we'll speak up. How about that? All right. 21 Thank you. 22 BY MR. WEBSTER: 23 Q. Okay. So the question was, 24 identify Leisure World Community Corporation, 25 Leisure World of Maryland Corporation and the</p> |

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| <p>17</p> <p>1 mutuals and how they all work together. 2 A. And we have to remember that 3 this also developed over a long period of 4 time, over decades, but the Leisure World of 5 Maryland Corporation was created in 1981 with 6 the intention that that was going to be a 7 management entity. It does not have a 8 function within the governance of Leisure 9 World, but there is an interconnection in that 10 the Leisure World Community Corporation board 11 of directors adopt the budget, but the 12 management of that budget is under Leisure 13 World of Maryland Corporation, and that's who 14 the employees work for. 15 Q. So as an example, if my plumbing 16 backs up and I'm a mutual resident of your 17 mutual, who can I call to come out and help me 18 with my plumbing? 19 A. You would call your mutual 20 assistant, the person who's the administrative 21 director because Leisure World itself has 22 nothing to do with that. And if it's in your 23 unit and it's not in a property -- a multi 24 property, I happen to live in a patio home 25 that has sort of a standalone setup, 99</p> | <p>19</p> <p>1 in connection with your role as secretary, 2 have you had an opportunity to review 3 historical documents maintained by the corp -- 4 by Leisure World Community Corporation? 5 A. Yes. 6 (Exhibit 57 A7, Resolution, 7 marked for identification.) 8 Q. So let's take a quick look 9 through some of them. I'm going to put the 10 binder in front of you. Yes, thank you. And 11 for the folks on the screen, we're going to 12 start with Exhibit 57 A7, so on the tabs 57 13 A7. 14 A. Now I see why people were having 15 trouble getting to this. 16 Q. Yeah. VII and it should say 17 after it Bessel Resolution. 18 A. Okay. Thank you. 19 Q. Yes. Thank you. 20 A. Is it -- so that's 57A. 21 Q. That's eight. Go back one. 22 A. Oh, thank you. 23 Q. There you go. 24 A. Thank you. Sorry. 25 Q. Roman numerals.</p> |
| <p>18</p> <p>1 percent of the time, that's going to be my 2 problem. I'm going to call the plumber I like 3 and get them out there to fix it, but Leisure 4 World has no responsibility for that at all. 5 Q. All right. As secretary of 6 Leisure World Community Corporation, what do 7 you do specifically in connection with 8 meetings of the organization? 9 A. I help get them organized. I 10 work with the chair, the vice chair and the 11 general manager to set up the agendas for the 12 meetings. We have an executive committee that 13 meets about 11 days before the board meeting 14 and they decide whether to pass things on to 15 the board. So I do those two sets of minutes. 16 I do the agendas. During the meetings, I'm 17 assisting. I'm putting the motions up on the 18 screen, and I've also run the election 19 software when we have our election. 20 Q. Specifically in connection with 21 minutes for meetings, what is your obligation 22 or what are your duties with respect to 23 minutes? 24 A. I write them. 25 Q. All right. Let's talk about --</p> | <p>20</p> <p>1 A. It's been a while. 2 Q. Ms. Trohan, when you were 3 reviewing the historical records for Leisure 4 World, did you find this document? 5 A. Yes, I did. 6 Q. And in general, what is this? 7 A. This is a resolution that was 8 passed by the board of directors on their 9 meeting in May of 2011, and it is basically 10 the statement of the rules. 11 Q. That's fine. You don't -- I 12 just need to identify these exhibits -- 13 MS. ELSTER: Objection, Your 14 Honor. 15 JUDGE BYRNE: Hold on one 16 second. I think we're better on the sound, so 17 I just got that. 18 SPEAKER: I'm getting that, too. 19 JUDGE BYRNE: Where it's better? 20 SPEAKER: Yes. 21 JUDGE BYRNE: Okay. Just wanted 22 to check in on that. And the basis for your 23 objection. 24 MS. ELSTER: This witness hasn't 25 laid foundation about what the complaint was</p> |

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| <p>21</p> <p>1 that resulted in this resolution.</p> <p>2 JUDGE BYRNE: So why are you</p> <p>3 offering the resolution at this point?</p> <p>4 MR. WEBSTER: This was -- I</p> <p>5 wasn't even getting into the subject matter of</p> <p>6 the resolution. I was just simply asking her</p> <p>7 from her experience as secretary if she's</p> <p>8 reviewed the historical documents of Leisure</p> <p>9 World. This was in the Leisure World</p> <p>10 historical documents.</p> <p>11 JUDGE BYRNE: I think that's</p> <p>12 enough foundation. Thank you.</p> <p>13 BY MR. WEBSTER:</p> <p>14 Q. Okay. Let's go to 57 A2,</p> <p>15 please. So go towards the beginning of the</p> <p>16 binder. Well, actually, it's more in the</p> <p>17 middle and it should be called Altman/CCOC.</p> <p>18 Thank you. You got it. And Ms. Trohan, same</p> <p>19 questions when you were reviewing the</p> <p>20 historical records for Leisure World Community</p> <p>21 Corporation, did you also find these emails?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Are you familiar with the CCOC?</p> <p>24 A. Yes, I am.</p> <p>25 Q. What's your understanding of the</p> | <p>23</p> <p>1 A. Yes, I did.</p> <p>2 Q. What is this document?</p> <p>3 A. This document is a set of</p> <p>4 minutes from the Leisure World Community</p> <p>5 Corporation board meeting.</p> <p>6 Q. From when?</p> <p>7 A. From June 24, 2014.</p> <p>8 Q. Do you see under item number two</p> <p>9 chairs remarks?</p> <p>10 A. Yes.</p> <p>11 Q. What does it say there? You</p> <p>12 have to read it out loud. Just read it to</p> <p>13 yourself. Thank you.</p> <p>14 A. It's a reminder to the members,</p> <p>15 anyone present.</p> <p>16 Q. Fine.</p> <p>17 A. That's it? Okay.</p> <p>18 Q. I haven't asked you a question</p> <p>19 yet. I just wanted you to take a look.</p> <p>20 A. Sorry.</p> <p>21 Q. Do you have an understanding or</p> <p>22 -- what is your understanding of the rules</p> <p>23 relating to attendance at Leisure World</p> <p>24 Community Corporation meetings?</p> <p>25 A. Attendance?</p> |
| <p>22</p> <p>1 CCOC?</p> <p>2 A. The CCOC or the Commission on</p> <p>3 Common Ownership Communities was created to</p> <p>4 help resolve housing governance disputes. It</p> <p>5 basically cleared the court of the condominium</p> <p>6 and homeowner's complaints and problems. So</p> <p>7 they have judicial authority, and they are</p> <p>8 also engaged in training. They've set up a</p> <p>9 training program for boards. So they really</p> <p>10 work a lot with the community associations and</p> <p>11 trying to improve things.</p> <p>12 Q. Have you had CCOC training?</p> <p>13 A. I have several times.</p> <p>14 Q. Do you know who Peter Drymalski</p> <p>15 was or is?</p> <p>16 A. It's my understanding --</p> <p>17 Q. You either know or you don't.</p> <p>18 A. I don't.</p> <p>19 Q. Totally fine. Let's go ahead</p> <p>20 and look at 5788, please. VII. It should say</p> <p>21 6/24/14 meeting.</p> <p>22 A. Yes.</p> <p>23 Q. When you were reviewing the</p> <p>24 historical records for Leisure World, did you</p> <p>25 all so find this document?</p> | <p>24</p> <p>1 Q. Yes, ma'am.</p> <p>2 A. It is meetings are open to</p> <p>3 residence, owners and invited guests.</p> <p>4 Q. Are they open to anybody outside</p> <p>5 of the community?</p> <p>6 A. No.</p> <p>7 Q. Is the statement that -- it</p> <p>8 appears here and the chairs are marked, is</p> <p>9 that consistent with your understanding of how</p> <p>10 meetings have been run since you have been on</p> <p>11 the board?</p> <p>12 A. Yes.</p> <p>13 JUDGE BYRNE: We're talking</p> <p>14 board of Leisure World. Not mutual?</p> <p>15 MS. TROHAN: Yes.</p> <p>16 MR. WEBSTER: Yes, ma'am.</p> <p>17 JUDGE BYRNE: Thank you.</p> <p>18 BY MR. WEBSTER:</p> <p>19 (Exhibit 57 A10, Maryland</p> <p>20 Commission on civil rights decision, marked</p> <p>21 for identification.)</p> <p>22 Q. All right. Let's take a look at</p> <p>23 57 A10, please, which should be the Maryland</p> <p>24 Commission on civil rights decision. You got</p> <p>25 it. You can go to the top and, again, Ms.</p> |

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| <p>25</p> <p>1 Trohan, when you were reviewing -- or how did 2 you come across this document? 3 A. I was just researching through 4 the records of the corporation to find 5 anything pertinent. 6 (Exhibit 39 B, Leisure World 7 Community Corporation document, marked for 8 identification.) 9 Q. Now, I'm going to come back to 10 it. Okay. Let's do -- let's go to Exhibit 39 11 B, as in boy, which is very close to the 12 beginning of this notebook and we can start at 13 the top. Thank you very much. You've got the 14 right document. 15 Miss Trohan, we already -- you already 16 mentioned what the CCOC was. Are you familiar 17 with this document? 18 A. I am. 19 Q. Where is this document, like, 20 maintained or -- 21 A. It's maintained on the website 22 for the CCOC. 23 Q. Currently? 24 A. As is my understanding. 25 Q. The last time you checked?</p> | <p>27</p> <p>1 committee meetings and board meetings. The 2 board meetings are sent out a full week in 3 advance. Once that agenda is prepared, it is 4 also posted on the resident Leisure World 5 website so that not only do the owners have 6 the opportunity to review the agenda, but they 7 can also review the materials the board is 8 getting. 9 Q. So if there are materials that 10 are going to be reviewed at the meeting, those 11 are -- those are provided with the agenda. Is 12 that -- do I understand -- 13 A. Yes. It comes out in a PDF 14 packet. 15 Q. And that is how is that 16 distributed? 17 A. The agenda is distributed two 18 ways. We are using a board portal software. 19 There's several of them out there that helps 20 the board organize its documents. So I place 21 the agenda and the supporting documents in On 22 Board, which is the one we use. It's also put 23 on the website. There are also copies. It's 24 emailed to the board members and there are 25 also paper copies made and put out on the</p> |
| <p>26</p> <p>1 A. Last time I checked. 2 Q. Have you reviewed this document 3 in connection with your duties as secretary 4 for Leisure World Community Corporation? 5 A. Yes. 6 Q. Do you, in general, agree with 7 the guidance that it is providing in terms of 8 how you run a meeting? 9 A. Yes, in general. 10 Q. In terms of -- well, let's just 11 go ahead and look at the different -- 12 different items. If you go to the sixth or 13 last page of this document, I think it's the 14 sixth page. It starts at the top, what should 15 I know about running effective meetings? Do 16 you see that? 17 A. Yes. 18 Q. The first item that they 19 identify in the letter A is distribute 20 important materials in advance. You see that? 21 A. Yes. 22 Q. How, if at all, do you comply or 23 do you follow that recommended practice? 24 A. We go over and above that. We 25 send out the agendas for both executive</p> | <p>28</p> <p>1 administration desk so that anyone who wants a 2 paper copy and doesn't want to use their own 3 printer can just come in and pick one up. 4 Q. If I'm a resident, how can I get 5 access to those items? 6 A. You can go on the resident's 7 website portal, or you can go into the 8 administration building and pick one off the 9 pile. 10 Q. Okay. So you're saying that 11 this stuff is available on the website. Does 12 that mean anybody can access it? 13 A. No. I said it's on the 14 resident's portal of the website. That's very 15 tightly controlled. 16 Q. How? 17 A. When a person moves into Leisure 18 World, they register with security. They have 19 to show what their address is. They will get 20 access to a special tag to put on their car, 21 an RFID that will actually open the gate, and 22 they also have, you know, just the general 23 paperwork. If they want to get onto the 24 resident's website, they have to be registered 25 first. So they are not given a temporary</p> |

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| <p>29</p> <p>1 password and access until they are proven to 2 be a resident or if they're a tenant of a 3 lease. 4 Q. If, for example, Judge Byrne 5 wanted to see this material and went to your 6 website, would she be able to get to it? 7 A. No. 8 Q. Let's look at the second item. 9 Prepare and distribute an agenda. I think 10 you've already covered this, but is that an 11 action that you take in connection with your 12 duties as the secretary for Leisure World 13 Community Corporation? 14 A. Absolutely. 15 Q. The third item referenced by 16 CCOC is use rules of order. How, if at all, 17 in your actions -- 18 MS. JAYANTY: Objection. Your 19 Honor, what's the relevance of this? 20 JUDGE BYRNE: I believe -- let 21 me hear it from you why you think it's 22 relevant. 23 MR. WEBSTER: So there's this -- 24 the debate of why we're here today is why we 25 did what we did associated --</p> | <p>31</p> <p>1 the CCOC or policies and regulations 2 established within Leisure World Community 3 itself. This is all demonstrating why we did 4 what we did. That's the core of this case. 5 JUDGE BYRNE: Proceed that's -- 6 I had a feeling that's why we were going 7 through the entire process. 8 MS. SPALLUZZI: So this is the 9 line of the policies that Leisure World 10 follows? 11 MR. WEBSTER: What the witness 12 is testifying to. 13 JUDGE BYRNE: Okay. 14 BY MR. WEBSTER: 15 Q. Did they use rules of order in 16 connection with meetings of Leisure World 17 Community Corporation? 18 A. Yes, we do. Our bylaws 19 stipulate that when there's no other governing 20 authority and we're looking at procedural 21 rules, which is really what Robert's rules is, 22 that we use Robert's rules. 23 Q. And, in fact, what is the 24 published rules of order that you -- that you 25 follow at Leisure World Community Corp</p> |
| <p>30</p> <p>1 MS. JAYANTY: Your Honor, with 2 respect, when you say you did what you did, 3 can you just be more specific? Because we're 4 talking about retaliation and yesterday you 5 said hostile environment and you also said 6 harassment. So I think we want to be clear 7 about the language we're using, especially 8 legal operative terms. 9 MR. WEBSTER: Sure. 10 MS. JAYANTY: Thank you. 11 MR. WEBSTER: So the "we" that 12 I'm talking about is my client, Leisure World 13 Community Corporation, the Defendant and the 14 Respondents in this case. 15 JUDGE BYRNE: Thank you. 16 MR. WEBSTER: This information 17 -- the question of why we are here today, that 18 we, all of us here today, is Ms. Katzman's 19 allegation that we have taken certain actions 20 against her, "we" Leisure World that are 21 retaliatory. All of this information 22 demonstrates that all the actions we have 23 taken today, Leisure World, has taken today is 24 either in compliance with or specifically 25 follows rules and regulations established by</p> | <p>32</p> <p>1 meetings? 2 A. We use Robert's rules of order. 3 Newly revised. The 12th edition was published 4 in 2020. 5 Q. All right. The next recommended 6 practice from the CCOC is to write motions in 7 advance. How, if at all, do you comply or 8 follow that recommended practice? 9 A. All of our motions are written 10 in advance. They are part of the agenda 11 packet and that motion is then read by the 12 vice chair and placed on the floor. 13 Q. Who does the writing in advance? 14 A. I do mostly. I assist 15 committees and other people that have things 16 they want to present. 17 Q. Letter EE is take minutes. How 18 -- I think you've already covered this. How, 19 if at all, do you comply with this recommended 20 practice from the CCOC? 21 A. I produce minutes of all 22 meetings, whether they're closed sessions, 23 whether it's the executive committee or the 24 Leisure World Community Corporation board. 25 Q. All right. There's a lot of</p> |

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| <p>33</p> <p>1 conversation about what a minute is. Take a 2 moment and based on your experience, your 3 history, your knowledge of Robert's rules of 4 order, your role as secretary for Leisure 5 World Community Corporation, what is a meeting 6 minute?</p> <p>7 A. The minutes are actually the 8 legal record of the decisions made at a 9 meeting. So the agenda is the plan of which 10 decisions are going to be made. The minutes 11 are the record of those decisions and how they 12 came out. Robert's rules have said for many 13 times -- many years that an easy way to say it 14 is, it is what was done. Not what was said.</p> <p>15 Q. Do you follow that practice?</p> <p>16 A. Absolutely.</p> <p>17 Q. When you're talking to your 18 clients, what do you recommend to them in 19 terms of minute capture or minute reflection?</p> <p>20 A. Well, when I'm training, that's 21 one of the longstanding urban myths and I've 22 done training for also executive assistants 23 and county clerks. One of the changes in 24 Robert's rules, and I believe it was in 2020 25 or I'm sorry, 2000 in the 10th edition was</p> | <p>35</p> <p>1 the recordings, yes, they will give you the 2 discussion. That's the subjective part. That 3 may be capturing a sentence that somebody said 4 on a particular date, it may --</p> <p>5 MS. JAYANTY: Objection, your 6 Honor. With all due respect, they're 7 talking -- your Honor, this witness is talking 8 about the utility of minutes versus 9 recordings. That goes back to the question of 10 whether or not this accommodation was 11 necessary. I'm not sure how it fits into this 12 case right now, which is about retaliation. 13 It really doesn't go back to causation and 14 whether or not Leisure World discriminated 15 against her by -- or retaliated against her. 16 It seems that opposing counsel is trying to 17 relitigate the reasonable accommodation 18 decision that you've already made that Miss 19 Katzman requested recordings, not minutes 20 because she believed they were necessary to 21 her right to participate. And, therefore, 22 this testimony right now is not relevant to 23 the question of retaliation. It seems to be 24 going to a question that you've already 25 decided.</p> |
| <p>34</p> <p>1 that what they came there was that whatever 2 the chair states when the motion goes to a 3 vote is what the motion is. There is no 4 editorializing. There is no changing. And 5 when I'm training, teaching executive 6 assistants, they love that because they can 7 just take what they had and that's what it is. 8 When I teach it, I say what goes in your ear 9 before you raise your hand is what you voted 10 on is what goes in the minutes.</p> <p>11 Q. Okay. Recordings is letter F. 12 Do you see that?</p> <p>13 A. I do.</p> <p>14 Q. In connection with minutes, do 15 you believe it is appropriate to record 16 meetings?</p> <p>17 A. There is no need if you're doing 18 the job right. I absolutely don't find any 19 use to recordings at all. When I have been in 20 meetings where they were recorded, I'm 21 thinking of a particular condominium 22 association where someone was complaining 23 about something that happened, they went back 24 to the recording and there was so much noise, 25 it didn't matter. They couldn't find it, but</p> | <p>36</p> <p>1 JUDGE BYRNE: So Mr. Webster, do 2 you want to respond to that?</p> <p>3 MR. WEBSTER: So yesterday Ms. 4 Katzman testified that she needs all these 5 details. She needs all this information and 6 that as a result of us destroying historical 7 stuff that we had destroyed all kinds of 8 important information from the past when we 9 got rid of the recordings. She put this on 10 the table. Ms. Trohan is explaining why 11 recordings were not necessary and explaining 12 why that's not the purpose of them and why 13 it's not supposed to be done that way. This 14 is directly responding to the testimony that 15 Miss Katzman gave yesterday.</p> <p>16 JUDGE BYRNE: Okay. So this is 17 -- there's a clear distinction.</p> <p>18 MS. JAYANTY: Yes.</p> <p>19 JUDGE BYRNE: Between what you 20 need to create a minute and what Miss Katzman 21 wants to capture, but in all fairness, Mr. 22 Dunn talked yesterday about that he observed 23 things being tape recorded. Ms. Katzman 24 talked about recordings being completed by 25 Leisure World in the past. So because it was</p> |

