Exhibit 11

In the Matter Of:

INDIANA CIVIL LIBERTIES UNION, ET AL.

-v-

MIKE BRAUN

James Alexander Tanford

August 24, 2026

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INDIANA CIVIL LIBERTIES UNION, INC., et al.,	)	
Plaintiffs,	)	
-v-	)	Case No. 1:00-CV-00811-SEB-VSS
MIKE BRAUN, in his official capacity as the Governor of the State of Indiana,	)	
Defendant.	)	

The videoconference deposition upon oral examination of JAMES ALEXANDER TANFORD, a witness produced and sworn remotely by me, Rosemarie LaMantia, Notary Public in and for the County of Hamilton, State of Indiana, taken on behalf of the Defendant, remotely via Zoom videoconference, on August 24, 2026, at 9:00 a.m., pursuant to the Federal Rules of Civil Procedure.

APPEARANCES

(All participants via Zoom videoconference)

FOR THE PLAINTIFFS:

STEVIE J. PACTOR, ESQ.
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FOR THE DEFENDANT:

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EXHIBITS

NONE WERE SO MARKED.

JAMES ALEXANDER TANFORD,

Called as the witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MS. SALZ:

Q. All right. Well, I'm Amanda Salz. I'm here on behalf of the Becket Fund For Religious Liberty defending defendant Mike Braun. I'm here with my colleagues.

Good morning, Mr. Tanford?

A. Good morning.

Q. Please state your full name for the record.

A. James Alexander Tanford, T-A-N-F-O-R-D.

Q. Thank you.

Do you understand that you're under oath to tell the truth?

A. Of course.

Q. Is there anything that would prevent you today from giving your full attention to truthfully answering my questions?

A. Not a thing.

Q. Okay. Have you ever been deposed before?

A. Yes.

Q. When was the last time you were deposed?

A. I'm often called as an expert witness since I

taught trial practice and litigation all my life. I'm often called as an expert witness in criminal postconviction relief cases as a witness on the effectiveness of criminal defense attorneys.

Q. Do you recall the last time that you were deposed?

A. No. It's been within the last year.

Q. Okay. And have you ever taken a deposition?

A. Quite a lot.

Q. Okay. Well, it sounds like you're probably pretty familiar with the primary rules of a deposition then but I'll cover just two to insure we get a clean record.

The first is that we should avoid talking over one another to insure that the court reporter can get all of my questions down and your answers down.

And then second, please, answer all yes or no questions with a verbal question yes or no rather than with any variations like uh-huh or nodding just to make sure we get that down clear.

Does that sound good to you?

A. It does but I just warn you I have been cautioned by several trial judges to stop talking over people. So, please, I have a tendency to jump in sometimes before people are finished with questions. If it does just tell me to stop. I'm

aware that I do this but, you know, I'm a talkative 76 year old. So, I just warn you again, and the court reporter, please, if I'm the one talking over somebody, wave or something or tell me and I will stop. I'm aware of the problem.

Q. Great. Well, thank you for the note.

I'll try to mention that for you and I'll also try not to talk over you as well.

A. Okay.

Q. You are a lawyer, correct?

A. Yes. Correct.

Q. Are you currently practicing law?

A. Yes.

Q. What is your current job?

A. I am of counsel to the Epstein Law Firm in Indianapolis and I am a legal resource here in Bloomington that people come to particularly the students and faculty who are caught up in the university disciplinary process and I have an active federal constitutional practice doing Section 1983 cases.

Q. Okay. So, you have a federal constitution practice. Do you have other areas of law that you practice?

A. I practice family law for my friends and neighbors.

I -- the only thing I do not do is criminal defense work because that requires that you be in daily contact with the local prosecutors and police and I am not. I do a fair amount of civil work, some in state court, some in federal court.

Q. All right. And in this case, you're here as a plaintiff, not as legal counsel, correct?

A. Correct. I just talked over you the first time.

Yes. You are correct.

Q. Thank you.

Before you started at your current firm what was your most recent position?

A. I've been on the faculty of the Indiana University, Maurer School of Law since 1979.

Q. Are you still on the faculty?

A. I'm emeritus. I'm now retired from that.

Q. And for how many years did you teach?

A. From 19 -- you can do the math. I started in 1979. I stopped, I think I taught my last class four years ago.

Q. All right. And you were a tenured law professor?

A. Yes.

Q. What classes did you teach?

A. Evidence trial practice, advanced trial practice, advanced civil procedure and a seminar in

constitutional litigation.

Q. Right. So, yes, you would be quite familiar with depositions.

A. Yes, ma'am.

Q. You've also held at least one prior position with the American Civil Liberties Union of Indiana, is that correct?

A. Not as a lawyer. I was on the board and I was president of the board of the ACLU for a couple of years, two or three year term.

Q. All right. And just before we get into that, I understand the American Civil Liberties Union of Indiana as synonymous with the two organizational plaintiffs in this case, the Indiana Civil Liberties Union, Inc. and the Indiana Civil Liberties Foundation, Inc.

Is that your understanding as well?

A. Yes.

Q. Great. So, for purposes of at least the deposition may I refer to all of those as the ACLU of Indiana?

A. Yes.

Q. All right. So, what was your most recent position with the ACLU of Indiana?

A. Most recently I'm simply a member. The -- again, the membership and contributions, charitable

contributions to the foundation part and I have also participated with conducting moot courts for Ken Falk, the last and the previous director named Rich, Richard Waples, W-A-P-L-E-S, fair number of years, I co-counseled with him on a couple of cases. Probably the most significant one was Collins V Day, an Indiana Supreme Court case that changed the way the state of Indiana interpreted its equivalent to equal protection clause in its constitution.

(Reporter clarification.)

Q. All right. So, Mr. Tanford, you mentioned so your most recent would be that you were a member or -- so, are you currently a member?

A. Yes.

Q. Okay. And then you previously mentioned that you were on the board of directors and the president of the board of directors. Before you were a member was your most recent position --

A. No. I've been a member since I was in high school.

Q. Okay.

A. I've been -- and, you know, aside from everytime one is a member one occasionally forgets to renew but I've basically been a dues paying member since I was in high school of the ACLU.

Q. Okay. What does it mean to be a member of the ACLU?
A. I'm not sure I understand your question. To me what is the legal -- I'm not sure.
Q. How did you initially become a member?
A. I was involved in the -- I grew up in North Carolina and I was involved in the civil rights movement and the ACLU, was also involved and I joined and I joined in high school, remained a member in college and law school.
Q. What do members typically do?
A. I can't answer what members typically do. I can tell you what I do.
Q. Perfect.

What did you do as a member in high school? Start there.

A. I attended conferences and meetings. I volunteered. I knocked on doors. I -- they -- I helped distribute the -- they used to have -- like nobody from this room is old enough, back in the days before we had computers, the National ACLU had one page documents basically setting out its positions on constitutional issues and I distributed those. I had them available.

I can tell you the first time that I got

expelled from high school was because of the ACLU. I went to -- and this may seem strange given everything else, but our high school allowed organizations to distribute literature. They had table in the front hallway of the high school and they banned the Ku Klux Klan, the only organization that was banned from distributing literature. I knew a couple of the kids in the Klan and I went to the principal's office and said this was unfair, that it was a violation of the First Amendment to single out one group, however despicable its views since they allowed Boy Scouts and Girl Scouts, everybody at the church has distributed things, everybody has distributed things. And so I was accused of being a Klansman and expelled from school.

Q. Sounds like a very active beginning of your membership with the ACLU.

A. It was and I can say that I got a lot of support from my parents in this and indeed my mother, who coincidentally ended up also living in Indiana, remained until she -- until her death an active volunteer with the ACLU.

Q. So, I assume your position as a member has changed a bit.

What do you do today as a member?

A. As a member I'm a long time -- not sure if it's a member. You don't have to do anything as a member. A lot of people are members because of its national impact, particularly now as one of the organizations that fights against the discrimination censorship and authoritarianism of the religiosity of the current administration and a lot of people just are members in order to belie both financial and numerical support for that effort and I do that.

I also make out of, again, what are called charitable -- you can make a charitable distribution out of a retirement account. The one advantage of being an old guy, you can make a charitable distribution out of a retirement account, out of your required minimum annual distribution, which to a 501(c)(3) charity, and so I give them substantial amount of money every year.

I have been a friend of Ken Falk for a long time. Indeed I was on the panel of board members who interviewed him for his job many -- more years ago than either of us would like to remember.

MS. PACTOR: It was 30 years ago right now.

THE WITNESS: Oh, God. I don't want to know

that, but the -- and so he and I will since I taught constitutional litigation and I'm familiar with a lot of these issues, I will talk to him informally sometimes about cases. I've participated in moot court panels for him and for other lawyers who are arguing either for the ACLU or constitutional civil rights kinds of cases.

BY MS. SALZ:

Q. All right. You've also served as a member of the board of directors at some point?

A. Correct.

Q. Is that correct?

A. Yes.

Q. Were you the president of the board of directors during your entire time on the board.

A. No, I don't think so but for the -- for a substantial amount of that time, yes.

Q. Okay. When did you become a member of the board of directors?

A. I do not remember.

Q. Do you remember approximately how many years you were on the board?

A. No, I -- I don't because I -- whether I've been on the board or not on the board, in the early days we also had regional chapters and I was involved in

the Bloomington regional chapter from when I came here in 1979 until the electronic era when everything got folded into the central office wherein that, you know, '79 to the -- again, early '90s, when in that process I was on the board and -- of the state board and when I wasn't I do not remember.

Q. Okay. Well, as a member of the board of directors, what was your role within the organization?

A. I was either -- I was on the board and for a while I was president of the board. While we were there with the -- under -- with me and business school investment guy named Randy Paul and Sheila Suess Kennedy, who was then the overall executive director of the ACLU. Our main goal was to put it on -- basically to get it out of the hands of the true believers and into the board, into the hands of people who understood that for it to continue it had to have a solid financial economic base long-term growth. We were the ones that engineered the purchase of the building in which it now sits. So that I'd say on the -- the job of the board is to hire a really good legal director and get out of his way and make sure that he has got the stability and funding to continue the work.

Q. Okay. So, your primary responsibilities then were hiring the legal director and then financially helping the organization financially support him, is that accurate?

