

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 12 of 13, Volume 12, pp. AA02275-AA02445

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Appellant Civil Rights Department

October 20, 2023

Exhibit GGG

Decorator: _____



Name: _____ Phone #: _____

Name: _____ Phone #: _____

of Servings: _____ Event Time: _____

Location: _____

Email Address: _____

☐ Emailed Pic ☐ Special Needs

Notes:

Day: _____

Date: _____

P/U or Delivery: _____

Order #:

Dept.: J
Case #
BCV-18-102633

Exhibit 3

Cake Stand:

Topper/Toys/Flowers:

Brought in ☐ On Site ☐

Decorator		Amount
	A	Cakes
	B	Cookies
	C	Cupcakes
	D	Treats
	E	
	F	
\$100 Deposit		Rentals
Arranging Flowers Toys or Toppers \$10 + Dessert Bar Set Up 20% of Dessert Bar Price		Services
		Delivery
		Total
		Order Deposit
		Balance
		Paid

General Terms and Conditions:

Payment Terms: 25% non-refundable deposit with full payment required two weeks prior to delivery date. Tastries Bakery may cancel the order if full payment is past due. Order deposit is non-refundable, but may be applied toward future purchase if order is cancelled more than one week prior to delivery date.

Design Specification: Tastries Bakery provides custom designs to complement event theme and décor. We use customer information (such as color swatches, descriptions and pictures) along with other resources as inspiration for a design based on each customer's request that is suited to the product size and order budget. By placing this order, the customer acknowledges that a specific design has not been guaranteed and Tastries Bakery can make variations to the design as it may determine are appropriate.

Transportation: Bakery orders should be transported on a flat surface at cool temperatures (do not place on a lap or seat). Customer is responsible for the order after pick-up or delivery. Tastries Bakery recommends delivery service for cakes greater than two tiers.

Rentals: Rented items must be returned within two business days after the event. Items returned late are subject to additional rental charges up to 50% of rental rate per day. Rental deposit may be used to cover any late fees, damage or extraordinary maintenance.

Tastries Tips:

Fondant: Should be kept cool but not refrigerated.

BC: Should be kept cool; we recommend refrigeration.

Colored Fondant or Buttercream may fade in sunlight, we recommend keeping your decorated treats away from light exposure until your event is ready to begin.

Customer: _____ Order Taken By: _____ Date: _____

DFEH00041

003-001

AA02277

Cake Order Form

Event Date: _____ Day _____

Order # _____

Customer: _____ P/U or Delivery: _____

Topper/Toys: _____ Brought in ☐ On Site ☐

Layer	Flavors	Size	Shape	BC or Fond
1	Cake: ☐			BC Fond
	Filling: ☐			
2	Cake: ☐			BC Fond
	Filling: ☐			
3	Cake: ☐			BC Fond
	Filling: ☐			
4	Cake: ☐			BC Fond
	Filling: ☐			
5	Cake: ☐			BC Fond
	Filling: ☐			
6	Cake: ☐			BC Fond
	Filling: ☐			
7	Cake: ☐			BC Fond
	Filling: ☐			
8	Cake: ☐			BC Fond
	Filling: ☐			

Fondant Figurines

1.	☐	X	\$	\$
2.	☐	X	\$	\$
3.	☐	X	\$	\$
4.	☐	X	\$	\$
Total			\$	

Special Instructions:

Signature _____

Base Cake Price		
*Flavors	\$10 each	
*Fillings	\$10 each	
Flowers	Sm \$5 Med \$10 Large \$15	
Edible Image	\$14	
Gold/Silver/Bronze		
Fondant Figurines		
Cake Stand	\$25	
Total		DFEH00042

003-002

AA02278

Cookie Order Form

Order Number:

Customer: _____

Phone #: _____

Delivery Date: _____ P/U or Delivery: _____

Theme/Colors _____

C OO CC TR

Match to: _____ Cake _____ Treats _____ Picture _____ Color Swatch

Packaging: **Boxed** **Wrapped +\$.25** **Gift Wrapped** **Bouquet**

Bag & tie sm.\$2.50 med. \$4.00 Lg.\$5.00

Cookie price includes 1 glaze color and one other color = \$3.00

Additional colors + \$.25 per color per cookie Extra Detail \$.25

Size	Flavor or Shape	Decoration	#	Price	Total	Baked
Reg		Glaze:				
Mini		Décor:				
Reg		Glaze:				
Mini		Décor:				
Reg		Glaze:				
Mini		Décor:				
Reg		Glaze:				
Mini		Décor:				
Reg		Glaze:				
Mini		Décor:				
Reg		Glaze:				
Mini		Décor:				

Special instructions:

Total _____

DFEH00043

003-003

AA02279

Pies Order Form

Order #

Customer: _____

Phone #: _____

Event Date: _____ P/U or Delivery: _____

Theme: _____

Colors: _____

Packaging: _____ Boxed _____ Gift Wrap

One of _____

C OO CC TR

Treat	Size	#	Design			Price	Total
			\$4/\$13 Mini/9"	\$5/\$14 Mini/9"	\$6/\$16 Mini/9"		
Apple Pie	Mini 9"		Crumb	Plain top With design	Lattice		
Cherry Pie	Mini 9"		Crumb	Plain top With design	Lattice		
Mixed Berry Pie	Mini 9"		Crumb	Plain top With design	Lattice		
Peach Pie	Mini 9"		Crumb	Plain top With design	Lattice		
Strawberry Pie	Mini 9"		Crumb	Plain top With design	Lattice		
Sheet Pie	9x13		\$25	\$30	\$35		
Apple , Cherry, Peach	18x26		\$45	\$50	\$55		
Sheet Pie	9x13		\$25	\$30	\$35		
Apple , Cherry, Peach	18x26		\$45	\$50	\$55		
Cobbler	9x13		\$25	\$30	\$35		
Peach, Apple, Cherry	18x26		\$45	\$50	\$55		
Cobbler	9x13		\$25	\$30	\$35		
Peach, Apple, Cherry	18x26		\$45	\$50	\$55		
Chocolate Mousse	Mini 9"		Mini = \$4 9" = \$13				
Coconut Cream Pie	Mini 9"		Mini = \$4 9" = \$13				
Lemon Meringue Pie	Mini 9"		Mini = \$4 9" = \$13				
Banana Cream Pie	Mini 9"		Mini = \$4 9" = \$13				
Pumpkin with Whip	Mini 9"		Mini = \$4 9" = \$13				
Pumpkin Cream Cheese	Mini 9"		Mini = \$5 9" = \$15				
Pecan	Mini 9"		Mini = \$5 9" = \$15				

Total _____

DFEH00044

003-004

AA02280

Macs and Meringues Order Form

Order #

Customer: _____

Phone #: _____

Event Date: _____ P/U or Delivery: _____

Theme: _____

Colors: _____

One of _____

C OO CC TR

Packaging: _____ Platters _____ Boxed _____ Gift Wrap _____ Baking Tray

Match to: _____ Cake _____ Treats _____ Picture _____ Color Swatch

Treat	Size	#	Design	Price	Total
Macaron	Mini Reg		Color: Flavor: Deco:	Mini \$1.25 Regular \$2.75 Air Brushed \$3.00 Hand Decorated \$3.50+	
Macaron	Mini Reg		Color: Flavor: Deco:	Mini \$1.25 Regular \$2.75 Air Brushed \$3.00 Hand Decorated \$3.50+	
Macaron	Mini Reg		Color: Flavor: Deco:	Mini \$1.25 Regular \$2.75 Air Brushed \$3.00 Hand Decorated \$3.50+	
Macaron	Mini Reg		Color: Flavor: Deco:	Mini \$1.25 Regular \$2.75 Air Brushed \$3.00 Hand Decorated \$3.50+	
Macaron	Mini Reg		Color: Flavor: Deco:	Mini \$1.25 Regular \$2.75 Air Brushed \$3.00 Hand Decorated \$3.50+	
Meringues	Mini Reg Large		Color: Shape: Stick add \$.25	\$.75 \$1.50 \$3.00	
Meringues	Mini Reg Large		Color: Shape: Stick add \$.25	\$.75 \$1.50 \$3.00	
Meringues	Mini Reg Large		Color: Shape: Stick add \$.25	\$.75 \$1.50 \$3.00	
Meringues	Mini Reg Large		Color: Shape: Stick add \$.25	\$.75 \$1.50 \$3.00	

Total: _____

DFEH00045

003-005

AA02281

Cheesecake, Cake Roll & Cold Pastries

Order #

Customer: _____

Phone #: _____

Event Date: _____ P/U or Delivery: _____

Theme: _____

Colors: _____

One of _____
C OO CC TR

Packaging: _____ Platters _____ Boxed _____ Gift Wrap _____ Baking Tray

Match to: _____ Cake _____ Treats _____ Picture _____ Color Swatch

Treat	Size	#	Design	Price	Total
Cheesecake: ♥	4"		Flavor:	\$10	
NY Butterfinger	6"		Deco:	\$12	
Oreo Party	8"		Berries +\$3	\$20	
Raspberry Pumpkin	10"		Writing:	\$30	
Salted Caramel Turtle					
Cheesecake: ♥	4"		Flavor:	\$10	
NY Butterfinger	6"		Deco:	\$12	
Oreo Party	8"		Berries +\$3	\$20	
Raspberry Pumpkin	10"		Writing:	\$30	
Salted Caramel Turtle					
Cheesecake: ♥	4"		Flavor:	\$10	
NY Butterfinger	6"		Deco:	\$12	
Oreo Party	8"		Berries +\$3	\$20	
Raspberry Pumpkin	10"		Writing:	\$30	
Salted Caramel Turtle					
Cake Roll	Slices		Flavor:	\$3 Slice	
Pumpkin Cream Cheese	Plain Roll		Deco:	\$12 Reg	
Chocolate Raspberry	Decorated		Berries +\$3	\$20 Deco	
Red Velvet Vanilla Bean			Writing:	\$ ____ Custom	
Vanilla Strawberry					
Cake Roll	Slices		Flavor:	\$3 Slice	
Pumpkin Cream Cheese	Plain Roll		Deco:	\$12 Reg	
Chocolate Raspberry	Decorated		Berries +\$3	\$20 Deco	
Red Velvet Vanilla Bean			Writing:	\$ ____ Custom	
Vanilla Strawberry					
Eclair	Mini			\$2.00	
	Reg			\$4.00	
Cream Puff	Mini			\$2.00	
	Reg			\$4.00	
Cannolli	Mini			\$2.00	
	Reg			\$3.00	
Tarts:	Mini		Color:	\$2.00	
	4"		Flavor:	\$5.00	
	8"		Deco: Berries +\$3	\$20.00	

Total: _____

DFEH00046

003-006

AA02282

Dipped Treats Order Form

Order # _____

Customer: _____ Phone #: _____

Event Date: _____ P/U or Delivery: _____

Theme: _____

Colors: _____

One of _____

C OO CC TR

Packaging: _____ Platters _____ Boxed _____ Gift Wrap _____ Baking Tray

Match to: _____ Cake _____ Treats _____ Picture _____ Color Swatch

Treat	Size	#	Design	Price	Total
Dipped Strawberries or 2 Cherries	Reg		Color:	Dipped \$2.75	
	Mini		Deco:	Decorated \$3.00	
				\$1.50	
Fruit: ½, Pineapple or Mango Spear, 1/3 Banana on a stick	Reg		Fruit:	Dipped \$2.75	
			Color Choc:	Decorated \$3.00	
Marshmallows Dipped in Chocolate on a Stick	Reg		Color:	\$1.50	
			Chocolate and Caramel	\$1.75	
			Drizzle Nuts Mini Chips	\$2.00	
Crispy Rice Treat On a Stick	Reg		Color Chocolate:	\$2.00	
			Deco:		
Cookies	Size	#	Design	Price	
Sugar/Shortbread Cookie	Med		Shape:	Sprinkle \$1.50	
			Deco:	Dipped \$1.75	
Haystack Macaroon	Reg		Plain:	\$2.00	
	Mini		Dipped:	\$1.00	
Oreo	Reg		Drizzle:	\$1.50	
			Sprinkle:		
Pretzel Rod	Reg		Color:	\$1.25	
Pretzel Twist			Deco:	\$1.25	
Brownie Bites	Reg		Flavor:	\$2.00	
			Deco:		
Candy	Size	#	Design	Price	
Pecan Salted Caramel Turtles	Reg			\$2.50	
Almond Cranberry Turtles	Lg			\$3.50	
Chocolate Pecan					
Truffles	Mini		Shape:	Solid \$1.50	
	Reg		Choc color:	Filled \$2.00	
Chocolate Caramel Salty Bark	Mini		Choc color:	\$1.50	
	Reg		Sprinkles:		

Total _____

DFEH00047

003-007

AA02283

Pastries and Breads Order Form

Customer: _____

Phone #: _____

Event Date: _____ P/U or Delivery: _____

Theme: _____

Colors: _____

Order #

One of _____

C OO CC TR

Packaging: _____ Platters _____ Boxed _____ Gift Wrap _____ Baking Tray

Treat	Size	#	Price	Total
Apple Turnover	Reg Mini		\$3.25 \$2.25	
Cherry Turnover	Reg Mini		\$3.25 \$2.00	
Muffins	Mini = \$0.75 Muffin = \$1.50 Loaf = \$6.00			
Almond Zucchini Muffin	Mini Reg Loaf			
Banana Cream Cheese	Mini Reg Loaf			
Blueberry Muffin	Mini Reg Loaf			
Bran Muffin	Mini Reg Loaf			
Carrot Muffin	Mini Reg Loaf			
Chocolate Chip Oatmeal	Mini Reg Loaf			
Cinnamon Streusel Muffin2q	Mini Reg Loaf			
Cranberry Lemon Muffin	Mini Reg Loaf			
Lemon Blueberry Muffin	Mini Reg Loaf			
Lemon Raspberry Muffin	Mini Reg Loaf			
Pumpkin Spice	Mini Reg Loaf			
	Mini Reg Loaf			
Cinnamon Rolls	Mini Reg Pan (12) \$1.50 \$3 \$32			
Whole Wheat Cinnamon Rolls	Mini Reg Pan \$1.50 \$3 \$32			
Chocolate Chip Almond Cinnamon Rolls	Mini Reg Pan (12) \$1.65 \$3.25 \$36			
Cream Cheese Pillows			\$2.00	
Scones Flavor: Blueberry, Cranberry, Oatmeal Chocolate Chip	Mini Reg		\$1.50	
Cream Cheese Danish	Mini Reg		\$3.25	
Fruit Danish	Mini Reg		\$3.25	
Donuts Baked Cake			\$1.25	
Donut bars			\$1.50	

Total: _____

DFEH00048

003-008

AA02284

Cupcake, Cake Pops & Cake Bites Order Form

Order #

Customer: _____

Phone #: _____

Event Date: _____ P/U or Delivery: _____

Theme: _____

Colors: _____

One of _____

C OO CC TR

Packaging: _____ Platters _____ Boxed _____ Gift Wrap _____ Baking Tray

Match to: _____ Cake _____ Treats _____ Picture _____ Color Swatch

Size	Flavor	Frosting	Design	Color Topping	#	Mini \$1 *1.25 Reg \$3.25 *3.50	Total
Mini Reg			#	Color Topping		Mini \$1 *1.25 Reg \$3.25 *3.50	
Mini Reg			#	Color Topping		Mini \$1 *1.25 Reg \$3.25 *3.50	
Mini Reg			#	Color Topping		Mini \$1 *1.25 Reg \$3.25 *3.50	
Mini Reg			#	Color Topping		Mini \$1 *1.25 Reg \$3.25 *3.50	
Mini Reg			#	Color Topping		Mini \$1 *1.25 Reg \$3.25 *3.50	
Cake Pops		Stick Down O Stick Up O	#	Dip Drizzle Deco		\$2.75 Drizzle \$.25 per topping \$3.25+ Deco +\$.25 Gourmet	
Cake Pops		Stick Down O Stick Up O	#	Dip Drizzle Deco		\$2.75 Drizzle \$.25 per topping \$3.25+ Deco +\$.25 Gourmet	
Cake Bites		X	#	Dip Drizzle Deco		\$2.50 Plain \$.25 per topping \$3.25+ Deco +\$.25 Gourmet	
Cake Bites		X	#	Dip Drizzle Deco		\$2.50 Plain \$.25 per topping \$3.25+ Deco +\$.25 Gourmet	

Total \$ _____

DFEH00049

003-009

AA02285

Brownies and Bars Order Form

Order #

Customer: _____

Phone #: _____

Event Date: _____ P/U or Delivery: _____

One of _____

C OO CC TR

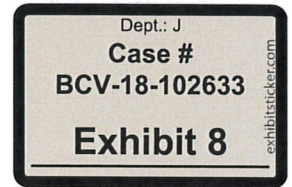
Packaging: _____ Platters _____ Boxed _____ Gift Wrap _____ Baking Tray

Treat	Size	#	Price	Total
Fudge Brownie	Reg		\$3.00	
	Mini		\$1.00	
Turtle Brownie	Reg		\$3.00	
	Mini		\$1.00	
Buckeye Brownie	Reg		\$3.00	
	Mini		\$1.00	
Walnut Fudge Brownie	Reg		\$3.00	
	Mini		\$1.00	
Cheesecake Brownie	Reg		\$3.00	
	Mini		\$1.00	
Blondie Brownie	Reg		\$3.00	
	Mini		\$1.00	
German Chocolate Brownie	Reg		\$3.00	
	Mini		\$1.00	
Oreo Brownie	Reg		\$3.00	
	Mini		\$1.00	
Brookie	Reg		\$3.00	
	Mini		\$1.00	
Toffee Bar	Reg		\$3.00	
	Mini		\$1.00	
Chocolate Chip Caramel Bar	Reg		\$3.00	
	Mini		\$1.00	
PB Oatmeal Chocolate Bar	Reg		\$3.00	
	Mini		\$1.00	
Lemon Bar	Reg		\$3.00	
	Mini		\$1.10	
Cherry Cream Cheese Bar	Reg		\$3.00	
	Mini		\$1.10	
Blueberry Cream Cheese Bar	Reg		\$3.00	
	Mini		\$1.10	

Total: _____ DFEH00050

003-010

AA02286



Standards of Service

Is it lovely, praiseworthy, or of good report?

Tastries provides custom designs that are
Creative, Uplifting, Inspirational and Affirming
prepared especially for you as a
Centerpiece to your Celebration

All custom orders must follow Tastries Standards of Service:

- Look as good as it tastes, and taste as good as it looks ☺
- Beautiful and balanced: size is proportional to design
- Complimentary colors: color palettes are compatible; work with the design
- Appropriate design suited to the celebration theme
- Themes that are positive, meaningful and in line with the purpose
- We prefer to make cakes that would be rated G or PG

We do not accept requests that do **not** meet Tastries Standards of Service, including but not limited to designs or an intended purpose based on the following:

- Requests portraying explicit sexual content
- Requests promoting marijuana or casual drug use
- Requests featuring alcohol products or drunkenness
- Requests presenting anything offensive, demeaning or violent
- Requests depicting gore, witches, spirits, and satanic or demonic content
- Requests that violate fundamental Christian principals; wedding cakes must not contradict God's sacrament of marriage between a man and a woman

**Our designers are ready to help you explore
the many design options that we can offer at Tastries!**

*"... whatever is true, whatever is noble, whatever is right,
whatever is pure, whatever is lovely, whatever is of good report,
if anything is virtuous or praiseworthy, think about these things." Phil 4:8*

CM-0026

008-001

AA02287



Design Standards

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- We prefer to make cakes that would be rated PG or G

Order requests that do **not** meet Tastries Design Standards and we do not offer:

- Designs promoting marijuana or casual drug use
- Designs featuring alcohol products or drunkenness
- Designs presenting explicit sexual content
- Designs portraying anything offensive, demeaning or violent
- Designs depicting gore, witches, spirits, and satanic or demonic content
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Tastries

bakery · boutique · events

Design Standards

Is it lovely, praiseworthy, or of good report?

Is this design based on godly themes such as the idea of peace, freedom, kindness, love, respect, happiness, joy, goodness or does the design bring to mind feelings of fear, obsession, sadness, and bondage? Our cakes are a reflection of our business and speak volumes when sitting center stage.

All cakes have to meet the Tastries Design Standards:

- Look as good as it tastes, and taste as good as it looks ☺
- Beautiful and balanced: size is proportional to design
- Complimentary colors: color palettes are complimentary; work with design
- Appropriate design complimenting theme of celebration
- Themes that are positive, uplifting and in line with the intent of a celebration of someone or something.
- We prefer to make cakes that would be rated PG or G

Cakes that will **not** meet Tastries Design Standards:

- No cake or cookies depicting marijuana or any other drugs with the exception of nurse or doctor appreciation or medical field related gifts.
- No cake or cookies depicting alcohol or drunkenness.
- No cake or cookies depicting anything derogatory.
- No cake or cookies depicting witches, ghosts, satanic or demonic representations or gore.
- Wedding cakes must not contradict God's sacrament of marriage between a man and a woman.

Our designers are happy to work with you to design a custom cake that meets our criteria for what we are able to offer at Tastries!

Philippians 4:8 says, "... whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things."

Thank you,
Cathy

PS. If we are unable to meet your design needs, we can refer you to several other bakers and bakeries in town.





Design Standards

Is it lovely, praiseworthy, or of good report?

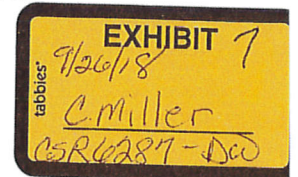
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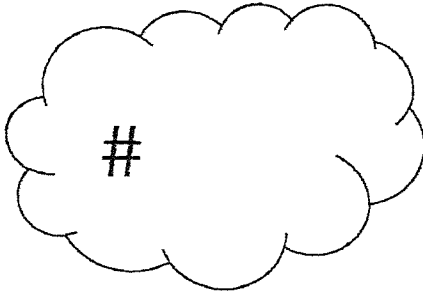
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CM-0663

008-004

AA02290



Decorator

 **Tastries**

Day: Sat
Event Date: 10/7/17
P/U or Del: 2-3
Cake Stand # _____

Dept.: J
Case #
BCV-18-102633
Exhibit 11

Name: Eileen Rodriguez-Del Rio Phone #: [REDACTED] Name: Mia Rodriguez Del Rio Phone #: [REDACTED]
Email: [REDACTED] How did you hear about us? BLACK IN
of Guests: 125 Event: WEDDING Location: METRO GALLERIES Event Time: 4:00

☐ Emailed picture ☐ Picture Attached ☐ Special Attention

Notes: _____

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Fondant: Should be kept cool but not refrigerated.

BC: Should be kept cool; we recommend refrigeration.

Colored Fondant or Buttercream may fade in sunlight, we recommend keeping your decorated treats away from light exposure until your event is ready to begin.

Customer Signature: Eileen Rodriguez-Del Rio

Order Taken by: _____ Date: _____

Decorator	#	Items	Total
		Cakes	
		Cupcakes	
		Cookies	
		Treats	
		Rental	
		Rental Deposit	
		Services	
		Delivery	
		Total	
		Deposit	
		Paid	

DFEH00180

011-001

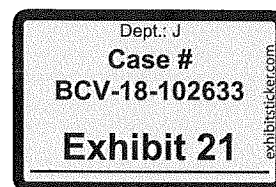
AA02291



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 | TDD 800-700-2320
www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH



October 26, 2017

Catharine M. Miller
Agent for Service for Cathy's Creations, Inc. dba Tastries
3665 Rosedale Highway
Bakersfield, CA 93308

Respondent:

Cathy Miller, Cathy's Creations, Inc. dba Tastries

RE: Notice of Filing of Discrimination Complaint - Response Requested

DFEH Number: 935123-315628

Rodriguez-Del Rio / Cathy's Creations, Inc. dba Tastries

To All Listed Respondent(s):

Enclosed is a copy of a complaint filed with the Department of Fair Employment and Housing (DFEH). The enclosed complaint, in which you have been named a Respondent or Co-Respondent, alleges unlawful discrimination pursuant to Civil Code section 51.

The DFEH serves as a neutral fact-finder and represents the state of California rather than the complaining party. The merits of this complaint have not been determined. It was, however, subjected to a screening process, and the allegations, if proven, could support a finding of discrimination.

You must submit a response to the questions below including the supplemental questions, within thirty (30) days of the date of this letter.

1. State the legal name of your business and any other name(s) under which you do or have done business in California.
2. State your business address. Please note that you are required to notify the DFEH in writing of any change of address and the effective date of such change while the complaint is under investigation and throughout any administrative adjudication. (California Code of Regulations, title 2, sections 7403 and 7411).
3. State type of legal business entity you are, i.e., corporation, partnership, limited partnership, sole proprietorship.
4. Does your company have a current contract(s) for the provisions of goods, services or public works with the State of California or receive federal funds? If so, name the awarding agency(ies).

Notice of Filing of Discrimination Complaint – Response Requested

October 26, 2017

Page 2

Your response and filing of your address can be submitted by mail. In all mailed correspondence, please include your matter number **935123-315628** and mail it to DFEH, 2218 Kausen Drive, Suite 100, Elk Grove, CA 95758.

If you are interested in discussing a possible settlement of this complaint, please contact me immediately. This will avoid unnecessary delay and limit any potential liability. All settlement discussions are confidential, and not subject to disclosure. All discussions referring to evidence or information which has a bearing on determining the merits of this complaint will not be considered part of a settlement discussion unless confidentiality is acknowledged by the DFEH. If a settlement is reached which is mutually acceptable to the parties, submission of the requested information may not be necessary.

If you have any questions, please contact me.

Sincerely,



Clara Hernandez
Consultant III-Spec.
661.395.2973
clara.hernandez@dfeh.ca.gov

Enclosure
CERTIFIED MAIL: 70170660000107888650

SUPPLEMENTAL QUESTIONS

Complainant: Eileen Rodriguez-Del Rio
Co-Complainant: Mireya Rodriguez-Del Rio

Respondent: Cathy Miller, Cathy's Creations, Inc. dba Tastries

1. Provide a statement of your position with regard to the allegations contained in the complaint:

On 8/26/2017, Cathy Miller, owner of Tastries, stated she would not make our wedding cake because she did not condone same sex marriages. She refused to provide us service, and steered us to another bakery.

2. Why did you refuse to make a wedding cake for the complainants?
3. What are the specific religious bases for your refusal to make or sell wedding cakes for same-sex wedding celebrations?
4. Have you made or sold cakes for same-sex wedding celebrations? If so, for each cake please state when the cake was made or sold, list the names and contact information of the customers, and state why you did not refuse to make or sell the cake for the same reasons you refused to make a wedding cake for the complainants.
5. Have you refused, on religious grounds, to make or sell cakes for other types of occasions, celebrations or events? If yes, please describe the types of occasions, celebrations or events for which you have refused for religious reasons to make or sell cakes.
6. Have you made or sold cakes to be used in wedding celebrations between a couple, at least one of whom had been divorced? If yes, why?
7. Have you made or sold cakes to be used in wedding celebrations between a couple, at least one of whom had children out of wedlock? If yes, why?
8. Have you refused to make or sell a wedding cake for an opposite-sex couple based on religious reasons? If so, for each occasion please state when and why you refused, and list the names and contact information of the potential customers.
9. Since January 1, 2014, have you refused to make or sell cakes to a potential customer(s) for any reason? If yes, why? For each person denied service, state

the individual's name, the date of denied service, the individual's contact information, and the reason service was denied.

10. For the period of January 1, 2014 to the present, provide a list of all potential customers you have denied service to due to their sexual orientation. For each individual listed state their name, the date of denied service, and the individual's contact information.
11. Describe all communications between Catharine Miller and Gimme Some Sugar and/or Stephanie Caughell-Fisher regarding referral of potential Tastries customers to Gimme Some Sugar.
12. Describe any agreement between Catharine Miller and Gimme Some Sugar and/or Stephanie Caughell-Fisher regarding referral of potential Tastries customers to Gimme Some Sugar.
13. For each potential Tastries customer referred to Gimme Some Sugar, please list the name(s) and contact information.
14. How many wedding cakes has Tastries sold in the last two years? Please provide your best estimate.
15. How many wedding cakes has Tastries custom designed in the last two years? Please provide your best estimate.
16. How many pre-designed or non-custom wedding cakes has Tastries sold in the last two years? Please provide your best estimate.
17. What percentage of the total number of cakes produced by Tastries in the last two years were wedding cakes? Please provide your best estimate.
18. Do Tastries wedding cakes typically have writing on them? If yes, what is the typical written message?
19. Describe the design process for creating a Tastries wedding cake.
20. Describe Catharine Miller's role in the wedding cake design process. Does her role differ for cakes other than wedding cakes?
21. What percentage of Tastries cakes did Catharine Miller design in the last two years?
22. Describe Catharine Miller's role in baking, sculpting, decorating, frosting, or otherwise assembling cakes (i.e., Catharine Miller's role aside from the design process of the cakes).