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| <p>37</p> <p>1 opened up, I have no problem with -- and this 2 is, again, her observation, her opinion, 3 whether it has any bearing on the outcome or 4 not, remains to be seen. 5 MS. JAYANTY: I understand, your 6 Honor. My concern is, as counsel for the 7 Respondent just stated, this goes to the 8 question of whether she needed those minutes 9 -- 10 JUDGE BYRNE: Understood. 11 MS. JAYANTY: -- not recording, 12 and that question is not at the table. 13 JUDGE BYRNE: Agreed. 14 MS. JAYANTY: It's already 15 clear, that she needs recording -- 16 JUDGE BYRNE: Agreed. 17 MS. JAYANTY: -- for her 18 disability -- 19 JUDGE BYRNE: Agreed. 20 MS. JAYANTY: -- to take notes. 21 That has nothing to do with whether or not the 22 minutes are an adequate substitute for the 23 accommodation. 24 JUDGE BYRNE: Agreed. Agreed 25 100 percent. This is how Leisure World used</p> | <p>39</p> <p>1 everything about how Leisure World functions 2 and manages because I think that knowing that 3 will help me. 4 MS. JAYANTY: Okay, your Honor. 5 JUDGE BYRNE: Okay. So I gave 6 as much opportunity yesterday. I'm going to 7 give the same opportunity for them to continue 8 today. 9 MS. JAYANTY: And I'm going to 10 continue to object that this testimony is not 11 relevant to the retaliation claim because it 12 has to do with Leisure World's -- it may have 13 to do with Leisure World's management 14 structure and how they run meetings, but it 15 doesn't go to the fact of whether or -- why 16 they did not. What adverse effects they took 17 against Ms. Katzman, including their security 18 measures and criminalizing her for asking for 19 a reasonable accommodations. So I'd like to 20 also hear about that. 21 JUDGE BYRNE: Standing 22 objection. Noted. It's in the record. 23 Understood your position. 24 BY MR. WEBSTER: 25 Q. Thank you. Okay. Miss Katzman</p> |
| <p>38</p> <p>1 their recordings. Her opinion as to whether 2 or not the recordings were necessary. 3 MS. JAYANTY: And how does that 4 go to retaliation is what I'd like to -- what 5 does that determination signify for 6 retaliation versus -- 7 JUDGE BYRNE: For me? 8 MS. JAYANTY: Yes. 9 JUDGE BYRNE: What I would like 10 to hear is the process. What they did. How 11 they did it. Why they did it, right? So that 12 -- that is why I am allowing this testimony to 13 go through. I'm not saying her opinion on 14 whether recordings are needed or not impacts 15 the decision that I've already made, right? 16 MS. JAYANTY: -- any of them as 17 being relevant to whether -- to the 18 retaliation claim. 19 JUDGE BYRNE: I believe he's 20 laying the groundwork, and I'd like to hear 21 all of it. I want to hear everything there is 22 about Leisure World. The fact that you all 23 use Robert's rules, which I haven't heard 24 since I was in law school, is interesting to 25 me. So I want to hear -- I want to know</p> | <p>40</p> <p>1 mentioned yesterday that getting rid of the 2 minutes was some destruction of all this 3 historical data -- I'm sorry. The recordings. 4 Now I'm confused. What's your response to 5 that? 6 A. We did that on advice of 7 Counsel. There was a limited number of them 8 and those only happened because of Covid, the 9 universal problem. We didn't start using Zoom 10 for our meetings until we couldn't meet. What 11 I was saying before the objection was raised 12 is these discussions are merely the opinion of 13 one person at a particular point in time and 14 may or may not be complete or indicate why the 15 board made a decision they did. They're 16 subjective. That is what somebody said. Not 17 what the board did. The board only acts when 18 it takes a vote, and then the board acts as a 19 body. So individual remarks to me are not 20 appropriate for the minutes because they are 21 subjective. 22 Q. What is the official record of a 23 meeting of Leisure World Community 24 Corporation? 25 A. It's the minutes of the meeting</p> |

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| <p>41</p> <p>1 once they've been approved by the board.</p> <p>2 Q. And do the minutes, as taken by</p> <p>3 you at least and as you viewed them</p> <p>4 historically, comply with that concept?</p> <p>5 A. Yes.</p> <p>6 Q. And did that also comply with</p> <p>7 the record commendations of the CCOC?</p> <p>8 A. Yes.</p> <p>9 Q. And does it also comply with the</p> <p>10 recommendations of Robert's Rules of Order?</p> <p>11 A. Yes.</p> <p>12 Q. Anything in that action</p> <p>13 discriminatory or retaliatory against Miss</p> <p>14 Katzman?</p> <p>15 A. It's best practice. It was --</p> <p>16 MS. JAYANTY: Objection, your</p> <p>17 Honor. That calls for a legal conclusion.</p> <p>18 MR. WEBSTER: She answered the</p> <p>19 question. She said it's best practice. It's</p> <p>20 not discriminatory.</p> <p>21 MS. JAYANTY: Objection.</p> <p>22 JUDGE BYRNE: Okay. Let's stop</p> <p>23 the back and forth. All right. I'd</p> <p>24 appreciate that. I will take her decision</p> <p>25 that it is best practice based on her being a</p> | <p>43</p> <p>1 JUDGE BYRNE: Understood. Mr.</p> <p>2 Webster, could you just please rephrase your</p> <p>3 question to ask her about the practice?</p> <p>4 BY MR. WEBSTER:</p> <p>5 Q. Do you believe that in complying</p> <p>6 with the best practices as announced by the</p> <p>7 CCOC and Robert's Rules of Order, you were</p> <p>8 engaging in any type of discriminatory or</p> <p>9 retaliatory practice against any resident</p> <p>10 within --</p> <p>11 MS. JAYANTY: Objection again,</p> <p>12 your Honor, again.</p> <p>13 JUDGE BYRNE: Again, you're</p> <p>14 asking --</p> <p>15 Q. Do you believe you complied with</p> <p>16 best practices in handling minutes?</p> <p>17 A. Yes, I did.</p> <p>18 JUDGE BYRNE: All right. That's</p> <p>19 perfect. Thank you.</p> <p>20 MS. JAYANTY: Objection, your</p> <p>21 Honor, leading.</p> <p>22 JUDGE BYRNE: All right. Mr.</p> <p>23 Webster, could you please rephrase?</p> <p>24 BY MR. WEBSTER:</p> <p>25 Q. How do you believe, in</p> |
| <p>42</p> <p>1 member of the board and being a secretary.</p> <p>2 It's her opinion. She's not an expert. I'm</p> <p>3 not giving it that weight. She believes it's</p> <p>4 best practice.</p> <p>5 MS. JAYANTY: It's an opinion on</p> <p>6 a legal question. He asked, was this</p> <p>7 discrimination or retaliation? That was the</p> <p>8 -- could you read back the question with all</p> <p>9 respect Mr. Webster?</p> <p>10 Q. The question was, do you believe</p> <p>11 complying with these practices created a</p> <p>12 discriminatory or retaliatory action against</p> <p>13 Miss Katzman?</p> <p>14 JUDGE BYRNE: That's asking for</p> <p>15 a legal conclusion.</p> <p>16 MS. JAYANTY: -- conclusion.</p> <p>17 JUDGE BYRNE: So essentially --</p> <p>18 we'll leave it as best practice. We'll leave</p> <p>19 it as best practice. Okay?</p> <p>20 MS. JAYANTY: I would ask the</p> <p>21 Court to strike that question in full because</p> <p>22 it asked for -- it requested a legal</p> <p>23 conclusion, and the best practices response</p> <p>24 was based in response to a legal question that</p> <p>25 should not be asked of the witness.</p> | <p>44</p> <p>1 connection with your handling of minutes, that</p> <p>2 you complied with the best practices</p> <p>3 recommended by the CCOC and by Robert's Rules</p> <p>4 of Order?</p> <p>5 A. We conform to the form as is</p> <p>6 written in Robert's Rules of Order with regard</p> <p>7 to what is put into the minutes. We conformed</p> <p>8 with this -- the statement on this paper that</p> <p>9 is the CCOC and pretty much every other entity</p> <p>10 that I have been associated with.</p> <p>11 Q. Okay.</p> <p>12 JUDGE BYRNE: I think that's</p> <p>13 sufficient.</p> <p>14 Q. When you attend Leisure World</p> <p>15 Community Corporation meetings, do you believe</p> <p>16 or how do you believe, if at all, there's any</p> <p>17 privacy expectation by you personally?</p> <p>18 A. Well, it starts with the fact</p> <p>19 that you can't even get into the community</p> <p>20 unless you go through a gate. So we have a</p> <p>21 wonderful sense of security within the entire</p> <p>22 community. In fact, when I purchased our unit</p> <p>23 in 2011, it had been built in 1977. We were</p> <p>24 the second owner. There wasn't even a dead</p> <p>25 bolt on the door. So we feel with our own</p> |

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| <p>45</p> <p>1 security force and so on that we have that 2 privacy. If you want to go to a Leisure World 3 Board of Director's meeting, we have two gates 4 for that, as well. If you come into the 5 meeting in person -- 6 MS. JAYANTY: Objection. 7 Relevance. 8 MR. WEBSTER: It goes to all of 9 this is why we did, what we did relative to 10 Ms. Katzman's request. This doesn't have 11 anything to do with retaliation. We followed 12 our procedures and our practices. Our 13 meetings are closed. That's why we denied her 14 recording request. This goes right to whether 15 it was retaliatory. That's their issue. 16 MS. JAYANTY: Your Honor, Miss 17 Katzman is not accused of being a burglar. 18 This is about whether or not the Wiretap Act 19 is applicable. Whether or not they have a 20 privacy expectation. What they're talking 21 about is ground security. I'm not sure how 22 that in any way relates to a request for a 23 reasonable accommodation. 24 JUDGE BYRNE: All right. Okay. 25 We're not -- we, again, are not discussing</p> | <p>47</p> <p>1 about the layers of security or what are the 2 boundaries established within the meetings 3 themselves? Leisure World Community Corp. 4 meetings I'm talking about. 5 A. We now have hybrid meetings. We 6 were sort of forced into that like everyone 7 else was. So there are actually two ways to 8 get into the meeting. You can attend in 9 person or you can attend online. If you come 10 in in person, the administrative assistant, 11 Angela, will have a sign-in sheet. If 12 somebody walks past her, she will go and talk 13 to them and ask them where they live and what 14 the mutual is. If you are coming in online, 15 we have a waiting room set up and for the most 16 part, generally, the same people come so we 17 know their names. If you come in to the 18 meeting by telephone and there is a phone 19 number, we have an announcement on the agenda 20 that if you are going to come in by phone 21 only, you need to try to notify Angela of what 22 the number is and who you are. If you don't 23 do that, Angela will see that number. She 24 will keep you in the waiting room. She will 25 send you a text. She will try to call you,</p> |
| <p>46</p> <p>1 reasonable accommodation. Yesterday you had 2 Mr. Dunn talk about security, right? So I'm 3 fine with the reiteration of security, 4 confidentiality of meetings, but I think the 5 term reasonable expectation tends to jump ship 6 and go back to whether or not there's a 7 disability. So I'm fine with you talking 8 about the security, the process, how to get in 9 and out of meetings, all of that. That was 10 opened up yesterday with Mr. Dun. I'm fine 11 with that, but her perception of expectation 12 of privacy, I don't think it has anything 13 necessarily to do with retaliation. 14 MR. WEBSTER: I think it does, 15 but I understand what your Honor is saying and 16 we'll just move on. 17 JUDGE BYRNE: Okay. Thank you. 18 BY MR. WEBSTER: 19 Q. So let's just talk about process 20 because that's really where I was going with 21 this, anyway. 22 JUDGE BYRNE: Okay. 23 Q. One process is at the border of 24 the property, right? There's a security gate. 25 You've already talked about that. Talk now</p> | <p>48</p> <p>1 but unless you are identified, you will not 2 come into the meeting and the meeting 3 information and link is on the private 4 resident's website portal. 5 Q. If someone or what happens when 6 someone cannot verify their credentials as a 7 resident of Leisure World in terms of their 8 attendance at the meeting? 9 A. They're not allowed to be in the 10 meeting. 11 (Exhibit 57 A11, set of minutes, 12 marked for identification.) 13 Q. Okay. Let's go, please, to 14 Exhibit 57 A11 XI. All right. Miss Trohan, 15 what is this document? 16 A. This is a set of minutes of the 17 Leisure World Community Corporation Board of 18 Director's meeting from January 31, 2023. 19 Q. Okay. Background and process as 20 requested by Judge Byrne. What is the process 21 and the background of getting a resolution 22 proposed? Let me take one step back. What 23 months does Leisure World hold board meetings? 24 A. It holds a board meeting on the 25 last Tuesday of every month except for</p> |

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| <p>49</p> <p>1 December.</p> <p>2 Q. There's no meeting in December?</p> <p>3 A. There's no meeting in December.</p> <p>4 Q. Okay. What is the process to</p> <p>5 get something on the agenda for the meeting?</p> <p>6 A. In general, it is first proposed</p> <p>7 to the executive committee, who goes through</p> <p>8 it and determines and votes whether to send it</p> <p>9 to the board meeting. The chair has some</p> <p>10 discretion if something comes up, but by and</p> <p>11 large, the motions have already gone through</p> <p>12 the executive committee meeting, which is held</p> <p>13 on the Friday, 10 days prior to the board</p> <p>14 meeting.</p> <p>15 Q. And let me ask you one other</p> <p>16 question. These minutes, who prepared these</p> <p>17 minutes?</p> <p>18 A. I did.</p> <p>19 Q. Okay. If you go to the second</p> <p>20 page at the bottom, there you go. Right</p> <p>21 there. You'll see resolution number 230105.</p> <p>22 You entered that data?</p> <p>23 A. I did.</p> <p>24 Q. And this is the resolution that</p> <p>25 does what?</p> | <p>51</p> <p>1 do in October and November of 2022 relating to</p> <p>2 this pro -- what becomes this resolution in</p> <p>3 2023?</p> <p>4 A. They discussed it and voted to</p> <p>5 pass it onto the board.</p> <p>6 Q. Was there any other homework</p> <p>7 done?</p> <p>8 A. I don't understand your</p> <p>9 question.</p> <p>10 Q. For example, did the executive</p> <p>11 committee consider other sources of income to</p> <p>12 guide it on what it ultimately recommended to</p> <p>13 the board?</p> <p>14 A. The board knew what our Counsel</p> <p>15 had recommended and, in fact, I think she was</p> <p>16 at that meeting.</p> <p>17 Q. Did the executive committee also</p> <p>18 consider sources like the CCOC?</p> <p>19 A. Oh, yes.</p> <p>20 Q. What other sources did they</p> <p>21 consider?</p> <p>22 A. I think they went back to the</p> <p>23 then current policy, as well, that said you</p> <p>24 couldn't record meetings without everyone</p> <p>25 giving permission. I'm sure that they looked</p> |
| <p>50</p> <p>1 A. That clarifies and restricts</p> <p>2 recording of meetings and also is the rule</p> <p>3 that takes care of the excess recordings that</p> <p>4 were kind of around.</p> <p>5 Q. When did this concept of</p> <p>6 clarifying or updating this aspect of our --</p> <p>7 of Leisure World's policies first come up?</p> <p>8 A. This aspect first came up in</p> <p>9 October or November of 2022. We had been</p> <p>10 having some questions about other aspects of</p> <p>11 the Leisure World governance. We went out and</p> <p>12 interviewed law firms in October I believe is</p> <p>13 when we signed that contract. In November, we</p> <p>14 had a conversation and I asked the lawyer,</p> <p>15 basically, what do you think about recording</p> <p>16 meetings because I don't like it.</p> <p>17 Q. Stop there. Okay. That's fine.</p> <p>18 What internally did Leisure World do at that</p> <p>19 time, November of 2022, on this particular</p> <p>20 topic?</p> <p>21 A. We were allowing recordings, I</p> <p>22 believe -- not allowing it. We were making</p> <p>23 the Zoom recordings, which replaced the big</p> <p>24 ole camera in the room.</p> <p>25 Q. What did the executive committee</p> | <p>52</p> <p>1 at the Maryland Wiretap Act.</p> <p>2 Q. Okay, but --</p> <p>3 A. I'm saying that's what they did.</p> <p>4 Q. Just what you know. Okay.</p> <p>5 That's okay. What about your particular role</p> <p>6 and specifically the CAE, if I got that</p> <p>7 acronym correctly, position on recording? Did</p> <p>8 that come up in the context of this</p> <p>9 consideration?</p> <p>10 A. No.</p> <p>11 Q. Okay. Do you recall the vote on</p> <p>12 this motion?</p> <p>13 A. I do, but it's also a few pages</p> <p>14 back and this was part of why we wanted to</p> <p>15 confer with legal Counsel because, again, with</p> <p>16 our very unusual -- and it's on page nine of</p> <p>17 the minutes.</p> <p>18 Q. Could you advance it? Thank</p> <p>19 you.</p> <p>20 A. We have 29 mutuals.</p> <p>21 Q. There you go.</p> <p>22 A. There are 34 directors. In part</p> <p>23 that's because the first four mutuals kept</p> <p>24 four directors as four separate. We have two</p> <p>25 mutuals that are large high rises with two</p> |

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| <p>53</p> <p>1 large buildings of about 300 units each. So 2 we have a rule that at some threshold, you can 3 get an extra director on the board. So two 4 mutuels have two and Montgomery Mutual has 5 four. So the raw vote of just the number of 6 directors that is on page nine shows that 7 there were 31 directors in favor and three 8 opposed, but the actual recorded vote is on 9 the next page. And that's why we use a 10 spreadsheet, because it takes into account 11 that if, for example, if you look at 12 Montgomery Mutual, it says one vote yes. If 13 there were three to one in Montgomery Mutual, 14 that will count as one vote, yes. And the 15 other two, it's the same thing. They may 16 cancel each other out. So the actual vote in 17 the recording is 26 to three, and then it has 18 to be a majority of the number of units 19 represented. So there were 5,256 represented 20 units in favor and 404 opposed. 21 Q. Thank you. 22 JUDGE BYRNE: We had trouble 23 with math yesterday. 24 (Exhibit 39 A, agenda from the 25 January 31, 2023 meeting, marked for</p> | <p>55</p> <p>1 Q. When the deliberations were 2 discussed about this revision to the 3 clarification of the policy in October and 4 November of 2022, was Ms. Katzman included in 5 the considerations at all? 6 A. No more than any other resident 7 of the community? 8 Q. Was it considered that she had a 9 discrimination claim pending at all? 10 A. No, I didn't know about it and 11 it never came up. 12 Q. Did anybody else on the 13 executive committee mention it or have it 14 arise, or did it come up at all? 15 A. Absolutely not. 16 Q. Okay. Let's talk about books 17 and records requests for a moment, please. 18 You're aware that Miss Katzman has made 19 requests for books and records of Leisure 20 World? 21 A. Yes. 22 Q. What is your involvement in that 23 activity? 24 A. I assist with those books and 25 records requests, and we have -- I have</p> |
| <p>54</p> <p>1 identification.) 2 Q. All right. One moment. If you 3 would, all the way to 39 A, which is the very 4 -- I think it's the very first document. 5 Thank you. 6 MR. WEBSTER: Just by nature of 7 the way this came together, your Honor, it got 8 a little discombobulated. 9 Q. But Ms. Trohan, what is Exhibit 10 39 A? 11 A. Exhibit 39 A is the agenda from 12 the January 31, 2023 meeting. 13 Q. For the minutes that we just 14 reviewed? 15 A. Yes. 16 MR. WEBSTER: The Court's 17 indulgence. 18 JUDGE BYRNE: Sure. 19 Q. In October and November of 2022, 20 were you aware that Ms. Katzman had filed a 21 discrimination action? 22 A. No, I wasn't. 23 Q. Do you know the date when the 24 OZAH matter commenced? 25 A. No.</p> | <p>56</p> <p>1 advised as to how we can go forward with them. 2 Q. In connection with that, have 3 you reviewed the law, Maryland law on books 4 and records requests? 5 A. Yes, I have. 6 Q. From the simplest -- tell me 7 when you began to be involved with books and 8 records requests. 9 A. When I became secretary was the 10 first that I was really aware of them, and 11 we've had some staff changes over time. When 12 Crystal Castillo left, then I took over a lot 13 more of that responsibility until we got our 14 general counsel. 15 Q. In the past, are you familiar -- 16 Ms. Katzman testified yesterday that in prior 17 times, books and records requests were almost 18 always sent to her by way of email and PDF 19 form. Do you remember that testimony? 20 A. Yes. 21 Q. Are you aware of that prior 22 practice? 23 A. It's my understanding that was a 24 Covid practice. 25 Q. Currently, what is the practice</p> |

