Exhibit 17

In the Matter Of:

INDIANA CIVIL LIBERTIES UNION, ET AL.

-v-

MIKE BRAUN

William O. Harrington, 30(b)(6)

August 24, 2026

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
CASE NO. 1:00-cv-00811-SEB-VSS

INDIANA CIVIL LIBERTIES UNION, et al.,

Plaintiffs,

-v-

MIKE BRAUN,

Defendant.

The Zoom 30(b)(6) videoconference deposition upon oral examination of WILLIAM O. HARRINGTON, a witness produced and sworn remotely before me, Nancy L. Delaney, RMR, CRR, Notary Public in and for the County of St. Joseph, State of Indiana, taken on behalf of the Defendant via Zoom, on August 24, 2026, at 9:04 a.m., pursuant to the Federal Rules of Civil Procedure.

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(All participants via Zoom videoconference)

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THE REPORTER: My name is Nancy Delaney, an associate of Stewart Richardson & Associates, Indianapolis, Indiana. Today's date is August 24, 2026. The time is 9:04 a.m. This deposition is being held via Zoom videoconference. The deponent is Bill Harrington. Will counsel please identify themselves and any persons present with you for the record.

MR. FALK: Kenneth Falk from ACLU of Indiana representing the plaintiffs and Mr. Harrington in this deposition.

MR. LOWREY: John Lowrey from the Office of Indiana Attorney General representing the defendant.

WILLIAM O. HARRINGTON,

having been first duly affirmed to tell the truth, the whole truth, and nothing but the truth, was examined and testified as follows:

EXAMINATION

BY MR. LOWREY:

Q Good morning, Mr. Harrington. My name is John Lowrey. Can I call you Bill?

A I wish you would.

Q All right, wonderful. I know you just stated your name before previously, but could you state your

full name and spell your last name for the record, please.

A William, middle initial O, last name Harrington, H-a-r-r-i-n-g-t-o-n.

Q And have you ever given a deposition before, Bill?

A Yes.

Q Do you happen to remember when those depositions were?

A I'd say the last deposition I gave was approximately two years ago in a legal malpractice case where I was testifying as an expert witness and prior --

Q Did you -- I'm sorry.

A I apologize.

Q No, please continue.

A And then prior to that, probably two or three years before that and in the same context testifying as an expert witness in a legal malpractice case.

Q And what were you an expert on in those cases?

A In both cases, I was an expert on standard of care for a licensed attorney in Indiana who was alleged to have breached standard of care and caused harm. Two years ago -- isn't it amazing how you can forget cases when they're over? If you give me some time to think on that, I'll remember what the

issue was in each of those two cases, but they don't come to me quickly.

Q Like I said, I was mostly interested in what your area of expertise in those cases was and you had -- it sounds like you provided that. This is probably familiar to you, but I just want to go over the ground rules, just for my own peace of mind, if nothing else.

This is a deposition. It's like an interview. I'm going to be asking you questions and listening to your answers. The court reporter is here recording those answers and you are under oath. Do you understand all those things?

A Yes, I do.

Q And I'm going to presume in general that unless you say you don't understand a question I'm asking, that you understand that question. Is that all right?

A That is very fair.

Q And because the court reporter is going to be recording your responses to the questions, please give verbal answers rather than nodding or gesturing or anything of that sort. Can you do that?

A I will do my level best.

Q And to ensure a clear record, we need to make sure not to talk over each other, which is as much a problem on my end as yours, especially with these video depositions these days where it's -- it seems like people talk over each other more in a video deposition or a video meeting than they do in person.

So I'm going to try to wait until you're done answering before I start talking and I would ask that you please try to wait until I'm done asking my question before you begin answering. Does that sound fair?

A Yes.

Q And if you need a break, you're the star of the show today, so please feel free to ask. All I'm going to ask is that if you ask for a break, you finish answering any pending questions before we break. Does that sound fair?

A Yes, sir.

Q Have you taken any medications, drugs, alcohol, anything like that today?

A I have taken my normal diabetes medication.

Q Is there any reason why that medication would give you any difficulty answering my questions truthfully today?

A No.
Q Is there any other reason why you would be unable to answer my questions truthfully today?
A No.
Q Other than meeting with your attorneys, I don't want to know anything you talked to Ken or members of his office about, but did you do anything to prepare for today's deposition?
A No.
Q You haven't read any documents?
A Well, I did read the amended complaint that was filed in this lawsuit.
Q Anything else?
A I had made some notes based on my communications with Mr. Falk, but otherwise, no.
Q And do you have those notes with you today?
A I do.
Q But those are related to your communications with your attorney?
A Yes. Basically, I looked at your 30(b)(6) notice that Ken had sent to me and as he and I had some conversations, I made notes on the 30(b)(6) notice, because I know I'm -- even though I feel like a person today, I know I'm representing an organization and I wanted to try to be thorough in

my answers to you.
Q That makes sense. I appreciate it. I'm trying not to probe into anything that might be privileged, you understand. Did you speak to anybody other than Ken or his people about today's deposition?
A Speak, no.
Q Did you email or communicate in some other fashion?
A I received a communication from Ken that I think might have been prepared by one of the employees of the ACLU of Indiana, McKenzie Conrad, our communications person, who had extracted some -- I think they're Instagram messages by members and other people who watch the ACLU of Indiana Instagram expressing their concerns about the State's decision to reopen this case.
Q And do you have those messages?
A I do.
MR. LOWREY: Ken, would it be possible to get a copy of those messages at some point?
MR. FALK: Yes. I guess my concern is, number one, and you will be probing this, I assume, we have no idea if any of these people are members.
A Oh, yeah.
MR. FALK: And I am reluctant -- and I don't know how you identify people on Instagram, because

I'm 72 years old and don't know anything about Instagram. So I know getting them to you without names on it and then we can discuss whether you really need names, but like I said, we're not claiming that these people are members because we just don't know.

(Mr. Fleshman joins the Zoom deposition room.)

MR. LOWREY: So these are just messages received on Instagram by the ACLU?

MR. FALK: There was I think a press release that went out and it was put on our website and also sent to various social media sites when the case was -- I think when the judge granted the Rule 60, so the case was opened again and these are responses to that and I'd be happy to share them with you, but they're not particularly edifying and many of them, you'll be shocked to know, sort of veer off point.

MR. LOWREY: I am indeed shocked. If you would just send those over to me at some point then, just so I can look at them.

MR. FALK: Sure.