23. What percentage of Tastries cakes did Catharine Miller bake, sculpt, decorate, frost, or otherwise assemble in the last three years? What is the percentage for wedding cakes?
24. Does Catharine Miller deliver cakes to wedding celebrations personally? If yes, what percentage of wedding cakes does Ms. Miller personally deliver to wedding celebrations? What is the decision-making process that leads to Ms. Miller personally delivering cakes to wedding celebrations?
25. Have Catharine Miller or other Tastries employees or independent contractors participated in wedding celebrations at which Tastries cakes are involved? If yes, please describe such participation.
26. Have Tastries employees or independent contractors been disciplined for their participation in wedding celebrations at which Tastries cakes were involved?
27. Have Tastries wedding cakes been delivered or displayed in such a manner that attendees at a wedding celebration knew the cake was a Tastries cake?
28. Describe all steps, if any, you take to ensure that a Tastries cake is used by the customer(s) to whom it is sold, rather than transferred to a third party.
29. How many employees do you employ? If this number has changed since January 1, 2014, please describe the changes, including when the changes occurred.
30. How many independent contractors work with you? If this number has changed since January 1, 2014, please describe the changes, including when the changes occurred.
31. Describe the job duties of each Tastries employee and independent contractor.
32. Describe the duties associated with each job title at Tastries. Please provide duty statements for each job title at Tastries.
33. Provide a list of all employees who have worked at Tastries for the period of January 1, 2014 to the present. For each individual listed state their name, date of hire, employment status, and last known contact information.
34. Provide a list of all independent contractors who have worked with Tastries for the period of January 1, 2014 to the present. For each individual listed state their name, date of hire, employment status, and last known contact information.
35. Provide a description of your policies on harassment. Provide a copy of each written policy, and explain what steps have been taken to implement it.

36. Provide a description of your policies on discrimination. Provide a copy of each written policy, and explain what steps have been taken to implement it.
37. Describe your policies and procedures for handling customer and employee or independent contractor complaints. Provide a copy of each written policy, and explain what steps have been taken to implement it.
38. Describe all complaints of harassment or discrimination made by an employee or independent contractor from January 1, 2014 to the present. Provide a copy of each written complaint of harassment or discrimination made by an employee or independent contractor since January 1, 2014.
39. Describe all complaints of harassment or discrimination made by a potential customer(s) against Ms. Miller since January 1, 2014. Provide any written complaints.
40. Describe all complaints of harassment or discrimination made by a potential customer(s) against any Tastries employee or independent contractor since January 1, 2014. Provide any written complaints.
41. Identify all owners of Cathy's Creations, Inc.

**COMPLAINT OF DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Unruh Civil Rights Act
(Civ. Code, § 51)**

Complaint of
Eileen Rodriguez-Del Rio, Complainant.
Mireya Rodriguez-Del Rio, Co-Complainant
6200 Lou Court
Bakersfield, California 93313

DFEH No. 935123-315628

vs.

Cathy Miller; Cathy's Creations, Inc. dba Tastries
dba Tastries Bakery, Respondents.
3665 Rosedale Highway
Bakersfield, California 93308

THE PARTICULARS ARE:

1. **Eileen Rodriguez-Del Rio and Mireya Rodriguez-Del Rio**, allege that respondents took the following adverse actions against complainants. Complainants were denied full or equal accommodations, advantages, facilities, privileges, or services by a business establishment, including both private and public entities because of one or more Fair Employment and Housing Act (which incorporates Civil Code section 51) protected basis: **Sexual Orientation**.
2. Our belief is based on the following: On 8/26/2017, Cathy Miller, owner of Tastries, stated she would not make our wedding cake because she did not condone same sex marriages. She refused to provide us service, and steered us to another bakery.
3. We initially visited Tastries on August 17, 2017, to inquire about ordering a wedding cake. A Tastries employee assisted us. She provided a quote for the simple wedding cake we chose, and suggested we return for a cake tasting on August 26, 2017. We were pleased with the service the employee provided us, and after looking at cakes at other bakeries, we expected to order our cake from Tastries assuming all went well at the tasting.

4. We did not taste cakes during our August 26, 2017, visit to Tastries. We arrived for our appointment, met Eileen's mother and our two friends, and were greeted by the employee, who helped us previously. She then informed us her boss would assist us. Her boss, Cathy Miller, introduced herself and told us she was taking over. Ms. Miller asked us what we were looking for, and we informed her we had already provided details about the wedding cake we wanted. She responded that the cake would cost \$230, and that she was sending the order to another bakery because she does not condone nor work on same-sex weddings. Ms. Miller said she always sends orders for same-sex wedding cakes to another bakery. We were shocked. Since Tastries refused to bake our wedding cake, we saw no point in tasting its cakes, so we left.

5. Complainants **Eileen Rodriguez-Del Rio** and **Mireya Rodriguez-Del Rio** reside in the City of **Bakersfield**, State of **California**.

VERIFICATION

I, Eileen Rodriguez-Del Rio, am a complainant in the above complaint. I have read the above complaint and know its contents. I declare under penalty of perjury under the laws of the State of California that the above is true and correct of my own knowledge, except as to those matters alleged on information and belief, which I also believe to be true.

Signature of Complainant or Complainant's Legal Representative: Date:


Eileen Rodriguez-Del Rio (Oct 18, 2017)

Oct 18, 2017

VERIFICATION

I, Mireya Rodriguez-Del Rio, am a complainant in the above complaint. I have read the above complaint and know its contents. I declare under penalty of perjury under the laws of the State of California that the above is true and correct of my own knowledge, except as to those matters alleged on information and belief, which I also believe to be true.

Signature of Complainant or Complainant's Legal Representative: Date:


Mireya Rodriguez-Del Rio (Oct 18, 2017)

Oct 18, 2017



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

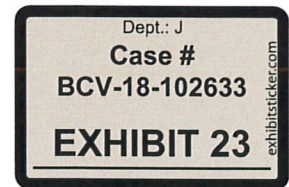
320 West 4th Street, Suite 1000 | Los Angeles | CA | 90013
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www.dfeh.ca.gov | email: contact.center@dfeh.ca.gov

DIRECTOR KEVIN KISH

Via U.S. Mail and E-mail

October 10, 2018

Charles LiMandri
Freedom of Conscience Defense Fund
P.O. Box 9520
Rancho Santa Fe, CA 92067



Re: Notice of Cause Finding and Mandatory Dispute Resolution

DFEH Case No. 935123-315628

Rodriguez-Del Rio, et al. / Cathy's Creations, Inc., et al.

Dear Mr. LiMandri:

The Department of Fair Employment and Housing (DFEH or Department) has completed its investigation of the referenced complaint. Based on the evidence adduced, the DFEH intends to file a civil complaint in superior court.

Before the Department files a civil action, Government Code sections 12965 and 12981 require all parties to participate in cost-free mandatory dispute resolution conducted by the DFEH's Dispute Resolution Division. The Department provides a neutral and confidential dispute resolution process, insures that settlement discussions are conducted behind a firewall, and achieves a consistently high settlement rate by its experienced in-house mediators.

As a result, this matter is directed to mandatory dispute resolution. We hope that you will timely take advantage of the opportunity to resolve this dispute without litigation. A mediator will be contacting you shortly to schedule mandatory dispute resolution.

Please feel free to contact me should you have any questions.

Sincerely,

Gregory J. Mann
Senior Staff Counsel

https://www.bakersfield.com/news/gimme-some-sugar-owner-disputes-bakery-owners-recollection/article_2b6b55da-0ebe-11e8-a34c-03dcf1875baa.html

Dept.: J
Case #
BCV-18-102633
Exhibit 121
exhibitsticker.com

Gimme Some Sugar owner disputes bakery owner's recollection

BY STEVEN MAYER smayer@bakersfield.com

Feb 10, 2018



Stephanie Caughell-Fisher, owner of Gimmee Some Sugar at 19th and D streets in Bakersfield, says same-sex couples should be treated with respect and be given equal access to services by local businesses.

Handout photo

Stephanie Caughell-Fisher, owner of Gimme Some Sugar, recalls watching Tastries Bakery owner Cathy Miller on TV last year attempting to explain her reasoning for refusing to make a wedding cake for a same-sex couple.

When Miller dropped her name, Fisher knew she would have to speak up. On Friday, in an interview with The Californian, Miller was asked again about sending gay customers to Fisher's store at 19th and D streets.

"I had visited with Stephanie at the Sugar Fest," Miller told The Californian. "I think she is an amazing decorator. Kind of jokingly, the second year I was here, I was in need of a decorator and I said, 'Stephanie I would love to bring you over to Tastries,' and we laughed. I mean I would have loved to hire her. She is that kind of person, just a real sweetheart."

Asked about the relationship between the two sweet shops, Fisher didn't sound quite so thrilled.

"It's great she's saying these nice things about me," Fisher said of Miller, "but that's not at all how it happened. It wasn't that clean and pretty. It wasn't tied in a bow. It was much uglier."

Miller walked into her place of business, "conflicted about serving the gay community," Fisher said. Miller said she didn't want to hurt people, but she couldn't provide wedding cakes to gay customers.

It seemed silly, Fisher said, to be giving advice to her competition, but she decided to treat Miller as a friend.

"I told her, 'You say you don't want to hurt people, but you'll find that's going to happen,'" Fisher recalled. "She said, 'Can I just send them to you?'"

Everyone's money is green, Fisher said. If a competitor wanted to recommend her services to customers, Fisher wasn't about to say no.

But she wasn't about to be some sort of sub-contractor for Miller. If customers — any customers — do her the honor of choosing her, then she will gladly serve them.

"I said, 'Cathy, you're going to get yourself in trouble. It is illegal to turn somebody away because they're gay.'"

On the first client, Fisher said, Miller took the order and expected Fisher to make the cake she had agreed to make for the customer.

"She expected me to do the order that she took," Fisher recalled. "She handed me the invoice."

But that wasn't going to fly.

Fisher just hopes she can ease the hurt for some of those who have been rejected.

"Can you imagine how much that would hurt?" she asked.

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Pasadena, California Launches New Policy For Cars Used Less Than 49 Miles/Day

By Comparisons.org

Drivers With No Tickets In 3 Years Should Do This On February

Steven Mayer can be reached at 661-395-7353. Follow him on Facebook and on Twitter: @semayerTBC.

MORE INFORMATION



Tastries Bakery owner sits down to tell her story

Love Wins at wedding professionals workshop

Kern judge issues final judgment in Tastries case

Dept.: J

Case #

BCV-18-102633

Exhibit 125

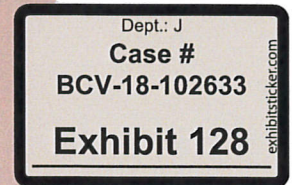
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DFEH00166

125-001

AA02306

**Tastries Bakery, Bakersfield**

October 19, 2021 · 🌐



A wispy buttercream baby shower cake with pink florals to celebrate a new baby girl!
📍 3665 Rosedale Highway



Like

Comment

Share



Write a comment...





Rustic Buttercream Wedding Cake

White Wedding Cake



Dept.: J
Case #
BCV-18-102633
EXHIBIT 631
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EXHIBIT
631
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DFEH00175

Exhibit HHH

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11 THOMAS MORE SOCIETY
12 309 W. Washington St., Ste. 1250
Chicago, IL 60606
13 Tel: (312) 782-1680
14 *Application forthcoming

15 *Attorneys for Defendants Cathy's*
16 *Creations, Inc. and Catharine Miller*

17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF KERN**

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

21 Plaintiff,

22 v.

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

25 Defendants.

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

27 Real Parties in Interest.
28

ELECTRONICALLY FILED
7/25/2022 8:00 AM
Kern County Superior Court
By Gina Sala, Deputy

CASE NO.: BCV-18-102633

IMAGED FILE

**DEFENDANTS' INSTRUCTIONS
ON ELEMENTS AND BURDEN FOR
EACH CLAIM AND DEFENSE**

Date: July 25, 2022
Time: 9:00 a.m.
Dept: J
Judge: Hon. J. Eric Bradshaw

Action Filed: Oct. 17, 2018

1 **INSTRUCTIONS ON ELEMENTS & BURDEN**

2 **A. Unruh Civil Rights Act, Civ. Code, § 51.**

3 Plaintiff Department of Fair Employment & Housing is bringing a single claim for violation
4 of the Unruh Civil Rights Act, Civ. Code, § 51.

5 Pursuant to BAJI No. 7.92:

6 The essential elements of this claim are:

7 1. Eileen and Mireya Rodriguez-Del Rio were discriminated against, depriving them of the
8 full and equal services in a business establishment (see Def. Trial Brief, § 1.3);

9 2. Eileen and Mireya Rodriguez-Del Rio's sexual orientation was a substantial motivating
10 factor for this discrimination (see Def. Trial Brief, § 1.1);

11 3. Catharine Miller and Cathy's Creations, Inc. dba Tastries discriminated in a manner
12 which deprived Eileen and Mireya Rodriguez-Del Rio of full and equal services (see Def. Trial
13 Brief, § 1.2); and

14 4. The discrimination was arbitrary (see Def. Trial Brief, § 1.4).

15 The DFEH has the burden of proving by a preponderance of the evidence all of the facts
16 necessary to establish the essential elements 1, 2, and 3 above. If the DFEH does establish these
17 three elements, then Catherine Miller and Cathy's Creations, Inc. dba Tastries have the burden of
18 proving by a preponderance of the evidence all of the facts necessary to establish that the
19 discrimination or distinction was not arbitrary under element 4 above. If they cannot establish
20 element 4, the claim prevails.

21 **B. California Free Exercise Clause, Cal. Const., art. I, § 4.**

22 Defendants Catharine Miller and Cathy's Creations, Inc. are bringing a defense under the
23 Free Exercise Clause of the California Constitution, Cal. Const., art. I, § 4.

24 The essential elements of this defense are:

25 1. Catherine Miller and Cathy's Creations, Inc. dba Tastries possess a sincere religious
26 belief that motivated their conduct in this action;

27 2. Applying the Unruh Civil Rights Act to the conduct of Catharine Miller and Cathy's
28 Creations, Inc. dba Tastries at issue in this action imposes a burden on their religious beliefs;

1 3. Applying the Unruh Civil Rights Act to the conduct of Catharine Miller and Cathy's
2 Creations, Inc. at issue in this action achieves a compelling government interest; and

3 4. Applying the Unruh Civil Rights Act to the conduct of Catharine Miller and Cathy's
4 Creations, Inc. at issue in this action is the least restrictive means of achieving that compelling
5 government interest.

6 Catherine Miller and Cathy's Creations, Inc. dba Tastries have the burden of proving by a
7 preponderance of the evidence all of the facts necessary to establish elements 1 and 2 above. If they
8 do, then the DFEH has the burden of proving by a preponderance of the evidence all of the facts
9 necessary to establish elements 3 and 4. If the DFEH cannot establish elements 3 and 4 above, the
10 Defendants prevail.

11 **C. Federal Free Exercise Clause, U.S. Const., amend. I.**

12 Defendants Catharine Miller and Cathy's Creations, Inc. are bringing a defense under the
13 Free Exercise Clause of the U.S. Constitution, amendment I.

14 The essential elements of this defense are:

15 1. Catherine Miller and Cathy's Creations, Inc. possess a sincere religious belief that
16 motivated their conduct in this action;

17 2. Applying the Unruh Civil Rights Act to the conduct of Catharine Miller and Cathy's
18 Creations, Inc. at issue in this action imposes a burden on their religious beliefs; and

19 3. The DFEH's administrative investigation or prosecution has been not neutral.

20 Catherine Miller and Cathy's Creations, Inc. have the burden of proving by a
21 preponderance of the evidence all of the facts necessary to establish elements 1, 2 and 3 above. If
22 Catherine Miller and Cathy's Creations, Inc. dba Tastries establish elements 1, 2 and 3, the
23 defense prevails. If they only establish elements 1 and 2, proceed to element 4.

24 4. The Unruh Civil Rights Act, facially or as applied, is: (a) not neutral; or (b) not generally
25 applicable;

26 5. Applying the Unruh Civil Rights Act to the conduct of Catharine Miller and Cathy's
27 Creations, Inc. at issue in this action achieves a compelling government interest; and

28 6. Applying the Unruh Civil Rights Act to the conduct of Catharine Miller and Cathy's

1 Creations, Inc. at issue in this action is the least restrictive means of achieving that compelling
2 government interest.

3 Catherine Miller and Cathy's Creations, Inc. have the burden of proving by a
4 preponderance of the evidence all of the facts necessary to establish elements 1, 2 and 4. If they do,
5 the DFEH has the burden of proving by a preponderance of the evidence all of the facts necessary
6 to establish elements 5 and 6. If the DFEH cannot establish elements 5 and 6, the Defendants
7 prevail.

8 **D. Federal Free Speech Clause, U.S. Const., amend. I: Compelled Pure Speech**

9 Defendants Catharine Miller and Cathy's Creations, Inc. are bringing a compelled speech
10 defense under the Free Speech Clause of the U.S. Constitution, U.S. Const., amend. I.

11 The essential elements of this defense are:

12 1. The wedding cakes created by Catherine Miller and Cathy's Creations, Inc. are speech;

13 2. Applying the Unruh Civil Rights Act to Catharine Miller and Cathy's Creations, Inc. in
14 this action would compel them to either: (a) make wedding cakes for same-sex weddings; or (b)
15 cease making wedding cakes altogether;

16 3. Catherine Miller and Cathy's Creations, Inc. object to making wedding cakes for same-
17 sex weddings or ceasing making wedding cakes altogether;

18 4. Applying the Unruh Civil Rights Act to the speech of Catharine Miller and Cathy's
19 Creations, Inc. at issue in this action achieves a compelling government interest; and

20 5. Applying the Unruh Civil Rights Act to the speech of Catharine Miller and Cathy's
21 Creations, Inc. at issue in this action is the least restrictive means of achieving that compelling
22 government interest.

23 Catherine Miller and Cathy's Creations, Inc. have the burden of proving by a
24 preponderance of the evidence all of the facts necessary to establish elements 1, 2 and 3 above.
25 Once they do, the DFEH has the burden of proving by a preponderance of the evidence all of the
26 facts necessary to establish elements 4 and 5 above. If the DFEH cannot establish elements 4 and
27 5, the Defendants prevail.

28 ///

1 **E. Federal Free Speech Clause, U.S. Const., amend. I: Compelled Expressive Conduct**

2 Defendants Catharine Miller and Cathy’s Creations, Inc. are bringing a compelled
3 expressive conduct defense under the Free Speech Clause of the U.S. Constitution, U.S. Const.,
4 amend. I.

5 The essential elements of this defense are:

6 1. Catherine Miller and Cathy’s Creations, Inc. intend to convey a message through their
7 wedding cakes;

8 2. The likelihood is great that Catherine Miller and Cathy’s Creations, Inc. message will be
9 understood by those who view their wedding cakes;

10 3. Applying the Unruh Civil Rights Act to Catharine Miller and Cathy’s Creations, Inc. in
11 this action would compel Catherine Miller and Cathy’s Creations, Inc. to either: (a) make wedding
12 cakes for same-sex weddings; or (b) cease making wedding cakes altogether;

13 4. Catherine Miller and Cathy’s Creations, Inc. object to making wedding cakes for same-
14 sex weddings or ceasing making wedding cakes altogether;

15 5. Applying the Unruh Civil Rights Act to the expressive conduct of Catharine Miller and
16 Cathy’s Creations, Inc. at issue in this action would regulate that expressive conduct on the basis
17 of content or viewpoint;

18 6. Applying the Unruh Civil Rights Act to the expressive conduct of Catharine Miller and
19 Cathy’s Creations, Inc. at issue in this action achieves a compelling government interest; and

20 7. Applying the Unruh Civil Rights Act to the expressive conduct of Catharine Miller and
21 Cathy’s Creations, Inc. at issue in this action is the least restrictive means of achieving that
22 compelling government interest.

23 Catherine Miller and Cathy’s Creations, Inc. dba Tastries have the burden of proving by a
24 preponderance of the evidence all of the facts necessary to establish elements 1, 2, 3, 4 and 5 above.
25 If they do, the DFEH has the burden of proving by a preponderance of the evidence all of the facts
26 necessary to establish elements 6 and 7 above. If the DFEH cannot establish elements 6 and 7, the
27 Defendants prevail

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Dated: July 25, 2022

Respectfully submitted,

LIMANDRI & JONNA LLP



By:

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and Cathy's Creations, Inc. dba Tastries

COURT OF THE STATE OF CALIFORNIA KERN COUNTY SUPERIOR COURT - METROPOLITAN DIVISION		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated) Dept. of Fair Employment & Housing v. Cathy's Creations, Inc. dba Tastries		
ATTORNEY(S) NAME AND ADDRESS Charles S. LiMandri, SBN 110841 Paul M. Jonna, SBN 265389 LiMANDRI & JONNA LLP P.O. Box 9120 Rancho Santa Fe, California 92067 Tele: (858) 759-9930; Fax: (858) 759-9938		
ATTORNEY(S) FOR: Defendants CATHY'S CREATIONS, INC. d/b/a TASTRIES, a California Corporation; and CATHY MILLER, an individual	HEARING Dept. 11	CASE NO.: BCV-18-102633 JUDGE: Hon. J. Eric Bradshaw

CERTIFICATE OF SERVICE

I, Kathy Denworth, declare that: I am over the age of 18 years and not a party to the action; I am employed in, or am a resident of the County of San Diego, California; where the mailing occurs; and my business address is P.O. Box 9520, Rancho Santa Fe, CA 92067, Telephone number (858) 759-9948; Facsimile number (858) 759-9938. I further declare that I served the following document(s) on the parties in this action:

- **DEFENDANTS' INSTRUCTIONS ON ELEMENTS AND BURDEN FOR EACH CLAIM AND DEFENSE.**

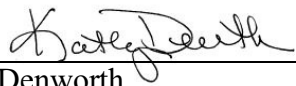
by one or more of the following methods of service to:

Janette Wipper, Chief Counsel
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- X **(BY E-MAIL/ELECTRONIC MAIL)** I caused a copy of the foregoing document(s) to be sent to the persons at the e-mail addresses listed above, this date via internet/electronic mail.
- X **(BY ELECTRONIC FILING/SERVICE)** I caused such document(s) to be Electronically Filed and/or Service through the One Legal System.

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

Executed on July 25, 2022.



 Kathy Denworth

Exhibit III

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Kern County Superior Court
By Gina Sala, Deputy

**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.

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

Defendants.

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

Real Parties in Interest.

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
MOTION IN LIMINE NO. 8 TO
EXCLUDE MILLER'S TESTIMONY
(AND OTHER TASTRIES' BAKER'S
TESTIMONY) ABOUT THE DESIGN
AND ARTISTRY INVOLVED IN
MAKING CAKES AND BAKED
GOODS AT TASTRIES; AND THAT
DEFENDANTS WILL SERVE SOME
GAY INDIVIDUALS IN OTHER NON-
MARRIAGE CONTEXTS; TANACEA
DECLARATION IN SUPPORT
THEREOF**

(Plaintiff's Motion in Limine No. 8)

Date: July 25, 2022

Time: 9:00 a.m.

Dept.: J

Judge: Hon. J. Eric Bradshaw

Action Filed: October 17, 2018

Trial Date: July 25, 2022

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT ON July 25, 2022, at 9:00 a.m., or as soon as thereafter

1 as the matter can be heard, in Department J of the above-entitled court, located at 1215 Truxtun Ave,
2 Bakersfield, CA 93301, Plaintiff Department of Fair Employment and Housing (DFEH) will, and
3 hereby does, move in limine for an Order precluding defendants from presenting any evidence or
4 argument at trial, including by way of oral testimony or documentary evidence or argument, (1) that
5 Miller and her staff employ artistry when Tastries designs and bakes cakes and other baked goods;
6 and (2) that Tastries sells case products and preordered baked goods to gay individuals as long as
7 they are not celebrating marriage-related events.

8 This Motion is made pursuant to Evidence Code section 350 on the grounds that only
9 relevant evidence is admissible and Evidence Code section 352 that the admission of this evidence
10 involves significant consumption of time on non-issues.

11 Dated: July 24, 2022

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

12
13 By: Kendra Tanacea
14 Kendra Tanacea
15 Attorneys for the Department of Fair
16 Employment and Housing
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 In this case, defendants refer to a Miller as a “cake artist” not a baker. Defendants intend to
4 offer extensive evidence of the artistry involved in designing and baking cakes and other confections
5 at Tastries. But Miller’s denial of the cake the Rodriguez Del-Rios’ wanted (white, three-tiered round
6 cake with no written message or topper) was not based on its artistic design. The sole basis for the
7 denial was the *intended use* of the cake for a wedding reception of a lesbian couple. It would not
8 have mattered if the Rodriguez Del-Rios’ wanted a square, chocolate cake or a cake in the shape of a
9 bell or a cake depicting an ocean scene or an elaborate 12 tiered white cake or a cake covered with
10 rosettes because Miller’s denial was simply based on the *use* of the preordered cake—regardless of
11 *design or artistry*—in a same-sex wedding celebration. Thus, all evidence of Miller’s design efforts
12 and artistic talents do not bear on any issue in this case and should be excluded.

13 In addition, evidence that Tastries will sell premade case products and preordered baked
14 goods to some gay individuals so long as they are not celebrating marriage-related events is
15 irrelevant to any claim or defense in this action and should also be excluded.

16 **II. LEGAL ARGUMENT**

17 **A. Miller’s Testimony and Any Other Tastries’ Baker’s Testimony About The**
18 **Artistry and Design Efforts Employed When Making Any Baked Good is Irrelevant.**

19 “No evidence is admissible except relevant evidence.” (Evid. Code, § 350.) Relevant
20 evidence is defined as “having any tendency in reason to prove or disprove any disputed fact that is
21 of consequence to the determination of the action.” (Evid. Code, § 210; see *People v. Kelly* (1992) 1
22 Cal.4th 495, 523 [only relevant evidence is admissible].) Evidence is properly excluded where not
23 relevant to matters at issue. (See *Castaline v. City of Los Angeles* (1975) 47 Cal.App.3d 580, 592.)

24 Miller testified that she’s always been “artistic and musical.” (Declaration of Kendra
25 Tanacea in Support of DFEH’s Motion in Limine No. 8 [Tanacea Decl.], **Exhibit 1**, Miller 2018
26 Depo., 19:16-17). When discussing the baking of a cake, Miller testified: “I rotate what everybody
27 does so they don't get bored, and then everybody is competent in each level of the cake
28 artistry.” (Tanacea Decl., **Exhibit 1**, Miller 2018 Depo., 34:17-19).

1 Miller testified that there is an “art” to the baking as well as the decorating: “There is an art
2 in...You know there’s an art to getting that cake moist and yet able to carve it.” (Tanacea Decl.,
3 **Exhibit 1**, Miller 2018 Depo., 53:13-15.) Part of the artistry is choosing the cake filling and flavors.
4 (Tanacea Decl., **Exhibit 1**, Miller 2018 Depo., p. 61:13-24). She also testified that there is art in
5 creating the recipes and coming up with the cake mix. (Tanacea Decl., **Exhibit 1**, Miller 2018
6 Depo., 155:3-20.) She testified that making a preordered cake requires artistry: “So let’s say you’re
7 doing a birthday cake, and it’s a luau theme. And I’ll ask them to give me a color template. Are you
8 going with bright colors or pastel? Are you going with a sunset scene or are you going with an ocean
9 water scene? If so, if you go with an ocean scene, are we doing the teals or are we doing the aquas or
10 the true blues?” (Tanacea Decl., **Exhibit 1**, Miller 2018 Depo., 51:20-52:7.)