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15 (57 to 60)

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| <p>57</p> <p>1 of Leisure World with respect to responding to 2 books and records requests? 3 A. With responding? 4 Q. Yes. 5 A. Well, first, we created a 6 special email address so that we could track 7 them and have them come in. When a books 8 records request comes in, it is logged by the 9 administrative assistant, Angela. We then 10 look at it to see whether it's an appropriate 11 request. Is it something that we can provide 12 or not, and then we make that available. And, 13 of course, the exceptions with minutes within 14 three years must be sent in 24 -- 21 days and 15 financials, which I have been told by our 16 legal counsel that that means standard 17 financial forms. That means cash flow 18 statements or balance sheets. 19 Q. Are you done? You don't need to 20 talk about what counsel tells you. 21 A. All right. Sorry. 22 Q. The financial records -- so 23 you've highlighted minutes and financial 24 records. 25 A. Right.</p> | <p>59</p> <p>1 Q. Was Ms. Katzman one of those 2 residents? 3 A. Yes. 4 Q. First of all, how, if at all, 5 was Leisure World's responses to those 6 requests any different from one versus the 7 other? 8 A. They were the same. 9 Q. Second, how was or to the extent 10 that this other person made a books and 11 records request, did Leisure World respond to 12 that books and records request? 13 A. Yes. 14 Q. To the extent Ms. Katzman has 15 made books and records request, again, 16 confined to your time period and your 17 involvement, has Leisure World responded to 18 those books and records? 19 A. Yes, they have. 20 Q. What is the process? What is 21 the response that is given. 22 JUDGE BYRNE: I might have 23 missed the time period. So when did -- 24 MS. TROHAN: 2022. 25 JUDGE BYRNE: 2022. Okay. And</p> |
| <p>58</p> <p>1 Q. Why are you highlighting those 2 two types of documents? 3 A. Because they have the specific 4 requirement that they must be emailed on 5 request. Nothing else does. 6 Q. Emailed or mailed or delivered? 7 A. Yes. Yes. 8 Q. The other types of requests, how 9 is it that the responding agency or 10 association is allowed to make those documents 11 available to the requestor? 12 A. Well, these are our corporate 13 records, so we make them available for 14 inspection. And that can end up meaning 15 coming in and looking at them, taking pictures 16 of them, or whatever the person wants when 17 they come in. 18 Q. In terms of requests for books 19 and records while you've been involved with 20 it, how many different residents have made 21 requests for books and records that you're 22 aware of? 23 A. Since I've been involved, two. 24 Q. Two different residents? 25 A. Yes.</p> | <p>60</p> <p>1 one other quick question. The dedicated 2 email, when did that start for books and 3 records? 4 MS. TROHAN: I -- 5 JUDGE BYRNE: Before you -- 6 MS. TROHAN: About six months 7 ago. No, we -- 8 JUDGE BYRNE: It's a recent day. 9 MS. TROHAN: Yes, because -- I'm 10 not sure I can keep going go. But it was 11 because we were getting multiple requests 12 coming in on single emails and things were 13 getting confusing. And so we said, let's just 14 track every single request separately. 15 JUDGE BYRNE: Okay. 16 MS. TROHAN: So that if we get a 17 -- we need to make a response as to what 18 happened with it, we could keep track of it. 19 JUDGE BYRNE: Okay. 20 BY JUDGE BYRNE: 21 Q. Previously, would request for 22 documents come to just one person? 23 A. They came lots of different 24 ways. They might come to one person. They 25 might come to two people. They might come to</p> |

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| <p>61</p> <p>1 three people. And that's when we decided that 2 we needed to make sure that we had a better 3 control of that. We have a specific email. 4 That email goes to the administrative 5 assistant, the general Counsel and me, so that 6 we all have it.</p> <p>7 Q. Once that email comes in, what's 8 the next step?</p> <p>9 A. The next step is that the 10 administrative assistant logs that in and we 11 then begin establishing the general Counsel 12 helps us establish whether that is a record 13 that can be produced.</p> <p>14 Q. What's your understanding of the 15 law in terms of providing --</p> <p>16 MS. JAYANTY: Objection. Calls 17 for a legal opinion. She cannot speak to a 18 legal opinion.</p> <p>19 JUDGE BYRNE: You could 20 rephrase, Mr. Webster.</p> <p>21 MR. WEBSTER: I can.</p> <p>22 BY MR. WEBSTER:</p> <p>23 Q. You testified previously that 24 you were aware of the books and records law.</p> <p>25 A. Yes.</p> | <p>63</p> <p>1 something that needs to be kept private, 2 that's not a book or record that the resident 3 can ask for. Another one is, as I've been 4 made to understand, general financial 5 documents that exist, that's a record. That's 6 something we can provide. If someone says, I 7 want to know how much money has been spent on 8 the administration building since construction 9 started, they're asking us to compile a 10 report, a special report and give it to them, 11 and that's not something that we can produce 12 as a record.</p> <p>13 Q. Okay. Once that step is done 14 and you've determined that the person has 15 requested something, what do you do next?</p> <p>16 A. The request is responded to. 17 The administrative assistant, in some cases 18 where there's been a lot of requests, put 19 together all of those documents and said they 20 are available. You may come to the office to 21 inspect them. Make an appointment, please.</p> <p>22 Q. Why is that what you do? What's 23 the purpose of that?</p> <p>24 A. These are our corporate records. 25 It's not appropriate to have them go outside</p> |
| <p>62</p> <p>1 Q. Do you or what is your 2 understanding of the law in terms of is any --</p> <p>3 MS. JAYANTY: Your Honor, again, 4 it calls for a legal opinion, her 5 understanding of the law.</p> <p>6 MR. WEBSTER: I can put it in 7 front of her and have her read it if we want 8 to.</p> <p>9 MS. JAYANTY: To read the law?</p> <p>10 MR. WEBSTER: The point I'm 11 trying to make is that there are exceptions. 12 Not everything requested is obligated to be 13 provided. That's all I'm trying to say.</p> <p>14 JUDGE BYRNE: You can have her 15 testify to her knowledge of what her process 16 is. I'm fine with that.</p> <p>17 BY MR. WEBSTER:</p> <p>18 Q. Okay. And so what you had just 19 testified to Miss Trohan, as I understood it, 20 was you and your general Counsel get together 21 to determine what the appropriate response is 22 to the request?</p> <p>23 A. Yes.</p> <p>24 Q. And what does that involve?</p> <p>25 A. If it's a personnel record or</p> | <p>64</p> <p>1 of the building. We are perfectly happy to 2 let anyone look at them if they fall within 3 the purview, but otherwise, it's just -- it's 4 just not a good thing to do with corporate 5 records.</p> <p>6 Q. You've answered it.</p> <p>7 A. Thank you.</p> <p>8 Q. With respect to charging for 9 these records, what is Leisure World's policy 10 with respect to charging for the records?</p> <p>11 A. Leisure World has had a policy 12 for several years that the staff time involved 13 in some cases, records that need to be 14 retrieved or acquired, going into a abasement 15 to look at minutes or something like that, 16 that there's staff time involved and that that 17 should be compensated, and then there is time 18 in the preparation, but if someone comes in 19 and they need an hour or two, that takes a 20 staff person to be there with them and that's 21 a cost.</p> <p>22 Q. To your knowledge and since the 23 time that you've been involved in this, what 24 requests by Ms. Katzman have not been 25 responded to by Leisure World?</p> |

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17 (65 to 68)

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| <p>65</p> <p>1 A. Not responded to at all?</p> <p>2 Q. Yeah.</p> <p>3 A. None.</p> <p>4 Q. To your knowledge, since you</p> <p>5 became involved, what requests by Ms. Katzman</p> <p>6 have been denied by Leisure World?</p> <p>7 A. There have been personnel</p> <p>8 requests, but by and large, even when it was</p> <p>9 requested that we create a report, we've</p> <p>10 actually bent over backwards to comply and do</p> <p>11 it.</p> <p>12 Q. Are you aware as you sit here</p> <p>13 right now of any unresponded to requests for</p> <p>14 documents by Miss Katzman to Leisure World</p> <p>15 Community Corporation?</p> <p>16 A. No, I'm not.</p> <p>17 Q. Did you -- with your role and</p> <p>18 your involvement, did you ever see an instance</p> <p>19 where Leisure World treated Ms. Katzman's</p> <p>20 requests for books and records any differently</p> <p>21 from any other resident's request?</p> <p>22 A. No.</p> <p>23 Q. When you attend meetings, have</p> <p>24 you attended meetings for Leisure World,</p> <p>25 either committee or board, where Ms. Katzman</p> | <p>67</p> <p>1 Q. What did you observe?</p> <p>2 A. Just that she had her computer</p> <p>3 open.</p> <p>4 Q. Have you ever observed her</p> <p>5 typing at meetings?</p> <p>6 A. Oh, yes.</p> <p>7 Q. The times when you saw a Chair,</p> <p>8 either of a meeting or of a board, lose their</p> <p>9 patience with Miss Katzman, was it any</p> <p>10 different than the Chair losing their patience</p> <p>11 with any other resident during those meetings?</p> <p>12 A. No.</p> <p>13 Q. Give a little bit of -- or what</p> <p>14 can you tell us about that?</p> <p>15 A. We have a very liberal open</p> <p>16 forum policy where most groups would put</p> <p>17 something at the end of the agenda. We</p> <p>18 literally allow residents to speak on each</p> <p>19 motion before it's voted on. So we have seen</p> <p>20 cases where someone might go on too long.</p> <p>21 They might be, as I said, combative. They</p> <p>22 might be accusatory. In general when a Chair</p> <p>23 has said, stop, stop, it's been when they've</p> <p>24 overrun their time or have talked over someone</p> <p>25 or have more or less demanded attention.</p> |
| <p>66</p> <p>1 was present?</p> <p>2 A. Yes.</p> <p>3 Q. What interactions have you had</p> <p>4 with Ms. Katzman?</p> <p>5 A. Very few. I have seen that</p> <p>6 she's online. If she's in a Zoom meeting.</p> <p>7 Q. What do you observe of Miss</p> <p>8 Katzman at these meetings? How is her</p> <p>9 behavior or any other actions? What do you</p> <p>10 observe?</p> <p>11 A. She can sometimes be combative</p> <p>12 and I've seen Chairs lose their patients.</p> <p>13 MS. JAYANTY: Objection.</p> <p>14 Speculation.</p> <p>15 MR. WEBSTER: She said I've</p> <p>16 seen.</p> <p>17 MS. JAYANTY: She's seen Chairs</p> <p>18 lose their patience?</p> <p>19 MR. WEBSTER: That's what she</p> <p>20 said.</p> <p>21 BY MR. WEBSTER:</p> <p>22 Q. Have you -- strike that.</p> <p>23 Have you observed Miss Katzman using a</p> <p>24 computer at meetings?</p> <p>25 A. Yes.</p> | <p>68</p> <p>1 Q. With respect to Miss Katzman in</p> <p>2 particular, what were the circumstances, if</p> <p>3 you can recall, when the Chair lost their</p> <p>4 patience with Miss Katzman? Was it</p> <p>5 circumstances where she had run over time or</p> <p>6 any of the other examples that you just gave?</p> <p>7 A. It was basically the examples I</p> <p>8 gave. There was -- there were remarks that</p> <p>9 were made. Sometimes they were accusatory.</p> <p>10 Sometimes they were asking for answers for</p> <p>11 things and if the Chair said, okay, we'll take</p> <p>12 that under advisement, there would be a</p> <p>13 demand, no, you need to answer my question now</p> <p>14 and then the Chair would say, that's it.</p> <p>15 Q. Your own personal interactions</p> <p>16 with Miss Katzman, anything that you believe</p> <p>17 that you experienced that is of importance or</p> <p>18 has anything to do with what we're here to do</p> <p>19 today?</p> <p>20 A. The one incident that is -- is</p> <p>21 the one that for me stands out is, I was</p> <p>22 elected January 6th of 2022 and exactly two</p> <p>23 weeks later, we had our first executive</p> <p>24 committee meeting. So this was my first</p> <p>25 meeting with that group. We were discussing</p> |

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18 (69 to 72)

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| <p>69</p> <p>1 something I don't quite recall, but different 2 groups have their own cultures, and in the 3 nonprofit culture where I live, we often will 4 say, I'm going to ask the dumb question, which 5 basically means, I don't think everybody here 6 has all the information they need. 7 Everybody's afraid of their question being 8 dumb. There are no dumb questions and it's 9 just a phrase. Within probably 24 hours, 10 there was a post that, as I just found out 11 yesterday, went out to 500 people that was 12 very disparaging to me. Said what kind of a 13 secretary do we have? Why doesn't she know 14 how to ask smart questions? And, boy, maybe 15 we need to have the old secretary that the 16 board had before she was elected come back, 17 and I didn't appreciate that. 18 Q. And who said that? 19 A. Sheryl Katzman. 20 Q. And how did she say it? 21 A. In her blog, in her email so 22 that it went out to all of the people. 23 MS. JAYANTY: Objection, your 24 Honor. Relevance. This has nothing to do 25 with recordings that -- of any Ms. Katzman</p> | <p>71</p> <p>1 JUDGE BYRNE: Right. 2 MS. TROHAN: The general manager 3 and staff, necessary staff, I would say it's 4 not unusual to have perhaps 40 or 50 5 residents. 6 JUDGE BYRNE: Okay. Right. 7 That was my -- I guess more of my question. 8 Tell me, other than the people that have to be 9 there, you have like 40 or 50, and then what's 10 the engagement like with on an average board 11 with the residents? 12 MS. TROHAN: The people -- 13 sometimes it's a resident who's there as a 14 committee Chair on something that's going to 15 be coming up at the meeting. Most of the time 16 they are there to observe. They are allowed 17 to comment and that's it. 18 JUDGE BYRNE: Okay. And I know 19 you dealt with a lot of boards. You've been 20 on your own mutual boards. You've been on 21 this board. The engagement with Leisure World 22 residents, is it -- do you get a lot of 23 engagement, or is it topical? Is engagement 24 every single time, or is it more of a topical 25 if it's a hot button issue?</p> |
| <p>70</p> <p>1 that she -- 2 JUDGE BYRNE: No, this has to do 3 with the retaliation as to whether or not 4 Leisure World retaliated against her or is it 5 a personality issue? So I'm going to let it 6 in. 7 MR. WEBSTER: Court's 8 indulgence. 9 JUDGE BYRNE: Sure. 10 MR. WEBSTER: Okay. That's all 11 of our questions. Thank you. Thank you, Mr. 12 Trohan. 13 JUDGE BYRNE: I do have one or 14 two questions for Ms. Trohan, if that's okay. 15 MR. WEBSTER: Yes. 16 JUDGE BYRNE: You talk about 17 attendance at board meetings and different 18 groups. How many people attend different 19 board meetings either in person or online? 20 Like, as a group -- 21 MS. TROHAN: As opposed to -- 22 JUDGE BYRNE: For the normal 23 board meeting. 24 MS. TROHAN: In person, 25 generally there's 34 board members.</p> | <p>72</p> <p>1 MS. TROHAN: There are some 2 people who are at every meeting who speak at 3 every meeting. 4 JUDGE BYRNE: Okay. 5 MS. TROHAN: And there are some 6 people who just want to speak about a 7 particular topic. 8 JUDGE BYRNE: Okay. All right. 9 I was just curious about the engagement with 10 the group and the board. 11 MS. TROHAN: Yes. 12 JUDGE BYRNE: All right. Thank 13 you. There you go. Cross-examination. 14 MR. WEBSTER: You can just put 15 it off to the side. 16 MS. TROHAN: Okay. 17 JUDGE BYRNE: Before we begin, 18 Mr. Webster, how many witnesses do you have 19 today? 20 MR. WEBSTER: We have at least 21 one more, and then that might be all we do. 22 JUDGE BYRNE: Okay. All right. 23 I'm just thinking time. That's all. Thank 24 you. 25 MR. WEBSTER: We'll be done</p> |

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19 (73 to 76)

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| <p>73</p> <p>1 today without any worry, if that was your 2 concern. 3 JUDGE BYRNE: That was. Thank 4 you. 5 CROSS-EXAMINATION 6 BY MR. SHARDELOW: 7 Q. Good morning, Mr. Trohan. 8 A. Good morning. 9 Q. So I'd like to start with the 10 resolution that was passed on January 31, 11 2023, correct? 12 A. Yes. 13 Q. And you said that you had 14 meetings to discuss the justifications for 15 this resolution in October and November of 16 2022, correct? 17 A. They were not official meetings. 18 These were like an agenda planning meeting. 19 Something to look at what we should do. I was 20 conferring with Counsel. 21 Q. Correct, but that was made in 22 2022, correct? 23 A. Yes. 24 Q. Okay. And Miss Katzman 25 requested her reasonable accommodation before</p> | <p>75</p> <p>1 Q. Eight. 2 A. Okay. 3 Q. Could you read the last sentence 4 of the first paragraph? 5 A. Yes. However, barring any legal 6 prohibition, recordings will be allowed if the 7 announcement is made by the person doing the 8 recording that the meeting is being recorded. 9 Q. And this was passed by the full 10 board, correct? 11 A. Yes. 12 Q. Could we pull up Exhibit 57 A? 13 JUDGE BYRNE: Which 57 A? 14 MR. SHARDELOW: Oh, sorry. It's 15 the CCOC email, and I'm not sure what the 16 title of it is. 17 JUDGE BYRNE: 57 A2. Thank you. 18 BY MR. SHARDELOW: 19 Q. Can you scroll down on this? So 20 this was an email between Marian Altman and 21 the CCOC, correct? 22 A. Uh-huh. Yes. Sorry. 23 Q. Thank you. And do you see the 24 paragraph below, the lower paragraph? 25 A. You're saying the last paragraph</p> |
| <p>74</p> <p>1 that, correct? 2 A. I don't know. 3 Q. You didn't hear her testimony 4 yesterday about this issue? 5 A. I'm supposed to only talk about 6 what I know. 7 Q. Were you not made aware of the 8 reasonable accommodation request made and the 9 complaint that she filed with the OHR after 10 you became a board member in 2022? 11 A. When I became a board member in 12 2022, I was aware that there might be 13 something on the periphery, but that complaint 14 sat until the end of 2022. I became aware of 15 it when and I -- I apologize. I don't know 16 all the acronyms, but whenever that 17 determination came out at the end of December 18 2022. 19 Q. So you are aware? 20 A. I am now, yes. You were asking 21 about a timeframe that was different. In 22 October and November, I was not aware. 23 Q. Could we pull up the Bessel 24 resolution that's Exhibit 57 A? 25 A. Thank you. Eleven?</p> | <p>76</p> <p>1 on the page? 2 Q. Yes. 3 A. Yes. 4 JUDGE BYRNE: Do you need them to go 5 down a little? 6 MR. SHARDELOW: No. 7 JUDGE BYRNE: Is that the right 8 one? 9 MR. SHARDELOW: Yes. 10 BY MR. SHARDELOW: 11 Q. And could you read the first 12 clause of that last sentence? 13 A. The first sentence, the quote 14 starting the board? 15 Q. Sorry. So on the last 16 paragraph, could you read that first part of 17 the last sentence of that paragraph starting 18 with members. 19 A. Members should not attempt to 20 record a meeting without the permission of the 21 Board or Committee involved. 22 Q. And that's good. 23 A. Okay. 24 Q. Is this different from the 2011 25 resolution that we just read?</p> |

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20 (77 to 80)

