

No. F085800

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

CIVIL RIGHTS DEPARTMENT, FORMERLY THE DEPARTMENT OF
FAIR EMPLOYMENT AND HOUSING, AN AGENCY OF THE STATE OF
CALIFORNIA,

Plaintiff and Appellant,

v.

CATHY'S CREATIONS, INC., D/B/A TASTRIES, A CALIFORNIA
CORPORATION, ET AL.

Defendants and Respondents;

EILEEN RODRIGUEZ-DEL RIO AND MIREYA RODRIGUEZ-DEL
RIO,

Real Parties in Interest.

Kern County Superior Court, Case No. BCV-18-102633
Honorable J. Eric Bradshaw, Judge (Division J)

APPELLANT'S APPENDIX

File 2 of 13, Volume 2, pp. AA00163-AA00416

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October 20, 2023

AA00163

Exhibit T

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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF KERN

18 DEPARTMENT OF FAIR EMPLOYMENT
19 AND HOUSING, an agency of the State of
California,

20 Plaintiff,

21 v.

22 CATHY'S CREATIONS, INC. d/b/a
TASTRIES, a California Corporation; and
23 CATHARINE MILLER, an individual,

24 Defendants.

25 EILEEN RODRIGUEZ-DEL RIO and MIREYA
RODRIGUEZ-DEL RIO,

26 Real Parties in Interest.

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CASE NO.: BCV-18-102633

IMAGED FILE

**CORRECTED DECLARATION OF
JEFFREY M. TRISSELL, ESQ. IN
SUPPORT OF DEFENDANTS'
MOTIONS IN LIMINE & OTHER
PRELIMINARY MOTIONS**

Date: July 25, 2022

Time: 9:00 a.m.

Dept: J

Judge: Hon. J. Eric Bradshaw

Action Filed: Oct. 17, 2018

27
28
CORRECTED DECLARATION OF JEFFREY M. TRISSELL, ESQ. ISO
DEFENDANTS' MOTIONS IN LIMINE & OTHER PRELIMINARY MOTIONS

AA00165

1 I, Jeffrey M. Trissell, Esq., declare and state as follows:

2 1. I am an attorney duly admitted to practice before all the courts of California, both
3 State and Federal. I am one of the attorneys for Defendants Catharine Miller and Cathy's
4 Creations, Inc. dba Tastries Bakery (collectively "Defendants"). As such, I have personal
5 knowledge of the following facts and, if called upon to testify, I could and would competently testify
6 to these facts.

7 2. Attached hereto as **Judicial Admission Document No. 1** is a true and correct copy of
8 the First Amended Complaint in this action, dated November 29, 2018, with relevant portions
9 highlighted.

10 3. Attached hereto as **Judicial Admission Document No. 2** is a true and correct copy of
11 Plaintiff DFEH's Supplemental Responses to Defendant Catharine Miller's Requests for
12 Admission, dated February 25, 2022, with relevant portions highlighted.

13 4. Attached hereto as **Motion in Limine Exhibit 1** is a true and correct copy of the
14 relevant portions of Plaintiff DFEH's Memorandum of Points and Authorities in Support of
15 Petition and Ex Parte Application for a Temporary Restraining Order and Order to Show Cause re:
16 Preliminary injunction, in Case No. BCV-17-102855, dated December 13, 2017, with relevant
17 portions highlighted.

18 5. Attached hereto as **Motion in Limine Exhibit 2** is a true and correct copy of the
19 Declaration of Mireya Rodriguez-Del Rio, filed in Case No. BCV-17-102855, and dated December
20 7, 2017, with relevant portions highlighted.

21 6. Attached hereto as **Motion in Limine Exhibit 3** is a true and correct copy of the
22 Declaration of Eileen Rodriguez-Del Rio, filed in Case No. BCV-17-102855, and dated December 7,
23 2017, with relevant portions highlighted.

24 7. Attached hereto as **Motion in Limine Exhibit 4** is a true and correct copy of the
25 Declaration of Reina Benitez, filed in Case No. BCV-17-102855, and dated January 18, 2018, with
26 relevant portions highlighted.

27 ///

28 ///

1 8. Attached hereto as **Motion in Limine Exhibit 5** is a true and correct copy of the
2 Declaration of Eileen Rodriguez-Del Rio, filed in this case, and dated February 19, 2019, with
3 relevant portions highlighted.

4 9. Attached hereto as **Motion in Limine Exhibit 6** is a true and correct copy of the
5 relevant portions of Plaintiff DFEH's Supplemental Response to Defendants' Corrected Amended
6 Requests for Production of Documents, dated January 10, 2020, with relevant portions highlighted.

7 10. Attached hereto as **Motion in Limine Exhibit 7** is a true and correct copy of the
8 relevant portions of Real Parties in Interest's Further Supplemental Response to Defendants'
9 Subpoena for Production of Documents, dated January 22, 2020, with relevant portions
10 highlighted.

11 11. Attached hereto as **Motion in Limine Exhibit 8** is a true and correct copy of the
12 relevant portions of Plaintiff DFEH's Supplemental Response to Defendants' Tastries' Amended
13 Special Interrogatories, dated February 25, 2022, with relevant portions highlighted.

14 12. Attached hereto as **Motion in Limine Exhibit 9** is a true and correct copy of the
15 relevant portions of the transcript of the deposition of Mary Elizabeth Johnson, taken in this action
16 on July 14, 2021, with relevant portions highlighted.

17 13. Attached hereto as **Motion in Limine Exhibit 10** is a true and correct copy of the
18 relevant portions of the transcript of the deposition of Jessica Criollo, taken in this action on July 14,
19 2021, with relevant portions highlighted.

20 14. Attached hereto as **Motion in Limine Exhibit 11** is a true and correct copy of the
21 relevant portions of the transcript of the deposition of Catharine Miller, taken in the DFEH
22 administrative investigation on September 26, 2018, with relevant portions highlighted.

23 15. Attached hereto as **Motion in Limine Exhibit 12** is a true and correct copy of the
24 relevant portions of the transcript of the deposition of Catharine Miller, taken in this action on
25 February 24, 2022, with relevant portions highlighted.

26 16. Attached hereto as **Motion in Limine Exhibit 13** is a true and correct copy of the
27 Order issued by the Fifth Appellate District in Appeal No. F081781, dated January 27, 2021, with
28 relevant portions highlighted.

Jud. Adm. Doc. 1

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10
11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF KERN**

13 DEPARTMENT OF FAIR EMPLOYMENT
14 AND HOUSING, an agency of the State of
California,
15
16 Plaintiff,
17 vs.
18 CATHY’S CREATIONS, INC. d/b/a
TASTRIES, a California corporation; and
19 CATHARINE MILLER,
20 Defendants.
21
22 EILEEN RODRIGUEZ-DEL RIO and MIREYA
RODRIGUEZ-DEL RIO,
23 Real Parties in Interest.
24

Case No.

**FIRST AMENDED COMPLAINT FOR
DAMAGES AND INJUNCTIVE RELIEF
FOR VIOLATION OF THE UNRUH
CIVIL RIGHTS ACT AND THE FAIR
EMPLOYMENT AND HOUSING ACT**

**[Civ. Code, § 51 et seq.; Gov. Code, §
12948]**

UNLIMITED CIVIL JURISDICTION

JURY TRIAL DEMANDED

25 Plaintiff Department of Fair Employment and Housing (DFEH) brings this civil rights action
26 and alleges the following against defendants CATHY’S CREATIONS, INC. d/b/a TASTRIES, a
27 California corporation, and CATHARINE MILLER, an individual, on behalf of itself and real parties
28 in interest EILEEN RODRIGUEZ-DEL RIO and MIREYA RODRIGUEZ-DEL RIO.



1 NATURE OF PROCEEDINGS

2 After many years of close friendship, Eileen and Mireya Rodriguez-Del Rio fell in love in
3 2015, the year same-sex marriage became legal in the United States. They married in an intimate
4 ceremony in front of their families in December 2016. Like many couples in love, they wanted to
5 celebrate their marriage with their extended families and friends, and set a date of October 7, 2017, to
6 exchange vows and host a traditional wedding reception with over 100 guests.

7 Eileen and Mireya commenced planning their wedding reception well in advance of October
8 2017. The couple researched wedding vendors, and began the long wedding planning process. They
9 accomplished their first task by reserving the venue in August 2016. By August 2017, only a few
10 tasks remained, including ordering a wedding cake.

11 Although they wanted only a simple wedding cake, the couple’s quest did not proceed as
12 smoothly as their search for a venue. They visited several local bakeries and tasted cakes, but had
13 been unsuccessful in their search when Eileen serendipitously drove past a bakery called Tastries.
14 She told Mireya about it, and the couple visited hoping Tastries would be the right bakery for them.

15 Upon their arrival, a sales associate named Rosemary Perez greeted the Rodriguez-Del Rios
16 warmly, and began showing them Tastries cakes on display throughout the bakery. They saw a
17 simple display cake they liked, and told Ms. Perez they wanted their cake to look just like it. Ms.
18 Perez quoted an affordable price, and Eileen and Mireya selected cake options provided by Ms.
19 Perez, who made them feel very welcome and comfortable. They were nearly ready to order the cake
20 when Ms. Perez suggested they return for a complimentary tasting.

21 When they returned with Eileen’s mother and a few close friends a week-and-a-half later for
22 the tasting, Ms. Perez again greeted the couple, but immediately apologized and informed them her
23 boss was taking over their order. Tastries owner Catharine Miller directed the Rodriguez-Del Rios to
24 the back of the bakery, introduced herself, and asked what they were looking to order. The couple
25 explained they were there for a tasting since they had already made their order selections with Ms.
26 Perez.

27 **When Ms. Miller realized Eileen and Mireya were a same-sex couple ordering a wedding**
28 **cake, she informed them she would refer their order to another bakery, Gimmee Some Sugar Sweet**



1 Company (Gimmee Some Sugar), because she did not condone same-sex marriage. Shocked and
2 confused, Mireya said she thought Tastries would provide their cake. Ms. Miller again stated she did
3 not condone same-sex marriage, and repeated that she would provide their selections to Gimmee
4 Some Sugar. Stunned, offended, and hurt, the Rodriguez-Del Rio party left Tastries to cope with the
5 indignity of being denied service solely because of their sexual orientation, knowing that had they
6 been an opposite sex couple, Tastries would have provided the cake they wanted.

7 The Unruh Civil Rights Act provides that all persons in California are free and equal, and no
8 matter what their sexual orientation are entitled to full and equal services in all business
9 establishments. Tastries and Ms. Miller's refusal to provide full and equal wedding cake services to
10 the Rodriguez-Del Rios constituted discrimination based on sexual orientation in violation of the
11 Unruh Civil Rights Act. The Department of Fair Employment and Housing brings this action as an
12 exercise of its statutory mandate to enforce the civil rights of all Californians.

13 PARTIES

14 1. Plaintiff DFEH is the state agency charged with enforcing the civil rights of all
15 Californians to use and enjoy any public accommodation without discrimination because of, inter
16 alia, sexual orientation, under the Unruh Civil Rights Act (Unruh Act), Civil Code section 51 et seq.,
17 as incorporated into the Fair Employment and Housing Act (FEHA). (Gov. Code, § 12948.) The
18 DFEH's enforcement of the Unruh Act and FEHA is an exercise of the police power of the State of
19 California, to protect the civil rights of all Californians to be free and equal, and no matter what their
20 sexual orientation, entitled to the full and equal accommodations, advantages, facilities privileges and
21 services in all business establishments of every kind whatsoever. (Civ. Code, § 51, subd. (b); Gov.
22 Code, § 12948.) In the exercise of this power, the DFEH is authorized to file civil lawsuits on behalf
23 of itself and the persons claiming to be aggrieved as the real parties in interest under the Government
24 Code. (Gov. Code, § 12930, subd. (f).)

25 2. Real parties in interest Eileen and Mireya Rodriguez-Del Rio (Rodriguez-Del Rios or
26 real parties) reside and, at all times relevant to this complaint, resided in the City of Bakersfield, Kern
27 County, California. Real parties are "persons" within the meaning of the Unruh Act, Civil Code
28 section 51, subdivision (b).



1 **Tastries' Cake Services**

2 13. Defendant Ms. Miller is the sole owner of respondent Cathy's Creations, Inc. Doing
3 business as "Tastries," Cathy's Creations, Inc. (Tastries) operates a bakery, boutique gift shop, and
4 event rental business in Bakersfield. Tastries sells baked goods, including celebration cakes,
5 cupcakes, wedding cakes, cookies, pies, and pastries. Ms. Miller believes Tastries is unique and
6 offers superior products its customers love.

7 **Varieties of Tastries Cakes**

8 14. Tastries offers both premade cakes (referred to as "case" cakes) and preordered cakes
9 (referred to as "custom" cakes) for sale, in addition to exhibiting display cakes made partially of
10 Styrofoam. Case cakes are not preordered nor created for a specific customer. They are kept in
11 refrigerated cases in the store and are available for anyone to purchase immediately. Tastries bakers
12 make case cakes with no specific end use in mind, although most customers purchase them as
13 birthday cakes. Ms. Miller describes them as "no brainer" cakes, and admits the design of case cakes
14 requires no artistry. Any Tastries baker or decorator must be able to make case cakes without
15 assistance. Tastries employees will add a written message to a case cake, which does not transform it
16 into a "custom" cake.

17 15. **Tastries considers all other cakes it bakes and sells to be "custom" cakes—regardless**
18 **of design or details—because they are ordered in advance.** Wedding cakes, which comprise at most
19 25-30% of Tastries business, are called "custom" cakes, even when nothing about their design or
20 ingredients is original or unique. **Tastries considers wedding cakes "custom" even when they are**
21 **recreated from a preexisting cake, based on a copycat design, or a store-bought box mix is amongst**
22 **the ingredients.**

23 16. Customers work with Ms. Miller or a member of Tastries' front-end team of sales
24 associates to order "custom" cakes using a standard order form identifying the set of selections
25 available for the cake: number of tiers, size, shape, cake flavor, filling flavor, colors, type of frosting,
26 and other options. Once a customer makes the selections and a front-end sales associate sends the
27 form to the kitchen, up to eight Tastries employees bake the preordered cake—referred to as a
28



1 “custom” cake—through an assembly line-like process. “Custom” cakes are more expensive than
2 case cakes, even when a “custom” cake is identical to a case cake.

3 17. Tastries also exhibits 75-100 “display” cakes made partially of Styrofoam throughout
4 the bakery. Tastries exhibits these display cakes—as well as pictures of previously sold Tastries
5 cakes available to view on a tablet, in an album, and on a television above the cash registers—to
6 provide selections from a menu of options for customers. Many of Tastries’ display cakes are copies
7 of cakes from pictures on the internet of cakes originally conceived, designed, and created by other
8 bakers and other bakeries. Tastries customers may and do order “custom” cakes that replicate
9 preexisting display cakes or photographs of another bakeries’ cakes. Many customers order a
10 “custom” cake based on the design of a display cake, requesting only minor changes (e.g., two tiers
11 instead of three, or different colors).

12 **Preordered or “Custom” Cake Order Process**

13 18. Customers wishing to preorder a Tastries cake go through an order process for
14 “custom” cakes with Tastries front-end employees and/or Ms. Miller. A front-end sales associate
15 asks the customer for information about the cake the customer wants to order and provides a
16 customer a Tastries order form.

17 19. Tastries offers an in-store consultation with a sales associate and/or Ms. Miller. Not
18 all custom cake orders require an in-store consultation; some customers call the bakery and send in a
19 picture of the cake they want. Most customers complete their in-store consultation during a single
20 visit. When working with a sales associate or Ms. Miller, a customer may select cake flavors,
21 fillings, colors, the number of tiers, size, shape, and other options on the order form.

22 20. While Ms. Miller may insert herself into the ordering process of any Tastries cake, she
23 does not participate in the process of every preordered “custom” Tastries cake. A consultation with a
24 Tastries sales associate is quick when customers know what they want. It may last an hour or more if
25 every selection from the menu of options—size, shape, number of tiers, colors, flavors, fillings, type
26 of frosting—is discussed. A Tastries customer may work with two or three sales associates
27 throughout the order process. Delivery of the cake is also discussed as part of the ordering process.



1 21. It is not out of the ordinary for a Tastries “custom” cake, including a wedding cake, to
2 be based on a preexisting cake. This happens when a customer (1) provides a photo of a cake created
3 by another bakery, (2) selects a photo of a previously conceived and sold Tastries cake, or (3) selects
4 a partially Styrofoam display cake on which to base their cake selections. According to Ms. Miller,
5 forty to fifty percent of Tastries “custom” cake orders are based on a picture of a preexisting cake.
6 Many other “custom” cake orders are based on one of the preexisting display cakes on exhibit at
7 Tastries.

8 22. Nor is it out of the ordinary for only one member of the marrying (or married)
9 couple—or neither member—to order a Tastries “custom” wedding cake. Indeed, wedding cakes are
10 often ordered with neither Ms. Miller nor a Tastries sales associate meeting both members of the
11 marrying (or married) couple. In the past, Tastries used order forms for custom wedding cakes that
12 did not request the names of both members of the marrying or married couple. Ms. Miller does not
13 meet every couple who orders a wedding cake. Tastries does not ask customers ordering a “custom”
14 wedding cake whether either member of the couple being celebrated has been divorced or has had a
15 child while unmarried. Tastries makes no attempt to obtain such information.

16 **Preordered or “Custom” Cake Baking Process (Baking and Decorating)**

17 23. Once a customer makes the necessary selections to complete the order process,
18 Tastries employees bake the preordered “custom” cake. The baking process differs depending on the
19 time demands Tastries faces. When busy, Tastries back-end employees divide the various tasks, with
20 each employee completing one step in the baking process. When business is slow at Tastries,
21 however, one employee or Ms. Miller can bake and decorate a preordered “custom” cake without
22 assistance. Many “custom” wedding cakes are made without Ms. Miller’s personal involvement.

23 24. Some of Tastries’ “custom” wedding cakes are not made from scratch. Tastries
24 purchases and uses box cake mix for certain of its cake flavors. Tastries buys and uses white and
25 chocolate buttercream frosting from a big box store.

26 **Preordered or “Custom” Cake Delivery**

27 25. Tastries will deliver its preordered or “custom” cakes, or customers may pick them up
28 from the bakery, including wedding cakes, rather than have them delivered. Tastries sometimes



1 delivers preordered or “custom” wedding cakes in vehicles bearing no marks identifying them as
2 Tastries vehicles. Tastries’ employees have delivered wedding cakes while wearing clothing not
3 marked in any manner identifying them as employees of Tastries. Tastries sometimes delivers
4 wedding cakes at a time when no guests or members of the wedding party are present. When leaving
5 the site after a wedding cake delivery, Tastries employees usually leave nothing behind that identifies
6 Tastries by name.

7 **Tastries Enforces a Policy to Deny Same-Sex Couples Full and Equal Services.**

8 26. Since Tastries opened in January 2013, Ms. Miller has enforced a policy to deny
9 same-sex couples wedding cakes and any other cake celebrating the marriage or anniversary of same-
10 sex couples. Ms. Miller admits Tastries has denied at least three same-sex couples’ requests for
11 Tastries wedding cakes since summer 2016.

12 27. Ms. Miller states she refuses to provide wedding cakes for same-sex couples
13 celebrating their marriages because it poses a “conflict with her fundamental Christian principles.”
14 Ms. Miller says she “is a practicing Christian and ... seeks to honor God in ... how she runs her
15 business.” Ms. Miller believes *any* preordered Tastries cake made for an event that celebrates a
16 same-sex couple’s marriage sends a message—whether or not any one knows the cake is from
17 Tastries—that Tastries is in agreement with the celebration—a message she is unwilling to send,
18 without exception.

19 28. When refusing to fill an order for a same-sex couple’s wedding cake, Ms. Miller
20 follows a policy of “referring” the order to a competitor bakery, Gimmee Some Sugar, by contacting
21 the other bakery’s owner and asking her to fill the order. Tastries has no written agreement with
22 Gimmee Some Sugar regarding these “referrals.” Ms. Miller does not know if the same-sex couples
23 she “referred” to Gimmee Some Sugar obtained their wedding cakes there. In November 2018, the
24 Kern County Public Health Services Department ordered Gimmee Some Sugar to close due to an
25 “active vermin infestation” after observing debris on its premises and a “gross amount of rodent
26 droppings in [its] kitchen and equipment/utensil storage area.”

27 29. Ms. Miller testified in the DFEH investigation that there are no circumstances under
28 which Tastries would knowingly provide full and equal wedding cake services to same-sex couples.



1 Ms. Miller stated under oath that it is “100 percent unacceptable” to her for Tastries to provide *any*
2 preordered “custom” cake for a same-sex wedding, or *any* event celebrating a couple’s same-sex
3 marriage, even if Ms. Miller were removed from the wedding cake ordering and baking process
4 altogether, the order was based on a preexisting copycat design, and Tastries employees
5 independently designed and baked same-sex wedding cakes using Tastries’ equipment. She further
6 testified that it would still be unacceptable to her even if she was removed from the design and
7 baking process altogether, and Tastries employees designed and baked same-sex wedding cakes on
8 their *own* time away from Tastries’ premises.

9 30. Ms. Miller testified, “Tastries and I are the same.” Thus, she would not agree to any
10 alternative under which Tastries or its employees are involved in baking preordered wedding cakes
11 for same-sex wedding celebrations. The only compromise she sees is her “accommodation” of
12 referring same-sex couples to Gimmee Some Sugar.

13 31. Ms. Miller has no policy against selling a Tastries premade case cake to be used to
14 celebrate a same-sex couple’s marriage, or against customizing such a Tastries cake with a written
15 message of congratulations to the same-sex couple.

16 32. Despite Tastries’ policy against providing preordered “custom” cakes for same-sex
17 weddings, Tastries has provided cakes for same-sex weddings several times. On one such occasion,
18 Tastries provided a preordered “custom” wedding cake for the wedding of Elena and Marissa
19 Delgado. Before visiting Tastries, the Delgados called three other bakeries, all of which either said
20 they did not have time to fill the Delgados’ last-minute wedding cake order or identified a price the
21 Delgados considered too high.

22 33. When the Delgados visited Tastries to order their wedding cake, they selected a design
23 nearly identical to one of the partially Styrofoam display cakes then exhibited at Tastries. Tastries
24 created the cake per the design the Delgados selected and ordered. Ms. Miller testified she saw and
25 approved the order form for the Delgados’ wedding cake without realizing it was for a wedding—in
26 fact, believing it was probably for a birthday or quinceañera because of the design. Elena Delgado
27 and her parents were present when the Tastries cake was delivered, but no wedding guests were at the
28 venue. The Tastries employee who delivered the cake left nothing behind that identified Tastries by



1 name. Ms. Miller stated she did not know what message, if any, Tastries sent by providing the
2 Delgados' wedding cake, nor did she know what message, if any, the Delgados' wedding guests
3 received when they viewed the cake.

4 **Tastries Denied the Rodriguez-Del Rios Full and Equal Services.**

5 34. Complainants Eileen and Mireya Rodriguez-Del Rio met in the late 1990s at
6 Bakersfield College, and built a close and strong friendship before falling in love and becoming a
7 couple in 2015. They married in December 2016, in an intimate ceremony before their immediate
8 family, and set a date of October 7, 2017, for a vow exchange and traditional wedding reception with
9 over 100 guests.

10 35. Part of the couple's wedding reception planning process included preordering a
11 wedding cake. After tastings at other bakeries, including Gimmee Some Sugar, Eileen and Mireya
12 continued looking for a bakery from which to order their cake.

13 36. The Rodriguez-Del Rios visited Tastries on August 17, 2017, to see sample wedding
14 cakes and potentially order a cake. A Tastries' employee named Rosemary Perez met with the
15 couple, showed them display cakes in the bakery, and recorded the selections of the cake they wanted
16 to order.

17 37. Eileen and Mireya selected a simple cake design based on an existing display cake
18 then exhibited at Tastries. They did not request an original or unique custom cake, and did not
19 consider the cake they selected to be a custom cake. Eileen and Mireya did not want or request any
20 written words or messages on their cake. They wanted their cake to look just like the preexisting
21 display cake they identified to Ms. Perez. Ms. Perez quoted Eileen and Mireya a price of \$260 for
22 the cake, a price they found appealing. Although ready to order the cake then, Ms. Perez suggested
23 the Rodriguez-Del Rios taste Tastries cakes, frostings and fillings before confirming their order, and
24 she signed them up for a tasting scheduled for August 26, 2017.

25 38. On August 26, 2017, Mireya, Eileen, and Eileen's mom joined Mireya's man of honor
26 and his partner at Tastries, and Ms. Perez greeted them. Ms. Perez immediately apologized to
27 Mireya, and informed her that her boss was taking over their order.



1 39. Ms. Miller approached the Rodriguez-Del Rio party, directed them to the back of the
2 store, and asked what they were looking to order. Eileen explained they were there for a tasting and
3 to place a wedding cake order. Ms. Miller provided the couple a clipboard and order form, which
4 Eileen began filling out. Eileen questioned why Ms. Miller needed this information since they
5 already provided their selections to Ms. Perez.

6 40. Directing her question to Mireya's man of honor and his partner, Ms. Miller asked
7 "which one of you is the groom?" Eileen responded, "me," and the man of honor pointed to Eileen
8 and said, "she is." Ms. Miller followed up with a few more questions about the couple's wedding
9 venue, which they reserved a year earlier.

10 41. Ms. Miller then told the couple she would provide their order to Stephanie at Gimmee
11 Some Sugar because she does not condone same-sex marriage. Confused, Eileen asked for
12 clarification about to whom Ms. Miller planned to give their order, and Mireya said she was under the
13 impression that Tastries would make their wedding cake. Ms. Miller advised the couple that because
14 she does not condone same-sex marriage, she regularly sends same-sex couples' wedding cake orders
15 to Gimmee Some Sugar. Ms. Miller's statements shocked Eileen and Mireya. She never mentioned
16 her religion nor any specific reasons for why she did not condone same-sex marriage.

17 42. Stunned, hurt, and offended by Ms. Miller's refusal to serve them based solely on their
18 sexual orientation, the Rodriguez-Del Rios and their friends and Eileen's mother left. Still in shock,
19 the party drove by Gimmee Some Sugar, but Eileen realized she had already tasted its cakes and
20 decided against ordering a cake from there.

21 43. Eileen and Mireya did not know what to do. They tried to get their minds off the
22 discrimination they had just endured, and decided to run an errand. As the couple sat in a parking lot,
23 however, a rush of emotion overwhelmed Mireya, and she cried for nearly half an hour as Eileen
24 attempted to comfort her. Mireya's nose started to bleed—which was completely out of the
25 ordinary—and she got a headache. Although she tried to contain her emotions, Eileen later broke
26 down, and her emotional anguish aggravated her rheumatoid arthritis.

27 44. Tastries' explicit refusal to sell the Rodriguez-Del Rios a wedding cake because they
28 intended to celebrate their wedding so devastated the couple that they considered purchasing a



1 premade, non-wedding cake from a grocery or big box store. Once exciting, planning their wedding
2 reception became a painful and emotionally upsetting process.

3 **FIRST CAUSE OF ACTION**

4 **Discrimination in a Business Establishment on the Basis of Sexual Orientation**
5 **in Violation of the Unruh Civil Rights Act**
6 **(Civil Code section 51 et seq.; Government Code section 12948)**
7 **[Against All Defendants]**

8 45. The DFEH realleges and incorporates by reference each allegation contained in all
9 preceding paragraphs as if fully set forth herein.

10 46. FEHA, Government Code section 12948, provides, in pertinent part, that “[i]t is an
11 unlawful practice under this part for a person to deny or to aid, incite, or conspire in the denial of the
12 rights created by Section 51 ... of the Civil Code.”

13 47. The Unruh Act, Civil Code section 51, subdivision (b), provides: “All persons within
14 the jurisdiction of this state are free and equal, and no matter what their ... sexual orientation ... are
15 entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all
16 business establishments of every kind whatsoever.”

17 48. Defendants failed to provide the Rodriguez-Del Rios with full and equal services by
18 engaging in discrimination based on sexual orientation when they denied real parties wedding cake
19 services, as described above, in violation of Civil Code section 51, subdivision (b), and Government
20 Code section 12948.

21 49. As a direct and proximate result of defendants’ unlawful practices, the Rodriguez-Del
22 Rios suffered actual damages, out-of-pocket expenses, and loss of a discrimination-free business
23 establishment.

24 50. As a further direct and proximate result of defendants’ unlawful discrimination, the
25 Rodriguez-Del Rios suffered embarrassment, public humiliation, and emotional distress, including
26 but not limited to, damage to their dignity and self-esteem, anxiety, stress, anger, frustration, and
27 injury in an amount to be proven at the time of trial.

28 51. Defendants’ conduct, as alleged herein, was egregious, deliberate, willful, intentional,
malicious, oppressive, fraudulent, and taken in conscious disregard of the rights of the Rodriguez-Del



1 Rios, as defined in Civil Code section 3294, entitling them to an award of exemplary and punitive
2 damages.

3 52. Defendants, as herein alleged, have engaged in, and by their conduct will continue to
4 engage in, a pattern or practice of unlawful discrimination in public accommodations unless they are
5 enjoined from failing or refusing to comply with mandates of the Unruh Act and FEHA.

6 53. Unless defendants are enjoined from failing or refusing to comply with the mandates
7 of the Unruh Act and FEHA, the right of the Rodriguez-Del Rios and other persons to enjoy a public
8 accommodation or business establishment free of unlawful discrimination will continue to be
9 violated.

10 54. The DFEH lacks any plain, speedy, adequate remedy at law to prevent such harm,
11 injury, and loss, which will continue until this Court enjoins the complained of unlawful conduct and
12 grants other affirmative relief as prayed for herein.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE, IT IS PRAYED** that this court find that defendants violated the Unruh
15 Civil Rights Act and FEHA, and order each of them to provide the following relief:

16 1. Immediately cease and desist from discriminating against the Rodriguez-Del Rios and
17 other customers celebrating same-sex weddings and marriages;

18 2. Immediately cease and desist from selling to anyone any item they are unwilling to
19 sell, on an equal basis, to members of any protected group under the Unruh Act;

20 3. Maintain a public accommodation and/or business establishment free of
21 discrimination;

22 4. Within 30 days of entry of judgment, develop (or revise current policies as necessary),
23 implement, and distribute to all current and prospective employees of defendants (a) a written policy
24 regarding the eradication and prevention of discrimination on the basis of sexual orientation and all
25 other protected classes consistent with the Unruh Act and FEHA as most recently amended, and
26 (b) specific written procedures by which customers and employees may report incidents of
27 discrimination;



1 5. Submit an annual report to the DFEH for five years identifying any services
2 defendants deny to customers based on free speech or religious grounds, and summarizing and
3 providing copies of any complaints of discrimination from customers or employees;

4 6. Conduct or obtain a minimum of two hours of in person training annually for a period
5 of five years on complying with the Unruh Act, including training on the policies and procedures
6 described in paragraph 5 of the Prayer for Relief above, at defendants' own expense, for all
7 defendants' employees (including Ms. Miller);

8 7. Post, for five years, in a conspicuous place (where employees and patrons congregate)
9 at Tastries the policies and procedures described in paragraph 5 of the Prayer for Relief, above,
10 within 30 days of entry of judgment;

11 8. Post, for five years, in a conspicuous place (where employees and patrons congregate)
12 at Tastries the DFEH's Unruh Civil Rights Act Fact Sheets (DFEH-U01P(A)-ENG and DFEH-
13 U01P(A)-SP), which can be found at the following internet address,
14 https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/12/DFEH_UnruhFactSheet.pdf, within 30
15 days of entry of judgment;

16 9. Provide a copy of the DFEH's Public Access Discrimination and Civil Rights (Unruh)
17 brochures DFEH-U02B-ENG and DFEH-U02B-SP, which are found at the following web address,
18 https://www.dfeh.ca.gov/wp-content/uploads/sites/32/2017/12/DFEH_UnruhPamphlet.pdf,
19 to each Tastries employee, within 30 days of the court's order, and also make said brochures
20 available to customers of Tastries within 30 days of entry of judgment;

21 10. Provide written proof to the court and the DFEH of the nature and extent of
22 defendants' compliance with all requirements of the court's order within 100 days of the effective
23 date of the court's order;

24 11. Jointly and severally pay to the Rodriguez-Del Rios actual damages, including but not
25 limited to their out-of-pocket damages, expenses incurred in filing and pursuing their complaint of
26 discrimination, and emotional distress damages for each Unruh Act violation up to a maximum of
27 three times the actual damages but in no case less than \$4,000 per offense, plus interest thereon;

28 12. Pay punitive damages according to proof;



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13. Pay to the DFEH its costs of suit, including its reasonable attorney fees and expert witness fees;

14. Provide such other relief as the court deems just and proper.

Dated: November 29, 2018

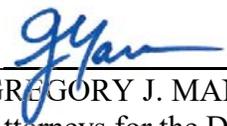
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Jud. Adm. Doc. 2

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9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the State of)
13 California,)
14)
Plaintiff,)
15 vs.)
16 CATHY’S CREATIONS, INC. d/b/a)
TASTRIES, a California corporation; and)
17 CATHY MILLER,)
18)
Defendants.)

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING’S
SUPPLEMENTAL RESPONSE TO
DEFENDANT CATHARINE MILLER’S
REQUESTS FOR ADMISSION TO
PLAINTIFF DFEH – SET ONE**

19 EILEEN RODRIGUEZ-DEL RIO and)
20 MIREYA RODRIGUEZ-DEL RIO,)
21)
Real Parties in Interest.)
22)

Action filed: October 17, 2018
Trial Date: July 25, 2022

23 PROPOUNDING PARTY: DEFENDANT CATHARINE MILLER
24 RESPONDING PARTY: PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT
25 AND HOUSING
26 SET NO.: ONE
27



1 Pursuant to Code of Civil Procedure section 2033.210 et seq., plaintiff Department of Fair
2 Employment and Housing (DFEH) responds to defendant Catharine Miller’s Requests for Admission
3 to Plaintiff DFEH, Set One, as follows:

4 **PRELIMINARY STATEMENT**

5 All the responses contained herein are true and correct to the best knowledge of DFEH as of
6 this date and are based only upon such information and documents that are presently available to and
7 specifically known to DFEH. The responses contained herein are given without prejudice to DFEH’s
8 right to provide facts, witnesses or documents omitted from these responses by oversight,
9 inadvertence, or good faith error or mistake.

10 These responses are provided on behalf of DFEH only. To the extent defendant asks for
11 information in the possession, custody or control of the Real Parties in Interest and not in the control
12 of or furnished to DFEH or its agents during its investigation of the matters raised in the complaint
13 and first amended complaint, DFEH cannot be required to respond to the request. The Real Parties in
14 Interest are not parties to the litigation unless and until they intervene pursuant to Government Code
15 section 12965, subdivision (c). (*See Peralta Community College District v. FEHC* (1990) 52 Cal.3d
16 40, 54 [“Under the FEHA, moreover, the DFEH is the plaintiff and the employee only a witness.”].)

17 DFEH reserves all objections to the admissibility at trial of any documents, information or
18 evidence identified. The identification or supplying of any document, information or evidence will
19 not constitute an admission by DFEH that such document, information or evidence is relevant to or
20 admissible in the pending litigation. DFEH reserves the right to object to further inquiry with respect
21 to any subject matter.

22 DFEH bases these responses on the express statement that defendant does not request
23 information privileged from disclosure by law or otherwise made confidential or protected against
24 discovery by any applicable privilege, doctrine, or immunity, including, without limitation, the right
25 to privacy under the California Constitution, the penumbral right to privacy under the U.S.
26 Constitution, the Information Practices Act (Civ. Code § 1798 et seq.) and any other state or federal
27 law; any privilege relating to confidential conciliation; the official information privilege, informant
28 privilege and other evidentiary privileges (Evid. Code §§ 900 – 1070); the attorney-client privilege



1 (Evid. Code, § 950 et seq.); the attorney work-product doctrine and/or because it contains the impres-
2 sions, conclusions, opinions, legal research or theories of attorneys. DFEH will not provide any such
3 protected information in response to any request that seeks it. To the extent that discovery requests,
4 or any part thereof, are intended to elicit such information, DFEH will, herein and at hearing, object
5 thereto and assert the privileges and objections provided in the foregoing to the fullest extent
6 provided by law. Any inadvertent disclosure of privileged information shall not be deemed a waiver
7 of such protections.

8 These introductory comments shall apply to each response given herein and shall be
9 incorporated by reference as though fully set forth in all of the responses appearing hereafter.