A. No, that's -- it's accurate but incomplete, yes.

Q. Perfect.

What else then? I just want to make sure --

A. You only have to hire a legal director once and Ken Falk has been there for 30 years. The board didn't have to hire another legal director. So, that's a one time thing but like any board it's the management of the finances of the organization, dealing with -- I served a term on the national board for one year and that I probably can peg because we went to the meeting in New York and our kids were 2 and 3 years old. So, that would make it '97 to 1998, and it's just like any board, just we -- we deal with fundraising and offer -- and our sounding board, if there are questions, for example, I mean, there are things at that ACLU does that, like I said, I started out arguing on behalf of the Klan. The ACLU represented infamous the Nazis who wanted to march in Skokie. The ACLU represents a lot of people on a matter of principle whose views the members individually disagree

vehemently with. So, we were a sounding board. Also, when the legal director or executive director wanted to sort of talk about a choice of issues to deal with because it basically always has limited -- more limited resources than its -- than are needed for various things. So, we would advise, give feedback, things like that.

Q. So, when you're advising and giving feedback, were there any instances which you were advising and giving feedback on decisions regarding which legal issues and cases the ACLU of Indiana would pursue?

MS. PACTOR: I am going to -- I am going to interpose an objection here because -- a few reasons.

One, this is potentially intruding in the association privilege of the ACLU.

Number two, Professor Tanford is here to testify on his own behalf of the plaintiffs. So, to the extent that these are questions about the operation of the ACLU, the appropriate party to be answering those questions of is the 30(b)(6) deponent who is being deposed right now. So, I understand the scope of the deposition is broad but it appears to be going into territory that is both irrelevant and potentially protected.

MS. SALZ: Understood. I'm not trying to get anything -- certainly not trying to get into anything that is protected. I'm just trying to understand given Mr. Tanford mentioned his role in the -- as a member of the board of directors, within the complaint, I was just trying to understand what that meant when he listed that. So, to the extent that --

THE WITNESS: I can see say that I've not been on the board for at least 25 years. So, I haven't got the faintest idea what the board does today.

BY MS. SALZ:

Q. Okay. I think we've got enough. I was merely trying to ask a couple of questions. I think we got a little further afield than I tended to. So, I appreciate the -- objection noted.

A. And I would say, please, feel -- I'm an old warhorse. I will talk all day, if you let me. So, if I'm rambling too much, just tell me that I've answered your question.

Q. Well --

A. Free to cut me off.

Q. Like I said, I certainly don't want you to disclose anything that is confidential. So, to the extent that your attorney would like to chime in,

obviously she should feel free to. I want to make sure you get out any answer that you think is relevant to my questions.

A. Okay.

Q. All right. So, in addition to being a former member of the board and a current member, have you held any other positions with the ACLU of Indiana?

A. Yes. I've been a cooperating attorney. Again, this is all a long time ago. I've been a cooperating attorney. That is as an outside lawyer, of co-counsel taking referral cases from the ACLU.

Q. Okay. Where generally do you currently live?

A. I live in Bloomington, Indiana.

Q. All right. And how far approximately is the drive between Bloomington and Indianapolis?

A. Depends on where you go. To our law firm it's exactly 55 miles.

Q. All right. And do you drive into Indianapolis frequently?

A. That's a characterization I can't answer. I think it's -- I -- it's not -- I don't -- I'm not on it -- I -- I'm retired. I go there for sporting events, to see friends, to do things with the law firm that I'm associated with, to appear in court

but that's not on any kind of regular basis.

Q. Okay. Do you have an idea of how often you drive in?

A. I -- twice a month. I don't know. I don't know. It's -- I have no reliable answer to that because it's not a regular thing. My -- I mean, it's not on a fixed schedule.

Q. Do you recall the last time that you were there?

A. Actually we just had a trial, three day trial in a civil estate case at the Marion County Justice Campus. That was a couple of weeks ago. I was at -- I go to the airport, that's our airport, but that's not actually downtown in the city. I've been -- within the last three, four weeks I've been to the law firm office a couple of times.

Q. And without getting into any specifics about the cross streets of your home, which route do you typically take to get from Bloomington to Indianapolis?

A. Go up I-69 and we get off at north, depending where I'm going. If I'm going downtown, in the downtown area, get off at South Port, then to -- which connects to Bluff Road. Bluff Road goes north and becomes West Street. West Street runs right up the west side of downtown Indianapolis between the

Indiana University Campus and -- on the west and Lucas Oil Stadium and the downtown and the statehouse area on the right and then depending on where I am going I will go -- go across on Maryland, which is one way east, if I'm going to the law firm, I'll go across on Ohio, which is one way east if I'm going in the vicinity of the statehouse.

Q. Okay. Very helpful. Thank you.

So, you mentioned the statehouse is one place that you occasionally at least visit when you're in Indianapolis?

A. Yes.

Q. And one of the reasons that you say in the complaint is that you visit the statehouse to visit the stained glass that your stepfather painted, correct?

A. Correct.

Q. All right. Is the stained glass on statehouse grounds?

A. Yes. Oh, yes. It's -- if -- I gather you haven't been there. You should. This is absolutely magnificent. You walk into the rotunda of the statehouse and it's the underside of the dome is the primary set. There is also stained glass in

the supreme court chamber and it's been restored, dates back to the 19th century and he restored those.

Q. Well, yes, I am a big fan of stained glass. So, I do look forward to visiting and will be sure to check it out when I'm there.

So, you mentioned it's under the dome. Where, like on which side of the state of -- of the statehouse is this specific window?

A. It's not a window. It's -- it's -- if you -- actually if you -- if you go to the statehouse website, Indiana, historical society or the natural -- at least, anyway, if you Googled Indiana State Capitol, and you bring up the website of the state capitol, the picture that they use to exemplify the statehouse is the stained glass ceiling and the dome.

Q. Wow.

A. Take a look at it.

Q. So, would you typically view it from inside that or can you see it from outside as well?

A. No, inside.

Q. Okay. And so when you enter to see the stained glass, which entrance do you typically go through?

A. The -- back in the days used to go north side but

now they don't let the public go in north side anymore. So, they have two public entrances, one on the east and one on the west. Normally I go in the one on the east side, which is the main public entrance, takes you up a lot of steps right to the main floor of the statehouse. The ADA accessible entrance is on the west side. The last time I was there I had to use that entrance because I had -- I had strained several muscles in my leg doing exercise in fitness class for seniors and was using a cane and so I used the west side that time to to -- because it -- it's a -- you get a disability entrance, take the elevator up.

Q. Okay. So, just to make sure that I have this correct.

So, the typical entrance you enter through is on Capitol Street, is that right?

A. Right. The primary public entrance is on Capitol.

Q. Okay. And then -- then on the west side is the ADA entrance?

A. Yes.

Q. Got it.

And when you visit the statehouse, do you drive there?

A. Yes. It would be a long walk from Bloomington.

Q. I agree. I just wanted to check.

Where do you park when you drive?

A. Depends on where I can find a parking place. Off of West Street, Ohio Street is one way towards the east and it runs along the north side of the statehouse. There are a bunch of parking places on the street there. If I don't find one, then I go south on Capitol, which is one way south, and then west on Washington Street, which is one way west, and just lately I haven't been -- there just is no park on Capitol because it's under construction or something. So, the last time that I went I actually found a parking place on the north side on Ohio but other times I've had to go around and park on south side of Washington.

Q. Okay. And then you would walk to the Capitol Street entrance?

A. Yes.

Q. Okay.

A. Or the -- or the ADA entrance, depends. I mean, normally then for -- from there to the -- yeah, to the public entrance on Capitol.

Q. Okay. And then another reason you pass the statehouse is in walking to Colts games, correct?

A. Correct, or walking, yeah. Maybe just a

clarification. It's just the way the traffic flows in and out of Lucas Oil Stadium, when we go we always park on the Indiana University, Indianapolis campus, at the law school because I have a parking pass there and then we walk and it's -- and when we walk, we walk down West Street and that's -- and we do not directly pass by the Capitol going down but our seats are on the Capitol Street side of the stadium. So, when we're leaving along with 50,000 other people and the way that police have the intersections blocked off and things like that, when we leave we go straight up Capitol to Washington Street, cross Washington Street so as to avoid the intersection of West and Washington, which is impossible to get through on foot or in car after a Colts game. We cross over, cross in front of the -- of the statehouse on -- on Washington and then go up to the law school. So, it's leave -- it's on the way from the stadium back to the car is the time that we almost always pass by the statehouse.

Q. Very helpful. I have Google maps pulled up.

A. Good. I was going to say if you don't live -- I was thinking how do I explain this to somebody who doesn't actually live here. The -- so the --

the -- and I don't know if you look at your Google map and you look at where West and Washington intersect, there is all sorts of -- there is a big Marriott, some big, fancy hotel on one side, and that's just -- that gets crowded with people and cars after the Colts game and is difficult to get through.

Q. That makes sense.

So, you mentioned you park at the IU campus because you have a parking spot there. That makes sense.

Do you ever park anywhere else for Colts games?

A. Yes. It depends. I -- also, as I said the person I've known longest at ACLU or affiliated with it is Rich Waples, once a year, and his wife JauMae, J-A-U-M-A-E, H-A-N-G-E-R, she and my wife went to law school together. It's one of those things. I knew Rich and she knew JauMae before any of us got married with each other. And we go once a year to the Colts game with them. We go to their house, Rich drives, and he always goes from where they live straight down -- they live just off Washington Street on the east side, straight down Washington looking for a parking place, and the last couple of

times we found one on Washington, actually right next to the capitol, and since I've -- and I got the parking pass in my pocket, if we don't find one we'll park at the campus.

MS. PACTOR: And, Amanda, also if you can find a reason to need to depose Rich Waples to verify that Professor Tanford's story is accurate, that would be amazing. So, I'll take service. Please, please find a reason to deposes Rich Waples.

MS. SALZ: Just for entertainment value?

MS. PACTOR: Yes.

THE WITNESS: He would love to be deposed in this case, any excuse, because, obviously, you know, if you've been...ACLU for a long time, these issues of church and state are kind of just at the core of what we are interested in.

BY MS. SALZ:

Q. Well, I do believe you on the parking spots, so, I don't know that we'll need to depose him on that, but --

MS. PACTOR: I tried.

MS. SALZ: -- see if there is anything else.