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| <p>77</p> <p>1 MR. WEBSTER: I'll object to the 2 speculation and I don't know the opinion, but 3 if you can read the documents and we can 4 compare them ourselves. 5 MR. SHARDELOW: Your Honor, she 6 just read from the document of the resolution. 7 JUDGE BYRNE: I think the words 8 are different. So I think you've established 9 that this sentence is different from that 10 sentence. Okay? 11 BY MR. SHARDELOW: 12 Q. Was this email ever codified 13 into a resolution passed by the full board? 14 A. Not that I'm aware of because 15 the resolution that was adopted was very close 16 to the same timeframe. I think it said March 17 11th and this says March 17th. The board set 18 the policy in 2011. 19 Q. So it's true that a requirement 20 of consent to record, as it says up here, was 21 not passed by full board resolution? 22 MR. WEBSTER: Object to the 23 interpretation. The Bessel resolution says 24 what it says. 25 JUDGE BYRNE: I think the Bessel</p> | <p>79</p> <p>1 reviewed those in preparation for her work on 2 the board, but the connection and the 3 difference, I don't think she testified to 4 knowing why it was different. Is that where 5 you're going? Am I missing something? 6 MS. JAYANTY: Your Honor, I 7 believe that she is appearing here as a 8 representative of the board, and thus, her 9 knowledge is not just limited to her own 10 personal knowledge. We can ask her about 11 board activities and its history, as her 12 attorney should have prepped her if she is 13 supposed to be a point person to speak to the 14 board. They can't have her speak to 15 activities that occurred prior to her being on 16 the board and then say that she doesn't have 17 the personal knowledge about those activities, 18 too. They can't have both ways. 19 JUDGE BYRNE: To the extent that 20 you know, there a distinction between the -- 21 why does the 2011 Bessel resolution say what 22 it says and then this say what it says? 23 MR. WEBSTER: If you know. 24 JUDGE BYRNE: To the extent -- I 25 mean, to the extent --</p> |
| <p>78</p> <p>1 resolution does speak to that. It is 2 definitely different from that. If she has 3 knowledge of anything that happened in 2011 or 4 why the wording is different, she can testify 5 to that. If she doesn't, she can't. 6 MS. ELSTER: Your Honor, this 7 witness previously mentioned that she looked 8 at the resolution as part of her report of 9 being a member of the board and getting 10 familiar with all of the policies. So this 11 witness is aware of that report and did 12 testify towards it earlier. 13 JUDGE BYRNE: She did testify to 14 the fact that she reviewed it. That she was 15 aware of it. So I think you've established 16 that point in that, yes, this is different 17 from what was passed by the board, but she has 18 no personal knowledge and I don't think she 19 testified to why or -- why that was passed in 20 2011. So how can she speak to that? Like, 21 that's what I'm struggling with and I don't 22 think she testified to why it was passed or 23 the basis behind it. She testified to knowing 24 that this email existed and knowing that the 25 2011 Bessel resolution existed and that she</p> | <p>80</p> <p>1 MS. JAYANTY: As a board member, 2 have you -- do you or does the board have an 3 understanding of the difference between this 4 and the prior resolution? 5 MR. WEBSTER: So I'm going to 6 object. Just I think one person crossing at a 7 time. That's all we need. Also, secondly, 8 just for clarity, Ms. Trohan is the secretary. 9 Her testimony was about the documents that 10 existed in the record for LWCC. She did not 11 testify as to what happened in 2011. She said 12 she wasn't even nominated to the board until 13 much later in time. Didn't even move into -- 14 SPEAKERS: (Crosstalk.) 15 MR. WEBSTER: -- the documents 16 say what they say. I don't know -- 17 JUDGE BYRNE: Okay. Hold on. 18 MR. WEBSTER: I don't know where 19 else she can go with these questions, but they 20 can try. 21 JUDGE BYRNE: I agree with the 22 one person crossing at a time. I agree with 23 that. So, Mr. ShardeLOW, if you'd like to ask 24 the question again. I think you were -- you 25 were walking through -- you reviewed the 20 --</p> |

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21 (81 to 84)

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| <p>81</p> <p>1 correct me if I'm wrong. I want to make sure 2 that I'm capturing what you're trying -- where 3 you're trying to go and so there was a 2011 4 resolution. She testified to that. We have 5 these emails. I think your question was why 6 did the board not specifically, in its 7 resolution, talk about recording. Is that -- 8 is that accurate? 9 MR. SHARDELOW: About consent. 10 Yes. 11 JUDGE BYRNE: Right. So that 12 consent word is mentioned, right? So ask your 13 question again, and let's -- let's see what 14 she knows to the extent that she knows. I'm 15 sorry. I kinda threw you under the bus a 16 little bit there. Take your time. 17 BY MR. SHARDELOW: 18 Q. So the 20 -- this 2011 email 19 states a requirement of consent to record? 20 A. The 2011 email is that. It's an 21 email. The other was an action of the board. 22 I don't see them as anywhere near the same 23 document on the surface. 24 Q. Could you pull up Exhibit 57 A9, 25 please? So this is a 2013 memo from Thomas</p> | <p>83</p> <p>1 BY MR. SHARDELOW: 2 Q. No, no. You're fine. could you 3 read the last sentence of the first page? 4 A. Yes. Absent an express 5 statutory or contractual right to record open 6 meetings, we conclude that meetings may not be 7 recorded without the permission of the board. 8 Q. Is a reasonable accommodation a 9 statutory right? 10 MR. WEBSTER: Object to the 11 legal conclusion. 12 BY MR. SHARDELOW: 13 Q. Do you know whether a reasonable 14 accommodation is a statutory right? 15 MR. WEBSTER: As a layperson 16 or -- 17 JUDGE BYRNE: Yes. 18 Q. Yes. 19 A. Yes. 20 MR. WEBSTER: How's it relevant? 21 JUDGE BYRNE: I'm going to go 22 ahead. As a layperson, do you know or do you 23 not know if a reasonable -- is a reasonable 24 accommodation and statutory provision? 25 MS. TROHAN: My expertise is in</p> |
| <p>82</p> <p>1 Shield who was an attorney representing 2 Leisure World; is that correct? 3 A. Yes. 4 Q. And this memo is advising 5 Leisure World on whether individuals have the 6 right to record audio or video of board 7 meetings; is that correct? 8 MR. WEBSTER: So I'm going to 9 object. This was not covered in direct and I 10 think his limited scope of cross is to 11 whatever we covered in direct to talk about 12 this and, again, it predates her. 13 JUDGE BYRNE: He's right. Is 14 there a reason why you're referencing this 15 document based on her testimony? 16 MR. SHARDELOW: No, your Honor. 17 JUDGE BYRNE: Okay. 18 MR. SHARDELOW: Well, sorry, 19 your Honor. This is related to their 20 recording policy, so it is relevant to their 21 direct examination. 22 JUDGE BYRNE: Okay. I'm going 23 to go ahead and allow it. 24 MS. TROHAN: Sorry. I have to 25 get back to it.</p> | <p>84</p> <p>1 governments and not in things outside of that. 2 Like, accommodations. 3 BY MR. SHARDELOW: 4 Q. So did the board follow this 5 policy of Mr. Shields? 6 MR. WEBSTER: Object to the 7 form. Can you put some time on it is what I'm 8 -- it's ambiguous. 9 Q. Okay. When you were a part of 10 the board, did they follow this policy at all? 11 MR. WEBSTER: I'm going to 12 object. Can you clarify which policy, please? 13 Are you talking about the Tom shield letter or 14 are you talking about -- 15 BY MR. SHARDELOW: 16 Q. Yes, the Thomas Shield letter. 17 A. That's not a policy. This is an 18 opinion by someone, but it does not govern the 19 board. An email does not override actions of 20 the board that were taken in a meeting. So 21 the only thing governing at that point in time 22 was the March 11th -- March 2011 policy that 23 the board adopted specifically saying that if 24 you wanted to record, it had to be -- I 25 believe that's the one that said everyone had</p> |

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22 (85 to 88)

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| <p>85</p> <p>1 to agree.</p> <p>2 Q. So I just want to clarify. The</p> <p>3 only thing governing recordings in terms of</p> <p>4 the official policy of the board was the one</p> <p>5 in 2011, going up until 2023 when a new</p> <p>6 resolution was passed?</p> <p>7 A. Yes.</p> <p>8 Q. Could we pull up Exhibit 39 B?</p> <p>9 That's the CCOC document. So this is a CCOC</p> <p>10 guidance document published in 2018, correct?</p> <p>11 A. I don't see a date on it, but</p> <p>12 I'll trust you.</p> <p>13 Q. You said you reviewed this</p> <p>14 document?</p> <p>15 A. Yes.</p> <p>16 Q. And you said you agree with the</p> <p>17 guidance from this document?</p> <p>18 A. I said I was in general</p> <p>19 agreement with it. This is in --</p> <p>20 Q. Is that a -- I'm sorry.</p> <p>21 A. Generally the advice given here,</p> <p>22 I agree with it. Do I agree with every word?</p> <p>23 I can't say that. And I didn't review it as</p> <p>24 anything other than an informational handout</p> <p>25 by an agency to assist community corporation</p> | <p>87</p> <p>1 2023?</p> <p>2 MR. WEBSTER: Object to the</p> <p>3 requirement or the questions seeking legal</p> <p>4 opinion communication.</p> <p>5 JUDGE BYRNE: You can't ask her</p> <p>6 what her lawyer told her.</p> <p>7 BY MR. SHARDELOW:</p> <p>8 Q. Did you seek out legal advice in</p> <p>9 how this document connects in any way to</p> <p>10 reasonable accommodations?</p> <p>11 MR. WEBSTER: Hold on. I'll</p> <p>12 object to vague. Put a timeframe on it and</p> <p>13 then it might be okay. At what point in time?</p> <p>14 Q. When developing the 2023</p> <p>15 resolution, did you consult this document in</p> <p>16 relation to reasonable accommodation policies?</p> <p>17 A. I was consulting with an expert</p> <p>18 in governance. This is an informational</p> <p>19 handout, so it did not come into play because</p> <p>20 that was not what we were doing. This is</p> <p>21 assisted, but I was talking to the lawyer who</p> <p>22 was the expert.</p> <p>23 MS. ELSTER: Court's indulgence,</p> <p>24 your Honor.</p> <p>25 JUDGE BYRNE: Sure.</p> |
| <p>86</p> <p>1 boards in their meetings.</p> <p>2 Q. So that's a yes?</p> <p>3 A. No, it's not.</p> <p>4 Q. Could we --</p> <p>5 JUDGE BYRNE: It is -- go ahead.</p> <p>6 Keep going.</p> <p>7 Q. Could we scroll down to the last</p> <p>8 page? Could you scroll all the way down to</p> <p>9 the bottom? Thank you. Could you read the</p> <p>10 entire last paragraph of that document?</p> <p>11 A. There's -- oh, I'm sorry.</p> <p>12 Q. No. You're fine.</p> <p>13 MR. WEBSTER: Very last page.</p> <p>14 A. Very last page I'm sorry. I was</p> <p>15 not on -- yes. Of course. The information</p> <p>16 provided here should not be construed as legal</p> <p>17 advice. The specific facts of a given</p> <p>18 situation or subsequent change in the law may</p> <p>19 dictate a course of conduct other than as</p> <p>20 described in here -- herein. When in doubt</p> <p>21 consult with legal Counsel.</p> <p>22 Q. Did legal Counsel ever mention</p> <p>23 this paragraph with you when you were trying</p> <p>24 to figure out -- when you were trying to</p> <p>25 figure out your recording policy in 2022,</p> | <p>88</p> <p>1 Q. Did you ask them how your</p> <p>2 recording policy interacted with reasonable</p> <p>3 accommodation law?</p> <p>4 MR. WEBSTER: So I'm going to</p> <p>5 object to the extent that it's -- I think he's</p> <p>6 asking what she asked Counsel. I think what</p> <p>7 Counsel says back to her is certainly off</p> <p>8 limits. I think we're getting really close.</p> <p>9 When we're talking about an interchange of</p> <p>10 information back and forth between Counsel and</p> <p>11 the client, I think even the questions that</p> <p>12 the client is asking is a protected statement.</p> <p>13 So I --</p> <p>14 JUDGE BYRNE: I'm going to let</p> <p>15 you go ahead and respond, even though -- sure.</p> <p>16 MS. JAYANTY: Your Honor, I do</p> <p>17 agree that this is close to the line of</p> <p>18 privilege; however, we are asking what Ms.</p> <p>19 Trohan, as a board of director did in terms of</p> <p>20 Ms. Katzman's reasonable accommodation</p> <p>21 request, and she already opened the door to</p> <p>22 acknowledging that she relied on Counsel. So</p> <p>23 all we're asking is whether in seeking</p> <p>24 Counsel, she took into consideration</p> <p>25 disability law at federal and state level,</p> |

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23 (89 to 92)

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| <p>89</p> <p>1 since those are the purpose of this hearing 2 today, retaliation. We're not asking for what 3 Counsel told her on that, but if whether or 4 not when she sought Counsel, she asked about 5 how the law interacted with reasonable 6 accommodations because that is the issue at 7 hand is whether or not this Wiretap Act could 8 fail or hold against a reasonable 9 accommodation request. That has been their 10 justification. I'm assuming that if you're 11 seeking legal Counsel, you would not only want 12 to know one state of the law, but how the law 13 interacts with other laws, which is the duty 14 of Counsel to advise upon. So we just want to 15 be clear that when she sought Counsel, that 16 they -- that she -- what she was asking for 17 specifically as it relates to this particular 18 case, which is the relationship between the 19 Wiretap Act or recording policies and 20 reasonable accommodations. 21 JUDGE BYRNE: I understand where 22 you're coming from, but it's really close. 23 It's really close to the line. I think Miss 24 Trohan already testified that she didn't know 25 about Ms. Katzman's reasonable accommodation</p> | <p>91</p> <p>1 Counsel on the question of the recording. 2 JUDGE BYRNE: No, she did not. 3 MS. JAYANTY: She opened up the 4 door, your Honor. 5 JUDGE BYRNE: When she said she 6 discussed with Counsel, it doesn't mean that 7 she gets to tell us -- 8 MS. JAYANTY: What -- 9 JUDGE BYRNE: -- what she 10 discussed with Counsel. 11 MS. JAYANTY: She said she 12 directly went to Counsel around devising the 13 Wiretap Act law, correct? Around their -- 14 around their policy for 2023. 15 JUDGE BYRNE: We're going to 16 stop. We're going to stop, all right? I hear 17 exactly what both of you were saying. I'm 18 going to limit your response to -- I just -- 19 I'm really uncomfortable with opening advice 20 of Counsel. I'm just trying to see if there's 21 a way to word it in such a way as to not 22 engage the back and forth between client and 23 attorney. I understand your concern. I 24 understand where you're coming from. So, Mr. 25 Webster.</p> |
| <p>90</p> <p>1 issue until the end of December. I think the 2 discussions on drafting the resolution 3 occurred in October and November. 4 MS. JAYANTY: But the board of 5 directors is not just Ms. Trohan. 6 JUDGE BYRNE: Under -- 7 MS. JAYANTY: She's not here to 8 testify on her. She's here to testify on 9 whether or not the board had knowledge of 10 reasonable accommodation, and they all -- we 11 have testified that many members before Ms. 12 Trohan joined the board in 2022 already knew 13 of this reasonable accommodation. They can't 14 use the Wiretap Act and as the reason for 15 denying her and then avoid a conversation 16 about reasonable accommodations at all. If 17 they're -- if they're seeking Counsel, I 18 assume that they would seek Counsel on both 19 questions. 20 JUDGE BYRNE: Mr. Webster, 21 anything you'd like to say? 22 MR. WEBSTER: It's all 23 attorney/client communication. All of it. 24 MS. JAYANTY: She waived the 25 privilege when she testified that she went to</p> | <p>92</p> <p>1 MR. WEBSTER: If the question 2 is, did Miss Trohan talk with other members of 3 the board outside of Counsel about the impact 4 of housing discrimination loss, Fair Housing 5 Act or reasonable accommodations in the 6 context of developing this policy, I think 7 they can ask that question, but that's a 8 different question than asking about what she 9 talked about with Counsel. So maybe that's 10 the distinction. 11 JUDGE BYRNE: I agree. I think 12 that's a -- I think that's walking the line a 13 little better. I'm a little more comfortable 14 with that. So the discussion of the question 15 is, did reasonable accommodation, did 16 disability law, did any of that come up during 17 the development of this resolution, as you 18 discussed it with other board members? 19 MS. TROHAN: It did not. 20 JUDGE BYRNE: All right. I 21 think that's -- I think that's as close as 22 we're going to get. All right. 23 MS. JAYANTY: Court's 24 indulgence. 25 JUDGE BYRNE: Sure. No problem.</p> |

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24 (93 to 96)

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| <p>93</p> <p>1 Everybody at home hearing us okay? I'm just 2 checking in because I know I probably only 3 have my microphone on 50 percent of the time 4 that I've talked, so I apologize for that. 5 I'm just checking with Nana. Okay. It seems 6 everything's okay. 7 BY MR. SHARDELOW: 8 Q. Does the board now have a policy 9 regarding reasonable accommodations? 10 A. No. 11 Q. Are you aware prior to your time 12 on the board whether -- if they had any 13 accommodations of policy? 14 MR. WEBSTER: Reasonable 15 accommodations? 16 Q. Yes, reasonable accommodations. 17 A. It's my understanding that those 18 are handled on a case-by-case basis and there 19 isn't one overarching policy that -- 20 MS. JAYANTY: Indulgence, your 21 Honor. 22 JUDGE BYRNE: Sure. 23 BY MR. SHARDELOW: 24 Q. The 2023 recording resolution 25 destroyed all prior recordings, correct?</p> | <p>95</p> <p>1 A. However, barring any legal 2 prohibition, recordings will be allowed if the 3 announcement is made by the person doing the 4 recording that the meeting is being recorded. 5 MR. WEBSTER: That's all. Thank 6 you. 7 JUDGE BYRNE: All right. So I 8 think you're excused, Mr. Trohan. Thank you 9 for time. 10 MR. WEBSTER: The Respondent 11 would -- want to go ahead and move to the next 12 witness? 13 JUDGE BYRNE: I think so. If we 14 do lunch at one. I think -- is that okay with 15 everybody? Does anybody need a break? Are we 16 good? Can we just keep going? I know I just 17 said, like, 60 things at once. 18 MS. JAYANTY: All right. 19 MR. WEBSTER: The Respondents 20 call Dr. Patricia Hemstead. 21 JUDGE BYRNE: Okay. 22 MS. JAYANTY: Are we going to 23 take a bathroom break? 24 MR. WEBSTER: Would you like to 25 take a break?</p> |
| <p>94</p> <p>1 A. Yes. 2 Q. That includes recordings in 3 2019? 4 A. I don't know exactly when the 5 recordings themselves were made. These were 6 specifically the recordings that were made on 7 Zoom. So I know they would have started when 8 Covid started and the board stopped meeting in 9 person. 10 MR. SHARDELOW: No further 11 questions, your Honor. 12 JUDGE BYRNE: Okay. Thank you. 13 Any rebuttal, Mr. Webster? 14 MR. WEBSTER: One question. 15 REDIRECT EXAMINATION 16 BY MR. WEBSTER: 17 Q. If you would please look at 18 Exhibit 57 A7, the Bessel resolution. 19 A. Okay. Yes. 20 Q. And I think -- I think maybe Mr. 21 Shardelow asked you this, but I -- and I 22 forgive me if I did. Starting with the word 23 "however" in the first paragraph towards the 24 bottom of it, would you please read that 25 sentence?</p> | <p>96</p> <p>1 JUDGE BYRNE: I wouldn't mind. 2 MS. JAYANTY: Let's do it 3 because we might be here another hour. 4 JUDGE BYRNE: I'll be very 5 quick. 6 (Off the record.) 7 JUDGE BYRNE: Welcome back. We 8 are back on the record. You guys good? 9 Everybody in? All right. We are back on the 10 record. And now we have, Mr. Webster, your 11 second witness. 12 MR. WEBSTER: Thank you, your 13 Honor. The Respondent calls Dr. Patricia 14 Hemstead. 15 JUDGE BYRNE: Miss Hemstead, 16 could you raise your right hand for me, 17 please? Do you promise to tell the truth, the 18 whole truth, and nothing but the truth? 19 DR. HEMSTEAD: I do. 20 PATRICIA GAIL HEMSTEAD, 21 after having been first duly sworn, was 22 examined and testified as follows: 23 JUDGE BYRNE: Okay. And would 24 you mind spelling your first and last name for 25 our court reporter?</p> |