10 Subject to the foregoing preliminary statement applicable to all requests, the DFEH hereby
11 responds to the interrogatories that pertain to the subject of this litigation, as follows:

12 **SUPPLEMENTAL RESPONSES TO REQUESTS FOR ADMISSION**

13 **REQUEST FOR ADMISSION NO. 1:**

14 Admit that the DFEH must presume that the conduct of a business establishment charged
15 under the Unruh Act is not discriminatory until proven otherwise.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

17 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
18 in that the information sought is irrelevant to the subject matter of this action, and the information is
19 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
20 2017.010.) DFEH also objects to this request on the grounds it seeks information protected by the
21 official information privilege (Evid. Code, § 1040), attorney-client privilege (Evid. Code, § 950 et
22 seq.), and the attorney work product doctrine. DFEH further objects to this request on the grounds
23 that the terms “charged under the Unruh Act” and “until proven otherwise” are vague and ambiguous.
24 DFEH additionally objects to this request on the grounds that it calls for speculation and seeks
25 admission of a legal matter without reference to any fact.

26 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
27 request as follows:



1 To the extent DFEH is able to respond to this request as it is framed, denied. DFEH’s
2 procedural regulations require it to initiate a prompt investigation of a complaint alleging facts
3 sufficient to constitute a violation of the Unruh Civil Rights Act, and to gather all relevant evidence
4 necessary to determine whether an unlawful practice has occurred.

5 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 1:**

6 Subject to and without waiving the above objections and privileges, DFEH responds as
7 follows:

8 No further response.

9 **REQUEST FOR ADMISSION NO. 2:**

10 Admit that the Unruh Act permits a business establishment to make some distinctions based
11 on protected characteristics.

12 **RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

13 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
14 in that the information sought is irrelevant to the subject matter of this action and the information is
15 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
16 2017.010.) DFEH further objects to this request on the grounds it seeks information protected by the
17 official information privilege (Evid. Code, § 1040), the attorney-client privilege (Evid. Code, § 950 et
18 seq.) and the attorney work product doctrine. DFEH also objects to this request on the grounds that
19 the phrase “some distinctions” is vague and ambiguous such that DFEH cannot reasonably determine
20 what kind of distinction this request refers to for purposes of providing an admission or denial in
21 response to this request. DFEH objects to this request on the grounds that it calls for speculation and
22 seeks admission of a legal matter without reference to any fact.

23 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
24 request as follows:

25 To the extent DFEH is able to respond to this request as it is framed, denied.

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1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 2:**

2 DFEH further objects on the grounds this request calls for a legal conclusion. Subject to and
3 without waiving the above objections and privileges, DFEH responds as follows:

4 No further response.

5 **REQUEST FOR ADMISSION NO. 3:**

6 Admit that it is baking industry practice for cake artists to decline to create custom cakes that
7 express messages or celebrate events that conflict with their values.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

9 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
10 in that the information sought is irrelevant to the subject matter of this action and the information is
11 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
12 2017.010.) DFEH objects to this request on the grounds it seeks information protected by the attorney
13 work product doctrine. DFEH objects to this request on the grounds it seeks premature disclosure of
14 expert opinion. (Code Civ. Proc., §§ 2034.210; 2034.220.) DFEH has not decided on which, if any,
15 expert witnesses may be called at trial; insofar as this request seeks to ascertain the identity, writings,
16 and opinions of DFEH's experts who have been retained or utilized to date solely as an advisor or
17 consultant, it is violative of the work-product privilege. (See, e.g., *South Tahoe Public Utilities*
18 *District v. Super. Ct.* (1979) 90 Cal.App.3d 135; *Sheets v. Super. Ct.* (1967) 257 Cal.App.2d 1;
19 *Sanders v. Super. Ct.*, (1973) 34 Cal.App.3d 270.) DFEH further objects to this request on the
20 grounds that it calls for speculation and that the terms "baking industry practice," "cake artists,"
21 "custom cakes," "express messages," "celebrate events," and "values" are so vague and ambiguous
22 that DFEH cannot reasonably determine the scope or meaning of these terms and cannot provide an
23 admission or denial in response to this request.

24 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 3:**

25 Subject to and without waiving the above objections and privileges, DFEH responds as
26 follows:

27 No further response.



1 **REQUEST FOR ADMISSION NO. 4:**

2 Admit that the DFEH maintains that expressive business owners, including cake artists,
3 violate the Unruh Act if they decline to create a custom item expressing homophobic or anti-LGBT
4 messages.

5 **RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

6 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
7 in that the information sought is irrelevant to the subject matter of this action and the information is
8 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
9 2017.010.) DFEH also objects to this request on the grounds that it seeks information protected by
10 the official information privilege (Evid. Code, § 1040), attorney-client privilege (Evid. Code, § 950 et
11 seq.) and work product doctrine. DFEH further objects to this request on the grounds that it calls for
12 speculation and that the terms “expressive business owners,” “cake artists,” “custom item,” and
13 “expressing homophobic or anti-LGBT messages” are vague and ambiguous such that DFEH cannot
14 reasonably determine the scope or meaning of these terms for purposes of providing an admission or
15 denial in response to this request. DFEH also objects to this request on the grounds it seeks admission
16 of a legal matter without reference to sufficient facts to enable DFEH to respond.

17 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
18 request as follows:

19 To the extent DFEH is able to respond to this request as it is framed, denied.

20 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 4:**

21 Subject to and without waiving the above objections and privileges, DFEH responds as
22 follows:

23 No further response.

24 **REQUEST FOR ADMISSION NO. 5:**

25 Admit that the DFEH maintains that the Unruh Act does not allow cake artists to decline to
26 create custom cakes that they consider offensive.

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1 **RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

2 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
3 in that the information sought is irrelevant to the subject matter of this action and the information is
4 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
5 2017.010.) DFEH also objects to this request on the grounds that it seeks information protected by
6 the official information privilege (Evid. Code, § 1040), attorney-client privilege (Evid. Code, § 950 et
7 seq.) and attorney work product doctrine. DFEH further objects to this request on the grounds that the
8 terms “cake artists,” “create custom cakes” and “they consider offensive” are so vague and
9 ambiguous—particularly when coupled with the request’s double negative—that DFEH cannot
10 reasonably determine the scope or meaning of the request for purposes of providing an admission or
11 denial in response to this request.

12 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
13 request as follows:

14 To the extent DFEH is able to respond to this request as it is framed, denied.

15 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 5:**

16 Subject to and without waiving the above objections and privileges, DFEH responds as
17 follows:

18 No further response.

19 **REQUEST FOR ADMISSION NO. 6:**

20 Admit that the DFEH uses its enforcement authority under the Unruh Act to compel the
21 speech of people who earn a living creating and selling expression.

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1 **RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

2 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
3 in that the information sought is irrelevant to the subject matter of this action and the information is
4 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
5 2017.010.) DFEH also objects to this request on the grounds that it seeks information protected by
6 the official information privilege (Evid. Code, § 1040), attorney-client privilege (Evid. Code, § 950 et
7 seq.) and work product doctrine. DFEH further objects to this request on the grounds that the terms
8 “enforcement authority,” “compel the speech,” and “creating and selling expression” are highly
9 subjective terms that are so vague and ambiguous that DFEH cannot reasonably determine the scope
10 or meaning of the term for purposes of providing an admission or denial in response to this request.

11 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
12 request as follows:

13 To the extent DFEH is able to respond to this request as it is framed, denied. DFEH does not
14 use its enforcement authority under the Unruh Civil Rights Act to compel speech.

15 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 6:**

16 Subject to and without waiving the above objections and privileges, DFEH responds as
17 follows:

18 No further response.

19 **REQUEST FOR ADMISSION NO. 7:**

20 Admit that the DFEH maintains that cake artists violate the Unruh Act by declining to
21 create custom cakes that express messages they would not communicate for anyone.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

23 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
24 in that the information sought is irrelevant to the subject matter of this action and the information is
25 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
26 2017.010.) DFEH also objects to this request on the grounds it seeks information protected by the
27 official information privilege (Evid. Code, § 1040), attorney-client privilege (Evid. Code, § 950 et
28 seq.) and attorney work product doctrine. DFEH further objects to this request on the grounds that the



1 terms “cake artists,” “custom cakes,” “express messages,” and “would not communicate for anyone”
2 are vague and ambiguous.

3 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
4 request as follows:

5 To the extent DFEH is able to respond to this request as it is framed, denied.

6 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 7:**

7 DFEH further objects on the grounds this request seeks a legal conclusion. Subject to and
8 without waiving the above objections, DFEH responds as follows:

9 No further response.

10 **REQUEST FOR ADMISSION NO. 8:**

11 Admit that Defendant Miller objects to creating any cakes that express messages or
12 celebrate events which support or condone any definition of marriage other than that of one man
13 and one woman.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

15 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
16 this request as overbroad and exceeding the permissible scope of discovery in that the information
17 sought is irrelevant to the subject matter of this action and the information is not reasonably
18 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
19 objects to this request on the grounds that it calls for speculation and that the information sought is
20 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses
21 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH also objects to this request on the
22 grounds that the terms “custom cakes,” “express messages,” “celebrate events,” and “any definition
23 of marriage other than that of one man and one woman” are vague and ambiguous. A reasonable
24 inquiry concerning this matter has been made, and the only information known or readily obtainable
25 concerning this matter consists of hearsay statements and reports from defendant Miller, the truth or
26 falsity of which is unknown. DFEH has insufficient information to admit or deny Request No. 8.

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1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 8:**

2 Subject to and without waiving the above objections and privileges, DFEH responds as
3 follows:

4 No further response.

5 **REQUEST FOR ADMISSION NO. 9:**

6 Admit that Defendant Miller would not create custom cakes that express messages or
7 celebrate events which support or condone any definition of marriage other than that of one man
8 and one woman for anyone regardless of the sexual orientation of the person who requests one.

9 **RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

10 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
11 this request to the extent it is duplicative of Request for Admission No. 8. DFEH further objects to
12 this request as overbroad and exceeding the permissible scope of discovery in that the information
13 sought is irrelevant to the subject matter of this action and the information is not reasonably
14 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
15 objects to this request on the grounds that it calls for speculation and that the information sought is
16 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses
17 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH also objects to this request on the
18 grounds that the terms “custom cakes,” “express messages,” “celebrate events,” and “any definition
19 of marriage other than that of one man and one woman” are vague and ambiguous. A reasonable
20 inquiry concerning this matter has been made, and the only information known or readily obtainable
21 concerning this request consists of hearsay statements and reports from defendant Miller, the truth or
22 falsity of which is unknown. DFEH has insufficient information to admit or deny Request No. 9.

23 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 9:**

24 Subject to and without waiving the above objections and privileges, DFEH responds as
25 follows:

26 No further response.

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1 **REQUEST FOR ADMISSION NO. 10:**

2 Admit that Miller approaches cake design as an art form, and she blends her skills as a
3 pastry chef, sculptor, and painter to design beautiful custom cakes.

4 **RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

5 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
6 in that the information sought is irrelevant to the subject matter of this action and the information is
7 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
8 2017.010.) DFEH objects to this request on the grounds that it calls for speculation and that the
9 information sought is equally available to defendant; DFEH is not required to make an inquiry from
10 independent witnesses in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further
11 objects to this request on the grounds that the terms “approaches cake design,” “an art form,” “blends
12 her skills,” “beautiful,” and “custom cakes” are vague and ambiguous as phrased. A reasonable
13 inquiry concerning this request has been made, and the only information known or readily obtainable
14 concerning this matter consists of hearsay statements and reports from defendant Miller, the truth or
15 falsity of which is unknown. DFEH has insufficient information to admit or deny Request No. 10.

16 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 10:**

17 Subject to and without waiving the above objections and privileges, DFEH responds to the
18 request as follows:

19 No further response.

20 **REQUEST FOR ADMISSION NO. 11:**

21 Admit that after Miller bakes the cake, she sculpts it, decorates it, and using painting and
22 sculpting techniques, inscribes words, numbers, or designs.

23 **RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

24 DFEH objects to this request to the extent it is duplicative of Request for Admission No. 10.
25 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery in that
26 the information sought is irrelevant to the subject matter of this action and the information is not
27 reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.)
28 DFEH objects to this request on the grounds that it calls for speculation and that the information



1 sought is equally available to defendant; DFEH is not required to make an inquiry from independent
2 witnesses in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this
3 request on the grounds that it is overbroad and the terms “Miller bakes the cake,” “sculps it,”
4 “decorates it,” “using painting and sculpting techniques,” and “inscribes words, numbers, or designs”
5 are vague and ambiguous. A reasonable inquiry concerning this request has been made, and the only
6 information known or readily obtainable concerning this matter consists of hearsay statements and
7 reports from defendant Miller, the truth or falsity of which is unknown. DFEH has insufficient
8 information to admit or deny Request No. 11.

9 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 11:**

10 Subject to and without waiving the above objections and privileges, DFEH responds to the
11 request as follows:

12 No further response.

13 **REQUEST FOR ADMISSION NO. 12:**

14 Admit that when Miller creates a custom cake that expresses a message, she is engaged in
15 speech.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

17 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
18 in that the information sought is irrelevant to the subject matter of this action and the information is
19 not reasonably calculated to lead to the discovery of admissible evidence (Code Civ. Proc., §
20 2017.010). DFEH further objects to this request as overbroad in that it requires DFEH to speculate
21 about time periods and conduct that extend beyond the scope of this litigation. DFEH also objects to
22 this request on the grounds that the terms “custom cake,” “expresses a message,” and “engaged in
23 speech” are vague and ambiguous. DFEH also objects to this request on the grounds it seeks
24 admission of a legal matter without reference to sufficient facts to enable DFEH to respond.

25 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
26 request as follows:

27 To the extent DFEH is able to respond to this request as it is framed, denied.



1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 12:**

2 DFEH further objects on the grounds this request calls for a legal conclusion. Subject to and
3 without waiving the above objections and privileges, DFEH responds to the request as follows:

4 No further response.

5 **REQUEST FOR ADMISSION NO. 13:**

6 Admit that in addition to being a cake artist, Miller is a follower of Jesus Christ who bases
7 her religious beliefs on the Bible.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

9 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
10 this request as overbroad and exceeding the permissible scope of discovery in that the information
11 sought is irrelevant to the subject matter of this action and the information is not reasonably
12 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
13 objects to this request on the grounds that it calls for speculation and that the information sought is
14 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses
15 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this request on the
16 grounds that the terms “cake artist,” “follower” and “bases her religious beliefs on the Bible” are
17 vague and ambiguous as phrased. DFEH additionally objects to this request on the grounds that it is
18 compound. A reasonable inquiry concerning this request has been made, and the only information
19 known or readily obtainable concerning this matter consists of hearsay statements and reports from
20 defendant Miller, the truth or falsity of which is unknown. DFEH has insufficient information to
21 admit or deny Request No. 13.

22 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 13:**

23 Subject to and without waiving the above objections and privileges, DFEH responds to the
24 request as follows:

25 No further response.

26 **REQUEST FOR ADMISSION NO. 14:**

27 Admit that Miller’s religious beliefs are central to her life, her identity, and her
28 understanding of goodness, truth, beauty, morality, and existence.



1 **RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

2 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
3 this request as overbroad and exceeding the permissible scope of discovery in that the information
4 sought is irrelevant to the subject matter of this action and the information is not reasonably
5 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
6 objects to this request on the grounds that it calls for speculation and that the information sought is
7 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses
8 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this request on the
9 grounds that the terms “central to her life, her identity, and her understanding of goodness, truth,
10 beauty, morality, and existence” are vague and ambiguous as phrased. DFEH additionally objects to
11 this request on the grounds that it is compound. A reasonable inquiry concerning this request has
12 been made, and the only information known or readily obtainable concerning this matter consists of
13 hearsay statements and reports from defendant Miller, the truth or falsity of which is unknown.

14 DFEH has insufficient information to admit or deny Request No. 14.

15 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 14:**

16 Subject to and without waiving the above objections and privileges, DFEH responds to the
17 request as follows:

18 No further response.

19 **REQUEST FOR ADMISSION NO. 15:**

20 Admit that Miller believes that everything she does, including how she operates her
21 business, should be done to glorify God.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

23 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
24 this request as overbroad and exceeding the permissible scope of discovery in that the information
25 sought is irrelevant to the subject matter of this action and the information is not reasonably
26 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
27 objects to this request on the grounds that it calls for speculation and that the information sought is
28 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses



1 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this request as
2 overbroad in that the terms “everything she does” and “how she operates her business” require DFEH
3 to speculate about time periods and conduct that extend beyond the scope of this litigation. DFEH
4 additionally objects to this request on the grounds that it is compound. DFEH also objects to this
5 request on the grounds that the terms “everything she does,” “how she operates her business,” and
6 “done to glorify” are vague and ambiguous. A reasonable inquiry concerning this request has been
7 made, and the only information known or readily obtainable concerning this matter consists of
8 hearsay statements and reports from defendant Miller, the truth or falsity of which is unknown.

9 **DFEH has insufficient information to admit or deny Request No. 15.**

10 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 15:**

11 Subject to and without waiving the above objections and privileges, DFEH responds to the
12 request as follows:

13 No further response.

14 **REQUEST FOR ADMISSION NO. 16:**

15 **Admit that Miller runs Tastries bakery based on her religious beliefs.**

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

17 **DFEH is not disputing the sincerity of defendant Miller’s religious beliefs.** DFEH objects to
18 this request as overbroad and exceeding the permissible scope of discovery in that the information
19 sought is irrelevant to the subject matter of this action and the information is not reasonably
20 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
21 objects to this request on the grounds that it calls for speculation and that the information sought is
22 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses
23 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this request on the
24 grounds that the terms “runs Tastries bakery” and “based on her religious beliefs” are vague and
25 ambiguous. A reasonable inquiry concerning this request has been made, and the only information
26 known or readily obtainable concerning this matter consists of hearsay statements and reports from
27 defendant Miller, the truth or falsity of which is unknown. **DFEH has insufficient information to**

28 **admit or deny Request No. 16.**



1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 16:**

2 Subject to and without waiving the above objections and privileges, DFEH responds to the
3 request as follows:

4 No further response.

5 **REQUEST FOR ADMISSION NO. 17:**

6 Admit that Miller’s operation of Tastries is an exercise of her religion.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

8 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
9 this request as overbroad and exceeding the permissible scope of discovery in that the information
10 sought is irrelevant to the subject matter of this action and the information is not reasonably
11 calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH
12 objects to this request on the grounds that it calls for speculation and that the information sought is
13 equally available to defendant; DFEH is not required to make an inquiry from independent witnesses
14 in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this request on the
15 grounds that the terms “Miller’s operation of Tastries” and “exercise of her religion” are vague and
16 ambiguous.

17 To the extent DFEH is able to respond to this request as it is framed, denied.

18 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 17:**

19 Subject to and without waiving the above objections and privileges, DFEH responds to the
20 request as follows:

21 No further response.

22 **REQUEST FOR ADMISSION NO. 18:**

23 Admit that Miller serves all people - individuals of all races, faiths, sexual orientations,
24 and gender identities - and will design and create custom cakes for anyone.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

26 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
27 in that the information sought is irrelevant to the subject matter of this action and the information is
28 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §



1 2017.010.) DFEH objects to this request on the grounds that the information sought is equally
2 available to defendant and DFEH is not required to make an inquiry from independent witnesses in
3 order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further objects to this request on the
4 grounds that the terms “serves all people,” “design and create,” “custom cakes,” and “anyone” are
5 vague and ambiguous. DFEH additionally objects to this request on the grounds that it is compound.

6 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
7 request as follows:

8 Denied. Miller has admitted she has declined to provide full and equal services to the
9 Rodriguez-Del Rios and other same sex couples.

10 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 18:**

11 DFEH further objects to this request on the grounds it calls for speculation. Subject to and
12 without waiving the above objections and privileges, DFEH responds to the request as follows:

13 No further response.

14 **REQUEST FOR ADMISSION NO. 19:**

15 Admit that neither Miller nor any Tastries employee asks customers about their protected
16 characteristics, such as their race, faith, sexual orientation, or gender identity, because those
17 characteristics are irrelevant to Miller when she considers a custom-cake order.

18 **RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

19 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
20 in that the information sought is irrelevant to the subject matter of this action and the information is
21 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
22 2017.010.) DFEH objects to this request on the grounds that it calls for speculation and that the
23 information sought is equally available to defendant; DFEH is not required to make an inquiry from
24 independent witnesses in order to respond. (See Code Civ. Proc., § 2033.220(c).) DFEH further
25 objects to this request on the grounds that the terms “any Tastries employee,” “asks,” “irrelevant to
26 Miller” and “custom-cake order” are vague and ambiguous. DFEH additionally objects to this request
27 on the grounds that it is compound.



1 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
2 request as follows:

3 To the extent DFEH is able to respond to this request as it is framed, denied.

4 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 19:**

5 Subject to and without waiving the above objections and privileges, DFEH responds to the
6 request as follows:

7 No further response.

8 **REQUEST FOR ADMISSION NO. 20:**

9 Admit that Miller will create a variety of custom cakes for people who identify as LGBT,
10 including same-sex married couples.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

12 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
13 in that the information sought is irrelevant to the subject matter of this action and the information is
14 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
15 2017.010.) DFEH objects to this request on the grounds that it calls for speculation. DFEH further
16 objects to this request on the grounds that the terms “a variety” and “custom cakes” are vague and
17 ambiguous.

18 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
19 request as follows:

20 Denied. Miller has admitted she that has declined to provide full and equal services to the
21 Rodriguez-Del Rios and other same sex couples.

22 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 20:**

23 Subject to and without waiving the above objections and privileges, DFEH responds to the
24 request as follows:

25 No further response.

26 **REQUEST FOR ADMISSION NO. 21:**

27 Admit that Miller did not decline the Rodriguez-Del Rios’ cake request because of their
28 same-sex status or other protected characteristic, but instead declined the request because of



1 the messages that the cake would have expressed and the event it would celebrate.

2 **RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

3 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
4 this request as overbroad and exceeding the permissible scope of discovery in that it seeks admissions
5 that are not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
6 2017.010.) DFEH further objects to this request on the grounds that the terms “because of,” “other
7 protected characteristic,” “the messages that the cake would have expressed,” and “event it would
8 celebrate” are vague and ambiguous. DFEH additionally objects to this request on the grounds that it
9 is compound.

10 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
11 request as follows:

12 To the extent DFEH is able to respond to this request as it is framed, denied.

13 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 21:**

14 Subject to and without waiving the above objections and privileges, DFEH responds to the
15 request as follows:

16 Denied. Miller declined the Rodriguez-Del Rios and other same-sex couples’ cake requests
17 when she realized they were same-sex couples.

18 **REQUEST FOR ADMISSION NO. 22:**

19 Admit that the DFEH rejects Miller’s message-based reason for declining to create the
20 cake and that it instead maintains that she declined to create the cake based on the Rodriguez-Del
21 Rios’ sexual orientation.

22 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

23 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
24 this request on the grounds it seeks information protected by the official information privilege (Evid.
25 Code, § 1040), attorney-client privilege (Evid. Code, § 950 et seq.) and the attorney work product
26 doctrine. DFEH further objects to this request on the grounds that it is compound. DFEH further
27 objects to this request on the grounds that it is compound and that the terms “rejects” and “message-
28 based reason for declining to create the cake” are so vague and ambiguous that DFEH cannot



1 reasonably determine the scope or meaning of these terms and cannot provide an admission or denial
2 in response to this request.

3 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
4 request as follows:

5 To the extent DFEH is able to respond to this request as it is framed, DFEH admits defendant
6 Miller declined to create the cake for the Rodriguez-Del Rios based on their sexual orientation.
7 DFEH is unable to respond further to this request because it cannot reasonably determine the scope or
8 meaning of this request as it relates to “Miller’s message-based reason for declining to create the
9 cake.”

10 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

11 Subject to and without waiving the above objections and privileges, DFEH responds to the
12 request as follows:

13 No further response.

14 **REQUEST FOR ADMISSION NO. 23:**

15 Admit that the DFEH’s interpretation and enforcement of the Unruh Act against Miller
16 focuses on practices required by her religious beliefs.

17 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

18 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
19 this request on the grounds it seeks information protected by the official information privilege (Evid.
20 Code, § 1040), attorney-client privilege (Evid. Code, § 950 et seq.) and the attorney work product
21 doctrine. DFEH objects to this request on the grounds that it is overbroad and calls for speculation
22 about conduct that extends beyond the scope of this litigation. DFEH further objects to this request on
23 the grounds that the terms “interpretation and enforcement,” “focuses on,” and “required by” are
24 vague and ambiguous.

25 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
26 request as follows:

27 To the extent DFEH is able to respond to this request as it is framed, denied.

28 ///



1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

2 Subject to and without waiving the above objections and privileges, DFEH responds as
3 follows:

4 No further response.

5 **REQUEST FOR ADMISSION NO. 24:**

6 Admit that the DFEH's interpretation and enforcement of the Unruh Act prevents
7 Miller from (1) running Tastries consistently with her religious beliefs; (2) refusing to operate in
8 violation of her religious beliefs; (3) expressing messages consistent with her religious beliefs;
9 and (4) declining to express messages that conflict with her religious beliefs.

10 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

11 DFEH is not disputing the sincerity of defendant Miller's religious beliefs. DFEH objects to
12 this request on the grounds it seeks information protected by the official information privilege (Evid.
13 Code, § 1040), attorney-client privilege (Evid. Code, § 950 et seq.) and the attorney work product
14 doctrine. DFEH objects to this request on the grounds that it is impermissibly compound. DFEH
15 further objects to this request on the grounds that the terms "interpretation and enforcement,"
16 "prevents," "consistently," "refusing to operate in violation of," "expressing messages consistent
17 with," and "declining to express messages that conflict with" are vague and ambiguous.

18 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
19 request as follows:

20 To the extent DFEH is able to respond to this request as it is framed, denied.

21 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

22 Subject to and without waiving the above objections and privileges, DFEH responds as
23 follows:

24 No further response.

25 **REQUEST FOR ADMISSION NO. 25:**

26 Admit that the DFEH's interpretation and enforcement of the Unruh Act places a
27 substantial burden on Miller's exercise of her religious beliefs and practices.

28 ///



1 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

2 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
3 this request on the grounds it seeks information protected by the official information privilege (Evid.
4 Code, § 1040), attorney-client privilege (Evid. Code, § 950 et seq.) and the attorney work product
5 doctrine. DFEH objects to this request on the grounds that the terms “interpretation and
6 enforcement,” and “substantial burden” are vague and ambiguous. DFEH additionally objects to this
7 request on the grounds that it calls for speculation and seeks admission of a legal matter without
8 reference to any fact.

9 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
10 request as follows:

11 To the extent DFEH is able to respond to this request as it is framed, denied.

12 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

13 Subject to and without waiving the above objections and privileges, DFEH responds as
14 follows:

15 No further response.

16 **REQUEST FOR ADMISSION NO. 26:**

17 Admit that the DFEH maintains that requiring Miller to create cakes that express messages
18 or celebrate events which support or condone same-sex marriage is the least restrictive means of
19 achieving a compelling interest because individuals who identify as LGBT must be permitted to
20 obtain such custom cakes from any business establishment they desire.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

22 DFEH is not disputing the sincerity of defendant Miller’s religious beliefs. DFEH objects to
23 this request on the grounds it seeks information protected by the official information privilege (Evid.
24 Code, § 1040) and the attorney work product doctrine. DFEH also objects to this request on the
25 grounds that it is impermissibly compound and overbroad on its face. DFEH further objects to this
26 request on the grounds that the terms “express messages or celebrate,” “support or condone,” “least
27 restrictive means,” “compelling interest,” “such custom cakes,” and “from any business
28 establishment they desire” are vague and ambiguous. DFEH additionally objects to this request on the



1 grounds that it calls for speculation and seeks admission of a legal matter without reference to any
2 fact.

3 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
4 request as follows:

5 A reasonable inquiry concerning this request has been made, but DFEH has insufficient
6 information and is unable to admit or deny Request No. 26.

7 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

8 Subject to and without waiving the above objections and privileges, DFEH responds as
9 follows:

10 To the extent DFEH is able to respond to this request as it is framed, denied.

11 **REQUEST FOR ADMISSION NO. 27:**

12 Admit that the DFEH is not aware of any instances where Defendants denied services on
13 the basis of sexual orientation outside the context of a refusal to participate in, or provide
14 services for, a same-sex wedding celebration.

15 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

16 DFEH objects to this request as overbroad and exceeding the permissible scope of discovery
17 in that the information sought is irrelevant to the subject matter of this action and the information is
18 not reasonably calculated to lead to the discovery of admissible evidence. (Code Civ. Proc., §
19 2017.010.) DFEH also objects to this request on the grounds it seeks information protected by the
20 official information privilege (Evid. Code, § 1040), attorney-client privilege (Evid. Code, § 950 et
21 seq.) and the attorney work product doctrine. DFEH further objects that the terms “any instances,”
22 “outside the context of,” “participate in,” and “celebration” are vague and ambiguous.

23 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
24 request as follows:

25 To the extent DFEH is able to respond to this request as it is framed, DFEH admits it is aware
26 of Defendants denying full and equal services on the basis of sexual orientation in relation to same-
27 sex wedding celebrations, and Defendants’ policy also applies to same sex wedding anniversaries and
28 bridal showers.



1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

2 Subject to and without waiving the above objections and privileges, DFEH responds as
3 follows:

4 To the extent DFEH is able to respond to this request as it is framed, DFEH admits it is aware
5 of Defendants denying full and equal services on the basis of sexual orientation in relation to same-
6 sex wedding celebrations, and pursuant to Tastries’ Design Standards, Defendants will deny full and
7 equal services to same-sex couples celebrating any event related to their same-sex union.

8 **REQUEST FOR ADMISSION NO. 28:**

9 Admit that the DFEH is charged with protecting civil rights under the California
10 Constitution, including the right to the free exercise of religion, and the right to freedom of speech.

11 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

12 DFEH objects to this request on the grounds that it is overbroad on its face and is not relevant
13 to the subject matter of this action or reasonably calculated to lead to the discovery of admissible
14 evidence. (Code Civ. Proc., § 2017.010.) DFEH objects to this request on the grounds it seeks
15 information protected by the official information privilege (Evid. Code, § 1040) and the attorney
16 work product doctrine. DFEH also objects to this request on the grounds that it is impermissibly
17 compound. DFEH further objects to this request on the grounds that the terms “charged with
18 protecting,” “under the California Constitution,” “free exercise,” and “freedom of speech” are vague
19 and ambiguous as these terms are subject to judicial interpretation and context.

20 Subject to and without waiving the foregoing objections and privileges, DFEH responds to the
21 request as follows:

22 To the extent DFEH is able to respond to this request as it is framed, DFEH admits that it is
23 charged with protecting civil rights under the Unruh Civil Rights Act and other California
24 statutes. (See Gov. Code, § 12930, subd. (f).) Except to the extent that these statutes protect the
25 free exercise of religion and the freedom of speech, DFEH denies that it has broad-based jurisdiction
26 to enforce any provision of the California Constitution.

27 ///

28 ///



1 **SUPPLEMENTAL RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

2 Subject to and without waiving the above objections and privileges, DFEH responds as
3 follows:

4 No further response.

5

6 Dated: February 25, 2022

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

7

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By: _____


Gregory J. Mann
Attorneys for Plaintiff Department of Fair
Employment and Housing

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VERIFICATION

I, Patrice Doehn, declare:

I am employed by plaintiff, State of California’s Department of Fair Employment and Housing (DFEH), as District Administrator. I am authorized by DFEH to make this verification on its behalf.

I have read and am familiar with the contents of PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING’S SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER’S REQUESTS FOR ADMISSION TO PLAINTIFF DFEH – SET ONE.

The responses were prepared with the assistance and advice of employees of and counsel for DFEH, upon whose assistance and advice I have relied. The response, subject to inadvertent or undiscovered error, is based on and is therefore necessarily limited by the records and information still in existence, contemporaneously recollected, and thus far discovered in the course of the preparation of these responses. Subject to the limitations set forth herein, the response includes, to the best of my knowledge, all responsive information and, where applicable, documents and other tangible things, presently known to DFEH.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of February 2022, at Bakersfield, California.



Patrice Doehn
District Administrator



1 NELSON CHAN, Assistant Chief Counsel (#109272)
2 GREGORY J. MANN, Senior Staff Counsel (#200578)
3 TIFFANY TEJEDA-RODRIGUEZ, Staff Counsel (#298941)
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5 DEPARTMENT OF FAIR EMPLOYMENT
6 AND HOUSING
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8 Los Angeles, California 90013
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10 Facsimile: (888) 382-5293
11 Attorneys for the Department

12 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **IN AND FOR THE COUNTY OF KERN**

14 DEPARTMENT OF FAIR EMPLOYMENT)
15 AND HOUSING, an agency of the State of)
16 California,)
17)
18 Plaintiff,)
19 vs.)
20 CATHY'S CREATIONS, INC. d/b/a)
21 TASTRIES, a California corporation; and)
22 CATHY MILLER,)
23)
24 Defendants.)
25)
26)
27)
28)
EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)
Real Parties in Interest.)
_____)
_____)

CASE NO. BCV-18-102633- JEB

OMNIBUS PROOF OF SERVICE BY ELECTRONIC MAIL

1 **PROOF OF SERVICE**

2 I am a citizen of the United States and am employed in Los Angeles County; I am over the
3 age of eighteen (18) years and not a party to the within action; my business address is 320 West 4th
4 Street, Suite # 1000, Los Angeles, California 90013.

5 My e-mail address is valentina.martinez@dfeh.ca.gov.

6 On the date below I attached a true copy of the following documents:

7 **1. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
8 **SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER'S FORM**
9 **INTERROGATORIES – GENERAL, SET ONE**

10 **2. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
11 **SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER'S SPECIAL**
12 **INTERROGATORIES, TO PLAINTIFF DFEH, SET ONE**

13 **3. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
14 **SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER'S REQUESTS**
15 **FOR ADMISSION TO PLAINTIFF DFEH – SET ONE**

16 **4. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
17 **SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER'S SPECIAL**
18 **INTERROGATORIES TO PLAINTIFF DFEH, SET TWO**

19 **5. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
20 **SUPPLEMENTAL RESPONSE TO DEFENDANT TASTRIES' CORRECTED AMENDED**
21 **SPECIAL INTERROGATORIES IN LIEU OF REQUESTS FOR ADMISSION TO**
22 **PLAINTIFF DFEH, SET ONE**

23 **6. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
24 **SUPPLRMENTAL RESPONSE TO DEFENDANT TASTRIES' AMENDED SPECIAL**
25 **INTERROGATORIES, TO PLAINTIFF DFEH, SET ONE**

26 **7. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S**
27 **FURTHER SUPPLEMENTAL RESPONSE TO DEFENDANT TASTRIES' CORRECTED**
28 **AMENDED FORM INTERROGATORIES TO PLAINTIFF DFEH, SET ONE**

8. PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S
SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER'S RFP – SET
ONE

(In the matter of *Department of Fair Employment & Housing vs. Cathy's Creations, Inc., et al.*

(*Eileen Rodriguez-Del Rio, et al., Real Parties in Interest*); Case Number: *BCV-18-102633*) to an

e-mail addressed to each of the persons named below:

///

///

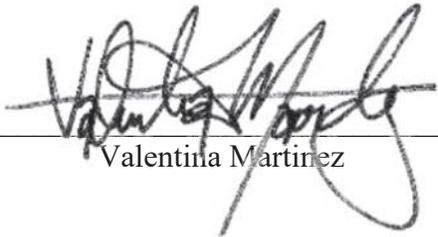
1 **By E-Mail** by forwarding a true and correct copy of the above document(s) via e-mail to the
2 person(s) at the e-mail address(es) set forth below.

3 Charles S. LiMandri – Email: climandri@limandri.com
4 Jeffrey M. Trissell – Email: jtrissell@limandri.com
5 Paul Jonna – pjonna@limandri.com
6 Kathy Denworth – Kdenworth@limandri.com
7 LiMANDRI & JONNA, LLP
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9 P.O. Box # 9120
10 Rancho Santa Fe, California 92067
11 Thomas Brejcha – Email: tbrejcha@thomasmoresociety.org
12 Peter Breen – Email: pbreen@thomasmoresociety.org
13 THOMAS MORE SOCIETY
14 309 West Washington Street, Suite # 1250
15 Chicago, Illinois 60606

16 I declare under penalty of perjury under the laws of the State of California that the foregoing
17 is true and correct.