Q Now, you referenced earlier that you had notes regarding your conversation with Ken in front of you. Do you have any other notes or documents in

front of you today?
A No.
Q Nothing open on your computer or anything like that?
A I don't know how to double task like that on my computer, so you are happily the only thing on my computer this morning.
Q Well, I just have to ask, you understand.
A I do.
Q So Bill, let's talk a little bit about who you are and how you ended up with -- in the position of representing the ACLU here today. What sort of educational background do you have?
A North Central High School in 1981, Wabash College 1985, IU Law School 1989, London School of Economics for a year between Wabash and law school.
Q And what was your degree at Wabash in?
A Bachelor of Arts degree with a major in philosophy, minor in mathematics.
Q Am I correct in presuming that that degree from IU Law was in fact a JD?
A It was a JD.
Q And how are you currently employed?
A I'm self-employed. My wife and I have a law practice in Danville, Indiana called Harrington

Law. It's kind of a general litigation practice.
Q And how large of a litigation practice is it in terms of how many attorneys are employed there?
A There are three lawyers right now, my wife, myself and our son-in-law.
Q So it's a family practice?
A Yes.
Q And does that practice specialize in any particular area of law?
A I'm still kind of a general litigator which is a dinosaur type of thing that is not often pursued, but I've always enjoyed the variety. I do a lot of family law. I do just kind of a lot of general conflict litigation, real estate matters, construction litigation. I do a fair amount of personal injury work and I also do work as a mediator.
Q Is that primarily trial level work, appellate level work?
A Mostly trial level work. I've done appellate work since I came out of law school and started practicing at Baker & Daniels back in the late '80s and every time I finish an appeal, I say that's the last time I'm doing that and yet I keep doing it, because I just have a lot of experience and a lot

of times there's an economic benefit to the clients of having me pursue an appeal as opposed to getting someone else up to speed to take the appeal.

Q And whereabouts are you living these days? I don't need like a street address or cross streets or anything like that, just a general city or area.

A We live in Avon, Indiana which is in Hendricks County about ten minutes from Danville.

Q So that would be north of Indianapolis?

A Straight west.

Q About how long have you been in that area?

A I have lived in Hendricks County since 1993. I've had my law practice here since 1998.

Q Did you live in Indiana before you moved to Hendricks County or have you basically been there your whole life?

A I've lived in Indiana all of my life.

Q And what is your relationship, if any, with the ACLU?

A I am currently the president of the board of directors.

Q And what's involved in that?

A We have four regular board meetings, one quarterly. I manage a series of committee chairs and help them with their work. I'm kind of the professional cat

herder of the organization, if you want to say that, as the president. I really keep things moving along.

I organize new processes to make sure that we're moving forward as a board in our role with the organization. So for example, we're about to undertake a strategic planning process, so I'm helping form a committee on our board to pursue strategic planning. I probably spend ten hours a week on my ACLU work.

Q And is that a volunteer position or is it a paid position?

A Volunteer.

Q And how long have you been working with the ACLU in that capacity?

A As president, my term started this January, January 1 of '26. It will conclude December 31 of '27.

Q And did you have any relationship with the ACLU before you took on your current position?

A Yes. I was first on the board between 2003 and 2008 and then I returned to the board in January of '22.

Q And did you have any relationship with the ACLU between 2008 and '22?

A From time to time, I might be contacted by the

board president or the executive director to see if I could volunteer some time to help with a project, but it wasn't the kind of commitment that I have now, obviously.

Q What sort of projects?

A I know it just comes to my mind that I was contacted by the executive director sometime between 2008 and 2022 to help look for new board members, just because of the relationships that I had. There's a regional components to who serves on the board of directors and so I think they were looking for someone west and wanted to brainstorm about some ideas.

There might have been -- the development director might have reached out to me at some point to try to see if there were known donors or potential donors in the Hendricks County area, just based on relationships that I had. Those are the only two examples that come to mind.

Q So would it be fair to characterize your contacts with the ACLU during that period as assisting with administrative or fundraising issues?

A I think that's fair.

Q Have there been any other capacities that you've had a relationship with the ACLU?

A Other than being a member, I think that's the only other capacity that I've had. I've been a member since probably the late '90s.
Q How did you become a member of the ACLU?
A By making a donation.
Q Is that all that's required to become a member of the ACLU?
A To the best of my knowledge.
Q So how does that work? If someone sends a donation to the ACLU, are they a member for the rest of their life then or is there a regular period you have to do it in, some sort of subscription service? What are we looking at?
A I think it's an annual requirement.
Q So say Ken sends a donation to the ACLU in 2001, never sends another one. For what period is he a member?
A I believe it's for the year.
Q So it's an annual donation/membership fee?
A Now, John, I will tell you it's possible that there are higher level donors than me who might get some kind of different treatment. I don't know that. I'm speculating, but what I know is that with regularity once a year, I see the mailing asking me if I want to renew my membership.

Q Now, you mentioned not knowing if higher donors get different treatment. You wouldn't -- would you receive that information as the president of the board?

A No, not with any regularity. That's really more of a national issue than a local issue, I think.

Q And does ACLU track membership?

A Can I ask you to clarify? Because I just want to make sure I'm speaking intelligently and I see that Ken has a finger up.

MR. FALK: I was just going to ask you to clarify. We are the ACLU of Indiana. We are separate from the ACLU national, so if you want to say in this deposition you will be talking about ACLU of Indiana unless you otherwise indicate, that will make life easier.

MR. LOWREY: I am in fact only talking about ACLU of Indiana, unless I otherwise designate. I apologize for any confusion.

MR. FALK: No, not at all.

A That was the clarification I was going to ask. So ACLU of Indiana does know who its members are and has the ability to list that information with some effort, I'm sure.

Q How does ACLU of Indiana know?

A Well, we have a director of development. His name is Neil Hudelson who I'm sure keeps track of who donations. We also have a finance and operations director who probably has a record of the donations that have been made. I don't know who it is, actually, because it's an operational issue that maintains the membership list.

Q Would those lists say how long someone had been a member?

A I don't know.

Q And would you be able -- would ACLU be able to identify past members?

A I'd be surprised if we couldn't, but I also can't really say yes or no to that question.

Q We got a little bit off track because we had been talking about your background and ended up moving off into membership, but do you have any sort of religious affiliations, Bill?

A No.

Q Atheist, agnostic?

MR. FALK: I'm going to object. Mr. Harrington can certainly respond, but he's not here to talk about his attitude about the personal view of the ten commandments.

MR. LOWERY: Fair enough.

Q Bill, please.
A Okay, not an atheist. I don't really like any of the labels, to be honest. The last time I belonged to a religious institution, it was the Unitarian Universalist Community Church in Danville, Indiana. I was a member of that for many years, president of the board. I subscribe more to the idea that we are all free to pursue our own religious beliefs without interference by the State and I would say at age 63, I'm still trying to figure it out, to be honest.
Q And have you ever been arrested?
A No.
Q I am going to share a document from my screen with you. Assuming that shows properly, do you see this document?
(Exhibit 1 marked.)
A Yes, I do.
Q Do you recognize that document?
A Yes.
Q What is that document?
A That is the first page of your notice of deposition for the deposition you're taking of me this morning.
Q And I am scrolling down on that document to a page

labeled Attachment A. Are you familiar with this attachment?

A Yes. This is the first of two or three pages, as I recall, of what I would call the 30(b)(6) categories for today's deposition.

Q And just to confirm, you are here today to talk not as Bill Harrington, but as a representative of the ACLU of Indiana and its members rather than your personal opinion?

A That is correct.

Q About these topics?

A That is correct.