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| <p>97</p> <p>1 DR. HEMSTEAD: Patricia, 2 P-A-T-R-I-C-I-A, Gail, G-A-I-L, Hemstead, 3 H-E-M-S-T-E-A-D. 4 JUDGE BYRNE: Thank you. 5 DIRECT EXAMINATION 6 BY MR. WEBSTER: 7 Q. You're doing great, keeping your 8 voice up. I know people have said that we 9 need to try to be louder. So just try to keep 10 that in mind when you're going through this. 11 Good morning. Dr. Hemstead, where do you 12 live? 13 A. I live at 3100 North Leisure 14 World Boulevard, Apartment 1004 in Leisure 15 World. 16 Q. And how long have you lived in 17 Leisure World? 18 A. Eight-and-a-half years. 19 Q. Do you remember the year when 20 you moved in? 21 A. Yes. September 2015. 22 Q. Okay. A little bit about your 23 background, please. What's your educational 24 background? 25 A. Well, I have a bachelor's degree</p> | <p>99</p> <p>1 Q. When you moved to Leisure World 2 in 2015, did you get involved in any of the 3 boards either for your mutual or for Leisure 4 World as a whole at that time? 5 A. Well, not right away, but in 6 October of 2016, there was a vacancy on the 7 board and I was encouraged to run and I was 8 elected. So I've been a member of my mutual 9 board since 2016. 10 Q. So for clarification, the board 11 that you're referring to there was for your 12 mutual? 13 A. For my mutual, correct. 14 Q. And that was 2016? 15 A. Yeah, October. 16 Q. Did there come a time when you 17 became also elected to the Leisure World 18 Community Corporation board? 19 A. Yes. That was in January 2020. 20 Q. Start with your mutual board. 21 What positions have you held within the mutual 22 board that you served on? 23 A. Well, I was just a director for 24 the first couple of years, and I think it was 25 in 2020 that I became -- 2019 that I became</p> |
| <p>98</p> <p>1 with a major in chemistry. I have a doctoral 2 degree from the University of London with -- 3 in microbial genetics and I have a master of 4 business administration with concentration in 5 marketing, finance and accounting. 6 Q. Are you retired? 7 A. I am. 8 Q. What did you do before you 9 retired for a vocation? 10 A. Well, I've actually had three 11 careers. I started out as a university 12 professor, science person, and that was for 13 about 20 years and that's when I went back to 14 school to get my MBA. And then after knocking 15 around for a couple of years doing odd things, 16 I ended up as executive director of an 17 association representing municipal governments 18 in one of the provinces of Canada. Was a 19 turnaround situation. I had great fun, and 20 then when I had completed that task, I moved 21 to California to be closer to my parents who 22 were aging and not doing well. And I became a 23 personal financial adviser with Ameriprise 24 Financial, and I did that until the end of 25 2015 when I retired.</p> | <p>100</p> <p>1 president. I'm sorry. I'm not sure I 2 remember. 3 Q. That's all right. That's all 4 right. So you were president of the board for 5 your mutual? 6 A. Yes, and I still am. 7 Q. Still are. Within the Leisure 8 World Community Corporation board, first of 9 all, let's start low. Committees. Have you 10 served on any committees for the Leisure World 11 Community Corporation boards? 12 A. Yeah, that's actually where I 13 started. In terms of Leisure World, I was on 14 the advisory standing committee or the audit 15 standing committee, the insurance standing 16 committee, the physical properties department 17 standing committee, and I was on the community 18 planning committee and I became chair of that 19 somewhere around the early summer of 2019. 20 Q. All of those committee 21 opportunities, can you be -- let me ask this. 22 What are the requirements to be on a committee 23 in terms of also being on the Leisure World 24 Community Corporation board? 25 A. There are no restrictions until</p> |

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| <p>101</p> <p>1 -- unless and until you are elected as an 2 officer, and then you have to resign. So I 3 resigned all of those memberships when I 4 became Chair in July of 2022. 5 Q. Okay. And so -- and that's 6 just, again, from a contact standpoint, you're 7 the president of your mutual and you're 8 serving on your mutual board, you're also 9 serving on a number of committees for the 10 Leisure World Community Corporation, and then 11 at some point you also joined the Leisure 12 World Community board, correct? 13 A. Yeah. That was in January of 14 2020. Yes. 15 Q. And when did you become Chair of 16 the Leisure World Community Corporation board? 17 A. July of 2022? 18 Q. And what's your current position 19 on the Leisure World Community Corporation 20 board? 21 A. I'm Chair. 22 Q. And what's your current position 23 on your mutual board? 24 A. I'm still president there. 25 Q. All right. Good. Have you</p> | <p>103</p> <p>1 secretary, the vice chair and the chair, and 2 in addition to that, there are four at large 3 members. All of the executive committee are 4 board members and they are elected to those 5 positions by the board early every January. 6 Q. Let's talk for a minute about 7 powers of the Chair and your understanding of 8 what you can and cannot do, and we're going to 9 bring it to relevance. I'm anticipating an 10 objection, but let's start generally with your 11 understanding of powers and actions of the 12 chair. 13 MS. JAYANTY: Objection. Was 14 that a question. Your Honor, object to form. 15 Q. Yes. I was asking what is her 16 understanding of the powers and -- 17 JUDGE BYRNE: That's the 18 question. 19 Q. And actions of the Chair. 20 A. Actually, the Chair doesn't have 21 very many powers at all. Not much authority. 22 I have a say in how the agendas are organized 23 and what items and in what order and so on 24 they would be brought before the board. I 25 have the ability with suitable notice to call</p> |
| <p>102</p> <p>1 served on any special committees for Leisure 2 World? 3 A. I served on the special 4 personnel committee, which was responsible for 5 leading the evaluation of the general manager 6 and ultimately led to a change in general 7 manager for the corporation. 8 Q. And time wise, can you -- 9 roughly when that was? 10 A. Oh. 11 Q. Would it help if -- 12 A. 20 -- I think -- yeah. Can you 13 help me? 14 Q. Yes. Was it prior to becoming 15 elected Chair? 16 A. Oh, yes. Absolutely. So, yes. 17 So my work on the special committee, in fact, 18 the special committee was dissolved in 19 November of 2021 when we hired a new general 20 manager. 21 Q. In your role as Chair, do you 22 also serve on the executive committee for 23 Leisure World Community Corporation? 24 A. Yes. The executive committee 25 consists of three officers. The executive</p> | <p>104</p> <p>1 special meetings. I can present as I -- I 2 have some judgment in terms of the slate of 3 members that are being proposed for the 4 various standing committees that comes to the 5 board for approval, but I have some leeway in 6 terms of who should be on those lists and -- 7 Q. How about voting? Anything -- 8 A. Oh, yeah, and I can also 9 determine the method of voting. We've had a 10 policy since Covid that if no more than six 11 members of the board are either in favor or 12 against a given motion, depending on which 13 way, you know, it's going to go, we can 14 determine that it is either approved or fails 15 by general consent. If there are six or more 16 that are opposite to the majority, I have to 17 call a rollcall vote, but I have the option, 18 if it is a particularly significant issue, to 19 request a rollcall vote, even if the outcome 20 is clear before that, in order for clarity and 21 so that it's obvious. It adds gravity to 22 particularly important motions. 23 Q. What actions in terms of 24 policies or resolutions or those sorts of 25 things can you take unilaterally as Chair?</p> |

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27 (105 to 108)

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| <p>105</p> <p>1 A. None. I have no ability to set 2 policy. 3 Q. Who does that? 4 A. That's a board. The board makes 5 all decisions. I can present ideas and 6 suggestions to the board, you know, through 7 the sort of mechanisms that Ms. Ryan talked 8 about, but I can't set policy. 9 Q. Okay. Let's talk about -- yeah. 10 Let's talk about Miss Katzman for a minute. 11 Are you familiar with Miss Katzman? 12 A. I know who she is. 13 Q. Have you had many interactions 14 with Miss Katzman? 15 A. On a personal level, no. 16 Q. In connection with board 17 meetings. 18 A. Yes, she's a regular attendee at 19 our board meetings and when I was a member of 20 committees, she was a regular attendant at 21 many of those meetings. 22 Q. In those contexts, what have 23 your interactions been like? How would you 24 describe your interactions with Ms. Katzman? 25 A. Generally, okay. We have</p> | <p>107</p> <p>1 Q. All right. So let's show you 2 some exhibits. So you have a binder in front 3 of you. The first one that we're going to 4 show you -- I've forgotten it. I didn't write 5 it down. Could you take a look at 57 A3? It 6 should say Frager email on it, and it's the 7 email -- that's okay. Actually, it doesn't 8 have a date, does it? The important part, it 9 doesn't matter when the date is. The date, I 10 think, is somewhere else in the record and 11 we'll figure that out, but if you go to the 12 last page, that actually has the text of the 13 email. Who was David Frager at the time this 14 email was issued? 15 A. He was Chair of the board at 16 that time. 17 Q. And did you succeed Mr. Frager 18 or was there a Chair in between you? 19 A. There were two chairs between 20 us. 21 Q. Okay. There has been 22 discussions by both Mr. Dunn yesterday and 23 Miss Katzman that their interpretation of this 24 email was that it allowed them to record 25 meetings. Do you remember that testimony?</p> |
| <p>106</p> <p>1 policies regarding when people who are not 2 members of the committee or the board may 3 speak and, you know, with a few exceptions, 4 you know, like everyone else, she follows the 5 rules, and she's not the only one that 6 occasionally doesn't, and I have to take 7 control. 8 Q. And you just made a motion with 9 your hand. Was that in relation to a gavel? 10 A. Yes. I like my gavel. I don't 11 use it very often, but I like it. 12 Q. Can you give me an example of 13 some moments, not necessarily with Ms. 14 Katzman, where you have used your gavel? 15 A. Yeah. In dealing with trying to 16 keep order at a board of 34 members, all of 17 whom have opinions and want to be heard, it's 18 difficult sometimes to prevent crosswalk. And 19 there comes a time when two people arguing 20 across the table, it's not acceptable. And 21 that's when I lay down the law. I like to 22 give people as much opportunity to express 23 their opinions as possible, but there's limit. 24 (Exhibit 57 A3, email, marked 25 for identification.)</p> | <p>108</p> <p>1 A. I do. 2 Q. Do you agree with their 3 interpretation of this email? 4 A. Personally, no. 5 Q. What do you think this email 6 says? 7 A. I think the definition of notes 8 excludes recording. 9 Q. I'm going to also ask you to now 10 take a look at Respondent's Exhibit 57 A10 or 11 X, which is the finding and opinion of the 12 Maryland Commission on civil rights, and what 13 I would like you to do is turn to page six of 14 eight. And before you look at it, are you 15 aware that Miss Katzman or have you come to 16 learn that Miss Katzman filed a discrimination 17 action in 2017 with the Maryland Commission on 18 civil rights? 19 A. I have subsequently come to 20 learn that. 21 Q. How did you come to learn that? 22 Was it in the context of this litigation? 23 A. Yes. 24 Q. If you take a look at the top of 25 page six of eight, you'll see a quote or a</p> |

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| <p>109</p> <p>1 statement attributed to Mr. Frager. Would you 2 please read that statement? 3 A. Mr. Frager indicated that 4 Respondent had no issue with Complainant using 5 her computer during meetings. However, it is 6 a problem when she uses the computer to record 7 or take unauthorized pictures for her private 8 blog during meetings. 9 Q. Did you have or what experience 10 did you have with Miss Katzman using her 11 computer at Leisure World board meetings? 12 A. Up until the meetings moved to 13 Zoom, she doesn't attend board meetings since 14 Covid in person. She's on Zoom, so I have no 15 evidence, but previous to that, she always 16 came in. Set her computer up and sat behind 17 it. 18 Q. From your understanding as Chair 19 now and historically, was there a prohibition 20 against using a computer at Leisure World 21 Community Corp. board meetings to take notes? 22 A. Not that I was ever aware of. 23 Q. Was there a prohibition that 24 you're aware of any attendee at a Leisure 25 World board meeting recording that meeting?</p> | <p>111</p> <p>1 concerns as to how to implement it, and when 2 we were advised by Counsel that this might not 3 be a good idea, it seemed reasonable that it'd 4 be codified in a way that everyone would know 5 exactly where we stand and what our policy is. 6 Q. Before Counsel from 2020 7 forward, while you were a member of the board 8 or the Chair of the board, what did you 9 understand Leisure World's policy was 10 regarding recording and specifically consent 11 of the participants? 12 A. Well, I didn't give it a lot of 13 thought, to be honest, but one of the things 14 that I noticed is that once we developed 15 hybrid meetings, unless a person who was in 16 the meeting in person brought their own 17 computer and logged into Zoom, they would not 18 be aware that it was being recorded and that 19 -- that was concerning. 20 Q. Did you understand that consent 21 from the participants in the meeting was 22 needed in order to record the meeting under 23 the Leisure World existing policy? Again, 24 from the time that you were a member of the 25 board?</p> |
| <p>110</p> <p>1 MS. JAYANTY: Objection, your 2 Honor. Can you be more clear on the timeline? 3 MR. WEBSTER: Yes. 4 BY JUDGE BYRNE: 5 Q. During your tenure as a member 6 of the board or as Chair. So 20 -- I think 7 that's 2020 forward. Is that what it says? 8 A. Yes. 2020. This email that's 9 referenced, I was not copied on it because I 10 was not Chair of the committee at the time 11 that it was issued and I did not become aware 12 of it until we were preparing for this event. 13 Q. Again, just looking from 2020 14 forward, when you have been on the Leisure 15 World Community board or as its chair, what 16 did you understand Leisure World Community 17 Corps' policy to have been with respect to 18 recording of board meetings? 19 A. Well, I always understood that 20 the policy was that you shouldn't. There was 21 some confusion associated with that. I know 22 as a Chair of a committee I -- well, I tried 23 to follow the policy, but it wasn't entirely 24 clear, and in conversations with others, I 25 learned that there were others who also had</p> | <p>112</p> <p>1 A. Yes. 2 Q. And I think what you were just 3 saying was with the hybrid situation, you had 4 some concerns about people who were personally 5 at the meeting as opposed to logging in by 6 Zoom? 7 A. Yeah, because it's a gray area, 8 but the Zoom feature, if you're being 9 recorded, you have to click on it to say, yes, 10 it's okay to record. At least you understand 11 that you're being recorded. And if you don't 12 agree, you get kicked off. You can't 13 participate in the meeting, but if you're in 14 person, you don't have access to that unless 15 you have your own laptop and you're logged 16 into Zoom on your own personal laptop while in 17 the room, and most of the board members 18 present don't do that. 19 Q. How did that come about or 20 influence actions of Leisure World in October 21 of 2022? 22 A. Well, that was the point at 23 which we realized that we needed to do 24 something. We needed to clarify what the 25 policy was and the board needed to approve it</p> |

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29 (113 to 116)

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| <p>113</p> <p>1 in clear, unambiguous terms.</p> <p>2 Q. And let me ask one last question</p> <p>3 about Mr. Frager's email just to button it up</p> <p>4 because I forgot about it.</p> <p>5 When Mr. Frager wrote that email, what</p> <p>6 is your understanding of his ability to</p> <p>7 announce policy --</p> <p>8 MS. JAYANTY: Objection. Calls</p> <p>9 for speculation.</p> <p>10 JUDGE BYRNE: I think she can</p> <p>11 testify to what a Chair can and cannot do. So</p> <p>12 if she were in Mr. Frager's shoes as Chair,</p> <p>13 what she could or could not do. She can't</p> <p>14 speak to what he did, right? So as Chair, you</p> <p>15 can answer the question.</p> <p>16 DR. HEMSTEAD: As chair, I can</p> <p>17 say the Chair has no ability to set policy</p> <p>18 unilaterally. That's a board action.</p> <p>19 Q. Didn't even get to answer or ask</p> <p>20 my own question.</p> <p>21 A. I'm sorry.</p> <p>22 Q. Totally fine.</p> <p>23 JUDGE BYRNE: We're here for</p> <p>24 you.</p> <p>25 Q. Okay. Going back to 2022, what</p> | <p>115</p> <p>1 A. About the middle of January</p> <p>2 2023.</p> <p>3 Q. Okay. Let's go to 57 A11, which</p> <p>4 is the January 31, 2023 meeting minutes. Go</p> <p>5 all up to the top. Thank you very much.</p> <p>6 We'll get there, but we'll start at the</p> <p>7 beginning. There we go.</p> <p>8 Dr. Hemstead, at this point in time,</p> <p>9 are you Chair of the Leisure World Community</p> <p>10 Corporation board?</p> <p>11 A. Yes.</p> <p>12 Q. Were you present at this</p> <p>13 meeting?</p> <p>14 A. I was.</p> <p>15 Q. Okay. If you go to the second</p> <p>16 page of the minutes at the bottom, you will</p> <p>17 see resolution 230105.</p> <p>18 A. I see it.</p> <p>19 Q. Bottom of page two of the</p> <p>20 document. It should -- thank you. Was this</p> <p>21 the resolution that was -- well, first off,</p> <p>22 what's the process of getting a resolution</p> <p>23 into state where it can be voted upon or</p> <p>24 presented to the board as a whole? What</p> <p>25 happens on the back end?</p> |
| <p>114</p> <p>1 did you in particular do with respect to</p> <p>2 Leisure -- or advancing or exploring</p> <p>3 alternatives for Leisure World recording</p> <p>4 policy at that time?</p> <p>5 A. I'm not sure I did anything</p> <p>6 personally. I encouraged those that were</p> <p>7 working on it to explore all possible avenues</p> <p>8 and to come up with an appropriately worded</p> <p>9 resolution. And I made sure, as it was being</p> <p>10 developed, that we had the supporting</p> <p>11 information that the board was going to need.</p> <p>12 Q. Was legal Counsel one of the</p> <p>13 components or contributors to guidance to</p> <p>14 Leisure World on that policy?</p> <p>15 A. Absolutely.</p> <p>16 Q. During the discussions or the</p> <p>17 planning of the resolution in 2022, was Miss</p> <p>18 Katzman's discrimination claim mentioned?</p> <p>19 Discussed? Did it come up at all?</p> <p>20 A. No. I think we were completely</p> <p>21 unaware of it until the end of December in</p> <p>22 2022.</p> <p>23 Q. When did you personally first</p> <p>24 learn that Miss Katzman had a pending</p> <p>25 discrimination action?</p> | <p>116</p> <p>1 A. Well, it -- it -- yeah. It</p> <p>2 depends on where it's coming from. It could</p> <p>3 be a resolution submitted by one of the</p> <p>4 standing committees about approving the budget</p> <p>5 or spending money to renovate some</p> <p>6 infrastructure. In this instance, it came</p> <p>7 from the officers who felt that -- I felt that</p> <p>8 this was an important endeavor. That we</p> <p>9 needed to look at this. As a result, in</p> <p>10 consultation with legal Counsel, we developed</p> <p>11 the wording that was presented to the board.</p> <p>12 Q. Does Leisure World have a board</p> <p>13 meeting in December?</p> <p>14 A. No, it does not. January would</p> <p>15 have been the first meeting after we really</p> <p>16 became aware of how challenging our current</p> <p>17 situation was.</p> <p>18 Q. In order to have a resolution</p> <p>19 addressed at a board meeting, what needs to</p> <p>20 happen to it in terms of the agenda?</p> <p>21 A. Well, typically we have an</p> <p>22 executive committee meeting about 11 days</p> <p>23 before the board meeting at which resolutions</p> <p>24 and other actions that are -- are proposed to</p> <p>25 go on the agenda are discussed and the</p> |