11 In her second deposition, Miller testified that there was artistry in creating preordered
12 cookies, cupcakes, macaroons, etcetera. (Tanacea Decl., **Exhibit 2**, Miller 2022 Depo., 47:11-19.)
13 For a cookie, the artistry is in making the dough and baking it. (Tanacea Decl., **Exhibit 2**, Miller
14 2022 Depo., 50:14-20.) “It is a design and an art in itself to get the recipe right...It is a science, it is
15 a talent, and it is an art.” (Tanacea Decl., **Exhibit 2**, Miller 2022 Depo., 47:22-48:1.) According to
16 Miller, even her case cakes require artistry. (Tanacea Decl., **Exhibit 2**, Miller 2022 Depo.,
17 53:19-54:7.)

18 It is anticipated that Miller will testify along the lines of her declaration submitted in this
19 case on summary judgment about the artistry involved in making cakes and other baked goods:

20 25. All pre-ordered wedding cake made by Tastries Bakery are custom cakes, and I
21 participate in every part of the custom cake design and creation process. First, I participate in
22 the creation of all recipes used at Tastries Bakery. Some recipes were made by me over many
23 years. Others were developed after I started the bakery. The development of recipes is both
24 an art and a science that takes time to master. Any time we design a new flavor or product, it
25 can take 3 to 6 months to make its way into use at the bakery. Although no professional
26 bakery produces all products entirely from scratch, we go above and beyond most bakeries to
27 produce custom flavors and products with carefully selected ingredients validated through
our testing and by customer reviews. All decorators at Tastries are gifted artists. Some have
come to us with prior cake decorating experience, but all decorators have received
specialized training in decorating techniques, sculpting and color selection. Each decorator
has specialized skills that are shared through cross training and teamwork. We also have
many specialized tools to help decorators accomplish amazing designs.

28 29. This process can take considerable time, often lasting over an hour to design a unique

1 creation for each bride and groom. Once this design process is complete and the client wishes
2 to commission Tastries for the custom wedding cake, my client and I complete the order
3 form. The order form oftentimes includes a hand-drawn design of the cake or a picture with
4 notes to reflect specific changes. The order will usually include details of delivery and set-up
5 at the wedding venue.

6 32. To show the artistry that goes into each and every wedding cake that we design and
7 create, I have selected some photos of our cakes. Those photos are attached as **Exhibit D**.
8 [Photos of cakes omitted due to volume.]

9 (Tanacea Decl., **Exhibit 3**, Miller Decl., ISO Summary Adjudication, ¶¶25, 29, and 32; see
10 also, Overview of My Artistic Background, 2:5-3:4.)

11 To show and establish Miller’s design abilities and artistry, defendants are offering numerous
12 trial exhibits related to the artistry and design of her cakes: photos of Tastries display cakes [Def.
13 Trial Exhibit 2]; Tastries Cake binder with designs [Def. Trial Exhibit. 4]; Tastries’ Bakery Order
14 forms with sketches of cakes [Def. Trial Exhibit 6]; eleven photographs of Tastries “tools and artists
15 decorating cakes using tools” [Def. Trial Exhibit 7A]; 140 photos of Tastries’ wedding cakes [Def.
16 Trial Exhibit 7B]; and a series of videos of “Tastries Bakery Artist Decorating Cake” [Def. Trial
17 Exhibit 13 & 14].

18 In summary, Miller will testify that she uses artistic techniques and tools when making
19 bakery items, including preordered cakes, case cakes cookies and other baked goods. As set forth
20 above, Miller testified she uses artistic techniques and tools to create intricate preordered cakes.
21 Miller says she uses her artistic skills to select and apply colors and assist in choosing cake and
22 filling flavors. Examples of Miller’s preordered cakes are pictured in Defendants Trial Exhibit 7B.
23 All of the above-cited evidence is irrelevant to any issue to be tried and should be excluded.

24 In this case, the Rodriguez-Del Rios did not ask Miller to use her creative thought process to
25 create a cake; the Rodriguez-Del Rios had already chosen a plain, white three-tiered round cake. The
26 Rodriguez-Del Rios did not request that Miller participate their wedding celebration, they only
27 asked Miller to supply their chosen cake for that event. Even if Miller may have used her artistic
28 skills to select and apply colors and rosettes, it does not matter. The design of the cake (plain, white,
three-tiered with no written message or topper) -- even if it rises to the level of artistic design – *was*
not the reason Miller refused to make the cake. Instead, it was the Rodriguez-Del Rios’ *intended*
use of the cake—to celebrate their wedding—that caused Miller’s refusal.

1 Had the Rodriguez-Del Rios ordered the same cake for a birthday or non-marriage related
2 event, defendants would have provided that cake. Defendants would make any cake design (PG)
3 involving any level of “artistry” so long as the *intended use of the cake* was for a heterosexual
4 couples’ wedding. Defendants would gladly make the cake the Rodriguez-Del Rios wanted for a
5 heterosexual couple.

6 Tastries’ Design Standards (Joint Trial Exhibit 8¹) also proves that the defendants’ denial of a
7 wedding cake for a same-sex couple is not based on any design or artistry, but the *intended use* of the
8 cake for a same-sex wedding reception. Pursuant to the Design Standards (DFEH comments in bold):

9 We do not accept requests that do not meet Tastries Standards of Service, including but
10 not limited to designs or an intended purpose based on the following:

- 11 • Requests portraying explicit sexual content [**depiction/design/artistry**]
- 12 • Requests promoting marijuana or casual drug use [**depiction/design/artistry**]
- 13 • Requests featuring alcohol products or drunkenness [**depiction/design/artistry**]
- 14 • Requests presenting anything offensive, demeaning or violent
[**depiction/design/artistry**]
- 15 • Requests depicting gore, witches, spirits, and satanic or demonic content
[**depiction/design/artistry**]
- 16 • Requests that violate fundamental Christian principals; wedding cakes must not
contradict God’s sacrament of marriage between a man and a woman [**not related to**
design or depictions or artistry but the intended use of the cake which is the
reason for the denial]

17
18 When the Rodriguez-Del Rios sought to order a wedding cake from Tastries, the product
19 they were seeking was a cake celebrating *their* wedding—not a cake celebrating heterosexual
20 weddings or same-sex weddings—and that is the service they were denied. The fact that Miller sells
21 premade case cakes and cookies to gay and lesbian customers is also irrelevant this case. (See
22 Section B, below.) What is relevant is that Miller would not provide a good or service to the
23 Rodriguez-Del Rios that she would provide to a heterosexual couple, *regardless of design*. For these
24 reasons, all testimony regarding the design and artistry involved in creating cakes at Tastries is
25 irrelevant. (Evid. Code., § 350.)

26 It is anticipated that defendants will argue that evidence of “artistry” is relevant to
27

28 ¹ The parties have stipulated to the admissibility of **Exhibit 8**.

1 defendants' Free Speech defense. It is not. The Unruh Act does not compel speech but only compels
2 Tastries to comport with the Unruh Act by not basing its decision to serve a potential client, at least
3 in part, on the customer's sexual orientation. Where the regulated activity is conduct, it does not
4 matter if compliance might incidentally require defendants to engage in speech. (*Rumsfeld v. Forum*
5 *for Academic and Inst. Rights, Inc.* (2006) 547 U.S. 47, 62 (*FAIR*) [rejecting compelled speech
6 argument because "[t]he compelled speech to which the [plaintiffs] point is plainly incidental to the
7 [law's] regulation of conduct".) Tastries is engaged in the sale of baked goods to the public. The
8 fact that goods or services may involve some level of artistry or skill does not transform all such
9 goods into expressive speech. Indeed, defendants admit they use most of the same skills when
10 creating premade goods and concede that those items are not expressive speech. Defendants also
11 agree that to understand any message conveyed in a preordered cake, Tastries would have to ask the
12 customer information about the intended use of the cake. Based on these admissions, defendants
13 were not requested by the Rodriguez-Del Rios to engage in self-expression.²

14 Defendants argue that making a simple, white three-tiered round cake constitutes symbolic
15 speech or inherently expressive conduct. To prove this, defendants must establish that in making this
16 cake, Tastries "conveys a particularized message" and "the likelihood is great that a reasonable
17 observer would both understand the message and attribute that message" to Tastries. (*Spence v.*
18 *Washington* (1974) 418 U.S. 405, 410-11.) Because defendants have no evidence that a reasonable
19 observer would attribute any message that was conveyed by the cake or that a reasonable observer
20 would understand the cake conveyed any message attributed to defendants, there is no evidence
21 supporting a free speech defense.³ Indeed, it is the *event* (and only if known to defendants) that
22 creates the message, not the *product*. Defendants admit that if an identical-looking premade case
23

24 ² The analysis might be different if the cake design had been more intricate, artistically involved, or
25 overtly stated a message attributable to defendants. (See *Brush & Nib Studio, LC v. City of Phoenix*
26 (Ariz. 2019) 448 P.3d 890, 905-908; *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com'n*
27 (2018) 138 S.Ct. 1719, 1723 ["If a baker refused to design a special cake with words or images
celebrating marriage—for instance, a cake showing words with religious meaning—that might be
different from a refusal to sell any cake at all. In defining whether a baker's creation can be protected,
these details might make a difference."])

28 ³ To the extent defendants claim they have such evidence, plaintiff requests an offer of proof that
would satisfy this element.

cake (plain white, three-round tiered cake) was purchased and taken to an identical event (same-sex marriage celebration), they would not be expressing any message:

REQUEST FOR ADMISSION NO. 31: Admit that white or off-white, round, three-tiered cakes with buttercream frosting and no written message can be used as part of events other than weddings.

MILLER'S RESPONSE TO REQUEST FOR ADMISSION NO. 31:

[Objections]. Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**

REQUEST FOR ADMISSION NO. 32: Admit that TASTRIES has sold white or off-white, round, three-tiered cakes with buttercream frosting and no written message for use as part of events other than weddings.

MILLER'S RESPONSE TO REQUEST FOR ADMISSION NO. 32:

[Objections] Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**

(Tanacea Decl., **Exhibit 4**, Catharine Miller's Verified Responses to RFAs Set 1 dated 2/24/2022)

REQUEST FOR ADMISSION NO. 10: Admit that YOU will sell pre-made "case" cakes to customers for any purpose, including their use in the celebration of same-sex marriages.

TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 10:

[Objections] Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**

REQUEST FOR ADMISSION NO. 38: Admit that white or off-white, round, three-tiered cakes with buttercream frosting and no written message can be used as part of events other than weddings.

TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 38:

[Objections] Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**

REQUEST FOR ADMISSION NO. 39: Admit that TASTRIES has sold white or off-white, round, three-tiered cakes with buttercream frosting and no written message for use as part of events other than weddings.

TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 39:

Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**

(Tanacea Decl., **Exhibit 5**, Tastries Verified Responses to RFAs Set 1 dated 2/24/2022)

Because defendants' compelled speech defense turns on what defendants know about a

cake's specific intended use when they are asked to make it, not the product itself, any evidence of "artistry" is wholly irrelevant to the issue to be decided and should be excluded. (Evid. Code, § 350.)

B. Evidence That Tastries Sells Case Products Preordered Baked Goods To Gay Individuals As Long As They Are Not Celebrating Marriage-Related Events Is Irrelevant to Any Claim or Defense.

Defendants' Design Standard's policy based on Miller's religious convictions applies only to preordered cakes. Defendants sell case cakes (premade cakes) to anyone, even if they know it would be used for a celebration that conflicts with Miller's religious beliefs. (Tanacea Decl., **Exhibit 5**, Tastries' Verified Response RFA No. 10.) Defendants will also make and sell preordered birthday cakes to gay individuals, even if that cake was identical to the Rodriguez-Del Rios' cake in shape, style, and ingredients.

To prove a violation of the Unruh Act, plaintiff must show that but for the Rodriguez-Del Rios' sexual orientation, defendants would not have refused to provide the requested cake. (Civ. Code, § 51.) This is proven by the above-cited Responses to Requests for Admission. The Unruh Act does not require that the Rodriguez-Del Rios' sexual orientation be the sole cause of the denial, only that the denial was based, in whole or in part, on their protected status. (*Ibid.*)

Turning to the defense, whether or not defendants sell some products to some gay individuals in some contexts does not provide a defense to a violation of the Unruh Act. The Unruh Act does not require plaintiff to prove that some class-based invidiously discriminatory animus lay behind defendants' actions, but only that defendants made a distinction based on conduct or attributes that are correlated to protected status of the Rodriguez-Del Rios. (Civ. Code, § 51.) Plaintiff need only prove under the Unruh Act that defendants refused to provide goods and services to the Rodriguez-Del Rios because of their sexual orientation; it does not require plaintiff to show that defendants refuse to provide baked goods to all gay individuals in all contexts. For this reason, evidence that defendants will serve a limited menu of items to some gay individuals in some contexts does not have tendency in reason to prove any issue to be decided in this case and must be excluded. (Evid. Code, § 350.)

///

1 **C. Said Evidence Should Be Excluded Under Evidence Code section 352**

2 Permitting the above-cited testimony and extensive documentary evidence on the artistry of
3 cake design and baking and evidence that defendants serve some gay individuals in some contexts
4 will consume trial time and has no tendency in reason to prove any issue in this case. Miller did not
5 reject the Rodriguez-Del Rios' chosen cake based on any artistic design. Miller rejected the cake
6 based solely on its intended use. Neither is "artistry" relevant to the Free Speech defense in this case.
7 Likewise, evidence that defendants will serve some gay individuals in some contexts does not tend
8 in reason to prove whether defendants refused goods and services to the Rodriguez-Del Rios in the
9 case. Because there is no probative value, this evidence must be excluded. (Evid. Code, § 352.)

10 **III. CONCLUSION**

11 Based on the foregoing, DFEH respectfully requests that the court grant this motion in limine
12 and exclude (1) all testimony and exhibits related to the artistry and design of Tastries' cakes and
13 other baked goods; (2) all testimony that Tasties will sell case products and preordered baked goods
14 to gay individuals as long as they are not celebrating marriage-related events.

15 Dated: July 24, 2022

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

17 *Kendra Tanacea*
18 By: _____
19 Kendra Tanacea
20 Attorneys for the Department of Fair
21 Employment and Housing
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EXHIBIT 1

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.)

CERTIFIED COPY

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 musicals. I've led chorus groups. I've taught Bible
2 studies. I was in charge for five years of drama and
3 leadership for the high school youth group where we put
4 on dramas. And I did the backdrop and choreography and
5 everything for that.

6 I have run events for about 30 years, although,
7 I have to say, in the last two years not much at all.

8 I have orchestrated complete parties and
9 anniversary parties and weddings where I've done
10 everything for it from the cake to the photography, the
11 floral arrangements.

12 I ran a floral business for four years. I
13 forgot about that. I provided stores with floral
14 arrangements while the babies were -- while I was having
15 babies and nursing.

16 I'm probably forgetting some things, but I've
17 always been very artistic and musical, but I have a
18 passion for the Lord and for teaching. So it's always
19 centered around that.

20 Q. Thank you. Would you use the kids to help
21 design some of the classroom's --

22 A. They always participated.

23 Q. -- decorations?

24 With the floral arrangements, can you tell me a
25 little bit more about that?

1 Q. Okay.

2 MR. LIMANDRI: "Skinny analysis" for making a
3 cake. I like your mixed metaphors.

4 BY MR. MANN:

5 Q. So I'm certainly no cake expert, but I enjoy
6 eating cake. So there's a cake part that gets baked.
7 Then sometimes there's a filling?

8 A. Always there's a filling.

9 Q. Okay. So does the same person that bakes the
10 cake also handle the fillings?

11 A. Make it or putting the cake together?

12 Q. You tell me.

13 A. It would be so much easier if you would all
14 just come to my bakery for two or three hours.

15 Okay. The making of the filling is done by
16 another person in the back, whoever I've designated for
17 that season. I rotate what everybody does so they don't
18 get bored, and then everybody is competent in each level
19 of the cake artistry.

20 So let's pretend that so-and-so did the
21 filling, but then when another person goes to fill the
22 cake, they'll pull the filling, and they'll put the
23 filling on the cake stack, cake crumb coat it, and then
24 proceed with the decorations.

25 Sometimes, if we're really stacked up against

1 (Continuation of Regular, Non-sealed testimony)

2 MR. MANN: Back on the record.

3 Q. What makes a cake at Tastries a custom cake?

4 A. It starts with the cake itself, the recipe, the
5 bread part, and our frostings or our fillings, I should
6 say. And then each cake is designed specifically for
7 that purpose.

8 Q. When you say it starts with the cake, with the
9 batter and the filling, what do you mean?

10 A. The recipes, the different types of products
11 that go into each cake.

12 Q. And it sounds like there's also a process for a
13 custom cake --

14 A. Yes.

15 Q. -- versus a pre-made cake there's no process.
16 A process with the client --

17 A. Yes.

18 Q. -- would be required for the custom cake?

19 A. Yes.

20 Q. And do you think custom cake creation requires
21 artistry?

22 A. Yes.

23 Q. Can you tell me about that?

24 A. Oh, my goodness. So let's say you're doing a
25 birthday cake, and it's a luau theme. And I'll ask them

1 to give me a color template.

2 Are you going with bright colors or pastel?

3 Are you going with a sunset scene or are you going with
4 an ocean water scene?

5 If so, if you go with an ocean scene, are we
6 doing the teals or are we doing the aquas or the true
7 blues?

8 So the color pallet, the size -- even which
9 happens so often -- they will bring me in a picture, and
10 they say "I love this cake. Do me this cake."

11 Well, this cake is that big and is going to
12 serve 150 people, and they're having 20 people at their
13 party. So we tailor it down to have the same effect,
14 the same general idea, and then we totally tweak it out
15 to where it is right for their party.

16 Q. Does the artistry come primarily through the
17 design or -- let me ask it this way.

18 Is there artistry in the baking process as
19 well?

20 A. When you make your bread, do you follow the
21 same recipe for every single bread you make?

22 MR. LIMANDRI: You can't ask him questions.

23 THE WITNESS: Okay. Each recipe for each cake
24 is totally different. You even bake a six-inch
25 differently than you bake an eight-inch or a full sheet.

1 There's a different process for every single aspect.

2 When I go to hire a decorator -- I talked with
3 this guy at BC who runs the art department. I want to
4 hire an artist. I can teach them how to do it on a
5 cake, that is a no-brainer. But doing the artwork is a
6 gift. Working for somebody who has that gift is
7 amazing. Not just in the design, but also who can take
8 my carrot cake -- and I'm saying, you know, it's just
9 not moist enough, okay -- we're going to add a little
10 bit of the canola oil, and let's add the coconut oil,
11 and pull out some of the butter. And then we've got it.
12 We just did that three weeks ago.

13 There is an art in -- you even said yourself
14 you bake. You know there's an art to getting that cake
15 moist and yet able to carve it. We just did a luau pig.
16 We had to carve the cake. Well, you can't take a
17 cherry-almond cake or black forest cake and do a
18 carving, you will have strawberries -- or cherries and
19 almonds coming out, you know.

20 BY MR. MANN:

21 Q. Is there artistry in any aspect of a pre-made
22 cake?

23 A. Probably not, except that they're using the
24 same recipes that we use cake-wise.

25 I have a design, generic design for each flavor

1 Q. And Number 3 and 5 are current, what you're
2 using now?

3 A. We're using Number 3 right now. Numbers 4 and
4 5 are similar. But 3 is the one we currently use.

5 Q. So the client comes in and spends this time
6 with the designer and the designer will take all the
7 information on the form. And then there's usually a
8 picture or hand-drawn version of the cake that they're
9 going to want that would be attached to the form?

10 A. Most instances. Or we will refer to our
11 display cake and say they want to replicate this in this
12 size, though.

13 Q. In terms of -- we've talked about artistry.
14 Is there artistry in making choices of, like,
15 on the second page of Exhibit 3 of the order form in
16 terms of, like, the filling and the flavors? Do you
17 consider that part of the artistic process?

18 A. Yes.

19 Q. And is that something that is usually chosen by
20 the client?

21 A. Chosen by the client with our help. Certain
22 flavors you do not want to put together.

23 Q. Is that where the artistry comes in?

24 A. Yes.

25 Q. Knowing what goes well with what?

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

EXHIBIT 2

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.
CATHY'S CREATIONS, INC. d/b/a) BCV-18-102633-JEB
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 bakery that will go contrary to my deeply held love for
2 my Lord and religious convictions.

3 Q. Right. We'll come back to this, but I'm just
4 trying to be clear, because when you say everything in
5 the store must fit within the design standards, I
6 understand that with regards to the standards that apply
7 to the design; but to the product that or the design
8 standard that is for the purpose, you don't really have
9 control over that, so that's why I was trying to
10 clarify.

11 Last time, we talked about artistry and in
12 terms of dealing -- or the artistry involved in creating
13 cakes. Is there also artistry involved in creating
14 these other custom products that you talked about, the
15 cookies, cupcakes, macaroons, et cetera?

16 MR. JONNA: Objection. Compound.

17 A. Yes.

18 Q. Any of them that do not require artistry?

19 A. No.

20 Q. Do the products like the -- or do the gourmet
21 cookies have any design on them?

22 A. It is a design and an art in itself to get the
23 recipe right, and I can tell you from experience I have
24 amazing decorators who cannot make my gourmet cookie
25 dough. It is a science, it is a talent, and it is an

1 art.

2 Q. Let me focus you real quick.

3 A. I am focused.

4 Q. Do the gourmet cookies have any decoration on
5 them?

6 A. Yes.

7 Q. Like frosting or something?

8 A. Some do.

9 Q. Okay. Are there any products that do not have
10 any decoration on them?

11 MR. JONNA: Objection. Overbroad. Vague and
12 ambiguous.

13 A. Is there artwork that people throw splotches of
14 paint on that they call art? I don't --

15 Q. Cathy, please.

16 A. I don't know.

17 Q. Please focus on my question. Are there any
18 products that don't have decoration on them?

19 A. I answered that. No.

20 Q. Okay. So there's no plain kind of -- can
21 somebody come in and order plain brownies or cookies
22 that do not have frosting on them?

23 MR. JONNA: Objection. Vague and ambiguous.
24 Incomplete hypothetical.

25 A. My brownies are all frosted and decorated. My

1 MR. JONNA: Same objection.

2 A. No. There is not a decoration on top of the
3 cookie.

4 Q. And do those -- making those gourmet cookies
5 with no frosting or decoration require art?

6 A. Define "art."

7 Q. I'm sorry. Require artistry as we've discussed
8 it.

9 MR. JONNA: Objection. It's overbroad. Vague
10 and ambiguous.

11 A. There is an art to creating the dough and to
12 baking the cookie. Putting a hand-made decoration on
13 top of it, no.

14 Q. Okay. So is it fair to say that for a product
15 like a gourmet cookie that does not have a decoration on
16 top, that the artistry is in the, you know, making the
17 dough and baking it? Is that where the artistry lies?

18 MR. JONNA: Objection. Overbroad. Compound.
19 Vague and ambiguous.

20 A. Yes.

21 Q. Would it be fair to say there's no artistry in
22 decorating if it doesn't have a decoration?

23 MR. JONNA: Same objections.

24 A. Restate the question, please.

25 Q. Is it fair to say that for a product like a

1 cupcake, has frosting, but no -- nothing beside the
2 frosting, is that a decorated cupcake?

3 A. Yes. And we don't sell cupcakes with just
4 frosting on top.

5 Q. Even if somebody wanted just plain, no
6 decoration, just chocolate frosting, vanilla frosting,
7 Tastries doesn't sell that?

8 MR. JONNA: Objection. Incomplete
9 hypothetical. Vague and ambiguous.

10 A. We do sell that, but it's a custom order, and
11 there is an art to decorating a cupcake.

12 Q. Are all those -- that long list of products you
13 went through, are those items that are available to
14 order as part of a dessert bar?

15 A. Yes.

16 Q. Last time, you said case cakes are
17 "no-brainers." Do you remember that?

18 A. Yes.

19 Q. Is it fair to say that case cakes do not
20 require the same artistry as custom cakes?

21 A. That is not fair to say.

22 Q. Can you explain that to me?

23 A. I have five levels of decorators at my bakery.
24 It requires a level 2 to do my case cakes. A level 1
25 decorator is not allowed to even do my case cakes.

1 Q. And what level works on custom cakes?

2 A. 3, 4, and 5. And some 2s, depending on what it
3 is.

4 Q. Is it fair to say that case cakes require
5 artistry, just not necessarily as much artistry as
6 custom products?

7 A. My case cakes require artistry.

8 Q. What do you mean when you say that they're
9 no-brainers?

10 A. Compared to a custom order, where we are
11 following explicit -- how can I say this? Explicit --
12 the customer would like us to match this color to, say,
13 a napkin, and they want us to create like a floral
14 design on a cake or something like that. Okay? Does
15 that make sense?

16 Q. I mean, it does, but to me, I don't understand
17 what you had a problem with saying case cakes take
18 artistry, just not as much artistry as custom cakes.

19 MR. JONNA: Objection. Argumentative.

20 THE WITNESS: Okay.

21 MR. JONNA: I'm not sure if there's a question
22 right now.

23 A. Why don't you restate the question.

24 Q. Yeah. What is the problem that you have with
25 my statement that case cakes at Tastries take artistry,

EXHIBIT 3

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15 *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.
27
28

CASE NO.: BCV-18-102633

IMAGED FILE

**DECLARATION OF
CATHARINE MILLER IN
SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

Date: Nov. 4, 2021

Time: 8:30 a.m.

Dept: 11

Judge: Hon. David R. Lampe

Action Filed: Oct. 17, 2018

Trial Date: Dec. 13, 2021

1 I, Catharine Miller, declare and state as follows:

2 1. I am a named defendant in the above entitled action. Accordingly, I have personal
3 knowledge of the matters set forth below and could and would competently testify thereto if called
4 upon to do so in court.

5 **OVERVIEW OF MY ARTISTIC BACKGROUND**

6 2. I am a creative designer who owns and operates Cathy's Creations, Inc., doing
7 business as Tastries Bakery—a small bakery in Bakersfield, California. I am the 100% shareholder of
8 Tastries Bakery. Opened in January 2013, Tastries Bakery is primarily a custom bakery that will
9 collaborate with clients to design custom cakes, cookies and pastries for their event or occasion.

10 3. I have used my creative talents in many ways over the years: through music,
11 elementary education, floral arrangements, interior design, and event planning. I have always had a
12 unique ability to provide inspiring and creative vision to every project and service. With Tastries
13 Bakery, I direct a team of culinary artists who, by creating a vast selection of artistic bakery designs,
14 help enrich my clients' life celebrations.

15 4. Music has been a part of my artistic expression for most of my life. Some of my
16 fondest memories center around playing the clarinet in various bands and orchestras. I continue to
17 play my clarinet today and have been part of a worship orchestra at my church for many years.

18 5. Prior to owning Tastries Bakery, I was a teacher in preschool, elementary school,
19 middle school, and high school for 30 years. My classrooms were a work of art. Every single wall
20 and ceiling was decorated to inspire my students based on a theme I wanted to emphasize. I have
21 led chorus groups and directed musicals where I put together the music, the script, the
22 choreography, and the scenery. For five years, I lead drama teams for our church youth group and
23 Bakersfield Christian High School where we put on skits and plays.

24 6. In addition to being a teacher, I have run events for about 30 years. I have
25 orchestrated company parties, birthdays, anniversaries, and weddings. In addition to coordinating
26 these events, I have provided the cake, photography, and floral arrangements. I also ran a floral
27 business for four years and for a time I worked in interior design, modeling or remodeling homes or
28 buildings.

1 7. Finally, I've been decorating cakes from home since I was 18 and created my own
2 recipes. Over the years, I took classes in both baking and decorating. The baking classes have
3 focused on ingredient interaction—allowing me to develop recipes for a wide range of products in
4 different applications.

5 **OVERVIEW OF MY SINCERELY HELD RELIGIOUS BELIEFS**

6 8. I am a practicing Christian and woman of deep faith; I seek to honor God in all
7 aspects of my life. Jesus taught us that the greatest commandments are to “Love the Lord your God
8 with all your heart and with all your soul and with all your mind and with all your strength. The
9 second is this: Love your neighbor as yourself.” (Mark 12:30–31.) How I treat people and how I run
10 my business is very important to me. I believe God has called me to abide by His precepts that He
11 set forth in the Bible. In other words, I strive to honor God by making my life edifying to Him.

12 9. Although I still organize some events, I have coordinated fewer events lately because
13 it is harder to coordinate events that abide by my Christian principles. I have to work in accordance
14 with my faith, which teaches that, “Whatever you do, work at it with all your heart, as working for
15 the Lord, not for human masters” (Colossians 3:3), and “All whatsoever you do in word or in work,
16 do all in the name of the Lord Jesus Christ.” (Colossians 3:17; see also 1 Corinthians 10:31; 1 Peter
17 4:11.)