18 Executed on February 25, 2022, at Los Angeles, California.

19
20
21
22
23
24
25
26
27
28



Valentina Martinez

MIL EXHIBIT 1

1 PAULA PEARLMAN (#109038)
Assistant Chief Counsel
2 GREGORY J. MANN (#200578)
Senior Staff Counsel
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8 Attorneys for Petitioner, DFEH
(Fee Exempt, Gov. Code, § 6103)

9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
13 AND HOUSING, an agency of the State of)
California,)
14)
Petitioner,)
15)
vs.)
16)
CATHY'S CREATIONS, INC. d/b/a)
17 TASTRIES, a California corporation; and)
CATHY MILLER,)
18)
Respondents.)
19)
EILEEN RODRIGUEZ-DEL RIO and MIREYA)
20 RODRIGUEZ-DEL RIO,)
21)
Complainants.)
22)

Case No.
**DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PETITION AND EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE RE PRELIMINARY
INJUNCTION**
(Gov. Code, § 12974)
Date: December 14, 2017
Time: 8:30 a.m.
Dept.: 11
Judge: Hon. David R. Lampe

23
24 The Department of Fair Employment and Housing (DFEH) respectfully submits the following
25 Memorandum of Points and Authorities in Support of its Petition and *Ex Parte* Application for
26 Temporary Restraining Order (TRO) and Order to Show Cause (OSC) re Preliminary Injunction.
27



1 **B. RELEVANT FACTS**

2 Complainants Eileen and Mireya Rodriguez-Del Rio met in the late 1990s at Bakersfield
3 College, and built a close and strong friendship before becoming a couple in 2015. (Declaration of
4 Eileen Rodriguez-Del Rio [Eileen Decl.], ¶ 2.) They married in December 2016, in an intimate
5 ceremony before their immediate family in Bakersfield, and set a date of October 7, 2017, for a
6 public vow exchange and traditional wedding reception with over 100 guests. (*Id.*, ¶¶ 2, 3.)

7 Part of the couple’s wedding reception planning process included ordering a wedding cake.
8 (Declaration of Mireya Rodriguez-Del Rio [Mireya Decl.], ¶ 4.) After unsuccessful tastings at other
9 bakeries, Eileen and Mireya visited Tastries on August 17, 2017 to see sample wedding cakes.
10 (Mireya Decl., ¶¶ 5, 7.) They met with a Tastries employee named Rosemary, who provided
11 information about Tastries wedding cakes. (*Id.*, ¶ 7.) The couple selected a simple cake design based
12 on a cake they saw on display at the bakery, and booked a cake tasting at Tastries for August 26,
13 2017, during which they planned to complete and pay for their wedding cake order. (*Id.*, ¶¶ 8, 9.)

14 On the morning of August 26, Mireya confirmed with Rosemary the couple’s cake-tasting
15 appointment for later that day. (Mireya Decl., ¶ 10.) When they arrived at Tastries, Eileen, her mom,
16 and Mireya met Mireya’s man of honor and his partner at Tastries and greeted Rosemary. (*Id.*, ¶ 11.)
17 Rosemary apologized to Mireya, and informed her that her boss was taking over their order. (*Id.*,
18 ¶ 12.) Miller, Tastries’ owner, approached the Rodriguez-Del Rio party and directed them toward the
19 back of the store where she asked what they were looking for. (*Id.*, ¶ 13.) Eileen explained they had
20 already provided their details to Rosemary, and that they were there for a tasting and to place an order
21 for their wedding cake. (Eileen Decl., ¶¶ 9, 13.)

22 Miller discussed pricing, and told the couple she would provide their order to Stephanie at
23 Gimme Some Sugar—a competitor bakery—because she does not condone same-sex marriage.
24 (Eileen Decl., ¶¶ 13, 14.) Confused, Eileen asked for clarification about whom Miller planned to
25 give their order to, and Mireya said she was under the impression that Tastries would be making their
26 cake. (*Id.*, ¶ 14; Mireya Decl., ¶ 14.) Miller then advised the couple that she regularly refers
27 wedding cake orders for same-sex couples to Gimme Some Sugar, restating that she does so because
28 she does not condone same-sex marriage. (Eileen Decl., ¶ 14.) **Miller’s statements shocked Eileen**



1 and Mireya. (Eileen Decl., ¶ 14; Mireya Decl., ¶ 14.) Stunned, hurt, and offended by Miller’s refusal
2 to serve them based solely on their sexual orientation, the party then left. (*Ibid.*)

3 The Rodriguez-Del Rios party drove by Gimme Some Sugar, and Eileen realized she had
4 already tasted cakes there and decided against ordering a wedding cake from that bakery. (Eileen
5 Decl., ¶ 15.) Still in shock, the group stopped for coffee, and discussed Miller’s discrimination. (*Id.*,
6 ¶ 16.) Eileen and Mireya decided to run an errand. (*Ibid.*) However, a rush of emotion
7 overwhelmed Mireya, and she cried for nearly a half hour as Eileen attempted to comfort her.
8 (Mireya Decl., ¶¶ 16, 17.) Then Mireya’s nose started to bleed—which was completely out of the
9 ordinary—and she became afflicted with a headache. (*Id.*, ¶ 16.) Although she tried to contain her
10 emotions, Eileen later broke down, with the emotional anguish aggravating her rheumatoid arthritis.
11 (Eileen Decl., ¶ 17.) Tastries’ discrimination so devastated the couple they considered purchasing a
12 pre-made, non-wedding cake from Costco or Food For Less. (*Id.*, ¶ 18.)

13 C. THE DFEH INVESTIGATION

14 On October 18, 2017, the Rodriguez-Del Rios filed a complaint with the DFEH, alleging that
15 Tastries violated the Unruh Act by refusing to provide full and equal services to the couple based
16 solely on their sexual orientation. The DFEH served discovery requests upon Tastries with the
17 complaint, and has begun investigating the complaint independently. To date, the DFEH has
18 interviewed complainants and former Tastries employees, and obtained a statement from Eileen
19 Rodriguez-Del Rio’s mother. A former Tastries employee confirmed that denial of full and equal
20 services to same-sex couples has been a Tastries practice since at least 2015; during this time,
21 Tastries denied service to at least three other same-sex couples of which he is aware. (Declaration of
22 Justin Salinas [Salinas Decl.], ¶¶ 3, 4.) Additionally, the DFEH has reached out to another same-sex
23 couple denied service by Tastries. (Mann Decl., ¶ 8, Ex. 2.)

24 The DFEH has also become aware of articles about Tastries’ denial of full and equal services
25 to the Rodriguez-Del Rios and others. In these articles, Miller admits she has refused service to
26 same-sex couples, and transferred their orders to another bakery: “That’s what we’ve been doing for
27 five years.” (Mann Decl., ¶ 9, Ex. 3.) Miller recently told a reporter, “I don’t do same-sex marriage
28 cakes.” (Mann Decl., ¶ 11, Ex. 5.) After being approached by Miller in or around August 2016,



1 the merits. Thus, this Court must presume “that the potential harm to the public outweighs the
2 potential harm to [Tastries].” (*Ibid.*)

3 Tastries cannot establish it would suffer “grave or irreparable harm from the issuance of the
4 preliminary injunction,” thus the court need not “examine the relative actual harms to the parties.”
5 (*Id.* at p. 72; accord *People ex rel. Brown v. Black Hawk Tobacco, Inc.* (2011) 197 Cal.App.4th
6 1561, 1571; *Water Replenishment District of Southern California v. City of Cerritos* (2013) 220
7 Cal.App.4th 1450, 1461-64.) The Unruh Act compels no speech nor infringes on Tastries’ religious
8 beliefs. Thus, Tastries cannot demonstrate any harm flowing from the issuance of a preliminary
9 injunction enjoining its discrimination, and this Court need not balance the potential harms.

10 **IV. CONCLUSION**

11 Based on the record and Miller’s admission that she intends to continue discriminating
12 against same-sex couples, “prompt judicial action is necessary to carry out the purpose of [FEHA].”
13 (Gov. Code, § 12974.) As demonstrated above, the DFEH is likely to prevail on the merits, and
14 Tastries can show no irreparable harm from the issuance of the requested injunction. Thus, pursuant
15 to Section 12974, the DFEH respectfully requests that this Court enjoin Tastries from enforcing its
16 policy of refusing to sell wedding cakes to same-sex couples.

17 Dated: December 13, 2017

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

18 PAULA PEARLMAN
19 Assistant Chief Counsel

20 GREGORY J. MANN
Senior Staff Counsel

21 TIMOTHY MARTIN
22 Staff Counsel

23 By: _____

24 
Gregory J. Mann
25 Attorneys for the Department
26
27
28



MIL EXHIBIT 2

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 Facsimile: (888) 382-5293
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 8 Attorneys for Petitioner, DFEH
 (Fee Exempt, Gov. Code, § 6103)

9
 10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **IN AND FOR THE COUNTY OF KERN**

13 DEPARTMENT OF FAIR EMPLOYMENT)
 AND HOUSING, an agency of the State of)
 14 California,)
 15)
 Petitioner,)
 16)
 vs.)
 17)
 CATHY'S CREATIONS, INC. d/b/a)
 18 TASTRIES, a California corporation; and)
 CATHY MILLER,)
 19)
 Respondents.)

Case No.

**DECLARATION OF MIREYA
 RODRIGUEZ-DEL RIO IN SUPPORT
 OF DFEH'S PETITION AND EX PARTE
 APPLICATION FOR TEMPORARY
 RESTRAINING ORDER AND ORDER
 TO SHOW CAUSE RE PRELIMINARY
 INJUNCTION**

20)
 EILEEN RODRIGUEZ-DEL RIO and MIREYA)
 21 RODRIGUEZ-DEL RIO,)
 22)
 Complainants.)
 23)

24
 25 ///
 26 ///
 27 ///
 28 ///



DECLARATION OF MIREYA RODRIGUEZ-DEL RIO

I, Mireya Rodriguez-Del Rio, declare as follows:

1. I am a complainant in this matter. I have personal knowledge of the matters set forth herein, and if called as a witness, I could testify competently as to the truth of the matters asserted herein, except as to those matters asserted upon information and belief, and, as to those matters, I believe them to be true.

2. I met Eileen Del Rio in the late 1990s at Bakersfield College, where I was an intern at the time. We became friends, and built a strong friendship over many years. In 2015 we started dating and soon became a couple. We were engaged in April 2016, and got married on December 7, 2016 in Bakersfield in front of our immediate families.

3. Although we were married, we wanted to have a larger ceremony and reception with our extended families and friends. So we set a date of October 7, 2017 for a wedding and reception with over 100 of our family members and close friends.

4. As part of our wedding and reception planning process we created a “to do” list. It included tasks such as find a venue, get a DJ, order a wedding cake, get a photographer, etc. As we completed each task we were relieved and happy: one less thing to do. The last two items on our list were order a wedding cake and find a photographer. The wedding cake was very important to Eileen and me. Throughout the process, we had no problems finding and contracting with any vendors except for the wedding cake with Tastries.

5. Eileen and I tasted cakes at two or three bakeries in Bakersfield, including Gimme Some Sugar and De Coeur Bake Shop, but were not happy with any of the cakes we tasted. So we were still looking for a wedding cake in August, a few months before our wedding.

6. Eileen told me she drove by a bakery, Tastries, and thought we should check it out. We decided to visit Tastries to inquire about its wedding cakes.

7. Eileen and I first visited Tastries on August 17, 2017, as part of our search for a wedding cake vendor. A Tastries employee named Rosemary assisted us and provided us with information about Tastries wedding cakes. Rosemary treated us kindly and was very warm. She answered our questions and showed us samples of cakes.



1 8. Eileen and I selected a simple cake design that was on display in the bakery, and
2 Rosemary provided us with a quote, which was about half the cost of other cakes we had looked at.
3 We did not want and did not request any written words or messages on the cake. Rosemary also
4 suggested that we come back for a free cake-tasting on Saturday, August 26, and we agreed.

5 9. Eileen and I were very pleased with this initial experience at Tastries. Having had no
6 luck at other bakeries, we planned to place an order for a Tastries wedding cake after the cake-tasting.

7 10. On the morning of August 26, 2017, Eileen missed a call from Rosemary with
8 Tastries. I called Tastries back and talked to Rosemary, and she asked me if we were still coming in
9 because she had seen question marks next to our names. I told her we were on our way, and she said
10 see you soon.

11 11. We arrived at our scheduled appointment on August 26, 2017, with Eileen's mother,
12 and met my man of honor and his partner. The five of us were excited to taste Tastries cakes, and
13 order our wedding cake!

14 12. Rosemary greeted us and started assisting us. But she soon apologized and told me
15 that her boss was going to take over assisting us with our cake order. The "boss" came over to us,
16 and said she was Cathy Miller and was taking over. We were confused.

17 13. Ms. Miller led us to the back of the bakery away from the other customers. She asked
18 us what we were looking for. Eileen told her that we already provided details about the wedding cake
19 we were looking for to Rosemary. Ms. Miller wrote something down on the bakery's quote sheet,
20 told me and Eileen that the cake will cost \$260, and that she was going to send the order over to
21 Stephanie because she does not condone same-sex marriage.

22 14. Confused, Eileen asked Ms. Miller who she was giving our order to. I told Ms. Miller
23 I was under the impression Tastries would be making our wedding cake. Ms. Miller responded that
24 she does not condone same-sex marriage, and told us that she always sends such orders to Stephanie
25 at Gimme Some Sugar. I was shocked, offended and hurt. Eileen told Ms. Miller why would we go
26 through you to get a cake from Stephanie when we could just go to her and deal with her personally.
27 Ms. Miller said we could still taste cakes. We said no, and then walked out of the bakery.



MIL EXHIBIT 3

1 PAULA PEARLMAN (#109038)
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 8 Attorneys for Petitioner, DFEH
 (Fee Exempt, Gov. Code, § 6103)

9
 10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **IN AND FOR THE COUNTY OF KERN**
 12

13 DEPARTMENT OF FAIR EMPLOYMENT)
 AND HOUSING, an agency of the State of)
 14 California,)
 15)
 Petitioner,)
 16 vs.)
 17 CATHY'S CREATIONS, INC. d/b/a)
 TASTRIES, a California corporation; and)
 18 CATHY MILLER,)
 19)
 Respondents.)

Case No.

**DECLARATION OF EILEEN
 RODRIGUEZ-DEL RIO IN SUPPORT
 OF DFEH'S PETITION AND EX PARTE
 APPLICATION FOR TEMPORARY
 RESTRAINING ORDER AND ORDER
 TO SHOW CAUSE RE PRELIMINARY
 INJUNCTION**

20 _____)
 EILEEN RODRIGUEZ-DEL RIO and MIREYA)
 21 RODRIGUEZ-DEL RIO,)
 22)
 Complainants.)
 23 _____)

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DECLARATION OF EILEEN RODRIGUEZ-DEL RIO

I, Eileen Rodriguez-Del Rio, declare as follows:

1. I am a complainant in this matter. I have personal knowledge of the matters set forth herein, and if called as a witness, I could testify competently as to the truth of the matters asserted herein, except as to those matters asserted upon information and belief, and, as to those matters, I believe them to be true.

2. I met Mireya Rodriguez in the late 1990s at Bakersfield College, where I was teaching at the time. We became friends, and built a strong friendship over many years. In 2015 we started dating and soon became a couple. We were engaged in April 2016, and got married on December 7, 2016 in Bakersfield in front of our immediate families.

3. Although we were married, we wanted to have a larger ceremony and reception with our extended families and friends. So we set a date of October 7, 2017 for a wedding and reception with over 100 of our family members and close friends.

4. As part of our wedding and reception planning process we created a “to do” list. It included tasks such as find a venue, get a DJ, order a wedding cake, get a photographer, etc. As we completed each task we were relieved and happy: one less thing to do. The last two items on our list were order a wedding cake and find a photographer. Our wedding cake was very important to Mireya and me. Throughout the process, we had no problems finding and contracting with any vendors except for the wedding cake with Tastries.

5. Mireya and I tasted cakes at two or three bakeries in Bakersfield, including Gimme Some Sugar and De Coeur Bake Shop, but were not happy with any of the cakes we tasted. So we were still looking for a wedding cake in August, a few months before our wedding.

6. While driving by one day I saw Tastries, and decided we should check it out. I told Mireya about it, and we decided to visit Tastries to inquire about its wedding cakes.

7. I first visited Tastries on August 17, 2017 with my wife Mireya as part of our search for a wedding cake vendor. A Tastries employee named Rosemary assisted us and provided us with information about Tastries wedding cakes. Rosemary treated us kindly and was very warm. She answered our questions and showed us samples of cakes.



1 8. Mireya and I selected a simple cake design that was on display in the bakery, and
2 Rosemary provided us with a quote, which was about half the cost of other cakes we had looked at.
3 We did not want and did not request any writing or written message on our wedding cake. Rosemary
4 also suggested that we come back for a free cake-tasting on Saturday, August 26, and we agreed.

5 9. Mireya and I were very pleased with this initial experience at Tastries. Having had no
6 luck at other bakeries, we planned to place an order for a Tastries wedding cake after the cake tasting.

7 10. On the morning of August 26, 2017, I missed a call from Rosemary with Tastries.
8 Mireya then called Tastries back and spoke to Rosemary, and she asked if we were still coming in
9 because she had seen question marks next to our names. Mireya told Rosemary we were on our way,
10 and she said see you soon.

11 11. We arrived at our scheduled appointment on August 26, 2017, with my mother, and
12 met Mireya's man of honor and his partner. The five of us were excited to taste Tastries cakes, and
13 order our wedding cake!

14 12. Rosemary greeted us, and apologetically told us that her boss would be taking over.
15 The "boss" came over to us, and said she was Cathy Miller and was taking over. We were confused.

16 13. Ms. Miller led us to the back of the bakery away from the other customers. She asked
17 us what we were looking for. I told her that we already provided details about the wedding cake we
18 were looking for to Rosemary. Ms. Miller wrote something down on the bakery's quote sheet, told
19 me and Mireya that the cake will cost \$260, and that she was going to send the order over to
20 Stephanie because she does not condone same-sex marriage.

21 14. Confused, I asked Ms. Miller who she was giving our order to. Mireya told Ms.
22 Miller she was under the impression Tastries would be making our wedding cake. Ms. Miller
23 responded that she does not condone same-sex marriage, and told us that she always sends such
24 orders to Stephanie at Gimme Some Sugar. I was shocked, offended and angry. I told Ms. Miller
25 why would we go through you to get a cake from Stephanie when we could just go to her and deal
26 with her personally. Ms Miller said we could still taste cakes. We said no, and then walked out of
27 the bakery.



MIL EXHIBIT 4

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7 Attorneys for Defendants CATHY'S
CREATIONS, INC. d/b/a TASTRIES,
a California Corporation; and CATHY
8 MILLER, an individual.

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF KERN

12 DEPARTMENT OF FAIR EMPLOYMENT)
13 AND HOUSING, an agency of the State of)
California,)

14)
15 Plaintiff,)

16 v.)

17 CATHY'S CREATIONS, INC. d/b/a)
18 TASTRIES, a California Corporation; and)
CATHY MILLER, an individual,)

19 Defendants.)
20)

21 EILEEN RODRIGUEZ-DEL RIO and)
22 MIREYA RODRIGUEZ-DEL RIO,)

23 Real Parties in Interest.)
24)
25)
26)
27)
28)

CASE NO.: BCV-17-102855

IMAGED FILE

DECLARATION OF REINA BENITEZ

Action Filed: December 13, 2017

1 I, REINA BENITEZ, declare as follows:

2 1. I am not a party to this lawsuit. I have personal knowledge of the facts set forth in
3 this declaration and, if called upon as a witness, I could and would testify competently to them.

4 2. I am the owner of Party Palace, an event venue rental hall in Bakersfield, California.
5 Party Palace regularly hosts wedding receptions, as well as other events, such as Quinceañeras,
6 Sweet Sixteens, Baptisms, and Bridal and Baby Showers.

7 3. I have read several news reports regarding Mireya and Eileen Rodriguez-Del Rio's
8 visit to Tastries Bakery on Saturday, August 26, 2017, and Cathy Miller's decision not to design
9 and create a wedding cake for their same-sex wedding celebration. I have also read the description
10 of that encounter in their declarations filed in support of the Department of Fair Employment and
11 Housing's petition for a preliminary injunction.

12 4. During the week before that Saturday, the Rodriguez-Del Rios visited Party Palace
13 and met with me. One of them brought out a cell phone to video- or audio-record our conversation.
14 I told them that Party Palace was already booked for the date of their wedding reception. One of
15 them then asked whether I had any objection to renting out Party Palace for same-sex weddings. I
16 truthfully told them that I had no such objection. They asked to see my calendar, and I showed it to
17 them. My calendar showed that Party Palace was indeed already booked for the date of their
18 wedding reception. Mireya and Eileen Rodriguez-Del Rio then stopped recording our conversation
19 and left. I found the recording odd, but initially of no concern.

20 5. After I read online news reports regarding the Rodriguez-Del Rios and Tastries
21 Bakery, however, I became concerned. In those online news reports, the Rodriguez-Del Rios
22 describe how shocked they were that a wedding professional might have a religious objection to
23 facilitating a same-sex wedding. This statement that they were shocked also appears in their
24 declarations filed in support of the Department of Fair Employment and Housing's petition for a
25 preliminary injunction.

26 6. It does not, however, make sense to me that the Rodriguez-Del Rios would be
27 shocked and suffer emotional distress after their visit to Tastries because the Rodriguez-Del Rios
28 specifically asked me whether I had any objection to renting Party Palace for a same-sex wedding.

MIL EXHIBIT 5

1 JANETTE WIPPER (#275264)
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 2 ANTHONY GRUMBACH (#195107)
 Associate Chief Counsel
 3 GREGORY J. MANN (#200578)
 Senior Staff Counsel
 4 TIMOTHY MARTIN (#300269)
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 8
 9 Attorneys for Petitioner, DFEH
 (Fee Exempt, Gov. Code, § 6103)

10
 11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **IN AND FOR THE COUNTY OF KERN**

14 DEPARTMENT OF FAIR EMPLOYMENT)) Case No. BCV-18-102633-DRL
15 AND HOUSING, an agency of the State of)	
16 California,)) DECLARATION OF EILEEN
17)	
18)	
19)) RODRIGUEZ-DEL RIO
20)	
21)	
22)) DECLARATION OF EILEEN
23)	
24)	
25)) RODRIGUEZ-DEL RIO
26)	
27)	
28)) DECLARATION OF EILEEN
29)	
30)	

17 vs.

18 CATHY'S CREATIONS, INC. d/b/a)
 19 TASTRIES, a California corporation; and)
 20 CATHY MILLER,)
 21 _____)
 Defendants.)
 22 EILEEN RODRIGUEZ-DEL RIO and MIREYA)
 23 RODRIGUEZ-DEL RIO,)
 24 _____)
 Real Parties in Interest.)

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DECLARATION OF EILEEN RODRIGUEZ-DEL RIO

I, Eileen Rodriguez-Del Rio, declare as follows:

1. I am a real party in interest in this matter. I have personal knowledge of the matters set forth herein, and if called as a witness, I could testify competently as to the truth of the matters asserted herein, except as to those matters asserted upon information and belief, and, as to those matters, I believe them to be true.

2. Mireya Rodriguez and I became engaged in April 2016, and got married on December 7, 2016, in Bakersfield in front of our immediate families.

3. Although we were married, we wanted to have a larger ceremony and celebration with our extended families and friends. We set a date of October 7, 2017, for a ceremony and celebration with over 100 of our family members and close friends.

4. We started planning our wedding celebration early. We reserved and paid a deposit on the venue in August 2016. By August 2017, ordering a wedding cake was one of our final tasks.

5. Mireya and I tasted cakes at two or three bakeries in Bakersfield, including Gimme Some Sugar, but were not happy with any of the cakes we tasted. I decided we would not order our cake from Gimme Some Sugar.

6. I first visited Tastries on August 17, 2017, with my wife Mireya as part of our search for a cake. A Tastries employee named Rosemary assisted us, provided information about Tastries cakes, and showed us sample cakes on display in the bakery.

7. Mireya and I saw a sample display cake we liked. It was very simple: round, plain white wavy buttercream frosting with three-tiers. There was no cake-topper or any written words on the cake. Aside from being white, nothing suggested it was a wedding cake.

8. We told Rosemary that was the cake we wanted, with the addition of two frosting flowers on the sides of each tier, and she provided us with a quote. We did not want and did not request any writing or written message on our cake. I was ready to order the cake right then, but Rosemary suggested we return for a free cake-tasting on Saturday, August 26, and we agreed. We discussed cake details with Rosemary for about 20-25 minutes.



1 9. Mireya and I were pleased with this initial experience at Tastries. Having had no luck
2 at other bakeries, we planned to place an order with Tastries after the cake tasting.

3 10. On the morning of August 26, 2017, Mireya and I arrived for our scheduled
4 appointment, with my mother, and met Mireya's man of honor and his partner. The five of us were
5 excited to taste Tastries cakes and order our cake!

6 11. Rosemary greeted us, and apologetically told us her boss would be taking over our
7 order. Cathy Miller approached us and said she was taking over. We were confused.

8 12. Ms. Miller led us to the back of the bakery and asked us what we were looking for. I
9 told her we already provided details about the cake we wanted to Rosemary. We did not discuss the
10 details of the cake we planned to order with Ms. Miller. She told us she was going to send our order
11 over to Stephanie because she does not condone same-sex marriage.

12 13. Confused, I asked Ms. Miller who she was giving our order to. Ms. Miller responded
13 that she does not condone same-sex marriage, and told us that she always sends such orders to
14 Stephanie at Gimme Some Sugar. I was shocked, offended and angry. I could tell Mireya was
15 stunned and hurt.

16 14. After driving by Gimme Some Sugar and realizing I had already decided not to order a
17 cake from there, we went for coffee with Eileen's mom and my man of honor and his partner to talk
18 about what had just happened at Tastries.

19 15. After coffee, Mireya and I tried to run an errand. We arrived at our destination and sat
20 in the car for around 30 minutes as we processed what had just happened to us. Mireya broke down.
21 She cried for almost a half hour. She also got a headache and a bad nosebleed.

22 16. Ms. Miller's refusal to provide us a wedding cake devastated us both. I felt angry,
23 hurt, upset and frustrated at Ms. Miller's discrimination.

24 17. Attached hereto as Exhibit 1 is a true and correct copy of a photograph of the cake we
25 had at our wedding celebration. The only visual difference between the cake we had at our
26 celebration and the cake we planned to order from Tastries is that the flowers on our actual cake were
27 real, whereas the flowers we wanted on the cake from Tastries would have been made out of frosting.



1 18. Mireya and I did not visit Party Palace a week before we went to Tastries, and we did
2 not to discuss our wedding celebration venue with Reina Benitez.

3 19. Mireya and I were not shopping for a lawsuit when we began our wedding planning or
4 at any time during the process. We did not visit Tastries looking for a lawsuit. We went looking for a
5 cake for our wedding celebration.

6
7 I declare under penalty of perjury under the laws of the State of California that the foregoing
8 is true and correct.

9 Executed on this 19th day of February 2019, in Bakersfield, California.

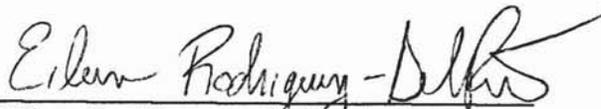
10
11 
12 Eileen Rodriguez-Del Rio



Exhibit 1



MIL EXHIBIT 6

1 JANETTE WIPPER (#275264)
Chief Counsel
2 PAULA D. PEARLMAN (#109038)
Assistant Chief Counsel
3 GREGORY J. MANN (#200578)
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5 320 West 4th Street, Suite # 1000, 10th Floor
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7 Attorneys for Plaintiff DFEH
8
9

10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the State of)
13 California,)

14 Plaintiff,)

15 vs.)

16 CATHY'S CREATIONS, INC. d/b/a)
TASTRIES, a California corporation; and)
17 CATHY MILLER,)

18 Defendants.)

19 _____)
20 EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)

21 Real Parties in Interest.)
22 _____)

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
SUPPLEMENTAL RESPONSE TO
DEFENDANTS CATHARINE MILLER'S
AND TASTRIES' CORRECTED AMENDED
REQUESTS FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFF DFEH, SET
ONE**

Action filed: October 17, 2018
Trial Date: June 22, 2020

23 **PROPOUNDING PARTY:** DEFENDANTS CATHARINE MILLER AND CATHY'S
24 CREATIONS, INC. d/b/a TASTRIES

25 **RESPONDING PARTY:** PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND
26 HOUSING

27 **SET NO.:** ONE
28

1 Discovery is ongoing and DFEH reserves the right to modify or amend this response based on its
2 ongoing discovery and investigation.

3 **SUPPLEMENTAL RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 2:**

4 Subject to and without waiving the foregoing objections and privileges, and after a diligent
5 search and reasonable inquiry, DFEH responds as follows:

6 DFEH is producing responsive, non-privileged administrative investigation documents in its
7 possession, custody, and control as maintained in the usual course of business (Code Civ. Proc., §
8 2031.280), including and as well as additional documents provided to DFEH by Real Parties. No
9 documents are being withheld based on the foregoing objections or privileges.

10 **AMENDED REQUEST FOR PRODUCTION NO. 3:**

11 All DOCUMENTS and COMMUNICATIONS, including any profiles, postings, or messages
12 (including status updates, wall comments, causes joined, groups joined, activity streams, blog entries)
13 since August 26, 2017, in the possession, custody or control of Mireya Rodriguez-Del Rio or Eileen
14 Rodriguez-Del Rio, that reveal, refer, or relate to any emotion, feeling, or mental state, as well as
15 COMMUNICATIONS in the possession, custody or control of Mireya Rodriguez-Del Rio or Eileen
16 Rodriguez-Del Rio that reveal, refer, or relate to events that could reasonably be expected to produce a
17 significant emotion, feeling, or mental state.

18 **RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 3:**

19 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
20 this request as overbroad and exceeding the permissible scope of discovery in that the request seeks
21 information pertaining to the Real Parties' "emotion, feeling, or mental state," which are not relevant to
22 the subject matter of this action since actual damages are not sought, and is not reasonably calculated to
23 lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH further objects to
24 this request on the grounds it seeks information that is protected by the right to privacy of personal
25 sensitive and confidential information under the United States Constitution, California Constitution, and
26 Information Practices Act. DFEH further objects to this request because such an unwarranted invasion
27 of an individual's right to privacy will not lead to the disclosure of information relevant to this case. Due
28 to the overbreadth of this request, DFEH also objects that this request serves no purpose other than to

1 harass. (*Ibid.*) DFEH additionally objects to this request to the extent it seeks information that is
2 protected by the official information privilege (Evid. Code, § 1040), attorney-client privilege (*id.* § 950
3 et seq.), attorney work-product doctrine, and the common interest doctrine. DFEH further objects to this
4 request on the grounds that the terms “causes joined,” “any emotion, feeling, or mental state,” and
5 “reveal, refer, or relate to events that could reasonably be expected to produce a significant emotion,
6 feeling, or mental state” are vague and ambiguous.

7 Subject to and without waiving the foregoing objections and privileges, and after a diligent
8 search and reasonable inquiry, DFEH responds as follows:

9 DFEH is producing responsive, non-privileged administrative investigation documents in its
10 possession, custody, and control as maintained in the usual course of business (Code Civ. Proc., §
11 2031.280), including and as well as documents provided to DFEH by Real Parties. DFEH is not
12 producing any documents withheld under attorney-client privilege, the attorney work product doctrine,
13 official information privilege, conciliation privilege, copyright, and privacy rights under the United
14 States Constitution, California Constitution, and Information Practice Act.

15 Discovery is ongoing and DFEH reserves the right to modify or amend this response based on its
16 ongoing discovery and investigation.

17 **SUPPLEMENTAL RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 3:**

18 Subject to and without waiving the foregoing objections and privileges, and after a diligent
19 search and reasonable inquiry, DFEH responds as follows:

20 DFEH is producing responsive, non-privileged administrative investigation documents in its
21 possession, custody, and control as maintained in the usual course of business (Code Civ. Proc., §
22 2031.280), including and as well as additional documents provided to DFEH by Real Parties. No
23 documents are being withheld based on the foregoing objections or privileges.

24 **AMENDED REQUEST FOR PRODUCTION NO. 4:**

25 **DOCUMENTS and COMMUNICATIONS in the possession, custody or control of Mireya**
26 **Rodriguez-Del Rio or Eileen Rodriguez-Del Rio relating to any emotional or mental distress that they**
27 **allegedly suffered as a result of Miller’s declining to make a cake for their same-sex wedding.**
28

1 **RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 4:**

2 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
3 this request as overbroad and exceeding the permissible scope of discovery in that the request seeks
4 information pertaining to the real parties’ “emotional or mental distress,” which is not relevant to the
5 subject matter of this action since actual damages are not sought, and is not reasonably calculated to lead
6 to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH further objects to this
7 request on the grounds it seeks information that is protected by the right to privacy of personal sensitive
8 and confidential information under the United States Constitution, California Constitution, and
9 Information Practices Act. DFEH further objects to this request because such an unwarranted invasion
10 of an individual’s right to privacy will not lead to the disclosure of information relevant to this case. Due
11 to the overbreadth of this request, DFEH also objects that this request serves no purpose other than to
12 harass. (*Ibid.*) DFEH additionally objects to this request to the extent it seeks information that is
13 protected by the official information privilege (Evid. Code, § 1040), attorney-client privilege (*id.* § 950
14 et seq.), attorney work-product doctrine, and the common interest doctrine.

15 Subject to and without waiving the foregoing objections and privileges, and after a diligent
16 search and reasonable inquiry, DFEH responds as follows:

17 Based on the above objections and privileges, DFEH does not produce any documents in
18 response to this request.

19 Discovery is ongoing and DFEH reserves the right to modify or amend this response based on its
20 ongoing discovery and investigation.

21 **SUPPLEMENTAL RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 4:**

22 Subject to and without waiving the foregoing objections and privileges, and after a diligent
23 search and reasonable inquiry, DFEH responds as follows:

24 DFEH is producing responsive, non-privileged administrative investigation documents in its
25 possession, custody, and control as maintained in the usual course of business (Code Civ. Proc., §
26 2031.280), including and as well as additional documents provided to DFEH by Real Parties. No
27 documents are being withheld based on the foregoing objections or privileges.
28

1 **AMENDED REQUEST FOR PRODUCTION NO. 5:**

2 All medical, psychological, psychiatric, and counseling records in the possession, custody or
3 control of Mireya Rodriguez-Del Rio or Eileen Rodriguez-Del Rio relating to the particular acts and
4 events alleged in the First Amended Complaint, any claim asserted, and any damage claimed.

5 **RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 5:**

6 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
7 this request as overbroad and exceeding the permissible scope of discovery in that the request seeks
8 information pertaining to the real parties' physical and emotional state, which are not relevant to the
9 subject matter of this action since actual damages are not sought, and is not reasonably calculated to lead
10 to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH further objects to this
11 request on the grounds it seeks information that is protected by the right to privacy of personal sensitive
12 and confidential information under the United States Constitution, California Constitution, and
13 Information Practices Act. DFEH further objects to this request because such an unwarranted invasion
14 of an individual's right to privacy will not lead to the disclosure of information relevant to this case. Due
15 to the overbreadth of this request, DFEH also objects that this request serves no purpose other than to
16 harass. (*Ibid.*) DFEH additionally objects to this request to the extent it seeks information that is
17 protected by the official information privilege (Evid. Code, § 1040), attorney-client privilege (*id.* § 950
18 et seq.), attorney work-product doctrine, and the common interest doctrine. DFEH further objects to this
19 request on the grounds that the term "the particular acts and events alleged in the First Amended
20 Complaint, any claim asserted, and any damage claimed" is vague and ambiguous.

21 Subject to and without waiving the foregoing objections and privileges, and after a diligent
22 search and reasonable inquiry, DFEH responds as follows:

23 Based on the above objections and privileges, DFEH does not produce any documents in
24 response to this request.

25 Discovery is ongoing and DFEH reserves the right to modify or amend this response based on its
26 ongoing discovery and investigation.

27 ///

28 ///

1 **SUPPLEMENTAL RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 5:**

2 Subject to and without waiving the foregoing objections and privileges, and after a diligent
3 search and reasonable inquiry, DFEH responds as follows:

4 DFEH has no responsive documents within its possession, custody or control. No such
5 documents have been withheld based on the foregoing objections and privileges.

6 **AMENDED REQUEST FOR PRODUCTION NO. 6:**

7 All medical, psychological, psychiatric, and counseling bills in the possession, custody or control
8 of Mireya Rodriguez-Del Rio or Eileen Rodriguez-Del Rio relating to the particular acts and events
9 alleged in the First Amended Complaint, any claim asserted, and any damage claimed.

10 **RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 6:**

11 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
12 this request as overbroad and exceeding the permissible scope of discovery in that the request seeks
13 information pertaining to the real parties' physical and emotional state, which are not relevant to the
14 subject matter of this action since actual damages are not sought, and is not reasonably calculated to lead
15 to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH further objects to this
16 request on the grounds it seeks information that is protected by the right to privacy of personal sensitive
17 and confidential information under the United States Constitution, California Constitution, and
18 Information Practices Act. DFEH further objects to this request because such an unwarranted invasion
19 of an individual's right to privacy will not lead to the disclosure of information relevant to this case. Due
20 to the overbreadth of this request, DFEH also objects that this request serves no purpose other than to
21 harass. (*Ibid.*) DFEH additionally objects to this request to the extent it seeks information that is
22 protected by the official information privilege (Evid. Code, § 1040), attorney-client privilege (*id.* § 950
23 et seq.), attorney work-product doctrine, and the common interest doctrine.