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| <p>117</p> <p>1 executive committee weighs in in terms of is 2 this ready for prime time? That's the way -- 3 the terminology we tend to use. Is it, you 4 know, appropriately worded? Is there anything 5 missing, you know, is the rationale that that 6 sets out the reasoning behind it? Is it, you 7 know, clear and unambiguous and is there 8 anything left out? Sometimes resolutions are 9 sent back to the sponsoring committee to 10 clarify some of those issues or we do not make 11 the -- the executive committee does not 12 approve amendments, but may flag the 13 possibility that an amendment could be made 14 during the board meeting. 15 Q. Amendment to the proposed -- 16 A. Resolution, correct. 17 Q. That happened sometime in the 18 middle of January 2020 -- 19 A. Yes. 20 Q. -- is that right? And then the 21 meeting itself occurs on January 31 of 2023? 22 A. Yes. 23 Q. By January 31 of 2023, did you 24 personally know that Ms. Katzman's action was 25 pending before this body?</p> | <p>119</p> <p>1 even explore this possible policy 2 clarification? 3 A. Nothing. None at all. We 4 didn't even know about it at the time we began 5 exploration. 6 Q. What was the outcome of the 7 motion? 8 A. This was one of those situations 9 where I called for a rollcall vote, even 10 though it was obviously overwhelmingly -- 11 considered overwhelmingly favorably. And, in 12 fact, the end result was, as Colette 13 testified, I don't remember the exact numbers, 14 but, you know, it was -- it passed 15 overwhelmingly, but I did call a rollcall vote 16 because I felt this was an important issue. 17 Q. Okay. Leisure World itself. I 18 asked this question to Miss Trohan and I think 19 we're going to get the same kind of debate 20 that arises out of it. 21 When you attend as chair of Leisure 22 World Community Corporation Board meetings, do 23 you believe you have a privacy right at that 24 meeting? 25 A. Yes.</p> |
| <p>118</p> <p>1 A. I did. 2 Q. What discussions, if any, did 3 you have within the board about going forward 4 with the resolution even though Miss Katzman 5 -- you knew Ms. Katzman's action was pending? 6 A. I think we all understood 7 clearly that it could be construed erroneously 8 in people's minds, I think, but it could be 9 construed as an act of retaliation. 10 Q. Did you think it was? 11 A. No. Not at all. We determined 12 that in spite of the risk that this could be 13 misconstrued, it was an important enough issue 14 that it needed to be brought forward as 15 quickly as possible. 16 Q. Stated differently, what impact 17 did Ms. Katzman's pending action have on your 18 decision to bring this resolution forward on 19 January 31, 2023? 20 A. It gave us pause to think about 21 it, but at the end of the day, it did not 22 affect that decision. 23 Q. And, again, the motivation for 24 the resolution, what impact did Ms. Katzman's 25 discrimination action have on your decision to</p> | <p>120</p> <p>1 Q. Why? 2 A. I define privacy or an 3 expectation of privacy or what constitutes a 4 prior -- 5 MR. SHARDELOW: Objection, your 6 Honor. Legal opinion. 7 A. No. I'm saying what my 8 definition -- 9 JUDGE BYRNE: Hold on. Hold on, 10 Miss Hemstead. 11 MR. WEBSTER: You don't need to 12 be the judge, too. 13 JUDGE BYRNE: I didn't get the 14 terminology issue because that phrase, 15 "expectation of privacy," goes to what's our 16 -- a legal question, you know. So while you 17 may put expectation of privacy together as a 18 string of just two individual words, we put 19 expectation of privacy together as something 20 as -- as a legal theory, right? Or as the 21 law, right? So we use legal terminology that 22 has been handed down either in the law or from 23 the courts. So it's hard to -- I know I'm 24 going on, but I just think it's better to 25 understand. So I think, Mr. ShardeLOW, just</p> |

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31 (121 to 124)

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| <p>121</p> <p>1 to let you know, too, is that when you use 2 that phrase, and we have beat that phrase to 3 death here in another context, it links you to 4 that phrase. So how you feel in your 5 neighborhood, how you feel in your community, 6 what you think about Leisure World and your 7 board members, is it private, is it, you know, 8 that's different, but so let's not link 9 expectation of privacy. Okay? 10 DR. HEMSTEAD: Well, that -- 11 BY MR. WEBSTER: 12 Q. So my question to you was, don't 13 worry about reasonable expectation, right? My 14 question to you was, how is it that you 15 believe you have a privacy right or feeling at 16 Leisure World Community Corporation board 17 meetings? 18 A. Partly because the membership of 19 who can attend meetings is extremely well 20 defined and limited, and partly because we 21 take significant measures to ensure that no 22 one, who hasn't been invited, can attend a 23 board meeting from outside the community. 24 Q. You had previously used a phrase 25 with me about the gated community, and you</p> | <p>123</p> <p>1 Q. And let me ask this. In the 2 context of your role as Chair, have you ever 3 taken up business at a Leisure World Community 4 Corporation meeting addressing or dealing with 5 the governance or actions of the entity 6 foundations of Leisure World? 7 A. No. 8 Q. And do you know if the 9 foundation of Leisure World, Inc. has ever 10 taken up, as a matter of business, the 11 operations or policies or running of Leisure 12 World's Community Corporation? 13 A. I can't answer that because I've 14 never attended any of their meetings. 15 Q. To the extent you know, does 16 Leisure -- foundation of Leisure World, Inc. 17 have any ownership in property within the 18 Leisure World Community property itself? 19 MS. JAYANTY: Objection. 20 Leading. 21 BY MR. WEBSTER: 22 Q. What, if any, property within 23 the Leisure World Community, to your 24 knowledge, does foundation of Leisure World, 25 Inc. own?</p> |
| <p>122</p> <p>1 used it as, this is our space. What do you 2 mean by that? 3 A. When I go in through the gate, 4 I'm essentially going home. That I consider 5 the whole community my home. 6 Q. Do you know what foundation of 7 Leisure World, Inc. is? 8 MS. JAYANTY: Objection. 9 Leading. 10 MR. WEBSTER: I'll rephrase. 11 JUDGE BYRNE: Thank you. 12 Q. Dr. Hemstead, what is your 13 knowledge of foundation at Leisure World, 14 Inc.? 15 A. It's a registered charity and I 16 can't give you the 501C blah, blah, blah 17 designation. It's completely separate from 18 the Leisure World board. There may be members 19 of the Leisure World board that serve on the 20 board of the foundation, but they are not 21 there as official representatives of the 22 Leisure World board. There's never -- to my 23 knowledge, there's never been any official 24 board members appointed to attend their 25 meetings.</p> | <p>124</p> <p>1 MS. JAYANTY: Objection. 2 Relevance. Your Honor, it appears that 3 opposing Counsel is trying to make a 4 distinction between Leisure World Foundation 5 as opposed to Leisure World Corporation, but 6 no motion was ever made about this 7 distinction. So we don't understand the 8 relevance. We treat all Leisure World 9 activity, especially that took place involving 10 Leisure World board members, involving Leisure 11 World hired staff, involving Leisure World 12 resources and monies from residents as Leisure 13 World activities. So, your Honor, I don't 14 think it's relevant whether or not Leisure 15 World Foundation, at this point in our 16 litigation, is part of Leisure World. It 17 assumedly is. 18 JUDGE BYRNE: So I think the 19 reason why he's making this distinction is 20 during your direct of Ms. Katzman, there were 21 incidents against her that she talked about 22 that she believes were discriminatory against 23 her during Leisure World Foundation meetings. 24 They're trying to make a distinction, and I 25 think they're allowed to make a distinction</p> |

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32 (125 to 128)

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| <p>125</p> <p>1 between Leisure World activities versus 2 Leisure World Foundation. Whether or not it 3 matters at the end of the day -- 4 MS. JAYANTY: It's a legal 5 question. 6 JUDGE BYRNE: Well, no, I don't 7 think it is a legal question. It's to the 8 extent she knows any of her engagement with 9 Leisure World Foundation versus Leisure World 10 Board. So there was cross-examination of Miss 11 Katzman yesterday and I think -- and also of 12 Mr. Dunn, as well, between the distinction 13 between Leisure World Foundation and Leisure 14 World of Maryland or Leisure World Community 15 Corporation. So we've already had some 16 testimony on it. So it is a bit duplicative, 17 but because it's already come in on both 18 sides, I have no problem with him asking her 19 these questions. 20 MR. WEBSTER: And your Honor is 21 right. It's been covered, so I'll withdraw 22 the question. 23 BY MR. WEBSTER: 24 Q. Dr. Hemstead, let's talk for a 25 quick second about -- strike that.</p> | <p>127</p> <p>1 because I need to hear what -- don't answer 2 anything, Miss Hemstead. I need to hear what 3 he's saying in order to match it up with the 4 objection. I just -- I want to process. 5 Okay? All right. 6 BY MR. WEBSTER: 7 Q. What, if any, actions do you 8 believe were taken during your time as Chair 9 of the board that were either -- that were 10 motivated by either an intention to 11 discriminate against Miss Katzman or to 12 retaliate against Ms. Katzman? 13 JUDGE BYRNE: Okay. So I'm not 14 going to let you answer -- ask that question. 15 I'm going to go with the objection. She's 16 already actually testified to that. So you've 17 asked those questions. You're asking her 18 essentially to make a conclusion based on the 19 facts that she's testified. And so it's 20 jumping over a little bit too much. Okay? So 21 I know I'm a bit wordy. I apologize. 22 MR. WEBSTER: You're fine. 23 Court's indulgence. I think that's all we 24 have. Thank you very much. Thank you, Dr. 25 Hemstead.</p> |
| <p>126</p> <p>1 Do you believe any of the actions taken 2 during your time as chair were the products of 3 or were motivated by some intention to either 4 discriminate or retain -- 5 MS. JAYANTY: Objection, your 6 Honor. 7 Q. -- against Sheryl Katzman. 8 MS. JAYANTY: Objection, your 9 Honor. Again, calls for a legal opinion. 10 JUDGE BYRNE: He's asking her 11 whether or not their actions amounted to -- 12 their actions amount -- I know. Their actions 13 amounted to a legal conclusion, retaliation or 14 discrimination. Miss Hemstead cannot testify 15 to that. Let me hear the question again. 16 Q. Yes. During your time as Chair, 17 do you believe or did you do -- what actions, 18 if any, were taken by the board that you 19 believe were either motivated by an intention 20 to discriminate against Ms. Katzman -- 21 MS. JAYANTY: Objection. 22 Leading. 23 MR. WEBSTER: You got to let me 24 finish the question. 25 JUDGE BYRNE: Let him hear it</p> | <p>128</p> <p>1 JUDGE BYRNE: All right. Thank 2 you. So cross-examination. Thank you. 3 CROSS-EXAMINATION 4 BY MS. ELSTER: 5 Q. Good afternoon, Dr. Hemstead. 6 A. Oh, good afternoon. 7 Q. It is the afternoon by ten 8 minutes. I just want to clarify one thing. 9 You mentioned foundation meetings and how 10 board members or you personally haven't 11 attended any of the foundation meetings, but 12 it's not true that no board member has ever 13 attended a foundation meeting, correct? 14 MR. WEBSTER: Object to the 15 form. 16 JUDGE BYRNE: I think she can 17 answer it. I think what she's doing is she's 18 parroting back essentially what Ms. Hemstead 19 said just to get clarification. 20 MR. WEBSTER: Can she clarify 21 the board she's referring to because she's -- 22 MS. ELSTER: Board of directors. 23 MR. WEBSTER: I think you mean 24 to say Leisure World board on foundations 25 board. I think that's what you're trying to</p> |

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33 (129 to 132)

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| <p>129</p> <p>1 ask.</p> <p>2 BY MS. ELSTER:</p> <p>3 Q. Correct. On her direct</p> <p>4 examination, you discussed, although you're a</p> <p>5 board of directors, you personally haven't</p> <p>6 attended foundation of Leisure World board</p> <p>7 meetings. And I just wanted to clarify that</p> <p>8 it is fair to say that other board members of</p> <p>9 Leisure World have attended these foundation</p> <p>10 meetings, correct?</p> <p>11 A. Yes, but be aware, not as</p> <p>12 official representatives of the Leisure World</p> <p>13 board. They were there as individuals in the</p> <p>14 same way that I could belong to a church as an</p> <p>15 individual and would not be there as a</p> <p>16 representative of the Leisure World board.</p> <p>17 Q. Yes. I understand. I was just</p> <p>18 clarifying that board members do attend.</p> <p>19 Whether they are in their official</p> <p>20 representative or not, they're still there?</p> <p>21 A. They can be.</p> <p>22 Q. Moving on just to a few</p> <p>23 questions regarding your role as chairwoman of</p> <p>24 the board. So you'd agree with me that</p> <p>25 controlling voting is a unique power of the</p> | <p>131</p> <p>1 because on direct examination you did mention</p> <p>2 that you can call for a rollcall vote. So I</p> <p>3 just wanted to clarify that.</p> <p>4 A. Under certain circumstances,</p> <p>5 yes.</p> <p>6 Q. Moving on to Ms. Katzman. You</p> <p>7 mentioned she follows the rules during these</p> <p>8 meetings.</p> <p>9 A. She does.</p> <p>10 Q. Similar to the way that other</p> <p>11 residents at Leisure World do?</p> <p>12 A. I'm sorry?</p> <p>13 Q. Miss Katzman behaves in similar</p> <p>14 manners as other residents that attend these</p> <p>15 meetings?</p> <p>16 A. In general, people are civil.</p> <p>17 Q. Okay, and then if we can -- I'm</p> <p>18 going to need to pull up exhibit -- this is --</p> <p>19 it says Exhibit 2, the HR determination. Yes.</p> <p>20 Thank you.</p> <p>21 A. Which --</p> <p>22 MR. WEBSTER: I'll get it for</p> <p>23 you.</p> <p>24 MS. ELSTER: Sorry.</p> <p>25 MR. WEBSTER: Is there a</p> |
| <p>130</p> <p>1 Chair, correct?</p> <p>2 A. I don't control voting. What I</p> <p>3 do is determine the method of the vote.</p> <p>4 Q. You would agree with me that the</p> <p>5 method or deciding on the method of voting is</p> <p>6 a responsibility, is power over the rest of</p> <p>7 the board?</p> <p>8 A. No.</p> <p>9 Q. But no other board member has</p> <p>10 that same responsibility, correct?</p> <p>11 A. Not correct. A board member may</p> <p>12 request a rollcall vote when none was</p> <p>13 indicated.</p> <p>14 Q. But you're the last person to</p> <p>15 give the formal say that you can call the</p> <p>16 rollcall vote, correct?</p> <p>17 A. I'm not the only one that can do</p> <p>18 that. Anyone on the board can do that. And</p> <p>19 be aware, too, that it would be required to</p> <p>20 call a rollcall vote independent of anything</p> <p>21 I might decide. If there are more than -- if</p> <p>22 there are six or more people on the other side</p> <p>23 of the camp, a rollcall vote is mandated. I</p> <p>24 have no control over that.</p> <p>25 Q. I just wanted to clarify,</p> | <p>132</p> <p>1 specific page?</p> <p>2 MS. ELSTER: Yes. Page two.</p> <p>3 BY MS. ELSTER:</p> <p>4 Q. Dr. Hemstead, on direct</p> <p>5 examination, you testified that the board was</p> <p>6 unaware of Ms. Katzman's complaint, correct?</p> <p>7 MR. WEBSTER: Object to the</p> <p>8 form. I think that mischaracterizes.</p> <p>9 JUDGE BYRNE: Actually, say it</p> <p>10 again because I missed it.</p> <p>11 MS. ELSTER: On direct</p> <p>12 examination, she testified that the board was</p> <p>13 not aware of Ms. Katzman's complaint.</p> <p>14 JUDGE BYRNE: Correct. So</p> <p>15 that's your question?</p> <p>16 MS. ELSTER: Yes.</p> <p>17 JUDGE BYRNE: You're asking her</p> <p>18 if that's what she testified to?</p> <p>19 MS. ELSTER: Yes, your Honor.</p> <p>20 JUDGE BYRNE: I think she can</p> <p>21 answer that.</p> <p>22 MR. WEBSTER: I think that</p> <p>23 mischaracterizes her testimony, but that's all</p> <p>24 right. Go ahead. Clarify it or answer</p> <p>25 however you feel that you need to.</p> |

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| <p>133</p> <p>1 A. I can speak for myself. I was 2 not aware of it and that is what I believe I 3 testified to. I can't say for anyone else on 4 the board. 5 Q. The board acts as a collective 6 group, right? 7 A. For decisionmaking purposes, 8 yes. 9 Q. You're familiar with other board 10 members? 11 A. I know who they are. 12 Q. You know, Mr. Eisenhaur? 13 A. I do. 14 Q. You're familiar that he was or 15 is on the board? 16 A. Correct. 17 Q. And so if you direct your 18 attention to page two of this OHR 19 determination. 20 A. Uh-huh. 21 Q. So first it says Respondents -- 22 if you see in the middle on the underline 23 section it says, Respondent's response to 24 complaint, and then if we can turn to page 25 three, please.</p> | <p>135</p> <p>1 JUDGE BYRNE: Okay. So I guess 2 to the extent you can answer the question. 3 MS. ELSTER: I can rephrase and 4 add some more foundation. 5 JUDGE BYRNE: That would be 6 great because I got lost a little bit there, 7 too. 8 BY MS. ELSTER: 9 Q. Okay. So just going back to -- 10 so the board -- you mentioned that the board 11 is collaborative and you know other residents 12 or other members of the board -- when you 13 became a member of the board, you were briefed 14 on board policies? 15 A. No. 16 Q. You never received any briefing 17 on board policies prior to your -- 18 A. I received the same binder as 19 was mentioned in direct testimony by Mr. Dunn 20 yesterday. 21 Q. I just want to make sure I have 22 this correct. So when you joined the board, 23 you weren't made aware of any other policies 24 prior to your time joining the board? 25 A. Not formally.</p> |
| <p>134</p> <p>1 A. I got to get my fingers to work. 2 JUDGE BYRNE: It's okay. 3 Q. I just want to -- sorry for 4 flipping back a page. I just want to confirm 5 that on page three, that's Paul Eisenhaur, the 6 chairman of the board you were just speaking 7 to about -- 8 A. He was chair at that time, I 9 believe. 10 Q. And then going back to page two 11 under that underline subheading. Sorry for 12 the flipping back and forth. You would agree 13 with me that, please accept this as 14 correspondence as my response to your letter 15 dated September 11, 2019 regarding this 16 complaint confirms that the board was aware of 17 Miss Katzman's complaint. 18 MR. WEBSTER: Object to the 19 form, but go ahead. Hold on. 20 JUDGE BYRNE: I believe the 21 objection that he's making is, you're 22 referencing the board. So -- and when did you 23 say you were on the board? You started with 24 the board in 2020? 25 DR. HEMSTEAD: Yes.</p> | <p>136</p> <p>1 Q. Okay. On direct examination, 2 you -- strike that. Sorry. 3 Turning your attention to the recording 4 policy at Leisure World for these meetings, 5 you admit the policy was unclear at one point? 6 MR. WEBSTER: Object to the 7 form. There is multiple policies. There are 8 multiple policies? 9 MS. ELSTER: I specified the 10 recording policy and that was a direct quote 11 from her direct exam -- testimony. 12 MR. WEBSTER: 2011? 2023? 13 Which one is she asking about? 14 MS. ELSTER: She mentioned that 15 the reason, even after the 2023 policy on her 16 testimony on direct, that the recording policy 17 at Leisure World was unclear. 18 JUDGE BYRNE: Can you put what 19 you just said in a question, please. 20 BY MS. ELSTER: 21 Q. You admit that the 2023 22 recording policy was unclear? 23 A. No. I never said that. 24 Q. I'll rephrase. Just -- so you 25 were -- excuse me.</p> |

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35 (137 to 140)