18 10. As a Christian, I desire my life to be one of grace, love, compassion, and truth.
19 Among the fundamental principles of my faith is the belief that God designed marriage to be a
20 covenant between one man and one woman. Accordingly, this belief guides Tastries Bakery's
21 marriage-related products and services. I understand that others may hold views that are different
22 from mine (including customers and employees), but I do not require anyone to share my views on
23 marriage as a condition for service or employment. In fact, the bakery has served many LGBT
24 customers and I have hired multiple members of the LGBT community.

25 11. My faith also teaches me to welcome and serve everyone. And I do. I welcome
26 people from all lifestyles, including individuals of all races, creeds, marital situations, gender
27 identities, and sexual orientations. In other words, I offer my artistic vision to create specially
28 designed custom cakes and desserts for anyone. I eagerly seek to serve all people, but I cannot

1 **THE DESIGN PROCESS FOR CREATING A TASTRIES WEDDING CAKE**

2 25. All pre-ordered wedding cake made by Tastries Bakery are custom cakes, and I
3 participate in every part of the custom cake design and creation process. First, I participate in the
4 creation of all recipes used at Tastries Bakery. Some recipes were made by me over many years.
5 Others were developed after I started the bakery. The development of recipes is both an art and a
6 science that takes time to master. Any time we design a new flavor or product, it can take 3 to 6
7 months to make its way into use at the bakery. Although no professional bakery produces all products
8 entirely from scratch, we go above and beyond most bakeries to produce custom flavors and products
9 with carefully selected ingredients validated through our testing and by customer reviews. All
10 decorators at Tastries are gifted artists. Some have come to us with prior cake decorating experience,
11 but all decorators have received specialized training in decorating techniques, sculpting and color
12 selection. Each decorator has specialized skills that are shared through cross training and teamwork.
13 We also have many specialized tools to help decorators accomplish amazing designs.

14 26. Most clients interested in a custom designed wedding cake are pre-scheduled for a
15 cake tasting where up to four people can sample cake and filling flavors. After sampling flavors and
16 reviewing our wedding packet, I (or one of my designers) will sit down with the client to develop
17 specific features of the custom wedding cake. First, we talk about the overall theme, color palette,
18 venue (indoor or outdoor), and style of the wedding. Then we turn to the details of the cake by
19 learning of their preferences or any inspirational pictures, discuss cake and filling flavors, dietary
20 needs (i.e., free of gluten, sugar, nuts, eggs, dairy), expected outdoor temperature, and how many
21 people will be served. All these factors can dramatically alter the design options.

22 27. During this process, I don't just let the client know about our 16 cake flavors, 20 filling
23 flavors, 5 types of frosting, 11 tier shapes, and other details—expecting the client to randomly pick
24 what they want. Rather, it is a collaborative process where I offer the best design options for
25 appearance and integrity of the cake based on the client's preferences. Sometimes, we need to
26 dissuade clients from poor choices, which usually is greatly appreciated. Attached as **Exhibit B** is a
27 true and correct copy of the wedding cake binder used by my designers to consult with prospective
28 wedding cake customers. Although we show the binder to clients while in the store, we do not let

1 anybody take a copy because the binder has proprietary business information. For this reason, my
2 attorneys are submitting the binder under seal.

3 28. Also, during this process, I discuss the meaning and importance of marriage and how
4 they need to spend as much time on marriage preparation—preparing to be husband and wife—as
5 they spend on wedding planning. For Christian couples, I will discuss how the Lord brought them
6 together and how they could incorporate Bible verses into their vows. I also have a wedding packet
7 that I give to couples that discusses these topics and is attached as **Exhibit C**.

8 29. This process can take considerable time, often lasting over an hour to design a
9 unique creation for each bride and groom. Once this design process is complete and the client wishes
10 to commission Tastries for the custom wedding cake, my client and I complete the order form. The
11 order form oftentimes includes a hand-drawn design of the cake or a picture with notes to reflect
12 specific changes. The order will usually include details of delivery and set-up at the wedding venue.

13 30. My custom wedding cakes are often delivered close to the time that the event begins.
14 My husband, Mike Miller, delivers most of the wedding cakes, but on some occasions I or a staff
15 member will help with deliveries. We will often be seen during delivery and set-up. Most of the time,
16 we deliver in the Tastries Bakery car with our logo on the side. And all staff delivering cakes are
17 supposed to be wearing Tastries' uniforms, and they oftentimes interact with guests as they're
18 placing the cake, adding flowers or setting up a dessert bar.

19 31. Guests will often ask who designed the cake, and I will receive follow-up custom
20 cake requests from wedding guests. Our standard practice is to leave a Tastries card that says
21 "Thank you for letting us be a part of your sweet event." Some clients even ask for my business
22 cards to display at the reception. They know that their custom wedding cake will stand as the iconic
23 centerpiece of the wedding celebration and that some of their friends will want to know who
24 designed it. My clients often share my contact information with those who are interested in
25 commissioning Tastries for their own events.

26 32. To show the artistry that goes into each and every wedding cake that we design and
27 create, I have selected some photos of our cakes. Those photos are attached as **Exhibit D**.

28 ///

1 51. I later learned that other wedding professionals came forward to offer services free of
2 charge for Mireya and Eileen's celebration, including a baker that provided a free wedding cake
3 along with cake cutting services.

4 52. Tastries will suffer significant harm if the Court issues an order that requires
5 Tastries to either accept same-sex wedding cake orders or to stop taking wedding cake orders
6 altogether. Wedding services account for 25-30% of Tastries' sales revenue with many customer
7 relationships that follow-on from the initial wedding order (baby showers, birthdays, anniversaries,
8 etc.). Should Tastries stop selling wedding cakes, it would likely become insolvent and be forced to
9 close.

10 I declare under penalty of perjury under the laws of the United States and the State of
11 California that the foregoing is true and correct. Executed this 8th day of September 2021, at
12 Bakersfield, California.

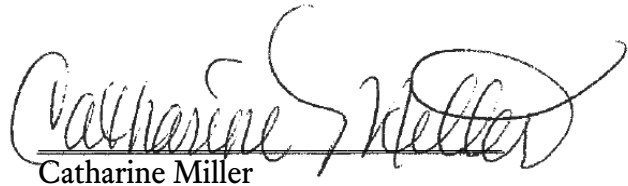
13
14 
Catharine Miller

EXHIBIT 4

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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **COUNTY OF KERN**

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

20 Plaintiff;

21 v.

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

24 Defendants.

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

27 Real Parties in Interest.
28

RECEIVED

FEB 28 2022

Dept. of Fair Employment & Housing
Los Angeles Regional Office

CASE NO.: BCV-18-102633

**Defendant Catharine Miller's
Objections & Responses to Requests
for Admission**

[Set One]

Action Filed: October 17, 2018
Trial Call: July 25, 2022

1 100% shareholder of Tastries Bakery and solely responsible for its existence and operation. Thus, any
2 same or similar discovery demands on both Tastries Bakery and Miller are oppressively cumulative
3 or duplicative and therefore doubles the burden on Miller to respond to these requests.
4 Consequently, Miller objects to this request because it is unduly burdensome and contrary to the
5 standards of proper discovery.

6 **Response: Admitted.**

7
8 **REQUEST FOR ADMISSION NO. 31:**

9 Admit that white or off-white, round, three-tiered cakes with buttercream frosting and no
10 written message can be used as part of events other than weddings.

11 **Response:** Defendant objects to this request as duplicative of the DFEH's First Set of
12 Requests for Admission to Tastries Bakery. As made clear since the beginning of this case, Miller is
13 100% shareholder of Tastries Bakery and solely responsible for its existence and operation. Thus, any
14 same or similar discovery demands on both Tastries Bakery and Miller are oppressively cumulative
15 or duplicative and therefore doubles the burden on Miller to respond to these requests.
16 Consequently, Miller objects to this request because it is unduly burdensome and contrary to the
17 standards of proper discovery.

18 Defendant objects on the basis that the request for admission is vague and ambiguous as to
19 "can be used" and as to "white or off-white, round, three-tiered cakes with buttercream frosting and
20 no written message."

21 Subject to the foregoing objections, and without waiving them, Defendant responds as
22 follows: **Admitted.**

23
24 **REQUEST FOR ADMISSION NO. 32:**

25 Admit that TASTRIES has sold white or off-white, round, three-tiered cakes with
26 buttercream frosting and no written message for use as part of events other than weddings.

27 **Response:** Defendant objects to this request as duplicative of the DFEH's First Set of
28 Requests for Admission to Tastries Bakery. As made clear since the beginning of this case, Miller is

1 100% shareholder of Tastries Bakery and solely responsible for its existence and operation. Thus, any
2 same or similar discovery demands on both Tastries Bakery and Miller are oppressively cumulative
3 or duplicative and therefore doubles the burden on Miller to respond to these requests.
4 Consequently, Miller objects to this request because it is unduly burdensome and contrary to the
5 standards of proper discovery.

6 Defendant objects on the basis that the request for admission is vague and ambiguous as to
7 “for use as” and as to “white or off-white, round, three-tiered cakes with buttercream frosting and
8 no written message.”

9 Subject to the foregoing objections, and without waiving them, Defendant responds as
10 follows: **Admitted.**

11
12
13
14 Dated: February 24, 2022

LiMANDRI & JONNA LLP

By: _____

Charles S. LiMandri
Paul M. Jonna
Jeffrey M. Trissell
Milan L. Brandon II
Attorneys for Defendants

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VERIFICATION

I, Catharine Miller, am a defendant in this action. I have read the document, **Defendant Catharine Miller's Objections & Responses to Requests for Admission [Set One]** and know its contents. The information supplied in the foregoing document is based on my own personal knowledge or has been supplied by my attorneys or other agents or compiled from available documents and is provided as required by law. The information in the foregoing document is true to the extent of my personal knowledge. As to the information provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, I do not have personal knowledge but made a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party. Thus, I am informed and believe that the matters stated in the foregoing document are true and on that ground certify or declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed this 24th day of February 2022, at San Diego, California.

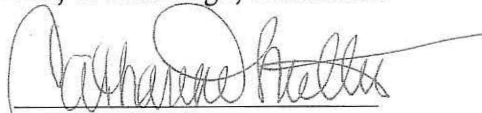

Catharine Miller

EXHIBIT 5

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*Attorneys for Defendants Cathy's Creations,
Inc. and Catharine Miller*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN**

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

Plaintiff;

v.

CATHY'S CREATIONS, INC. dba
TASTRIES, a California Corporation; and
CATHARINE MILLER, an individual,

Defendants.

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

Real Parties in Interest.

CASE NO.: BCV-18-102633

**Defendant Cathy's Creations, Inc.
dba Tastries Bakery's Objections and
Responses to Requests for Admission**

[Set One]

Action Filed: October 17, 2018
Trial Call: July 25, 2022

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

2 Admit there is a legal distinction between YOU and MILLER.

3 **Response: Admitted.**

4
5 **REQUEST FOR ADMISSION NO. 10:**

6 Admit that YOU will sell pre-made “case” cakes to customers for any purpose, including
7 their use in the celebration of same-sex marriages.

8 **Response:** Defendant objects to the request on the basis that it is vague and ambiguous as to
9 “sell” and “purpose.” Sometimes, depending on whether the “case” cake has decorations on its top
10 or has a flat top, Defendant may write a statement identifying the customer’s purpose for the cake
11 (e.g., “Happy Birthday”). Defendant will not write statements that violate its religious beliefs. But
12 pre-made products are, by definition, not crafted for, or tailored to, any particular purpose and
13 therefore Defendant has no objections to customers using those products for any particular purpose.

14 Subject to the foregoing objections, and without waiving them, Defendant responds as
15 follows: **Admitted.**

16
17 **REQUEST FOR ADMISSION NO. 11:**

18 Admit that YOUR policy regarding the sale of cakes for same-sex wedding celebrations only
19 applies to custom cake orders.

20 **Response:** Defendant objects that the Design Standards speak for themselves. Although a
21 request for admission can properly seek authentication of the written materials disseminated, it is not
22 proper to use a request for admission “to obtain, by implication, a synoptic characterization of the
23 documents, or a gloss as to their intendment.” (*Lakehead Pipe Line Co. v. American Home Assur. Co.*
24 (D. Minn. 1997) 177 F.R.D. 454, 458; see also *U.S. ex rel. Dyer v. Raytheon Co.* (D. Mass. 2013) 2013
25 WL 5348571, at *6.)

26 Defendant further objects on the basis that the request for admission is not “full and complete
27 in and of itself.” (Civ. Proc. Code § 2033.060(d).) A request for admission “is not ‘full and complete
28 in and of itself’ when resort must necessarily be made to other materials in order to complete the

1 **REQUEST FOR ADMISSION NO. 38:**

2 Admit that white or off-white, round, three-tiered cakes with buttercream frosting and no
3 written message can be used as part of events other than weddings.

4 **Response:** Defendant objects on the basis that the request for admission is vague and
5 ambiguous as to “can be used” and as to “white or off-white, round, three-tiered cakes with
6 buttercream frosting and no written message.”

7 Subject to the foregoing objections, and without waiving them, Defendant responds as
8 follows: **Admitted.**

9
10 **REQUEST FOR ADMISSION NO. 39:**

11 Admit that TASTRIES has sold white or off-white, round, three-tiered cakes with
12 buttercream frosting and no written message for use as part of events other than weddings.

13 **Response:** Defendant objects on the basis that the request for admission is vague and
14 ambiguous as to “for use as” and as to “white or off-white, round, three-tiered cakes with
15 buttercream frosting and no written message.”

16 Subject to the foregoing objections, and without waiving them, Defendant responds as
17 follows: **Admitted.**

18
19 **REQUEST FOR ADMISSION NO. 40:**

20 Admit that as a licensed and incorporated business, YOU must follow state and local laws and
21 regulations, including but not limited to health and safety and anti-discrimination provisions, in order
22 to legally operate in California.

23 **Response:** Defendant objects on the basis that the request calls for a legal conclusion and is
24 vague and ambiguous. Defendant does not have to follow any state or local laws that violate the
25 California or U.S. Constitutions.

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VERIFICATION

I, Catharine Miller, am the owner of Defendant Cathy's Creations, Inc. dba Tastries, a defendant in this action. I have read the document, **Defendant Cathy's Creations, Inc. dba Tastries Bakery's Objections and Responses to Requests for Admission [Set One]** and know its contents. I make this verification on behalf of Tastries Bakery. The information supplied in the foregoing document is based on my own personal knowledge or has been supplied by my attorneys or other agents or compiled from available documents and is provided as required by law. The information in the foregoing document is true to the extent of my personal knowledge. As to the information provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, I do not have personal knowledge but made a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party. Thus, I am informed and believe that the matters stated in the foregoing document are true and on that ground certify or declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed this 24th day of February 2022, at San Diego, California.


Catharine Miller

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My e-mail address is kendra.tanacea@dfeh.ca.gov.

**PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING’S
MOTION IN LIMINE NO. 8; TANACEA DECLARATION IN SUPPORT
THEREOF**

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

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

Kendra Tanacea

Kendra Tanacea

Exhibit JJJ

NELSON CHAN, Assistant Chief Counsel (#109272)
GREGORY J. MANN, Associate Chief Counsel (#200578)
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Attorneys for the Department
Fee Exempt (Gov. Code, § 6103)

ELECTRONICALLY FILED
7/25/2022 10:06 AM
Kern County Superior Court
By Gina Sala, Deputy

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.

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

Defendants.

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

Real Parties in Interest.

Case No. BCV-18-102633

**PLAINTIFF DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING'S
MOTION IN LIMINE NO. 9 TO
EXCLUDE ANY EVIDENCE OR
ARGUMENT OF SPECULATIVE LOST
PROFITS; POINTS AND
AUTHORITIES IN SUPPORT
THEREOF; MESINAS DECLARATION
IN SUPPORT THEREOF**

(Plaintiff's Motion in Limine No. 9)

Date: July 25, 2022
Time: 9:00 a.m.
Dept.: J
Judge: Hon. J. Eric Bradshaw

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

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT ON July 25, 2022, at 9:00 a.m., or as soon as thereafter
as the matter can be heard, in Department J of the above-entitled court, located at 1215 Truxtun Ave,
Bakersfield, CA 93301, Plaintiff Department of Fair Employment and Housing (DFEH) will, and
hereby does, move in limine for an Order precluding defendants from presenting any evidence or

1 argument at trial, including by way of oral testimony or documentary evidence, that defendants
2 would be forced to cease operations in order to comply with the Unruh Civil Rights Act. This also
3 includes the exclusion of defendants' Trial **Exhibits 15** [Tastries' Wedding Sales Analysis, 2014-
4 2018], **Exhibit 16** [Tastries Wedding Sales Analysis, 2019-2021] and **Exhibit 17** [Statement on
5 Financial Impact of Stopping All Wedding Services]. **Exhibits 15** and **16** were never produced in
6 discovery and must be excluded on that basis as well.

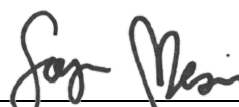
7 Based on the governing law, such argument and evidence are speculative. Here, oral
8 testimony by defendant Ms. Catharine Miller (Miller) and sales analyses prepared and produced
9 presumably by Miller is not reliable and, in any event, would not support the argument that she
10 would have to cease operating defendant Cathy's Creations, Inc. dba Tastries, if she had to comply
11 with the Unruh Civil Rights Act. This Motion is made pursuant to case law on the grounds that it is
12 improper to admit speculative evidence. (*In re Anthony C.* (2006) 138 Cal.App.4th 1493, as
13 modified, (May 26, 2006); *Neumann v. Bishop* (1976) 59 Cal.App.3d 451, 479.)

14 This Motion is further made pursuant to Evidence Code section 352, which permits the Court
15 in its discretion to exclude evidence if its probative value is substantially outweighed by the
16 probability that its admission will (a) necessitate undue consumption of time or (b) create substantial
17 danger of undue prejudice, confusing the issues, or misleading the jury. The Court should prohibit
18 the defendants from presenting any evidence or argument at trial that Cathy's Creations, Inc. dba
19 Tastries would be forced to cease operations if it had to comply with the Unruh Civil Rights Act on
20 grounds that the admission of said evidence will necessitate undue consumption of time and/or
21 create substantial danger of undue prejudice.

22
23
24 Dated: July 24, 2022

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

25
26 By:



Soyeon C. Mesinas
Attorneys for the Department of Fair
Employment and Housing

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Department of Fair Employment and Housing (DFEH) filed this lawsuit against Cathy's Creations, Inc. dba Tastries ("Tastries") and Catharine Miller (Miller) for violation of the Unruh Civil Rights Act ("Unruh Act"). As part of its affirmative defense, defendants argue that complying with the Unruh Act would place a substantial burden on Miller's religious practice because defendants would be forced to either: 1) accept pre-orders for any baked goods to celebrate any marriage-related events for everyone or 2) cease making pre-ordered baked goods to celebrate any marriage-related events altogether. Defendants contend their only choice would be to cease making all marriage-related baked goods in order to maintain their religious practice.

Catharine Miller, PMQ for Tastries, testified during her deposition that wedding cake sales comprised twenty percent of their revenue before the COVID-19 pandemic based on the data from their point of sale (POS) system. (Declaration of Soyeon C. Mesinas in Support of DFEH's Motion in Limine No. 9 [Mesinas Decl.], **Exhibit 1**, Catharine Miller 2022 Depo. Trans., 94:19-24.) However, she went on to testify that wedding cakes sales actually comprised about a third of their revenue because it includes cakes for the bridal shower, engagement party, and anniversary cake. (Mesinas Decl., **Exhibit 1**, Catharine Miller 2022 Depo. Trans., 94:25-95:10.) Also, it is anticipated that Miller will testify in accord with her declaration in support of defendants' summary judgment motion that if defendants have to comply with the Unruh Civil Rights Act, "[Tastries] would likely become insolvent and be forced to close" because the revenue from "wedding services account for 25-30%" of its sales revenue. (Mesinas Decl., **Exhibit 2**, Miller Decl., ISO Summary Adjudication, ¶ 52.)

In support of these statements, defendants have recently produced purported sales analyses, prepared presumably without an expert and by an unidentified author, that provides conflicting data analysis of the wedding cake sales and total revenue from their POS system. (Def. Trial Exhibit 15-17.) On Defendants' Trial Exhibit 17 bates numbered CM3593, wedding cake orders contribute to only 10-23% of their sales revenue from 2014-2021. However, in Defendants' Trial Exhibit 15, produced for the first time during the pretrial exchange, the analysis now states a higher percentage of sales. The only explanation for the differentiation in higher percentages on Defendants' Trial Exhibit

1 15 are the notes: “2016 results includes information from multiple POS systems” and “2016 and 2017
2 include wedding cakes included in event package.”

3 Still, while sales for marriage-related baked goods only contribute 10-23% of their sales
4 revenue from 2014-2021, defendants speculatively contend that if they have to comply with the
5 Unruh Act, it would force them to stop selling marriage-related baked goods, and they would have to
6 cease operations. (Def. Trial Exhibit 15-17.) This testimony and these exhibits are based on an
7 improper hypothetical, that Tastries would have to cease making wedding related products to comply
8 with the Unruh Act. There are several other options open to Tastries.

9 For the reasons set forth below, DFEH moves, in limine, to exclude all argument and
10 evidence related to any alleged, hypothetical damages defendants may suffer if they chose an option
11 to comply with the Unruh Act that results in a decrease in sales.

12 II. LEGAL ARGUMENT

13 a. Purported Wedding Sales Analyses Are Inadmissible Hearsay, Which Should 14 be Excluded

15 Defendants’ “Wedding Sales Analysis” and “Statement on Financial Impact of Stopping All
16 Wedding Services” is inadmissible hearsay. By definition, all written evidence is hearsay and
17 California Evidence Code §1200 makes such hearsay inadmissible absent some exception. (Evid.
18 Code, § 1200 [“Hearsay evidence is evidence of a statement that was made other than by a witness
19 while testifying at the hearing and that is offered to prove the truth of the matter stated.”].)

20 b. Evidence of Potential Lost Profits Is Speculative and Lacks Foundation

21 Admission of speculative evidence is improper. (See *In re Anthony C.* (2006) 138 Cal.App.4th
22 1493, as modified, (May 26, 2006) [while it is the exclusive province of the jury [or trier of fact] to
23 determine credibility of a witness and truth or falsity of historical facts, expert medical opinion
24 evidence that is based upon a guess, surmise, or conjecture, rather than relevant, probative facts,
25 cannot constitute substantial evidence]; *Neumann v. Bishop* (1976) 59 Cal.App.3d 451, 479 [counsel
26 may not assume facts not in evidence or invite the jury [trier of fact] to speculate as to unsupported
27 inferences].)

1 Without any meaningful evidence regarding the calculation of lost profits or consideration of
2 mitigating losses with sales of other goods, defendants, based on their own hypothetical choice to
3 stop making all wedding-related products, argue that they would be forced to shut down. Specifically,
4 defendants fail to provide profit-and-loss statements, balance sheets, ledgers, any other documents, or
5 an expert to support their argument that if they cease wedding cake sales, they would indeed be
6 forced to cease operating. (See *Resort Video, Ltd. v. Laser Video, Inc.* (1995) 35 Cal.App.4th 1679,
7 1699 [4].) To argue for lost profits, a plaintiff must show loss of net pecuniary gain, not just loss of
8 gross revenue. (*Id.* at 1700.) These speculative arguments are objectionable as they lack foundation
9 and are not based on personal knowledge. (Evid. Code, sections 702(a), 800.)

10 Moreover, these statements are inadmissible speculation and conclusions. (Evidence Code
11 Evid. Code, §§ 400, 403, 410 [“‘direct evidence’ . . . directly proves a fact, without an inference or
12 presumption”], § 803 (expert opinion); *Los Angeles County Office of the Dist. Attorney v. Civil Serv.*
13 *Comm’n of County of Los Angeles* (1997) 55 Cal.App.4th 187, 201-202 [“Rather than offer evidence
14 showing [the fact sought to be proved, the party] merely insinuated [motives for the fact.] Such
15 testimony is mere speculation not supported by any evidence”]; *Trujillo v. First Am. Registry, Inc.*
16 (2008) 157 Cal.App.4th 628, 635 [“opposition to summary judgment will be deemed insufficient
17 when it is essentially conclusionary, argumentative or based on conjecture and speculation”].)

18 Defendants also ignore alternative methods to mitigate losses to continue operating as they
19 had done during the COVID-19 pandemic. If defendants decide to cease selling marriage-related
20 baked goods altogether, defendants’ profits might be reduced but there is no competent evidence to
21 support the contention that they will be forced out of business.

22 Moreover, DFEH is not requesting that defendants cease all marriage-related product sales
23 ordered in advance, defendants have options under *North Coast*. They can continue to sell marriage-
24 related baked goods to all individuals or have its employees without the religious objections make the
25 marriage-related baked goods for same sex couples and continue receiving revenue from such goods.
26 (See *North Coast Women's Care Medical Group, Inc. v. Superior Court* (2008) 44 Cal.4th 1145,
27 1159 [defendant physicians can avoid an Unruh Act violation by ensuring that every patient requiring
28 IUI receives “full and equal” access to that medical procedure through a North Coast physician

1 lacking defendants' religious objections.].) However, it appears defendants have decided that, if they
2 must comply with the Unruh Act, they will stop making preordered marriage-related baked goods
3 altogether.

4 **c. Evidence Produced for the First Time During the Pre-Trial Exchange are**
5 **Prejudicial and Should be Excluded**

6 Defendants' Trial Exhibits 15 and 16 must be excluded as defendants failed to produce these
7 "Wedding Sales Analysis" during discovery. (*Deeter v. Angus* (1986) 179 Cal.App.3d 241, 254 [trial
8 court properly excluded plaintiff's withheld evidence in response to discovery requests because
9 admission of such evidence would have subjected defendants to unfair surprise at trial, because it
10 deprived defendants of the opportunity of preparation.].) This deprived DFEH of deposing the
11 witness who created these analyses and/or hiring an expert economist to analyze the underlying data
12 and confirm or dispute these analyses.

13 While the sales analyses are not news articles, *Baker v. Beech Aircraft* (1979) 96 Cal.App.3d
14 321 is instructive. In *Baker*, the trial court excluded evidence of a newspaper article referencing other
15 litigation related to several unrelated accidents. (*Id.* at p. 338.) The trial court excluded the article and
16 the Court of Appeal affirmed, finding that "nothing in the article" discussed the accident at issue, the
17 references to other settlements and lawsuits were misleading, and the information as a whole was "of
18 a highly prejudicial nature," stating: "[B]ecause of the unsubstantiated innuendoes in the article and
19 because of the reference to other litigated cases and the verdicts in those cases, it is our view that the
20 Wall Street Journal article was properly excluded by the trial court under section 352 of the Evidence
21 Code." (*Id.*) These sales analyses were not made under oath and DFEH had no opportunity to cross-
22 examine any declarant; the reliability and trustworthiness of the sales analyses cannot be validated.
23 (*Id.*) Thus, arguments of speculative lost profits and Defendants' Trial Exhibits 15-17 should be
24 excluded.

25 Under Evidence Code section 352, "the court in its discretion may exclude evidence if its
26 probative value is substantially outweighed by the probability that its admission will (a) necessitate
27 undue consumption of time or (b) create substantial danger of undue prejudice" and "of confusing the
28 issues...." (See *People v. Cardenas* (1982) 31 Cal.3d 897, 904 [Evidence Code Section 352

1 authorizes the court to exclude evidence where the probative value is substantially outweighed by the
2 danger of undue prejudice, issue confusion, misleading the jury, or undue consumption of time].)

3 When a party raises a Section 352 objection, the trial court must weigh the admission of the
4 challenged evidence carefully in terms of whether the probative value is greater than the potentially
5 prejudicial effect of its admission; if the prejudicial effect outweighs the probative value, the trial
6 court should exclude the evidence. (*People v. Cardenas* (1982) 31 Cal.3d 897, 904.)

7 In the present matter, Evidence Code Section 352 justifies the preclusion of the requested
8 evidence and argument in this case. Evidence and argument that defendants would have to cease
9 operating lacks foundation and is not supported by any meaningful data. Speculative evidence [Def.
10 Trial Exhibits 15-16] that has just been produced during pretrial exchanges prejudices DFEH. DFEH
11 had no opportunity to depose either the lay or expert witness who created the analyses, request the
12 underlying data, and/or hire an expert economist to calculate the alleged loss. Consequently, the
13 evidence and argument concerning any alleged lost profits and ceasing operations should be
14 excluded.