24 Subject to and without waiving the foregoing objections and privileges, and after a diligent
25 search and reasonable inquiry, DFEH responds as follows:

26 Based on the above objections and privileges, DFEH does not produce any documents in
27 response to this request.
28

1 Discovery is ongoing and DFEH reserves the right to modify or amend this response based on its
2 ongoing discovery and investigation.

3 **SUPPLEMENTAL RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 6:**

4 Subject to and without waiving the foregoing objections and privileges, and after a diligent
5 search and reasonable inquiry, DFEH responds as follows:

6 DFEH has no responsive documents within its possession, custody or control. No such
7 documents have been withheld based on the foregoing objections and privileges.

8 **AMENDED REQUEST FOR PRODUCTION NO. 7**

9 All DOCUMENTS and COMMUNICATIONS in the possession, custody or control of Mireya
10 Rodriguez-Del Rio or Eileen Rodriguez-Del Rio sent between them and the DFEH. To the extent that
11 this request seeks privileged documents, a privilege log is required to be produced concurrent with the
12 response.

13 **RESPONSE TO AMENDED REQUEST FOR PRODUCTION NO. 7:**

14 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
15 this request to the extent it seeks information that is protected by the official information privilege (Evid.
16 Code, § 1040), informant privilege (*id.* § 1041), attorney-client privilege (*id.* § 950 et seq.), attorney
17 work-product doctrine, and the common interest doctrine. DFEH further objects to this request as
18 overbroad and exceeding the permissible scope of discovery in that the request seeks information that is
19 not relevant to the subject matter of this action and is not reasonably calculated to lead to the discovery
20 of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH objects to this request on the grounds it
21 seeks information that is protected by the right to privacy of personal sensitive and confidential
22 information under the United States Constitution, California Constitution, and Information Practices
23 Act. DFEH further objects to this request because such an unwarranted invasion of an individual's right
24 to privacy will not lead to the disclosure of information relevant to this case.

25 Subject to and without waiving the foregoing objections and privileges, and after a diligent
26 search and reasonable inquiry, DFEH responds as follows:

27 Concurrently with Plaintiff Department of Fair Employment and Housing's Response to
28 Defendants Catharine Miller Requests for Production of Documents to Plaintiff DFEH, Set One, DFEH

1 business (Code Civ. Proc., § 2031.280), including and as well as additional documents provided to
2 DFEH by Real Parties.

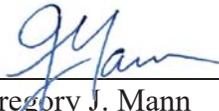
3

4 DATE: January 10, 2020

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

5

6

By: 
Gregory J. Mann
Attorneys for the Plaintiff Department of Fair
Employment and Housing

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VERIFICATION

I, Patrice Doehrn, declare :

I am employed by plaintiff, State of California's Department of Fair Employment and Housing (DFEH), as District Administrator. I am authorized by DFEH to make this verification on its behalf.

I have read and am familiar with the contents of PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER'S AND TASTRIES' CORRECTED AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF DFEH, SET ONE.

The responses were prepared with the assistance and advice of employees of and counsel for DFEH, upon whose assistance and advice I have relied. The response, subject to inadvertent or undiscovered error, is based on and is therefore necessarily limited by the records and information still in existence, contemporaneously recollected, and thus far discovered in the course of the preparation of these responses. Subject to the limitations set forth herein, the response includes, to the best of my knowledge, all responsive information and, where applicable, documents and other tangible things, presently known to DFEH.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 9th day of January 2020, at Bakersfield, California.



Patrice Doehrn
District Administrator



MIL EXHIBIT 7

1 JANETTE WIPPER (#275264)
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2 PAULA D. PEARLMAN (#109038)
Assistant Chief Counsel
3 GREGORY J. MANN (#200578)
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8 Attorneys for Plaintiff DFEH

9 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF KERN**

11 DEPARTMENT OF FAIR EMPLOYMENT)
12 AND HOUSING, an agency of the State of)
13 California,)
14) Plaintiff,)
15 vs.)
16 CATHY'S CREATIONS, INC. d/b/a)
17 TASTRIES, a California corporation; and)
18 CATHY MILLER,)
19) Defendants.)

Case No. BCV-18-102633
**REAL PARTIES IN INTEREST'S
FURTHER SUPPLEMENTAL
RESPONSE TO DEFENDANT
CATHY'S CREATIONS, INC.'S
DEPOSITION SUBPOENA FOR
PRODUCTION OF DOCUMENTS AND
THINGS**

19 _____)
20 EILEEN RODRIGUEZ-DEL RIO and MIREYA)
21 RODRIGUEZ-DEL RIO,)
22)
23) Real Parties in Interest.)

24 **PROPOUNDING PARTY:** Cathy's Creations, Inc.
25 **RESPONDING PARTY:** Real Parties in Interest Eileen and Mireya Rodriguez-Del Rio
26
27
28

1 since the August 26, 2017, that reveal, refer, or relate to any emotion, feeling, or mental state, as well
2 as COMMUNICATIONS that reveal, refer, or relate to events that could reasonably be expected to
3 produce a significant emotion, feeling, or mental state.

4 **RESPONSE TO REQUEST NO. 3:**

5 Real Parties hereby incorporate their General Objections, above. Real Parties object to this
6 request because it is vague, ambiguous and unintelligible. Real Parties object to this request because
7 it seeks information protected by the attorney client privilege, attorney work product doctrine, and the
8 common interest doctrine. Real Parties object to this request because it requests information protected
9 from disclosure by the right to privacy of personal and confidential information under the United
10 States and California Constitutions. Real Parties object to this request because it is overbroad, unduly
11 burdensome, and seeks information not relevant to the subject matter involved in the pending action
12 nor reasonably calculated to lead to the discovery of admissible evidence. Real Parties object to this
13 request because it is vague and ambiguous as to the terms “since the August 26, 2017,” “any emotion,
14 feeling, or mental state,” and “events that could reasonably be expected to produce a significant
15 emotion, feeling, or mental state.”

16 Subject to the above-mentioned and General Objections, Real Parties produce the attached
17 documents in response to the Subpoena.

18 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 3:**

19 Subject to the above-mentioned and General Objections, Real Parties produce the attached
20 documents in response to the Subpoena.

21 **FURTHER SUPPLEMENTAL RESPONSE TO REQUEST NO. 3:**

22 Subject to the above-mentioned and General Objections, Real Parties have produced all
23 responsive documents.

24 **REQUEST FOR PRODUCTION NO. 4:**

25 **DOCUMENTS and COMMUNICATIONS relating to any emotional or mental distress that**
26 **you allegedly suffered as a result of Miller’s declining to make a cake for your same-sex wedding.**

27 ///

28 ///

1 **RESPONSE TO REQUEST NO. 4:**

2 Real Parties hereby incorporate their General Objections, above. Real Parties object to this
3 request because it seeks information protected by the attorney client privilege, attorney work product
4 doctrine, and the common interest doctrine. Real Parties object to this request because it requests
5 information protected from disclosure by the right to privacy of personal and confidential information
6 under the United States and California Constitutions. Real Parties object to this request because it is
7 overbroad, unduly burdensome, and seeks information not relevant to the subject matter involved in
8 the pending action nor reasonably calculated to lead to the discovery of admissible evidence since
9 plaintiff DFEH does not seek damages on behalf of Real Parties for emotional or mental distress.

10 Based on the above objections and privileges, Real Parties do not produce any documents in
11 response to this request.

12 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 4:**

13 Subject to the above-mentioned and General Objections, Real Parties produce the attached
14 documents in response to the Subpoena.

15 **FURTHER SUPPLEMENTAL RESPONSE TO REQUEST NO. 4:**

16 Subject to the above-mentioned and General Objections, Real Parties have produced all
17 responsive documents.

18 **REQUEST FOR PRODUCTION NO. 5:**

19 All medical, psychological, psychiatric, and counseling records relating to the particular acts
20 and events alleged in the First Amended Complaint, any claim asserted, and any damage claimed.

21 **RESPONSE TO REQUEST NO. 5:**

22 Real Parties hereby incorporate their General Objections, above. Real Parties object to this
23 request because it seeks information protected by the attorney client privilege, attorney work product
24 doctrine, and the common interest doctrine. Real Parties object to this request because it requests
25 information protected from disclosure by the right to privacy of personal and confidential information
26 under the United States and California Constitutions. Real Parties object to this request because it is
27 overbroad, unduly burdensome, and seeks information not relevant to the subject matter involved in
28 the pending action nor reasonably calculated to lead to the discovery of admissible evidence since

1 plaintiff DFEH does not seek damages on behalf of Real Parties for emotional or mental distress.

2 Real Parties object to this request because it is vague and ambiguous as to the terms “particular acts
3 and events alleged in the First Amended Complaint,” “any claim asserted,” and “any damage
4 claimed.”

5 Based on the above objections and privileges, Real Parties do not produce any documents in
6 response to this request.

7 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 5:**

8 Subject to the above-mentioned and General Objections, Real Parties respond as follows:

9 Real Parties do not possess any documents responsive to this request.

10 **REQUEST FOR PRODUCTION NO. 6:**

11 All medical, psychological, psychiatric, and counseling bills relating to the particular acts and
12 events alleged in the First Amended Complaint, any claim asserted, and any damage claimed.

13 **RESPONSE TO REQUEST NO. 6:**

14 Real Parties hereby incorporate their General Objections, above. Real Parties object to this
15 request because it seeks information protected by the attorney client privilege, attorney work product
16 doctrine, and the common interest doctrine. Real Parties object to this request because it requests
17 information protected from disclosure by the right to privacy of personal and confidential information
18 under the United States and California Constitutions. Real Parties object to this request because it is
19 overbroad, unduly burdensome, and seeks information not relevant to the subject matter involved in

20 the pending action nor reasonably calculated to lead to the discovery of admissible evidence since

21 plaintiff DFEH does not seek damages on behalf of Real Parties for emotional or mental distress.

22 Real Parties object to this request because it is vague and ambiguous as to the terms “particular acts
23 and events alleged in the First Amended Complaint,” “any claim asserted,” and “any damage
24 claimed.”

25 Based on the above objections and privileges, Real Parties do not produce any documents in
26 response to this request.

27 ///

28 ///

1 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 6:**

2 Subject to the above-mentioned and General Objections, Real Parties respond as follows:

3 Real Parties do not possess any documents responsive to this request.

4 **REQUEST FOR PRODUCTION NO. 7**

5 All DOCUMENTS and COMMUNICATIONS sent between you and the DFEH. To the
6 extent you contend that this request seeks privileged documents, a privilege log is required to be
7 produced concurrent with your response.

8 **RESPONSE TO REQUEST NO. 7:**

9 Real Parties hereby incorporate their General Objections, above. Real Parties object to this
10 request because it seeks information protected by the attorney client privilege, attorney work product
11 doctrine, and the common interest doctrine. Real Parties object to this request because it requests
12 information protected from disclosure by the right to privacy of personal and confidential information
13 under the United States and California Constitutions. Real Parties object to this request because it is
14 overbroad, unduly burdensome and is intended to harass Real Parties because plaintiff DFEH has
15 already produced non-privileged responsive documents. Real Parties object to this request because it
16 seeks information not relevant to the subject matter involved in the pending action nor reasonably
17 calculated to lead to the discovery of admissible evidence.

18 Based on the above-mentioned and General Objections, Real Parties will not produce any
19 documents in response to this request.

20 **REQUEST FOR PRODUCTION NO. 8:**

21 All DOCUMENTS and COMMUNICATIONS that reference or relate to your marriage
22 license or application for a marriage license, or anything else, including a copy of every marriage
23 license that you have applied for or secured in your lifetime and the applications for each such
24 license.

25 **RESPONSE TO REQUEST NO. 8:**

26 Real Parties hereby incorporate their General Objections, above. Real Parties object to this
27 request because it seeks information protected by the attorney client privilege, attorney work product
28 doctrine, and the common interest doctrine. Real Parties object to this request because it requests

1 **FURTHER SUPPLEMENTAL RESPONSE TO REQUEST NO.11:**

2 Subject to the above-mentioned and General Objections, Real Parties have produced all
3 documents available through searches of their text messages, emails, internet postings, and instant
4 messaging chats that relate to the events in the FAC.

5 DATE: January 22, 2020

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

6

7

By:  _____

8

Gregory J. Mann
Attorneys for the Plaintiff Department of Fair
Employment and Housing, on behalf of Real
Parties in Interest Eileen and Mireya Rodriguez-
Del Rio

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1 VERIFICATION

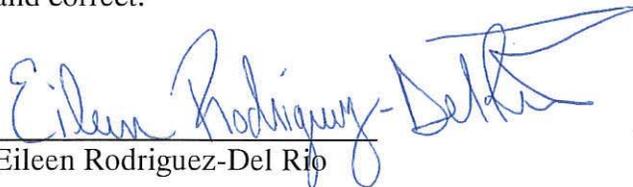
2 I am a Real Party in Interest in this action, *Department of Fair Employment and Housing v.*
3 *Cathy's Creations, Inc., et al.*, Kern County Superior Court Case No. BCV-18-102633-DRL. The
4 matters stated herein are true of my own knowledge.

5 I have provided the Department of Fair Employment and Housing (DFEH) the information
6 and documents in my possession, custody, or control that are responsive to defendant Cathy's
7 Creations, Inc. Deposition Subpoena for Personal Appearance and Production of Documents and
8 Things, served upon me and Mireya Rodriguez-Del Rio c/o Gregory Mann of the DFEH on or around
9 July 8, 2019.

10 I have reviewed REAL PARTIES IN INTEREST'S FURTHER SUPPLEMENTAL
11 RESPONSE TO DEFENDANT CATHY'S CREATIONS, INC.'S DEPOSITION SUBPOENA FOR
12 PRODUCTION OF DOCUMENTS AND THINGS and know its contents. The same is true of my
13 own knowledge.

14
15 Executed at Bakersfield, California on January 22, 2020.

16
17 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
18 and correct.

19 
20 _____
21 Eileen Rodriguez-Del Rio



VERIFICATION

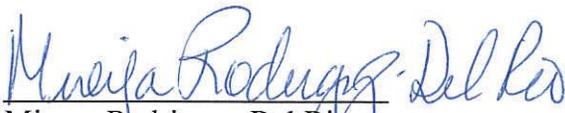
I am a Real Party in Interest in this action, *Department of Fair Employment and Housing v. Cathy's Creations, Inc., et al.*, Kern County Superior Court Case No. BCV-18-102633-DRL. The matters stated herein are true of my own knowledge.

I have provided the Department of Fair Employment and Housing (DFEH) the information and documents in my possession, custody, or control that are responsive to defendant Cathy's Creations, Inc. Deposition Subpoena for Personal Appearance and Production of Documents and Things, served upon me and Eileen Rodriguez-Del Rio c/o Gregory Mann of the DFEH on or around July 8, 2019.

I have reviewed REAL PARTIES IN INTEREST'S FURTHER SUPPLEMENTAL RESPONSE TO DEFENDANT CATHY'S CREATIONS, INC.'S DEPOSITION SUBPOENA FOR PRODUCTION OF DOCUMENTS AND THINGS and know its contents. The same is true of my own knowledge.

Executed at Bakersfield, California on January 22, 2020.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Mireya Rodriguez-Del Rio



MIL EXHIBIT 8

1 JANETTE WIPPER, Chief Counsel (#275264)
NELSON CHAN, Assistant Chief Counsel (#109272)
2 GREGORY J. MANN, Associate Chief Counsel (#200578)
TIFFANY TEJADA-RODRIGUEZ, Staff Counsel (#298941)
3 SOYEON C. MESINAS, Staff Counsel (#324046)
DEPARTMENT OF FAIR EMPLOYMENT
4 AND HOUSING
320 West Fourth Street, Suite 1000
5 Los Angeles, California 90013
Telephone: (213) 439-6799
6 Facsimile: (888) 382-5293

7 Attorneys for Plaintiff, DFEH
8 (Fee Exempt, Gov. Code, § 6103)

9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the State of)
13 California,)

14 Plaintiff,)

15 vs.)

16 CATHY'S CREATIONS, INC. d/b/a)
TASTRIES, a California corporation; and)
17 CATHY MILLER,)

18 Defendants.)

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
SUPPLRMENTAL RESPONSE TO
DEFENDANT TASTRIES' AMENDED
SPECIAL INTERROGATORIES, TO
PLAINTIFF DFEH, SET ONE**

Action filed: October 17, 2018
Trial Date: July 25, 2022

19 _____)
20 EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)

21 _____)
22 Real Parties in Interest.)

23 PROPOUNDING PARTY: DEFENDANT CATHY'S CREATIONS, INC. d/b/a TASTRIES

24 RESPONDING PARTY: DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

25 SET NO.: ONE
26
27
28

1 No further response.

2 **AMENDED SPECIAL INTERROGATORY NO. 11:**

3 Describe in detail the basis for the contention in Paragraph 42 of the First Amended Complaint
4 that Mireya Rodriguez-Del Rio or Eileen Rodriguez-Del Rio were “[s]tunned, hurt, and offended by
5 Ms. Miller’s refusal to serve them based solely on their sexual orientation.”

6 **RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 11:**

7 DFEH incorporates the Preliminary Statement and General Objections herein. Because this
8 interrogatory seeks information related to the Real Parties’ emotional distress, but DFEH does not seek
9 emotional distress damages in this case, DFEH objects to this interrogatory as exceeding the
10 permissible scope of discovery in that the information sought is irrelevant to the subject matter of this
11 action and the information is not reasonably calculated to lead to the discovery of admissible evidence.
12 (Code Civ. Proc., § 2017.010.) Because this interrogatory asks DFEH to “describe in detail the basis for
13 the contention in Paragraph 42 of the First Amended Complaint that [Real Parties] were ‘[s]tunned,
14 hurt, and offended by Ms. Miller’s refusal to serve them based solely on their sexual orientation,’”
15 DFEH further objects to this interrogatory as seeking information that is protected by the official
16 information privilege (Evid. Code, § 1040), informant privilege (*id.* § 1041), attorney work-product
17 doctrine, attorney-client privilege (*id.* § 950 et seq.), the common interest doctrine, and/or otherwise
18 protected by any other applicable privilege, doctrine, and/or immunity.

19 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
20 effort to obtain the requested information, DFEH responds as follows:

21 DFEH does not respond to this interrogatory based on the above-identified objections and
22 privileges.

23 **SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 11:**

24 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
25 effort to obtain the requested information, DFEH responds as follows:

26 Eileen Rodriguez-Del Rio was hurt and angry because defendant Miller’s discrimination against
27 her and Mireya was unfair.

1 Mireya Rodriguez-Del Rio was stunned and hurt because she had not previously experienced
2 such overt discrimination based on her sexual orientation. It was especially hurtful because Real Parties
3 were seeking a cake to celebrate their wedding, which was going to be a special day for them.

4 **FURTHER SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY**

5 **NO. 11:**

6 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
7 effort to obtain the requested information, DFEH responds as follows:

8 The Rodriguez-Del Rios were stunned, hurt, and offended by Ms. Miller’s refusal to serve them
9 because defendant Miller discriminated against them based on their sexual orientation, which is illegal.

10 The Rodriguez-Del Rios were stunned, hurt, and offended because Mireya had not previously
11 experienced such overt discrimination based on her sexual orientation. It was especially hurtful because
12 Real Parties were seeking a cake to celebrate their wedding, which was going to be a special day for
13 them. Additionally, Real Parties had enjoyed their time spent with Rosemary Perez, who invited them
14 to return to Tastries for a cake tasting only to be denied service by defendant Miller.

15 **AMENDED SPECIAL INTERROGATORY NO. 12:**

16 State whether Mireya Rodriguez-Del Rio or Eileen Rodriguez-Del Rio procured a wedding cake
17 for their wedding reception; and if so, provide the date that they selected the wedding cake; the name,
18 address, and telephone number of the wedding cake provider; why they selected that provider; and the
19 price of the wedding cake.

20 **RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 12:**

21 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
22 this interrogatory as vague and ambiguous as to the term “wedding reception” such that DFEH cannot
23 reasonably determine what “wedding reception” or period of time the propounding party is seeking
24 information about for purposes of this interrogatory. DFEH objects to this interrogatory as overbroad
25 and exceeding the permissible scope of discovery in that the information sought is irrelevant to the
26 subject matter of this action and the information is not reasonably calculated to lead to the discovery of
27 admissible evidence. (Code Civ. Proc., § 2017.010.) Due to the overbreadth of this interrogatory,
28 DFEH also objects to this interrogatory as serving no purpose other than to harass (*ibid.*) and because it

1 Real Parties did not hold a reception after their December 7, 2016 wedding.

2 **SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 28:**

3 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
4 effort to obtain the requested information, DFEH responds as follows:

5 Real Parties gathered with family after their December 2016 wedding but did not host a
6 reception.

7 **AMENDED SPECIAL INTERROGATORY NO. 29:**

8 State the name, address, telephone number, and relationship to Mireya Rodriguez-Del Rio or
9 Eileen Rodriguez-Del Rio of each person who prepared or assisted in the preparation of the responses
10 to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

11 **RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 29:**

12 DFEH incorporates the Preliminary Statement and General Objections herein. After a
13 reasonable and good-faith effort to obtain the requested information, DFEH responds as follows:

14 Attorneys for DFEH Gregory J. Mann, Jeanette Hawn, and Paula Pearlman; DFEH District
15 Administrator Patrice Doehrn; Eileen Rodriguez-Del Rio; Mireya Rodriguez-Del Rio; and Real Parties'
16 attorney, Patricia Ziegler-Lopez.

17 **SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 29:**

18 DFEH incorporates the Preliminary Statement and General Objections herein. After a
19 reasonable and good-faith effort to obtain the requested information, DFEH responds as follows:

20 Additionally, Tiffany Tejeda-Rodriguez and Soyeon Mesinas.

21
22 DATE: February 25, 2022

DEPARTMENT OF FAIR EMPLOYMENT AND
HOUSING

23
24
25 By: 
26 Gregory J. Mann
27 Attorneys for the Plaintiff Department of Fair
28 Employment and Housing

VERIFICATION

I, Patrice Doehrn, declare :

I am employed by plaintiff, State of California’s Department of Fair Employment and Housing (DFEH), as District Administrator. I am authorized by DFEH to make this verification on its behalf.

I have read and am familiar with the contents of PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING’S SUPPLEMENTAL RESPONSE TO DEFENDANT TASTRIES’ AMENDED SPECIAL INTERROGATORIES TO PLAINTIFF DFEH, SET ONE.

The responses were prepared with the assistance and advice of employees of and counsel for DFEH, upon whose assistance and advice I have relied. The response, subject to inadvertent or undiscovered error, is based on and is therefore necessarily limited by the records and information still in existence, contemporaneously recollected, and thus far discovered in the course of the preparation of these responses. Subject to the limitations set forth herein, the response includes, to the best of my knowledge, all responsive information and, where applicable, documents and other tangible things, presently known to DFEH.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of February 2022, at Bakersfield, California.



Patrice Doehrn
District Administrator



MIL EXHIBIT 9

1 SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

2 METROPOLITAN DIVISION

3
4 CERTIFIED COPY

5 DEPARTMENT OF FAIR
6 EMPLOYMENT AND HOUSING,
7 an agency of the State
8 of California,

No. BCV-18-102633

9 Plaintiff,

10 vs.

11 CATHY'S CREATIONS, INC.
12 dba TASTRIES, a California
13 corporation; and CATHARINE
14 MILLER, an individual,

15 Defendants.

16
17

EILEEN RODRIGUEZ-DEL RIO and
18 MIREYA RODRIGUEZ-DEL RIO,

19 Real Parties in Interest.
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22 DEPOSITION OF MARY ELIZABETH JOHNSON

23 Taken at

24 Keleher's Litigation Services
25 19237 Flightpath Way, Suite 100
Bakersfield, California

Wednesday, July 14, 2021 at 1:06 P.M.

Reported by:

Jean Keleher, CSR #4136

JOB No. 21-101323B

1 And she called I don't remember how many of the lead
2 people in and just told us that. And we asked why.
3 She felt that -- well, again, from what I can remember,
4 she did not feel right doing that and said she was
5 sending them to another decorator.

6 I didn't -- all the people that we talked --
7 or all the people in the back, I feel, made it very
8 clear to her that we did not agree with that, we wanted
9 to continue making cakes for anyone who came in to the
10 shop.

11 Q. Do you remember approximately when that
12 conversation took place?

13 A. I do not. Maybe two thousand -- no, I'm not
14 going to say because I honestly do not remember.

15 Q. It was while you were still working there?

16 A. Yes. Yes, it was.

17 Q. Do you remember there ever being an issue with
18 you complaining to Cathy about the work being too
19 difficult while you were pregnant or too much work
20 while you were pregnant?

21 A. Yes.

22 Oh, go ahead.

23 Q. Sorry. I just said, what do you remember
24 about that?

25 A. I remember that -- see, my memory is so far

1 gone, I forgot about that.

2 I filed a case -- I don't know if it's a case,
3 complaint, something with the labor board because when
4 I was pregnant, I -- I honestly had to go to my doctor
5 and say could you please write a note saying that I can
6 work up to 40 weeks, because I don't remember what it
7 was before that, but she was cutting my hours. And I
8 made it very clear to her I was hired -- or I wasn't
9 hired with 40 hours, but at this point I was told I
10 could work 40 hours a week. And she randomly just cut
11 it and blamed it on my pregnancy. And I made it very
12 clear to her I never said to have cut hours. As I
13 said, I got a note from my doctor. And she even said
14 I've never had anyone need me to write a note saying
15 you can work 40 hours.

16 And so I filed that because I felt that I was
17 being discriminated against because I was pregnant.

18 Q. Okay. When you first started at Tastries,
19 obviously you had a good relationship with Cathy
20 initially, right?

21 A. Oh, yes. Yes.

22 Q. What was your impression of her when you first
23 started? What kind of -- was she someone that you
24 found to be kind and caring, or what was your
25 impression of her back then?

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REPORTER'S CERTIFICATION

I, Jean Keleher, a Certified Shorthand Reporter in and for the State of California, holding Certificate No. 4136, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewritten form under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am neither counsel for, nor in any way related to any party to said action, nor in any way interested in the result or outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name on 27th day of July, 2021.



Jean Keleher, CSR #4136

MIL EXHIBIT 10

1 SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

2 METROPOLITAN DIVISION

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4 CERTIFIED COPY

5 DEPARTMENT OF FAIR
6 EMPLOYMENT AND HOUSING,
7 an agency of the State
8 of California,

No. BCV-18-102633

9 Plaintiff,

10 vs.

11 CATHY'S CREATIONS, INC.
12 dba TASTRIES, a California
13 corporation; and CATHARINE
14 MILLER, an individual,

15 Defendants.

16
17

EILEEN RODRIGUEZ-DEL RIO and
18 MIREYA RODRIGUEZ-DEL RIO,

19 Real Parties in Interest.
20
21

22 DEPOSITION OF JESSICA CRIOLLO

23 Taken at

24 Keleher's Litigation Services
25 19237 Flightpath Way, Suite 100
Bakersfield, California

Wednesday, July 14, 2021 at 9:37 A.M.

Reported by:

Jean Keleher, CSR #4136

JOB No. 21-101323A

1 toppings, and we'd just place it on top.

2 Q. And is this -- how did you come up with this
3 idea? Where did you hear about it?

4 A. No, it's just something that I had thought of
5 and I always wanted to bring to life. And so we told
6 her about it, she was interested, and so we offered it
7 at her wedding -- or their wedding.

8 Q. Is this something that you ever saw done at
9 Tastries?

10 A. No.

11 Q. Okay.

12 A. It's not their idea.

13 Q. I have a few really quick questions about the
14 labor issue, but I -- then I have a couple other

15 questions after that, so I'm going to try to go through
16 this as fast as I can. We're running out of time.

17 You remember when you started working at
18 Tastries that Cathy wanted you to develop your skills?
19 You remember that, correct?

20 A. Do I remember her saying those words? No.

21 Q. Well, in general, I mean when you started, she
22 was -- she wanted you to develop your skills in this
23 business. Do you remember that?

24 A. Yes.

25 Q. Do you remember her saying you're allowed to

1 use her bakery to practice and to get help from other
2 decorators?

3 A. Yes.

4 Q. Do you remember -- ultimately do you remember
12:10:08 5 being terminated because of the outbursts that you had
6 and the disruptive behavior?

7 A. I wouldn't call it that, but yes.

8 Q. Do you remember on your interview day, before
9 you were hired, you were asked to make -- to do a
12:10:24 10 demonstration with a fake cake that was not going to be
11 displayed or sold? Do you remember that?

12 A. That was the plan, yes.

13 Q. And that was before you were hired you were
14 asked to do a demonstration, correct?

12:10:37 15 A. Correct. But that's not what happened.

16 Q. What happened?

17 A. Initially the plan was for me to come in a day
18 where it wasn't that busy so that she could actually be
19 there to watch me. Unfortunately, because I at the
12:10:52 20 time worked at a bank, I could not meet that schedule.
21 So I came on a Saturday, which is the busiest day for
22 any cake decorator. So instead of making a mock cake,
23 I actually decorated -- oh, actually, no, I didn't. I
24 didn't decorate a cake, but I did help with fondant and
12:11:18 25 like fondant details on the little pig cake that

1 another decorator was working on. And then I believe I
2 mixed some colors with the frosting and then I helped
3 deliver a cake. So I never got to do my -- what the
4 audition was meant to do.

12:11:42 5 Q. Do you remember on off-duty time being allowed
6 to use company tools to practice decorating and to get
7 coaching from other decorators?

8 A. That's what was offered, yes.

9 Q. Okay. And you didn't take up that offer?

12:12:00 10 A. I did once. However, it wasn't -- I mean, it
11 was practicing, but it was practicing on cakes that
12 were used for customers.

13 Q. Do you remember during lunch breaks you forgot
14 to clock out oftentimes?

12:12:16 15 A. If I did not clock out for lunch, it's because
16 I did not go on lunch.

17 Q. Okay. You don't remember going on lunch and
18 just forgetting to clock out?

19 A. No.

12:12:33 20 Q. Okay.

21 A. I do remember --

22 Q. I'm sorry. Go ahead.

12:12:56 23 A. I do remember Mike pulling Kassy, Lizet, and
24 myself aside and claiming that if he sees on our time
25 sheet that we did not clock out, he would assume that

1 we forgot to clock out for lunch and that he would dock
2 that time.

12:13:12 3 Q. Do you remember -- going to the labor board,
4 was that something -- an idea that someone gave you, or
5 was that your idea?

6 A. That was my idea.

7 Q. Is that something you discussed with Lizet?

8 A. Yes.

9 Q. And what did you guys discuss?

12:13:20 10 A. I let her know that I had an option and that I
11 was going to pursue it.

12 Q. What do you mean by that?

13 A. I let her know that I was going to fill out a
14 form and submit my claim.

12:13:34 15 Q. What did she say or how did she react to that?

16 A. I don't remember. Just kind of letting me
17 know what happens.

18 Q. Do you know if she also went to the labor
19 board?

12:13:55 20 A. Yes.

21 Q. Did you tell her to?

22 A. No. But I did let her know that I would help
23 her if she needed any.

24 Q. Did you end up helping her?

12:14:04 25 A. Oh, gosh. I know that she asked questions. I

1 wasn't there to help her actually fill it out. I
2 remember her asking questions and I would help her with
3 that.

4 Q. Do you remember what questions they were?

12:14:18 5 A. No. But just things like what do you put here
6 or what does it mean when it says -- when it's asking
7 this.

8 Q. Have you made any other labor-board claims in
9 the past?

12:14:32 10 A. No.

11 Q. Was this your first time?

12 A. Yes.

13 Q. Have you made any since?

14 A. No.

12:14:38 15 Q. Do you have another job currently besides the
16 hobby of making cakes?

17 A. No.

18 Q. Are you married?

19 A. Yes.

12:14:46 20 Q. Do you have children?

21 A. No.

22 Q. While you were working at Tastries, you had
23 another job?

24 A. When I was hired, I quit my job at the bank.

12:15:03 25 And then there was an issue of the hours being moved

1 around, so I got a second job at a restaurant, which
2 then became an issue.

12:15:21 3 Q. And you guys reached a resolution to the
4 labor-board issue, it was kind of settled. Is that
5 right?

12:15:46 6 A. They -- what is it called? They went in my
7 favor and we had the option to -- well, he had the
8 option, Mike and Cathy had the option, to repeal it in
9 court. However, I didn't want to go to court, so we
10 settled.

11 Q. Were you satisfied with the settlement?

12 A. Yes.

12:15:57 13 Q. Do you still have any ill will or hard
14 feelings towards Mike or Cathy about your time at
15 Tastries?

16 A. No.

17 Q. When's the last time you spoke to either of
18 them, by the way?

19 A. When he messaged me about settling.

12:16:13 20 Q. "He" being Mike Miller?

21 A. Yes.

22 Q. Okay. I'm trying to skip over stuff so I'm
23 sorry. Just give me a second here.

12:16:53 24 There's going to be some exhibits I'm just
25 going to skip.

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REPORTER'S CERTIFICATION

I, Jean Keleher, a Certified Shorthand Reporter in and for the State of California, holding Certificate No. 4136, do hereby certify:

That the foregoing witness was by me duly sworn; that the deposition was then taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewritten form under my direction; that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am neither counsel for, nor in any way related to any party to said action, nor in any way interested in the result or outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name on 27th day of July, 2021.



Jean Keleher, CSR #4136

1 **DEPONENT'S CHANGES OR CORRECTIONS**

2 Note: If you are adding to your testimony, print
3 the exact words you want to add. If you are deleting
4 from your testimony, print the exact words you want
5 to delete. Specify with "Add" or "Delete" and sign
6 this form.

7
8 DEPOSITION OF: JESSICA CRIOLLO

9 CASE: DEPT OF FAIR EMPLOYMENT V. CATHY'S CREATIONS

10 DATE OF DEPOSITION: JULY 14, 2021

11
12 PAGE LINE CHANGE/ADD/DELETE

13 27 21-22 DELETE "so that would have been maybe
14 an hour and a half" and CHANGE to "It was roughly two
15 hours and a half."

16 31 13 DELETE "I don't remember doing that"
17 and CHANGE to "No, I did not."

18 33 25 DELETE "bride or groom" and CHANGE to
19 "bride(s) or groom(s)"

20 39 4 ADD "It was a happy day for them. I'm
21 most certain, the last thing on anyone's mind was
22 Cathy or Tastries. So no, Cathy was not mentioned."
23 after the word no.

24.

J. C. Criollo 8/25/21

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far as his kindness, I couldn't say."

104 14-15 DELETE "did the hurry-up symbol. But that was just one instance." and after the word "he" ADD "snapped his fingers to signal hurry up. I found that extremely rude but other than that I never interacted with him."

106 10 After "No." ADD "Absolutely not."

107 7 DELETE "I wouldn't call it that, but yes." and CHANGE to "As I've said before, I cannot possibly remember something that did not happen. I did question her authority which she calls "outbursts or disruptive behavior". But I did not have an outburst or have disruptive behavior. This is lie number 11. I know you're working tirelessly to portray me as the worst employee ever and even though I know this to be untrue, I've yet to see it's relevancy to this

J. Hull 8/25/21

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discrimination case. If the same amount of research was made on Cathy as there was on me (as I am looking at photos of my dogs from my personal Facebook page among your Exhibits), then you would know the numerous actions made by Cathy that would be frowned upon by the Christian faith. I was only one of six, that I am aware of, that submitted a labor board claim. Out of that six, it ranges all from me the alleged "disruptive employee" all the way to one of Cathy's most beloved and trusted employees, Nikki. You can attempt to discredit me until your heart's contempt but the fact that even Nikki, Cathy's right hand, anonymously submitted a claim, speaks volumes. This says more about your client than you could ever say about

Jessie 8/25/21

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me. There were many immoral and unethical things going on there and I really believe I was the first to speak up. Cathy does not have to like that I did but she does not need to lie, especially after six years.

107 23-25

DELETE "I actually decorated - oh, actually, no, I didn't. I didn't decorate a cake, but I did help with fondant and like fondant details on the little pig cake that" and CHANGE to "I helped color frosting for one decorator who was working on a customer's cake order. I also helped another decorator with fondant details for a pig-in-the-mud cake order. I don't remember more specific details but overall, I continued to help with similar small tasks for customer orders for the full five hours I worked that day. Cathy made a remark that she liked

JLH 8/25/21

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my attention to detail and was later told I was hired. Since it was an "audition" I was not paid but the labor board later ruled that since I worked on purchased goods that it was legally classified as labor and therefore, I was to be paid."