Q So you are prepared today to talk about the ACLU of Indiana's history, meetings, activities and conduct as an organization?

MR. FALK: And at this point, I'm going to interpose an objection, I guess. As you know, we did send you a letter detailing our objection to the breadth and substance of a number of these categories. I'm not going to rearticulate our objections unless there's a need to as we go forward.

I will just say that from the standpoint of Mr. Harrington and his lawyers, we have prepared him the best we can knowing that the categories far

exceed the narrowness that is required in 30(b)(6) categories. So I don't want Mr. Harrington to say he's prepared to testify as to all of these matters, because some of them -- we just couldn't go back to 1956, for instance, to get information about that, but we will do the best we can.

MR. LOWERY: And is that objection and response going to be the case for all of the 12 topics on the deposition notice?

MR. FALK: Well, to the extent that -- I mean, if you want, we can introduce the objection, but to the extent, for instance, you want to know about the specific members upon whom we are relying for organizational standing, which according to the Supreme Court requires us to only identify one person, we have identified four people and Mr. Harrington can talk about that. So I would suggest you ask your questions and we'll answer the best we can and if there are problems, we'll work to deal with them.

MR. LOWREY: Great, that sounds fine with me. I just wanted to make sure that Mr. Harrington was aware of these topics and that he is aware that he is here to talk about these topics and that he has at least attempted to prepare for these topics.

MR. FALK: We have done so.
Q Mr. Harrington, do you agree with what Mr. Falk has said?
A Yes.
Q Excellent, thank you. Well, having established that, what is the ACLU of Indiana?
A Founded in 1953 is the Indiana Civil Liberties Union, incorporated I believe in 1956 and then during the term that I was first on the board in the mid 2000s, I think it was 2005 or 2006, we changed the name to the American Civil Liberties Union of Indiana.

It's an organization that is devoted to promoting, protecting the civil liberties, civil rights of Hoosiers, protecting their constitutional rights.
Q Is there any sort of organizational statement of purpose or anything like that? I'll admit, I went looking online to see if the ACLU has anything stating their purpose and mostly I saw a request for donations, so . . .
A Well, you should have --

MR. FALK: Off the record.

(Discussion off the record.)
A Well, you should have allowed your curiosity to dig

a little deeper in the website. I think there's probably a mission statement that is stated on the website. There's maybe a motto. There may be reference to the website of ACLU national and I think the mission statement speaks to defending individual liberties and individual rights that are grounded in the United States and the Indiana constitution or something like that.

Q Is there any sort of formal statement beyond what's on the -- beyond whatever is on the website?

A I believe that our bylaws reference a mission statement.

Q Do you know what that mission statement is?

A I just paraphrased it and I can't really state it any more specifically than I paraphrased it.

Q And is the ACLU of Indiana its own separate organization or is it an affiliate with some other organization?

A It is one of 54 affiliates of the American Civil Liberties Union which is a national organization, so it's really a federated organization.

Q Now, when you say it's a federated organization, does that mean that the ACLU of Indiana sends representatives to the larger ACLU organization or is there some other sort of mechanism involved in

that relationship?

A We do have at the ACLU of Indiana a national affiliate representative. It's basically an officer's position on our board who serves on the national board of directors.

Q And does that national organization have any I guess directory authority over the ACLU of Indiana?

A I know there are, for example, policies and procedures on the sharing of donations, so there's that relationship. There's certainly guidance that is provided by national on various issues and support and pursuing various issues. For example, when Mr. Falk is litigating a case, I suspect that there are national representatives who can help him brainstorm about strategies on cases, but I don't believe that there's kind of a dictating relationship.

It's not really a top down organization. It's an organization that's founded on the affiliates, but supported by national.

Q So if ACLU of Indiana wanted to disagree with a position taken by the national organization, is it able to do so?

A Yes.

MR. FALK: John, can we go off the forward for

one second?

MR. LOWREY: Yeah, sure.

(Discussion off the record.)

Q So off the record, we just had a discussion regarding the relationship between the ACLU's national lawyers and ACLU of Indiana's lawyers. Setting that relationship aside, is there any sort of similar organizational relationship concerning agreement, disagreement, positions taken, et cetera?

A Not to my knowledge.

Q So the national organization cannot come in and say thou shalt oppose or thou shalt support some particular issue?

A Not to my knowledge.

Q How is the ACLU of Indiana organized in terms of legal organization, is it a for profit, a nonprofit, 501(c)(3)?

A There are two nonprofit organizations, a 501(c)(3) which is the American Civil Liberties Union of Indiana, Inc. and a 501(c)(4) which is American Civil Liberties Union of Indiana Foundation, Inc.

Q And what is the difference between the ICLU and the ICLU Foundation?

A Again, the name was changed in around 2005 or 2006

to the ACLU of Indiana.

Q Sure.

A The board that I am the president of is the board of the Inc. which is the 501(c)(3) and as I understand the distinction -- and don't please test in too much depth my knowledge of nonprofit law, I'd appreciate that, but the members of the board of directors of the Inc., the 501(c)(3), are the members of the 501(c)(4) organization and we have one meeting a year where those members meet.

The regular quarterly meetings that I talked about earlier are of the board of directors of the Inc. entity which is the 501(c)(3).

Q And I guess my bigger question was what is the foundation for, what is the Inc. for?

A There's a distinction under Federal tax law about what activities are allowed by the 501(c)(3) versus what activities are allowed of the 501(c)(4). I understand the fine points having something to do with being able to engage in political activity versus nonpolitical activity and so I don't hold myself out as an expert on Federal tax law.

Q So would it be fair then to say that the foundation is for political activity then?

A That is my understanding. The foundation is

allowed to engage in some political activity that the 501(c)(3) organization is not allowed to engage in.

Q And you've mentioned that the members of the foundation are the board members of the 501(c)(3)?

A That's my understanding.

Q So does that mean that as the president of the board, you are directing the political activities undertaken by the foundation as well?

A Interesting question. I think the political activity happens at an operational level. For example, our advocacy manager is a lobbyist. It's a smaller percentage of what the entire ACLU of Indiana organization does, but we as a board do not engage in discussions, vote on, make decisions about the foundation activities specifically.

Q Is there any distinction made organizationally between employees of ACLU of Indiana, Inc. and ACLU of Indiana Foundation?

A I'm sure there is, but it's really beyond my expertise to understand the distinction that is drawn, because the 501(c)(3) and the 501(c)(4) have existed for a long time and I know there's a separation of activities related to funding so that we operate correctly under the tax code.

Q So what precisely is the ACLU, Inc. then, is it primarily an advocacy group, is it primarily a litigation group, is it primarily -- is it primarily some sort of other thing entirely, is it a charitable organization, what is it?

A I think historically, it has primarily been a litigation group and an education group, educating people about their rights and pursuing cases that enforce the constitutional rights of Hoosiers.

Q And when you say educating people about their rights, what form does that take?

A I think that happens a lot on the website these days and also by employees of the ACLU sponsoring activities or participating in other sponsored activities where we're educating citizens about their constitutional rights.