BY MS. SALZ:

Q. All right. So, I think that covers that on the Colts game.

I guess one other question you mentioned that you go about once a year with this other couple. How often or how many Colts games do you typically go to?

A. We split the -- we split the season with friends of ours down here in Bloomington. We have four games. We always give one. We always donate one to a community theater group for charitable auction. So, that is -- is three. We generally go to all three, sometimes it's only two, if we have friends coming into town and/or other things, sometimes it's only two but generally we go to three games a year.

Q. Okay. And then -- so, in addition to visiting the stained glass and walking by the Colts game -- after Colts game, do you ever walk through the full statehouse grounds?

A. Occasionally but it -- it would be a bit unusual, you know, because there is no path that I would normally take on foot other than to get into the statehouse itself.

Q. Okay. Are you familiar with -- well, the fact that there are monuments on the statehouse lawn?

A. Yeah. Yep.

Q. Okay. Are you familiar with the Ten Commandments

monument that Indiana would like to display on the statehouse grounds?

A. Yes. I remember it from 25 years ago.

It's actually now down near where I live. It's in 39th Street church, Christian church in Bedford, which is -- so I've seen it actually seen it down there a couple of times when I've been in Bedford.

Q. You've seen it at its current location?

A. Yes.

Q. Okay. And in --

A. Yes, but that's been there for 25 years. That's been a while.

Q. Okay.

A. Yes, I'm familiar with it.

Q. Are you aware of any other monuments that are currently on the statehouse grounds?

A. There are statues.

I'm not sure what you mean by monuments. There are -- several people have statues. There is a -- as I recall there is a base, I don't remember what was there now, but there was a base of a monument where the top part of it disappeared. I'm hard pressed to remember what -- I remember what was there. I knew once.

Q. Okay.
A. But to my knowledge there are no other large stone monuments on -- on the grounds.
Q. All right. So, it sounds like you're familiar with they're there, but there are no specific monuments that you're intimately familiar with?
A. No. Most of them are just like some governor of Indiana for some reason or other managed to get his, you know, statute on the grounds.
Q. Do you know if any of the monuments have inscriptions?
A. I wouldn't be surprised. I -- again, I don't know, trying to remember. I don't remember seeing anywhere the inscription itself was the main part of the monument. They have plaques, a plaque that sort of says what they are that somebody was the something of governor of Indiana, for example.
Q. So, you've seen that they have inscriptions but you haven't necessarily read them?
A. That's correct. I wouldn't necessarily and I can't say that -- I think they all have some kind of plaque but I don't know. I wouldn't swear to it.
Q. Are you familiar with the George Washington statute displayed on the statehouse grounds?
A. No.

Q. I'll represent there is a George Washington statute that has an inscription and the inscription reads, quote, observe good faith and justice towards all nations; cultivate peace and harmony with all. Religion and morality enjoin this conduct. So, that's the inscription on one of the monuments on the statehouse grounds. I am wondering whether that inscription bothers you in any way?

A. Nope. I have no problem with George Washington.

Q. But would you agree that that is an inscription on the statehouse grounds that states that religion, morality enjoin certain conduct? --

A. No, I would not agree with that because I don't know it as a matter of personal knowledge.

Q. Okay. Would you agree that the statement religion and morality enjoin this conduct would be -- if on that monument would refer to government enjoining some sort of conduct?

A. Could you rephrase that? I'm not sure -- I -- is that -- the way I use the word enjoin it strikes me as it means prohibit. I think that that's saying we should live moral lives. It's not a prohibition. It's an admonition or commitment, to that -- that I certainly agree with.

Q. Okay. So, you would read the sentence religion and

morality enjoin this conduct, as more of an admonition?

A. Yes. George Washington, he wanted us to live decent, moral lives. I don't have a problem with that.

Q. All right. You would say that the Ten Commandments do something different than that?

A. Oh, yeah.

Q. Okay. What would be the distinction you would draw between those two?

A. Well, first of all, which Ten Commandments are you referring to? Are you talking to -- I assume when you say the Ten Commandments because there is no such thing as the Ten Commandments. I'm Catholic. I can assure you that ours is not the same as the one that is on the -- that is on the monument. I assume you mean the quaint King James bible version carved, that is partially carved into the monument now sitting in Bedford.

Q. Yes, I am referring to the Ten Commandments monument that is currently in Bedford and that may be on the statehouse grounds.

A. Okay.

Q. So, I'm trying to understand your view of the distinction between the inscription on the George

Washington monument and then the Ten Commandments on the monument that is currently in Bedford?

A. That's easy. One is sectarian and one is not.

Q. Okay. And are you familiar with the mural titled Apotheosis of Indiana or spirit of Indiana that is on the walls of Indiana statehouse?

A. I don't know -- I wouldn't know it by name.

What is depicted in it? Is that the one with the -- is that the one with the -- that depicts the history of Indiana?

Q. It depicts -- it depicts Indiana as a woman surrounded by Roman and Greek Gods and goddesses.

A. Yes. I think that -- yeah, I think -- I think I know which one you're referring to but when I -- the last time when I had been to the statehouse I had been there to sort of -- to have a -- you know, it's like visiting a parent's grave site, to be in a place that was important to my stepfather and I haven't paid much attention to what else is inside the building.

Q. That makes sense.

So, you don't recall seeing the mural?

A. I do recall, but I -- yeah, I would not -- I think I know which one you're referring to but I don't -- you know, I don't remember the details.

Q. Okay. But from your memory and you don't think it would make you uncomfortable to see it?

A. Again, as far -- I don't see it as -- I mean, murals certainly make me uncomfortable if it were a great big inscription that said, you know, we are all Protestants, that would bother me, but I don't believe it does that from the from what you've described.

Q. And in general is there other art you recall being in the statehouse?

A. Art, oh, yeah, there is a lot of -- there is stuff all over the statehouse tucked in nooks and crannies. There is -- you know, it's got four stories. I can't say as I've been through the entire statehouse, but, yeah, there is a lot. In fact, there is an office, I recall -- I went there with -- took our kids when they were small, there is actually an office, like a tourist office inside of the statehouse, I don't remember what it is called anymore, that has a little guide to the artwork, and -- but that's been 20 years since I've wandered around and looked at any of that.

Q. Okay. And specifically when you're in there you're either there on business or to view the stained glass not to necessarily view the art?

A. Yes.
Q. So, the reason you're a plaintiff in this case is in part because you're concerned with the possibility that you may see the Ten Commandments displayed while you're visiting or passing statehouse grounds, is that correct?
A. Not only see it, but I would know that it was there. I mean, any time -- state -- it is -- it is contrary to everything that my stepfather believed and valued in his life. It's not just seeing it that would bother, it's just it's like, you know, putting something offensive to him next to his grave, and it would just -- it just bothers me. I would see it and that would bother me enough but knowing it was there just would interfere with my ability to have a quiet moment, spiritual moment with my stepfather in a place that meant something to him.
Q. Okay. I just want to make sure as I'm asking questions that I am staying true to your characterization.

So, you're saying it would -- the monument's presence would interfere with your ability to have a spiritual moment with your stepfather?
A. I think I'm going to stand on what I said and not

your summarization of it, if that is all right.
Q. Certainly. I just -- I will probably continue to ask questions --
A. Oh, no. No. I don't mind but when you go -- I mean, this is a deposition, the answer will be there in print. When you summarize things, it's shorter than my answer. I'm just saying I don't disagree with your summary but I believe that my complete answer is my answer.
Q. Of course, well, as I go forward I may describe it that way just to shorthand so I don't draw, you know, the minute long answer, but I do appreciate -- I'd also like to stick to your answer.

All right. So, would you say that that injury would -- would there be any monetary injury associated with the harm you'd suffer?
A. Nope.
Q. What about any physical injury?
A. I don't think so. I can't imagine. No, not just -- no physical injury just. It is simply emotional and it is interfering with my ability to go about my business and to reach out to him.
Q. Would you describe it then as psychological?
A. No. If I would describe it, if I would characterize anything, it is emotional, psychological. It is

moral. It is religious. You know, I am a Catholic, and these are Protestant -- this is the Protestant Ten Commandments. This includes the prohibition against graven images, which has been used for centuries by Protestants to discriminate and go after Catholics because the Catholic crucifix has an image of Jesus on it. Most of the Protestant crosses do not. The veneration of the saints the importance of the Virgin Mary in the Catholic religion is something that has been attacked over the -- for years and years by the Protestants as being the worship of graven images. And that the particular version that the governor wants to reinstall, to install because it never got installed, to install at the statehouse is that -- the one version that is most annoying to Catholics, it's the King James version from 1611, I believe if I recall my history, that contains the -- the -- that translates the prohibition against worshiping false idols into erecting graven images. So, it is offensive on a religious level as well as just sort of a personal and moral one. Plus I just think the state has no business, you know, erecting a monument to a particular religion. I just think that's -- I think that is bad law, bad politics and

bad -- and unconstitutional. So, it hurts and offends me on multiple levels.

Q. Sticking to the point you made about the specific version and that as a Catholic the specific version is particularly bothersome to you.

Would any version of the Ten Commandments bother you or just this version?

A. Oh, I suppose if you put up the Catholic version it certainly wouldn't bother me on that level but that's not -- I mean, I haven't heard any proposal to anything other than put up the King James version. So, I can't really answer your question hypothetically without seeing exactly what it is, you know, and at most putting up the -- say the Catholic version or the Jewish version, other side of the family going backward Jews, so, would that -- you know, it wouldn't offend me as much on your -- as a religious bias directed to me but then it would still offend me on a sort of moral level that it's -- it whatever version you put up is going to be offensive to people of different religions and that's the problem.

That's the difference between the George Washington -- that you said earlier and the Ten Commandments. Washington says live a moral and

religious life. It doesn't say whether that religion is Protestantism, Catholic, Catholicism, Judaism, Buddhism or Islam. The Ten Commandments in the King James version says it's just a Protestant document.

Q. Okay. So, it's not necessarily the presence of religion then just to draw a distinction between George Washington and the Ten Commandments, it's not the presence of religion but the presence of a specific religion?