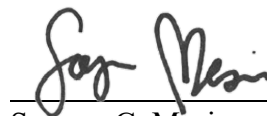
15 III. CONCLUSION

16 Based on the foregoing, the Court should exclude Miller's speculative testimony that Tastries
17 would be forced out of business if it had to comply with the Unruh Act and exclude Exhibits 15 and
18 16, that were not produced during discovery. Moreover, Defendants' Trial Exhibits 15, 16, and 17
19 lack foundation, are speculative and admission of these exhibits is prejudicial.

20
21 Dated: July 24, 2022

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING

22
23
24 By:



25 Soyeon C. Mesinas
26 Attorneys for the Department of Fair
27 Employment and Housing
28

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EXHIBIT 1

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 suggested I talk with you about it.

2 Do you -- can you -- do you have a number or an
3 estimate for me?

4 MR. JONNA: Objection. Vague and ambiguous.
5 I'm not clear on what the question is. I'm sorry.

6 Q. The amount of Tastries' revenue that comes from
7 wedding cake sales.

8 A. You're not asking for a number. You're asking
9 me for like a percentage of how many wedding cakes
10 versus other things that I do? Would that be fair? Or
11 are you wanting a money number?

12 Q. A money number. Well, a percentage. A money
13 number if that's easier for you.

14 A. Let me do the percentage. Mike handles all the
15 money numbers. I don't get into that. I would -- I've
16 looked at some of our numbers, you know. Well, I look
17 at our numbers all the time, but I look at percentages.
18 I don't look at the dollar amount so much.

19 The wedding -- my wedding analyst on my POS
20 shows that my wedding cake -- and I'm going to give you
21 before COVID, because it's all messed up now -- before
22 COVID was like right around 20 percent. Maybe 17,
23 20 percent. But that is based on -- so we have this old
24 POS that didn't -- they just said "celebration cake."

25 But from what I actually deal with, I would say

1 that our wedding cake business is like a third of
2 everything, because within the wedding cake is also
3 my -- they'll do a little cake and a dessert bar, or
4 they'll do -- but it's like, "Here's the cake," and then
5 there's the dessert bar spread out. So the cake along
6 with the dessert bar or the cake along with the dipped
7 strawberries or the macarons, things like that, makes up
8 I would say right around a third of our business,
9 because it also includes the bridal shower, the
10 engagement party, the anniversary cake.

11 Does that -- am I making sense now?

12 Q. I think so. Let me tell you my understanding,
13 and then you can tell me if I'm correct.

14 So you would put the Tastries wedding cake --
15 I'm sorry -- Tastries wedding-related sales, but would
16 also include events other than the wedding, bridal
17 shower, et cetera, and that equals about a third of
18 Tastries' weddings -- I'm sorry -- revenues?

19 A. I think so. That's what I base my analytics
20 off of for running the bakery. Okay? So when I look at
21 my wedding industry, is it worth it to me to be in the
22 bridal show? Is it worth it to me to put marketing into
23 weddings or not? That's what I look at.

24 And I have to look at that and say, you know,
25 the brides come to me, and then they end up getting

EXHIBIT 2

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13 *Application forthcoming

14 *Attorneys for Defendants Cathy's*
15 *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,

Defendants.

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

26 Real Parties in Interest.
27
28

CASE NO.: BCV-18-102633

IMAGED FILE

**DECLARATION OF
CATHARINE MILLER IN
SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT OR, IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION**

Date: Nov. 4, 2021

Time: 8:30 a.m.

Dept: 11

Judge: Hon. David R. Lampe

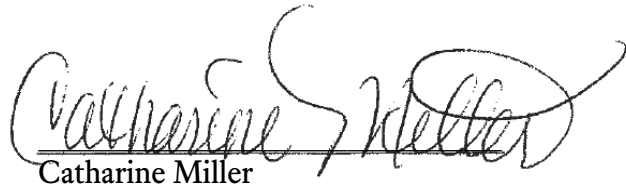
Action Filed: Oct. 17, 2018

Trial Date: Dec. 13, 2021

1 51. I later learned that other wedding professionals came forward to offer services free of
2 charge for Mireya and Eileen's celebration, including a baker that provided a free wedding cake
3 along with cake cutting services.

4 52. Tastries will suffer significant harm if the Court issues an order that requires
5 Tastries to either accept same-sex wedding cake orders or to stop taking wedding cake orders
6 altogether. Wedding services account for 25-30% of Tastries' sales revenue with many customer
7 relationships that follow-on from the initial wedding order (baby showers, birthdays, anniversaries,
8 etc.). Should Tastries stop selling wedding cakes, it would likely become insolvent and be forced to
9 close.

10 I declare under penalty of perjury under the laws of the United States and the State of
11 California that the foregoing is true and correct. Executed this 8th day of September 2021, at
12 Bakersfield, California.

13
14 
Catharine Miller

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My e-mail address is soyeon.mesinas@dfeh.ca.gov.

**PLAINTIFF DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING'S MOTION
IN LIMINE NO. 9 TO EXCLUDE ANY EVIDENCE OR ARGUMENT OF
SPECULATIVE LOST PROFITS; POINTS AND AUTHORITIES IN SUPPORT
THEREOF; MESINAS DECLARATION IN SUPPORT THEREOF**

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

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


Soyeon C. Mesinas

Exhibit KKK

EXHIBIT LISTPage 1 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
***** JOINT EXHIBITS*****				
001-001	07/25/2022	07/28/2022	Photo of Cakes/Boutique Store	
001-006	07/25/2022	07/28/2022	Photo of Cakes/Boutique Store	
231-013	07/25/2022	07/28/2022		
7B-003	07/25/2022	07/28/2022	Photo of 6 Tier Cake	
7B-011	07/25/2022	07/28/2022	Photo of table and desserts	
7B-025	07/25/2022	07/28/2022	Photo of 3 Tier Cake	
7B-059	07/25/2022	07/28/2022	Photo of 6 Tier Cake	
8	07/25/2022	07/27/2022	Tastries Bakery Standard of Service, bates numbered CM26, CM646, CM662-CM663	
104-001	07/26/2022	07/26/2022	Tastries Order form dated 06/22	
11	07/26/2022	07/27/2022	Tastries Bakery Form re Eileen & Mireya Rodriguez - Del Rio [DFEH00180]	
2	07/27/2022	07/27/2022	Seven photographs depicting Tastries Bakery display cakes	
3	07/27/2022	07/27/2022	Tastries Bakery blank order forms [DFEH00041-00050]	
10	07/27/2022	07/27/2022	Check to Gimmee Some Sugar from Cathy's Creations, dated 09/07/2016	
554	07/27/22	07/27/2022	Social Media Post regarding Tastries dated 08/26/2017	
627-A	07/25/22	07/27/2022	Photos of the Rodriguez-Del Rio's wedding, bates # DFEH00295-DFEH00299	
630	07/27/22	07/27/2022	Rodriguez-Del Rio wedding day schedule, bates # DFEH00237	
631	07/25/22	07/27/2022	Photo of 3 tier white wedding cake with flowers, bates # DFEH00175	
555-A	07/27/2022	07/28/2022	Eileen Rodriguez-Del Rio's Facebook Review of Tastries, dated 08/26/2017, bates # CM1903	
7B-42	07/27/2022	07/27/2022	Photo of 4 tier cake	
7B-54	07/27/2022	07/27/2022	Photo of 3 tier cake	Here
7B-1	07/27/2022	07/27/2022	Photo of 7 tier cake	
7B-13	07/27/2022	07/27/2022	Photo of 5 tier cake	
7B-92	07/27/2022	07/27/2022	Photo of 5 tier cake	
671	07/27/2022	07/27/2022	Text messages to Patrick Salazar, Mireya Rodriguez	
568	07/28/2022		Social media post and comments	
553 D - 3	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 1	07/27/2022		Social media comments/likes	
553 D - 7	07/28/2022	07/28/2022	Social media comments/likes	
553 D - 29	07/28/2022	07/28/2022	Social media comments/likes	

JCA

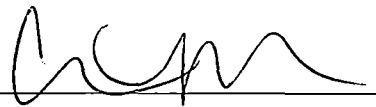
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Exhibit Clerk

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Attorney: _____ (Signature)	Name: _____	Date: _____	Released by Clerk Initials: _____
Attorney: _____ (Signature)	Name: _____	Date: _____	Released by Clerk Initials: _____
Agency: _____ (BPD, KCSO, etc.)	Name: _____	Date: _____	Released by Clerk Initials: _____

AA02382

EXHIBIT LISTPage 2 of 5Case #: **BCV-18-102633**Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.Judge: BradshawJCA: Suzanne SayabuaovongDept: JCounsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
			***** Joint Exhibits*****	
103	07/27/2022	07/27/2022	Tastries Cake Tasting Sign-in Sheet (08/26/2017) [DFEH00026-00027]	
104	07/26/2022	07/27/2022	Elena Davis Cake Order Form (06/22/2017) [DFEH00028-00031]	
108	07/27/2022	07/27/2022	Receipt from the Rodriguez-Del Rios' First Trip to Tastries (08/17/2017) [DFEH00179]	
110	07/27/2022	07/27/2022	Photo of Marriage Certificate	
111	07/27/2022	07/27/2022	Metro Special Events of Rental Agreement and House Rules dated 08/17/2016	
113	07/26/2022	07/27/2022	Email Chain Between Mireya Rodriguez-Del Rio and Natalie Boatwright aka Natalie Martens re Cake Tasting 08/23/2017 [DFEH 00184-00185]	
114	07/26/2022	07/27/2022	Text Exchange between Mireya Rodriguez-Del Rio	
115	07/27/2022	07/27/2022	Articles of Incorporation of Cathy's Creations, Inc. and Bylaws 12/20/2012 [CM00001-00023]	
117	07/27/2022	07/27/2022	Cathy's Creations, Inc. dba Tastries	
118	07/27/2022	07/27/2022	Cathy's Creations Inc. Registration with State of California, Secretary of State 08/28/2017; 01/31/2013 [DFEH0010100103]	
123	07/26/2022	07/27/2022	Photos of Tastries Cakes Exh #3 from 02/24/2022 Deposition of Def. Catharine Miller and Others	
125	07/26/2022	07/27/2022	Photograph of Tastries Display Cake [DFEH00166]	
126	07/27/2022	07/27/2022	Photo of Tastries Four Tier Cake [CM00978]	
127	07/27/2022	07/27/2022	Photo of Tastries Slot Machine Cake [DFEH00999]	
128	07/27/2022	07/27/2022	Photo of Tastries 3 tier Baby Shower Cake [DFEH00984]	
129	07/27/2022	07/27/2022	Photo of Tastries 3 tier cake [DFEH00981]	
138	07/27/2022	07/27/2022	Adam Ramos and Ted Freitas Cake Order and Pymnt Transfer to Gimme Some Sugar 09/27/2017 [DFEH00036-00039]	
139	07/27/2022	07/27/2022	Ted G. Freitas Facebook Post regarding Tastries Discrimination 08/26/2017 [CM1900-1902]	
140	07/27/2022	07/27/2022	Patrick Grijalva Salazar email exchange with DeCoeur Bake Shop re Wedding Tasting and Attachments [DFEH00222-00234]	
144	07/27/2022	07/27/2022	Facebook messages between Jessica Criollo and Eileen Rodriguez Del-Rio re Wedding Cake [DFEH00246-257]	
150	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange re wedding planning [dep exh 503]	
151	07/26/2022	07/27/2022	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text exchange re wedding dresses/tux [dep exh 504]	
152	07/27/2022	07/27/2022	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text exchange re bouquet, shoes, cake [depo exh 505]	
153	07/27/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re flower and dress colors [dep exh 506]	
154	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting and bouquet [depo exh 507]	
155	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting [depo exh 509]	
156	07/27/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting availability [depo exh 511]	
157	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re Tastries cake tasting confirmation [depo exh 515]	
498	07/26/2022	07/27/2022	Email between Eileen Del Rio and Don Martin with Metro Galleries dated 08/14/2016 - 08/15/2016 bates # DFEH00307-DFEH00310	

JCA

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Attorney: _____ (Signature)	Name: _____	Date: _____	Released by Clerk Initials: _____
Agency: _____ (BPD, KCSO, etc.)	Name: _____	Date: _____	Released by Clerk Initials: _____

AA02383

EXHIBIT LISTPage 3 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
			*****Joint Exhibits*****	
553 D -19	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 23	07/27/2022	07/28/2022	Social media comments/likes	
553 D -38	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 13	07/27/2022	07/28/2022	Social media comments/likes	
700A	07/28/2022	07/29/2022	Defendant Catharine Miller's Objections & Responses to Request for Admission Set One	
700B	07/28/2022	07/29/2022	Defendant Cathy's Creations, Inc. dba Tastries Bakery's Objections and Responses to Requests for Admissions Set One	
134	07/28/2022	07/29/2022	Tastries Employee List dated 3/1/22	
1 - 003	07/28/2022	07/28/2022	1 page photo	
1 - 004	07/28/2022	07/28/2022	1 page photo	
1 - 005	07/28/2022	07/28/2022	1 page photo	
1 - 010	07/28/2022	07/28/2022	1 page photo	
1 - 013	07/28/2022	07/28/2022	1 page photo	
1 - 014	07/28/2022	07/28/2022	1 page photo	
231 - 001	07/28/2022	07/28/2022	1 page photo	
231 - 002	07/28/2022	07/28/2022	1 page photo	
231 - 004	07/28/2022	07/28/2022	1 page photo	
231 - 005	07/28/2022	07/28/2022	1 page photo	
231 - 006	07/28/2022	07/28/2022	1 page photo	
231 - 008	07/28/2022	07/28/2022	1 page photo	
231 - 009	07/28/2022	07/28/2022	1 page photo	
231 - 010	07/28/2022	07/28/2022	1 page photo	
231 - 012	07/28/2022	07/28/2022	1 page photo	
231 - 013	07/28/2022	07/28/2022	1 page photo	
5 - 001	07/28/2022	07/28/2022	1 page document titled Tastries bakery-boutique-events; bottom right corner reads DFEH00091	
5 - 002	07/28/2022	07/28/2022	1 page document bottom right corner reads DFEH00092	
5 - 004	07/28/2022	07/28/2022	1 page document bottom right corner reads DFEH00094	
4 - 036	07/28/2022	07/28/2022	1 page document titled Tastries bakery-boutique-events Design Standards	
4 - 001	07/28/2022	07/28/2022	1 page document bottom right corner reads CM-0900	
4 - 015	07/28/2022	07/28/2022	1 page document title Layered Cake Stands	

JCA

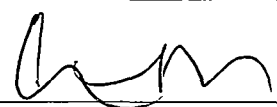
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(Signature)Attorney: _____ Name: _____ Date: _____ Released by Clerk Initials: _____
(Signature)Agency: _____ Name: _____ Date: _____ Released by Clerk Initials: _____
(BPD, KCSO, etc.)

AA02384

EXHIBIT LISTPage 4 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: _____

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Janna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
			*****Joint Exhibits*****	
5-003	07/29/2022	07/29/2022	1 page document bottom right corner reads DFEH00093	
4-022	07/28/2022	07/28/2022	1 page document titles Fun Shapes Take the Cake	
7A-001	07/28/2022	07/28/2022	1 page photo of cookie cutters	
7A-011	07/28/2022	07/28/2022	1 page photo of two tier cake	
7B-013	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-014	07/28/2022	07/28/2022	1 page photo of three tier cake	
7B-015	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-017	07/28/2022	07/28/2022	1 page photo of four tier cake	
7B-024	07/28/2022	07/28/2022	1 page photo of three tier cake	
7B-030	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-031	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-134	07/28/2022	07/28/2022	1 page photo of four tier cake	
7B-052	07/28/2022	07/28/2022	1 page photo of bottom right reads CM-0988	
13A	07/28/2022		Flashdrive- Photolabeled "Top Tier Crumb Coat"	
13D	07/28/2022		Flashdrive- Photo labeled "Smooth Coat"	
13E	07/28/2022		Flashdrive- Photo labeled "Smoothing Butter Cream"	
13F	07/28/2022		Flashdrive- Photo labeled "Stacking"	
13G	07/28/2022		1 page photo of three tier cake	
14A	07/28/2022		Flashdrive- Photo labeled "Decoration"	
14B	07/28/2022		Flashdrive- Photo labeled "Decoration"	
231-014	07/28/2022	07/28/2022	1 page photo	
553B-001	07/27/2022	07/27/2022	Copy of a social media post	
553A-001	07/27/2022	07/27/2022	Copy of a social media post	
130	07/29/2022	07/29/2022	3 page document	
131	07/29/2022	07/29/2022	5 page document - Environment Health Permit	
132	07/29/2022	07/29/2022	2 page document titled California State Board of Equalization Seller's Permit	
133	07/29/2022	07/29/2022	4 page document titled California Secretary of State Electronic Certified Copy	
148	07/29/2022	07/29/2022	2 page document of an email subject: Re: Rodriguez/Del Rio Wedding October 7	
104-002	07/26/2022	07/27/2022	1 page document Tastries Bakery Receipt dated 06/22/2017	

JCA

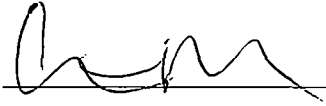
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(Signature)Attorney: _____ Name: _____ Date: _____ Released by Clerk Initials: _____
(Signature)Agency: _____ Name: _____ Date: _____ Released by Clerk Initials: _____
(BPD, KCSO, etc.)

AA02385

Exhibit LLL

JUL 27 2022

BY  DEPUTY

NELSON CHAN, Assistant Chief Counsel (#109272)
GREGORY J. MANN, Associate Chief Counsel (#200578)
KENDRA TANACEA, Associate Chief Counsel (#154843)
SOYEON C. MESINAS, Staff Counsel (#324046)
DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING
320 West 4th Street, Suite # 1000, 10th Floor
Los Angeles, California 90013
Telephone: (213) 439-6799
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Attorneys for the Department
Fee Exempt (Gov. Code, § 6103)

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Facsimile: (858) 759-9938

*Attorneys for Defendants Cathy's
Creations, Inc. and Catharine Miller*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN**

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

Plaintiff,

v.

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

Defendants.

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

Real Parties in Interest.

CASE NO.: BCV-18-102633

**JOINT TRIAL EXHIBIT LIST,
AMENDED, WITH OBJECTIONS**

Date: July 25, 2022
Time: 9:00 a.m.
Dept: J
Judge: Hon. J. Eric Bradshaw

Action Filed: Oct. 17, 2018

JOINT TRIAL EXHIBIT LIST, AMENDED, WITH OBJECTIONS

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
1	Defendant	Fourteen photographs inside of Tastries Bakery depicting store, walls, display case, kitchen, supply room	DFEH Stipulates to Authenticity provided defendants identify when these photos were taken.	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351) [to the extent not representative of August 2017]		
2	Defendant	Seven photographs depicting Tastries Bakery display cakes	DFEH Stipulates to Authenticity and Admissibility			
3	Defendant & Plaintiff	Tastries Bakery blank Order Forms [DFEH00041-00050]	Joint Exhibit; Stipulation as to Authenticity and Admissibility			
4	Defendant	Tastries Bakery Cake Binder with policies, designs, and prices, bates numbered Confidential CM900-CM936	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351) [to the extent not representative of August 2017]		
5	Defendant & Plaintiff	Tastries Bakery Wedding Packet, [DFEH 00091-00094]	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351) [to the extent not representative of August 2017]		
6	Defendant	Tastries Bakery Cake Order Forms, bates numbered Confidential CM2602-CM2604, CM2647-CM2649, CM2694-CM2698, CM2703-CM2705, CM2814-CM2819, CM2856-CM2860, CM2972-CM2973, CM3102-CM3106, CM3227-CM3228, CM3277-CM3280, CM3372-CM3373	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351) [to the extent not representative of August 2017]		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
7A	Defendant	Eleven Photographs of Tastries Bakery tools and artists decorating cakes using tools	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351)[(to the extent not representative of August 2017]		
7B	Defendant	140 Photographs of Tastries Bakery wedding cakes, bates numbered CM937-CM1076	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351) [to the extent not representative of August 2017]		
8	Defendant & Plaintiff	Tastries Bakery Standard of Service, bates numbered CM26, CM646, CM662-CM663	Joint Exhibit; Stipulation as to Authenticity and Admissibility			
9	Defendant	Emails between Tastries Bakery and Sarah Medina regarding denial of cookie order for bachelorette party, dated March 24, 2022, bates numbered CM3596	DFEH Stipulates to Authenticity	Irrelevant (Evid. Code, §§ 210, 350-351)		
10	Defendant	Check to Gimmee Some Sugar from Cathy's Creations, dated September 7, 2016	DFEH Stipulates to Authenticity and Admissibility			
11	Defendant & Plaintiff	Tastries Bakery Form re Eileen & Mireya Rodriguez-Del Rio, [DFEH00180]	Joint Exhibit; Stipulation as to Authenticity and Admissibility			
12A	Defendant	Southern Baptist Convention's Resolution "On Same-sex Marriage," dated June 1, 2003		Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); and Unduly Time Consuming (Evid. Code, §		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
				352)		
12B	Defendant	Southern Baptist Convention President & other Christian leaders' statement in response to Supreme Court ruling in <i>Obergefell v. Hodges</i> , "Here We Stand," dated June 26, 2015		Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); and Unduly Time Consuming (Evid. Code, § 352)		
12C	Defendant	Southern Baptist Convention's Resolution "On Biblical Sexuality and the Freedom of Conscience," dated June 16, 2016		Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); and Unduly Time Consuming (Evid. Code, § 352)		
12D	Defendant	"Nashville Statement" from a Coalition for Biblical Sexuality signed by Christian theologians and leaders regarding Christian stance on same sex marriage		Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); and Unduly Time Consuming (Evid. Code, § 352)		
13	Defendant	First Series of Short Videos of Tastrics Bakery Artist Decorating Cake	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§210, 350-351) [to the extent not representative of August 2017]		
14	Defendant	Second Series of Short Videos of Tastrics Bakery Artist Decorating Cake	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§210, 350-351) [to the extent not representative		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
				of August 2017]		
15	Defendant	Tastries Wedding Sales Analysis, 2014-2018		Lacks foundation (Evid. Code, §§ 403, 702, 800); Duplicative of Ex. 17 – CM3595; Irrelevant (Evid. Code, §§210, 350-351); Hearsay (Evid. Code, § 1200); improper expert (Evid. Code, § 720) and lay witness testimony (Evid. Code, § 800)		
16	Defendant	Tastries Wedding Sales Analysis, 2019-2021		Lacks foundation (Evid. Code, §§ 403, 702, 800); Duplicative of Ex. 17 – CM3594; Irrelevant (Evid. Code, §§210, 350-351); Hearsay (Evid. Code, § 1200); improper expert (Evid. Code, § 720) and lay witness testimony (Evid. Code, § 800)		
17	Defendant	Statement on Financial Impact of Stopping All Wedding Services, bates numbered Confidential CM3593-CM3595		Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§210, 350-351); Hearsay (Evid. Code, § 1200); improper expert (Evid. Code, § 720) and lay witness testimony (Evid. Code, § 800)		
18	Defendant	Photographs of Tastries Vehicle with broken window		Lacks foundation (Evid. Code, §§ 403, 702, 800); no personal knowledge; Speculation (Evid. Code, §§ 702, 800 and 801(b));		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
				Irrelevant, (Evid. Code, §§ 210, 350-351); see also DFEH MIL No. 5		
19	Defendant	<i>Reserved</i>				
20	Defendant	<i>Reserved</i>				
21	Defendant	Letter from Department of Fair Employment and Housing to Cathy Miller Re Notice of Filing of Discrimination Complaint, dated October 26, 2017	DFEH stipulates as to authenticity	Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351)		
22	Defendant	<i>Reserved</i> [See Defendants' Motion for Judicial Notice]				
23	Defendant	Letter from Department of Fair Employment and Housing to Charles LiMandri Re Notice of Cause Finding and Mandatory Dispute Resolution, dated October 10, 2018	DFEH stipulates as to authenticity	Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351)		
24A	Defendant	Declaration of Reina Benitez, dated January 17, 2018, in Case No. BCV-17-102855		Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); Speculation (Evid. Code, §§ 702, 800 and 801(b)), and conclusory		
24B	Defendant	<i>Reserved</i> [See Defendants' Motion for Judicial Notice]				
25	Defendant	<i>Reserved</i> [See Defendants' Motion for Judicial Notice]				
26-30	Defendant	<i>Reserved</i>				
31	Defendant	Text message string between Patrick Grijalva and Mireya Rodriguez-Del Rio, DFEH00289-294	DFEH Stipulates to Authenticity	Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351)		
32	Defendant	Text message string between Real	DFEH Stipulates to Authenticity	Hearsay (Evid. Code, § 1200);		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
		Parties, Patrick Grijalva, and Samuel Salazar, SAM0007, SAM0082, SAM0104, SAM0121, SAM0244-45	with redactions	and Irrelevant (Evid. Code, §§210, 350-351)		
33	Defendant	Text message string between Real Parties, Patrick Grijalva, and Samuel Salazar, PAT0018	DFEH Stipulates to Authenticity	Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351)		
34	Defendant	Facebook post re: "PFLAG's Pride Month Kick Off" event featuring Eileen and Mireya Rodriguez-Del Rio, dated June 6, 2019 [Defense Deposition Exhibit 681]	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§210, 350-351); Hearsay (Evid. Code, § 1200)		
35-40	Defendant	<i>Reserved</i>				
101	Plaintiff	<i>Reserved</i> [See Ex. 3]				
102	Plaintiff	Tastries State Farm Businessowners Coverage Form [CM0820, 867, 875]	Authenticity only	Relevance; Evid. Code § 352; Evid. Code, § 1155		
103	Plaintiff	Tastries Cake Tasting Sign-in Sheet (August 26, 2017) [DFEH00026-00027]	Authenticity and Admissibility			
104	Plaintiff	Elena Davis Cake Order Form (June 22, 2017) [DFEH00028-00031]		Foundation; Relevance; Hearsay; and Evid. Code § 352; see Def. MIL No. 17		
105	Plaintiff	Margaret Del Rio Written Statement [DFEH00181]		Hearsay		
106	Plaintiff	<i>Reserved</i> [See Ex. 498]				
107	Plaintiff	<i>Reserved</i> [See Ex. 627A]				
108	Plaintiff	Receipt from the Rodriguez-Del Rios' First Trip to Tastries (August 17, 2017) [DFEH00179]	Authenticity and Admissibility			

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
109	Plaintiff	Reserved [See Ex. 11]				
110	Plaintiff	Rodriguez Del Rios' Marriage Certificate (December 7, 2016) [DFEH00300]	Authenticity and Admissibility			
111	Plaintiff	Rodriguez-Del Rios' Rental Agreement with Metro Galleries (August 17, 2016) [DFEH00177-00178]	Authenticity and Admissibility			
112	Plaintiff	Mireya Rodriguez-Del Rio's Written Statement regarding Discrimination by Catharine Miller [DFEH00182-00183]		Hearsay; Evid. Code, § 352		
113	Plaintiff	Email Chain between Mireya Rodriguez-Del Rio and Natalie Boatwright aka Natalie Martens re Cake Tasting (August 23, 2017) [DFEH00184-00185]	Authenticity and Admissibility			
114	Plaintiff	Text Exchange between Mireya Rodriguez-Del Rio and Rosemary Perez (August 26, 2017) [DFEH00283-00284]	Authenticity and Admissibility			
115	Plaintiff	Articles of Incorporation of Cathy's Creations, Inc. and Bylaws (December 20, 2012) [CM00001-00023]	Authenticity and Admissibility			
116	Plaintiff	Certificate of Liability Insurance - Cathy's Creations, Inc. DBA Tastries Bakery (January 1, 2017) [CM00027]	Authenticity only	Relevance; Evid. Code § 352; Evid. Code, § 1155		
117	Plaintiff	Cathy's Creations, Inc. d/b/a Tastries	Authenticity and Admissibility			