Q What sorts of activities?

A If you're taking the deposition of Danielle Drake, our advocacy manager, that would be a perfect question for Danielle.

I understand she goes around the state and meets with groups of people to talk about people's rights, issues, constitutional issues and educates on voters' rights, for example, and that's a very high level discussion about what the ACLU of

Indiana does from an educational perspective?
Q So would it be fair to characterize those as basically town hall meetings?
A I think that's a nice label.
Q Does ACLU run protests, rallies, things of that nature?
A I know that we sponsor and co-sponsor rallies, maybe the easiest example, I think last fall, maybe October, the No Kings rally that was on the Statehouse south lawn.
Q I see the sign behind you.
A Oh, I keep my protest signs on my file cabinet behind my desk. So that's a real good example and there are other rallies like that that happen in Indianapolis or around the state.
Q And how does ACLU determine what issues it wants to educate about or what issues it wants to hold a rally about?
A That is more of an operational question as opposed to a governance question, because our board really does not get into those issues. Those decisions are made by our executive director and, for example, as I said, our advocacy manager.
Q So you have an advocacy manager, though?
A We do.

Q And who is that?
A Her name is Danielle Drake.
Q And the advocacy manager determines when you're going to stage a rally or what issues you're going to educate on?
A Probably in conjunction with our executive director, yes.
Q And your executive director is currently who?
A Nikkita Oliver.
Q But it's determined internally by the ACLU of Indiana?
A Yes.
Q I know you mentioned that the ACLU of Indiana got its start back in 1953, I think it was?
A I think it was organized in '53, incorporated in '56, if I remember correctly.
Q So how did it end up getting started?
A There is no published history, interestingly enough, although I understand there's some members who are working on a history because we're coming up on our 75th anniversary in two years. My understanding is that it was a group of lawyers in the Indianapolis area who were proponents of the work of the American Civil Liberties Union who basically formed a local affiliate or chapter in

Indiana.

Q So what issues did the early ACLU of Indiana primarily get started with?

A Well, mid 1950s the red scare and people being intimidated about their speech, I thinks those were probably the driving organizational issues in the mid 1950s.

Q So supporting the communists? That came out a little more aggressive than I intended it to.

MR. FALK: You think? I'm going to object to the question.

A Well, I think it's probably more supporting the idea that every citizen of the United States is free to belong to whatever organization they choose to. We do have freedom of association and freedom of speech under the First Amendment to our constitution.

Q But it was representing people who had been accused of communist sympathies?

A I can't say that specifically. I think when the government starts to move in the direction of suppressing speech and prosecuting people and causing people to lose their jobs because of organizations they're in, that we all should be very careful.

Q And what is sort -- we've touched on this sort of in passing, but you've mentioned that there's the board, you've mentioned committees beneath the board. What is sort of the ACLU's organizational structure? I mean, I know we've got -- I know you've said there's the board and then above that is presumably the national organization, but what about below the board, how is that organized?

MR. FALK: I'm just going to object to your characterization, inasmuch as Mr. Harrington has said the national organization is not above the board because of the federated relationship, but go ahead.

A So the board's relationship is with the executive director of the ACLU of Indiana. The executive director is at the top of an organizational structure and has certain directors and managers below them, one of which is our legal director, Mr. Falk. Another is our director of developmental philanthropy, Neil Hudelson.

We also have a finance operations director whose name is Tarah Reid and then I've also mentioned the advocacy manager, Dani Drake and then under each of those folks there are other employees and job titles, but the board interacts with the

executive director.
Q And about how large is that organization beneath the executive director?
A I think there are currently approximately 18 employees of the ACLU of the Indiana. One of those 18 could be the executive director, so it's on that order, roughly 18 total employees.
Q And are those primarily volunteer positions or paid positions?
A Paid positions.
Q And does the ACLU make use of unpaid volunteers in its advocacy or for other operations?
A Yes.
Q Do you have any knowledge of how the ACLU recruits those volunteers?
A Not specifically. I understand that from time to time, there are donors who probably reach out to the executive director and say hey, is there anything I can do to help, but I don't know what other strategies are employed to identify volunteers.
Q And these employees are separate from ACLU's members?
A Well, members aren't employees, although employees may be members and --

Q Does AC -- I'm sorry, go ahead.
A That's fine.
Q Does ACLU require its employees to be members?
A No.
Q Does ACLU treat its employees as members?
A Well, if you are employed by the ACLU of Indiana and you're a member, then you'll receive the same kinds of mailings as all other members. You'll have access to the website. I don't think you're treated any differently. If you're a member, you're a member.
Q How many members are there?
A I believe there's a total of about 20,000 donors in Indiana, about 3500 or something like that in Marion County.

MR. FALK: John, can we go off the record for one second?

MR. LOWREY: Sure.

(Discussion held off the record.)

Q Bill, what makes someone a member of the ACLU?
A Our bylaws define the membership. It has to do with a donation, as I understand, it to the C4 entity which is non tax deductible, so it's a technical definition which defines a distinction between just being a donor and being a member.

Q And previously, you had mentioned 20,000 donors. Do you have a sense of how many of those are actual members then based on that definition?
A My understanding is it's approximately 14,000 in the State of Indiana.
Q And about how many of those are in Marion County?
A Around or less than 3000.
Q And when you say less than 3000, how much less are we talking, are we talking like 2500?
A Yes. Thank you for your help with that, by the way.
Q Now, how does ACLU track whether or not someone is a member? We got into this a little bit earlier, but what sort of tracking mechanism do you have?
A That's an operational question that I don't know the specific answer to, but I am certain in the year 2026 that there's a database on a computer that has the answer to that question.
Q So there's some sort of record?
A Yes.
Q And previously, we've mentioned how long the duration of a membership is. Can you refresh my memory on how long you're a member once you've paid that fee?
A It's annual unless you elected to pay a membership

fee for more than one year, which sometimes you get a discount to do that.

Q Is that in fact an option?

A As I recall, it is. I think when I get that mailing, I can maybe be a member for one, two or three years, if I remember correctly, and sometimes you get a little bit of a benefit on what you pay if you pay for multiple years.

Q And what are the benefits associated with being a member?

A Supporting an organization that fights for my constitutional rights.

Q So it's purely the psychic benefit of supporting something you agree with?

A Well, I wouldn't call it psychic. I think one of the problems we have in our society is a lot of folks have a lot of beliefs, but they don't know how to put their beliefs into action and what they see of the ACLU of Indiana is action and they want to support that, because we have employees who we have to pay, rent for a building that we have to keep operating and so it's a way to act vicariously through an organization that supports the beliefs that we have as members.

Q Now, you talk about a members' beliefs, does the

ACLU have any requirements for its members' beliefs?

A No. I don't have to take an oath. I don't have to -- all I have to do is support the organization knowing what it is that the organization does.

Q So the ACLU doesn't go out and do any sort of like annual survey of its members, what do you think about First Amendment, about these First Amendment issues or what do you think about this Second Amendment issue or what have you?