A. Well, it's both. Because Washington doesn't say religion. He says moral and religion. So, if you -- if -- so, if you want to put up a -- if you can find some neutral version of the Ten Commandments and put it up next to the 10 Commitments of Humanism in honor of just live a moral life, I mean, I suppose at some point it just becomes my ninth grade civics class version and that's -- that would not be offensive but to do that the whole law of the state has to become covered with denounced slogans.

So, you know, the answer is it's a matter of degree. It depends -- a lot depends on what they put up. To the extent that what they put up is -- are things that uses religion to divide people,

that offends me, no matter how it is, to say this is a good religion, and if you don't, you know, and then next to it is a blank for other religions.

Q. Okay. So, on that -- on the point about George Washington again with religion and morality. So, religion and morality together are fine; it's just when it is just religion?

A. Well, I am not sure what you mean by religion. The Ten Commandments is not religion. It's a Protestant creed. It's -- I don't mind religion. I --

Q. Okay.

A. But it's just -- but there is a -- first of all, I believe firmly as did the founders in separating church and state. What I do on Sunday or Saturday is my own business. It's none of the government's business to -- even if I'm -- if I -- if I loved King James Ten Commandments, it's not the government's business to say that is a good version, we'll post that.

So, it -- it, you know, if you talk about religion with a small R, just in general, if the government was to say everybody, you know, we'd be a better society if more people would go to, you know, the church, synagogue, temple, house of

worship, and, you know, and that wouldn't bother me, but that's, you know -- that's using the word religion as -- it does not exclude, for example, the spiritualism of the indigenous tribes.

Q. Okay. One more point of clarification on that. Is part of the reason that it bothers you that the government would display the Ten Commandments because you feel like that would be the government requiring you to follow them?

A. Of course it sits right there. I can't avoid it. It's right there on the statehouse lawn. It's -- I mean, endorsement test, that's how old I am, I go back to the day when the endorsement test applied to the establishment, but, yeah, it's -- it is an act of bias by the government. It is bias.

There are -- I mean, if you want, I actually looked at, went through these the other day, the -- Islam has 5 pillars. Humanist have a parallel 10 Commitments. The Buddhist have 5 or 7 principles. They're -- not remembering. The church of satan, the -- so-called has its set of counter principles. And for the government to pick only one is an act of bias in favor of that version and against the other.

It's not a direct requirement that one must

believe in it but it is showing bias and favoritism and I believe that common sense and the constitution requires neutrality.

Q. Okay.

A. I would be equally offended if they posted something that said don't be a Protestant. I mean, if for some reason they posted something that was offensive to Protestants, they posted -- the only thing they posted was a -- you know, something that was the, you know, four major truths of Buddhism and that was the only thing they posted, that also would be sort of an act of favoritism for one particular religious viewpoint.

I mean, the Indiana -- if -- I realize this is a federal case but the Indiana constitution, which is a very sensible document, talks about preference. It's says no preference to any creed or religious society, and this gives a preference to the -- to Protestantism, if that makes -- I am not sure my answers are making any sense because it's -- it's hard to articulate some of these views.

Q. I think I'm following and like you mentioned, it will be in the transcript, so, I can go back and look at it but I think I'm following.

Well, I know we're coming up on the hour mark. I am probably only about halfway through my questions. So, it might be a good time to take a 5, 10 minute break.

(Off the record.)

BY MS. SALZ:

Q. We're back on the record.

When we left off we were talking about the Ten Commandments monument and your specific issues with it.

Would you experience these same feelings anytime that you see the Ten Commandments?

A. No.

Q. Okay. Why do you -- why do you experience everything you've said you've experienced with regard to this monument but may not in other context?

A. Well, for instance, they're down the street from where I live is a wonderful old Presbyterian church, been around in Bloomington a long time, it's got the Ten Commandments posted, the King James version posted its lawn. I think that's where they belong. I -- doesn't bother me at all to see a -- to see a Protestant church. I grew up in North Carolina. They were on every street

corner. It's the -- it's the putting -- it's giving that kind of preference by, you know, by the state that bothers me. It's not them by themselves.

I mean -- I mean, you know, I -- the history of -- the -- within Protestantism there is a variety of branches and sects in there, some that are conservative and discriminatory and full of hate. I mean, the Klan marched with the cross. They called themselves warriors of Christ. They burned crosses. They claimed to be in the name of Protestant religion.

That side of religion and Protestantism, the Ten Commandments, would always bother me. So, that the problem is that it's not so much the commandments themselves that -- but the way they are translated, the way they are used, they way they are edited, and it's -- that part of it bothers me.

Q. Okay. So, it does not offend you though to see a different version, a version you disagree with on a church property?

A. No. No, not at all.

Q. What about like outside of an individual's home?

A. Nope. People, I've fought for peoples' rights to

put signs in their yards for years. That would not bother me in the least.

Q. Okay. And what about like a private company like in a storefront window?

A. Depends. I mean, I shop regularly at Hobby Lobby and they're well known. I eat -- my secret pleasure is Chick-Fil-A but -- I don't otherwise get enough salt in my diet, but both of those as businesses are very open about their religious beliefs and, you know, it's a private business. So, again, they could do what they want. It -- there is a potential line on sort of public accommodations and how they're used but just posting them, no, doesn't bother me in the least.

Q. Okay. So, taking Chick-Fil-A as an example, if Chick-Fil-A had the Ten Commandments in the window that wouldn't deter you from eating there?

A. No.

Q. And then just to go back to your example about the Klan.

So, I think that you said it depends on, you know, the person or maybe that person's ideology, was that accurate? I just want to understand what that reference was to.

A. It's to say -- I mean, to say that there is such a

thing as the Ten Commandments or that, you know, even I have been overly imprecise when I talk about Protestant version. There are infinite variations of how the Ten Commandments are worded, how they're used, how much the display of them appears to be a genuine expression of religious and moral sincerity in a totally transparent political ploy, there are so many variations.

You asked whether sort of the Protestant, the King James version of the Ten Commandments would always bother me, and then you said -- went from there into what about if it were used in a religious context, and my answer was that even in a purportedly religious context, they -- their use can potentially, under the circumstances, deeply bother me. My example there was the Klan, which purported to be a Protestant, to be the warriors of Christ, even now you see around the country groups of sort of religious nationalists that -- that want their -- see it all over the world. They want their religion to control the government as well as their church, their place of worship, and anytime -- anytime a religious, an otherwise religious doctrine is used not for internal reference and worship purposes but for external

purposes, to affect and harm people outside that religion, that bothers me.

Q. Okay. A few follow ups. I didn't want to go into tangents but if the church though like you said you didn't mind seeing a version of the Ten Commandments on a church property.

A. Right.

Q. If they were doing that because they want to, you know, bring people in, influence somebody outside of the church, is that a problem?

A. No, as long as they don't have underneath it, you know, all is -- all -- all Muslims will go to hell because they don't believe this, then it would bother me.

Q. Okay. So, and one point of clarification just because you mentioned my use of Protestant version, I was meaning to invoke your use of Protestant version so I just wanted to --

(Simultaneous crosstalk.)

A. I'm aware of that. I'm just -- it's a -- as you know being involved in, you know, this sort of -- in litigating religious issues, nuances are often and the details are often what is important.

Q. Of course.

I have one more but I'll probably follow-up on

that.

I did want to mention you mentioning you have seen the current version of the Ten Commandments in Bedford, correct?

A. Correct.

Q. Were you -- when did you see that?

A. I was -- I've -- I have been a -- I was a middle school -- a track coach for the St. Charles Catholic School middle school track team, grades 6th, 7th, and 8th for 20 years. We competed regularly against the Bedford Middle School. So I was often in Bedford. I was curious as to what had happened to the monument. So, that at 20 years ago or something, I assume it's still there, I -- I did stop by and take a look at it. So, I know it's there but I have not gone with the -- I'm of counsel to the Epstein Law Firm. We have -- I think he has a client from near -- down near Seymour, and when they need to exchange documents, I have to go and meet them in Bedford but it's been many, many years since I actually physically saw the monument.

Q. Okay. And did you ever see the prior version, the one that was taken down in the '90s?

A. I thought it was the same one.

Q. I believe the one that is currently up is a different version, different monument.
A. Well, there was an original monument, the original one is given by the Eagles, which was vandalized.
Q. Yes.
A. Then the current one was created -- it's I believe out of the Indiana Limestone Council or something like that, never actually installed at the courthouse but that was the one that was involved in the original 2000, 1999, the original lawsuit, and then it was instead installed in -- put -- kept in this church in Bedford. I believe that it is that -- that's the same one unaltered since this -- the original lawsuit in 2000.
Q. Yes. That's correct.
A. I don't actually know that for sure but it's not the original one. It is the one donated by the Fraternal Order of the Eagles in 1950s.
Q. Yes. Correct.

So, you've seen the one that was challenged in 2000? You saw that in Bedford?

A. Yes.
Q. Have you ever seen the prior monument that was at the statehouse before it was vandalized?
A. I don't believe so.

Q. Okay. Are you familiar with that monument at all?
A. Which one, the original one?
Q. Yes.
A. No.
Q. Okay.
A. I mean, I'm familiar in general with, you know, the Fraternal Order of the Eagles' efforts in the '50s to donate these Ten Commandment monuments, saw them all over the country but that's it.
Q. Okay. Are you aware that the two monuments include different versions of the Ten Commandments, different translations?
A. Like I said I'm unaware of the -- the original, the original one, so I can't answer that.
Q. Okay. Well, I know that at least some people have characterized -- they are different versions and some people have characterized the prior version as Catholic. You may not agree with the characterization but I'm wondering if it were a Catholic version you agree that it was a Catholic version and so that would be just as bothersome?
A. Yes.
It eliminates one -- one of the multiple reasons why the current version bothers me but it would not go anywhere near solving the problem and

I can think of nothing -- in one sense it wouldn't solve the basic problem, which is it is giving a preference to one particular religious sect or creed.

Q. Okay. So, it would bother you to see any version of the Ten Commandments on public property?

A. Yes.

Q. Okay. Are you aware that the Ten Commandments are displayed in several government buildings across the country?

A. That's a vague question. I would not -- I know that -- that there was an ongoing running battle with Judge Roy Moore in Alabama who insists on putting it in the courthouse and that went back and forth for years and years. Oh, no, that's been a -- you know, from founding of this country, battles over the Ten Commandments -- well, not all of it but certainly since the '50s, since the -- since the -- there was this concerted effort in the '50s to bring Protestant God into the government. We inserted under God into the pledge of allegiance. The Eagles started donating these monuments. It was important to say we are a country of religious so we are not the communists sort of the -- the nonreligious communists,

certainly since the '50s there have been running battles constantly over the Ten Commandments, all its variations, and what -- where it -- it's a tension point in our society. I think it always will be. So, I'm not surprised that there are -- that they -- that there are places where they are posted.