108 1-4

DELETE "another decorator was working on. And then I believe I mixed some colors with the frosting and then I helped deliver a cake. So I never got to do my - what the audition was meant to do."

108 10-12

DELETE "- I mean, it was practicing, but it was practicing on cakes that were used for customers." and after the word "wasn't" ADD "on dummy cakes, as she originally said. We (Kassy, Lizet and I) ended up "practicing" on actual customer ordered cakes. Again, by California State Law, this would

J. L. L. 8/25/21

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classify this as working off the
clock. It is against the law and must
be paid to the employee. It was not.
And although it was a nice sentiment
for Cathy to offer training from the
more experienced girls, it might have
helped if she had included them in the
conversation. None of them knew they
were supposed to train us during these
intern hours". They were either working
on their own cake orders during the day
or were gone during the evening. That
is why I stopped taking up this offer."

108 19

DELETE "No" and CHANGE to "You can
rearrange the words but it's still the
same question so my answer remains the
same. If I did not clock out for lunch,
it's because I did not go on lunch.
Again, the format of your question is
forcing me to answer yes or no to a
a false statement. More importantly,

John 8/25/21

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the labor board already ruled that I did not go on those specific lunch breaks. Your question now is both false and unnecessary."

109 16 DELETE "letting" and CHANGE to "let"

111 6-10 DELETE "They - what is it called? They went in my favor and we had the option to - well, he had the option, Mike and Cathy had the option, to repeal it in court. However, I didn't want to go to court, so we settled." and CHANGE to "The labor board ruled in my favor. Tastries was to pay was owed to me, however, Mike and Cathy had the option to appeal in court. I no longer wished to face them and I figured they would want to continue in court. I wanted to completely cut all ties and just go our our separate ways so I offered to accept a lower amount than what the board stated. Mike accepted and it was

John 8/25/21

MIL EXHIBIT 11

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BEFORE THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE COMPLAINT OF)
EILEEN RODRIGUEZ-DEL RIO,)
MIREYA RODRIGUEZ-DEL RIO,)
)
Complainants,)
)
vs.)
)
CATHY'S CREATIONS, INC. DBA)
TASTRIES DBA TASTRIES BAKERY;)
AND CATHY MILLER,)
)
Respondents.)

ORIGINAL

Case No.:
935123-315628

DEPOSITION OF
CATHARINE MILLER
LOS ANGELES, CALIFORNIA
SEPTEMBER 26, 2018

ATKINSON-BAKER, INC.
COURT REPORTERS
(800) 288-3376
www.depo.com

REPORTED BY: DIANA WHITESEL, CSR No. 6287
FILE NO.: AC09F34

1 for those case cakes than a custom cake?

2 A. I tell my baker, bake out what we have left of
3 the batter. And I tell my decorators, whoever has time,
4 throw me some case cakes.

5 That's the end of the story.

6 Q. Okay.

7 A. Now, we'll get seasons, and I'll say, add
8 something Fall to these. We have a basic design. Even
9 that changes, but we have basic designs.

10 Call it red velvet, red crumbs around, trim on
11 the top and bottom. But if it's close to Thanksgiving,
12 we might throw a leaf on it or something. I don't know.

13 They are not made for any purpose except just
14 to put in the case, usually for birthday parties. We
15 are next door to John's Incredible, so we get birthday
16 parties all the time.

17 Q. Is it usually one person that does a pre-made
18 cake, or can that also go through the steps of the
19 multiple people participating in the creation?

20 A. A case cake is a no-brainer. Any of my bakers
21 and decorators better know how to do it. So anybody
22 just grabs it and does it.

23 Q. Do you know if clients have ever purchased a
24 pre-made cake for use in a wedding celebration?

25 A. I don't think so. I don't know. Maybe.

1 Q. Has anybody ever come in and asked, can you put
2 happy wedding or happy marriage, some addition to the
3 pre-made cake to where it was pretty clear it was going
4 to be for a wedding?

5 A. I don't think so. They're not that type of
6 cake. They're geared more towards a party, like if you
7 were having your birthday party.

8 Q. I know what you mean.

9 A. Okay.

10 Q. I sometimes wait until the last minute to get
11 the wife's cake.

12 A. Right.

13 Q. So I know what you mean.

14 A. There are cakes that are all white. It could
15 be used for that. But it's the purpose of why we made
16 the cake was to put in the case for a birthday.

17 Q. And it sounds like if somebody came in and
18 wanted to use a pre-made cake for the wedding, you don't
19 care, you're still going to sell it to them?

20 A. Yeah. Yes.

21 Q. If they wanted to add, like, "congratulations"
22 couples' name, and it fit, is that something that
23 Tastries would do?

24 A. I would do that because it is a case item that
25 was not created for the purpose of something. It was

1 created for our case, for the needs of whoever walked in
2 the door.

3 Q. If a same-sex couple came in and wanted to get
4 a pre-made cake and add congratulations, the names,
5 would Tastries sell that to them?

6 MR. LIMANDRI: Object. Incomplete
7 hypothetical. Assumes facts not in evidence. Calls for
8 speculation.

9 Go ahead and answer the question if you can.

10 THE WITNESS: Say the question again.

11 BY MR. MANN:

12 Q. If a same-sex couple came in to purchase a case
13 cake and wanted Tastries to write a message of
14 congratulations for their marriage, would Tastries sell
15 them that cake?

16 MR. LIMANDRI: Same objection.

17 THE WITNESS: I feel that you're trying to put
18 me in a box. I feel that there are several bakeries in
19 town that would be very happy to do a cake for them. If
20 anybody at this point walked into my bakery and asked me
21 to do that, I would look at them and say I'm happy to
22 write that on your cake, because I know that you know
23 what my feelings are, and I want to show you that I care
24 more about you as a person than all this crap that's
25 going on.

1 BY MR. MANN:

2 Q. So it sounds like that's a yes, Tastries would
3 sell it to them and put it on?

4 A. I probably wouldn't sell it to them. I'd
5 probably give it to them. Because I don't want any of
6 their money for that if they're going to do that to me,
7 because that's discrimination against me.

8 Q. So because of everything that has gone on with
9 the case, would you assume that somebody -- they're not
10 doing it for a genuine purpose, it sounds like?

11 A. I have had death threats. I have two binders
12 this full of hate mail. People wanting to kill me and
13 rape me and do it to my employees. I have had six
14 employees that have resigned because of the hate and
15 vindictiveness of the LGBTQ community.

16 But God is bigger than all of this, and I'm not
17 going to stoop to that level. The LGBT will not put me
18 in a box. I'm here to serve everyone. I will not be a
19 part of a ceremony.

20 If they have the desire to still, at this
21 point, come in my bakery and request that I write on a
22 case cake "Congratulations," I will write that because
23 you are telling me I have to.

24 But I will not charge them. I will hand it to
25 them, and I will tell them I am praying for them.

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That's what will happen in my bakery.

Q. Okay. I am sorry to hear about the hate that you're receiving and the threats. Nobody should have to deal with that. That's disturbing to hear.

A. I know this is recorded. Does anybody else get to read this?

MR. LIMANDRI: My understanding is it's for the purposes of this case only. But if you're about to say something that you don't want publicly disseminated, I'll have to ask counsel to stipulate if he would at least seal this portion of the record. I don't know what you're about to say.

If you want to confer with me off the record first, you can. But if not, if you're going to say something that you feel strongly should not be publicly disseminated, particularly if it concerns an employee or something like that and their privacy, then I'd ask counsel to stipulate to seal that part of the record.

So stipulated?

MR. MANN: Yes.

(The following pages 49 through 50 are bound separately pursuant to stipulation.)

1 my Lord. I really don't care what the denomination is
2 so long as it is Bible based and you love the Lord with
3 all your heart and put him first in your life. And he's
4 been first in my life, my entire life.

5 BY MR. MANN:

6 Q. Do you believe the Bible is the literal word of
7 God?

8 A. It's the inherent word of God, yes, and it does
9 not change ever.

10 Q. Would you consider yourself evangelical?

11 A. You bet.

12 Q. And if the Bible has a rule like the Ten
13 Commandments, do you follow it, or at least attempt to
14 follow it?

15 A. We are all sinners. We will all fail, but God
16 is a gracious God. Our job is to love him first and
17 love each other and come as close to obeying his word as
18 possible. And that's a heart issue, not a head issue.

19 Q. Then you talk about some of the core religious
20 beliefs that you have. And then we asked some questions
21 about marriages between -- in different situations.

22 A. Sure.

23 Q. So we asked about, you know, marriage that
24 involved people where one of them had been divorced.

25 A. Uh-huh. Yes.

1 Q. Have there ever been circumstances where you
2 would not create a cake because one of the people was
3 divorced?

4 A. I am not privy to that information. And I
5 don't ask my clients if they've been divorced. I take
6 it the way I judge everything, whether it's a cake or
7 anyone else; this is between you and God, not me. I'm
8 not going to judge.

9 You're getting married. And you're trying to
10 make it -- in that kind of a situation, you know, where
11 there's kids involved, they're trying to make it right
12 before the Lord. They're bringing it before the Lord.
13 That's between them.

14 God is very specific; Marriage is between a
15 man and woman. And that's all I know. So I will
16 support that.

17 Q. Would that be the same answer for if one or
18 both of them have a child out of wedlock?

19 A. They're trying to make it right with God. I
20 will support anything that encourages them to be right
21 with God.

22 And I go over my wedding packet with them.

23 Q. You ever have a situation where you met with a
24 couple, or you met with just one of them, and you had a
25 sense that the marriage was happening because one of

1 them felt coerced into it?

2 A. I don't think so.

3 Q. Like, maybe their family was pressuring them:

4 You have a child together --

5 A. No.

6 Q. -- or you're pregnant, you have to get married?

7 A. No.

8 Q. Never had that situation?

9 A. I have had situations where the bride or groom
10 will call the week of the wedding and say "We can no
11 longer get married." And that is the only instance
12 where I refund everything to them. Because I think
13 they're really seeking the Lord, you know.

14 Q. Do you ever have a situation where you felt
15 that the couple was getting married not because they
16 were in love but more for some legal reasons or
17 something aside from love?

18 A. No. And when I talk to them at my cake
19 tastings, it's all about God's love and their love for
20 each other with God as a trinity. Not God's trinity but
21 God, the bride, and the groom.

22 Q. If you ever had that situation, would you want
23 to bake a cake?

24 A. I can't really answer that. I haven't been
25 faced with that. People who come in to order a cake are

1 usually very happy and excited to be there.

2 Q. You've made wedding cakes for interracial
3 couples before?

4 A. Uh-huh.

5 MR. LIMANDRI: Is that "yes"?

6 THE WITNESS: I'm sorry. Yes.

7 BY MR. MANN:

8 Q. Any problem with making wedding cakes in that
9 situation?

10 A. No. They're both people. God made them.

11 Q. All right. Well, let's talk about the policy,
12 and then maybe break for lunch after this.

13 So tell me about your policy of not making a
14 wedding cake for couples celebrating a same-sex wedding?

15 A. I can't do it.

16 Q. The policy is you can't bake it; right?

17 A. I can't. I can't. I will not offend my Lord
18 and Savior and His precepts in the Bible have said -- I
19 mean, I've got them all marked here if you want me --
20 this, this right here is my policy. Okay.

21 And I'm opening my Bible up, and I have --
22 what? -- maybe a dozen verses marked.

23 If you want, I'll be happy to read them to you
24 because that is my policy. And it goes for all of this.

25 Q. Has that been your policy the entire time

1 Tastries has been open?

2 A. January 1st, 2013, and will continue as long as
3 I own the business.

4 Q. I can't remember if I asked you if that policy
5 also applies to the coordination event planning as well?

6 A. Yes, sir.

7 I'll be honest with you --

8 MR. LIMANDRI: Well, you're being honest about
9 everything.

10 THE WITNESS: I'm being honest with everything.
11 You're right. I'm sorry.

12 One of the reasons I've stopped doing weddings
13 is because of too much going on. But the other reason I
14 backed way off is there was too much drunkenness going
15 on. And I would only do weddings where there was not an
16 open bar, and there was only champagne for toasts, or
17 wine. That's how serious I am about this.

18 I could have made a lot of money doing events,
19 and I have chosen not to because I cannot partake and be
20 a part of the way the wedding celebrations have
21 progressed.

22 That's an example of how serious I am about my
23 design standard Number 6, and how important the Bible is
24 to the core of my life. And I'm not just an evangelical
25 Christian. I'm not just here to make crazy statements.

1 This is who I am.

2 BY MR. MANN:

3 Q. Thank you.

4 MR. LIMANDRI: She was referring to the Bible.
5 I'm sorry, counsel.

6 For the record, she was tapping the Bible when
7 she said "this is who I am."

8 BY MR. MANN:

9 Q. Is there a policy to refuse any other services
10 to same-sex couples, or is it just wedding cakes?

11 A. It's just wedding cakes and anniversary cakes.
12 Anything that celebrates their union. So that would be,
13 maybe, if they had bridal shower. I've never been
14 asked. Anything that has to do with the marriage, no.
15 The union of a same-sex couple.

16 Q. Okay.

17 A. But not them as a person.

18 Q. What about a birthday cake for the child of a
19 same-sex couple?

20 A. We already did one.

21 Q. And you'll do that in the future?

22 A. Uh-huh.

23 MR. LIMANDRI: You have to answer out loud.

24 THE WITNESS: Yes. I'm honoring them as a
25 person.

1 see the ribbon of frosting or filling, that's what goes
2 in the middle.

3 Q. Okay. Earlier I think you said part of the
4 artistry was not only the design but recipe, the actual
5 mixing of the ingredients. Is that true?

6 Have you said that earlier?

7 Or that you believe that parts of the artistry
8 in cake creation includes the actual recipe and the cake
9 mix as well?

10 MR. LIMANDRI: Objection. Asked and answered.
11 Go ahead.

12 THE WITNESS: I hire people along with myself
13 who create our recipes. There's some art to that. I
14 don't think anybody in this room could probably do what
15 we do just on the mixing of eclairs or cream puffs.

16 BY MR. MANN:

17 Q. And, specifically, with cakes as well, that
18 coming up with the mix and the recipes is part of the
19 art of cake creation?

20 A. We've already answered that. Yes.

21 Q. And everything -- all the cakes -- are the
22 cakes that -- wedding cakes and custom cakes at Tastries
23 all made from scratch?

24 A. Some are, and some are not.

25 Q. And when you say "some are not," let me just

1 ask two questions.

2 Are the weddings cakes made by Tastries made
3 from scratch?

4 A. Some of them are. Some of them aren't.

5 Q. Then same answer for other custom cakes?

6 A. Making them from scratch is a -- you wouldn't
7 know this is an ambiguous question. Is that the right
8 word?

9 MR. LIMANDRI: Yes. I can object to vague and
10 ambiguous. If it's a term of art, you can explain it.

11 THE WITNESS: So the majority, every bakery in
12 Bakersfield except me, will order a bag of flour, get
13 boxed mixes, and that's their cakes.

14 Okay?

15 I use, as some of my cakes, a few flavors, a
16 box base, but then I totally trick it out with other
17 things.

18 So there's never a cake that isn't changed
19 dramatically. Several of my flavors are all from
20 scratch. Okay? There are certain -- and you bake so
21 you would understand this. There are certain proteins
22 and chemical reactions that if I were to try to do those
23 all from scratch, I'd have to be baking the day of and I
24 need to bake the day before.

25 So there's certain flavors we cannot do from

1 scratch in order to have a cake out in a hundred-degree
2 weather during the summer. So it's -- this is all
3 confidential information that they sign in their
4 handbook. Confidential because there are certain things
5 that I do have to buy. But the majority of our -- all
6 of our products -- and I work with some of the top
7 distributors -- have walked -- I've had an amazing chef,
8 two actually, come into my bakery and say, "How are you
9 able to do all of this from scratch?"

10 So to answer your question, the professionals
11 in the industry who have been in my bakery are floored
12 what I do from scratch in our bakery compared to what is
13 done across the nation in all the bakeries nowadays.

14 BY MR. MANN:

15 Q. Earlier you talked about cottage bakeries. I
16 think you said they cannot do what you do.

17 A. No, they can.

18 Q. Are there services -- when you talked about
19 Tastries' competitors, you only mentioned a handful of
20 them out there. Why was that?

21 A. Because those are the only ones in Bakersfield.
22 I named those. And then there's a lot of cottage
23 bakeries, hundreds in Bakersfield, who will do fondant
24 cakes and wedding cakes out of their home.

25 Q. It sounds like those cottage bakeries cannot

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REPORTER'S CERTIFICATE

I, Diana Whitesel, CSR No. 6287, Certified Shorthand
Reporter, certify:

That the foregoing proceedings were taken
before me at the time and place therein set forth, at
which time the witness was put under oath by me;

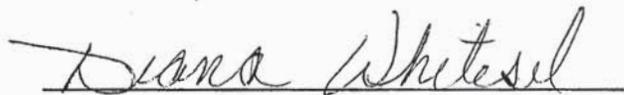
That the testimony of the witness, the
questions propounded, and all objections and statements
made at the time of the examination were recorded
stenographically by me at the time and were thereafter
transcribed;

That the foregoing is a true and correct
transcript of my shorthand notes so taken.

I further certify that I am not a relative or
employee of any attorney of the parties, nor financially
interested in the action.

I declare under penalty of perjury under the
laws of California that the foregoing is true and
correct.

Dated this 2nd day of October, 2018.


Diana Whitesel, CSR No. 6287

MIL EXHIBIT 12

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF KERN

DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the)
State of California,)
Plaintiff,)
vs.) Case No.)
) BCV-18-102633-JEB
CATHY'S CREATIONS, INC. d/b/a)
TASTRIES, a California)
corporation; and CATHY MILLER,)
Defendants.)
_____)
EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)
Real Parties in Interest.)
_____)

REMOTE DEPOSITION OF CATHY'S CREATIONS, INC.,
BY AND THROUGH ITS DESIGNATED REPRESENTATIVE
CATHARINE MILLER
AND IN HER INDIVIDUAL CAPACITY
February 24, 2022

Witness Location: Rancho Santa Fe, California

Atkinson-Baker,
a Veritext Company
(800) 288-3376

Reported by: Lisa O'Sullivan, CA CSR No. 7822,
AZ CR No. 50952, RMR, CRR
File No: 5085432

1 A. No, it is not.

2 Q. Is religion or your Christian beliefs mentioned
3 in Cathy's Creations, Inc.'s organizational documents?

4 A. I don't know.

5 Q. Last time, I asked is the Bible the literal
6 word of God, and you answered that it was the inherent
7 word of God. Can you tell me -- well, first let me ask
8 again.

9 Do you believe that the Bible is the literal
10 word of God?

11 MR. JONNA: Objection. Vague and ambiguous.

12 A. Yes.

13 Q. Did you mean to say anything differently by
14 saying "inherent word of God"?

15 A. No.

16 Q. I assume you've read the Bible?

17 A. Yes.

18 Q. Have you ever read it in Hebrew?

19 A. No. I don't know Hebrew.

20 Q. How about Aramaic?

21 A. No.

22 Q. I'm assuming also not Greek?

23 A. No.

24 Q. What version of the Bible have you read?

25 A. Are you talking -- the language is English.

1 A. Yes.

2 Q. And we -- I think we used words like "take
3 part," "participate," "endorse," as all kind of meaning
4 the same thing. There's also been references to
5 "support." Would you see that as the same as
6 "participate," "take part," or is that something
7 different?

8 MR. JONNA: Objection. Vague and ambiguous.
9 Overbroad.

10 A. Just generally speaking, I would say they're
11 the same.

12 Q. Okay. Do you know whether Tastries has ever
13 made custom product for the wedding of a couple where
14 neither of them believe in God?

15 A. I don't know that. I don't ask those
16 questions.

17 Q. Would Tastries have a problem making a cake for
18 a couple that didn't believe in God for their wedding?

19 A. No, I would not.

20 Q. Would doing so send a message that Tastries
21 supports not believing in God?

22 MR. JONNA: Objection. Incomplete
23 hypothetical. Vague and ambiguous.

24 A. My only standard for rejecting a wedding cake
25 is when it goes against my detailed Christian beliefs,

1 which are stated in the Bible. And I have my Bible here
2 if you want me to read the verses that I'm referring to.
3 Would that help?

4 Q. I don't think for this question.

5 A. Okay.

6 Q. I don't think that answer was responsive.

7 Let me ask it this way. Does making a cake for
8 the wedding of a couple that doesn't believe in God
9 violate Tastries' design standards?

10 A. No, because it does not violate God's words.

11 Q. And that's -- is that, your reference to that,
12 marriage is between one man and one woman?

13 A. Yes, and several other references.

14 Q. Okay. Has Tastries ever provided a custom
15 product for an event and then later regretted doing so?

16 MR. JONNA: Objection. Vague and ambiguous.
17 Overbroad.

18 A. And you've already asked me that question. To
19 my knowledge, we have not been a part of an event except
20 that I was not -- to my knowledge, we have not been a
21 part of an event, as you stated, except for that one
22 same-sex marriage with the orange flowers. That's when
23 you asked me that question already.

24 Q. Okay. Has Tastries ever provided a wedding
25 cake for any wedding for which you did not believe the

1 marriage should be celebrated aside from the same-sex
2 marriage example?

3 A. I don't have any knowledge to base that
4 decision on.

5 Q. Has Tastries ever turned or declined to take an
6 order for a wedding cake that did not conflict with the
7 design standards, but there was still reason for
8 Tastries to decline to take that order?

9 A. Not that I can recall, no.

10 Q. Has Tastries ever provided a wedding cake for a
11 couple when you weren't quite sure that that wedding
12 should be celebrated?

13 MR. JONNA: Objection. Vague and ambiguous.

14 A. No. I would have no information to base that
15 on, and I'm -- no. The wedding -- the Bible's very
16 clear about homosexuality and about marriage, and that's
17 what my decisions are based on regarding wedding cakes.

18 Q. Is that the only design standard that applies
19 to wedding cakes?

20 A. No, because I've had --

21 Q. I know you told me before about people wanting
22 like a Jack Skellington or whatever.

23 A. Right. Same answer.

24 Q. So, I mean, my understanding is that you get
25 comfort to make a cake and celebrate a wedding from the

1 design process and getting to know the couple, maybe
2 their parents, whoever's doing the order. Is that a
3 fair statement?

4 A. What are you talking about when you say
5 "comfort"? Can you give me what you are talking about?

6 Q. Oh, just that you -- you feel comfortable to
7 send that message that this relationship, this marriage
8 should be celebrated.

9 A. Yes.

10 Q. And so my question was if you ever went through
11 that process, and you were hesitant, didn't really have
12 the comfort, but you went ahead and provided the cake
13 anyway.

14 A. No, because I have my wedding packet, and I
15 visit with them about the marriage and the wedding and
16 the Bible verses that are there. And no one ever has
17 just taken the packet, set it aside, and said, "We're
18 not interested in that." They've always entered into a
19 discussion with me. I've never had anyone put that
20 aside.

21 Q. Last time, I asked you a question, and you gave
22 an answer, but I think there's some confusion about it.
23 So I'd like to ask you again so that you can clear up
24 the confusion for me.

25 And it was if a same-sex couple purchased a

1 case cake from Tastries and wanted a written message of
2 "Congratulations" for their wedding, would Tastries
3 write that on the case cake?

4 MR. JONNA: Objection. Incomplete
5 hypothetical. Vague and ambiguous.

6 A. No one has ever asked me to do that. It would
7 totally go against my heart and my standards, and that's
8 the best answer I can give you.

9 Q. What about same situation, same-sex couple
10 wants a case cake for celebrating their anniversary, and
11 they want "Happy Anniversary," both of their names. Has
12 that ever happened?

13 A. No, it has never happened.

14 Q. Would you also feel that that went against your
15 standards, the language that you just used?

16 MR. JONNA: Same objections.

17 A. Yes.

18 Q. But would Tastries sell it to them with that
19 written message?

20 MR. JONNA: Same objections.

21 A. I don't want to answer that. I don't know what
22 to tell you.

23 Q. You need to, though. There's no privilege, so
24 you need to answer.

25 A. Actually, there is.

1 MR. JONNA: Well, you need to answer if you
2 understand the question and if you can answer it.

3 I'm not going to -- you're asking her a
4 hypothetical question, Greg, so there's some limits to
5 what -- you know, if it's an unrealistic hypothetical,
6 then it might be difficult for her to answer that.

7 A. I'll answer your question. You are putting me
8 in a box, and you know it. You asked the question at my
9 last deposition, and you know how upset I got over it,
10 and you're trying to put me in a box with my case items.
11 If I answer yes, then you're going to say I won't sell
12 everything in my case to anyone. If I answer no, then
13 I'm in trouble too, right? So and I can't ask you a
14 question.

15 So my answer is I understand your question. It
16 has never happened before, so I'm going to have to think
17 about it further.

18 Q. All right. Well, I'll need an answer before
19 the end of the deposition. And just to let you know,
20 I'm not trying to put you in a box. I'm just trying to
21 figure out the limits of the policies.

22 A. I'm trying to figure out what -- how I can be
23 even more accommodating than I have been with the Unruh
24 Act, because it says "or to accommodate." And you have
25 hundreds of places in Bakersfield that somebody can go

1 buy a cake and have that written on a cake, except for
2 my bakery, and I will refer them to all of those places,
3 which is accommodating them.

4 Q. When Black people in the south, before the
5 civil rights laws in the '60s, went to a restaurant, and
6 they were denied, there were lots of other restaurants
7 they could go to, right?

8 MR. JONNA: Objection. Calls for speculation.
9 Argumentative. Incomplete hypothetical.

10 A. God never said not to serve a Black man, a
11 Hispanic man, a Jewish man. God says in his word, and
12 I'm pointing to my Bible right now, not to be involved
13 with homosexuality. I will not be involved with a
14 homosexual relationship at all.

15 God loves Black people. He loves White people.
16 He loves Jews. He loves gentiles. He loves the Greek.
17 He loves everyone. But certain individuals have made a
18 lifestyle choice that directly goes against God's word.
19 And I love my Lord and savior, and I'm going to obey
20 him. So being Black or White or Hispanic has absolutely
21 nothing to do with this case.

22 Q. Do you think that God loves gay people?

23 A. I think he loves them, yes. He's hurting for
24 them because they've made a decision that is not -- does
25 not have a good outcome, and I can give you Bible

1 references if you want me to read them, or you can look
2 them up yourself.

3 Q. I'd love to put them in the discovery
4 responses. If we have time at the end of this, we can
5 do that, but in the discovery responses, I'd love to be
6 able to see what the verses are.

7 A. Okay.

8 Q. Are you aware that the business owner --
9 certain business owners in the south did say that their
10 beliefs were that God did not want Black people and
11 White people associating together?

12 A. They should have read their Bible.

13 MR. JONNA: Objection. Argumentative.
14 Incomplete hypothetical.

15 Q. So you just disagree and don't believe that
16 their beliefs were legitimate Christian beliefs?

17 MR. JONNA: Objection. Argumentative. Vague
18 and ambiguous.

19 A. They just need to read their Bible. There's
20 nowhere in the Bible that says that.

21 Q. So that's a distinction you'll make between
22 other forms of discrimination? They're not supported by
23 the Bible?

24 MR. JONNA: Objection. Misstates the witness's
25 testimony. Argumentative.

1 A. My whole case or whatever you call this is
2 based on my love for my Lord, and my guidelines -- my
3 life centers around the scriptures of the Bible, which
4 our country was founded on. So I'm sorry if there were
5 people back in the '60s or '50s that were discriminatory
6 towards Black people. They should not have been at all.
7 But they should have done their research then and shown,
8 "Hey, where in the Bible does it say that?"

9 Q. So just to be clear, the distinction between
10 your actions are based on the Bible, their actions were
11 not based on the Bible?

12 A. My actions --

13 MR. JONNA: Objection. Overbroad.

14 A. My actions are based on the Bible and the
15 constitution of the United States of America and what
16 they were founded on. As far as what you are proposing
17 back in the '50s or 60s, I don't know. I wasn't there.
18 I wasn't born yet.

19 Q. Do you try to follow everything that the Bible
20 says?

21 A. I do my best, but I'm a sinner, but I do my
22 best.

23 Q. Do you follow some of the eating practices from
24 the Old Testament --

25 MR. JONNA: Objection.

1 Q. -- in terms of not eating pigs, not eating
2 shellfish, et cetera?

3 MR. JONNA: Objection. Harassing and
4 argumentative. And I'm not really sure where you're
5 going at with this, Greg. I'm not going to let you
6 cross the line here and start harassing Mrs. Miller.

7 MR. MANN: I don't know how that's harassing.
8 She just said she tries to follow the Bible, and I'm
9 getting --

10 MR. JONNA: You cannot question the sincerity
11 of her faith or question the sincerity of her. That's
12 not something that any court will allow you to do, so
13 I'm not sure what you're doing right now. Are you going
14 to try to prove whether she's a Christian? Is that what
15 you're doing?

16 MR. MANN: I'm just asking her a question about
17 her statement that she tries to follow the Bible.

18 MR. JONNA: That's a harassing and
19 argumentative line of questioning that, you know, if
20 Cathy wants to answer them, I'll let her answer them.

21 But I'm just going to advise you that you don't
22 have to answer harassing questions about your religious
23 beliefs.

24 Q. (BY MR. MANN:) Do you think that's harassing,
25 Cathy?

1 MR. JONNA: I think it's harassing.

2 A. I think you're trying to poke holes in
3 something that you shouldn't go there. Yeah.

4 Q. I don't understand --

5 A. So I don't eat shellfish, and I don't eat pork,
6 but it's because I'm allergic to them. Okay? You want
7 to trust an honest answer, that's my honest answer. We
8 are all sinners. We are all sinners. There are things
9 that I fail at, but my heart, my life -- my entire life
10 has been focused on living for the Lord and loving my
11 Jesus.

12 Now, you need to study -- if you're going to
13 start poking holes at my faith and my Christian walk,
14 then you better be prepared, and you better read that
15 Bible and know the Bible, because you would not have
16 asked that question. The cross changes a lot of things.

17 Q. Okay. Does that mean you make a distinction
18 between the Old Testament and the New Testament?

19 A. Well, the Old Testament was before Jesus was
20 born, and the New Testament's after he was born. Yes,
21 there's a distinction between the two.

22 Q. And what's the distinct -- does that
23 distinction play any role in your statement that you try
24 to follow the Bible?

25 A. No.

1 Q. So you try to follow the New Testament, and you
2 try to follow the Old Testament?

3 A. Of course.

4 MR. JONNA: Objection. It's argumentative and
5 harassing.

6 Q. Is there anything in the Bible that you can
7 think of that you do not follow?

8 MR. JONNA: Objection. Argumentative and
9 harassing.

10 And again, I don't think this is a fair line of
11 questioning, but go ahead and answer if you want to.

12 A. God says not to get upset and angry, and I do
13 get angry sometimes.

14 Q. I'm thinking more where -- not something where
15 you make a mistake, but you decided, "I'm not going to
16 follow that rule from the Bible," for some reason, but
17 it's --

18 A. Of course not.

19 Q. -- a conscious decision.

20 A. Of course not.

21 Q. Okay. Do you have any -- or the design
22 standards, we're going to look at them here in a second,
23 but is the phrase "fundamental Christian" -- what's the
24 last word in the design standards?

25 A. "Principles."

1 Q. "Principles." Thank you. Do you have any
2 fundamental Christian principles about couples living
3 together before they're married?

4 A. It goes against my beliefs. That's my feeling.
5 That's based on God's word. He says --

6 Q. So would you consider -- I'm sorry. I didn't
7 mean to cut you off.

8 A. No, go ahead. What were you saying?

9 Q. So do you consider it, from your perspective,
10 as a fundamental Christian principle that couples should
11 not be living together before marriage?

12 MR. JONNA: Objection. Vague and ambiguous.

13 A. There are many, many principles in the Bible,
14 and there's rules that we should live by for our own
15 self and for our relationship with the Lord. It's a
16 relationship, as you and your wife have a relationship,
17 and we are called to abide by those.

18 Now, as far as if someone decides -- make
19 decisions outside of those guidelines, I have no say in
20 that. But there's very definite, definite guidelines,
21 and I think it's best if I read them to you, it's your
22 choice, about homosexuality and even participating in
23 the union of homosexuality. I will not cross that line.

24 Q. Okay. I didn't ask about that. I'm trying to
25 figure out -- I want to -- that part of the design

1 standards would you agree is kind of vague, "fundamental
2 Christian principles"?

3 A. Explain that. What?

4 Q. Like, it could mean lots of different things to
5 lots of different people.

6 A. The phrase? Okay. Yes, it could possibly.

7 Q. So what I'm saying is I'm just trying to
8 understand that phrase the same way that you understand
9 it. Or I'm trying to get your understanding of it,
10 because it is a written design standard.

11 A. Okay.

12 Q. So that's all I'm trying to do, so I'll ask it
13 again.

14 In terms of couples living together before
15 marriage, it sounded to me like you said it is a
16 fundamental Christian principle that couples should not
17 live together before marriage. Is that a fair
18 statement?

19 A. That is correct, but I wouldn't know if they're
20 living together.

21 Q. Have you -- you've never had a situation where,
22 during the design consultation for a wedding cake, you
23 learned that the couple was living together?

24 A. No. We don't discuss things like that, Greg.

25 Q. Do the couple -- or does each individual put

1 their address on the form?

2 A. No. I just have their phone number and their
3 name. Sometimes an email. I have the venue address.

4 Q. All right. When we look at the Rodriguez-Del
5 Rios' form, I'm pretty sure their addresses were on
6 there separately.

7 A. I don't believe so. I don't -- I can look at
8 it again. I have it. But I don't usually ask for their
9 address. It's the address of the venue. Now, if they
10 filled it out, maybe they put their address, but it was
11 supposed to be the address of the venue. I have no
12 reason to have an address unless they want me to deliver
13 a cake to their house. That's the only time I have the
14 need for an address.

15 Q. Making -- or not making cakes that violate
16 fundamental Christian principles is important to you,
17 right?

18 MR. JONNA: Objection. Vague and ambiguous.

19 A. Yes.

20 Q. So do you, during the design consultations, ask
21 questions to make sure that you're not making a cake
22 that would violate fundamental Christian principles for
23 a couple?

24 A. You're trying to put me in a box again. I
25 don't know everybody's life, and I'm not going to try to

1 know their life. They have come to me for a cake. If
2 it's a wedding cake, I have my packet. I get to share
3 the Lord with them. I get to share the Bible verses
4 with them. And we talk about their marriage and wedding
5 and the wedding celebration and the rituals at the
6 celebration, which also fits around a man and a woman.
7 Nobody has ever, ever walked out, thrown the paper at
8 me, and said, "I don't need this; I just want a cake,"
9 nobody, except for Mireya and Eileen.

10 So if somebody is living together or what, I
11 don't know that, and I think it would be discriminatory
12 if I would ask them. I do know if it's a same-sex
13 wedding because I have two brides or two grooms, and I
14 know what my Bible says.

15 Q. And your Bible says a lot about other
16 situations that are fundamental Christian principles,
17 right?

18 MR. JONNA: Objection. Overbroad. Vague and
19 ambiguous.

20 Q. I mean, let me just say it this way. There are
21 many more fundamental Christian principles than not
22 participating in same-sex marriage, right?

23 A. Yes. I will not do a decapitated-head cake. I
24 will not do a marijuana or drug or anything to do with a
25 drug kind of a thing. I will not do a drunken-Barbie

1 cake. I will not do a penis cake, which I'm asked at
2 least once or twice a month to do for a bachelor party,
3 bachelorette, or the boobs, or I could go -- Greg, I
4 turn a lot of cakes away because I will not do them, and
5 God is honoring our business.

6 Q. So all those other design standards that you
7 just mentioned, you consider those also fundamental
8 Christian principles?

9 A. Yes. And just as you keep bringing up all
10 these scenarios that don't even happen, I put that at
11 the bottom because I am not going to -- I had no idea
12 what some of this stuff I'm being asked about to make
13 is. People are -- have some crazy ideas, and I'm not
14 going to make them.

15 Most of the time, I re -- the ones I
16 understand, I redesign the cake, and we -- they're
17 happy, we're happy, everybody's fine. And that's 99
18 percent of the time.

19 Q. What I'm trying to figure out is if you have
20 other fundamental Christian principles that are
21 important to you, why you don't ask about them to make
22 sure that Tastries does not violate them?

23 A. Because I cannot -- it is not my place to be
24 judgmental on those types of issues. I cannot do that,
25 but I do know what the Bible says about homosexuality.

1 Now, when somebody's coming to me to get
2 married -- now, scenario. I don't know, but okay, fine,
3 like your example. They're living together. Well,
4 they're making it right before God. They're coming and
5 wanting to be married. That's a good action. We are
6 all sinful. We all need to repent. We all need to ask
7 forgiveness and move in the right direction with our
8 Lord and savior, right?