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
		Response to DFEH Administrative Complaint [DFEH00001-00016]				
118	Plaintiff	Cathy's Creations, Inc. Registration with State of California, Secretary of State (August 28, 2017; January 31, 2013) [DFEH00101-00103]	Authenticity and Admissibility			
119	Plaintiff	<i>Reserved</i> [See Ex. 5]				
120	Plaintiff	<i>Reserved</i> [See Ex. 8]				
121	Plaintiff	Gimme Some Sugar Owner Disputes Bakery Owner's Recollection (February 10, 2018)		Hearsay; Foundation; Evid. Code § 352		
122	Plaintiff	<i>Reserved</i>				
123	Plaintiff	Photographs of Tastries Cakes [Exhibit No. 3 from February 24, 2022 Deposition of Defendant Catharine Miller and others]	Authenticity and Admissibility			
124	Plaintiff	<i>Reserved</i> [See Ex. 631]				
125	Plaintiff	Photograph of Tastries Display Cake [DFEH00166]	Authenticity and Admissibility			
126	Plaintiff	Photograph of Tastries Four Tier Cake [CM00978]	Authenticity and Admissibility			
127	Plaintiff	Photograph of Tastries Slot Machine Cake [DFEH00999]	Authenticity and Admissibility			
128	Plaintiff	Photograph of Tastries Three Tier Baby shower Cake [DFEH00984]	Authenticity and Admissibility			
129	Plaintiff	Photograph of Tastries Three Tier Cake [DFEH00981]	Authenticity and Admissibility			

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
130	Plaintiff	Tastries Business License Renewal	Authenticity only	Relevance; Evid. Code § 352		
131	Plaintiff	Tastries Health Permit	Authenticity only	Relevance; Evid. Code § 352		
132	Plaintiff	Tastries Sellers Permit	Authenticity only	Relevance; Evid. Code § 352		
133	Plaintiff	Tastries Secretary of State Filing Certificate	Authenticity only	Relevance; Evid. Code § 352		
134	Plaintiff	<i>Reserved</i>				
135	Plaintiff	Tastries Bakery Cake Order Forms, bates numbered Confidential: CM2147-2155 CM2170-2178 CM2187-2198 CM2205-2209 CM2228-2234 CM2252-2256 CM2343-2349 CM2405-2408	Defendants Stipulate to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§ 210, 350-351)		
136	Plaintiff	<i>Reserved</i>				
137	Plaintiff	<i>Reserved</i>				
138	Plaintiff	Adam Ramos and Ted Freitas Cake Order and Payment Transfer to Gimme Some Sugar (September 27, 2017) [DFEH00036-00039]	Authenticity and Admissibility			
139	Plaintiff	Ted G. Freitas Facebook Post regarding Tastries Discrimination (August 26, 2017) [CM1900-1902]	Authenticity and Admissibility			
140	Plaintiff	Patrick Grijalva Salazar email exchange with De Coeur Bake Shop re Wedding Tasting and Attachments [DFEH00222-00234]	Authenticity and Admissibility			
141	Plaintiff	Rodriguez-Del Rios' Wedding Planning and Related Documents		Hearsay; Relevance; Evid. Code, § 352		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
		[DFEH00237-240; DFEH00262; DFEH00285-288]				
142	Plaintiff	<i>Reserved</i> [See Ex. 627A]				
143	Plaintiff	Rodriguez-Del Rios' Notes [DFEH00243-245]		Hearsay; Evid. Code, § 352		
144	Plaintiff	Facebook messages between Jessica Criollo and Eileen Rodriguez Del-Rio re Wedding Cake [DFEH00246-257]	Authenticity and Admissibility			
145	Plaintiff	Facebook messages between Lizet Aleman and Eileen Rodriguez Del-Rio re Wedding Cake [DFEH00257-261]		Hearsay		
146	Plaintiff	<i>Reserved</i>				
147	Plaintiff	Text exchange between Eileen Rodriguez Del-Rio and Amy (Last Name Unknown) re Flowers for Wedding [DFEH00280]		Hearsay; Relevance; Evid. Code, § 352		
148	Plaintiff	Emails between Eileen Del Rio and Don Martin with Metro Galleries regarding wedding venue, dated September 6, 2017 [DFEH00324-DFEH00325]		Hearsay; Relevance; Evid. Code, § 352		
149	Plaintiff	Rodriguez-Del Rios' Wedding Planning and Related Documents—Continued [DFEH00326-352, DFEH00345-377]		Hearsay; Relevance; Evid. Code, § 352		
150	Plaintiff	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange Re Wedding Planning [Deposition Exhibit 503]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
151	Plaintiff	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text Exchange Re Wedding Dresses/Tux [Deposition Exhibit 504]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		
152	Plaintiff	Eileen and Mireya Rodriguez-Del Rio Sam Salazar, and Patrick Grijalva Salazar Text Exchange Re Bouquet, Shoes, Cake [Deposition Exhibit 505]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		
153	Plaintiff	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange Re Flower and Dress Colors [Deposition Exhibit 506]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		
154	Plaintiff	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange Re Cake Tasting and Bouquet [Deposition Exhibit 507]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		
155	Plaintiff	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange Re Cake Tasting [Deposition Exhibit 509]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		
156	Plaintiff	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange Re Cake Tasting Availability [Deposition Exhibit 511]	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting & cumulative		
157	Plaintiff	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange Re	Authenticity	Defense reserves an objection per Evid. Code, § 352, time-wasting &		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
		Tastries Cake Tasting Confirmation [Deposition Exhibit 515]		cumulative		
158-159	Plaintiff	<i>Reserved</i>				
231	Defendant	Fourteen Photographs of Christian décor inside Tastries Bakery	DFEH Stipulates to Authenticity provided Defendants identify when these photos were taken.	Lacks foundation (Evid. Code, §§ 403, 702, 800); Irrelevant (Evid. Code, §§210, 350-351) [to the extent not representative of August 2017]		
498	Defendant & Plaintiff	Emails between Eileen Del Rio and Don Martin with Metro Galleries regarding wedding venue, dated August 14, 2016 through August 15, 2016, bates numbered DFEH00307-DFEH00310	Joint Exhibit; Stipulation as to Authenticity and Admissibility			
550	Defendant	Printout of Sam Salazar's social media post regarding Tastries Bakery dated August 26, 2017; posts with offers on social media to Salazar for free wedding services and inquiry from journalist, dated August 26, 2017 through August 28, 2017, bates numbered CM1897-CM1899	DFEH Stipulates to Authenticity of Sam's Post only.	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
553A	Defendant	Eileen Rodriguez-Del Rio's Facebook Post regarding Tastries Bakery, dated August 26, 2017, bates numbered DFEH00235	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
553B	Defendant	Eileen Rodriguez-Del Rio's Facebook Post regarding	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800);		

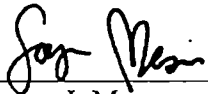
Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
		Tastries Bakery with timestamp, dated August 26, 2017 at 1:13pm		Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
553C	Defendant	Comments to Eileen Rodriguez-Del Rio's Facebook Post regarding Tastries Bakery, dated August 26, 2017	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
554	Defendant	"Wen Rod" [Mireya Rodriguez-Del Rio] social media post regarding Tastries, dated August 26, 2017, bates numbered DFEH00236	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
555A	Defendant	Eileen Rodriguez-Del Rio's Facebook Review of Tastries, dated August 26, 2017, bates numbered CM1903	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
555B	Defendant	Eileen Rodriguez-Del Rio Facebook Page, screenshot on March 3, 2021	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200) and Irrelevant (Evid. Code, §§210, 350-351).		
557	Defendant	Text messages between Sam Salazar, Eileen & Mireya Rodriguez-Del Rio regarding the incident, dated August 26, 2017, bates numbered PAT0007-PAT0015	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant (Evid. Code, §§210, 350-351).		
559	Defendant	Text messages between Patrick Grijalva and Mireya Rodriguez-Del Rio regarding Karma, dated August 26,	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); and Irrelevant		

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
		2017, bates numbered PAT0083-PAT0085		(Evid. Code, §§210, 350-351).		
562	Defendant	23ABC News article, entitled "Tastries Bakery under fire after reportedly refusing to serve gay couple," dated August 26, 2017		Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200)		
564	Defendant	Hate messages received after the incident with rape, death, and other threats towards Tastries Bakery staff and/or Cathy Miller, bates numbered CM1112, CM1258, CM1263, CM1302, CM1337, CM1399, CM1408, CM1416, CM1420, CM1446, CM1474, CM1475, CM1482, CM1486, CM1487, CM1527, CM1532, CM1533, CM1536, CM1539, CM1540, CM1545, CM1544, CM1553, CM1562, CM1588, CM1594, CM1605, CM1872-CM1876		Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); Prejudicial, and Unduly Time Consuming (Evid. Code, § 352); Speculation (Evid. Code, §§ 702, 800 and 801(b)); see DFEH's MIL No. 5.		
568	Defendant	Eileen Rodriguez-Del Rio Facebook post sharing news article with names tagged in post listed, August 31, 2017	DFEH Stipulates to Authenticity and Admissibility if comments by third parties redacted.	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); privacy violations; No probative value (Evid. Code, § 352)		
627A	Defendant & Plaintiff	Photographs of the Rodriguez-Del Rio's wedding, bates numbered DFEH00295-DFEH00299	Joint Exhibit; Stipulation as to Authenticity and Admissibility			

Exhibit No.	Offered By	Description	Stipulation	Legal Ground for Objection	Date Offered	Date Admitted
627B	Defendant	"Wen Rod" [Mireya Rodriguez-Del Rio] Facebook posts with photographs of wedding and rings	DFEH Stipulates to Authenticity and Admissibility if comments by third parties redacted.	Comments by Third Parties are Hearsay (Evid. Code, § 1200) and Irrelevant (Evid. Code, §§210, 350-351); privacy violations; No probative value (Evid. Code, § 352)		
630	Defendant	Rodriguez-Del Rio wedding day schedule, bates numbered DFEH00237	DFEH Stipulates to Authenticity and Admissibility			
631	Defendant & Plaintiff	Photograph of three tier white wedding cake with flowers, bates numbered DFEH00175	Joint Exhibit; Stipulation as to Authenticity and Admissibility			
671	Defendant	Text messages between Sam Salazar, Patrick Salazar, & Mireya Rodriguez-Del Rio regarding news article, dated November 10, 2018-November 17, 2018, bates numbered SAM0040-SAM0041	DFEH Stipulates to Authenticity	Lacks foundation (Evid. Code, §§ 403, 702, 800); Hearsay (Evid. Code, § 1200); Irrelevant (Evid. Code, §§210, 350-351); No probative value (Evid. Code, § 352)		

Dated: July 25, 2022

DEPARTMENT OF FAIR EMPLOYMENT
AND HOUSING


 Gregory J. Mann
 Kendra Tanacea
 Soycon Mesinas
 Attorneys for Plaintiff DFEH

1 Dated: July 25, 2022

LiMANDRI & JONNA LLP

2
3 By: /s/ Jeffrey M. Trissell
4 Charles S. LiMandri
5 Paul M. Jonna
6 Jeffrey M. Trissell
7 Attorneys for Defendants Catharine Miller
8 and Cathy's Creations, Inc. dba Tastrics
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Exhibit MMM

EXHIBIT LISTPage 1 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
***** JOINT EXHIBITS *****				
001-001	07/25/2022	07/28/2022	Photo of Cakes/Boutique Store	
001-006	07/25/2022	07/28/2022	Photo of Cakes/Boutique Store	
231-013	07/25/2022	07/28/2022	Tastries Card-listing services-EM	
7B-003	07/25/2022	07/28/2022	Photo of 6 Tier Cake	
7B-011	07/25/2022	07/28/2022	Photo of table and desserts	
7B-025	07/25/2022	07/28/2022	Photo of 3 Tier Cake	
7B-059	07/25/2022	07/28/2022	Photo of 6 Tier Cake	
8	07/25/2022	07/27/2022	Tastries Bakery Standard of Service, bates numbered CM26, CM646, CM662-CM663	
104-001	07/26/2022	07/26/2022	Tastries Order form dated 06/22	
11	07/26/2022	07/27/2022	Tastries Bakery Form re Eileen & Mireya Rodriguez - Del Rio [DFEH00180]	
2	07/27/2022	07/27/2022	Seven photographs depicting Tastries Bakery display cakes	
3	07/27/2022	07/27/2022	Tastries Bakery blank order forms [DFEH00041-00050]	
10	07/27/2022	07/27/2022	Check to Gimmee Some Sugar from Cathy's Creations, dated 09/07/2016	
554	07/27/2022	07/27/2022	Social Media Post regarding Tastries dated 08/26/2017	
627-A	07/25/22	07/27/2022	Photos of the Rodriguez-Del Rio's wedding, bates # DFEH00295-DFEH00299	
630	07/27/22	07/27/2022	Rodriguez-Del Rio wedding day schedule, bates # DFEH00237	
631	07/25/22	07/27/2022	Photo of 3 tier white wedding cake with flowers, bates # DFEH00175	
555-A	07/27/2022	07/28/2022	Eileen Rodriguez-Del Rio's Facebook Review of Tastries, dated 08/26/2017, bates # CM1903	
7B-42	07/27/2022	07/27/2022	Photo of 4 tier cake	
7B-54	07/27/2022	07/27/2022	Photo of 3 tier cake	Here
7B-1	07/27/2022	07/27/2022	Photo of 7 tier cake	
7B-13	07/27/2022	07/27/2022	Photo of 5 tier cake	
7B-92	07/27/2022	07/27/2022	Photo of 5 tier cake	
671	07/27/2022	07/27/2022	Text messages to Patrick Salazar, Mireya Rodriguez	
568	07/28/2022		Social media post and comments	
553 D - 3	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 1	07/27/2022		Social media comments/likes	
553 D - 7	07/28/2022	07/28/2022	Social media comments/likes	
553 D - 29	07/28/2022	07/28/2022	Social media comments/likes	

JCA

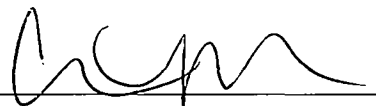
Verified: 

Exhibit Clerk

Received: _____

Date

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Death Penalty Rm: 1 or 2 Vault Area Space#: _____ Shelf#: _____ Box#: _____ Safe#: _____

Poster Sections: 1, 2, 3, 4: _____

Top: _____ / Bottom: _____ Additional Info: _____

RETURNED/RELEASED

Exhibit numbers released: _____

Attorney: _____ Name: _____ Date: _____ Released by Clerk
(Signature) Initials: _____Attorney: _____ Name: _____ Date: _____ Released by Clerk
(Signature) Initials: _____Agency: _____ Name: _____ Date: _____ Released by Clerk
(BPD, KCSO, etc.) Initials: _____

AA02406

EXHIBIT LISTPage 2 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
			*****Joint Exhibits*****	
103	7/26/22	07/27/2022	Tastries Cake Tasting Sign-in Sheet (08/26/2017) [DFEH00026-00027]	
104	07/26/2022	07/27/2022	Elena Davis Cake Order Form (06/22/2017) [DFEH00028-00031]	
108	7/26/22	07/27/2022	Receipt from the Rodriguez-Del Rios' First Trip to Tastries (08/17/2017) [DFEH00179]	
110	07/27/2022	07/27/2022	Photo of Marriage Certificate	
111	07/27/2022	07/27/2022	Metro Special Events of Rental Agreement and House Rules dated 08/17/2016	
113	07/26/2022	07/27/2022	Email Chain Between Mireya Rodriguez-Del Rio and Natalie Boatwright aka Natalie Martens re Cake Tasting 08/23/2017 [DFEH 00184-00185]	
114	07/26/2022	07/27/2022	Text Exchange between Mireya Rodriguez-Del Rio	
115	07/27/2022	07/27/2022	Articles of Incorporation of Cathy's Creations, Inc. and Bylaws 12/20/2012 [CM00001-00023]	
117	07/27/2022	07/27/2022	Cathy's Creations, Inc. dba Tastries	
118	07/27/2022	07/27/2022	Cathy's Creations Inc. Registration with State of California, Secretary of State 08/28/2017; 01/31/2013 [DFEH0010100103]	
123	07/26/2022	07/27/2022	Photos of Tastries Cakes Exh #3 from 02/24/2022 Deposition of Def. Catharine Miller and Others	
125	07/26/2022	07/27/2022	Photograph of Tastries Display Cake [DFEH00166]	
126	07/27/2022	07/27/2022	Photo of Tastries Four Tier Cake [CM00978]	
127	07/27/2022	07/27/2022	Photo of Tastries Slot Machine Cake [DFEH00999]	
128	07/27/2022	07/27/2022	Photo of Tastries 3 tier Baby Shower Cake [DFEH00984]	
129	07/27/2022	07/27/2022	Photo of Tastries 3 tier cake [DFEH00981]	
138	07/27/2022	07/27/2022	Adam Ramos and Ted Freitas Cake Order and Pymnt Transfer to Gimme Some Sugar 09/27/2017 [DFEH00036-00039]	
139	07/27/2022	07/27/2022	Ted G. Freitas Facebook Post regarding Tastries Discrimination 08/26/2017 [CM1900-1902]	
140	07/27/2022	07/27/2022	Patrick Grijalva Salazar email exchange with DeCoeur Bake Shop re Wedding Tasting and Attachments [DFEH00222-00234]	
144	07/27/2022	07/27/2022	Facebook messages between Jessica Criollo and Eileen Rodriguez Del-Rio re Wedding Cake [DFEH00246-257]	
150	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange re wedding planning [dep exh 503]	
151	07/26/2022	07/27/2022	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text exchange re wedding dresses/lux [dep exh 504]	
152	07/27/2022	07/27/2022	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text exchange re bouquet, shoes, cake [dep exh 505]	
153	07/27/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re flower and dress colors [dep exh 506]	
154	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting and bouquet [dep exh 507]	
155	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting [dep exh 509]	
156	07/27/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting availability [dep exh 511]	
157	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re Tastries cake tasting confirmation [dep exh 515]	
498	07/26/2022	07/27/2022	Email between Eileen Del Rio and Don Martin with Metro Galleries dated 08/14/2016 - 08/15/2016 bates # DFEH00307-DFEH00310	

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(BPD, KCSO, etc.)

AA02407

EXHIBIT LISTPage 3 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
*****Joint Exhibits*****				
553 D -19	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 23	07/27/2022	07/28/2022	Social media comments/likes	
553 D -38	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 13	07/27/2022	07/28/2022	Social media comments/likes	
700A	07/28/2022	07/29/2022	Defendant Catharine Miller's Objections & Responses to Request for Admission Set One	
700B	07/28/2022	07/29/2022	Defendant Cathy's Creations, Inc. dba Tastries Bakery's Objections and Responses to Requests for Admissions Set One	
134	07/28/2022	07/29/2022	Tastries Employee List dated 3/1/22	
1 - 003	07/28/2022	07/28/2022	1 page photo	
1 - 004	07/28/2022	07/28/2022	1 page photo	
1 - 005	07/28/2022	07/28/2022	1 page photo	
1 - 010	07/28/2022	07/28/2022	1 page photo	
1 - 013	07/28/2022	07/28/2022	1 page photo	
1 - 014	07/28/2022	07/28/2022	1 page photo	
231 - 001	07/28/2022	07/28/2022	1 page photo	
231 - 002	07/28/2022	07/28/2022	1 page photo	
231 - 004	07/28/2022	07/28/2022	1 page photo	
231 - 005	07/28/2022	07/28/2022	1 page photo	
231 - 006	07/28/2022	07/28/2022	1 page photo	
231 - 008	07/28/2022	07/28/2022	1 page photo	
231 - 009	07/28/2022	07/28/2022	1 page photo	
231 - 010	07/28/2022	07/28/2022	1 page photo	
231 - 012	07/28/2022	07/28/2022	1 page photo	
231 - 013	07/28/2022	07/28/2022	1 page photo	
5 - 001	07/28/2022	07/28/2022	1 page document titled Tastries bakery-boutique-events; bottom right corner reads DFEH00091	
5 - 002	07/28/2022	07/28/2022	1 page document bottom right corner reads DFEH00092	
5 - 004	07/28/2022	07/28/2022	1 page document bottom right corner reads DFEH00094	
4 - 036	07/28/2022	07/28/2022	1 page document titled Tastries bakery-boutique-events Design Standards	
4 - 001	07/28/2022	07/28/2022	1 page document bottom right corner reads CM-0900	
4 - 015	07/28/2022	07/28/2022	1 page document title Layered Cake Stands	

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AA02408

EXHIBIT LIST

Page 4 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: _____

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeann C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
			***** Joint Exhibits *****	
5-003	07/29/2022	07/29/2022	1 page document bottom right corner reads DFEH00093	
4-022	07/28/2022	07/28/2022	1 page document titles Fun Shapes Take the Cake	
7A-001	07/28/2022	07/28/2022	1 page photo of cookie cutters	
7A-011	07/28/2022	07/28/2022	1 page photo of two tier cake	
7B-013	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-014	07/28/2022	07/28/2022	1 page photo of three tier cake	
7B-015	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-017	07/28/2022	07/28/2022	1 page photo of four tier cake	
7B-024	07/28/2022	07/28/2022	1 page photo of three tier cake	
7B-030	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-031	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-134	07/28/2022	07/28/2022	1 page photo of four tier cake	
7B-052	07/28/2022	07/28/2022	1 page photo of bottom right reads CM-0988	
* 13A	07/28/2022		Flashdrive- Photolabeled "Top Tier Crumb Coat"	
* 13D	07/28/2022		Flashdrive- Photo labeled "Smooth Coat"	
* 13E	07/28/2022		Flashdrive- Photo labeled "Smoothing Butter Cream"	
* 13F	07/28/2022		Flashdrive- Photo labeled "Stacking"	
13G	07/28/2022		1 page photo of three tier cake	
* 14A	07/28/2022		Flashdrive- Photo labeled "Decoration"	
* 14B	07/28/2022		Flashdrive- Photo labeled "Decoration"	
231-014	07/28/2022	07/28/2022	1 page photo	
553B-001	07/27/2022	07/27/2022	Copy of a social media post	
553A-001	07/27/2022	07/27/2022	Copy of a social media post	
130	07/29/2022	07/29/2022	3 page document	
131	07/29/2022	07/29/2022	5 page document - Environment Health Permit	
132	07/29/2022	07/29/2022	2 page document titled California State Board of Equalization Seller's Permit	
133	07/29/2022	07/29/2022	4 page document titled California Secretary of State Electronic Certified Copy	
148	07/29/2022	07/29/2022	2 page document of an email subject: Re: Rodriguez/Del Rio Wedding October 7	
104-002	07/26/2022	07/27/2022	1 page document Tastries Bakery Receipt dated 06/22/2017	

JCA

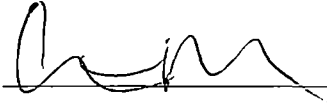
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Additional Info: Exhibits 13A, 13D, 13E, 13F, 14A, 14B* inside one flashdrive**RETURNED/RELEASED**

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AA02409

Page 5 of 5

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

JCA
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 Attorney: _____ Name: _____ Date: _____ Released by Clerk
 (Signature) _____ Initials: _____
 Agency: _____ Name: _____ Date: _____ Released by Clerk
 (BPD, KCSO, etc.) _____ Initials: _____

Exhibit NNN

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NELSON CHAN, Assistant Chief Counsel (#109272)
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Facsimile: (888) 382-5293

Attorneys for the Department
Fee Exempt (Gov. Code, § 6103)

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Kern County Superior Court
By Gina Sala, Deputy

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.

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

Defendants.

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

Real Parties in Interest.

Case No. BCV-18-102633-JEB

**PLAINTIFF CRD'S (formerly
DEPARTMENT OF FAIR
EMPLOYMENT AND HOUSING)
REQUEST FOR STATEMENT OF
DECISION**

Tentative Decision: October 21, 2022

Dept.: J

Judge: Hon. J. Eric Bradshaw

TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT pursuant to Code of Civil Procedure section 632, Plaintiff
hereby requests that the Court issue a Statement of Decision after trial of this matter.

LEGAL AUTHORITY

Upon request of any party in a nonjury trial, the judge "shall issue a statement of decision
explaining the factual and legal basis for its decision as to each of the principal controverted issues
..." (Code Civ. Proc., § 632 (emphasis added)); see also *Muzquiz v. City of Emeryville* (2000) 79

Cal.App.4th 1106, 11245; *Bay World Trading, Ltd. v. Nebraska Beef, Inc.* (2002) 101 Cal.App.4th 135, 140; *Schmidt v. Sup.Ct.* (2020) 44 Cal.App.5th 570, 582.) A statement of decision may be requested upon the trial of any question of fact. (Code Civ. Proc., § 632.) Whether made orally or in writing, the request for a statement of decision “shall specify” the particular controverted issues the requesting party wishes the court to address. (Code Civ. Proc., § 632; CRC 3.1590(d).)

Plaintiff hereby respectfully requests that the Court issue a statement of decision as to each of the principal controverted issues, and that in the statement of decision the Court explain the factual and legal basis for its decisions regarding the following issues:

CONTROVERTED ISSUES

I. Whether Plaintiff Established a Violation of the Unruh Civil Rights Act (Civ. Code, §§ 51, 52)

A. Plaintiff contends that Defendant Cathy’s Creations, Inc. (“Cathy’s Creations”), dba Tastries, is a California corporation with numerous employees who perform most of the ordering, baking, and decorating work at Defendant Cathy’s Creations, and that the corporation is separate and distinct from Defendant Catharine Miller. Plaintiff requests that the Court explain the factual and legal basis for the following issues vis-à-vis each Defendant:

1. Whether the Defendant Cathy’s Creations is a California corporation separate and apart from the individual Defendant Catharine Miller; and if so whether the legal and factual analysis differs for each claim and defense for each Defendant.
2. Whether Defendant Catharine Miller was not personally or directly involved in the baking or design of most cakes sold by Defendant Cathy’s Creations, given the total number of individuals employed by Defendant Cathy’s Creations from January 2013 through January 2022¹ and the number of employees during any given year, which includes bakers, decorators, and front-end staff, and if not, the legal significance of these facts.
3. Whether Defendant Cathy’s Creations is a small, religious boutique and bakery given the total number of individuals employed by Defendant Cathy’s Creations from

¹Trial Exhibit 134.

January 2013 through January 2022 and the number of employees during any given year, which includes bakers, decorators, and front-end staff.

B. Plaintiff contends that it proved a violation of the Unruh Civil Rights Act because regardless of Defendants’ sincere Christian beliefs, Real Parties’ sexual orientation was a motivating factor for Defendant Catharine Miller’s and Defendant Cathy’s Creations’ refusal to sell them a plain cake with no written message or topper. Plaintiff requests that the Court explain the factual and legal basis for the following:

4. Whether either or both Defendants “made a distinction” pursuant to the Unruh Civil Rights Act, based on the Real Parties’ sexual orientation, in refusing to make and sell a cake to the Real Parties.
5. Whether the Real Parties’ sexual orientation, or either or both Defendants’ perception thereof, was a motivating factor for the denial in addition to either or both Defendants’ sincerely held religious beliefs, and if so whether evidence that a person’s membership in a protected classification was a motivating factor for the challenged decision suffices to show intentional discrimination under the Unruh Civil Rights Act even if it is not the only motivation.
6. Whether either or both Defendants had to make a distinction based on sexual orientation, i.e., that Real Parties were a lesbian couple, before either or both Defendants could act on their sincere religious beliefs by denying service to Real Parties.
7. Whether either or both Defendants refused to make a cake for the Real Parties, a same-sex couple, because of Defendants’ design standards and whether those design standards apply uniformly regardless of sexual orientation, when reliance on the design standards would only result in refusal to make and sell a cake for a same-sex wedding reception.

///

///

1 C. Plaintiff contends that it proved a violation of the Unruh Civil Rights Act even if
2 Defendants provided a referral to another bakery, because the referral did not prevent the Real
3 Parties from suffering unequal access to services. Plaintiff requests that the Court explain the
4 factual and legal basis for the following:

5 8. Whether the availability of service from an alternative business establishment negates
6 liability under the Unruh Civil Rights Act after intentional discrimination is shown
7 (here, because Defendants did not refer the Real Parties to another bakery until after
8 Defendants learned they were a same-sex couple).²

9 9. Whether either or both Defendants provided the Real Parties with full and equal access
10 to goods and services by referring them to *Gimme Some Sugar* considering the
11 separate ownership of and staff for Defendant Cathy's Creations and *Gimme Some*
12 *Sugar* and that each bakery made different products made from different recipes.³

13 10. Whether there was an oral agreement between *Gimme Some Sugar* and either or both
14 Defendants. If so, (a) what were the contract terms and were the contract terms clear
15 enough that the parties could understand what each was required to do; (b) whether the
16 parties agreed to give each other something of value; (c) whether the parties agreed to
17 the terms of the contract; and (d) whether the terms of the oral agreement required that
18 *Gimme Some Sugar* would fulfill the Real Parties' order with an equivalent cake for
19 the requested date.