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| <p>137</p> <p>1 JUDGE BYRNE: We can have 2 Brendon go back to it if you want. So 3 Brendon, could you go back to when Miss 4 Hemstead or Dr. Hemstead testified to, like, I 5 think it was October or November, you know, 6 like, what her understanding of the recording 7 policy was? I'm trying to think when was -- 8 how could you find that? 9 MR. WEBSTER: For the assistance 10 of all, objection to the form. Meaning, I 11 don't like some of the phrasing that's being 12 used, right? Usually it's ambiguous or vague. 13 In this instance, the question asked about a 14 policy, but we have two policies on the table. 15 I think the answer to the question can be 16 asked just identifying this is the policy. Do 17 you agree that the 2011 policy was ambiguous 18 or something like that? 19 JUDGE BYRNE: I don't think 20 that's what she's asking. 21 MS. ELSTER: No, that is not -- 22 JUDGE BYRNE: That is -- 23 MS. ELSTER: -- the witness' 24 attention to the recording. 25 JUDGE BYRNE: That's -- I think</p> | <p>139</p> <p>1 JUDGE BYRNE: You think you can 2 go? All right. Thank you. 3 MS. JAYANTY: You don't want him 4 to reread it? I think it'd be helpful to have 5 him read out. 6 JUDGE BYRNE: So Dr. Hemstead 7 testified over confusion with the recording 8 policy. Can you find that language? 9 THE REPORTER: I'll see if it 10 can. Do you have a time? 11 JUDGE BYRNE: Ten minutes maybe. 12 Ten, 15 minutes. I think you're right. At 13 10:10, we started cross-examination, so go 14 back 25 minutes and look for, like, the word 15 confusion and reporting policy together. 16 THE REPORTER: Was it during Mr. 17 Webster's questioning? 18 JUDGE BYRNE: Mr. Webster's 19 questioning directly to her. 20 (TESTIMONY PLAYED BACK.) 21 "A: Well, it -- it -- yeah. It depends 22 on where it's coming from. It could be a 23 resolution submitted by one of the standing 24 committees about approving the budget or 25 spending money to renovate some</p> |
| <p>138</p> <p>1 that -- like that's the problem is -- 2 MS. JAYANTY: That chunk of time 3 between the 2011 -- 4 JUDGE BYRNE: And the 2023. I 5 think that's what she's testifying to and 6 that's what Dr. Hemstead actually testified to 7 was her own personal confusion. I think 8 that's what -- where the question is coming. 9 MS. ELSTER: Yes, your Honor. 10 Okay. 11 JUDGE BYRNE: So let's go again. 12 I know where you were going. 13 MS. ELSTER: Thank you. 14 JUDGE BYRNE: But I don't think 15 Dr. Hemstead and Mr. Webster know where you 16 are going. 17 MR. WEBSTER: I didn't know 18 where she was going. 19 MS. ELSTER: Thank you, your 20 Honor. 21 JUDGE BYRNE: Brendon, do you 22 need something from me to try to find that or 23 -- 24 MS. ELSTER: I think I could 25 proceed.</p> | <p>140</p> <p>1 infrastructure. In this instance, it came 2 from the officers who felt that -- I felt that 3 this was an important endeavor. That we 4 needed to look at this. As a result, in 5 consultation with legal Counsel. We developed 6 the wording that was presented to the board. 7 Q. Does Leisure World have a board 8 meeting in December? 9 A. No, it does not. January would 10 have been the first meeting after we really 11 became aware of how challenging our current 12 situation was. 13 Q. In order to have a resolution 14 addressed at a board meeting, what needs to 15 happen to it in terms of the agenda? 16 A. Well, typically we have an 17 executive committee meeting about 11 days 18 before the board meeting --" 19 (END OF PLAYBACK.) 20 JUDGE BYRNE: I think it was 21 after that. 22 MS. ELSTER: Yes. 23 JUDGE BYRNE: Definitely after 24 that. 25 (TESTIMONY PLAYED BACK.)</p> |

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| <p>141</p> <p>1 " Q. -- is that right? And then the 2 meeting itself occurs on January 31 of 2023? 3 A. Yes. 4 Q. By January 31 of 2023, did you 5 personally know that Ms. Katzman's action was 6 pending before this body? 7 (END OF PLAYBACK.) 8 JUDGE BYRNE: I think it was 9 before that. So it was after -- 10 MS. ELSTER: The first from a 11 little bit. 12 JUDGE BYRNE: Yes, it was before 13 that. Look for confusing. 14 (TESTIMONY PLAYED BACK.) 15 "Q. Again, just looking from 2020 16 forward, when you have been on the Leisure 17 World Community board or as its chair, what 18 did you understand Leisure World Community 19 Corps' policy to have been with respect to 20 recording of board meetings? 21 A. Well, I always understood that 22 the policy was that you shouldn't. There was 23 some confusion associated with that. I know 24 as a Chair of a committee I -- well, I tried 25 to follow the policy, but it wasn't entirely</p> | <p>143</p> <p>1 Q. You just -- based on the 2 recording we just heard, I might be incorrect, 3 but I believe that you said the board had 4 concerns with implementing this policy. Is 5 that not correct? 6 A. The fact that there were 7 concerns was brought to the board. 8 Q. So that's a yes to my question? 9 A. I can't answer that question. 10 I'm not inside the board's heads. 11 Q. But you just did previously on 12 direct examination. 13 A. I don't believe that's what I 14 actually said. 15 Q. So let's shift your attention to 16 prior to that new 2023 policy. You realize 17 something needed to be done to the recording 18 policy in 2022? 19 A. Yes. 20 Q. When did you begin exploring 21 that? 22 A. About the middle of October. 23 Late October. 24 JUDGE BYRNE: Hold on one 25 second. Do you want him to pull up Exhibit</p> |
| <p>142</p> <p>1 clear, and in conversations with others, I 2 learned that there were others who also had 3 concerns as to how to implement it." 4 (END OF PLAYBACK.) 5 JUDGE BYRNE: Is that enough? 6 Okay. I think that was it. 7 MS. ELSTER: Yes, your Honor. 8 Let me try to rephrase so it's a little more 9 clear. 10 BY MS. ELSTER: 11 Q. Before two before the 2023 12 policy was implemented, the recording policy 13 Leisure World Board had was unclear. 14 A. The implementation and the -- 15 how you would handle it created some 16 confusion. Not everybody was clear on exactly 17 how it should be implemented in a specific 18 environment at a specific meeting. 19 Q. And the board had concerns with 20 implementation, correct? 21 A. It was committee chairs that 22 were primarily concerned with how that should 23 be implemented. 24 Q. Not board members? 25 A. No.</p> | <p>144</p> <p>1 policy 2023? 2 MS. ELSTER: Sure. 3 JUDGE BYRNE: It's 57 A11. 4 MS. ELSTER: If you don't mind, 5 I'll just repeat my question before we pulled 6 up the exhibit. 7 JUDGE BYRNE: Sure. 8 BY MS. ELSTER: 9 Q. When did you begin exploring 10 into the recording policy? 11 A. Somewhere around the mid to the 12 end of October. 13 Q. Of which year? 14 A. 2022. 15 MS. ELSTER: Court's indulgence. 16 My apologies. 17 BY MS. ELSTER: 18 Q. So just circling back to my last 19 question. You mentioned that the board began 20 exploring this recording policy in the fall of 21 2022; is that right? 22 A. No, that's not correct. I said 23 that the executive, the officers, began 24 exploring that. I may not have made that 25 clear. The board did not come to deal with</p> |

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| <p>145</p> <p>1 this until January 2023.</p> <p>2 Q. Can you clarify that a little</p> <p>3 bit about what the difference is in timing</p> <p>4 between the executive committee looking into</p> <p>5 that, as well as the board?</p> <p>6 A. It wasn't the executive</p> <p>7 committee. It was the officers, in</p> <p>8 conjunction with legal counsel, began looking</p> <p>9 at this issue in the fall, October and into</p> <p>10 November of 2022. It was not brought to the</p> <p>11 board's attention until the executive</p> <p>12 committee meeting in the middle of January,</p> <p>13 followed by the formal board meeting at the</p> <p>14 end of January 2023.</p> <p>15 Q. And all of this happened after</p> <p>16 Miss Katzman requested a reasonable</p> <p>17 accommodation, correct?</p> <p>18 A. No. We were not aware of the</p> <p>19 issue until the end of December 2022, by which</p> <p>20 time we had already formulated our policy.</p> <p>21 Q. And this policy wasn't</p> <p>22 implemented until a month later, correct?</p> <p>23 A. Because the board doesn't meet</p> <p>24 in December. This was the first available</p> <p>25 meeting following the discussion in the fall.</p> | <p>147</p> <p>1 JUDGE BYRNE: Okay. All right.</p> <p>2 Well, there you go. All right.</p> <p>3 MS. JAYANTY: Your Honor?</p> <p>4 JUDGE BYRNE: Yes.</p> <p>5 MS. JAYANTY: Court's</p> <p>6 indulgence?</p> <p>7 JUDGE BYRNE: Absolutely. Thank</p> <p>8 you.</p> <p>9 MS. JAYANTY: Thank you.</p> <p>10 JUDGE BYRNE: Okay. So at the</p> <p>11 outset, I gave the option of claimant rebuttal</p> <p>12 and then Respondent rebuttal. So you have the</p> <p>13 option of calling a witness for rebuttal, and</p> <p>14 they have an option, as well, to call a</p> <p>15 witness for surrebuttal, based on if you</p> <p>16 wanted to call a witness to rebut what you</p> <p>17 have heard. Do you want to do that, or are</p> <p>18 you ready to proceed to closing arguments?</p> <p>19 MS. ELSTER: And we're ready to</p> <p>20 proceed with closing arguments, your Honor.</p> <p>21 JUDGE BYRNE: Okay. Sounds</p> <p>22 good. So go ahead and proceed with closing.</p> <p>23 (CLOSING STATEMENT.)</p> <p>24 MS. PIPER: A dark cloud of</p> <p>25 humiliation and embarrassment has hung over</p> |
| <p>146</p> <p>1 Q. Thank you, Doctor. I've had no</p> <p>2 further questions.</p> <p>3 A. Okay.</p> <p>4 JUDGE BYRNE: Thank you. Any</p> <p>5 rebuttal?</p> <p>6 MR. WEBSTER: We don't have</p> <p>7 anything further. Thank you.</p> <p>8 JUDGE BYRNE: All right. Okay.</p> <p>9 So we are -- what time are we, 12:30?</p> <p>10 MS. JAYANTY: Yes.</p> <p>11 JUDGE BYRNE: Let's take an</p> <p>12 hour. I think we're comfortable with an hour</p> <p>13 today. If you guys let me know, I'll open up</p> <p>14 the back for you so you can have the room so</p> <p>15 you can be private. If you all want to go</p> <p>16 into the library, I think you set up shop in</p> <p>17 there for lunch and we are now off the record.</p> <p>18 We'll come back at lunch.</p> <p>19 (Off the record.)</p> <p>20 JUDGE BYRNE: Good afternoon,</p> <p>21 everybody. We are back on the record. Mr.</p> <p>22 Webster, I believe you have a witness.</p> <p>23 MR. WEBSTER: We are going to</p> <p>24 rest with where we are. So Respondent is done</p> <p>25 with their case.</p> | <p>148</p> <p>1 Ms. Katzman from the moment she requested her</p> <p>2 reasonable accommodations. The testimony and</p> <p>3 documents you've seen today and yesterday</p> <p>4 showed that the root cause of that cloud was</p> <p>5 Leisure World's aggressive unjustified</p> <p>6 retaliation to her requests. Requests that go</p> <p>7 to the heart of democratic participation in</p> <p>8 the community of Leisure World.</p> <p>9 Your Honor, to state a claim for</p> <p>10 retaliation, Plaintiff must establish four</p> <p>11 elements. First, that she was engaged in</p> <p>12 protected activity. Second, that the</p> <p>13 Respondents were aware of that activity.</p> <p>14 Third that Respondents took adverse action</p> <p>15 against Plaintiff. And for that a causal</p> <p>16 connection exists between the protected</p> <p>17 activity and the adverse action. We must</p> <p>18 demonstrate this by preponderance of the</p> <p>19 evidence. Plaintiff has satisfied all four</p> <p>20 elements in establishing this retaliation</p> <p>21 claim. First, Ms. Katzman engaged in</p> <p>22 protected activity. You heard from Ms.</p> <p>23 Katzman about the various accommodation</p> <p>24 requests she made over email and during</p> <p>25 meetings. You heard her discuss her March 10</p> |

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| <p>149</p> <p>1 email request, the March 10, 2017 email 2 request that she sent to several board members 3 requesting a reasonable accommodation for the 4 use of her laptop while in attendance at 5 foundation meetings, a meeting in which Ms. 6 Katzman had a right to attend as a Leisure 7 World resident. 8 Additionally, on April 12, 2017 at the 9 foundation meeting, Ms. Katzman reiterated her 10 request when asking Marian Altman, you 11 received my request for a reasonable 12 accommodation, did you not? I need my 13 computer because I cannot write notes at 14 length. On June 19 2019, Miss Katzman sent 15 more reasonable accommodation requests. On 16 this particular day, June 19th, she sent a 17 reasonable accommodation request over email to 18 then Chair, Paul Eisenhauer. A few days 19 later, she followed up after not receiving a 20 response, explaining that she is unable to 21 write copious notes as a result of her being 22 permanently disabled in an accident and 23 reiterated her request for reasonable 24 accommodation to record meetings. On July 8, 25 it was a final attempt of by Ms. Katzman to</p> | <p>151</p> <p>1 meeting, Miss Katzman, again, brought up her 2 reasonable accommodation request with Marian 3 Altman at the foundation meeting and in the 4 June 19, 22, and July 8th emails to Paul 5 Eisenhauer, she sent those requests to Paul 6 Eisenhauer, who was Chair at the time. 7 Unfortunately, we were not able to hear from 8 Paul Eisenhauer today, who could have 9 potentially spoken to his previous statements 10 in the complaint that he did not know about 11 these. So -- but those emails were sent and 12 making that reasonable accommodation request. 13 So Leisure World was made aware of these 14 requests. And, therefore, Plaintiff has 15 satisfied the second retaliation element. 16 Third, Leisure World took adverse action 17 against Ms. Katzman. You heard from Ms. 18 Katzman and Jack Dunn that Leisure World 19 called security on her and at least two 20 meetings, 2017 and the 2019 committee meeting. 21 You heard from Jack Dunn and Crystal Castillo 22 that Miss Katzman is very polite. These are, 23 quotes, sat quietly in the back of the 2019 24 meeting. An overall quote, she behaves 25 herself very well and doesn't say anything</p> |
| <p>150</p> <p>1 request a reasonable accommodation by email to 2 Paul Eisenhauer again. Ms. Katzman never 3 received a response. Defendants attempt to 4 confuse the Court by digging into details of 5 the specific accommodations that were 6 requested, as well as the necessity of 7 specific accommodations that Miss Katzman 8 requested. However, these specifics are 9 immaterial to the elements of retaliation 10 claim. Miss Katzman requested a reasonable 11 accommodation from the Leisure World board 12 members on multiple occasions. These actions 13 in and of themselves are protected activities. 14 Plaintiff has, therefore, satisfied this first 15 retaliation element. Second, Leisure World 16 was aware of Ms. Katzman's reasonable 17 accommodation request. You heard that Ms. 18 Katzman sent her emails requesting a 19 reasonable accommodation to various board 20 members and, at one point, requested her 21 accommodation in front of one. Again, for the 22 March 10, 2017 email, she sent that -- Miss 23 Katzman sent that to Marian Altman, then Chair 24 David Frager and Phil Marks. 25 In the April 12, 2017 foundation</p> | <p>152</p> <p>1 until open forum, end quote, in all governance 2 meetings that she attends. Additionally, 3 today you heard from both Dr. Hemstead and 4 Miss Trohan. They testified and said that Ms. 5 Katzman acts like all other attendees. So 6 these actions do not make Miss Katzman a 7 security threat that amount to the necessity 8 of having security called to try and forcibly 9 remove her. Nevertheless, at the April 12, 10 2017 foundation meeting, security was called 11 by Marian Altman when Miss Katzman was trying 12 to assert her right to a reasonable 13 accommodation. And Marian Altman was the same 14 board member that Ms. Katzman had emailed the 15 request to. On September 18, 2019, Phil Marks 16 called security on Ms. Katzman to forcibly 17 remove her from that meeting, as well. Again, 18 without any, you know, as Miss Katzman ask -- 19 she acts in these meetings very politely and 20 for the 2019 meeting, specifically, was 21 sitting quietly in the back. 22 You heard from Ms. Katzman and saw 23 exhibits that the Leisure World board and 24 management has created this retaliatory 25 atmosphere, as well. In the 2017 meeting, Ms.</p> |

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| <p>153</p> <p>1 Altman demanded that Ms. Katzman disclose her 2 disability in front of others meeting 3 attendees humiliating Ms. Katzman by calling 4 security in front of all the other attendees 5 and threatening her with criminal prosecution 6 with the Wiretap Act. The 2023 policy itself, 7 this policy is stricter than what the Wiretap 8 Act demands, which is the Respondent's 9 justification for denying Ms. Katzman 10 reasonable accommodation and destruction of 11 all recordings is not a part of the Wiretap 12 Act. Additionally, this policy was 13 implemented by the board around the same time 14 that this case was referred to this Court. 15 Defendants attempt to minimize the 16 retaliatory actions of Leisure World by 17 separating these incidents from each other and 18 characterizing them as offhand comments and 19 isolated incidents when in reality the 2017 20 foundation meeting and the 2019 committee 21 meeting are just examples of the retaliatory 22 atmosphere that has been created and 23 perpetuated by the Leisure World leadership 24 against Ms. Katzman for simply trying to 25 request her accommodation. Furthermore,</p> | <p>155</p> <p>1 before -- was only a month before the April 2 12, 2017 foundation meeting. And the time bet 3 -- sorry. The time between the July 29 -- the 4 series of several 2019 emails of reasonable 5 accommodation requests in -- two in June and 6 then the last on July 8th, those occurred two 7 months before the September 2019 budget and 8 finance meetings. These are important because 9 these meetings only occur once a month. 10 Another fact indicating causation can be seen 11 in the language, demeanor and reaction of 12 these board members that we've heard about of 13 Ms. Katzman's laptop use in these meetings. 14 As earlier -- as I talked about 15 earlier, Marian Altman refused to fairly 16 address Miss Katzman's request and demanded a 17 doctor's note and then called security. In 18 the 2019 meeting, Phil Marks' language of 19 saying you cannot record indicates that causal 20 connection, as well. Finally, neither of the 21 respondent's witnesses today could speak to 22 the knowledge of the board during that time 23 because they weren't on the board and those 24 who may have had knowledge of these protected 25 activities to further talk about or dismantle</p> |
| <p>154</p> <p>1 Defendants state that Leisure World Foundation 2 is a complete and separate entity from the 3 Leisure World community. This distinction is 4 immaterial. The foundation meetings take 5 place on Leisure World Property. Board 6 members attend. They use Leisure World's 7 staff and Leisure World Security was called to 8 the foundation meeting, and Miss Katzman has a 9 right to attend these meetings. All of this 10 was described in the various testimony and 11 documents shown in Court today and yesterday. 12 The board members -- members that Ms. Katzman 13 made her reasonable accommodation to were 14 present and leading these meetings when 15 security was called. This third element is 16 satisfied of the retaliation claim. Fourth, a 17 causal connection between the accommodation 18 request and the security or accommodation 19 request and the retaliatory actions is 20 necessary. The retaliatory events that 21 Leisure World has taken are closely and 22 causally related to the protected activities 23 of Ms. Katzman's reasonable accommodation 24 requests. You heard from Ms. Katzman that the 25 March 10, 2017 request was only about a month</p> | <p>156</p> <p>1 this causation element were not here today to 2 testify. Therefore, the fourth element has 3 also been proven today. 4 I just want to make a few points, as 5 well, to conclude. The testimony and 6 documents presented by the Respondent's 7 witnesses today failed to refute the clear 8 retaliation that Ms. Katzman has faced. In 9 fact, Respondents don't even deny that these 10 retaliatory events occurred. All of their 11 arguments are trying to find -- are 12 justifications for those actions. Respondents 13 are arguing that their 2023 policy based on 14 the Wiretap Act, Trump's federal, state and 15 local law, but at the same time admitted that 16 disability and reasonable accommodation law 17 was not considered when making their 2023 18 recording policy. What they were considering 19 was Ms. Katzman's protected activity. The 20 CCOC guidance and Roberts Rules are not legal 21 authority and are silent on how this rule 22 interacts with reasonable accommodation 23 requests. Additionally, testimony today by 24 Respondent's witnesses admitted that during 25 the time of the 2017 and 2019 meetings, two of</p> |