A I have from time to time as a member received emails and I don't remember if they come from ACLU of Indiana or ACLU national, just asking me to rank my concern about various issues and so I assume that's done to prioritize work, but I apologize. I can't remember if that's an Indiana issue or a national issue.

Q When you're getting that sort of ranking mailing, is it simply ranking issues that have been identified by the requesting organization or is there some means of commenting or writing in issues if an issue that is of interest to a member is not listed on there?

A With respect though those mailings, whenever I have answered that kind of survey, I recognize that

whoever is sending out the survey is asking about questions that are currently being discussed. I don't remember if there's a place to comment about other issues of concern, although I will say this, one thing I know about myself and other members of the ACLU of Indiana is we're not shy about communicating.

And if we had a concern about an issue, we'd probably reach out to the executive director or Mr. Falk and say hey, what about this issue. So I hope I've answered your question.

Q Do members ever reach out in that way?

A Yes, I believe they do, or at least I've heard that they do.

Q Have you ever personally sent any communications of that sort?

A Yes, to the executive director. I think I have from time to time emailed the executive director to ask about an issue that the ACLU of Indiana was pursuing.

Q And this was separate from your position as president of the board of directors?

A You're correct.

Q Are you aware of any instance where other members have done so?

A Well, for example, I know as president of the board that from time to time, I've seen communications that have been sent to the organization by members. There's not a structural process for that to come to me and it would have been more -- you know, I have a very close relationship with the executive director as the president of the board.

And so I might have seen an email that someone sent to the executive director asking what our thoughts are about a certain issue and so -- and I know from talking to my other board members, all of whom are members of the ACLU of Indiana, that from time to time, they would communicate with the executive director just because we would have conversations about various issues.

Q And if a member sends a comment of that sort to the ACLU, you know, raising concerns regarding an issue, agreeing or disagreeing with some action the ACLU has taken, what does the ACLU do?

A And that's more of an operational question. I think it would be a good question for an executive director. I don't know if it was like President Lincoln who made a point of responding to all letters, if it's something that they gather to collect data about what are we hearing that people

are concerned about. I don't know the answer to that.

Q So if a member, for example, sent a letter to the ACLU saying hey, ACLU, we disagree with how the organization has been handling -- let's pick something nice and non-controversial, like Second Amendment rights?

MR. FALK: We have that case, by the way. Your office is on the other side. We're trying to represent someone in a Second Amendment case, so that's not so uncontroversial.

MR. LOWREY: That was sarcasm when I said it was uncontroversial.

Q But say someone sends a letter to the ACLU saying they disagree -- they're a member. They have been a member for, you know, a decade. They disagree with how the ACLU is handling an issue. What does the ACLU do in response, if anything?

A So let me give you an example.

Q Sure.

A As I mentioned, we're about to undertake a strategic planning process. I know that we're going to be reaching out to various stakeholder organizations, community partners, donors, others for the purpose of gathering the kind of

information you're talking about which is, you know, what are the concerns, what should our focus and goals be over a period of time.

I think historically, those kinds of communications have been handled more internally at an operational level. I'm not familiar based on my history with the organization of there being some ground swell of opinion from members that steered the organization in one direction or the other. I think there's a fairly strong unity between the work of our organization and the issues that are supported by our members.

Q So you're not -- to make sure I'm understanding, you're not familiar with any instance where ACLU has changed or modified its position based on member commentary?

A I'm not familiar with anything like that, no.

Q Now, you've mentioned stakeholder organizations, what sort of stakeholder organizations are we talking about?

A Well, think of other nonprofit organizations in Indianapolis and throughout the state that support various causes, for example maybe Planned Parenthood, maybe the Women's Fund, maybe some LGBTQ organizations and so because there's an

overlap in many positions and different resources that can be brought to bear to pursue the issues, we partner with stakeholder organizations to accomplish common goals.

Q Not to put too fine a point on it, I noted that the stakeholder organizations you mentioned were all on the democrat or left side of the left-right debate that goes on in Americans politics. Would that be a fair characterization of ACLU's allies in general and the causes ACLU supports?

A We don't talk about left and right. We talk about fundamental liberties and freedoms that are enshrined in the constitution, for example, a woman's organization, you know, the 14th Amendment and so we don't talk about politics. We really don't.

Q Are there any stakeholder organizations with which ACLU works that are on the right side of the left-right debate?

A I'm sure --

MR. FALK: Objection to form.

A I can think -- for example, if you want to go back in the wayback machine to the Skokie case and the Nazis up in Illinois, there's an interesting divide in our country right now, Mr. Lowery, as you well

know and I'm sure you don't want to devolve into a political discussion any more than I do, but our organization supports the constitution.

Our organization does not understand why any citizen of Indiana would not support, for example, the idea that the state should not be involved in establishing religion in Indiana, so we focus on the constitutional rights and not the politics.

Q And moving back -- because we've gone a little bit far afield, when we were talking about how someone becomes a member through these annual donations, does ACLU track member retention?

A Again, I would be surprised if there's not a way to analyze the data to figure that out, but to my knowledge, we don't specifically take a look at the list of members in '26 and ask ourselves the question what happened to these hundred people who supported us in '25 who didn't support us this year. I don't think we undertake that analysis specifically.

Q And does ACLU do anything to determine what its members' thoughts and opinions are other than those ranking surveys you mentioned earlier?

A Not to my knowledge.

Q How does ACLU typically communicate with its

members or does it communicate with its members?
A The website, emails, meetings.
Q How do you know where to send those emails?
A I think when people become a member, they share a mailing address and/or an email address.
Q And how do you organize those meetings?
A You mean the emails? I'm sorry.
Q The meetings, you mentioned ACLU communicates via meetings. How do you organize those?
A And I talked earlier about Dani -- I'm sorry, Danielle Drake, our advocacy manager, having meetings around the state and I think you characterized it as like a town hall, so those are advertised. They're probably put on social media. There may be an email blast inviting people in those areas to attend. There might be other postings.
Q And when you're holding these events, are they public events, are they private events, are they a mix?
A Open to the public.
Q So there's no sort of special benefit to a member?
A You don't have to flash your card on the way in.
Q And does ACLU maintain office space for holding these meetings or events or do they schedule them

with other groups or organizations? How does that work?

A We don't hold meetings like that at our office. We don't really have the space for it, so they happen at public locations.

Q Like what kind of public locations?

A Well, the Statehouse lawn, inside the Statehouse rotunda, it could be at a university, it could be a public library, could be at a church, other community meetings places, depending on the town or location.

Q And are these events funded through those annual member donations you've mentioned or does ACLU collect money from attendees?

A Oh, no, we don't charge admission.

Q And what is sort of the purpose of these events, from ACLU's point of view?

A To educate, to advocate, to listen, to build enthusiasm about supporting our constitutional rights.

Q Now, you had mentioned -- you just mentioned to listen there. How do those events allow ACLU to listen, are they more of a question and answer format or are they more of a lecture format?