20 11. Whether the referral to *Gimme Some Sugar* established that *Gimme Some Sugar* could
21 or would be required to fulfill the Real Parties' order with an equivalent cake for their
22 requested date.

23
24 ² REQUEST FOR ADMISSION NO. 5: Admit that TASTRIES did not attempt to refer the RODRIGUEZ DEL-RIOS to
another bakery until after it learned they were a same-sex couple.

25 MILLER'S and TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 5: [Objections]. Subject to the
foregoing objections, and without waiving them, Defendant responds as follows: To the extent that this request solely
26 concerns the location of events in time, and not causation: **Admitted.**

27 ³ REQUEST FOR ADMISSION NO. 19: Admit that YOU cannot guarantee that potential customers YOU refer to
another bakery for a custom cake will actually be able to obtain a cake that is the same as the cake YOU would create
based on the same order.

28 TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 5: [Objections]. Subject to the foregoing objections,
and without waiving them, Defendant responds as follows: **Admitted.**

12. Whether the Real Parties suffered stigmatic harms when Defendants declined to take their cake order in a place of business open to the public and in front of their friends and family.

II. Whether Defendants Established a Free Exercise of Religion Defense

Plaintiff contends (as the Court found) that Defendants have not established a free exercise defense to the application of the anti-discrimination provisions of the Unruh Civil Rights Act because making and selling a cake to the Real Parties would not have incidentally burdened either or both Defendants' free exercise of Christian faith. Plaintiff contends that the application of the anti-discrimination provisions of the Unruh Civil Rights Act would not substantially burden either or both Defendants' free exercise of Christian faith. Plaintiff requests that the Court explain the factual and legal basis for the following:

13. Whether the act of making and selling a cake to a same-sex couple by other employees of Defendant Cathy's Creations would constitute a substantial burden on Defendant Catharine Miller's personal practice and observance of her sincere Christian beliefs when Defendant Catharine Miller is not involved in the process of making the cake.

14. Whether the act of employees making and selling a cake to a same-sex couple would constitute a substantial burden on Defendant Cathy's Creations' practice and observance of sincere Christian beliefs.

15. Whether when employees of Defendant Cathy's Creations other than Defendant Catharine Miller make and sell a cake, such activities constitute a religious practice and observance of either or both Defendants' Christian faith.

16. Whether either or both Defendants' refusal to provide cakes for a same-sex anniversary or a same-sex engagement⁴ constitutes a religious practice and observance of either or both Defendants' Christian faith.

17. Whether there is a less restrictive alternative that would not substantially burden either or both Defendants' free exercise of Christian faith, other than a referral to another bakery.

⁴ Trial testimony of Catharine Miller, 7/28/2022, RT 175:1-18.

III. Whether Defendants Established a Free Speech Defense

Plaintiff contends that Defendants did not prove their Free Speech defense to liability under the Unruh Civil Rights Act because the cake sought by the Real Parties from Defendants was not pure speech or expressive conduct based on content or viewpoint. Plaintiff requests that the Court explain the factual and legal basis for the following:

18. Whether the making and sale of cakes, without any written message or topper, for use in a same-sex wedding reception, including the Real Parties' reception, is pure speech by either or both Defendants and if so, which facts support that conclusion, considering:

- a. Defendants' admissions. (Trial Exhibits 700A and 700B.)⁵
- b. That Defendant Cathy's Creations operates as a for-profit bakery with no religious affiliation⁶ open to the public and employs a team of employee bakers and decorators in a commercial kitchen to produce its cakes and other baked goods.
- c. That Defendants refused to provide a cake to the Real Parties based on the intended use of the cake and not the design.

⁵ REQUEST FOR ADMISSION NO. 31: Admit that white or off-white, round, three-tiered cakes with buttercream frosting and no written message can be used as part of events other than weddings.
MILLER'S RESPONSE TO REQUEST FOR ADMISSION NO. 31: [Objections]. Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**
REQUEST FOR ADMISSION NO. 32: Admit that TASTRIES has sold white or off-white, round, three-tiered cakes with buttercream frosting and no written message for use as part of events other than weddings.
MILLER'S RESPONSE TO REQUEST FOR ADMISSION NO. 32: [Objections] Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.** (Catharine Miller's Verified Responses to RFAs Set 1 dated 2/24/2022)
REQUEST FOR ADMISSION NO. 10: Admit that YOU will sell pre-made "case" cakes to customers for any purpose, including their use in the celebration of same-sex marriages.
TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 10: [Objections] Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**
REQUEST FOR ADMISSION NO. 38: Admit that white or off-white, round, three-tiered cakes with buttercream frosting and no written message can be used as part of events other than weddings.
TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 38: [Objections] Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.**
REQUEST FOR ADMISSION NO. 39: Admit that TASTRIES has sold white or off-white, round, three-tiered cakes with buttercream frosting and no written message for use as part of events other than weddings.
TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 39: Subject to the foregoing objections, and without waiving them, Defendant responds as follows: **Admitted.** (Tastries Verified Responses to RFAs Set 1 dated 2/24/2022).
⁶ REQUEST FOR ADMISSION NO. 36: Admit that YOUR business operations are not officially affiliated with any religious organization.
TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 36: **Admitted.**
REQUEST FOR ADMISSION NO. 37: Admit that YOU were not incorporated as a religious entity.
TASTRIES' RESPONSE TO REQUEST FOR ADMISSION NO. 37: **Admitted.**

d. That Real Parties did not ask Defendants to use their creative thought process to create a cake with a particular message.

19. Whether either or both Defendants' preparation of preordered cakes for a same-sex anniversary or a same-sex engagement⁷ is pure speech and/or expressive conduct, including:
- a. Whether either or both Defendants intended their cakes with no written message or topper to constitute pure speech or expressive conduct.
 - b. Whether wedding guests or members of the public understood Defendant Cathy's Creation's cakes with no written message or topper to constitute pure speech or expressive conduct.
20. Whether either or both Defendants refused to provide a cake to the Real Parties based on the message conveyed by the design of the cake. If so:
- a. What was the design.
 - b. What message did the design convey.
 - c. Who understood or would understand this message.
21. Whether making and selling cakes for use in wedding receptions for same-sex couples compels either or both Defendants to express support for same-sex marriage when Defendants have and will continue to state their religious belief that marriage is between a man and a woman to anyone, including the media and social media.

PROPOSED MODIFICATIONS

Based on findings already made by the Court, the principal controverted issues enumerated above, and the objections stated herein, Plaintiff respectfully requests that the Court make the following modifications to the tentative decision:

1. Find that intent to discriminate under the Unruh Civil Rights Act does not require bigotry, animus or malice, but is the volitional act of denying service based on a person's membership in a protected classification, here, denying service to a lesbian

⁷ Trial testimony of Catharine Miller, 7/28/2022, RT 175:1-18.

couple that Defendants would provide to a heterosexual couple, because of their sexual orientation;

2. Find that the conduct of entering into a same-sex marriage is inextricably linked to the protected status based on sexual orientation as set forth in the Unruh Civil Rights Act;
3. Find that the denial of service to a lesbian couple because of their sexual orientation (not being heterosexual) constitutes a “motivating factor” for that denial which establishes intentional discrimination under the Unruh Civil Rights Act, regardless of whether one or both Defendants may also have religious reasons for doing so;
4. Find that Defendants may be motivated by a sincerely held religious belief *and* also be making a distinction based on sexual orientation in violation of the Unruh Civil Rights Act; and that Defendants *were* motivated by making a distinction based on sexual orientation in violation of the Unruh Civil Rights Act;
5. Find that the design of the Real Parties’ requested cake was irrelevant to an Unruh Civil Rights Act analysis because the denial was based solely on the fact that the plain cake with no written message or topper would be used at a same-sex wedding reception;
6. Find that Defendant Catharine Miller did not participate, for the most part, in the baking, decorating and delivering of cakes for a wedding reception given her staff of approximately sixteen employees tasked with simultaneously fulfilling multiple cake orders;
7. Find that Defendant Cathy’s Creations is a California Corporation open for business to the public and efficiently produces, through its team of bakers and decorators, numerous case cake layers along with preordered cake layers in three commercial ovens and then assembles, frosts and decorates those cakes;
8. Find that there is no bespoke wedding cake—one handcrafted and custom made from start to finish for a particular couple—made by Defendant Catharine Miller for any wedding;

- 1 9. Find that “arbitrary discrimination” under the Unruh Civil Rights Act is an additional,
2 catchall category used to extend the Unruh Civil Rights Act beyond the enumerated
3 protected statuses, and that to prove intentional discrimination based on an enumerated
4 protected status, proof of “arbitrariness” is not a required;
- 5 10. Find a violation of the Unruh Civil Rights Act as to each Defendant;
- 6 11. Find that the making and selling of a plain cake with no written message or topper for
7 a wedding reception does not constitute a religious practice;
- 8 12. Find that a commercial bakery open to the public with no religious affiliation that uses
9 pre-made cake mixes and pre-made frosting by a team of bakers and decorators who
10 make and assemble a cake for a wedding reception does not constitute a religious
11 practice;
- 12 13. Find that because the plain cake with no written message or topper sought by Real
13 Parties was chosen from a sample Styrofoam display cake that Defendants had made
14 numerous times by its team of bakers and decorators, and that said sample cake had
15 been admittedly made for events other than a wedding, and that Real Parties did not
16 request that Defendants utilize their artistic talents or request any written message or
17 topper for said cake, the baking and selling of said sample cake is not pure speech; and
- 18 14. Find that baking, selling, and delivering a plain cake with no written message or
19 topper to a wedding reception is not expressive conduct by Defendants because the
20 message, if any, is that of the Real Parties and that, considering the surrounding
21 circumstances, no objective observer understands what message, if any, the baker or
22 bakery intended to convey when the guests view and eat the cake.

23 Dated: October 31, 2022

CALIFORNIA CIVIL RIGHTS DEPARTMENT

24 By: Kendra Tanacea
25 Kendra Tanacea
26 Attorneys for CRD (formerly DFEH)
27
28

PROOF OF SERVICE BY ELECTRONIC MAIL

I am a citizen of the United States and am employed in Los Angeles County; I am over the age of eighteen (18) years and not a party to the within action; my business address is 2218 Kausen Drive, Suite # 100, Elk Grove, California 95758.

My e-mail address is kenjamin.ho@dfeh.ca.gov.

On the date below I enclosed a true copy of the:

PLAINTIFF CRD'S (formerly DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING) REQUEST FOR STATEMENT OF DECISION

(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) in a separate envelope for each of the persons named below, addressed follows:

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

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

Executed on October 31, 2022, at Los Angeles, California.

/s/ Kenjamin Ho

Kenjamin Ho

Exhibit 000

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

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

19 Plaintiff,

20 v.

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

23 Defendants.

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

25 Real Parties in Interest.

CASE NO.: BCV-18-102633

IMAGED FILE

**DEFENDANTS' RESPONSE &
OBJECTIONS TO PLAINTIFF'S
REQUEST FOR A STATEMENT
OF DECISION**

Date: July 25, 2022

Time: 9:00 a.m.

Div.: J

Judge: Hon. J. Eric Bradshaw

Action Filed: Oct. 17, 2018

INTRODUCTION

In accordance with the Court's order dated October 21, 2022, and pursuant to Cal. Rules of Court, rule 3.1590, subd. (f), Defendants Catharine Miller and Cathy's Creations, Inc. have reviewed Plaintiff DFEH's Request for a Statement of Decision, dated October 31, 2022, and prepared the attached Proposed Statement of Decision. As explained below, Plaintiff DFEH's request is objectionable in its entirety, and so Defendants propose only minor clerical/typographical modifications to the Court's Tentative Decision After Court Trial.

LEGAL STANDARDS

A statement of decision must "explain[] the factual and legal basis for [the Court's] decision as to each of the principal controverted issues at trial." (Code Civ. Proc., § 632.) "The purpose of the statement is to provide an explanation of the factual and legal basis for the court's decision." (*Onofrio v. Rice* (1997) 55 Cal.App.4th 413, 425.) A "statement of decision is sufficient if it fairly discloses the court's determination as to the ultimate facts and material issues in the case." (*Antelope Valley Groundwater Cases* (5th Dist. 2020) 58 Cal.App.5th 343, 265.) "When this rule is applied, the term 'ultimate fact' generally refers to a core fact, such as an essential element of a claim." (*Id.*) A statement of decision "is not expected to make findings with regard to 'detailed evidentiary facts or to make minute findings as to individual items of evidence.'" (*Id.*)

"A pragmatic limitation on the requirement of findings on subsidiary issues has been imposed as a matter of judicial policy: special findings are not required on every subsidiary matter on which evidence is received at trial, even though the subsidiary matter is relevant to the ultimate issues of fact." (*Kuffel v. Seaside Oil Co.* (5th Dist. 1977) 69 Cal.App.3d 555, 565.) A statement of decision need only include issues that are "essential to the judgment and closely and directly related to the trial court's determination of the ultimate issues in the case." (*Id.*; accord *Muzquiz v. City of Emeryville* (2000) 79 Cal.App.4th 1106, 1126 [a statement of decision is "not required to address how [the Court] resolved intermediate evidentiary conflicts."].)

Importantly, a party may not use the procedure for requesting a statement of decision to seek an "inquisition" or a "rehearing of the evidence." (*People v. Casa Blanca Convalescent Homes, Inc.* (1984) 159 Cal.App.3d 509, 525 ["*Casa Blanca*"]; abrogated on other grounds by *Cel-Tech*

1 *Communications, Inc. v. Los Angeles Cellular Telephone Co.* (1999) 20 Cal.4th 163; accord *Yield*
2 *Dynamics, Inc. v. TEA Systems Corp.* (2007) 154 Cal.App.4th 547, 558 [in requesting a statement of
3 decision, improper to include “queries on purely legal issues” or to propound “argumentative ...
4 interrogatories” asking for a reconciliation of evidence with the ultimate findings].) A factual issue
5 that is only allegedly material due to a party’s incorrect view of the law is not material and need not
6 be addressed. (See *Eyford v. Nord* (2021) 62 Cal.App.5th 112, 127 [“This is dispositive under the
7 statute and renders unnecessary further analysis...”].)

8 **RESPONSE & OBJECTIONS**

9 **I. MAJORITY OF REQUESTS SIMPLY SEEK RECONSIDERATION**

10 The Court’s Tentative Decision After Court Trial states that it “will become the court’s
11 statement of decision” unless a party timely requests clarification or amendment. (See Cal. Rules of
12 Court, rule 3.1590, subd. (c)(4).) As such, the Court presumably drafted the Tentative Decision in a
13 manner intended to be substantively compliant with the requirements of a statement of decision.
14 (See Code Civ. Proc., § 632.) After carefully reviewing the Court’s Tentative Decision, Defendants
15 can find no fault in it. In reviewing Plaintiff DFEH’s request for a statement of decision, Defendants
16 can find no additional material issue that needs to be addressed.

17 As a result, Defendants have taken the Court’s Tentative Decision and reproduced it verbatim
18 on pleading paper. Defendants only made three minor changes. First, Defendants moved the
19 “DISPOSITION” section from the introduction to the conclusion. Second, for ease of reference,
20 Defendants numbered the paragraphs. Third, Defendants made minor clerical/typographical
21 corrections in the following legal citations:

22 ¶ 28: *Harris v. Capital Growth Investors XIV* (1991) 52 Cal.3d 1 142, 1 175 (superseded by
23 statute on other grounds as stated in *Munson v. Del Taco, Inc.* (2009) 46 Cal.4th 661,
24 664).

25 ¶ 73: *Cressman v. Thompson* (10th Cir. 2015) 798 F.3d 938, 951.

26 ¶ 76: *Anderson v. City of Hermosa Beach* (9th Cir. 2010) 621 F.3d 1051, 1058.

27 Turning to Plaintiff DFEH’s request for a statement of decision, the vast majority of Plaintiff
28 DFEH’s requests are objectionable. Plaintiff DFEH propounds 21 requests, many with sub-parts

1 which ultimately total 38-40 distinct requests. On its face, this is improper. (See *Casa Blanca, supra*,
2 159 Cal.App.3d at 525 [“These subparts would require the [statement of decision] to answer over 75
3 questions and make a list of findings on evidentiary facts on issues not controverted by the pleadings.
4 Such a requirement cannot be made”].) Turning to specifics, the vast majority of the requests are
5 framed in the format of asking for reconsideration of a proposition that the Court already expressly
6 found in Defendants’ favor, in light of supposedly contrary evidence. These requests are
7 argumentative and simply seek reconsideration of the Court’s ruling, which is again improper. (See
8 *Casa Blanca, supra*, 159 Cal.App.3d at 525; *Yield Dynamics, supra*, 154 Cal.App.4th at 558.)

9 The allegedly controverted issues in Plaintiff DFEH’s requests nos. I.A.(1)-(3) (separate
10 corporate existence of Tastries); I.B.(4)-(7) (Defendants’ intent); I.C.(9) (full and equal services);
11 II.(13), (15) (substantial burden on Free Exercise rights); and III.(18), (20)-(21) (Free Speech), have
12 already been expressly resolved by the Court, which found in Defendants’ favor. To illustrate this,
13 Defendants have prepared a chart which compares Plaintiff DFEH’s specific requests and points
14 Plaintiff DFEH and the Court to where the directly applicable factual finding can be located in
15 Defendants’ Proposed Statement of Decision. Below, Defendants address the issues that do not
16 already involve a direct factual finding, but are objectionable for other reasons.

17 II. PLAINTIFF DFEH SEEKS FINDINGS NOT REQUIRED BY *MINTON*

18 Plaintiff DFEH’s requests nos. I.C.(8), (10)-(11) seek factual findings or legal conclusions,
19 relating to the provision of “full and equal” services under *Minton v. Dignity Health* (2019) 39
20 Cal.App.5th 1155, that are legally or factually irrelevant. As stated above, I.C.(9) was already
21 answered by the Statement of Decision.

22 No. (8) asks “Whether the availability of service from an alternative business establishment
23 negates liability under the Unruh Civil Rights Act after intentional discrimination is shown (here,
24 because Defendants did not refer the Real Parties to another bakery until after Defendants learned
25 they were a same-sex couple).” This seeks a legal conclusion untethered to the facts of this case,
26 which does not merely involve other *available* bakeries, but a direct *referral* to one, and which does
27 not involve intentional discrimination. The purpose of the Statement of Decision is to explain the
28

1 Court's decision. (*Onofrio*, supra, 55 Cal.App.4th at 425.) Therefore, it should not provide an
2 advisory opinion on matters untethered to the facts of the case.

3 Through nos. (10) and (11), Plaintiff DFEH seeks additional information about the nature of
4 the "oral agreement" between Defendants and *Gimme Some Sugar*. No. (10) itself asks whether
5 Defendants had an "oral agreement" with *Gimme Some Sugar*, which this Court expressly answered
6 in the affirmative (§ 42). Then, sub-parts (a) through (d) and request no. (11) ask for clarification on
7 the nature of that "oral agreement," including specifically by asking for factual findings sufficient to
8 establish the existence of a binding contract. This request thus continues Plaintiff DFEH's mis-
9 reading of *Minton v. Dignity Health* (2019) 39 Cal.App.5th 1155. Nothing in *Minton* requires that
10 Defendants enter into an oral contract with another bakery to provide services for every order they
11 cannot fulfil. All it states is that Defendants can comply with the Unruh Act through "the
12 implementation of a policy to provide full and equal care to all persons at comparable facilities not
13 subject to the same religious restrictions that applied at [Tastries]." (*Id.* at 1165.) The Court
14 expressly found facts supporting that Defendants implemented such a policy (§§ 37-42).

15 III. THERE IS NO NEED FOR A "STIGMA" FINDING

16 Plaintiff DFEH's request no. I.C.(12) asks: "Whether the Real Parties suffered stigmatic
17 harms when Defendants declined to take their cake order in a place of business open to the public
18 and in front of their friends and family." Plaintiff DFEH does not define "stigmatic harms" but
19 Webster's defines "stigmatic" as "having or conveying a social stigma," with "stigma" defined as
20 "a mark of shame or discredit." (3 Webster's New International Dictionary Unabridged (3d ed.
21 1976) p.2243, col.1.) Similarly, Funk & Wagnalls defines "stigmatic" as "of, pertaining to, or marked
22 with a stigma," and defines "stigma" as "[a] mark of infamy, or token of disgrace." (2 Funk &
23 Wagnall's New Practical Standard Dictionary (1947) p.1281, col.1.)

24 This request appears in Plaintiff DFEH's discussion of "full and equal" services under
25 *Minton*, but such a concept does not appear in *Minton*. Presumably this is because a party cannot
26 allege that accommodating another's religious beliefs stigmatized them. (See *Klein v. Oregon Bureau*
27 *of Labor and Industries* (2022) 317 Or.App. 138, 164-165 [finding that a same-sex couple could not
28 receive emotional distress damages merely for encountering religious beliefs against

homosexuality].) Thus, it would seem to be factually irrelevant as a matter of law. However, turning to the parties' briefing, in Plaintiff DFEH's trial brief the main reference to "stigma" arises in the context of *Masterpiece Cakeshop*. In its trial brief, Plaintiff DFEH wrote:

At base, while Miller's religious views merit respect and careful consideration, Tastries' policy and defendants' reading of the First Amendment are simply too broad. Were courts to adopt their overbroad approach to the First Amendment, it would impermissibly threaten to both re-entrench the "community-wide stigma" against gay couples (*Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com'n* (2018) 138 S.Ct. at p. 1727)...

(Plt. DFEH Trial Brief (July 21, 2022) pp.3:16-20 [underlining added].) The full quote from *Masterpiece* concerning "community-wide stigma" also appears in the Proposed Statement of Decision as a very lengthy block quote (§ 44).

The quote from *Masterpiece* concerns the potential for stigma *outside the context of Free Speech*, dealing only with the hypothetical of Free Exercise objections raised by a majority of the community—not a minority religious voice. (*Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Com'n* (2018) 138 S.Ct. 1719, 1727.) On its face it does not apply. Indeed, "the point of all speech protection ... is to shield just those choices of content that in someone's eyes are misguided, or even hurtful." (*Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston* (1995) 515 U.S. 557, 574.) Thus, to the extent that Defendants' choice not to speak the Real Parties' preferred message was believed to be "stigmatizing" to them, that fact is *only* relevant as a basis for protecting Defendants' speech.

Defendants do not believe that any factual findings on this point are needed because it is not a "principal" issue. But, as it is a factual issue not directly addressed in the Statement of Decision, Defendants have prepared factual findings the Court may or may not choose to use. If so, Defendants would propose them to appear after Paragraph 92:

Real parties in interest were understandably upset about Defendants refusal to design a wedding cake endorsing their same-sex marriage. But the evidence affirmatively showed that real parties could have obtained a wedding cake from a comparable bakery, that Defendants would have facilitated such a referral, and that real parties did indeed obtain a comparable wedding cake from another bakery.

1 To a degree, the August 26, 2017 incident imposed a stigmatic mark
2 of discredit on both sides. After the real parties and a friend
3 accompanying them publicized the incident on social media, both
4 sides presented evidence that portions of the community rallied to
5 their side and that other portions of the community viewed the
6 alleged sexual orientation discrimination or alleged religious
7 discrimination as blameworthy.

8 On balance, however, there was greater stigmatic harm on the
9 Defendants than the real parties. Following the publicizing of the
10 incident, multiple Tastries employees quit in the first two weeks due
11 to harassment from the public. In contrast, there was an outpouring
12 of support for the real parties, including offers for free wedding
13 photography services, a free wedding cake, and free makeup services.

14 Under a strict scrutiny analysis, the government “is not free to
15 interfere with speech for no better reason than promoting an
16 approved message or discouraging a disfavored one, however
17 enlightened either purpose may strike the government.” *Hurley*,
18 *supra*, 515 U.S. at p. 579. Thus, the negative public reaction to
19 Defendants’ refusal to speak tilts the balance on this issue strongly in
20 their favor.

21 **IV. THERE IS NO NEED FOR A CORPORATE FREE EXERCISE FINDING**

22 Turning to the Free Exercise of Religion, Plaintiff DFEH’s request no. II.(14) asks:
23 “Whether the act of employees making and selling a cake to a same-sex couple would constitute a
24 substantial burden on Defendant *Cathy’s Creations*’ practice and observance of sincere Christian
25 beliefs.” (Emphasis added.) This is distinct from No. (13) which asks about a burden on Defendant
26 *Miller’s* own religious beliefs.

27 This seeks a legal conclusion that is irrelevant as a matter of law. It appears that Plaintiff
28 DFEH is asking the Statement of Decision to decide whether corporations *themselves* have Free
Exercise rights, or whether the Free Exercise rights of *their owners* apply to the conduct of the
corporations (i.e., the owner of a corporation having the right to operate it in accordance with their
beliefs). This distinction does not matter because in all analogous situations courts have simply
applied Free Exercise jurisprudence to similar close corporations. (See *Burwell v. Hobby Lobby*
Stores, Inc. (2014) 573 U.S. 682, 708-719 & fn.19-22, 28 [federal Free Exercise clause]; *Masterpiece*

1 *Cakeshop, Ltd v. Colorado Civil Rights Comm.* (2018) 138 S.Ct. 1719 [federal Free Exercise clause]
2 *Minton, supra*, 39 Cal.App.5th at 1165 [California Free Exercise clause].)

3 **V. THERE IS NO NEED FOR FINDINGS ON HYPOTHETICALS**

4 Turning to nos. (16) and (19), these ask that the Statement of Decision apply the Court’s
5 legal analysis and factual findings to Defendants’ religious views on same-sex *engagements* or same-
6 sex *anniversaries*. No. (16) asks: “Whether either or both Defendants’ refusal to provide cakes for a
7 same-sex anniversary or a same-sex engagement constitutes a religious practice and observance of
8 either or both Defendants’ Christian faith.” No. (19) asks: “Whether either or both Defendants’
9 preparation of preordered cakes for a same-sex anniversary or a same-sex engagement is pure
10 speech and/or expressive conduct[.]” But the Real Parties did not request a cake to celebrate their
11 same-sex engagement or same-sex marriage anniversary—*in fact no same-sex couple ever has*. As this
12 Court found at the outset of the trial, these issues are legally irrelevant to this case.

13 **VI. THE PROPOSED MODIFICATIONS ARE NOT APPROPRIATE**

14 Finally, looking at Plaintiff DFEH’s 14 Proposed Modifications, they generally seek to take
15 issue with the Statement of Decision’s legal conclusions, to support Plaintiff DFEH’s
16 misunderstanding of the law. This is the case even when: (1) Plaintiff DFEH’s erroneous reading of
17 case law is irrelevant because the factual predicate is unsupported (nos. 1-5, 9-10, 13-14); (2) they
18 seek factual conclusions directly contrary to the evidence (nos. 6, 8, 11); or (3) or they seek factual
19 conclusions that are either explicitly or implicitly already stated in the Statement of Decision (no. 7).

20 For the most part, each of these points has been addressed above and need not be addressed
21 further. However, one point deserves further mention. In Proposed Modification No. 12, Plaintiff
22 DFEH asks that the Statement of Decision: “Find that a commercial bakery open to the public *with*
23 *no religious affiliation that uses pre-made cake mixes and pre-made frosting by a team of bakers and*
24 *decorators who make and assemble a cake for a wedding reception* does not constitute a religious
25 practice.” (Italics added). Defendants do not challenge the Statement of Decision’s general
26 conclusion that “litigation—by its nature—requires inquiry, analysis and argument, which are not
27 always well received”; and such that “[w]hile DFEH may have stepped on the line at times, it did
28 not commit a personal foul sufficient to constitute a defense in this case.” (¶ 68). However, Plaintiff

DFEH has now doubled-down in its hostility toward Defendants by repeating these highly misleading and defamatory statements.

The evidence is undisputed that Cathy Miller is both a devout Christian boutique owner, as well as an expert baker, who seeks to serve God in the use of her creative talents. And, as was previously brought to the Court's attention, a serious cake artist like Cathy Miller necessarily finds such unwarranted accusations about her artistic creations not only personally offensive, but very harmful to her professional reputation and business interests. Indeed, as also previously mentioned, it is tantamount to accusing a great painter of "painting by the numbers." The Defendants will ask the Court to consider this further unjustified attack on the Defendants when it later considers their request for attorneys' fees and costs.