9 So if they're living together, and they want to
10 get a wedding cake, just like a pastor would say, "Okay.
11 You should be married. I will marry you," because
12 that's the right thing to do before God, I'm doing the
13 wedding cake. If that's the situation, we're making it
14 right before God. If I'm participating in a same-sex
15 wedding, I'm participating in something that's an
16 abomination to our Lord and savior.

17 Do you see the difference? I can't ask a
18 question. I hope you see the difference.

19 Q. Thank you for that explanation. That's very
20 helpful. I mean, what I'm trying to do here is, like I
21 say, is figure out your beliefs, since that's what the
22 design standards are based on, right?

23 A. Right.

24 Q. So that's all I'm trying to figure out. I'm
25 not 100 percent sure what you mean by "boxed in," but

1 I'm just trying to figure out what the limits of the
2 policy are and what your beliefs are and try to figure
3 out if there's a reason that you know somebody's in a
4 same-sex marriage, so you're not going to make that cake
5 because it violates fundamental Christian principles,
6 but there are these other fundamental Christian
7 principles you don't know about and don't ask about. So
8 I'm trying to figure out why that is.

9 MR. JONNA: Greg.

10 MR. MANN: And you just helped me with that
11 explanation, so I appreciate it.

12 MR. JONNA: I'm just going to say this because
13 you've said this a few times now. And I'm not arguing
14 with you, Greg, But this case is going to trial. I
15 mean, if she feels like she's being trapped or put in a
16 box, it's because you are trying to get information from
17 her in a deposition naturally to use against her at
18 trial. So there's no need to, like, sugar-coat what's
19 happening here. I mean, you're not just fishing for
20 information. You're -- this isn't just a --

21 MR. MANN: Okay, Paul.

22 MR. JONNA: I'm not saying you're crossing any
23 lines right now. I'm just saying --

24 MR. MANN: No, I understand.

25 MR. JONNA: -- I don't want you to deceive

1 Cathy either, you know. This is a deposition. It's an
2 adversarial process, and this isn't some happy, you
3 know, event. So let's continue with the deposition, but
4 there's no need to sugar-coat things.

5 MR. MANN: All right. No more sugar-coating.

6 Q. Do you have any -- well, or does it violate
7 your fundamental Christian principles for a Christian to
8 marry an atheist?

9 A. Personally, they should probably get some
10 counseling, but that's not my place as their cake
11 decorator.

12 Q. Is that a violation of your core -- I'm
13 sorry -- fundamental Christian principles, though?

14 A. That's not my place to make that judgment, and
15 I wouldn't have that information, so I don't know how I
16 can give you an answer. Personally, yes. But as
17 providing their cake, I wouldn't know whether they're an
18 atheist or a Christian. There's a lot of people that...

19 Q. In all the design consultations that you've
20 done and all these times you've spent with people, it's
21 never come up that one of them is an atheist?

22 A. They've never said, "Hey, I'm an atheist; I
23 don't want to see that paper," no. They -- I told you
24 already, Greg. I have that packet. You have that
25 packet.

1 Q. Okay. I got it. I'm just -- if it hasn't come
2 up, it hasn't come up. We'll go to the next one.

3 I mean, what's your estimation of the amount of
4 wedding cakes Tastries has made since it's been in
5 existence?

6 A. Oh, goodness. I could give you that number.
7 It would take me some time to figure out.

8 Q. Over a thousand easily, right?

9 A. If you say an average of -- let's just take an
10 average of five a week for 10 years. Sometimes it's
11 more, sometimes -- this week it's only two. So whatever
12 that is.

13 Q. 2,500?

14 A. Really.

15 Q. As a conservative. 52 weeks, 52 weeks in a
16 year, times five a week, 260 times 10.

17 A. Okay. Somewhere in there. Wow, I didn't know
18 that.

19 Q. And you've done most of those design
20 consultations for wedding cakes, right?

21 A. Yes.

22 Q. Okay. So, I mean, that's why I'm asking you.
23 We're not talking about a small sample size, you know.
24 There's thousands of people that you're talking to, so I
25 just want to know if these things have ever come up.

1 All right. Let's go ahead and take a look at
2 the design standards, Soyeon.

3 I can't remember where we're at, Lisa, in terms
4 of the exhibits.

5 THE REPORTER: This one should be 2.

6 (Exhibit 2 is marked for identification and
7 attached hereto.)

8 Q. (BY MR. MANN:) Okay. We're going to look at
9 three different ones, Cathy. So this is Exhibit 2,
10 "Tastries' Design Standards," Bates numbers CM-0026,
11 CM-0646, and CM-0662. Do you recognize these, Cathy?

12 A. Yes.

13 Q. Can you tell if either of these are the
14 standards that were in place in August 2017?

15 A. Nope. I change --

16 Q. Is there -- is there any substantial difference
17 between any of them throughout the years?

18 A. Not substantial. Whenever something popular
19 comes into being that I can't participate in -- like, my
20 best example is when marijuana became legalized.
21 Everybody wanted me to make marijuana cakes, marijuana
22 brownies, marijuana cookies, and I had to say, "Nope, I
23 can't." So I changed it. There was a show that came
24 out that was PG-13. So I used to say that I'd do G or
25 between G and PG-13, but I had to go back to PG because

1 it just got bad.

2 So I have this posted at each of my cash
3 registers, POS systems, and I have them in my binders.
4 And whenever they get kind of messed up on the counter
5 and I have to redo them, I look it over and say, "Hmm,
6 is there anything I need to switch or add? No, we're
7 okay." But they all, all have stayed pretty much just
8 like this, and you yourself can compare all three.
9 They're all right along the same lines.

10 Q. Let me back up and just clean up a little bit
11 of the questions from our last line of questioning.

12 MR. JONNA: Hey, Greg.

13 MR. MANN: Yeah.

14 MR. JONNA: I'm sorry. Can we just take two
15 minutes? I apologize. Can we take a two-minute break?

16 MR. MANN: If you tell me what you were
17 laughing about.

18 MR. JONNA: No, someone walked in.

19 MR. MANN: We can go off the record, Lisa.

20 (Recess, 2:18 p.m. to 2:25 p.m.)

21 MR. MANN: Okay. Let's turn back, Lisa.

22 Q. I just wanted to clean up the line of
23 questioning before.

24 So my understanding was that your personal
25 belief is that couples living together before their

1 marriage violates fundamental Christian principles. Is
2 that fair?

3 A. That is fair.

4 Q. But you said you don't ask them about whether
5 they're married -- or I'm sorry -- whether they're
6 living together during the design consultation, right?

7 A. The fundamental principle of marriage is in the
8 first chapter of Genesis, and it says that God created
9 man in his own image, and then he created woman as a
10 helpmate so that they could be man and wife and have
11 babies. That's a fundamental Christian principal, and
12 that's what I'm talking about as the Bible speaks.

13 Now, living together is not ordained by God,
14 but when you're coming to get married and make the
15 situation right and you're moving forward in the right
16 direction, then that is in ordinance with Jesus dying on
17 the cross for your sins, right? So that is -- because
18 we're all sinners. Okay? And he does love all of us.

19 But in the Bible it says that homosexuality is
20 an abomination before the Lord and that I cannot
21 participate in that because that would be celebrating
22 something that totally goes against the Bible, where
23 when somebody's living together and wanting to get
24 married, that's asking for forgiveness or restoration of
25 the Lord so that they can move forward in the right

1 direction. They're two distinctions here.

2 Q. I think that helps me to understand.

3 A. Okay.

4 Q. And you said you don't ask about whether
5 they're living together, right?

6 A. No.

7 MR. JONNA: No, you don't ask that?

8 A. No, I do not ask them if they're living
9 together.

10 Q. And then you said -- I think you said if you
11 did ask them, you thought that that would be
12 discriminating against them?

13 A. I haven't really thought about it, but I
14 don't -- I believe that's what I would think if I
15 thought about it.

16 Q. Is that something that you do in design
17 consultations, is balance your fundamental Christian
18 beliefs against your obligation not to discriminate?

19 A. Okay. You can say it the same way, but just
20 say it one more time.

21 MR. MANN: Can you read it back, Lisa?

22 (Record read as follows:

23 "Q. Is that something that you do
24 in design consultations, is balance your
25 fundamental Christian beliefs against

1 the next one, Soyeon, and see if the divorce cakes is on
2 there. I don't see it, but I remember seeing that on a
3 different one.

4 THE WITNESS: Right.

5 Q. And I remember you testifying about that
6 terrible desire to embarrass the soon-to-be ex-wife, I
7 guess. Any other examples that you can think of where
8 it didn't violate any of the specific ones, but it did
9 violate fundamental Christian principles?

10 A. No. Like I said, whenever we have a cake that
11 is, like, borderline or we're not comfortable with, we
12 work with the customer, and we come up with something we
13 both think is good.

14 Q. In the previous one, you talked about the last
15 design standard meant that Tastries would not make a
16 cake that celebrates any aspect of the same-sex union.
17 Is that correct?

18 A. Correct, yes.

19 Q. So I just wanted to figure out the range. So
20 that obviously is not weddings, correct?

21 A. Correct.

22 Q. Not anniversaries?

23 A. Correct.

24 Q. Not engagements?

25 A. Correct.

1 Q. Not bridal showers?

2 A. Correct.

3 Q. Not bachelor or bachelorette parties?

4 A. Correct.

5 Q. I don't know if anybody ever -- or are there
6 any other events that come to mind that Tastries would
7 not do based on its connection with the same-sex
8 marriage?

9 A. The proposal.

10 Q. Proposal.

11 A. "Will you marry me?"

12 Q. That's the only other one you can think of?

13 A. At this time, yes.

14 Q. And I think I asked you last time. You'd be
15 fine celebrating any event for a child of a same-sex
16 couple?

17 A. I will sell -- excuse me. I will celebrate a
18 person and honor them as a person, so I will do birthday
19 cakes, birthday cupcakes. I'm happy to do those for
20 anybody.

21 Q. Do customers ever get custom products to
22 celebrate pregnancy?

23 A. Yes, they have, yeah. Baby showers, yes.

24 Q. And would Tastries provide a cake for a
25 same-sex couple that wants to celebrate their baby

1 shower?

2 A. They can't have a baby, so I wouldn't be asked
3 that.

4 Q. Why can't same-sex couples have babies?

5 A. Because a guy and a guy together can't make a
6 baby, and a girl and a girl together can't make a baby.

7 Q. Do you know about in vitro fertilization?

8 A. Yes. My daughter-in-law had to have that.

9 Q. And do you know lots of lesbian couples have
10 children through in vitro fertilization?

11 A. No, because they took the sperm from my son,
12 and he's the egg for my daughter, and a man and a man
13 and a woman and a woman can't do that.

14 Q. Right. But just like your daughter got the
15 sperm from a man, a lesbian --

16 A. From her husband. From her husband, though.

17 Q. Okay. I mean, you've heard of people getting
18 sperm donors that aren't married, right?

19 A. I'm not sure what you're asking. Say that?

20 Q. Well, let's just go back to the specific
21 question.

22 A. Okay.

23 Q. You'll just have to take my word for it --

24 A. Okay.

25 Q. -- that lots of same-sex couples that are women

1 have children. So would Tastries make a baby shower
2 cake for a same-sex couple having a child?

3 A. I don't think so. I don't know, Greg.

4 Q. Do people ever order a custom product to
5 celebrate an adoption?

6 A. No. We'll do their birthdays, but I haven't
7 had an adoption yet.

8 Q. If a same-sex couple wanted a custom product to
9 celebrate an adoption of a child, would Tastries make
10 that custom product?

11 MR. JONNA: Objection. Incomplete
12 hypothetical.

13 A. I don't know how to answer that. I have not
14 thought about that. I would at first glance say no
15 because that's not what God -- you need a man and a
16 woman for a baby. And for an adoption, it should be a
17 husband and a wife, a mother and a father. So I'd have
18 to think that through. I would celebrate the child.

19 Q. I'm assuming -- or I'll just ask it so we can
20 get rid of my assumptions. Would Tastries make a cake
21 for a same-sex couple that was not celebrating marriage,
22 but they were celebrating a civil union?

23 A. No.

24 Q. Would Tastries make a cake for a same-sex
25 couple that's not married, not in a civil union, but

1 they wanted to celebrate that they'd been dating for a
2 year?

3 A. No, we wouldn't.

4 Q. Would Tastries make a cake for a same-sex
5 couple that was having a housewarming because they were
6 moving in together?

7 MR. JONNA: Objection. Incomplete
8 hypothetical.

9 A. I have never had anybody ask any of these
10 questions.

11 Q. Can I get a yes or no for that last one, a
12 housewarming cake for a same-sex couple?

13 A. No. No.

14 Q. Have you gotten orders for housewarming cakes
15 before?

16 A. No.

17 Q. Or house -- or housewarming custom products?

18 A. No.

19 Q. Huh.

20 A. That's why I don't know how to answer this.

21 Q. Do you understand the term "sexual
22 orientation"?

23 A. Yes.

24 Q. And what's your understanding?

25 A. It's the sex that God made you to be.

1 A. Well, the Unruh Act, it says that we need to
2 treat everybody fairly and to provide -- or provide the
3 service, you know, make sure I provide the service. So
4 that's how I came up with -- first I had it -- I just
5 did it because I wanted to. Okay? But then when all of
6 the LGBTQ community became more prolific or more loud
7 about their desires, I guess, then I made sure that I
8 had that agreement with Stephanie, and we were both on
9 board, and she was fine and she was very happy to. So
10 it was in between there.

11 Q. Okay.

12 A. But it started out with me just wanting to make
13 sure that everybody got taken care of in a good,
14 professional way.

15 Q. And as you sit here today, is it your
16 understanding that by referring customers to another
17 bakery, you are satisfying your obligations under Unruh?

18 MR. JONNA: Objection. Calls for a legal
19 conclusion.

20 A. I think I am.

21 Q. That's all I'm asking for, your thoughts.

22 A. Yes.

23 Q. Since you can't remember ever being denied
24 service based on those characteristics, let me ask that
25 to you in a hypothetical situation.

1 You know, if you walked into a store with a
2 friend and wanted to order a product, the salesperson
3 said, "I won't sell it to you, Cathy, but I'll sell it
4 to your friend, but here's the address of another store
5 where you can get the product a couple miles away,"
6 would you feel that you received full and equal services
7 from that business?

8 MR. JONNA: Objection. Incomplete
9 hypothetical. Vague and ambiguous.

10 A. I would just go somewhere else. And I've done
11 that before, and I do have an example for you that I'd
12 forgotten about.

13 Q. Okay. I want to hear that next. But you would
14 go someplace else, but would you feel that you received
15 full and equal services from that business by being sent
16 someplace else?

17 MR. JONNA: Objection. Incomplete
18 hypothetical. Calls for a legal conclusion.

19 A. Yes. If they had said, "I'm not going to serve
20 you, and I don't know what you're going to do about it,"
21 then I would have been really upset. But I've shopped
22 at Sprouts, and they've been out of this certain item
23 that I did need, and they sent me to the Rocklin store;
24 and I went there, and I picked it up.

25 Q. Is that -- you think that that's the equivalent

1 of being denied service?

2 A. Not denied service, but I did -- they did refer
3 me to someone else, and I did go there.

4 Q. Okay. So you're talking about --

5 A. And I appreciated -- I appreciated the effort
6 made.

7 Q. And what if Sprouts had the item, but they were
8 just not going to sell it to you, but they still made
9 the referral? Would that be providing equal and --
10 equal services to you?

11 MR. JONNA: Objection. Incomplete
12 hypothetical. Calls for a legal conclusion. Vague and
13 ambiguous.

14 A. They would be providing the service, but I
15 would want to understand why.

16 Q. They said they don't sell that product to
17 women; they would only sell it to your husband.

18 MR. JONNA: Objection. Incomplete
19 hypothetical. Vague and ambiguous.

20 A. This is what I mean by putting me in a box,
21 Greg. I don't know. I can share with you when I was
22 discriminated against truly, honest.

23 Q. Oh, okay. Yes, please do.

24 A. Yes.

25 Q. Please do.

1 We talked about you refer folks to other
2 bakeries. Was there any other means of complying with
3 the Unruh Act that you considered other than referring?

4 A. No.

5 Q. Have you ever tried to think about any other
6 possibilities?

7 A. My husband and I discussed many possibilities,
8 but that's the only one we could come up with.

9 Q. Can you tell me about some of the other ones
10 you considered or talked to Mike about?

11 A. We just talked about the situation and how we
12 would deal with it. And the other one was, "Just say
13 no," and I didn't feel good about that either. I don't
14 want to hurt anybody, so.

15 Q. The California Supreme Court in a case
16 suggested that a business owner or an employee -- one
17 way that the business could comply with Unruh was by
18 allowing any of the employees who did not want to
19 participate because of their religious beliefs -- that
20 that employee could stay out of the process, but the
21 business could still provide the service.

22 Have you heard about that case?

23 A. I've heard about a scenario like that, yeah.
24 Yes.

25 Q. Was that an option that you considered at all

1 for complying with Unruh and yet being able to follow
2 your religious beliefs?

3 A. I'm not an employee. I'm the owner.

4 Q. I thought you were an employee now too.

5 A. I'm both.

6 Q. Well, either way, the idea would be that you
7 did not have to participate in the process, but Tastries
8 could provide the product or service. Is that an option
9 that you considered with Unruh and balancing your
10 religious beliefs?

11 A. No.

12 Q. Do you see that as a way that would balance
13 your religious beliefs under Unruh?

14 A. No. I think you need to refer back to the
15 question earlier this morning when you said that -- we
16 talked about how Tastries and I are kind of one and one,
17 especially now. And Tastries is my bakery and a part of
18 me, and we will not be able to participate in same-sex
19 weddings or events surrounding same-sex weddings.

20 Q. We also talked about Cathy's Creations, Inc.
21 being an entity separate from you, right?

22 A. That's the corporate, yes. That's -- yes.

23 Q. But that's not a distinction that you make in
24 terms of the situation we're talking about? Let me
25 strike the question. I'm sorry.

1 Even though Cathy's Creations, Inc., which does
2 business as Tastries, is a separate entity, you believe
3 that you are so closely tied with it that this option we
4 discussed with you not participating in the process
5 would not work for you?

6 A. Correct, yes.

7 Q. When you talked with Stephanie from Gimme Some
8 Sugar, did you talk about the Unruh Act at all?

9 A. No, I don't believe we did. It was more about
10 trying to help each other out, and she was very happy to
11 help me at the same time. It was an emotional
12 conversation that we had, more about her mother felt the
13 same way I did, and she totally understood, and this
14 would be a good way to help each other.

15 Q. Was there any conversation around the fact that
16 you wanted to refer people to her in order to comply
17 with Unruh and because you felt you wanted to help
18 people by referring them?

19 A. I just answered that.

20 Q. I'm talking about was there any conversation
21 with Stephanie about that.

22 A. Oh, I got that's what you just asked. That's
23 what I'm talking about. The conversation she and I had
24 was about helping each other and that her mother felt
25 the same way that I feel, and she said she's a Christian

1 MR. JONNA: No, that's not true?

2 Q. So that's a true statement?

3 A. I do not hold any negative feelings regarding
4 individual people, no.

5 Q. So aside from the same-sex marriage issue, you
6 have no negative -- or you're fine with LGBT folks and
7 approach them with love, I think you've said in the
8 past?

9 MR. JONNA: Objection. Vague and ambiguous.
10 Misstates testimony.

11 A. I have no problem, no issue with anybody from
12 any LGBT group, racial group, anything, and I'm happy to
13 serve them birthday cakes, cupcakes. Okay?

14 Q. That said, how do you feel about folks that are
15 living an LGBT lifestyle, given your religious beliefs?

16 MR. JONNA: Objection. Vague and ambiguous.

17 A. I stand by what the Bible says. It's not
18 honoring to God, and they're going to have to talk to
19 God about that, not me.

20 Q. Do you think that they're living in sin?

21 A. Yes. Do I think all people sin? Yes.

22 Q. And have you ever made statements about LGBT
23 people are living in sin?

24 A. Scripturally basic, probably have, just as I've
25 made comments to other people about other ways of life

1 are sinful.)

2 MR. MANN: Okay. Let's take a look at the
3 Facebook post, Soyeon.

4 Where are we at now, Lisa?

5 (Discussion off the record.)

6 (Exhibit 8 is marked for identification and
7 attached hereto.)

8 Q. (BY MR. MANN:) Okay. Do you recognize this,
9 Cathy?

10 A. I sure do.

11 Q. And can you describe what Exhibit 8 is for the
12 record?

13 A. It's some beautiful rainbow colors, and it
14 says, "I was raised that these colors were a promise
15 from God, not pride of living in sin." And that's true.

16 Q. And what did you mean by that?

17 A. The rainbow was very first created by God at
18 the end of Noah's flood, and it was a promise that he
19 would never, ever flood the Earth again. And the reason
20 he flooded it was because of the abominations that were
21 going on on Earth at that time, and he cleansed the
22 world and started new families. I'm putting this as
23 simply as I can because I know you're in a hurry. And
24 the rainbow was his covenant with us, and that's what
25 the rainbow stands for.

1 And so the LGBT community kind of hijacked the
2 rainbow. And if you look in the Bible, homosexuality is
3 a sin. So that is authentic and real and true.

4 Q. You talked about same-sex marriage as an
5 abomination to God.

6 A. Yes.

7 Q. Would you use that same language around people
8 not -- that are not in a same-sex marriage, but LGBT
9 people living their lives?

10 A. I don't know how to answer that. I know that
11 living the life as a homosexual -- a homosexual
12 relationship, you can look in Leviticus, and you can
13 look in Matthew and in Corinthians and in the Book of
14 Revelation, and all of those -- and I'll send these to
15 you as soon as we're done, or tomorrow probably. But
16 anyway, it talks about it being an abomination to the
17 Lord.

18 Sorry. I forgot you over there.

19 Q. That was -- that's relationships, right?

20 A. That's lifestyle. And I don't -- I'm not going
21 to ask if you are a homosexual and you're sleeping with
22 someone. That's not my place. But if you're
23 identifying as a homosexual, then the Bible speaks about
24 homosexuality. Okay? So I'm not going to be your
25 expert witness on that. You can call my pastor.

1 Q. No. Your pastor is not involved here. So it's
2 just -- I'm just curious. You've said that, pretty
3 clear, that living an LGBT lifestyle is living in sin,
4 but I'm curious if you believe that it's -- would you go
5 so far as to say living that lifestyle, again not being
6 in a same-sex relationship, just living the lifestyle,
7 is an abomination to God?

8 A. I need you to clarify the lifestyle, then.
9 What would be a lifestyle? I don't understand, then.

10 Q. Somebody who identifies as gay or lesbian,
11 sometimes they might date people of their same sex, but,
12 you know, sometimes they're single, and they're not
13 dating anybody.

14 A. I don't think I'm in a place to answer that,
15 but it is -- I know that homosexuality lifestyle is a
16 sin. Okay? So I don't know. I'll have to think on
17 that, I guess, but I would say homosexuality is an
18 abomination to the Lord.

19 Q. Okay. We talked about your conversation with
20 Stephanie at Gimme Some Sugar a little bit earlier.

21 A. Yes.

22 Q. Did you ever see any articles where she was
23 interviewed and gave her opinion of your interactions
24 with her?

25 A. Yes. That was very disappointing.

1 Q. Is it your statement that she wasn't being
2 accurate when she made her statements that were quoted
3 in the articles?

4 A. Yes.

5 Q. Do you recall her during your conversation
6 saying, "Cathy, you're going to get yourself in trouble.
7 It is illegal to turn somebody away because they're
8 gay"?

9 A. Nope. That was not the conversation we had.

10 Q. And in general, what you've said about
11 interactions is accurate, and if it conflicts with
12 anything that she said, you're sticking with your
13 version, right?

14 A. Wait. Rephrase that? I need to know what
15 you're actually asking.

16 Q. Just where your stories conflict, you're not
17 changing what you've told me and agreeing with what she
18 said; you're staying with what you've testified about,
19 right?

20 MR. JONNA: Objection --

21 A. Yes.

22 MR. JONNA: -- overbroad.

23 Q. Okay. You've talked about Tastries making
24 cakes for members of the LGBT community aside from
25 wedding cakes, right?

1 A. Yes.

2 Q. If Whitney Weddell came in and wanted to order
3 a rainbow cake for a meeting, is that something that
4 Tastries would do?

5 A. If it's for a meeting?

6 Q. A meeting of the LGBT community.

7 A. I would, but she wouldn't walk -- set foot in
8 my bakery.

9 Greg, when you pose questions like that, you
10 are -- the individuals who would do something like that
11 need to be prayed for and blessed, and when they come
12 in, I would talk to them.

13 Q. What if somebody didn't know Tastries, didn't
14 know you, hadn't heard about it, and then just walked
15 off -- in off the street figuring, "This is America.
16 Any store we go into is going to serve us," and wanted
17 to order something?

18 I mean, I understand that they're
19 hypotheticals, but you said earlier not everybody in
20 Bakersfield or the world knows you and Tastries.

21 A. Right.

22 Q. So, you know, say it's not Whitney Weddell.
23 It's some person from another state that's visiting
24 family in Bakersfield. And they drive by, and they see
25 Tastries, and it looks like a nice shop, good music,

1 good decor, and, you know, they're trying to order a
2 cake to celebrate, you know, something that has to do
3 with their same-sex union.

4 I know we have a question. I'm just saying --
5 all right. Do you think that there are people out there
6 who don't know Tastries' beliefs and might walk in and
7 try to order a product that violates the design
8 standards?

9 MR. JONNA: Objection. Calls for speculation.

10 A. I would show them the design standards, and I'd
11 redesign their cake.

12 Q. Do you believe that other wedding vendors
13 should be able to follow similar standards and refer
14 folks to other vendors if they don't want to provide
15 services for same-sex weddings?

16 MR. JONNA: Objection. Incomplete
17 hypothetical. Vague and ambiguous. Calls for a legal
18 conclusion.

19 A. Yes, I do. And not for religious reasons, but
20 a lot of vendors do refer out. Photographers get booked
21 all the time. Venues get booked all the time. It's not
22 an uncommon practice in the wedding industry.

23 Q. Did you do anything during COVID to supplement
24 your business, since you were -- Tastries was having
25 lower wedding cake orders?

1 A. We made cornbread and loaf bread and did
2 curbside pickup, lots of cinnamon rolls. A lot of
3 people needed bread products, so we worked on developing
4 that, yes. I enlarged my breakfast and my quiches,
5 things like that, because we would carry those
6 previously, but a restaurant just opened up down the
7 street, so.

8 Q. And did doing those things help Tastries make
9 it through some of those tough times?

10 A. Yes. And I had some employees who willingly
11 cut back on their hours. Everybody just worked
12 together.

13 Q. Has Tastries' use of the pre-made baking mixes
14 changed since last time we talked?

15 A. I've added a couple new recipes. We're always
16 improving. I'd have to look back at where we were at
17 then. It's kind of like my design standards. We're
18 always improving. They've come out with a much better
19 chocolate that I get from Holland that I like, and we
20 make all our buttercream.

21 Q. Okay. That's what I was going to ask. I think
22 Mike testified that you're making more of the
23 buttercream now than last time we talked.

24 A. We're making the buttercream that I used to
25 make when I first bought the business. And we've been

1 able to stabilize it and find a white butter that will
2 be more white than yellow, so that's worked out really
3 well.

4 I still have my lactose-free that I buy because
5 I don't know how to make buttercream without butter.
6 And so I purchase my lactose-free, and it's in my cake
7 tastings, and I tell them that I purchase my
8 lactose-free.

9 Q. Earlier we talked about that hypothetical of
10 you being denied service. Do you remember that one?

11 A. Yes.

12 Q. And you said you couldn't answer then. Are you
13 able to answer how you would feel now if a business was
14 willing to serve your husband, but wouldn't serve you
15 the same product, but referred you to a different
16 business that would serve you? Would you think that
17 that was providing you full and equal services?

18 MR. JONNA: Objection. Incomplete
19 hypothetical. Vague and ambiguous. Calls for a legal
20 conclusion.

21 A. I would ask them why they didn't want to serve
22 me, and if it was a legitimate reason, I'd respect and
23 honor it. That's just being kind.

24 Q. What if you did not believe it was a legitimate
25 reason?

1 A. I would respect them for their reason then.
2 It's kind of like driving on the freeway. Is it a
3 legitimate reason that we have a certain speed limit in
4 one place and not another? You still respect it because
5 that's what it is. So you respect people. You respect
6 them for their -- where they're at.

7 Q. So you would think that the referral to another
8 place because they don't want to serve women is fine,
9 and they still provided you full and equal services by
10 referring you?

11 MR. JONNA: Same objections.

12 A. If they're -- so you're saying they're refusing
13 to serve me as a woman, kind of like a guys' club?

14 Q. Their religious beliefs are that men are the
15 head of the household and women are subservient; so
16 they're happy to serve men, but they don't want to serve
17 women.

18 A. Okay. Well, their analysis is correct, but the
19 way they're going about it, I don't agree with. But I'm
20 not going to force myself to go eat somewhere where they
21 don't want me.

22 Q. That's a little bit different. My question is
23 are they offering you full and equal services by
24 referring you elsewhere?

25 MR. JONNA: Objection. Calls for a legal

1 conclusion. Incomplete hypothetical. Vague and
2 ambiguous.

3 A. Yes. If I can get the same food and the same
4 atmosphere or the same whatever it is, yeah, that's
5 fine.

6 Q. How do you think Mike would feel about that?

7 A. Might enjoy his dinner. We'd probably just go
8 somewhere else together.

9 Q. Just a few more. I know Paul needs to get out.
10 Do you think that the DFEH has been hostile to you
11 through this case?

12 A. I'd like you --

13 MR. JONNA: Objection. Vague and ambiguous.
14 Overbroad. Argumentative. Calls for a legal
15 conclusion.

16 A. I'd like you to define "hostile," please.

17 Q. Well, how would you -- let me ask it more
18 openly.

19 How do you think the DFEH has treated you as
20 we've done the investigation and the civil case?

21 MR. JONNA: Same objections.

22 A. Okay. First, there was no investigation. I
23 think you've really been really kind in trying to, as I
24 term it, not put me in a box at times, and I think other
25 times you've pushed a little in an area you shouldn't.

REPORTER'S CERTIFICATE

I, the undersigned Certified Court Reporter licensed in the States of California and Arizona, do hereby certify:

That the foregoing deposition of Catharine Miller was taken remotely before me at the date and time therein set forth, at which time the witness was put under oath or affirmation by me;

That the testimony of the witness, the questions propounded, and all objections and statements on the record made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not related to nor employed by any of the parties hereto and have no interest in the outcome of the action.

In witness whereof, I have subscribed my name this date: March 14, 2022.



Lisa O'Sullivan

CA Certified Shorthand Reporter No. 7822

AZ Certified Reporter No. 50952

Registered Merit Reporter

Certified Realtime Reporter

MIL EXHIBIT 13

IN THE
COURT OF APPEAL OF THE STATE OF CALIFORNIA
IN AND FOR THE
FIFTH APPELLATE DISTRICT

DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING,

Petitioner,

v.

THE SUPERIOR COURT OF KERN
COUNTY,

Respondent;

CATHY'S CREATIONS, INC. et al.,

Real Parties in Interest.

F081781

(Kern Super. Ct. No. BCV-18-102633)

ORDER

BY THE COURT:*

Good cause appearing, let an alternative writ issue directing respondent to:

- (a) Vacate its August 11, 2020, order in Kern County Superior Court case No. BCV-18-102633 granting in part real parties in interest's motion to compel responses to interrogatories and production of documents, and leave to depose specific individuals, as real parties in interest have not made a **threshold showing of invidious discrimination as required under California law to allow for discovery regarding a selective prosecution defense (*People v. Montes* (2014) 58 Cal.4th 809)**; or
- (b) Show cause before this court why the requested relief should not issue. If respondent elects to show cause, it must address how the United States Supreme Court's ruling in *Masterpiece Cakeshop, Ltd. v. Colorado Civil*

* Before Franson, A.P.J., Smith, J. and Meehan, J.

Rights Commission (2018) 138 S.Ct. 1719 (*Masterpiece Cakeshop*) addresses discovery issues relevant herein, and specifically why it would supersede or supplant California evidence law. While no California court has addressed this issue, the Washington State Supreme Court’s analysis of this issue is persuasive. (See, e.g., *State v. Arlene’s Flowers, Inc.* (2019) 193 Wn.2d 469, 498–499 (*Arlene’s Flowers*) [rejecting an expansive reading of *Masterpiece Cakeshop*].) “It would take a broad expansion of *Masterpiece Cakeshop* to apply its holding—that the *adjudicatory* body hearing a case must show religious neutrality—to a *party*. ... By arguing that *Masterpiece Cakeshop*’s holding about adjudicatory bodies applies to the attorney general’s enforcement decisions, appellants essentially seek to revive their selective-enforcement claim.” (*Arlene’s Flowers*, at p. 498.) Accordingly, in *Arlene’s Flowers* the Washington Supreme Court declined “to expansively read *Masterpiece Cakeshop* to encompass the ‘very different context’ of executive branch discretion. We do not believe that the Supreme Court intended to silently overturn any of its selective-enforcement precedents or to create a carve-out within that precedent for claims based on the free exercise clause.” (*Arlene’s Flowers*, at p. 499.)

Respondent shall inform this court of its decision within 30 days of the issuance of this order. If respondent elects to show cause, the matter will be stayed and set for briefing and hearing.



Franson, A.P.J.

MIL EXHIBIT 14



Superior Court of California
 County of Kern
 Bakersfield Department 11

Hearing Date: 12/15/2021 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING VS CATHY'S CREATIONS, INC.

BCV-18-102633

Honorable: J. Eric Bradshaw

Clerk: Veronica D. Lancaster

Court Reporter: Angela Olvera

Bailiff: Deputy Sheriff

PARTIES: **Present:**
 DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING, MANN, GREGORY J Attorney, Present in court
 AN AGENCY OF THE STATE OF CALIFORNIA Plaintiff,
 Not Present
Not Present:
 CATHY'S CREATIONS, INC. DBA TASTRIES, A LIMANDRI, CHARLES S Attorney
 CALIFORNIA CORPORATION Defendant
 MILLER, CATHARINE Defendant LIMANDRI, CHARLES S Attorney
 RODRIGUEZ-DEL RIO, EILEEN Real Party Interest
 RODRIGUEZ-DEL RIO, MIREYA Real Party Interest

Paul Jonna and Jeffrey Trissell are present in court on behalf of the defendants.

NATURE OF PROCEEDINGS: PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION; DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION RE: PUNITIVE DAMAGES; AND DEFENDANTS' MOTION TO SEAL

Hearing Start Time: 8:30 AM

The above entitled cause came on regularly on this date and time with parties and/or counsel appearing as reflected above.

The Court appoints Angela Olvera from the Pro Tempore list as the Official Court Reporter for all hearings held this date. Oath on file.

TENTATIVE DECISION is announced in open court at stated on the formal record.

Matter argued by counsel and submitted.

The Court makes the following findings and orders:

Defendants' Motion to Seal.

The court GRANTS Defendants' unopposed motion to seal and finds as follows: (1) the public policies in favor of the right to privacy and the protection of Defendants' proprietary business information and trade secrets that overcome the right of public access to court records; (2) these overriding interests support partially sealing records lodged as attachments to the Declaration of Cathy Miller in Support of Defendants' Motion for Summary Judgment; (3) there is a substantial probability of prejudice to the overriding interests if the records are not sealed;

(4) the proposed sealing is narrowly tailored, as it does not obscure the nature of the issues involved in the motion or the parties' arguments; and (5) there are no less restrictive means of achieving the overriding interests in the present case.

Defendants will prepare an order consistent with this ruling for the court's signature and pursuant to California Rules of Court, rule 3.1312.

The defendants' alternative motion for summary adjudication on the issue of punitive damages, is GRANTED. The motions for summary judgment or summary adjudication otherwise, are DENIED.

Plaintiff's Motion for Summary Judgment or, in the Alternative, Summary Adjudication.

As to the Department's motion, the request for judicial notice is GRANTED. Although the Court DENIED the motion, the Court is GRANTING that request. Plaintiff has failed to meet its initial burden as the moving party to demonstrate that there are no triable issues of material fact as to its cause of action for discrimination and violation of the Unruh Act. **The plaintiff has not demonstrated the requisite intent. The plaintiff bases its motion on unsupported conclusions and what the Court views as a skewed view of the facts such as the nature of the defendant's business and how to characterize its output.** The plaintiff has failed to meet its burden as to the defendants' affirmative defenses, has failed to, for example, show that the defendants do not possess evidence to support their defenses and that they cannot reasonably obtain the needed evidence. In the Court's, there are triable issues of material fact. This case involves nuances of law and fact that are not -- frankly, in both motions are not eliminated as a matter of law. The Court does not find that the May 21st, 2018, ruling on defendants' anti-SLAPP motion proves as a matter of law that the plaintiff has demonstrated its prima facie case. The Court OVERRULES the defendants' objections to the Department's evidence and OVERRULES the plaintiff's objections to the defendants' evidence. The defendant is going to be ordered to prepare an order consistent with this Court's ruling on that motion.