A And this is more of an operational question than a

board president question. It is my understanding, and again, Danielle Drake would be a perfect person to talk to you about this, that we are invited to come to a community to speak to issues of concern and I think that based on what I have heard about how we run those kinds of events, that part of it is a presentation by a person with experience and expertise and part of it is a question and answer.

Q Now, you just said invited. What do you mean when you say invited?

A We might be contacted by an organization in a community with a concern about issues, you know, for example right now, I wouldn't be surprised if we've been contacted by folks up in Gary, Indiana who wonder why don't they have any power and so there might be a specific issue that requires some community organizing and learning about rights and opportunities and remedies that are available.

And I know that Danielle Drake, our advocacy manager, our education partner, would organize afternoon events, maybe invite community partners in that area and go and talk with folks and help them.

Q And when you refer to community partners, are these those stakeholder organizations you were referring

to earlier?

A That's one good word for it, yes.

Q And has ACLU ever changed its position on an issue based on information acquired through one of these events?

MR. FALK: Just for a second, I'm going to interpose an objection. I've been somewhat patient. The relevance of this is unclear to me and I understand we're in discovery. However, under Hunt, the only possible issue is whether the question about the ten commandments is germane to the organizational purpose.

You would be hard pressed to find anyone in the United States who does not recognize that the issue of establishment, as Mr. Harrington has referred to a number of times, is germane to the organizational purpose. So this is a deposition. You can ask away. However, this has nothing to do with anything that is even close to being of use in the case.

Given that the issue is a rather narrow one concerning the ACLU's standing, does it -- do we have members who have standing, number 1. Is the issue germane to our purpose, it certainly is, and, number 3, is there any reason that individual

members have to participate. So I --

MR. LOWREY: Respectfully, Ken, I think that whether the ACLU is actually representing its members and whether those -- and whether its position that it's taking is representative of what its members actually believe is especially relevant when you're dealing with a question of associational standing.

Q Would you please answer the question, Bill?

MR. FALK: But the -- let me finish. The question you should be asking is do we know of any ACLU members who are opposed or in favor of posting the ten commandments on public space or who were opposed to it. That's the issue, so I have said my piece.

MR. LOWREY: Okay.

Q Bill, would you please answer the question?

A So is your question the broad question, which is to my knowledge has there ever been a time in the 73-year history of the now ACLU of Indiana that member feedback on issues has influenced or changed the direction of the organization, is that the question?

Q I don't think you necessarily need to go back through the last 73 years, but certainly during

your tenure, are you aware of any instance where one of these events has been held or a member has sent commentary to the ACLU and the ACLU has changed its position?

A Not specifically.

Q And if a member disagrees with the ACLU's actions, what are the options available to that member?

A Well, one, I suppose they could stop being a member because they don't support the organization's work any longer. Two, they can communicate and make their voice heard. Three, they can try to find other members who have similar views and try to bring a larger voice to the organization, but I'm just not really familiar with that ever having happened.

Q So you mentioned they could complain about their disagreement on that issue if it was just a single issue, they could try to gather others, but you'd said earlier that you're not aware of any instance where that has happened?

A Right, and we don't do any kind of exit interview if people stop donating, asking them why, but so for example, is there an email anywhere in the records of the ACLU of Indiana where somebody said because you're supporting X, Y and Z, I'm

withdrawing my membership, I'm not familiar with that.

MR. LOWREY: Can we take maybe a five-minute break? We've been going for about an hour and 15 minutes.

A I appreciate your sense of timing.

MR. LOWREY: Thank you.

(A short recess is taken.)

Q I am sharing a document over here on my computer screen. Can you see this document?

A Yes.

Q Have you seen this document before?

A Yes.

Q What is this document?

(Exhibit 2 marked.)

A This is the amended complaint for declaratory and injunctive relief that was filed on August 13 of '26, it says.

Q I'm going to go fairly deep into the document.

MR. FALK: And John, while you're doing that, I do not believe that you marked with an exhibit number the first exhibit or this exhibit.

MR. LOWREY: Yes, I will -- I would like to mark -- I'm sorry about that. The deposition notice earlier, we'd like to mark as Exhibit 1,

Ken. Do you have any objections?

MR. FALK: None.

MR. LOWREY: And we also want to mark this one as Exhibit 2, the amended complaint. Ken, any objections?

MR. FALK: None, thank you.

Q Directing your attention to paragraph numbers 43 and 44, have you seen those two paragraphs before, Bill?

A Yes.

Q And can you read those paragraphs?

A To myself or out loud?

Q To yourself is fine.

(Witness examines document.)

A I've done so.

Q In paragraph 43, the amended complaint uses the phrase religious liberty and in paragraph 44, the paragraph uses the phrase religious freedom. Do you see those words?

A Yes.

Q What does the ACLU mean when it says religious liberty or religious freedom?

A I think there are two components to that. One is the freedom that every individual in Indiana has to exercise their own religious beliefs or their

absence of religious beliefs and also to be free from the state establishing any religious or promoting any religious institution.

Q Now, you said both establishing and promoting any religious institution. So what in the ACLU's view does it mean to establish a religious institution?

A To engage in conduct, for example, putting the ten commandments on the Statehouse lawn which appears to demonstrate an endorsement by the state of particular religious views.

Q So any endorsement then?

A Well, the question is what is establishment, because of course the First Amendment even for a lawyer like me who's not a constitutional scholar like Mr. Falk understands that the First Amendment says that there shall be no establishment of religion.

Q Right and --

A And engaging in acts that suggest an endorsement of or support for a particular religious belief and engaging in a physical act of dropping a five-ton monument on the Statehouse lawn speaks to many of us and I think the members of the ACLU as an establishment are an attempt to establish religion.

Q Well, again, you keep using the term establishment,

but we haven't defined what that term means to the ACLU. Is establishment just an endorsement or is it something more or is it something less?

A I think it's a slippery slope, that it begins by actions like putting a monument on the Statehouse lawn and I think that members of the ACLU draw the line rather strictly, which is that the state should not even be putting its toe in the water on this issue.

Q And what do you mean when you say putting its toe in the water?

A Don't put a five-ton monument that has the ten commandments on the Statehouse lawn.

Q Is it just monuments that are an issue for the ACLU?

A That's the current issue. It could be many things. It could be teaching the ten commandments to students in our public schools. I mean, I can think of many iterations potentially, but the specific issue as I understand it in this case has to do with this governor wanting to put a ten commandments monument on the Statehouse lawn.

Q And do you think that someone is threatened by government action so long as it offends -- does the ACLU think someone is threatened by government

action so long as it offends them or does it have to have more of a direct effect on them, does the ACLU think?

A I'm sure there are many members of the ACLU who are Christians who support -- or Jews who support the words on whatever version of the ten commandments we're talking about, but they will strongly believe that the state should not be engaging in promoting or moving in the direction of establishing support for those religious beliefs.

Q And how do you know that members of the ACLU believe that?

A Because I've talked to many, many of them.

Q In what circumstances?

A Socially, during board meetings, I think that would probably cover it.

Q So members of the ACLU board have discussed the issue and that's what you're talking about, you're not talking about ordinary members?