CONCLUSION

Pursuant to this Court's order and Cal. Rules of Court, rule 3.1590, and in accordance with the above discussion and explanation, Defendants hereby submit the attached proposed Statement of Decision to this Court.

Respectfully submitted,

LIMANDRI & JONNA LLP

Dated: November 9, 2022

By:



Charles S. LiMandri

Paul M. Jonna

Mark D. Myers

Jeffrey M. Trissell

Robert E. Weisenburger

Milan L. Brandon II

Attorneys for Defendants Cathy's

Creations, Inc. and Catharine Miller

Attachment

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
I.	Whether Plaintiff Established a Violation of the Unruh Civil Rights Act (Civ. Code, §§ 51, 52)	
A.	<i>Plaintiff contends that Defendant Cathy's Creations, Inc. ("Cathy's Creations"), dba Tastries, is a California corporation with numerous employees who perform most of the ordering, baking, and decorating work at Defendant Cathy's Creations, and that the corporation is separate and distinct from Defendant Catharine Miller. Plaintiff requests that the Court explain the factual and legal basis for the following issues vis-à-vis each Defendant:</i>	<i>As explained below, the Court already expressly found all facts requested in this section in Defendants' favor. (See ¶¶ 1, 6.)</i>
1.	[A] Whether the Defendant Cathy's Creations is a California corporation separate and apart from the individual Defendant Catharine Miller; and [B] if so whether the legal and factual analysis differs for each claim and defense for each Defendant.	[A] Already answered in ¶ 1 ("The defendants are Catharine Miller ('Miller') and Cathy's Creations, Inc. Miller is the sole shareholder of Cathy's Creations, Inc., which is a small boutique and bakery doing business as 'Tastries.'"). [B] This subsidiary legal issue was briefed and so implicitly rejected through the failure to explicitly address it in the Tentative Decision. (See Def. Trial Brief (July 21, 2022) p.11:7-13; accord <i>Green v. Miss United States of America, LLC</i> (9th Cir. 2022) __ F.4th __, 2022 WL 16628387, at *12 ["No one disputes that the [defendant] is a for-profit corporation that generates revenue from advertising, fees, and other activities, but that alone is not enough to strip the [defendant] of its First Amendment rights"].)
2.	[A] Whether Defendant Catharine Miller was not personally or directly involved in the baking or design of most cakes sold by Defendant Cathy's Creations, [B] given the total number of individuals employed by Defendant Cathy's Creations from January 2013 through January 2022 and the number of employees during any given year, which includes bakers, decorators, and front-end staff, and if not, the legal significance of these facts.	[A] Already answered in ¶ 6 ("Miller is personally involved in every production-related aspect of her bakery"). [B] These are subsidiary evidentiary issues that need not be addressed. (See <i>Antelope Valley Groundwater Cases</i> (5th Dist. 2020) 58 Cal.App.5th 343, 265 [statement of decision "is not expected to make findings with regard to 'detailed evidentiary facts or to make minute findings as to individual items of evidence.'"]].)

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
3.	[A] Whether Defendant Cathy's Creations is a small, religious boutique and bakery [B] given the total number of individuals employed by Defendant Cathy's Creations from January 2013 through January 2022 and the number of employees during any given year, which includes bakers, decorators, and front-end staff.	[A] Already answered in ¶ 1 ("Cathy's Creations, Inc., which is a small boutique and bakery doing business as 'Tastries.'"); and ¶ 57 ("Miller's Tastries is a small business.") [B] These are subsidiary evidentiary issues that need not be addressed.
B.	<i>Plaintiff contends that it proved a violation of the Unruh Civil Rights Act because regardless of Defendants' sincere Christian beliefs, Real Parties' sexual orientation was a motivating factor for Defendant Catharine Miller's and Defendant Cathy's Creations' refusal to sell them a plain cake with no written message or topper. Plaintiff requests that the Court explain the factual and legal basis for the following:</i>	<i>As explained below, the Court already expressly found all facts requested in this section in Defendants' favor. (See ¶¶ 13, 31-36.)</i>
4.	Whether either or both Defendants "made a distinction" pursuant to the Unruh Civil Rights Act, based on the Real Parties' sexual orientation, in refusing to make and sell a cake to the Real Parties.	Already answered in ¶ 34 ("DFEH argues that defendants intended to make 'a distinction between their gay and straight customers ...' ... DFEH failed to prove any of these assertions.")
5.	[A] Whether the Real Parties' sexual orientation, or either or both Defendants' perception thereof, was a motivating factor for the denial in addition to either or both Defendants' sincerely held religious beliefs, and [B] if so whether evidence that a person's membership in a protected classification was a motivating factor for the challenged decision suffices to show intentional discrimination under the Unruh Civil Rights Act even if it is not the only motivation.	[A] Already answered in ¶ 31 ("The evidence affirmatively showed that Miller's <i>only</i> intent, her only motivation, was fidelity to her sincere Christian beliefs."); and ¶ 36 ("Miller's only motivation, at all relevant times, was to act in a manner consistent with her sincere Christian beliefs"). [B] N/A.
6.	Whether either or both Defendants had to make a distinction based on sexual orientation, i.e., that Real Parties were a lesbian couple, before either or both Defendants could act on their sincere religious beliefs by denying service to Real Parties.	[A] Already answered in ¶¶ 31-36 finding no Unruh Act violation.

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
7.	[A] Whether either or both Defendants refused to make a cake for the Real Parties, a same-sex couple, because of Defendants' design standards and [B] whether those design standards apply uniformly regardless of sexual orientation, [C] when reliance on the design standards would only result in refusal to make and sell a cake for a same-sex wedding reception.	[A] Already answered in ¶ 31-36 finding no Unruh Act Violation ("Miller's only motivation in ... following the design standards ... was to observe and practice her own Christian faith"). [B] Already answered in ¶ 13 ("The list of requests that do not meet the design standards, and that are not offered—designs that 'violate fundamental Christian principles,' including wedding cakes that "contradict God's sacrament of marriage between 'a man and a woman'—apply regardless of who makes the request."). [C] Subsidiary evidentiary issue (that also misstates the evidence) that needs not be addressed.
C.	<i>Plaintiff contends that it proved a violation of the Unruh Civil Rights Act even if Defendants provided a referral to another bakery, because the referral did not prevent the Real Parties from suffering unequal access to services. Plaintiff requests that the Court explain the factual and legal basis for the following:</i>	<i>As explained in Defendants' brief, here Plaintiff DFEH primarily seeks factual and legal findings inconsistent with Minton v. Dignity Health. (See Def. Resp. & Obj., § II.)</i>
8.	[A] Whether the availability of service from an alternative business establishment negates liability under the Unruh Civil Rights Act after intentional discrimination is shown [B] (here, because Defendants did not refer the Real Parties to another bakery until after Defendants learned they were a same-sex couple).	[A] & [B] This seeks an advisory opinion interpreting <i>Minton v. Dignity Health</i> (2019) 39 Cal.App.5th 1155, untethered to the facts of this case. This case does not merely involve other <i>available</i> bakeries, but a direct <i>referral</i> to one, and which does not involve intentional discrimination.
9.	[A] Whether either or both Defendants provided the Real Parties with full and equal access to goods and services by referring them to <i>Gimme Some Sugar</i> [B] considering the separate ownership of and staff for Defendant Cathy's Creations and <i>Gimme Some Sugar</i> and that each bakery made different products made from different recipes	[A] Already answered in ¶¶ 37-42 ("DFEH argues that the referral to a 'different bakery, with different ownership, staffed by different bakers and decorators using different recipes and ingredients, and located in a different facility' does not satisfy the 'full and equal' access requirement. This court disagrees.")

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
		[B] Subsidiary evidentiary issue that needs not be addressed, and which misleadingly omits testimony about the similarity of the products and recipes.
10.	[A] Whether there was an oral agreement between <i>Gimme Some Sugar</i> and either or both Defendants. [B] If so, (a) what were the contract terms and were the contract terms clear enough that the parties could understand what each was required to do; (b) whether the parties agreed to give each other something of value; (c) whether the parties agreed to the terms of the contract; and (d) whether the terms of the oral agreement required that <i>Gimme Some Sugar</i> would fulfill the Real Parties' order with an equivalent cake for the requested date.	[A] Already answered in ¶ 42 ("The evidence in present case affirmatively showed that Miller had such an 'oral agreement' with Stephanie at <i>Gimme Some Sugar</i> . No evidence was presented otherwise.") [B] Seeks factual findings on matters that are not required by <i>Minton v. Dignity Health</i> (2019) 39 Cal.App.5th 1155.
11.	Whether the referral to <i>Gimme Some Sugar</i> established that <i>Gimme Some Sugar</i> could or would be required to fulfill the Real Parties' order with an equivalent cake for their requested date.	Seeks factual findings on matters that are not required by <i>Minton v. Dignity Health</i> (2019) 39 Cal.App.5th 1155.
12.	Whether the Real Parties suffered stigmatic harms when Defendants declined to take their cake order in a place of business open to the public and in front of their friends and family.	Seeks factual findings on matters that are not required by <i>Minton v. Dignity Health</i> (2019) 39 Cal.App.5th 1155, or any other law. (See Def. Resp. & Obj., § III.)
II.	Whether Defendants Established a Free Exercise of Religion Defense	
	<i>Plaintiff contends (as the Court found) that Defendants have not established a free exercise defense to the application of the anti-discrimination provisions of the Unruh Civil Rights Act because making and selling a cake to the Real Parties would not have incidentally burdened either or both Defendants' free exercise of Christian faith. Plaintiff contends that the application of the anti-discrimination provisions of the Unruh Civil Rights Act would not substantially burden either or both Defendants' free exercise of</i>	<i>Plaintiff DFEH here seeks factual findings that there was no substantial burden on Defendants' Free Exercise rights. This argument is, and always has been, frivolous. (See Masterpiece Cakeshop, Ltd v. Colorado Civil Rights Comm. (2018) 138 S.Ct. 1719 [analogous case decided on Free Exercise grounds]; Green v. Miss United States of America, LLC (9th Cir. 2022) __ F.4th __, 2022 WL 16628387, at *11-12 ["No one could seriously claim that there would be no 'substantial' effect on religious exercise ... if a Christian</i>

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
	<i>Christian faith. Plaintiff requests that the Court explain the factual and legal basis for the following:</i>	<i>baker were ordered to bake a custom wedding cake for only one homosexual couple”].)</i>
13.	[A] Whether the act of making and selling a cake to a same-sex couple by other employees of Defendant Cathy's Creations would constitute a substantial burden on Defendant Catharine Miller's personal practice and observance of her sincere Christian beliefs [B] when Defendant Catharine Miller is not involved in the process of making the cake.	[A] & [B] This request is untethered to the factual evidence in this case and so seeks an advisory opinion. See ¶ 6 (“Miller is personally involved in every production-related aspect of her bakery”). [A] Already answered in paragraph ¶ 52 (“The evidence in the present case proves clearly and convincingly that application of the anti-discrimination provisions of the Unruh Civil Rights Act, as advanced by DFEH in the present case, <i>substantially</i> burdens Miller's free exercise of her Christian faith”). [B] Subsidiary evidentiary issue (not supported by the evidence) that needs not be addressed.
14.	Whether the act of employees making and selling a cake to a same-sex couple would constitute a substantial burden on Defendant Cathy's Creations' practice and observance of sincere Christian beliefs.	Already answered in paragraph ¶ 52. Also, irrelevant as a matter of law. (See Def. Resp. & Obj., § IV.)
15.	Whether when employees of Defendant Cathy's Creations other than Defendant Catharine Miller make and sell a cake, such activities constitute a religious practice and observance of either or both Defendants' Christian faith.	This request is nonsensical and untethered to the facts or the law. It seeks an advisory opinion on the Court's application of the law to the facts <i>if</i> Defendant Miller were <i>not</i> “personally involved in every production-related aspect of her bakery,” but she is. (See ¶¶ 6, 57-58.) It is also already answered in ¶ 58 (“Miller does not live her Christian life only at church. The evidence showed that she does not artificially separate her faith from her work, and weddings are a large part of her life. She believes whole-heartedly in what a marriage between a man and a woman represents. Miller cannot turn a blind eye to what is happening in her bakery”).
16.	Whether either or both Defendants' refusal to provide cakes for a same-sex anniversary or a same-sex engagement constitutes a	This seeks an advisory opinion a same-sex anniversary or engagement that is untethered to the facts of this case, and hypothetically

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
	religious practice and observance of either or both Defendants' Christian faith.	addresses a situation that has never arose and is unlikely to ever arise. (See Def. Resp. & Obj., § V.)
17.	Whether there is a less restrictive alternative that would not substantially burden either or both Defendants' free exercise of Christian faith, other than a referral to another bakery.	The burden of establishing strict scrutiny lies with the government. This is already answered through the rejection of the options offered by the government. (See ¶¶ 55-58.)
III.	Whether Defendants Established a Free Speech Defense	
	<i>Plaintiff contends that Defendants did not prove their Free Speech defense to liability under the Unruh Civil Rights Act because the cake sought by the Real Parties from Defendants was not pure speech or expressive conduct based on content or viewpoint. Plaintiff requests that the Court explain the factual and legal basis for the following:</i>	<i>As explained below, the Court already expressly found all facts requested in this section in Defendants' favor, except for one that is irrelevant as a matter of law. (See ¶¶ 77-88.)</i>
18.	[A] Whether the making and sale of cakes, without any written message or topper, for use in a same-sex wedding reception, including the Real Parties' reception, is pure speech by either or both Defendants and if so, which facts support that conclusion, [B] considering: a. Defendants' admissions. (Trial Exhibits 700A and 700B.) b. That Defendant Cathy's Creations operates as a for-profit bakery with no religious affiliation open to the public and employs a team of employee bakers and decorators in a commercial kitchen to produce its cakes and other baked goods. c. That Defendants refused to provide a cake to the Real Parties based on the intended use of the cake and not the design. d. That Real Parties did not ask Defendants to use their creative thought process to create a cake with a particular message.	[A] Already answered in ¶ 77 ("The evidence affirmatively showed that defendants' wedding cakes are <u>pure speech</u> ..."), and with extensive discussion of the facts at ¶¶ 79-88. [B] Subsidiary (and misleading) evidentiary issues that need not be addressed.
19.	Whether either or both Defendants' preparation of preordered cakes for a same-sex anniversary or a same-sex engagement is pure speech and/or expressive conduct, including: a. Whether either or both Defendants intended their cakes with no written message or topper to	This seeks an advisory opinion a same-sex anniversary or engagement that is untethered to the facts of this case, and hypothetically

No.	Text of Plaintiff DFEH's Request	Why the Request Need Not Be Further Addressed
	constitute pure speech or expressive conduct. b. Whether wedding guests or members of the public understood Defendant Cathy's Creation's cakes with no written message or topper to constitute pure speech or expressive conduct.	addresses a situation that has never arose and is unlikely to ever arise. (See Def. Resp. & Obj., § V.)
20.	Whether either or both Defendants refused to provide a cake to the Real Parties based on the message conveyed by the design of the cake. If so: a. What was the design. b. What message did the design convey. c. Who understood or would understand this message.	Already answered extensively in ¶¶ 77-88, with any additionally requested nuances irrelevant as a matter of law.
21.	Whether making and selling cakes for use in wedding receptions for same-sex couples compels either or both Defendants to express support for same-sex marriage when Defendants have and will continue to state their religious belief that marriage is between a man and a woman to anyone, including the media and social media.	Already answered in ¶ 92 ("DFEH's enforcement action seeks to compel Miller and Tastries to express support for same-sex marriage, or be silent.") Also irrelevant as a matter of law. (See <i>Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston</i> (1995) 515 U.S. 557, 576 [government cannot require "speakers to affirm in one breath that which they deny in the next"].)

Exhibit PPP

EXHIBIT LIST

Page 1 of 5

Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
*****JOINT EXHIBITS*****				
001-001	07/25/2022	07/28/2022	Photo of Cakes/Boutique Store	
001-006	07/25/2022	07/28/2022	Photo of Cakes/Boutique Store	
231-013	07/25/2022	07/28/2022	Tastries Card-listing services- BM	
7B-003	07/25/2022	07/28/2022	Photo of 6 Tier Cake	
7B-011	07/25/2022	07/28/2022	Photo of table and desserts	
7B-025	07/25/2022	07/28/2022	Photo of 3 Tier Cake	
7B-059	07/25/2022	07/28/2022	Photo of 6 Tier Cake	
8	07/25/2022	07/27/2022	Tastries Bakery Standard of Service, bates numbered CM26, CM646, CM662-CM663	
104-001	07/26/2022	07/26/2022	Tastries Order form dated 06/22	
11	07/26/2022	07/27/2022	Tastries Bakery Form re Eileen & Mireya Rodriguez - Del Rio [DFEH00180]	
2	07/27/2022	07/27/2022	Seven photographs depicting Tastries Bakery display cakes	
3	07/27/2022	07/27/2022	Tastries Bakery blank order forms [DFEH00041-00050]	
10	07/27/2022	07/27/2022	Check to Gimmee Some Sugar from Cathy's Creations, dated 09/07/2016	
554	07/27/22	07/27/2022	Social Media Post regarding Tastries dated 08/26/2017	
627-A	07/25/22	07/27/2022	Photos of the Rodriguez-Del Rio's wedding, bates # DFEH00295-DFEH00299	
630	07/27/22	07/27/2022	Rodriguez-Del Rio wedding day schedule, bates # DFEH00237	
631	07/25/22	07/27/2022	Photo of 3 tier white wedding cake with flowers, bates # DFEH00175	
555-A	07/27/2022	07/28/2022	Eileen Rodriguez-Del Rio's Facebook Review of Tastries, dated 08/26/2017, bates # CM1903	
7B-42	07/27/2022	07/27/2022	Photo of 4 tier cake	
7B-54	07/27/2022	07/27/2022	Photo of 3 tier cake	Here
7B-1	07/27/2022	07/27/2022	Photo of 7 tier cake	
7B-13	07/27/2022	07/27/2022	Photo of 5 tier cake	
7B-92	07/27/2022	07/27/2022	Photo of 5 tier cake	
671	07/27/2022	07/27/2022	Text messages to Patrick Salazar, Mireya Rodriguez	
568	07/28/2022		Social media post and comments	
553 D - 3	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 1	07/27/2022		Social media comments/likes	
553 D - 7	07/28/2022	07/28/2022	Social media comments/likes	
553 D - 29	07/28/2022	07/28/2022	Social media comments/likes	

BCV-18-102633

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EXHIBIT LIST

Page 2 of 5Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

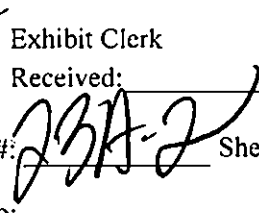
Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jona, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
			*****Joint Exhibits*****	
103	7/26/22	07/27/2022	Tastries Cake Tasting Sign-in Sheet (08/26/2017) [DFEH00026-00027]	
104	07/26/2022	07/27/2022	Elena Davis Cake Order Form (06/22/2017) [DFEH00028-00031]	
108	7/26/22	07/27/2022	Receipt from the Rodriguez-Del Rios' First Trip to Tastries (08/17/2017) [DFEH00179]	
110	07/27/2022	07/27/2022	Photo of Marriage Certificate	
111	07/27/2022	07/27/2022	Metro Special Events of Rental Agreement and House Rules dated 08/17/2016	
113	07/26/2022	07/27/2022	Email Chain Between Mireya Rodriguez Del Rio and Natalie Boothwright aka Natalie Martens re Cake Tasting 08/23/2017 [DFEH 00184-00185]	
114	07/26/2022	07/27/2022	Text Exchange between Mireya Rodriguez-Del Rio	
115	07/27/2022	07/27/2022	Articles of Incorporation of Cathy's Creations, Inc. and Bylaws 12/20/2012 [CM00001-00023]	
117	07/27/2022	07/27/2022	Cathy's Creations, Inc. dba Tastries	
118	07/27/2022	07/27/2022	Cathy's Creations Inc. Registration with State of California, Secretary of State 08/28/2017, 01/31/2013 [DFEH0010100103]	
123	07/26/2022	07/27/2022	Photos of Tastries Cakes Exh #3 from 02/24/2022 Deposition of Def. Catharine Miller and Others	
125	07/26/2022	07/27/2022	Photograph of Tastries Display Cake [DFEH00166]	
126	07/27/2022	07/27/2022	Photo of Tastries Four Tier Cake [CM00978]	
127	07/27/2022	07/27/2022	Photo of Tastries Slot Machine Cake [DFEH00999]	
128	07/27/2022	07/27/2022	Photo of Tastries 3 tier Baby Shower Cake [DFEH00984]	
129	07/27/2022	07/27/2022	Photo of Tastries 3 tier cake [DFEH00981]	
138	07/27/2022	07/27/2022	Adam Ramos and Ted Freitas Cake Order and Pymnt Transfer to Gimme Some Sugar 09/27/2017 [DFEH00036-00039]	
139	07/27/2022	07/27/2022	Ted G. Freitas Facebook Post regarding Tastries Discrimination 08/26/2017 [CM1900-1902]	
140	07/27/2022	07/27/2022	Patrick Grijalva Salazar email exchange with DeCoeur Bake Shop re Wedding Tasting and Attachments [DFEH00222-00234]	
144	07/27/2022	07/27/2022	Facebook messages between Jessica Ciro's and Eileen Rodriguez Del-Rio re Wedding Cake [DFEH00246-257]	
150	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text Exchange re wedding planning [depo exh 503]	
151	07/26/2022	07/27/2022	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text exchange re wedding dresses/tx [depo exh 504]	
152	07/27/2022	07/27/2022	Eileen and Mireya Rodriguez-Del Rio, Sam Salazar and Patrick Grijalva Salazar Text exchange re bouquet, shoes, cake [depo exh 505]	
153	07/27/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re flower and dress colors [depo exh 506]	
154	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting and bouquet [depo exh 507]	
155	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting [depo exh 509]	
156	07/27/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re cake tasting availability [depo exh 511]	
157	07/26/2022	07/27/2022	Mireya Rodriguez-Del Rio and Patrick Grijalva Salazar Text exchange re Tastries cake tasting confirmation [depo exh 515]	
498	07/26/2022	07/27/2022	Email between Eileen Del Rio and Don Martin with Metro Galleries dated 09/14/2016 - 08/15/2016 dates # DFEH00307-DFEH00310	

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Exhibit Clerk

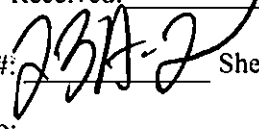
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EXHIBIT LIST

Page 3 of 5

Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: J

Counsel for Parties: Gregory Mann, Kendra Tanacea, and Soyean C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

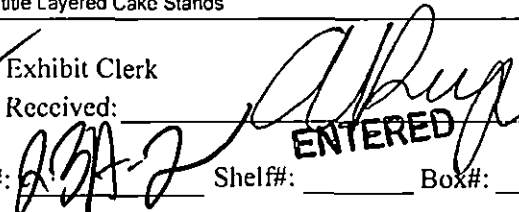
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553 D -19	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 23	07/27/2022	07/28/2022	Social media comments/likes	
553 D -38	07/27/2022	07/28/2022	Social media comments/likes	
553 D - 13	07/27/2022	07/28/2022	Social media comments/likes	
700A	07/28/2022	07/29/2022	Defendant Catharine Miller's Objections & Responses to Request for Admission Set One	
700B	07/28/2022	07/29/2022	Defendant Cathy's Creations, Inc. dba Tastries Bakery's Objections and Responses to Requests for Admissions Set One	
134	07/28/2022	07/29/2022	Tastries Employee List dated 3/1/22	
1 - 003	07/28/2022	07/28/2022	1 page photo	
1 - 004	07/28/2022	07/28/2022	1 page photo	
1 - 005	07/28/2022	07/28/2022	1 page photo	
1 - 010	07/28/2022	07/28/2022	1 page photo	
1 - 013	07/28/2022	07/28/2022	1 page photo	
1 - 014	07/28/2022	07/28/2022	1 page photo	
231 - 001	07/28/2022	07/28/2022	1 page photo	
231 - 002	07/28/2022	07/28/2022	1 page photo	
231 - 004	07/28/2022	07/28/2022	1 page photo	
231 - 005	07/28/2022	07/28/2022	1 page photo	
231 - 006	07/28/2022	07/28/2022	1 page photo	
231 - 008	07/28/2022	07/28/2022	1 page photo	
231 - 009	07/28/2022	07/28/2022	1 page photo	
231 - 010	07/28/2022	07/28/2022	1 page photo	
231 - 012	07/28/2022	07/28/2022	1 page photo	
231 - 013	07/28/2022	07/28/2022	1 page photo	
5 - 001	07/28/2022	07/28/2022	1 page document titled Tastries bakery-boutique-events; bottom right corner reads DFEH00091	
5 - 002	07/28/2022	07/28/2022	1 page document bottom right corner reads DFEH00092	
5 - 004	07/28/2022	07/28/2022	1 page document bottom right corner reads DFEH00094	
4 - 036	07/28/2022	07/28/2022	1 page document titled Tastries bakery-boutique-events Design Standards	
4 - 001	07/28/2022	07/28/2022	1 page document bottom right corner reads CM-0900	
4 - 015	07/28/2022	07/28/2022	1 page document title Layered Cake Stands	

BCV-18-102633

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EXHIBIT LIST

Page 4 of 5

Case #: **BCV-18-102633**

Party: Department of Fair Employment and Housing VS Cathy's Creations, Inc.

Judge: Bradshaw

JCA: Suzanne Sayabuaovong

Dept: _____

Counsel for Partics: Gregory Mann, Kendra Tanacea, and Soyeon C. Mesinas / Charles Limandri, Paul M. Jonna, Jeffrey M. Trissell

Exhibit #	Date I/D	Date Evidence	Description	Previous Ex. #
*****Joint Exhibits*****				
5-003	07/29/2022	07/29/2022	1 page document bottom right corner reads DFEH00093	
4-022	07/28/2022	07/28/2022	1 page document titles Fun Shapes Take the Cake	
7A-001	07/28/2022	07/28/2022	1 page photo of cookie cutters	
7A-011	07/28/2022	07/28/2022	1 page photo of two tier cake	
7B-013	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-014	07/28/2022	07/28/2022	1 page photo of three tier cake	
7B-015	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-017	07/28/2022	07/28/2022	1 page photo of four tier cake	
7B-024	07/28/2022	07/28/2022	1 page photo of three tier cake	
7B-030	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-031	07/28/2022	07/28/2022	1 page photo of five tier cake	
7B-134	07/28/2022	07/28/2022	1 page photo of four tier cake	
7B-052	07/28/2022	07/28/2022	1 page photo of bottom right reads CM-0988	
* 13A	07/28/2022		Flashdrive- Photolabeled "Top Tier Crumb Coat"	
* 13D	07/28/2022		Flashdrive- Photo labeled "Smooth Coat"	
* 13E	07/28/2022		Flashdrive- Photo labeled "Smoothing Butter Cream"	
* 13F	07/28/2022		Flashdrive- Photo labeled "Stacking"	
* 13G	07/28/2022		1 page photo of three tier cake	
* 14A	07/28/2022		Flashdrive- Photo labeled "Decoration"	
* 14B	07/28/2022		Flashdrive- Photo labeled "Decoration"	
231-014	07/28/2022	07/28/2022	1 page photo	
553B-001	07/27/2022	07/27/2022	Copy of a social media post	
553A-001	07/27/2022	07/27/2022	Copy of a social media post	
130	07/29/2022	07/29/2022	3 page document	
131	07/29/2022	07/29/2022	5 page document - Environment Health Permit	
132	07/29/2022	07/29/2022	2 page document titled California State Board of Equalization Seller's Permit	
133	07/29/2022	07/29/2022	4 page document titled California Secretary of State Electronic Certified Copy	
148	07/29/2022	07/29/2022	2 page document of an email subject: Re: Rodriguez/Del Rio Wedding October 7	
104-002	07/26/2022	07/27/2022	1 page document Tastries Bakery Receipt dated 06/22/2017	

BCV-18-102633

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Agency: _____

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Page 5 of 5

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Attorney: _____ Name: _____ Date: _____ Released by Clerk
(Signature) _____ Initials: _____

Attorney: _____ Name: _____ Date: _____ Released by Clerk
(Signature) _____ Initials: _____

Agency: _____ Name: _____ Date: _____ Released by Clerk
(BPD, KCSO, etc.) _____ Initials: _____