Q. Are you aware that they're posted in the US Supreme Court?

A. I have argued in the supreme court. No, I don't remember that they are -- I don't remember seeing them when I was there is all I can say. I don't know. I mean, yeah, that wouldn't surprise me, depends on the where they're posted.

Q. Okay. So, if you had seen them would it bother you?

A. Of course. I don't think the supreme court has any business posting the Ten Commandments any more than anyone else. They're part of the government but, you know, it's -- there is something, when it's the legislature and the governor doing it, you know, it just -- it bothers me more. I mean, I've been a lawyer long enough to know, you know, judges are quirky people. They will do things that -- you know, because there is not much oversight.

So, if the supreme court posted the Ten Commandments, what are you going to do? File a lawsuit against the supreme court to remove them that is heard in front on the supreme court. I mean, it just -- it -- even if there is the Ten Commandments in the supreme court chambers, that seems to be an entirely separate question.

Q. Well, you preempted my question a little bit.

A. Sorry.

Q. No. No. That's great.

I was going to say you already mentioned why you wouldn't necessarily challenge it because it's --

(Simultaneous crosstalk.)

A. There is no way to challenge it.

Q. Right, but otherwise it would be just as bothersome and, therefore, you would like to challenge --

(Simultaneous crosstalk.)

A. No, it would not be just as bothersome. In other words, the -- even getting access to the supreme court is difficult. This is not something that millions of people pass every day on their way to and from work, games, museums and restaurants and cultural events. It's -- it's not the same thing in my view. It would not -- I mean, it's different

than this public posturing that we current have about, you know, posting these things on courthouse lawns and statehouse lawns where they're deliberating addressed to the public.

Q. Are you aware that the supreme court is open to the public?

A. No. It's not all the time. It is -- it is, like I said, it can be difficult, even with a case there it was difficult to get into the arch. They almost wouldn't let into the courthouse our co-counsel from Detroit who was arguing in (unintelligible). He even he had trouble getting in.

So, the answer is no -- the answer is I disagree with your characterization.

Q. It's open to the public?

A. That's too vague a question.

Q. Okay. But it's not a private building?

A. No, I -- actually I don't know. I don't believe it is, no.

Q. Okay. Are you aware that there is a monument of Moses holding the Ten Commandments outside of the supreme court?

A. I don't care in the least.

Q. Even though it's on government property?

A. Well, it's not on anything that -- it's not

anything that is within my -- my sphere. In fact, I am not sure that I would -- if it were Moses holding the Ten Commandments, the Jewish -- is therefore a -- sort of an actual historically accurate to the extent that one can be accurate about the things that happened 4,000 years ago, that would bother me less than the King James version but it would still, you know, still bother me. It seems bad, you know, bad choice but a lot of it depends on the context.

Q. Okay. So, I just want to clear up the record on this.

Does it bother you that Moses would be holding the Ten Commandments outside of the supreme court?

(Simultaneous crosstalk.)

A. Sure.

Q. Okay. What about other religious symbols or texts? Are there other symbols or texts that would bother you?

A. Such as?

Q. What about a cross, without a crucifix, just a simple cross?

A. Again, it depends a little bit on the context. That is the -- but, yeah, in general, I mean, it's -- it -- again, if you had a -- again, I don't

know what. I mean, yeah, I was going to tell you that if you had a display, I'm sure at some point in high school or something we did that where, you know, you studied the flags of different countries, and I'm sure in there you -- there is -- you just -- you look at the different kinds of religious symbols. We certainly actually took a course in college, anthropology on sort of the various symbols particularly of indigenous populations and what they meant, and totems and things like that. So, there are contexts in which the -- the display of such things appears to be either neutral because it's broad enough or is particularly linked to a person.

I mean, for example, if there were a monument to Martin Luther King that showed him wearing a Protestant cross, that would not bother me in the least because the -- because it is part of who he was. He was a REVEREND and it's part of who he was.

So, it depends, the -- if they're trying to explain the history of Philadelphia or Pennsylvania, as a state, for example, where -- to explain the history of Philadelphia, you have to explain who the Quakers were.

So that the abstract posting of a cross, the answer is it depends but I can say that if tomorrow any state, local or federal government or government agency decided we are going to post a cross that had not been there before, I would be objecting to that and fighting that because that then combines not just the existence of the cross but the act of -- but the act of posting it and foisting it on people in an era when we should know better, when our country is more complex and more pluralistic.

Q. Then you would take more issue with a new monument than a monument that has just been on public property?

A. Correct.

Q. Okay. And it also just makes your -- understanding your characterization, there are some contexts in which you would be comfortable seeing a cross on public property and other contexts in which you would not?

A. Sure. If it had been there since 1820, yeah, you know, that's one thing but if it had been, you know, somebody in a fit of religious fervor the last generation decided let's post it, that would bother me.

In other words, it's a combination of its existence and its being posted.

Q. Okay. And then you mentioned Dr. Martin Luther King, Junior, and you said if he were wearing a cross on a monument that would be fine?

A. Yeah. Mother Theresa or Justice Alito for that, I mean, if it's about who someone is, you know, no, that doesn't bother me.

Q. All right. Well, sticking with Martin Luther King, Junior, I think he is a very good example of this. He is someone who was known to quote scripture, would you agree with that?

A. Oh, yeah.

Q. So, if you're a monument where -- it's a monument with an inscription quoting -- quoting -- Dr. Martin Luther King, Junior, quoting scripture, would that bother you?

A. Depends on the context, probably not, but it would depend.

The abstract questions are very, you know, if it were a monument on a statehouse lawn that said -- that said pause this weekend and go to the house of worship of your choice and contemplate morality, that's kind of quasi-religious but wouldn't bother me.

So, again, it's not a question that can necessarily be answered in the abstract.

For example, if it were historical inaccuracy also bothers me and certainly there are -- if were simply an excuse. If you got a little picture of Martin Luther King next to the Ten Commandments and say, well, he believed in these things, so should you, yeah, that would bother me. So, it would depend.

Q. So, it would depend then -- sometimes it would not offend you to see scripture on public property?

A. I guess what I am saying I cannot answer that in the abstract.

Q. Okay.

A. But I can certainly could imagine, but, no, it -- all right. Standing by themselves, no, I can see -- I can think of no scenario where you just have religious text or creed engraved in a massive stone monument out in front of the capitol, I don't care if it's Ten Commandments or the 5 pillars of Islam, it would bother me but that's a very different scenario than a monument to Dr. Martin Luther King. One is about a person and the other is about a particular creed.

Q. Okay. So, some all the -- I'll give you some more

context, but I want to get a quote out there first just to see your response.

If you were to see an inscription that read, the judgments of the Lord are true and righteous altogether, would that itself be bothersome to you?

A. Stupid, but not bothersome, I don't think. Again, the -- let's look at the Middle East and see exactly how true that is. I mean, silly statements don't generally bother me, again, it would depend on the context.

Q. Okay. Are you familiar with the Lincoln Memorial in Washington, DC?

A. Yes.

Q. Are you aware that it includes that quote on the inscription, one of the inscriptions?

A. It includes a number of inscriptions, I don't remember any of them in detail.

Q. Okay. And just to clarify, so that scripture, the judgments of the Lord are true and righteous altogether, comes from Psalm 19. So, that is one of the inscriptions on Lincoln Memorial. Do you object to that being a scripture that is on the Lincoln Memorial?

A. Yeah, probably in the abstract, that, again, I don't -- I don't know anything about how it got

there, what its purpose was, what else is on the monument, you know, and if it -- so, I can't really -- I can't really answer that, and, again, this is a monument to Abraham Lincoln. This is not a freestanding image of the Ten Commandments, the text alone.

So, it just -- you're asking about apples and oranges. A good question is do statements about religion always bother me, no.

I have been known to quote scripture myself occasionally.

Q. I'm trying to understand, sir, where the line is, if there is one.

A. I draw a simple line, though I'm not sure it's going to be 100 percent accurate. If it is a monument to a particular person and that person had religious faith, that is okay with me.

When it is -- sorry, my phone just went off.

It is -- sorry, if it is a monument to a person who is historically important person in the United States, like Martin Luther King, a George Washington, Abraham Lincoln, a soldier of truth, it -- it -- people who -- for whom, you know, a particular religious faith was part of their -- of -- sort of their very being and who they were,

that doesn't bother me at all.

One can imagine that that has been taken to a kind of extreme war you use -- you misuse the story of that person's life for Protestantizing or have Evangelical purposes for whatever, that bothers me if it crosses that line, but that would be very context specific.

The general answer to your question is if it were a monument to a historically important person for whom religion was part of their lives that would not generally bother me.

Q. Would it matter whether that person was a private figure or a government figure?

A. No, I don't think so because it's a monument -- again, if it's a monument being erected by the government on government property, it kind of that -- then it no longer matters whether they're honoring George Washington or the 30th governor of the State of Indiana, whatever, it was, you know, versus a nongovernment figure like Martin Luther King or soldier of truth of someone like that.

Q. Okay. So, effectively by putting it on public property it's sort of making the figure, a government figure for purposes of the monument?

A. No, it's not making a person a government figure. It becomes a -- it's a choice and a viewpoint and a preference. I mean, made by the government. And, you know, there are -- and you -- take the Indiana statehouse, for example. My vague recollection is that kind of a randomly around the grounds of all the 30 some odd governors we've had, there are like five or six who have sort of more extensive displays, plaques, statues about them around the statehouse. Why pick them rather that the other 25 or 30?

Same issue with sort of historical figures generally. Why pick one or two historical figures rather than any others.

So, that I can imagine a situation where that choice is made as an excuse to tout their religious rather than their social and political contribution, but, again, it's context specific. You'd have to -- I mean, I can answer specific questions more easily than I can answer abstract questions.

Q. Okay. Well, making it a little more specific then. Does it make any difference to you that the quote, the inscription that I read that's from Psalm 19 is from President Lincoln's second inaugural address,

does that make any difference?