A Well, I think we're all ordinary members, but when I said socially, what I meant is even just in conversations with friends of mine who are members of the ACLU of Indiana, they're deeply offended by the idea of the government putting a religious monument on public property.

Q So you've mentioned that the ACLU is offended by the idea of the ten commandments, is there any context in which the ACLU is not offended by the ten commandments?
A Well, I don't think the ACLU is offended by the ten commandments. I think the ACLU is offended by state action which we would call an establishment of religion.
Q But is there any context in which the ACLU is not opposed to the ten commandments?
MR. FALK: And again, I'm going to --
Q Involving state action?
MR. LOWREY: Sorry, Ken.
Q Any context involving state action in which the ACLU is not opposed to the ten commandments?
A I'm thinking for just a second. I think it would be fair to say that I don't know any member of the ACLU who understands why the State of Indiana would want to have anything to do with the ten commandments.
Q So the ACLU would oppose, for example, if on a classroom wall in addition to a variety of other formulative texts concerning law, like say Hammurabi's Code and the Code of Justinian and maybe the list of the Confucian principles or

things like that, and the constitution and the bill of rights, they would be opposed to the ten commandments if it was placed with other sources of law that were not religious in nature?

MR. FALK: I'm just going to object on the grounds that it's speculative for this question to be asked, given the context with your concern of the ten commandments, but you can answer to the best of your knowledge.

A My answer has to do with the fact that the ten commandments is a religious code, most meaningful to Christians and Jews, depending on which version we're talking about and for any religious statement to be on a wall in a public school I think speaks in the direction of an establishment of religion since these schools are public. A private school, different issue.

Q So that's no matter the context, no matter what documents are put with it?

A That is my answer.

Q And is the ACLU offended by nativity scenes on public property?

A I don't like your word offended by, but I'm going to accept it for what you mean, I think, which is we think it's a violation of the First Amendment of

the constitution for religious scenes to be placed on public property.

Q Is the ACLU opposed to prayers used to open legislative meetings?

A Fascinating question, by the way, because you know and I know there's a long tradition and history of such prayers occurring.

Q I am aware.

A And I'll give what I would call my opinion which is --

Q I'm after the ACLU's opinions, not yours.

A I know you are, but I can't speak to the larger ACLU of Indiana position on that issue. I think there's a difference because of the history, but I would also say that if for the first time next week the State of Indiana wanted to start using prayers like that in some public context, then I think yes, it would be considered a violation of the establishment clause.

Q Well, that doesn't really answer the question, though. The answer is whether the ACLU is offended by the practice and it sounds like you're saying that the ACLU thinks that it's acceptable because of its historical pedigree?

A It's my understanding, and I'm allowing my lawyer

self to get into this and I shouldn't, because that's not who you're deposing today and I have a hard time -- I should have brought a hat with me today that said ACLU, so every time I looked on the screen I can be reminded who I'm speaking for.

But it is my understanding that it is the position of the ACLU that we oppose any state action that suggests an establishment of religion by the state.

Q And when you say establishment of religion, you mean any endorsement of a religious belief?

A Yes.

Q So does the ACLU oppose when exemptions are given from generally applicable laws for a religious organization?

MR. FALK: I'm going to object again. John, there's nothing even in the breadth of Attachment A that covers these -- this line of questioning. I'm going to object to going far beyond. Moreover, again this has nothing to do with the issue in this case. It has nothing to do with whether the objection to the ten commandments monument is germane.

MR. LOWREY: Ken, the ACLU has in its complaint that this -- that its objection here is based on

its view of what is and is not an establishment of religion and its purpose of preserving religious liberty and preserving religious freedom, so we're finding out what the ACLU means when it says that.

MR. FALK: Why? ACLU could have a position that is completely wrong under current law, but that has no bearing on whether the organization believes or whether this is germane to the organization's purpose. So you can ask all you want, but it has nothing to do with the one issue that is relevant here which is the germane issue.

Clearly, they had -- the ACLU's position as Mr. Harrington has said repeatedly is a position on the establishment clause and you can ask him what it all means. You can attack it. You can say it's not supported by current Supreme Court law. It makes no difference for purposes of standing.

MR. LOWREY: Thank you, Ken.

Q Bill, will you answer the question, please.

A I don't know the answer to your question.

Q So if all of the examples, though, of things the ACLU opposes or is offended by have been Christian examples, would the ACLU be offended by, for example, exemptions from generally applicable noise ordinances for Muslim prayer calls?

A I don't know the answer to that question.
Q Or from --
A I would say this, I don't think it has to do with what religion it is. I think the issue is that it's religion, but I don't know the specific application you're referring to.
Q So is there any use of religious language or iconography by state or Federal government that the ACLU believes is permissible?
A Not to my knowledge.
Q Why not?
A You're asking me why? I don't know.
Q No, I'm asking -- I'm asking -- I had understood your statement of not to your knowledge meaning that you were unaware of any use of religious language or iconography by state or Federal government that ACLU would believe is permissible, so I was asking why there isn't any use of religious language or iconography that would be permissible.
A I see, thank you for clarifying. I think the principle I'm trying to speak to is that the ACLU does not believe that government should be in the business of religion as a general proposition.
Q So the ACLU does not believe that there is any

appropriate expression of religion in the public square?

MR. FALK: I'm going to object, just because that was not what the answer was.

Q I'm just trying to understand.

A When you say public square, what do you mean? I just want to not miss your question.

Q When I say public square, I'm referring to public statements by members of the government. I'm referring to buildings, decorations, monuments, the sort of public sphere of life.

A I think this goes back to a lawyering question for you and Mr. Falk, which is, you know, what is establishment. I think it would be fair for me to reiterate the point that members of the ACLU are opposed to the state establishment of religion.

Q But how does the ACLU know that its members believe there is no permissible use of religious language or iconography by a state or Federal government?

A Well, I can tell you that of all the ACLU members that I know, they're not shy about having opinions on things and if you were to ask specific individuals specific questions, they would give you their opinion about it.

Q So but ACLU does not have any sort of instance

where they've queried their members, you would have to go and ask the members individually?

A I don't think there's specific polling of members on these issues and I would be surprised if there's any member of the ACLU who supports the state establishment of religion.

Q I wasn't asking you about the state establishment of religion. I was asking you about any use of religious language or iconography. If you think every use of religious language or iconography is the establishment of religion, then that's fine, but we need to make sure that that's clear.

A That's where I said earlier.

MR. FALK: I'm going to object again, John. I don't think you have asked in this attachment for someone to give you the views of the ACLU on issues completely unrelated to the issue of the monument. Mr. Harrington can do the best he can and I think he's doing it, but I believe he has gone beyond the 30(b)(6) designation.

Q Are you aware of any public statements by ACLU concerning its belief that there is no permissible use of religious language or iconography by a state or Federal government?

A I'm not aware of a statement that broad.