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| <p>157</p> <p>1 the retaliatory events, that there was no 2 consensus or agreement on what the policy was 3 for recording. They also explicitly said that 4 the policy was implemented differently, which 5 can give opportunity to weaponize this policy 6 in these retaliatory meetings. Ms. Trohan -- 7 I'm sorry. One moment. 8 JUDGE BYRNE: That's okay. Take 9 your time. 10 MS. PIPER: Because Respondents 11 were not able to show that they had any sort 12 of justification and that these retaliatory 13 acts did, in fact, happen, they cannot speak 14 -- they cannot speak to any element of the 15 test and Plaintiff today has met all four of 16 the retaliation requirements. So thank you. 17 JUDGE BYRNE: Thank you. Mr. 18 Webster? 19 MR. WEBSTER: Thank you, your 20 Honor. Okay. So let's circle back to where 21 we started from when we began this case. So 22 it's a retaliation claim. So we know that 23 much. We know the four elements. They are as 24 Plaintiff's Counsel has indicated. We know 25 the applicable case law. It's Roads and it's</p> | <p>159</p> <p>1 requested protected activity or the protected 2 activity and whatever retaliation occurs. You 3 can't have retaliation before you've even 4 requested the item that you think you're 5 entitled to request. She's not here saying 6 that what we did in 2017 created or was a 7 failure to give a reasonable accommodation. 8 That's not her cause of action. Her cause of 9 action is that in 2019, she asked to be able 10 to record. That was denied. That is what 11 she's saying is her denied request or a 12 reasonable accommodation. Those are her 13 testimonial words, as well. Not just what's 14 in the documents, but that's also what's in 15 the documents. We would submit that the 2017 16 information is not relevant to this analysis 17 and fails under the causal connection to prong 18 specifically, also fails under a variety of 19 other issues, but I'll just leave the 2017 20 information at that. 21 So then we have her June and July 2019 22 submission. Request of a reasonable 23 accommodation. What we know is that those 24 went to Paul Eisenhauer. What we don't know 25 or what there isn't any evidence of, is what</p> |
| <p>158</p> <p>1 Williams. That's the universe of the law side 2 of things, and then we need to parse through 3 what we've heard over the past two days. 4 Remember, please also that the complaint of 5 alleged discrimination -- and this was also 6 verified by Ms. Katzman in her testimony, is 7 based upon her June 22 of 2019 request for 8 reasonable accommodation to record. That's 9 the first time she ever asked to record. 10 That's what she says she's entitled to as a 11 result of her disability. That's the 12 reasonable accommodation she's asking for. 13 Whatever happened in 2017, first of all, those 14 were requests for use of a computer. It's not 15 what she's complaining about here today, but 16 whatever happened in 2017 involved foundations 17 of Leisure World board, which is a separate 18 entity. If she felt that she had been 19 discriminated against by them, that would be a 20 separate cause of action against a separate 21 party. It doesn't have any bearing on what 22 we're doing here. It is also from a temporal 23 standpoint, if we want to look at the specific 24 elements associated with retaliation, there 25 has to be a causal connection between the</p> | <p>160</p> <p>1 happened. The response is, according to Miss 2 Katzman, no response at all. I would submit 3 that that can't also be retaliation. 4 Retaliation requires some sort of action in 5 response, right? If you look at the cases in 6 Roads, the retaliation is that her rent gets 7 doubled. That's the retaliation. She makes a 8 complaint for housing discrimination, and then 9 her rent gets doubled. In Williams, the 10 retaliation component is, she makes a claim 11 for discrimination, racial and housing, and 12 then she gets assessed fines under the 13 covenant applicable to that homeowner's 14 association, and she says that those 15 assessments that are occurring after she has 16 taken her action, that is what is retaliatory. 17 Retaliation, by definition, requires an action 18 and then some kind of a response to it. We 19 don't have that in the June and July 2019 20 emails. There's no response and she hasn't 21 even filed her claim yet. Her claim doesn't 22 get filed until August 27 of 2019. That's 23 when her claim gets filed. From our 24 perspective, the timeline starts and should 25 start in August 27 of 2019 and then move</p> |

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| <p>161</p> <p>1 forward. That's her action. That's when 2 things are looking at. So what is retaliatory 3 after August 27 of 2019? They submit two 4 things. The first is the September 18, 2019 5 budget and finance meeting, and the second are 6 the changes that happen to the policy in 7 January of 2023. So take them one at a time. 8 The September 18, 2019 budget and finance 9 meeting, what we know, and this goes to the 10 second element of the retaliation test. What 11 we know is that this August 27, 2019 complaint 12 is transmitted to Paul Eisenhower on October 13 1, 2019, that is Respondent's Exhibit 39 F, 14 the October 1, 2019 email exchange between him 15 and Mr. Alvarez where he says -- and this is 16 in evidence. Hello, I have just received your 17 certified letter requesting a response 18 complaint and so on and so forth. We don't 19 know that she's filed a claim of 20 discrimination until October 1 of 2019. The 21 September 18, 2019 meeting happens in advance 22 of that. It can't be retaliation. It might 23 be -- and that's why we thought they were 24 making a hostile environment claim, but 25 they're not making a hostile environment</p> | <p>163</p> <p>1 says, the digital recorder. She records. She 2 doesn't tell people she's recording. She 3 doesn't get consent to have it be recorded. 4 She just records, and then she takes those 5 snips of recording and posts them to the 6 website or her website. The CCOC specifically 7 talks about that's why we don't want to 8 record. That's Mr. Drymalski's emails in 9 2011. That's also the guidance that they have 10 published on 2018. Why is all of this 11 relevant? All of this is relevant because 12 this case is all about the why. That's why 13 we're here is why did Leisure World do what it 14 did along the way? If there's a 15 nondiscriminatory reason for what it has done, 16 then under the burden shifting test and as 17 announced by Judge Chasanow and Williams, the 18 burden shifts back to them to demonstrate that 19 there was or that there was discriminatory 20 intent and that the nondiscriminatory 21 suggestion or offer advanced is a pretext. 22 They have not done that. It's their burden in 23 this case. It's not our burden accept under 24 Williams. Once they have demonstrated a prima 25 facia case, the burden does shift to us to</p> |
| <p>162</p> <p>1 claim. That's what they made clear on the 2 first day of trial. The September 18, 2019 3 meeting and the issues that take place at that 4 moment in time, Mr. Marks thought she was 5 recording based on the record, based on what 6 Miss Katzman testified to. Ms. Katzman says 7 she was not recording. What we know from both 8 the Maryland Civil Rights Commission Report 9 and from Mr. Frager's email is that electronic 10 devices are available to be used to record or 11 to take notes at meetings, not to record. And 12 Mr. Frager specifically says to the 13 investigator in the Maryland Civil Rights 14 Commission complaint that the problem 15 arises -- has no objection to her using a 16 computer to take notes. The problem arises 17 when she uses her computer to record and then 18 posts that on public websites. That's what he 19 said to the investigator and that's consistent 20 with everything that Leisure World has 21 presented in its evidence from its side of 22 the equation here. It's also consistent with 23 what Ms. Katzman testified to on cross that 24 she did record things. She's been recording 25 for a long period of time. She uses, she</p> | <p>164</p> <p>1 prove that we did so or whatever actions we 2 took had a nondiscriminatory basis. That's 3 what all this is. That's what all of this is 4 starting in 2011, moving through 2018 and the 5 CCOC documentation. Moving through the 2018 6 MCCR decision. Moving into the 2022 decision 7 and now we're talking about the January 31, 8 2023 policy clarification. The testimony was 9 and it's un rebutted. It's unopposed. It is 10 what it is. That in October of 2022, the 11 executive officers decided we need some 12 clarity on what this policy is all about. We 13 don't -- we have people in person and people 14 online in these hybrid meeting situations. 15 The people in person are not clicking the 16 button as Dr. Hemstead said to acknowledge 17 that they're being recorded. It's setting up 18 some confusion and some uncertainty as to how 19 this is to apply. Chairmans of committees 20 were also, as Dr. Hemstead testified, raising 21 questions about how do we implement this 22 policy in this new and changing environment? 23 And the decision was made in 2022 that we 24 would not have recordings. Leisure World 25 would just stop all recordings. That was the</p> |

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| <p>165</p> <p>1 decision. The testimony from both Miss Trohan 2 and Dr. Hemstead was that that decision was 3 made in the absence of any consideration of 4 Ms. Katzman's action. That was not what 5 brought that about. Okay? Dr. Hemstead said, 6 I was generally or something had been notified 7 about that there was something out there 8 involving Miss Katzman, but the decision to 9 move forward with this policy, what they claim 10 is retaliation, had nothing to do with Miss 11 Katzman, then we learn, 'cause in December of 12 '22, I think, of 2022, OZAH issues its 13 scheduling order and its notice that it has 14 taken this case. And so by the time we get 15 into January of 2023, Dr. Hemstead 16 acknowledges, at that point in time, we know 17 Ms. Katzman's action is pending, and she said 18 the executives -- and at that point in the 19 executive committee, considered the optics. 20 Considered the view that it would have if they 21 were to move forward with this policy change 22 or clarification at that point in time, and 23 the decision was made that it was more 24 important to comply with legal Counsel's 25 advice, CCOC advice and other positions on</p> | <p>167</p> <p>1 Now, a few other comments. So we know 2 from the historical documents that Leisure 3 World has had some sort of a policy in place 4 with respect to recording of meetings going 5 all the way back to 2011. That's been there. 6 So when you look at what we did in response to 7 what Miss Katzman requested, there is also a 8 nondiscriminatory, nonretaliatory reason for 9 the decision of the -- assuming it was a 10 decision to deny her recording at some point 11 in 2019, and that was our policy says we can't 12 do this unless people give consent and people 13 were not giving consent. So that's where it 14 was. There's no evidence that we took the 15 decision to say no to recording merely because 16 we didn't like her or merely because we wanted 17 to be mean to her or do something retaliatory 18 to her. It's not retaliatory. The evidence 19 demonstrates all along the way. We were 20 following our policies, following CCOC 21 guidance, and they believed following the law. 22 That also comes out in Drymalski's email 23 exchange with Marian Altman from 2011 where 24 Mr. Drymalski from CCOC says it's the Maryland 25 Wiretap Act. That's the law that tripped</p> |
| <p>166</p> <p>1 this and for clarity and uniformity of 2 application of the policy to make the change, 3 even if it created some optic that it had been 4 done in connection with Ms. Katzman's action. 5 There was no evidence offered to respond to 6 any of that. All of that is in and all of 7 that is undisputed. Your Honor still has to 8 give it the weight that it's due, but there's 9 nothing contradicting any of that. Under the 10 burden shifting concept in McDonald Douglas, I 11 believe Leisure World has more than adequately 12 demonstrated a nondiscriminatory, 13 nonretaliated reason for all of the things 14 that it did, especially the January 31, 2023 15 policy clarification, such that if they wanted 16 to demonstrate that we were pretextual, if 17 they wanted to demonstrate that we didn't 18 actually have this genuine reason, 19 nondiscriminatory reason for what we did, 20 nonretaliatory reason for what we did, they 21 needed to come forward with evidence to that 22 effect. They have not. The burden shifting 23 concept of McDonald -- of McDonald Douglas, 24 that's the end and judgment should be entered 25 in favor of Leisure World on this claim.</p> | <p>168</p> <p>1 Tripp from the Linda Tripp, Monica Lewinsky, 2 Bill Clinton scandal and all of that stuff. 3 My purpose in going through all this detail 4 with your Honor is to ask you to put yourself 5 in their shoes. Okay? If you are Leisure 6 World and you are from 2011 being told by 7 CCOC, it's the law that tripped Tripp and if 8 you are being told in 2018 by CCOC or actually 9 in 2013 by your attorneys that this is against 10 the law to do this, you really shouldn't be 11 recording, and then in 2018, CCOC says, don't 12 do this. This could be unlawful. You 13 shouldn't be recording things, and you have a 14 right -- CCOC says you have a right not 15 record, how is it that there's evidence of 16 retaliation when we complied with all of those 17 guidance points. How is it retaliatory? And 18 so put yourself in their shoes. With all of 19 that information in your hands, that's what 20 you're being told by all these different 21 professionals and governing bodies, why in the 22 world would you go against it? And, again, 23 they have the ability to say, yeah, that's all 24 a pretext. Yeah, they're saying all that, but 25 don't listen to them, your Honor. Don't</p> |

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| <p>169</p> <p>1 believe them because really what was going on 2 was this and they didn't come forward with 3 anything in that respect. They didn't come 4 forward with any evidence, they didn't present 5 any evidence, that all of those reasons why we 6 didn't give her this reasonable accommodation 7 was merely pretextual and that there was a 8 discriminatory basis behind what we were 9 doing. 10 The last comment I'll make is in -- 11 well, maybe not the last comment. Never 12 believe a lawyer when they say that, but under 13 the Williams case, Judge Chasanow specifically 14 says that -- and I'll just read it because I 15 don't want to misquote it because what Judge 16 Chasanow says is intriguing. In Williams -- 17 and it's going to take me a moment to get 18 there. Okay. This is on 2021 US District 19 Lexis 103488 star page 34 and spilling onto 20 35. What Justice -- Judge Chasanow says is, 21 in fact, Plaintiff even attempted to use the 22 threat of filing of such complaints as 23 leverage to deter Aurora from continuing to 24 find the property, as evidenced by her 25 statements to Mr. Eckloft so on and so forth.</p> | <p>171</p> <p>1 on the topic. 2 The last thing that I will say is, Miss 3 Katzman also testified on cross that the 4 damages and the treatment she has received has 5 roughly been the same throughout her entire 6 time at Leisure World. Well, if it's roughly 7 been the same, then there hasn't been any 8 retaliation because she's being treated the 9 same now as the way she was being treated 10 then. I asked one too many questions, which 11 attorneys do all the time and it's a mistake 12 and you try to learn from it, but you still 13 make the mistake from time to time, and then 14 she said, it got worse. Okay? She tagged 15 that on at the end when I was saying, well, 16 did it improve and she said, no, it actually 17 got worse. Okay, but her original testimony 18 was, throughout, this is how I have been 19 treated at Leisure World. That's not 20 retaliation. It can't be. It's the same 21 treatment that she's received the entire time 22 that she's been there and that's not 23 retaliation. It's the same treatment. For 24 all of these reasons, we submit that this 25 claim fails, evidentiary wise, to either</p> |
| <p>170</p> <p>1 Okay. Thus, rather than being deterred or 2 dissuaded from filing complaints, the alleged 3 adverse actions actually seemed to encourage 4 Plaintiff to lodge her complaints. Just as 5 Plaintiff was not deterred from standing her 6 ground, I think we would all agree that Miss 7 Katzman has stood her ground and pursuing 8 multiple complaints against Aurora, the Court 9 is not persuaded that Aurora's actions would 10 dissuade any other reasonable person from 11 making or supporting a charge of 12 discrimination. Because Plaintiff has not met 13 her burden of satisfying the adverse action 14 requirement of a retaliation claim under the 15 FHA, Defendant is also entitled to summary 16 judgment on count one. Miss Katzman 17 acknowledged in cross-examination by my 18 questions that she never was dissuaded from 19 doing what she thought she was right to do, 20 what she was entitled to do. She pursued and 21 maintained all avenues of actions that she 22 believed she could take. Williams says, if 23 you do that, then it's not a retaliation 24 issue. It's just not. It's not an adverse 25 action. That's what Judge Chasanow has to say</p> | <p>172</p> <p>1 establish any of the four or most of the four 2 elements under the retaliation standard, 3 especially the causal connection one, but in 4 addition the notice or acknowledgment or 5 knowledge by the Defendant on certain of the 6 dates, depending on the timeline, and also 7 that because she was able to continue to make 8 whatever actions she believed were right, 9 there was no dissuading or deterring under 10 Williams, that means she also similarly has a 11 claim that fails, and last, because the 12 treatment of her throughout this time period 13 was the same. That it hasn't been anything 14 changed that she cannot maintain an action for 15 retaliation. There hasn't -- hasn't been any. 16 It's up to your Honor to decide the facts in 17 this case. That's your job and there's a lot, 18 I guess, to pursue or parse through here in 19 this past two days, but from our submission of 20 it, the Plaintiff does not or the Claimant 21 does not make her burden of proof on these 22 items, especially when viewed under the 23 McDonald Douglas shifting of the burden back 24 to them to demonstrate our stated reasons are 25 merely pretextual. I don't think they gave</p> |

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Conducted on February 23, 2024

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| <p>173</p> <p>1 you anything that you can hang your hat on 2 evidence wise to show that it was just 3 pretextual, but you will ultimately make that 4 decision. 5 Unless your Honor has a specific 6 question from me that you'd like me to 7 address, that was all I intended to say. 8 JUDGE BYRNE: I'm good. Thank 9 you. 10 MR. WEBSTER: Thank you. 11 JUDGE BYRNE: I want to think 12 the parties, I want to think the attorneys. 13 MR. SHARDELOW: Your Honor, do 14 we get a chance for a quick rebuttal? 15 JUDGE BYRNE: It's closing, so 16 that's -- the rebuttal would come with the 17 testimony. So you've made your legal 18 arguments. He's made his legal arguments. 19 So, no, on the -- no, on the closing. Okay. 20 All right. I appreciate the effort, though. 21 It's always good to ask. I think in some 22 forms you would, but in this particular 23 instance, closing closing. Okay. I 24 appreciate it. 25 Again, I want to thank the parties. A</p> | <p>175</p> <p>1 transcript. So we ask for the transcript. It 2 takes approximately 10 days to come back to 3 us, so no other documents will come in. A 4 decision will be rendered within 45 days of 5 when the record finally closes. So it's 45 6 plus 10 essentially from today. I'll do my 7 best to try to get it out as quickly as I can. 8 Things -- I'll have the original report and 9 recommendation on the reasonable accommodation 10 will be part and parcel of it, as well as the 11 -- my decision on the motion to dismiss will 12 be part and parcel of that report and 13 recommendation. That will go back to the HRC. 14 As I said at the beginning, I'm just -- I'm 15 the heavy lifter here, right? So I'm the 16 person that's going through all of this. The 17 HRC can make a determination as to whether 18 they adopt a whole, in part or none of my 19 report and recommendation. So, again, thank 20 you all. And as soon as -- I'm making an 21 assumption everybody would like a copy of the 22 transcript. All right. So as soon as it 23 comes in, I'll ask Nana to forward it to the 24 attorneys for both parties. All right. Thank 25 you, all. Everybody have a great day. Thank</p> |
| <p>174</p> <p>1 good job really by everyone. Witnesses were 2 good. I think one thing that I've come away 3 from this hearing is that people love Leisure 4 World. Miss Katzman clearly has a passion for 5 it. The other witness is Mr. Dunn. All of 6 the witnesses, you love where you live, you're 7 passionate about your community, and you don't 8 always hear that or find that. So I 9 appreciate that and I appreciate the effort 10 and time that everyone put into this. An 11 excellent job for you all. It's good to get 12 real experience. And this is -- it's in the 13 administrative form, it's a little looser, so 14 it's nice to practice and use that exercise. 15 The rules of evidence aren't so close. And 16 while it's formal, it's still informal. So 17 excellent job all around and I appreciate 18 everyone's efforts and time. And thank you 19 all for being here. 20 All right. So what do we do next? 21 Well, what we have is the hearing is 22 concluded. I'm going to close the record as 23 of today. So all documents in are in the 24 record. I'm going to open it -- well, I'm 25 going to keep it open for 10 days only for the</p> | <p>176</p> <p>1 you. 2 (Concluded 2:13 p.m.) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |

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CERTIFICATE OF TRANSCRIBER

I, Cynthia Bauerle, do hereby certify
that this transcript was prepared from the
digital audio recording of the foregoing
proceeding; that said transcript is a true and
accurate record of the proceedings to the best
of my knowledge, skills, and ability; and that
I am neither counsel for, related to, nor
employed by any of the parties to the case and
have no interest, financial or otherwise, in
its outcome.

Cynthia Bauerle

CYNTHIA BAUERLE, CSR

3/2/24

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CERTIFICATE OF COURT REPORTER-NOTARY PUBLIC

I, Brendon Cuenca, the officer before
whom the foregoing proceedings were taken, do
hereby certify that any witness(es) in the
foregoing proceedings were fully sworn; that
the proceedings were recorded by me and
thereafter reduced to typewriting by a
qualified transcriptionist; that said digital
audio recording of said proceedings are a true
and accurate record to the best of my
knowledge, skills, and ability; and that I am
neither counsel for, related to, nor employed
by any of the parties to this case and have no
interest, financial or otherwise, in its
outcome.



Brendon Cuenca,

NOTARY PUBLIC FOR THE STATE OF MARYLAND

2/26/2024

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