A. Not one way or the other. I mean, it just -- I might -- my guess is if you look back at the inaugural speeches, every single president has included at least one spiritual or moral statement that has its source in bible and often Psalms. I am a particular fan of Psalms. I think they're beautiful but that's as a private -- private person.

Q. Okay. Pivoting a bit from religious monuments to just monuments that don't have any connection to religion but may have an ideological bit for some people, what about a statute of Christopher Columbus, can you see context making that offensive?

A. That is -- that -- the context is unnecessary. That is offensive.

Q. Okay.

A. And he was a Catholic, so I just -- you know, it just -- no, again, it -- again, no context -- generally it is associated with some version of that he discovered America as if it were an empty land that did not have millions of indigenous people already living here. He didn't discover cover it. He conquered it.

So, yes, the context matters. In that sense in general I find this statute -- statues are done to Christopher Columbus I find annoying, though if you happen to be a person who enjoys really bizarre roadside trivia, there is a grotto in Dyersville, Iowa, or Dyersville, it's right on the Mississippi river, where somebody spent 30 years building a grotto out of rocks and shells which portrays Christopher Columbus alongside a whole bunch of other historical and religious figures. So, it's -- I'd recommend it you're ever near Dyersville, Iowa.

Q. Okay.

A. Sorry, that was --

(Simultaneous crosstalk.)

Q. -- Iowa.

A. There you go.

Yeah. So, again, I -- context, I find most statues -- I find most statues of individuals as kind of offensive because they, you know, some -- the statute has become associated with a whole set of moral, political beliefs, particularly political beliefs that what they stand for, what they mean to the public now is different than they would have meant 50 years ago.

Statue of Columbus, Christopher Columbus is such a thing. At the time people -- they -- for years and years completely unoffensive, they were part of the narrative of the founding and history of this country but we have become more sophisticated historically and intellectually and now it's -- it has become to many people a divisive rather than a unifying symbol. As a divisive symbol it sort of particularly breaks down on sort of current left, right political divides, which is too simplistic, but once a symbol has become divisive, then the government shouldn't be posting it.

And I think to some extent that is the Ten Commandments, which go back a hundred -- go back 100 years, nobody paid much attention.

What we said, it's not quite that long, what we did in high school was nobody read or posted the Ten Commandments. We read and posted the Lord's prayer. And while today that also is -- similarly has become a kind of a -- it's awful religious to be the Ten Commandments now has become a divisive symbol in which religion is mixed with partisan politics. And once it gets that way Christopher Columbus the same way, not so much Lincoln and

Martin Luther King, George Washington, I don't think they're particularly divisive. So, some of that is if nothing is posted free of its cultural context.

Q. Right.

So, you would say both the Christopher Columbus Statue and the Ten Commandments are divisive?

A. They have become so recently.

Q. Okay. Would they be equally divisive or offensive?

A. No, I think -- I think the Ten Commandments is more so than -- because it particularly involves religion, and that Christopher Columbus, you know, is much more -- it gets divisive when you -- when you talk merely about what ought to be the -- the historical narrative of this country and it's not particularly religious.

Q. Okay. But with the Columbus statute do you still feel that similar feelings of offense that you described with respect to the Ten Commandments?

A. I do in some sense but the constitution doesn't remit the establishment of historical figures. It prohibits the establishment of religious doctrine, religious creed. So, I think that the -- that is not a parallel comparison. I mean, religion and

the dangers of religious -- that religion can become divisive has been true since -- you know, all of the history of human kind, and that is in a different category than controversial historical figures.

Q. Okay. But that difference is legal?

A. No, I am deeply rooted in who we are as human beings. I mean, the -- you can go back -- you can go back throughout history and, I mean, the -- the crusades, the -- you know, the crusades were a -- were to stamp out the Islam, the growing new threat to Christianity to stamp out Islam, the extermination of the Jews in the second world war, the current battles. I mean, so much that -- the reformation, the beheading, the burning of the Catholic monasteries in New England after Henry the VIII declared a new religion.

I think religion holds a unique position in the history of our species, that has been one that has triggered division, anger, war, and all the things that is the opposite of what religion should stand for. So, I think it's a different category.

Q. Okay. Aside from being a different category, would you still like the Columbus statues to be removed?

A. I personally don't -- they don't -- I don't --

personally don't care. I don't know if there are any Columbus statues on government property. So, I can't answer that.

There is not -- there is not one at my local courthouse and I haven't seen one at the statehouse. So, I don't know.

Q. Okay. But any display that reflects a specific religion or denomination on public property you would like to be removed?

A. I -- that's too -- that's too broad.

It depends, the -- yeah. It's -- that's too broad. I can't answer that, again, that's like asking me a hypothetical.

Q. Yes, so making it more specific. You said that any version of the Ten Commandments would bother you.

Would you like -- would you like to have any version of the Ten Commandments on public property removed regardless of the version?

A. As a freestanding massive granite monument, yes.

Q. Okay. What if Indiana choose to display a statute of another -- like another religious God, so say like the Hindu God of Vishnu or --

(Simultaneous crosstalk.)

-- scripture?

A. Oh, yes, the Indiana legislature is certainly going

to do that. I think that is so absurd that it is an impossible -- it's an impossibility. It's hard to imagine but, again, it's just -- if -- I mean, I can give you a better example for you to use in the next deposition, Gandhi or in Indiana you may not know this but the brother of the Dalai Lama lived here lived here, lived his life here in Bloomington and we have one of the largest Buddhist populations. Tibetan Mongolian Cultural Center, Buddhist centers, have studied intellectual development down here in Monroe County near Bloomington.

So, it would be plausible, I suppose, in an alternative universe that somebody would decide to erect some kind of monument honoring the, you know -- the Tibetan culture and that -- their branch of Buddhism because it actually is connected to Indiana.

And, yeah, I -- yes, it would bother me. It would bother me less because it doesn't personally affect me the same way the Ten Commandments does, but sure it would bother me.

Q. Okay. What about an atheist display?

A. There are atheist displays all over everywhere, things that are not religious.

If you mean a particular -- were there such a thing that humanist might be a better -- because the Humanist Society actually tried to come up with a counter Ten Commandments. They call the 10 Commitments, I believe. I don't remember. Humanist Society actually exists as an organization, whereas the atheist are just most of us that don't really pay much attention to religion.

So, if there were a posting of the -- it's hard for me to come up with something that is atheism that is also religion in the same context. So it's hard to answer, but, yeah, certainly if -- yeah, I don't believe -- if the government posted any kind of sign saying -- a better example, I mean, posted anything that directly said -- directly criticized Islam, there is a realistic possibility, that would fundamentally bother me.

So, if there were a -- if we ever got to the point where a passive laws against -- or making statements against people going to the church of their choice, in that kind of context, of course, I am as opposed to antireligion as a public doctrine as I am opposed to religion as a public doctrine.

The government should just stay neutral and stay the heck out of it. They shouldn't be posting any statements by anybody like that.

Q. Right.

So, if you're opposed to antireligion, you would be opposed to a monument that rejected all religion?

A. Yeah. I sent my kids to Catholic school. I'm not antireligion. I am personally. And so, yeah, it's none of the government's business.

Q. And so you mentioned a display that was criticizing Islam. What if it were a display criticizing Creationism?

A. I might agree with it but it would -- that would certainly bother me. It's just the government has no business telling the people what to believe and posting -- and they can't hide behind the fact that we're just posting a thing. You know, it's essentially the government showing a preference for one particular perspective on religion in a complex situation in which doing so is divisive.

Q. Okay. And then just one more general question.

Are you aware of -- is there any other monument or statute on display on the statehouse grounds that you're able to name?

A. There are a bunch of -- I know there is some -- there is some statues for a couple former governors out on the law. There are various -- the last time I was in the (unintelligible) there was a temporary display actually honoring about the, you know -- about the stained glass, that also talked about which governor or which administration and sort of how that fit into Indiana history.

So, yeah, there is other stuff around the statehouse.

Q. Okay. But none of those offend you?

A. I don't know. You'd have to be more specific. I can't said none of them bother, I can't say none of them bother me. And I can't say that I -- that there has been a proposal recently to install something new on the statehouse grounds and if so, it would depend on whether it was the kind of thing -- it's -- it's too hypothetical. I mean, I can imagine them posting things that don't bother me at all but -- and I can imagine them posting things that do bother me or creating new, you know, new exhibits, things like that. So, I -- it would all depend on the context.

Q. Yeah, and I'd be happy to get into particulars but is there any one -- any specific monument or

display that you can name that we can ask questions about that?

A. You're asking the questions. I -- I don't know. I'm not sure.

Q. Okay. So, I just -- I want to make sure I'm not missing anything and so there is no specific --

A. Well, I can give you a good context, the -- because it has come up a lot in my home state in North Carolina, which are confederate monuments. At the time, a lot of them at the time they were installed, there are some that literally go back to reconstruction, and they sat there. We had military bases in the south, Fort Bragg and things that were named after confederate officers and for 75 years none of that bothered anyone, and then it became a divisive symbol and once it became a divisive symbol, then I would have fundamentally objected to them erecting any new ones because that's taking a position, that's the government taking a position on what has become a socially divisive issue.

If it were then -- the secondary question then is should it remove them, that's a more complicated question because the act of removing them is also an act of -- on the other side of the -- of the

social divide.

So, what we are talking about in this case is the Indiana state government deciding in the current climate knowing full well that the Ten Commandments are deeply divisive issue, politically and religiously, to install something that was not there before. That's a very different context than things that have always been there and may not be currently divisive or controversial but could become some day.

Q. Sticking with your example of the confederate monuments, are you aware of any confederate monuments on statehouse grounds?

A. No. I don't know that Indiana -- Indiana had much role in the Civil War but I don't know.

I mean, for example, there are -- there certainly -- there is a -- in Monroe County, our local county courthouse lawn, there are several more memorials to various wars. You know, first world war, second, Vietnam, Korean war, and they don't bother me. I, you know -- I don't -- I'm not particularly found of war but it's part of who we are as a species. So, that, again, there is a difference, there might be a difference between a monument to -- or -- not a monument that honors,

but a monument that was designed to memorialize the Civil War, might be a good idea historically. In fact, there is a fair amount of debate in the south particularly about whether it is better to remove statues of the -- the, you know, confederate generals or to place them in a context where the views, the debates, the issue of slavery, all of that stuff can be discussed publicly. So, you know, again, it depends on the context and what's going on.