Defendants will prepare an order consistent with this ruling for the court's signature and pursuant to California Rules of Court, rule 3.1312.

Defendants' Motion for Summary Judgment or Summary Adjudication re Punitive Damages.

The defendants' motion for summary judgment, the Court DENIES the motion. The defendants have met their burden as the moving party, but there are triable issues of material fact. The Court is adopting its' comments with respect to the issues that the Court is stating as a reason for DENYING the Department's motion. **These issues of intent and the nuances involved in this, how things should be characterized, these are all things that need to get sorted out, and they're not sorted out in these motions as a matter of law.** The Court SUSTAINS Plaintiff's objection numbers 3 and 10, the objections are based on lack of foundation, and lack of personal knowledge. Otherwise, the Court is OVERRULING the balance of the plaintiff's objections. The Court GRANTS the request for judicial notice as to the judgment in the case 102855, but the Court is DENYING judicial notice as to the proper proposition regarding cake artists.

Plaintiffs will prepare an order consistent with this ruling for the court's signature and pursuant to California Rules of Court, rule 3.1312.

- Audio streaming announced.

FUTURE HEARINGS:

December 23, 2021 8:30 AM Further Case Management Conference
Bradshaw, J. Eric
Bakersfield Department 11

January 28, 2022 11:00 AM Mandatory Settlement Conference
Bakersfield Division H
Barmann, Bernard C., Jr.

February 28, 2022 9:00 AM Jury Trial
Bradshaw, J. Eric
Bakersfield Division J

February 28, 2022 9:00 AM Final Case Management Conference
Bradshaw, J. Eric
Bakersfield Division J

MINUTES FINALIZED BY:

VERONICA LANCASTER

ON:

12/21/2021

Exhibit U

1 Charles S. LiMandri, SBN 110841
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3 Jeffrey M. Trissell, SBN 292480
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11 THOMAS MORE SOCIETY
309 W. Washington St., Ste. 1250
12 Chicago, IL 60606
Tel: (312) 782-1680
13 *Application forthcoming

14 *Attorneys for Defendants Cathy's*
Creations, Inc. and Catharine Miller

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF KERN

18 DEPARTMENT OF FAIR EMPLOYMENT
19 AND HOUSING, an agency of the State of
California,

20 Plaintiff,

21 v.

22 CATHY'S CREATIONS, INC. d/b/a
TASTRIES, a California Corporation; and
23 CATHARINE MILLER, an individual,

24 Defendants.

25 EILEEN RODRIGUEZ-DEL RIO and MIREYA
RODRIGUEZ-DEL RIO,

26 Real Parties in Interest.

ELECTRONICALLY FILED
7/11/2022 6:29 PM
Kern County Superior Court
By Gina Sala, Deputy

CASE NO.: BCV-18-102633

IMAGED FILE

**SUPPLEMENTAL DECLARATION
OF JEFFREY M. TRISSELL, ESQ.
IN SUPPORT OF DEFENDANTS'
MOTIONS IN LIMINE & OTHER
PRELIMINARY MOTIONS**

Date: July 25, 2022

Time: 9:00 a.m.

Dept: J

Judge: Hon. J. Eric Bradshaw

Action Filed: Oct. 17, 2018

27
28
SUPPLEMENTAL DECLARATION OF JEFFREY M. TRISSELL, ESQ. ISO
DEFENDANTS' MOTIONS IN LIMINE & OTHER PRELIMINARY MOTIONS

AA00365

1 I, Jeffrey M. Trissell, Esq., declare and state as follows:

2 1. I am an attorney duly admitted to practice before all the courts of California, both
3 State and Federal. I am one of the attorneys for Defendants Catharine Miller and Cathy's
4 Creations, Inc. dba Tastries Bakery (collectively "Defendants"). As such, I have personal
5 knowledge of the following facts and, if called upon to testify, I could and would competently testify
6 to these facts.

7 2. Attached hereto as **Motion in Limine Exhibit 15** is a true and correct copy of the
8 relevant portions of Plaintiff DFEH's Supplemental Response to Defendant Tastries' Amended
9 Special Interrogatories, dated February 25, 2022, with relevant portions highlighted.

10 3. Attached hereto as **Motion in Limine Exhibit 16** is a true and correct copy of the
11 relevant portions of Plaintiff DFEH's Supplemental Response to Defendant Tastries' Corrected
12 Amended Form Interrogatories, dated February 25, 2022, with relevant portions highlighted.

13 4. Attached hereto as **Motion in Limine Exhibit 17** is a true and correct copy of the
14 relevant portions of the transcript of the deposition of Catharine Miller, taken in this action on
15 February 24, 2022, with relevant portions highlighted.

16 5. Attached hereto as **Motion in Limine Exhibit 18** is a true and correct copy of the
17 relevant portions of Plaintiff DFEH's Supplemental Response to Defendant Miller's Special
18 Interrogatories, dated February 25, 2022, with relevant portions highlighted.

19 6. Attached hereto as **Motion in Limine Exhibit 19** is a true and correct copy of the
20 Declaration of Gregory J. Mann, filed in Case No. BCV-17-102855, with Exhibit 2 only, and dated
21 December 13, 2017, with relevant portions highlighted.

22 7. Attached hereto as **Motion in Limine Exhibit 20** is a true and correct copy of the
23 relevant portions of a Facebook post, with comments, posted by Ted G. Freitas on August 26, 2017,
24 and produced in this action with Bates Nos. CM1900-CM1902.

25 8. Attached hereto as **Motion in Limine Exhibit 21** is a true and correct copy of the
26 Declaration of Justin Salinas, filed in Case No. BCV-17-102855, and dated December 9, 2017.

27 ///

28 ///

EXHIBIT 15

1 JANETTE WIPPER, Chief Counsel (#275264)
NELSON CHAN, Assistant Chief Counsel (#109272)
2 GREGORY J. MANN, Associate Chief Counsel (#200578)
TIFFANY TEJADA-RODRIGUEZ, Staff Counsel (#298941)
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DEPARTMENT OF FAIR EMPLOYMENT
4 AND HOUSING
320 West Fourth Street, Suite 1000
5 Los Angeles, California 90013
Telephone: (213) 439-6799
6 Facsimile: (888) 382-5293

7 Attorneys for Plaintiff, DFEH
8 (Fee Exempt, Gov. Code, § 6103)

9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the State of)
13 California,)

14 Plaintiff,)

15 vs.)

16 CATHY'S CREATIONS, INC. d/b/a)
TASTRIES, a California corporation; and)
17 CATHY MILLER,)

18 Defendants.)

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
SUPPLRMENTAL RESPONSE TO
DEFENDANT TASTRIES' AMENDED
SPECIAL INTERROGATORIES, TO
PLAINTIFF DFEH, SET ONE**

Action filed: October 17, 2018
Trial Date: July 25, 2022

19 _____)
20 EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)

21 _____)
22 Real Parties in Interest.)

23 PROPOUNDING PARTY: DEFENDANT CATHY'S CREATIONS, INC. d/b/a TASTRIES

24 RESPONDING PARTY: DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

25 SET NO.: ONE
26
27
28

1 **AMENDED SPECIAL INTERROGATORY NO. 19:**

2 Identify by name, address, and telephone number of all witnesses who will provide testimony in
3 support of Mireya Rodriguez-Del Rio or Eileen Rodriguez-Del Rio's claim against Defendants, and
4 state the substance of the testimony that these witnesses will provide.

5 **RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 19:**

6 DFEH incorporates the Preliminary Statement and General Objections herein. DFEH objects to
7 this interrogatory as compound, conjunctive, disjunctive, and because it contains subparts. (Code Civ.
8 Proc., § 2030.060, subd. (f).) DFEH further objects to this interrogatory on the ground that it is vague
9 and ambiguous as it asks the responding party to identify “witnesses who will provide testimony in
10 support of” the real parties’ claim against defendants and to “state the substance of the testimony that
11 these witnesses will provide,” but fails to identify with sufficient particularity where such testimony is
12 to be given, and no hearings or depositions are presently on calendar, such that DFEH cannot
13 reasonably determine what information is sought by this interrogatory. DFEH also objects to this
14 interrogatory on the ground it seeks information protected by the attorney work-product doctrine.
15 DFEH further objects to this interrogatory on the ground it seeks premature disclosure of expert
16 information (Code Civ. Proc., §§ 2034.210, 2034.220.) DFEH has not decided which, if any, expert
17 witnesses may be called at trial; insofar as this interrogatory seeks to ascertain the identity, writings,
18 and opinions of DFEH’s experts who have been retained or utilized to date solely as an advisor or
19 consultant, it is violative of the work-product doctrine. (See, e.g., *South Tahoe Pub. Utilities Dist. v.*
20 *Super. Ct.* (1979) 90 Cal.App.3d 135; *Sheets v. Super. Ct.* (1967) 257 Cal.App.2d 1; *Sanders v. Super.*
21 *Ct.* (1973) 34 Cal.App.3d 270.) DFEH also objects to this interrogatory as unduly burdensome,
22 oppressive, and premature in light of the fact that discovery has just begun and is ongoing.

23 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
24 effort to obtain the requested information, DFEH responds as follows:

25 DFEH does not respond to this interrogatory based on the above-identified objections and
26 privileges.

27 ///

28 ///

1 **SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 19:**

2 Subject to and without waiving the foregoing objections, DFEH responds as follows:

3 **No further response.**

4 **AMENDED SPECIAL INTERROGATORY NO. 20:**

5 State whether Mireya Rodriguez-Del Rio or Eileen Rodriguez-Del Rio believe their specially
6 commissioned cake order interrogatory did not conflict with Defendants' policy of not creating custom
7 cakes that express messages or celebrate events in violation of their sincerely held religious beliefs. If
8 so, describe in detail the basis of this belief and identify all supporting documents.

9 **RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 20:**

10 DFEH incorporates the Preliminary Statement and General Objections herein. Because this
11 interrogatory seeks the Real Parties' *beliefs* about whether "their specially commissioned cake order
12 interrogatory did not conflict with Defendants' policy of not creating custom cakes that express
13 messages or celebrate events in violation of their sincerely held religious beliefs," DFEH objects to this
14 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
15 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
16 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) Due to the overbreadth
17 of this interrogatory, DFEH also objects to this interrogatory as serving no purpose other than to harass.
18 (*Ibid.*) Because this interrogatory asks the responding party to "describe in detail the basis of this
19 belief," DFEH further objects to this interrogatory as seeking information that is protected by the
20 official information privilege (Evid. Code, § 1040), informant privilege (*id.* § 1041), attorney work-
21 product doctrine, attorney-client privilege (*id.* § 950 et seq.), the common interest doctrine, and/or
22 otherwise protected by any other applicable privilege, doctrine, and/or immunity. DFEH further objects
23 to this interrogatory on the grounds it calls for speculation and is compound, conjunctive, disjunctive,
24 and contains subparts. (Code Civ. Proc., § 2030.060, subd. (f).)

25 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
26 effort to obtain the requested information, DFEH responds as follows:

27 DFEH does not respond to this interrogatory based on the above-identified objections and
28 privileges.

1 Real Parties did not hold a reception after their December 7, 2016 wedding.

2 **SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 28:**

3 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
4 effort to obtain the requested information, DFEH responds as follows:

5 Real Parties gathered with family after their December 2016 wedding but did not host a
6 reception.

7 **AMENDED SPECIAL INTERROGATORY NO. 29:**

8 State the name, address, telephone number, and relationship to Mireya Rodriguez-Del Rio or
9 Eileen Rodriguez-Del Rio of each person who prepared or assisted in the preparation of the responses
10 to these interrogatories. (Do not identify anyone who simply typed or reproduced the responses.)

11 **RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 29:**

12 DFEH incorporates the Preliminary Statement and General Objections herein. After a
13 reasonable and good-faith effort to obtain the requested information, DFEH responds as follows:

14 Attorneys for DFEH Gregory J. Mann, Jeanette Hawn, and Paula Pearlman; DFEH District
15 Administrator Patrice Doehrn; Eileen Rodriguez-Del Rio; Mireya Rodriguez-Del Rio; and Real Parties'
16 attorney, Patricia Ziegler-Lopez.

17 **SUPPLEMENTAL RESPONSE TO AMENDED SPECIAL INTERROGATORY NO. 29:**

18 DFEH incorporates the Preliminary Statement and General Objections herein. After a
19 reasonable and good-faith effort to obtain the requested information, DFEH responds as follows:

20 Additionally, Tiffany Tejada-Rodriguez and Soyeon Mesinas.

21
22 DATE: February 25, 2022

DEPARTMENT OF FAIR EMPLOYMENT AND
HOUSING

23
24
25 By: 
26 Gregory J. Mann
27 Attorneys for the Plaintiff Department of Fair
28 Employment and Housing

VERIFICATION

I, Patrice Doehn, declare :

I am employed by plaintiff, State of California’s Department of Fair Employment and Housing (DFEH), as District Administrator. I am authorized by DFEH to make this verification on its behalf.

I have read and am familiar with the contents of PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING’S SUPPLEMENTAL RESPONSE TO DEFENDANT TASTRIES’ AMENDED SPECIAL INTERROGATORIES TO PLAINTIFF DFEH, SET ONE.

The responses were prepared with the assistance and advice of employees of and counsel for DFEH, upon whose assistance and advice I have relied. The response, subject to inadvertent or undiscovered error, is based on and is therefore necessarily limited by the records and information still in existence, contemporaneously recollected, and thus far discovered in the course of the preparation of these responses. Subject to the limitations set forth herein, the response includes, to the best of my knowledge, all responsive information and, where applicable, documents and other tangible things, presently known to DFEH.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of February 2022, at Bakersfield, California.



Patrice Doehn
District Administrator



EXHIBIT 16

1 JANETTE WIPPER, Chief Counsel (#275264)
NELSON CHAN, Assistant Chief Counsel (#109272)
2 GREGORY J. MANN, Associate Chief Counsel (#200578)
TIFFANY TEJADA-RODRIGUEZ, Staff Counsel (#298941)
3 SOYEON C. MESINAS, Staff Counsel (#324046)
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320 West Fourth Street, Suite 1000
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Telephone: (213) 439-6799
6 Facsimile: (888) 382-5293

7 Attorneys for Plaintiff, DFEH
8 (Fee Exempt, Gov. Code, § 6103)

9
10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the State of)
13 California,)
14)
Plaintiff,)
15 vs.)
16 CATHY'S CREATIONS, INC. d/b/a)
TASTRIES, a California corporation; and)
17 CATHY MILLER,)
18)
Defendants.)

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
FURTHER SUPPLEMENTAL RESPONSE
TO DEFENDANT TASTRIES'
CORRECTED AMENDED FORM
INTERROGATORIES TO PLAINTIFF
DFEH, SET ONE**

Action filed: October 17, 2018
Trial Date: July 25, 2022

19 _____)
20 EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)
21)
22 Real Parties in Interest.)

23
24 PROPOUNDING PARTY: DEFENDANT CATHY'S CREATIONS, INC. d/b/a TASTRIES
25 RESPONDING PARTY: DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
26 SET NO.: ONE
27
28

1 Subject to and without waiving the foregoing objections and privileges and after a reasonable
2 and good-faith effort to obtain the requested information, DFEH responds as follows:

3 DFEH does not respond to this interrogatory based on the above-identified objections and
4 privileges.

5 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 11.2:**

6 Subject to and without waiving the above objections and privileges and after a reasonable and
7 good-faith effort to obtain the requested information, DFEH responds as follows:

8 No further response.

9 **AMENDED FORM INTERROGATORY NO. 12.1:**

10 State the name, ADDRESS, and telephone number of each individual:

11 (a) who witnessed the INCIDENT or the events occurring immediately before or after the
12 INCIDENT;

13 (b) who made any statement at the scene of the INCIDENT;

14 (c) who heard any statements made about the INCIDENT by any individual at the scene; and

15 (d) who REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF claim
16 has knowledge of the INCIDENT (except for expert witnesses covered by Code of Civil
17 Procedure, § 2034).

18 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.1:**

19 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
20 information privilege (Evid. Code, § 1040), informant privilege (id. § 1041), attorney work-product
21 doctrine, and attorney-client privilege (id. § 950 et seq.). DFEH further objects to this interrogatory as
22 overbroad and exceeding the permissible scope of discovery in that the information sought is irrelevant
23 to the subject matter of this action and the information is not reasonably calculated to lead to the
24 discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally objects to this
25 interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein, is overbroad,
26 unduly burdensome, oppressive, and vague and ambiguous in the context of this interrogatory as it
27 relates to “Defendants’ decision to decline.” DFEH also objects to this interrogatory on the grounds that
28 the term “REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined

1 by defendant herein, seeks information protected from discovery by the official information privilege,
2 informant privilege, attorney work-product doctrine, attorney-client privilege, and Information
3 Practices Act.

4 Subject to and without waiving the foregoing objections and privileges and after a reasonable
5 and good-faith effort to obtain the requested information, DFEH responds as follows:

6 DFEH is aware of the following witnesses to the INCIDENT: Catharine Miller, Rosemary
7 Perez, Eileen Rodriguez-Del Rio, Mireya Rodriguez-Del Rio, Margaret Del Rio, Patrick Grijalva, and
8 Sam Salazar.

9 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.1:**

10 Subject to and without waiving the foregoing objections and privileges and after a reasonable
11 and good-faith effort to obtain the requested information, DFEH responds as follows:

12 Upon request by defendants, DFEH will assist in coordinating service of subpoenas upon the
13 above-identified individuals. If DFEH cannot assist in such coordination, it will provide any contact
14 information it possesses.

15 **FURTHER SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO.**
16 **12.1:**

17 Subject to and without waiving the foregoing objections and privileges and after a reasonable
18 and good-faith effort to obtain the requested information, DFEH responds as follows:

19 No further response.

20 **AMENDED FORM INTERROGATORY NO. 12.2:**

21 Have REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF
22 interviewed any individual concerning the INCIDENT? If so, for each individual state:

23 (a) the name, ADDRESS, and telephone number of the individual interviewed;

24 (b) the date of the interview;

25 (c) the name, ADDRESS, and telephone number of the PERSON who conducted the interview.

26 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.2:**

27 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
28 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney

1 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
2 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
3 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
4 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
5 objects to this interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein,
6 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
7 interrogatory. DFEH also objects to this interrogatory on the grounds that the term “REAL PARTIES
8 IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined by defendant herein, seeks
9 information protected from discovery by the official information privilege, informant privilege,
10 attorney work-product doctrine, attorney-client privilege, and Information Practices Act.

11 Subject to and without waiving the foregoing objections and privileges and after a reasonable
12 and good-faith effort to obtain the requested information, to the extent DFEH is able to respond to this
13 interrogatory as framed, DFEH responds as follows:

14 Real Parties have not interviewed any individual about the INCIDENT. Any interviews DFEH
15 conducted are protected by attorney client privilege, attorney work product doctrine and by the official
16 information privilege.

17 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.2:**

18 Subject to and without waiving the above objections and privileges and to the extent DFEH is
19 able to respond to this interrogatory as framed, DFEH responds as follows:

20 No further response.

21 **AMENDED FORM INTERROGATORY NO. 12.3:**

22 Have REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF obtained
23 a written or recorded statement from any individual concerning the INCIDENT? If so, for each
24 statement state:

25 (a) the name, ADDRESS, and telephone number of the individual from whom the statement was
26 obtained;

27 (b) the name, ADDRESS, and telephone number of the individual who obtained the statement;

28 (c) the date the statement was obtained; and

1 (d) the name, ADDRESS, and telephone number of each PERSON who has the original
2 statement or a copy.

3
4 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.3:**

5 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
6 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney
7 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
8 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
9 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
10 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
11 objects to this interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein,
12 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
13 interrogatory. DFEH also objects to this interrogatory on the grounds that the term “REAL PARTIES
14 IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined by defendant herein, seeks
15 information protected from discovery by the official information privilege, informant privilege,
16 attorney work-product doctrine, attorney-client privilege, and Information Practices Act (Civ. Code, §
17 1798 et seq.).

18 Subject to and without waiving the foregoing objections and privileges and after a reasonable
19 and good-faith effort to obtain the requested information, to the extent DFEH is able to respond to this
20 interrogatory as framed, DFEH responds as follows:

21 DFEH obtained a written statement from Margaret Del Rio, who can be reached through DFEH
22 counsel. Real Parties filed a DFEH complaint based on the INCIDENT. In response to “Defendants
23 Catharine Miller [sic] Requests for Production of Documents to Plaintiff DFEH,” DFEH previously
24 produced responsive, non-privileged documents in its possession, custody, and control as maintained in
25 the usual course of business and a privilege log of documents withheld under stated privileges. DFEH
26 refers defendant Tastries to those documents and the documents concurrently produced in response to
27 “Defendants Catharine Miller’s and Tastries’ Amended Requests for Production of Documents to
28 Plaintiff DFEH in its Capacity as Representative of Real Parties in Interest, Set One,” to obtain the

1 information. To the extent defendant Tastries disagrees that the above-referenced documents provide
2 adequate information, DFEH is willing to meet and confer and may be willing to provide additional
3 information if Tastries clarifies the interrogatory.

4 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.3:**

5 Subject to and without waiving the above objections and privileges and to the extent DFEH is
6 able to respond to this interrogatory as framed, DFEH responds as follows:

7 **No further response.**

8 **AMENDED FORM INTERROGATORY NO. 12.4:**

9 Do REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF know of
10 any photographs, films, or videotapes depicting any place, object, or individual concerning the
11 INCIDENT or plaintiff's injuries? If so, state:

12 (a) the number of photographs or feet of film or videotape;

13 (b) the places, objects, or persons photographed, filmed, or videotaped;

14 (c) the date the photographs, films, or videotapes were taken;

15 (d) the name, ADDRESS, and telephone number of the individual taking the photographs, films,
16 or videotapes; and

17 (e) the name, ADDRESS, and telephone number of each PERSON who has the original or a
18 copy.

19 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.4:**

20 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
21 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney
22 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
23 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
24 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
25 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
26 objects to this interrogatory on the grounds that the term "INCIDENT," as defined by defendant herein,
27 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
28 interrogatory. DFEH also objects to this interrogatory on the grounds that the term "REAL PARTIES

1 IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined by defendant herein, seeks
2 information protected from discovery by the official information privilege, informant privilege,
3 attorney work-product doctrine, attorney-client privilege, and Information Practices Act.

4 Subject to and without waiving the foregoing objections and privileges and after a reasonable
5 and good-faith effort to obtain the requested information, to the extent DFEH is able to respond to this
6 interrogatory as framed, DFEH responds as follows:

7 DFEH is informed and believes that at the time of the INCIDENT, Defendants displayed a cake
8 at Tastries upon which Real Parties based the cake they attempted to order from Tastries. DFEH is
9 producing responsive, non-privileged documents in its possession, custody, and control as maintained
10 in the usual course of business. DFEH is concurrently producing a privilege log of documents withheld
11 under attorney-client privilege (Evid. Code, § 950 et seq.), the attorney work-product doctrine, official
12 information privilege (id. § 1040), informant privilege (id. § 1041), conciliation privilege (Gov. Code, §
13 12963.7), copyright protections, and privacy rights under the California Constitution, United States
14 Constitution, and Information Practices Act (Civ. Code, §§ 1798 et seq.).

15 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.4:**

16 Subject to and without waiving the foregoing objections and privileges, and after a diligent
17 search and reasonable inquiry, DFEH is concurrently producing responsive, non-privileged documents
18 in its possession, custody, and control.

19 **AMENDED FORM INTERROGATORY NO. 12.5:**

20 Do REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF know of
21 any diagram, reproduction, or model of any place or thing (except for items developed by expert
22 witnesses covered by Code of Civil Procedure, § 2034.210-2034.310) concerning the INCIDENT? If
23 so, for each item state:

24 (a) the type (i.e., diagram, reproduction, or model);

25 (b) the subject matter;

26 (c) the name, ADDRESS, and telephone number of each PERSON who has it.

27 ///

28 ///

1 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.5:**

2 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
3 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney
4 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
5 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
6 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
7 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
8 objects to this interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein,
9 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
10 interrogatory. DFEH also objects to this interrogatory on the grounds that the term “REAL PARTIES
11 IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined by defendant herein, seeks
12 information protected from discovery by the official information privilege, informant privilege,
13 attorney work-product doctrine, attorney-client privilege, and Information Practices Act.

14 Subject to and without waiving the foregoing objections and privileges and after a reasonable and
15 good-faith effort to obtain the requested information, to the extent DFEH is able to respond to this
16 interrogatory as framed, DFEH responds as follows:

17 DFEH is informed and believes that at the time of the INCIDENT, Defendants displayed a cake
18 at Tastries upon which Real Parties based the cake they attempted to order from Tastries. DFEH is
19 producing responsive, non-privileged documents in its possession, custody, and control as maintained
20 in the usual course of business. DFEH is concurrently producing a privilege log of documents withheld
21 under attorney-client privilege (Evid. Code, § 950 et seq.), the attorney work-product doctrine, official
22 information privilege (id. § 1040), informant privilege (id. § 1041), conciliation privilege (Gov. Code, §
23 12963.7), copyright protections, and privacy rights under the California Constitution, United States
24 Constitution, and Information Practices Act (Civ. Code, §§ 1798 et seq.).

25 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.5:**

26 Subject to and without waiving the foregoing objections and privileges, and after a diligent
27 search and reasonable inquiry, DFEH is concurrently producing responsive, non-privileged documents
28 in its possession, custody, and control.

1 **AMENDED FORM INTERROGATORY NO. 12.6:**

2 Was a report made by any PERSON concerning the INCIDENT? If so, state:

3 (a) the name, title, identification number, and employer of the PERSON who made the report;

4 (b) the date and type of report made;

5 (c) the name, ADDRESS, and telephone number of the PERSON for whom the report was
6 made;

7 (d) the name, ADDRESS, and telephone number of each PERSON who has the original or a
8 copy of the report.

9 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.6:**

10 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
11 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney
12 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
13 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
14 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
15 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
16 objects to this interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein,
17 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
18 interrogatory.

19 Subject to and without waiving the foregoing objections and privileges and after a reasonable
20 and good-faith effort to obtain the requested information, to the extent DFEH is able to respond to this
21 interrogatory as framed, DFEH responds as follows:

22 DFEH obtained a written statement from Margaret Del Rio, who can be reached through DFEH
23 counsel. Real Parties filed a DFEH complaint based on the INCIDENT. DFEH is producing responsive,
24 non-privileged documents in its possession, custody, and control as maintained in the usual course of
25 business. DFEH is concurrently producing a privilege log of documents withheld under attorney-client
26 privilege (Evid. Code, § 950 et seq.), the attorney work-product doctrine, official information privilege
27 (id. § 1040), informant privilege (id. § 1041), conciliation privilege (Gov. Code, § 12963.7), copyright
28

1 protections, and privacy rights under the California Constitution, United States Constitution, and
2 Information Practices Act (Civ. Code, § 1798 et seq.).

3 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.6:**

4 DFEH further objects under the common interest privilege. Subject to and without waiving the
5 above objections and privileges and after a reasonable and good-faith effort to obtain the requested
6 information, to the extent DFEH is able to respond to this interrogatory as framed, DFEH responds as
7 follows:

8 DFEH previously produced the written statement from Margaret Del Rio, DFEH00181- 00183.

9 She may be reached through DFEH counsel.

10 **AMENDED FORM INTERROGATORY NO. 12.7:**

11 Have REAL PARTIES IN INTEREST OR ANYONE ACTING ON THEIR BEHALF
12 inspected the scene of the INCIDENT? If so, for each inspection state:

13 (a) name, ADDRESS, and telephone number of the individual making the inspection (except for
14 expert witness covered by the Code of Civil Procedure, § 2034.210-2034.310); and

15 (b) the date of the inspection.

16 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 12.7:**

17 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
18 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney
19 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
20 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
21 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
22 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
23 objects to this interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein,
24 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
25 interrogatory. DFEH also objects to this interrogatory on the grounds that the term “REAL PARTIES
26 IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined by defendant herein, seeks
27 information protected from discovery by the official information privilege, informant privilege,
28 attorney work-product doctrine, attorney-client privilege, and Information Practices Act.

1 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 14.1:**

2 DFEH objects to this interrogatory on the grounds it seeks information protected by the official
3 information privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), the attorney
4 work-product doctrine, and the attorney-client privilege (id. § 950 et seq.). DFEH further objects to this
5 interrogatory as overbroad and exceeding the permissible scope of discovery in that the information
6 sought is irrelevant to the subject matter of this action and the information is not reasonably calculated
7 to lead to the discovery of admissible evidence. (Code Civ. Proc., § 2017.010.) DFEH additionally
8 objects to this interrogatory on the grounds that the term “INCIDENT,” as defined by defendant herein,
9 is overbroad, unduly burdensome, oppressive, and vague and ambiguous in the context of this
10 interrogatory. DFEH also objects to this interrogatory on the grounds that the term “REAL PARTIES
11 IN INTEREST OR ANYONE ACTING ON THEIR BEHALF,” as defined by defendant herein, seeks
12 information protected from discovery by the official information privilege, informant privilege,
13 attorney work-product doctrine, attorney-client privilege, and Information Practices Act.

14 Subject to and without waiving the foregoing objections and privileges and after a reasonable
15 and good-faith effort to obtain the requested information, DFEH responds as follows:

16 Defendants Catharine Miller and Cathy’s Creations, Inc. d/b/a Tastries violated the Unruh Civil
17 Rights Act, Civil Code section 51.

18 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 14.1:**

19 DFEH further objects under the common interest privilege. Subject to and without waiving the
20 above objections and privileges and after a reasonable and good-faith effort to obtain the requested
21 information, DFEH responds as follows:

22 No further response.

23 **AMENDED FORM INTERROGATORY NO. 17.1:**

24 **Is Real Parties in Interest’s response to each special interrogatory in lieu of request for**
25 **admission served with these form interrogatories an unqualified admission? If not, for each response**
26 **that is not an unqualified admission:**

- 27 (a) state the number of the interrogatory/request;
28 (b) state all facts upon which they base their response;

1 (c) state the names, ADDRESSES, and telephone numbers of all PERSONS who have
2 knowledge of those facts; and

3 (d) identify all DOCUMENTS and other tangible things that support their response and state the
4 name, ADDRESS, and telephone number of the PERSON who has each DOCUMENT or thing.

5 **RESPONSE TO AMENDED FORM INTERROGATORY NO. 17.1:**

6 Plaintiff objects that Defendant’s interrogatories may be directed only to parties to the action.
7 (Code Civ. Proc., § 2030.010; *Redevelopment Agency v. Commission on State Mandates* (1996) 43
8 Cal.App.4th 1188, 1197 [“A real party in interest is generally defined as ‘any person or entity whose
9 interest will be directly affected by the proceeding.’” (citation omitted)].) Information sought from real
10 parties in interest is more appropriately sought through deposition. DFEH objects to this interrogatory
11 on the grounds that it seeks disclosure of information subject to the official information privilege (Evid.
12 Code, § 1040), informant privilege (id. § 1041), attorney-client privilege (id. § 950 et seq.), and
13 attorney work-product doctrine. DFEH further objects to this interrogatory because it seeks the
14 discovery of legal research and requires legal conclusions about which facts may be presented in
15 support of DFEH allegations and claims, and it calls for opinions that relate to fact or the application of
16 law to fact.

17 To the extent a response is required, DFEH does not have sufficient information to fully
18 respond to this interrogatory because discovery and investigation have not been completed. Further,
19 this interrogatory essentially “necessitate[s] the preparation or the making of a compilation, abstract,
20 audit, or summary of” the depositions that have already been taken and the voluminous legal briefing
21 that has already been filed and served. (See Code Civ. Proc., § 2030.230.) Therefore, DFEH refers
22 defendant Tastries to those documents and the documents produced in response to Defendants
23 Catharine Miller’s and Tastries’ Amended Request for Production of Documents to Plaintiff DFEH in
24 its Capacity as Representative of Real Parties in Interest, Set One, to obtain the information. To the
25 extent defendant Tastries disagrees that the above-referenced documents provide adequate information,
26 DFEH is willing to meet and confer and may be willing to provide additional information if Tastries
27 clarifies the interrogatory.
28

1 **SUPPLEMENTAL RESPONSE TO AMENDED FORM INTERROGATORY NO. 17.1:**

2 DFEH further objects under the common interest privilege. Subject to and without waiving the
3 above objections and privileges and after a reasonable and good-faith effort to obtain the requested
4 information, DFEH responds as follows:

5 **No further response.**

6
7 DATE: February 25, 2022

DEPARTMENT OF FAIR EMPLOYMENT AND
HOUSING

8
9
10 By:



Gregory J. Mann
Attorneys for the Plaintiff Department of Fair
Employment and Housing

VERIFICATION

I, Patrice Doehrn, declare :

I am employed by plaintiff, State of California’s Department of Fair Employment and Housing (DFEH), as District Administrator. I am authorized by DFEH to make this verification on its behalf.

I have read and am familiar with the contents of PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING’S FURTHER SUPPLEMENTAL RESPONSE TO DEFENDANT TASTRIES’ CORRECTED AMENDED FORM INTERROGATORIES TO PLAINTIFF DFEH, SET ONE.

The responses were prepared with the assistance and advice of employees of and counsel for DFEH, upon whose assistance and advice I have relied. The response, subject to inadvertent or undiscovered error, is based on and is therefore necessarily limited by the records and information still in existence, contemporaneously recollected, and thus far discovered in the course of the preparation of these responses. Subject to the limitations set forth herein, the response includes, to the best of my knowledge, all responsive information and, where applicable, documents and other tangible things, presently known to DFEH.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of February 2022, at Bakersfield, California.



Patrice Doehrn
District Administrator



EXHIBIT 17

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF KERN

DEPARTMENT OF FAIR EMPLOYMENT)	
AND HOUSING, an agency of the)	
State of California,)	
)	
Plaintiff,)	
vs.)	Case No.
)	BCV-18-102633-JEB
CATHY'S CREATIONS, INC. d/b/a)	
TASTRIES, a California)	
corporation; and CATHY MILLER,)	
)	
Defendants.)	
_____)	
EILEEN RODRIGUEZ-DEL RIO and)	
MIREYA RODRIGUEZ-DEL RIO,)	
)	
Real Parties in Interest.)	
_____)	
)	

REMOTE DEPOSITION OF CATHY'S CREATIONS, INC.,
BY AND THROUGH ITS DESIGNATED REPRESENTATIVE
CATHARINE MILLER
AND IN HER INDIVIDUAL CAPACITY
February 24, 2022

Witness Location: Rancho Santa Fe, California

Atkinson-Baker,
a Veritext Company
(800) 288-3376

Reported by: Lisa O'Sullivan, CA CSR No. 7822,
AZ CR No. 50952, RMR, CRR
File No: 5085432

1 A. The people that I've hired.

2 Q. How will it show that no decisions have been
3 made based on religion?

4 A. Because I've hired people from all
5 denomination, all walks of life, and part of the LGBT
6 community to work in my bakery.

7 Q. Do you have employees now that do not share
8 your religious views?

9 A. Yes.

10 Q. Do you ever ask about sexual orientation during
11 an interview?

12 A. No. Again, refer to my hiring record.

13 Q. Are there any members of the LGBTQ community
14 working for Tastries now?

15 A. No. Not that I'm aware of.

16 Q. When was the last member of that community
17 working for Tastries that you're aware of?

18 A. I don't know the date. I know the individual
19 names, but I don't know the date of when they came and
20 left. I have that in my records if -- which I can
21 provide if you want.

22 Q. Are you able to estimate? Has there been
23 anybody since Justin Salinas left?

24 A. No. Justin Unruh and Justin Salinas both
25 worked for me. Both were gay. Justin came back three

1 times. I hired him back all three times knowing he was
2 gay. He was an amazing decorator. He left me a
3 beautiful letter of resignation. And since then, nobody
4 that I know of has applied for a job at Tastries. But I
5 don't ask, so I wouldn't know. I believe that that is
6 private information.

7 Q. Can you describe the hierarchy or the
8 organizational chart at Tastries now?

9 A. Okay. I can describe it to you, but you need
10 to understand that we work as a family and as a team.
11 Okay?

12 So I'm in charge. Everyone knows that my
13 bakery is a gift from the Lord. I manage the bakery.
14 Rosemary Perez helps to manage the morning, the opening
15 morning part of the front of the bakery. Bailey Johnson
16 helps -- she goes to college, so she's not there as
17 much, but she helps me to manage the -- or "team lead"
18 is really the term that I use in my bakery. So I would
19 prefer to use the terms that I use, because you used
20 "manager." I don't like that word. Is the team leader
21 for my afternoon in the front.