Q. But if there -- you're not aware of any confederate monument on the statehouse grounds, it sounds like that still pretty hypothetical.

So, is there any other monument that you're aware of specifically that is on the statehouse grounds that we can discuss?

A. You'd have to give me examples. I am not sure which -- there are all sorts of things on the statehouse grounds, most of them I pay no attention to. I have -- it's -- they become sort of part of the background.

Q. Okay. As long as I understand that there is not one you can easily identify then we can move on.

A. Yeah, I -- I'm not sure exactly how to interpret your question. So -- so, I'm not the -- so, I

don't know. I can say as a literal answer to your question that there is not another monument that I can think of off the top of my head that I -- there is not any monument I want removed from the statehouse. I don't want the Ten Commandments removed from the statehouse. They are not on the statehouse grounds. I don't want them installed.

The same would be if they proposed to install -- and this is coming down the pike, I suspect, if 10 years from now somebody proposes to install a monument to President Trump, that had -- that would bother me.

Again, there is a difference between the act of installing something new and the question of whether something has been there for a long time.

Q. Yes.

So, for purposes of this questioning I'm only talking about monuments that are currently on the statehouse grounds.

So, I understand there are none that are on the grounds that you would like to remove, is that accurate? Others?

A. Yeah.

(Simultaneous crosstalk.)

I don't have a say on whether they're removed,

but I -- I think I understand your question. I think the answer to that is -- is that -- I'm not crusading against any other monument on the courthouse grounds.

Now, if Ken Falk called me up and said we've got another problem there, would you that's go take a look at it, I'd go take a look at it, but, no.

Q. Returning to the -- the Ten Commandments display that Indiana would like to place on the statehouse grounds, do you know where the display would be placed?

A. Roughly it's on the south, on the south lawn, and it's been a while since I've seen it, I don't remember, I think it's in the same place that the original that was proposed 25 years ago. I don't mean the know (unintelligible) the original, the placement of this particular monument 25 years ago and that was on the -- on the most public facing side of the statehouse, which is the south side facing Washington Street.

Q. So, I'm going to clarify. So, it's the south lawn right off Washington Street?

A. As between how it's situated left and -- east and west, I don't remember, but, yes, it's on that side of the statehouse.

Q. Okay. Are you aware that the Ten Commandments text is only on one side of the display?

A. That's correct.

Q. Are you aware that the Bill of Rights text is on the other side?

A. That's a slight exaggeration. It's in such tiny little print that it's -- it's not -- I mean, yes, it in a tactical sense, it's there, this is an old tactic going back 30, 40 years, which is if you stick the Bill of Rights on the back of the Ten Commandments somehow it relieves -- it removes its religiosity and that is of course absurd as you know and indeed it's somewhat ironic to have on one side of a monument the establishment clause and then the other side you establish the Ten Commandments, just -- it -- I'm aware they're there, but they're -- if you had seen the monument but it's -- they're literally so small as to be unreadable. Symbolically they're there, yes. I -- I think they would have been much better off, if they really cared about the two, they could have done a couple of things. One is they could have paraphrased or shortened some of the Bill of Rights like they shortened some of the Ten Commandments and also of course the -- you know, the big problem

is that the monument itself is -- again, if you you've seen it, it's shaped like two tablets. The physical shape of the monument is in the form of two tablets.

The Bill of Rights was not written on two tablets. So, they -- so it just -- yes, it's on the back, but I -- so what.

Q. So, the text as is you would not characterize as offensive, the text of the Bill of Rights?

A. The text of the Bill of Rights, I'd have to think about that, but, no, basically, no, I don't find the Bill of Rights offensive, find it a little bit offensive that it did not truly -- that it -- that -- because of the politics of the time it did not contain a true equality racial and gender equality provision, and I find that a little bit offensive, but, no, I love the Bill of Rights. I litigated them.

Q. The Bill of Rights on its own you would not choose to remove?

A. Nope. I think it's a great thing to post. Let's turn the monument around and make the Bill of Rights face the streets and the Ten Commandments face the statehouse. How about that?

Q. That's what I was going to ask.

Do you know how the display will be positioned?

A. Obviously no because it hasn't been installed yet, but as I understand it, they intend the Ten Commandments to be the facing -- side facing Washington Street.

Q. And if it were flipped and the Bill of Rights were facing Washington Street, would that still bother you?

A. Oh, of course. Of course, but it would -- but -- but they're not going to do that, so, it doesn't matter. It would still bother me. It would bother me somewhat less. I would find it -- if they really meant this to be a statement of, you know, sort of basic legal and moral principles, then the Bill of Rights ought to be front facing and it ought not to be shaped like the two tablets or Ten Commandments but those two things aren't going to happen.

Q. So, if the Bill of Rights were still on this tablet but you never saw the Ten Commandments text, would that still bother you?

A. If they removed -- if they created a monument that had no -- are you asking me if they created a new monument that had the Bill of Rights mocked up as

if they were the Ten Commandments, that is -- there are 10, by coincidence 10 sections of the Bill of Rights, and they had 1 through 5, 6 through 10 of the Bill of Rights on what looked like a paired tablet, would that bother me, no, I don't think so. And there were no religious Ten Commandments at all, no, there are stranger things. There are pictures of George Washington making him look like Caesar. I know, artists are can put things in context, that wouldn't bother me.

Q. Right.

And then just slightly different but just same monument but the way it's positioned you actually can't see the Ten Commandments from where you're standing, does that still bother you, if you know that they're there but you can't see them?

A. Of course it bothers me.

Q. Okay. And you mentioned the size of the Bill of Rights text. Do you know what the size of the Ten Commandments text is?

A. In terms of?

Q. Basically, I --

A. I know that it's easily readable from a distance.

Q. And is that because you have seen it in person?

A. Yes. I've also seen photographs of it. So, both

of them show that it is easily readable from a reasonable distance.

Q. Okay. Great. Well, I am at the end of my outline. I would like to take a 5-minute break just to make sure there is nothing else I would like to follow-up on.

MS. PACTOR: That's fine.

(Off the record.)

BY MS. SALZ:

Q. I have just a few more questions.

You mentioned under God and the pledge, do you find that reference to religion offensive?

A. Yes. When I say the pledge of allegiance I omit it because it was not there historically.

Q. And then what about in God we trust on currency?

A. The -- I -- I don't care. Once again, it's not sectarian. It doesn't say which God. So, it just -- again, it doesn't bother me. It wasn't -- that wasn't put on the coin to make a political statement and I think it is the mixing of politics and religion especially that bothers me. It's picking something. If -- anyway. It's the government picking something that they know perfectly well is divisive today and claiming, oh, no, it's just a historical artifact. And so we're

going to erect the Ten -- we're going to put a statement on a coin, we're going to put Trump's image on a coin, all of these things, which, you know, oh, this is just perfectly normal behavior. It's knowing that it's divisive and doing it anyway that just fundamentally offends me on a religious basis, on a personal basis, on a political basis, a moral basis, it is just wrong.

Q. Okay. All right. And then I'm going to return to the colloquy we had going. I just want to get a clear answer to this.

Can you identify any specific monument offensive or otherwise on the statehouse grounds?

MS. PACTOR: Object to the extent that it has been asked and answered to the extent he said there were monuments to various governors but, obviously, professor, you can answer the question.

THE WITNESS: Do you include -- do you include things on the inside of the statehouse?

BY MS. SALZ:

Q. I'm intending to ask about the lawn. If there are -- if there are those inside, I'm happy to cover those after but I mean on the statehouse lawn.

A. No, not that I can think of.

Q. Okay. Is there anything within the statehouse that you can identify?

A. There is one and it's been a while and I don't even know for sure if it is still there, I didn't bother to look the last time I was there. There is some kind of plaque or display about the first time -- about the creation of the first Protestant church in Indianapolis in like 1850 or something, no, 1826 or something like that, there is a display to that and the implication of it is -- is that this like bringing -- you know, the first person bringing religion to the heathen state, sort of a historical thing, but that too overlooks the fact, and, again, because I'm Catholic is that there were Catholic churches and Catholic missionaries along the Wabash River and the northern part of the state before this Protestant church was established.

So, again, it looks like a kind of innocuous historical artifact, you know, isn't it cool that this, you know, the itinerant preacher with bibles in his saddlebags came through Indiana that 1820s and started the first church, that's fine, but it's historically false and it picks the Protestant church rather than the Catholic church which had been here for 50 years before that.

So, yeah, that offends me and I would remove that, but, again, I actually don't know if it's still there. I have not -- I remember running upon it inside, I remember seeing it once and I don't remember anything much more about it.

Q. Do you remember where it was?

A. No.

Q. And you mentioned that you would like it to be removed. Is there any reason that --

(Simultaneous crosstalk.)

A. What -- nobody cares what I think, and, again, there is some difference, again, between -- I mean, I guess my concern, again, it -- when I'm saying it offends me that it is there is really different than whether I want it removed. The act of removing itself becomes a complicated, potentially political divisive, if they wanted to have a little display that talked about -- first of all, the -- sort of the -- the spiritual (unintelligible) of the Potawatomi and the whatnot, Delaware, the people who were here before talked about the Catholic missionaries that came down from the Great Lakes area, talked about and mentioned the first church and then mentioned the atheism of Robert Owens in the New Harmony area, one could easily --

I guess I would -- I generally prefer education to censorship on either side. So, I guess in thinking about your question, no, I would not like it removed. I would like things added to it so it becomes a serious historical display because I think that in the 19th century, and before, 18th and 19th century religion was important. It could even mention the fact that in 1840 there -- I don't remember this bit of trivia but there has been one Jewish speaker of the Indiana house of representatives, exactly one -- and he was oddly enough in the like 1840s. So, all sorts of things one could do to term -- because I think it is kind of cool that in 1820s some Methodist minister rode in with bibles in his saddlebags and started a church. So, no, it's not censorship. It's inclusion and education. I'm a long time professor. I believe in education and I think education to some extent requires confronting, you know, a variety of viewpoints but not a single viewpoint like the Ten Commandments, stick the 5 pillars of Islam next to it and maybe I wouldn't worry.

MS. SALZ: Okay. Well, thank you. I don't have any additional questions.

MS. PACTOR: Okay. I have just a few.

EXAMINATION

BY MS. PACTOR:

Q. So, you have indicated that one of the other reasons why you travel past or to the Indiana statehouse and the -- and the southern, the south side lawn is because you have professional legal business within the building, is that accurate?

A. Yes.

Q. And approximately how many times over the past five years have you gone to the statehouse for on legal business purposes?

A. Going back to like -- how long has it been since the end of COVID? Has that been about five years?

Q. Yeah, from 2021.

A. Obviously during COVID nothing, but after that in the last five years, I would say four or five. As, you know, legal issues are not on a predictable schedule. I have not -- trying to think -- I've argued a number of cases in the court of appeals and the supreme court of Indiana but not I think within the last five years but I have gone there to give moral support to the legal team for the city of Bloomington. My wife was there, was corporation counsel, general counsel for the city of

Bloomington during a series of annexation fights that have been all up and down the court of appeals and the supreme court. I helped. I know the lawyers. I know her. I support her. I mooted. I conducted -- I've gone up to see those and I -- not all of them but they've argued in the court of appeals maybe three or four times, I've been to a couple of those. There is one remaining that is coming that hasn't been scheduled yet. It is in the briefing stages, one that is coming up, the last one. I go occasionally when invited by one of my former students to attend their first Indiana Supreme Court argument and those are such fun and such a reward as a person who teaches advocacy, appellate advocacy litigation, to see one of your students get their first argument in front of the Indiana Supreme Court. And you can't -- you got to show up in person. You can't do that by watching, streaming the argument. I'd been to one of those within the last five years. I mentioned -- or I thought it was Jason Reese, but I think Jason Reese -- actually his first arguments were remotely during COVID. So, I -- I don't remember exactly and I those are unpredictable.

Q. You mentioned that this annexation case is not yet

scheduled for oral argument. Do you plan to attend the oral argument when that occurs?

A. Oh, yes. That's the last one that was -- it was just decided in the Monroe Circuit Court six weeks, a month ago or so. And it will be going up to appeals in the briefing stage, and, yes, I will -- as with the others, I will help moot the city's legal team, and then with them go with them as part of the cheerleader squad.

Q. And you anticipate going back to supreme court of appeals as future legal business arises?

A. Yes. Again, that's -- as we all know I have nothing personally scheduled. We thought we had a good case but we had to settle it. We sued the trustees on a state constitutional ground and couldn't sustain it. That's too bad. That was the one I was hoping to go but that got settled. So, I have nothing, I have nothing currently pending so that -- that's a little more speculative as to whether I will personally have another case in the Indiana Supreme Court and the other work.

Q. And the other work-related purpose that you mentioned in your declaration and I think briefly before was that you serve of counsel to the Epstein legal firm, is that correct?

A. Yes.
Q. Okay. And when you come to Indianapolis for your work with Epstein legal firm, do you pass by the southern lawn of the statehouse as part of your travel?
A. Yes. Again, on my way home. The law firm is at 50 South Meridian, which is on the corner of Meridian and Maryland. Maryland is again -- I -- the easiest way to get there, been doing it for 50 years, is to drive up Bluff Road, which becomes West Street, that avoids the whole downtown, and then you go to this office. You go on Maryland, which is one way east. There is -- the parking garage we use is between Maryland and Washington on Meridian. Meridian is a two-way street. When I leave the parking garage, I turn right, half a block, turn left on Washington, take Washington back to west and then south to Bloomington. It's the easiest way. It avoids all the traffic and the construction downtown. I've tried once going down Pennsylvania Avenue and getting -- and that just -- it -- it does not work. It takes forever.
Q. And I believe you indicated you work in person at the Epstein Law Firm roughly twice a month.
A. Yeah, again, it's -- I'm probably up there a couple

of times a month. It's not necessarily -- it certainly is not on a regular schedule. For instance, the last time we just had a three-day trial in Monroe, in the Marion Circuit Court. So, there I was back and forth four, five times over a two-week period. We were going over documents. We were prepping witnesses, things like that. We also have been co-counsel in 30 cases in federal court around the country, including one in the supreme court on the commerce clause and interstate shipping of wine and beer and spirits and other sort of state prohibitions. So I'm on -- you know, buying wine on the Internet, and those have been fun. And that, again, has involved getting together or going over documents, doing -- conducting depositions. Once or twice a year there is a firm meeting that I go to.

Q. And you anticipate continuing to come to Indianapolis on roughly the same schedule for your work with the Epstein Law Firm?

A. Yes. Yes. We have three or four I think pending cases and then Mr. Epstein's daughter Sidney is now in her first year of law school at McKinney Law School in Indianapolis. I anticipate that it will soon become the Epstein & Epstein Law Firm once she

graduates. So, yes, I intend to continue that.

MS. PACTOR: Nothing further for me.

EXAMINATION FURTHER

BY MS. SALZ:

Q. I just have a couple of questions on the route when traveling to and from your office and then just when you're driving by.

So, you just mentioned that you drive on Washington Street from your office to get home, is that accurate?

A. Yes, from Epstein -- from the Epstein Law Firm because it's one way west so it takes me right back to West Street.

Q. Okay. And so that would be -- you're driving by, this is your commute home?

A. That's right.

Q. And that's a one-way street?

A. Yes. It's the most convenient way out of the Indianapolis, out of -- sort of where his office is because his office and the parking garage are in between Maryland, which is one way east, and Washington, which is one way west. So, I come in on Maryland, go out on Washington, and that way I get right onto West Street and if traffic is really bad, jump on I-70, go around. If the traffic is

not too bad you go straight south.

Q. Okay. So, you come in on Maryland. I'm going to check all of this out later.

A. Yeah, on Maryland, out on Washington. And I -- like I said I have tried -- I mean, I know from having done cases, I have tried, there are other routes that could potentially -- I could potentially use out of downtown Indianapolis but none of them are as quick or convenient and certainly lately they have not even be possible because Pennsylvania Avenue is under construction.

Q. Okay. And then when you're otherwise at the statehouse for legal business, do you also drive to the statehouse on those occasions?

A. Yeah. I'm trying to think if I ever did both on the same day, I don't think so, but at least hypothetically, if I had to do business at the law firm and the statehouse on the same day, they're not that far apart. I would probably walk from the law firm to the statehouse.

Q. Okay. But you said you don't recall ever walking?

A. No, I don't recall ever having done both in the same day.

Q. Okay.

A. Whenever I have been to the statehouse, at least

recently, I have parked in -- either on the north or south side, either on Ohio or on Washington Street adjacent to the statehouse itself.

Q. Okay. And then --

A. I've driven.

Q. And then when you've parked, then you have walked to the east entrance typically, correct?

A. Typically to the east entrance, a couple of times to the west entrance.

Q. And have you ever entered through the west entrance when you weren't injured?

A. Sure. I believe on Saturday it's the only entrance that is open, at least now. So, yes, if you go on -- it -- and I haven't personally had to do this, go on a Saturday recently, but if you do I believe you have to go in through the west entrance.

Q. Okay. If you were there on business you would not -- it would not be on a Saturday, right?

A. No, not anymore, not since they -- since we got to file our briefs electronically. In the old days you had to actually drive up to Indianapolis to file an appellate brief in person and on the weekend you could give it to the bailiff or the court officer who was there who would accept it

when the clerk's office was closed but that I'm displaying my age.

Q. Believe it or not I've actually delivered a few documents to physically --

(Simultaneous crosstalk.)

A. Cool. That's the old fashion --

MS. PACTOR: It's never because there is a good reason to be doing it.

MS. SALZ: Okay. I don't have any other questions.

MS. PACTOR: Nothing further from me. We'll take signature and order an electronic copy, please and you can send it to me for signature and I'll get it to the witness.

THE COURT REPORTER: Ms. Salz, are you ordering the original?

MS. SALZ: Yes.

[The deposition concluded at 11:35 a.m.]

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

INDIANA CIVIL LIBERTIES UNION, INC., et al.,	)	
Plaintiffs,	)	
-v-	)	Case No. 1:00-CV-00811-SEB-VSS
MIKE BRAUN, in his official capacity as the Governor of the State of Indiana,	)	
Defendant.	)	

Job No. 209734

I, JAMES ALEXANDER TANFORD, state that I have read the foregoing transcript of the testimony given by me at my deposition on August 24, 2026, and that said transcript constitutes a true and correct record of the testimony given by me at said deposition except as I have so indicated on the errata sheets provided herein.

_____
JAMES ALEXANDER TANFORD

STEWART RICHARDSON & ASSOCIATES
Registered Professional Reporters
One Indiana Square, Suite 2425
Indianapolis, IN 46204
(800) 869-0873

STATE OF INDIANA)
)
COUNTY OF HAMILTON)

I, Rosemarie LaMantia, a Notary Public in and for said county and state, do hereby certify that the deponent herein, JAMES ALEXANDER TANFORD, was by me first duly sworn to tell the truth, the whole truth, and nothing but the truth in the aforementioned matter;

That the foregoing deposition was held remotely via videoconference on behalf of the Defendants; that said deposition was taken at the time and place heretofore mentioned between 9:00 a.m. and 11:35 a.m.;

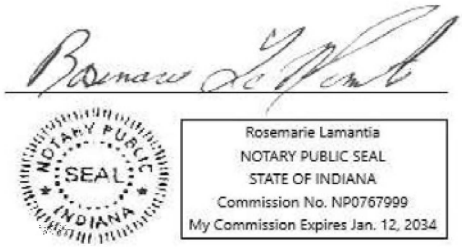
That said deposition was taken down in stenograph notes and afterward reduced to typewriting under my direction; and the typewritten transcript is a true record of the proceedings to the best of my ability, taking into account technology difficulties that may have occurred in connection with the videoconference proceedings;

In the event of perceived interference and technical difficulties during the videoconference proceedings, I did interrupt to clarify to the best of my ability;

And thereafter presented to said witness for signature; that this certificate does not purport to acknowledge or verify the signature hereto of the deponent.

I do further certify that I am a disinterested person in this cause of action; and that I am not a relative of the attorneys for any of the parties.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 31st day of August, 2026.



Notary Public - State of Indiana
My Commission Expires: January 12, 2034

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