22 Then Taylor Arbolante, you deposed her. She is
23 the cookie queen, and she takes care of my cookies and
24 kind of oversees the decorating. And we work together
25 on things, but she has Lorena who also helps her when

REPORTER'S CERTIFICATE

I, the undersigned Certified Court Reporter licensed in the States of California and Arizona, do hereby certify:

That the foregoing deposition of Catharine Miller was taken remotely before me at the date and time therein set forth, at which time the witness was put under oath or affirmation by me;

That the testimony of the witness, the questions propounded, and all objections and statements on the record made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not related to nor employed by any of the parties hereto and have no interest in the outcome of the action.

In witness whereof, I have subscribed my name this date: March 14, 2022.



Lisa O'Sullivan

CA Certified Shorthand Reporter No. 7822

AZ Certified Reporter No. 50952

Registered Merit Reporter

Certified Realtime Reporter

EXHIBIT 18

1 JANETTE WIPPER, Chief Counsel (#275264)
NELSON CHAN, Assistant Chief Counsel (#109272)
2 GREGORY J. MANN, Associate Chief Counsel (#200578)
TIFFANY TEJADA-RODRIGUEZ, Staff Counsel (#298941)
3 SOYEON C. MESINAS, Staff Counsel (#324046)
DEPARTMENT OF FAIR EMPLOYMENT
4 AND HOUSING
320 West Fourth Street, Suite 1000
5 Los Angeles, California 90013
Telephone: (213) 439-6799
6 Facsimile: (888) 382-5293
7 Attorneys for Plaintiff, DFEH
(Fee Exempt, Gov. Code, § 6103)
8
9

10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **IN AND FOR THE COUNTY OF KERN**

12 DEPARTMENT OF FAIR EMPLOYMENT)
AND HOUSING, an agency of the State of)
13 California,)
14)
Plaintiff,)
15 vs.)
16 CATHY'S CREATIONS, INC. d/b/a)
TASTRIES, a California corporation; and)
17 CATHY MILLER,)
18 Defendants.)

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
SUPPLEMENTAL RESPONSE TO
DEFENDANT CATHARINE MILLER'S
SPECIAL INTERROGATORIES, TO
PLAINTIFF DFEH, SET ONE**

Action filed: October 17, 2018
Trial Date: July 25, 2022

19 _____)
20 EILEEN RODRIGUEZ-DEL RIO and)
MIREYA RODRIGUEZ-DEL RIO,)
21)
22 Real Parties in Interest.)

23
24 PROPOUNDING PARTY: DEFENDANT CATHARINE MILLER
25 RESPONDING PARTY: DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
26 SET NO.: ONE
27
28

1 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
2 effort to obtain the requested information, DFEH responds as follows: DFEH does not respond to this
3 interrogatory based on the above-identified objections and privileges.

4 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

5 Subject to and without waiving the above objections, and after a reasonable and good-faith
6 effort to obtain the requested information, DFEH responds as follows:

7 No further response.

8 **SPECIAL INTERROGATORY NO. 15:**

9 Identify by name and contact information each employee or former employee of Tastries that
10 you, or anyone acting on your behalf, have communicated with about this case, and provide the
11 approximate date, and the contents of such communications.

12 **RESPONSE TO SPECIAL INTERROGATORY NO. 15:**

13 DFEH incorporates the Preliminary Statement herein. DFEH objects to this request on the
14 grounds it seeks information protected by the attorney work-product doctrine, official information
15 privilege (Evid. Code, § 1040), informant privilege (Evid. Code, § 1041), and Information Practices
16 Act (Civ. Code, § 1798 et seq.). DFEH further objects to this request on the grounds it is compound,
17 conjunctive, and disjunctive. (Code Civ. Proc., § 2030.060, subd. (f).)

18 Subject to and without waiving the foregoing objections and privileges, and after a reasonable
19 and good-faith effort to obtain the requested information, DFEH responds as follows:

20 The following individuals may have information relevant to this case: Justin Salinas; Jessica
21 Criollo; Mary Johnson; Rosemary Perez; Michael Miller; and Catharine Miller.

22 Discovery is ongoing and DFEH reserves the right to modify or amend this response based on
23 its ongoing discovery and investigation.

24 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 15:**

25 Subject to and without waiving the above objections, and after a reasonable and good-faith
26 effort to obtain the requested information, DFEH responds as follows:

27 The following additional individuals may have information relevant to this case: Taylor
28 Arbolante; Yuri C. Valencia; Natalie Boatwright

1 official information privilege (Evid. Code, § 1040). DFEH also objects to this request on the ground it
2 seeks premature disclosure of expert information. (Code Civ. Proc., §§ 2034.210; 2034.220.) DFEH has
3 not decided on which, if any, expert witnesses may be called at trial; insofar as this request seeks to
4 ascertain the identity, writings, and opinions of DFEH's experts who have been retained or utilized to
5 date solely as an advisor or consultant, it is violative of the work-product privilege. (See, e.g., *South*
6 *Tahoe Public Utilities District v. Super. Ct.* (1979) 90 Cal.App.3d 135; *Sheets v. Super. Ct.* (1967) 257
7 Cal.App.2d 1; *Sanders v. Super. Ct.*, (1973) 34 Cal.App.3d 270.) DFEH also objects to this request as
8 unduly burdensome and premature in light of the fact that discovery remains ongoing.

9 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
10 effort to obtain the requested information, DFEH responds as follows: DFEH will not respond to this
11 interrogatory based on the above-identified objections and privileges.

12 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 19:**

13 Subject to and without waiving the foregoing objections, and after a reasonable and good-faith
14 effort to obtain the requested information, DFEH responds as follows:

15 No further response.

16 DATE: February 25, 2022

17 DEPARTMENT OF FAIR EMPLOYMENT AND
18 HOUSING

19 By:



20 Gregory J. Mann
21 Attorneys for the Plaintiff Department of Fair
22 Employment and Housing
23
24
25
26
27
28

VERIFICATION

I, Patrice Doehn, declare :

I am employed by plaintiff, State of California’s Department of Fair Employment and Housing (DFEH), as District Administrator. I am authorized by DFEH to make this verification on its behalf.

I have read and am familiar with the contents of PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING’S SUPPLEMENTAL RESPONSE TO DEFENDANT CATHARINE MILLER’S SPECIAL INTERROGATORIES TO PLAINTIFF DFEH, SET ONE.

The responses were prepared with the assistance and advice of employees of and counsel for DFEH, upon whose assistance and advice I have relied. The response, subject to inadvertent or undiscovered error, is based on and is therefore necessarily limited by the records and information still in existence, contemporaneously recollected, and thus far discovered in the course of the preparation of these responses. Subject to the limitations set forth herein, the response includes, to the best of my knowledge, all responsive information and, where applicable, documents and other tangible things, presently known to DFEH.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 25th day of February 2022, at Bakersfield, California.



Patrice Doehn
District Administrator



EXHIBIT 19

1 PAULA PEARLMAN (#109038)
 Assistant Chief Counsel
 2 GREGORY J. MANN (#200578)
 Senior Staff Counsel
 3 TIMOTHY MARTIN (#300269)
 Staff Counsel
 4 DEPARTMENT OF FAIR EMPLOYMENT
 AND HOUSING
 5 320 4th Street, Suite 1000
 Los Angeles, CA 90013
 6 Telephone: (213) 439-6799
 Facsimile: (888) 382-5293
 7
 8 Attorneys for Petitioner, DFEH
 (Fee Exempt, Gov. Code, § 6103)

9
 10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 11 **IN AND FOR THE COUNTY OF KERN**

13 DEPARTMENT OF FAIR EMPLOYMENT)
 AND HOUSING, an agency of the State of)
 14 California,)
 15)
 Petitioner,)
 16)
 vs.)
 17)
 CATHY'S CREATIONS, INC. d/b/a)
 18 TASTRIES, a California corporation; and)
 CATHY MILLER,)
 19)
 Respondents.)

Case No.
DECLARATION OF GREGORY J. MANN IN SUPPORT OF DFEH'S PETITION AND EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION
 (Gov. Code, § 12974)

20)
 21 EILEEN RODRIGUEZ-DEL RIO and MIREYA)
 RODRIGUEZ-DEL RIO,)
 22)
 Complainants.)
 23)

Date: December 14, 2017
Time: 8:30 a.m.
Dept.: 11
Judge: Hon. David R. Lampe



1 DECLARATION OF GREGORY J. MANN

2 I, Gregory J. Mann, declare:

3 1. I am an attorney at law duly licensed to practice before all the courts of the State of
4 California. I am employed as Senior Staff Counsel with the Department of Fair Employment and
5 Housing (DFEH), and in my official capacity I represent the DFEH, Petitioner and Applicant herein.
6 Based on my review of the evidence obtained in the DFEH's investigation, if called as a witness, I
7 could testify competently as to the truth of the matters asserted herein, except as to those matters
8 asserted upon information and belief, and, as to those matters, I believe them to be true.

9 2. At around 9:00 a.m. on December 13, 2017, I called Freedom of Conscience Defense
10 Fund, counsel for respondents Cathy's Creations, Inc. (d/b/a/ Tastries [Tastries]) and Cathy Miller, to
11 inform them that the DFEH will be petitioning and applying *ex parte* on December 14, 2017, at 8:30
12 a.m., in Department 11 of the above-entitled court for temporary and preliminary relief pursuant to
13 Government Code section 12974 to enjoin respondents Tastries and Miller from selling to anyone
14 any item they are unwilling to sell, on an equal basis, to members of any protected group under
15 Civil Code section 51 during the DFEH's investigation.

16 3. I left a voicemail message with Paul M. Jonna of Freedom of Conscience Defense
17 Fund, 16236 San Dieguito Rd., Bldg. 3, Ste.#3-15, Rancho Santa Fe, California 92091, telephone
18 (858) 759-9948, fax (858) 759-9938, email pjonna@fcdlegal.org, on December 13, 2017, at around
19 9:00 a.m. to give notice of the matters mentioned in the preceding paragraph. I also spoke with Mr.
20 Jonna's assistant, Kathy Denworth, and provided her notice of the ex parte hearing. She told me she
21 was forwarding the information I provided her to Mr. Jonna via email. At around 9:20 a.m., I also
22 provided Mr. Jonna with the above information about the ex parte hearing via email. Because I have
23 not connected with Mr. Jonna directly, I am unsure whether respondents' counsel intends to appear at
24 the hearing.

25 4. The DFEH has initiated an investigation into the complaint filed by Eileen and Mireya
26 Rodriguez-Del Rio, DFEH Matter Number 935123-315628, that Tastries and Miller discriminated
27 against and refused to provide them full and equal services based on their sexual orientation. Based
28 on the evidence obtained by the DFEH in its investigation to date, the DFEH concluded that "prompt



1 judicial action is necessary to carry out the purposes of [the Unruh Civil Rights Act (Unruh Act), as
2 incorporated into the Fair Employment and Housing Act (FEHA)].” (Gov. Code, § 12974.) The
3 DFEH concluded that probable cause exists for believing that the allegations set forth in the
4 Rodriguez-Del Rio’s complaint are true and constitute sexual orientation discrimination under the
5 Unruh Act. Under Government Code section 12974, this determination authorizes the DFEH to
6 “bring an action for appropriate temporary or preliminary relief pending final disposition of [the
7 Rodriguez-Del Rio’s] complaint.” (Gov. Code, § 12974.)

8 5. Preliminary relief is necessary in this action to stop Tastries and Miller from
9 irreparably harming the public by discriminating against and refusing to provide full and equal
10 services to members of the public based on their sexual orientation during the DFEH’s investigation.
11 DFEH is still waiting for Tastries and Miller’s response to the filed complaint.

12 6. On or about December 6, 2017, while online I visited Tastries webpage, located at
13 <https://www.tastriesbakery.com>, and created an Adobe Portable Document (PDF) of Tastries’
14 homepage. A true and correct copy of the PDF of Tastries homepage is attached hereto as Exhibit 1.

15 7. On information and belief, on multiple occasions over the last few months, DFEH
16 Staff Counsel Timothy Martin called the numbers the DFEH obtained for Ted Freitas and Adam
17 Ramos a same-sex couple, whom allege that Tastries refused to provide them full and equal wedding
18 cake services for their same-sex wedding. On information and belief, Martin left voicemail messages
19 with Freitas and Ramos.

20 8. Most recently on December 12, 2017, I called the numbers the DFEH obtained for
21 Freitas and Ramos, and left voicemail messages for each in an attempt to speak with them about their
22 allegations that Tastries refused to sell them a wedding cake. Attached hereto as Exhibit 2 is a true
23 and correct copy of a PDF of Freitas’s FaceBook post—without the comments—describing his
24 experience being refused full and equal wedding cake services by Tastries.

25 9. I have read numerous online newspaper articles while investigating the Rodriguez-Del
26 Rios’ complaint. In one such article, it is reported that “Miller told KGET she’s had the policy of
27 referring same-sex couples to her competitor for years.” Miller was quoted as stating: “That’s what
28 we’ve been doing for five years.” Attached hereto as Exhibit 3 is a true and correct copy of a print



1 out of a newspaper article published online at the following website, <http://www.foxnews.com/food->
2 [drink/2017/08/30/california-bakery-facing-backlash-after-refusing-to-make-wedding-cakes-for-same-](http://www.foxnews.com/food-drink/2017/08/30/california-bakery-facing-backlash-after-refusing-to-make-wedding-cakes-for-same-)
3 [sex-couples.html](http://www.foxnews.com/food-drink/2017/08/30/california-bakery-facing-backlash-after-refusing-to-make-wedding-cakes-for-same-sex-couples.html), that contains the language quoted above in this paragraph.

4 10. In another online newspaper article, it is reported that Stephanie Caughell-Fisher,
5 owner of competitor bakery Gimme Some Sugar, agreed to accept wedding cake orders for same-sex
6 couples Tastries refused to serve, after Miller approached Caughell-Fisher in or around August of
7 2016. It is reported that Caughell-Fisher stated “About a year ago, in August, Cathy [Miller] walked
8 into my bakery quite distraught about being asked to make cakes for same-sex couples.” It is
9 reported that “Caughell-Fisher did agree to have Miller refer same-sex couples to her business.”
10 Attached hereto as Exhibit 4 is a true and correct copy of a print out of a newspaper article published
11 online at the following website, <http://www.bakersfield.com/news/tastries-bakery-at-center-of->
12 [firestorm-after-refusing-to-make/article_e67dda12-8c52-11e7-b55e-bbacc42729f3.html](http://www.bakersfield.com/news/tastries-bakery-at-center-of-firestorm-after-refusing-to-make/article_e67dda12-8c52-11e7-b55e-bbacc42729f3.html), that contains
13 the language quoted in this paragraph.

14 11. Along with numerous online newspaper articles, I have viewed online videos
15 purporting to show Miller being interviewed. On information and belief, I believe these videos show
16 Miller being interviewed. In one such video during which she spoke about referring same-sex
17 couples looking to purchase a wedding cake to another bakery, Miller stated: “I don’t do same-sex
18 marriage cakes.” I took a screen capture of a frame of the video, including the closed captioning,
19 which recorded Miller’s statements. Although the closed captioning reads “I don’t do same-sex
20 marriage cake,” I hear Miller to be stating “I don’t do same sex marriage cakes.” I also took a screen
21 capture from the beginning of the video that contains words that read: “Cathy Miller Owner of

22 ///
23 ///
24 ///
25 ///
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28 ///



1 Tastries Bakery.” The video was posted at: <https://www.youtube.com/watch?v=JmwUYNanIRo>.

2 True and correct copies of the screen captures of the video are attached hereto as Exhibit 5.

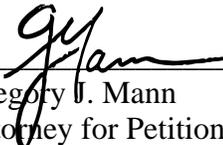
3

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct.

6 Executed on this 13th day of December, 2017, at Los Angeles, California.

7

8



Gregory J. Mann
Attorney for Petitioner and Applicant
Department of Fair Employment and Housing

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Exhibit 2

Search

Home



Ted G. Freitas is with [Adam Ramos](#).

August 26 ·

So the fiancé and I are out cake tasting in Bakersfield for OUR BIG DAY and the lady helping us (I have another name for her) ask's, "So this is for the bride and goom?" (turning to Adams's Mom) Uh, no it says Adam and Ted on your form! When we let her know, that it's for us, she quickly (without hesitation) replies "Well I'm going to transfer your order to Stephanie @ [Gimme Some Sugar Cakes](#)". She stands up, walks away, and calls Stephanie to "transfer" us (I think she meant to say REFUSE SERVICE to us) and refer us for an appointment. After she leaves a voicemail with Stephanie she comes back to update us and says "Ok, I've called her and left a message. We can do the design and Stephanie can do the filling. Your welcome to stay and enjoy MY cupcakes...." and walks off #discrimination is alive and well in this f'ed up world. #loveislove

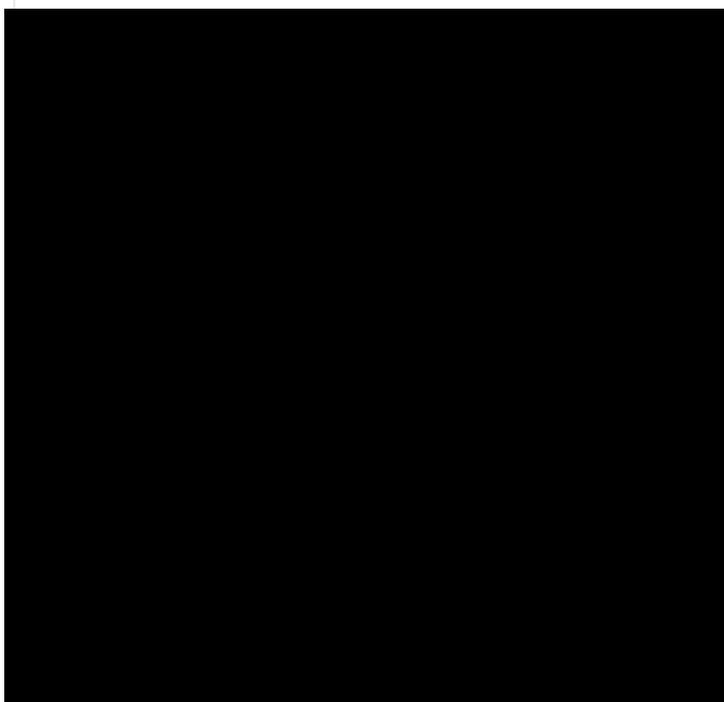


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87 Comments



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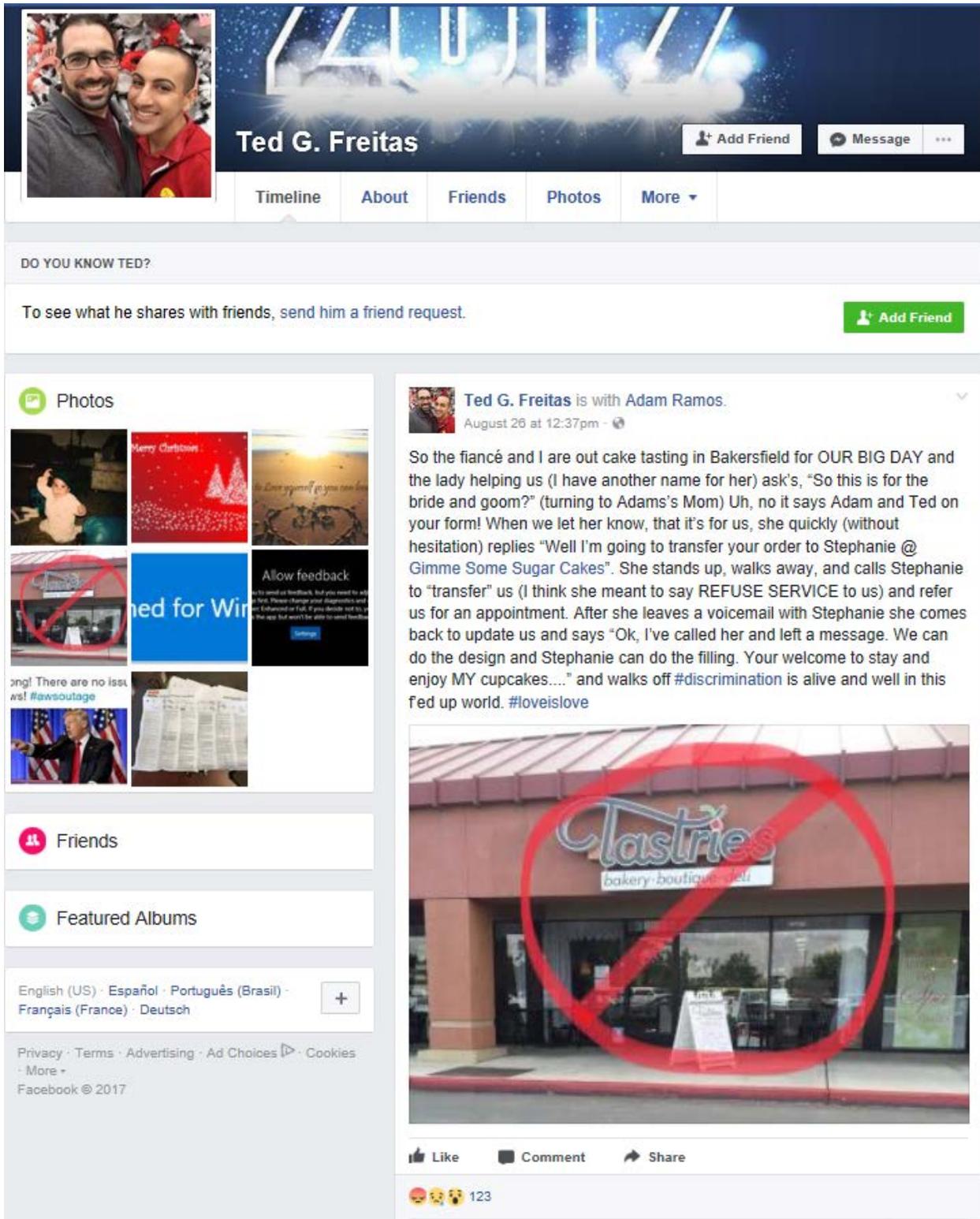
Ted G. Freitas's Post

Chat (Off)

EXHIBIT 20

Ted G. Freitas

<https://www.facebook.com/ted.g.freitas>



The image shows a Facebook profile page for Ted G. Freitas. The profile picture is a couple. The cover photo features the name 'ZULU' in large, glowing letters against a starry night sky. Navigation tabs include Timeline, About, Friends, Photos, and More. A 'DO YOU KNOW TED?' section prompts the user to send a friend request. The main content area shows a post from August 26 at 12:37pm by Ted G. Freitas with Adam Ramos. The post text describes a wedding cake tasting incident at 'Tastries bakery-boutique-deli' where a woman refused service. A large red 'X' is drawn over the photo of the bakery storefront. The post has 123 reactions.

Ted G. Freitas is with Adam Ramos.
August 26 at 12:37pm · 🌐

So the fiancé and I are out cake tasting in Bakersfield for OUR BIG DAY and the lady helping us (I have another name for her) ask's, "So this is for the bride and goom?" (turning to Adams's Mom) Uh, no it says Adam and Ted on your form! When we let her know, that it's for us, she quickly (without hesitation) replies "Well I'm going to transfer your order to Stephanie @ Gimme Some Sugar Cakes". She stands up, walks away, and calls Stephanie to "transfer" us (I think she meant to say REFUSE SERVICE to us) and refer us for an appointment. After she leaves a voicemail with Stephanie she comes back to update us and says "Ok, I've called her and left a message. We can do the design and Stephanie can do the filling. Your welcome to stay and enjoy MY cupcakes...." and walks off #discrimination is alive and well in this fed up world. #loveislove



Like Comment Share

👍👎👉 123

CM1900

AA00408



Alexander Gregory Looks like gimme some sugar found their niche in the bakery market. I wonder how the conversation went between those two that she just automatically knows to refer you there.

Sorry you had to deal with that.

Like · Reply · 1 · August 26 at 1:29pm



Ted G. Freitas Idk but I'll let you know. I'm curious too.

Like · Reply · 1 · August 26 at 1:54pm



Joey Garcia On the flip side Gimme some sugar is very pro LGBT because the owner is in fact a part of our community. So it helps our little niche here in town as well. And their cakes are delicious!

Like · Reply · 7 · August 26 at 3:21pm



Gimme Some Sugar Cakes Thanks Joey!! I hope they give me the honor of making their day special 😊

Like · Reply · 1 · August 28 at 11:39am



Joey Garcia I'm getting married next year and I'm definitely gonna head your way! 😊

Like · Reply · 1 · August 28 at 11:46am

↳ View more replies



Scott Sallee Typical Bakersfield. I used to live there. It might as well be Arkansas

Like · Reply · 3 · August 26 at 4:25pm



Johnny Esparza Actually no Scott.. Typically we don't treat people from the lgbtq community like that in any business here in town, I belong to the BBB here and I can say that Bakersfield as a whole does not and will not stand for this kind of behavior towards any community!

Like · Reply · 3 · August 27 at 4:09am



Write a reply... 🗨️ 📷 🎬 🗑️



Whitney Equality Weddell Ted, I sent you a PM. Let's follow up on this.

Like · Reply · 2 · August 26 at 4:46pm · Edited



Joseph Lorta That is foul Ms. Weddell. As a respected leader I thank you for standing up for those of us who are not as brave enough to speak out.

Like · Reply · 1 · August 27 at 7:19am · Edited



Write a reply... 🗨️ 📷 🎬 🗑️



Marshelle Fernandez Screw them Adam Ramos! You don't want to give people like that your patronage or hard earned cash anyway!!!! You need to talk to your past coworker Jessica Lara...she does beautiful cakes and I'm sure the price would be much less then what you would have paid at that Homophobic establishment!!!

Like · Reply · 2 · August 26 at 11:10pm



Ted G. Freitas Just so we are clear, the intent of my post was never meant to harm anyone. I was just venting my frustration as Adam and I have NEVER been refused service before because of our orientation. That said, Adam and I would like to clarify a few things regarding OUR experience and how WE feel.

We had gone into Tasteries bakery twice (over a period of 2 months) talking with the Tasteries staff asking them questions about what services they could offer us for our same sex wedding. We DID NOT at any time hide the fact that we were two engaged men looking to buy a wedding cake. Staff on all occasions were more than happy to help us and even offered for us to attend one of their cake tasting events which we signed up for. Tasteries even called Adam two days prior to the tasting event to confirm we would still be attending. We arrived early for our appointment, and were greeted warmly by a staff member who confirmed we were on this list and sat us at a table. While we were waiting for Adam's mom to arrive to join us in the tasting, Adam started filling out the order/design forms. Once Adam's mom arrived we helped ourselves to the tasting bar and took our samples back to our table. Cathy came over to our table, looked over the order forms and thanked us for filling everything out for her. Then, instead of acknowledging that Adam and I were the engaged couple as listed on the forms Adam had just filled out, she looked at Adam and his mom and asked if THEY were the ones getting married. Adam politely corrected Cathy and said that was his mother and that he and I were engaged and looking to order a cake. Without hesitation, Cathy said she was going to "transfer" us to another bakery. Since Adam had already filled out the order forms with our cake design, size, etc, she said she would take our design ideas and forward them to a competing bakery and they would handle our order. She quickly left to call the competing bakery to have her follow up with us. After making the call she came back to our table, took the clipboard and paperwork away from us saying "you wont be needing this", told us to enjoy her cupcakes, and walked away into back of the bakery. Confused as to what had just happened we quickly ate our samples we had already brought to our table and left. After leaving the bakery and attending other wedding related appointments we had scheduled, Adam decided to call Tasteries to talk to Cathy to ask why she could not do business with us. Unfortunately Adam was unable to talk to Cathy as she was "unavailable", but through conversation with staff it was confirmed that Cathy transferred us to another bakery due the fact that we are a same sex couple. (Staff did not agree with her decisions)

Our only frustration here is how the whole situation was handled. Had it been disclosed to us upfront during our initial visit that Tasteries does not cater to same sex couples, we would have gladly taken our business elsewhere. But having been strung along and going as far as scheduling/confirming a tasting/consult with Tasteries, then being told they will not fulfill our order is wrong. As it turns out another same sex couple was strung along through the same process, only to be refused service the same day as us. Our advice to Tasteries is that Cathy and her staff all get on the same page and disclose to same sex couples from the very beginning that they do not cater to same sex couples...if that is what this bakery chooses to do. As stated before, we meant no harm by our post and did not know it would go viral. We hold no ill will against Cathy personally, and we have no intent on taking any legal actions. We just wish she would have handled the situation in a better manner, and we will no longer be doing business or referring anyone to Tasteries.

Adam and I believe in treating everyone equally regardless of who they are or their beliefs. With that said we appreciate all the love and support we have received from everyone. We love you all.

Like · Reply · 26 · August 27 at 11:17am



John Wilson Thanks for posting this. I appreciate people that may be upset/angry with someone's beliefs but to bully them and try to put them out of business makes the people doing it far worse than the people that aren't servicing you.

Like · Reply · 2 hrs

EXHIBIT 21

1 JON M. ICHINAGA (#137290)
 Chief Counsel
 2 PAULA PEARLMAN (#109038)
 Assistant Chief Counsel
 3 GREGORY J. MANN (#200578)
 Senior Staff Counsel
 4 TIMOTHY MARTIN (#300269)
 Staff Counsel
 5 DEPARTMENT OF FAIR EMPLOYMENT
 AND HOUSING
 6 320 W. 4th Street, Suite 1000
 Los Angeles, CA 90013
 7 Telephone: (213) 439-6799
 Facsimile: (888) 382-5293
 8
 Attorneys for Plaintiff, DFEH
 9 (Fee Exempt, Gov. Code, § 6103)

10
 11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **IN AND FOR THE COUNTY OF KERN**

13 DEPARTMENT OF FAIR EMPLOYMENT)
 14 AND HOUSING, an agency of the State of)
 California,)
 15)
 16) Petitioner,)
 17) vs.)
 18) CATHY'S CREATIONS, INC. d/b/a)
 TASTRIES,)
 19)
 20) Respondent.)
 21) EILEEN RODRIGUEZ-DEL RIO and MIREYA)
 RODRIGUEZ-DEL RIO,)
 22)
 23) Real Parties in Interest.)

Case No.

**DECLARATION OF JUSTIN SALINAS
 IN SUPPORT OF DFEH'S EX PARTE
 APPLICATION FOR TEMPORARY
 RESTRAINING ORDER AND ORDER
 TO SHOW CAUSE RE PRELIMINARY
 INJUNCTION**

Date:
 Time:
 Dept.:
 Judge:

24 I, Justin Salinas, declare as follows:

25 1. I am not a party to this matter. I have personal knowledge of the matters set forth
 26 herein, and if called as a witness, I could testify competently as to the truth of the matters asserted
 27



1 herein, except as to those matters asserted upon information and belief, and, as to those matters, I
2 believe them to be true.

3 2. I am a professional baker and cake decorator. I was employed as a cake decorator at
4 Tastries Bakery (Tastries) in Bakersfield, California, from around December 2014 until August 2016.
5 When I worked at Tastries, its owner, Cathy Miller, was my boss.

6 3. Within my first few months of working at Tastries, I learned that Cathy had cancelled
7 a cake order for a gay couple's wedding, which had been accepted by other Tastries employees,
8 because she had a policy against selling wedding cakes to gay and lesbian couples. I was hurt and
9 offended by her cancelling the order.

10 4. After learning of Cathy's policy against selling wedding cakes to gay and lesbian
11 couples, I talked about that policy with my Tastries co-workers fairly often. I learned that Cathy
12 cancelled at least two other orders for wedding cakes for gay or lesbian couples during my time as a
13 Tastries employee.

14 5. Cathy never participated in baking, decorating, or otherwise physically making a
15 Tastries wedding cake during my employment with Tastries. Although Cathy often consulted with
16 couples about the design of their wedding cake, some couples discussed the design only with other
17 Tastries employees – including myself on at least one occasion – without ever meeting Cathy.

18 6. On the few occasions when I delivered Tastries wedding cakes to customers' wedding
19 reception locations, I did not participate in the ceremony or reception, leave a Tastries business card
20 with the cake, or make any other effort to associate the cake with Tastries.

21 I declare under penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct. Executed on December 09, 2017, in Bakersfield, California.

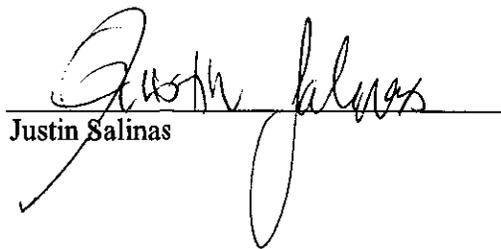
23
24 
25 Justin Salinas
26
27



EXHIBIT 22

Jeffrey Trissell

From: Mann, Gregory@DFEH <Gregory.Mann@dfeh.ca.gov>
Sent: Friday, July 23, 2021 4:33 PM
To: Jeffrey Trissell
Cc: Charles Limandri; Paul Jonna; Kathy Denworth
Subject: RE: DFEH v. Cathy's Creations, Inc., et al.: Discovery follow up

Jeff,

We don't plan to use Mr. Salinas's old declaration either. If anything changes I'll let you know ASAP. But I understand the situation and am willing to accommodate him.

Greg

From: Jeffrey Trissell <jtrissell@limandri.com>
Sent: Friday, July 23, 2021 9:05 AM
To: Mann, Gregory@DFEH <Gregory.Mann@dfeh.ca.gov>
Cc: Charles Limandri <climandri@limandri.com>; Paul Jonna <pjonna@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Subject: RE: DFEH v. Cathy's Creations, Inc., et al.: Discovery follow up

[EXTERNAL] This email originated from outside DFEH. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greg,

At the anti-SLAPP stage, you just submitted Salinas' prior declaration—you didn't get a new one. Are you saying that you still intend to rely on his prior declaration and just attach it to an attorney declaration? If so, we'll need to depose him. Please confirm.

Jeff

From: Mann, Gregory@DFEH <Gregory.Mann@dfeh.ca.gov>
Sent: Thursday, July 22, 2021 9:52 PM
To: Jeffrey Trissell <jtrissell@limandri.com>
Cc: Charles Limandri <climandri@limandri.com>; Paul Jonna <pjonna@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Subject: RE: DFEH v. Cathy's Creations, Inc., et al.: Discovery follow up

Jeff et al.,

I write to provide a few updates and respond to your email.

The Rodriguez-Del Rios let me know Margaret Del Rio put her subpoena response in the mail today. Apparently she is not a texter or emailer, so there are not many documents.

I've worked through your edits and made a few revisions to the protective order, so I expect to get that to you next week. Again, our main concern is that you not overuse the "confidential" stamp on docs/photos that have been available to the public.

Given what you say about Justin Salinas, we don't plan on getting a new declaration from him for the MSJ.

We're reviewing the dates of your proposed schedule.

Greg

From: Jeffrey Trissell <jtrissell@limandri.com>
Sent: Tuesday, July 20, 2021 9:31 AM
To: Mann, Gregory@DFEH <Gregory.Mann@dfeh.ca.gov>
Cc: Charles Limandri <climandri@limandri.com>; Paul Jonna <pjonna@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Subject: RE: DFEH v. Cathy's Creations, Inc., et al.: Discovery follow up

[EXTERNAL] This email originated from outside DFEH. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Greg,

Please let me know about the other issues as soon as you can. With respect to depositions, Justin Salinas called our office saying that due to medical issues he doesn't think he can sit for a deposition. He further said that his medical issues come with memory loss so he doesn't think he'd be able to testify in this case at all. I told him that he needs to provide a note from his doctor saying just that or we will need his deposition. He said he'd try to get the note by next Monday, the 26th.

To resolve this issue, I thought it would be best to simply ask whether the DFEH is intending to submit a new declaration from Mr. Salinas in support of or opposition to summary judgment, or rely on his prior declaration (attached). If the DFEH intends to re-submit testimony from Mr. Salinas, we would object to it in light of Mr. Salinas' unavailability. But if the DFEH is willing to agree to not rely on any testimony from Mr. Salinas, then we could probably forgo his deposition and inform him of that. Please let me know.

Jeff

From: Mann, Gregory@DFEH <Gregory.Mann@dfeh.ca.gov>
Sent: Monday, July 19, 2021 4:59 PM
To: Jeffrey Trissell <jtrissell@limandri.com>
Cc: Charles Limandri <climandri@limandri.com>; Paul Jonna <pjonna@limandri.com>; Kathy Denworth <kdenworth@limandri.com>
Subject: RE: DFEH v. Cathy's Creations, Inc., et al.: Discovery follow up

I'll hold August 5 for the depositions.

More on other issues to follow.