Q What statements has the ACLU made regarding that, regarding the use of religious language or iconography?
A Well, for example, tying back to this case, I understand that there was a press release when we learned that the state was trying to reopen this establishment case and there was information transmitted maybe by the press release on a website, social media about this case, so I think that's how information has been transmitted to the members of the ACLU of Indiana relating to the ten commandments monument.
Q You've mentioned Instagram messages in response to that press release earlier?
A I did.
Q Are you aware of any other communications from ACLU's members to it regarding this case?
A I assume, but don't know that, because there are other social media tools that are used by our communications team, but I apologize that because of my generation, I don't know how posts and other responses are preserved or recorded in some way. So I've seen what I think are Instagram posts, but I don't know whether there are other posts or not.
Q Are you aware of any other communications regarding

this case between ACLU and its members other than the press release and whatever social media comments were made?

A Other than conversations among the members that I regularly deal with in my activity on the board and in my social circle, I'm not aware of other communications like that.

Q And how did ACLU get involved in this case?

A It's my understanding that the initial lawsuit was filed maybe 20 years ago and at the time, we were the ICLU and I don't know exactly what happened other than I saw in the complaint that somehow it was learned the Governor O'Bannon had the intention of placing the ten commandments monument we're talking about on the Statehouse lawn and Mr. Falk who was our legal director at the time initiated a lawsuit to prevent that from happening.

Q So you don't know if ACLU was contacted by a member about this issue?

A I don't know.

Q Do you know what sort of relationship, if any, exists between ACLU and the individual named plaintiffs?

A Professor Tanford is a member, to my knowledge, and I think he might have been the president of the

board of directors at some point in the past, if I remember correctly, and I know about Reverend Armstrong and Ms. Abduallah, what I saw in the complaint, but that's all I know about those individuals.

Q And is -- do you know if they -- if the three named plaintiffs volunteered to be plaintiffs or if ACLU went and recruited them? Do you know how that happened?

A That's a Ken Falk question. I don't know the answer.

Q Well, if it's a Ken Falk question, I don't want to probe it, so . . .

MR. FALK: Ken Falk doesn't remember because it was a long time ago.

Q Is ACLU relying on James Tanford then for its standing?

A Part of it. I think there's other members, Danielle Drake, McKenzie Conrad, Gray Lesesne who is the Dean of the Christ Church Cathedral in Indianapolis.

Q What was that third name?

A First name Gray, last name -- I know I pronounce it horribly every time and whenever Gray says his name, I swear I want to write it down.

MR. FALK: It's actually Lesesne, I believe.
A L-e-s-e-s-n-e, I believe.
MR. LOWREY: Ken, is that the same Lesesne that has been designated as an expert?
MR. FALK: Yes. He's the Dean of Christ Church Cathedral.
Q So it's those four members?
A To my knowledge, yes. You can include me too, if you want. I'm a member, but I don't think I've been designated as such.
MR. LOWREY: Ken, is he one of the members who's been designated for standing purposes?
MR. FALK: He has not been.
Q And how many of ACLU's members are involved in this litigation?
MR. FALK: At which point I'm going to ask for a clarification.
MR. LOWREY: I'm after standing, for standing purposes.
MR. FALK: Thank you. That's the clarification I was asking for.
A To my knowledge, it's the four individuals that I just mentioned, and probably only because Ken didn't want to list thousands of names.
Q So just to confirm then, is ACLU arguing that it is

directly impacted by the monument or is it relying on its members for standing in this case?

A I'm not a constitutional lawyer, but it's my understanding that there's something called associational standing and that we had to identify some members of the organization for the purpose of that standing and these four individuals were identified.

I can tell you from my conversations just generally with other members that many people are deeply surprised in the year 2026 that the governor of the State of Indiana wants to put a ten commandments monument on the Statehouse lawn.

Q My point is that ACLU is not trying to argue that it is directly or economically affected by the monument in some way and that it has standing independent of its membership?

MR. FALK: John, to the extent it's necessary, I'll indicate to you now that we are relying only on the associational standing that Mr. Harrington mentioned.

MR. LOWREY: Wonderful. That is what I wanted to make clear.

Q So for these members -- I'm going to direct us back to the document to paragraph 45. Will you read

that paragraph to yourself, please.

(Witness examines document.)

A I've read it. Thank you.

Q Do you see where in that paragraph it mentions persons who regularly travel to or by the Statehouse?

A Yes.

Q And is it ACLU's position that each of the four named individuals regularly travel to or by the Statehouse?

A Yes.

Q Can you tell me for James Tanford how he regularly travels to or by the Statehouse?

A It's my understanding that Professor Tanford goes to the Statehouse from time to time because he might listen to arguments in the Court of Appeals or the Supreme Court. I also understand that he has some family member relationship to our beautiful Statehouse building having to do with stained glass.

Of course, when you leave downtown Indianapolis, when construction is not being done, one would normally drive west on Washington Street just past the south lawn of the Statehouse.

Q So it's sort of a someday he might or are there

definite plans that you're aware of?
A You'd have to ask Professor Tanford for the details, but it's my understanding just based upon some discussions with my counsel that Professor Tanford has regular contact with the Statehouse.
Q And how about Ms. Drake?
A As our advocacy manager, Ms. Drake when the legislature is in session is regularly at the Statehouse. It's my understanding that she drives and parks on the west side and comes through the west side entrance and therefore, she would pass by the south lawn and regularly have contact with the area where there's been discussion about placing the monument.
Q So when during the legislative session does she come?
A Boy, we'd have to get her specific calendar, but I know she's there with great regularity based on past discussions with her during session.
Q And McKenzie Conrad?
A Same answer as to Ms. Conrad, frequently at the Statehouse during session as our communications specialist, senior communications specialist and again, typically would drive on Washington Street, park on the west side and come in the west

entrance.

Q And Mr. Lesesne?

A It's my understanding that Mr. Lesesne in his capacity as pastor of Christ Church has a number of activities that happen at the Statehouse. He enters the Statehouse through various entrances, many times through the west entrance because of the accessibility issue, frequently attends protests that happen at the Statehouse and therefore has regular contact with the environment around the Statehouse.

Q Now, you say activities and protests, what sorts of activities?

A Part of it has to do with the work of his church, as I understand it. You'd have to talk to Dean Lesesne to get the detail on that, but any number of protests that involve various civil liberty issues in Indiana, I think that Gray regularly attends public protests that occur on the Statehouse property.

Q So obviously, Professor Tanford is listed as a named plaintiff, but Ms. Drake, Ms. Conrad and Dean Lesesne are not. Is there any reason why these individuals cannot -- could not sue in their own right?

A You'd have to ask Mr. Falk that question.

MR. LOWREY: Mr. Falk, is there?

MR. FALK: I'm not a witness.

MR. LOWREY: Strike that. That was me being cheeky.

Q So Bill, you don't know if there's any reason why these people could not sue in their own right?

A I don't purport to know the answer to the standing question. I'm not a lawyer on the case.

Q Does ACLU know if these four members are typical of ACLU, of other ACLU members in terms of their beliefs?

A I would just say this, which is that I have never spoken with a member of the ACLU who supports the placement of a religious monument on public property and I would be surprised if I ever do.

Q But that is not the question. So would you please answer the question?

MR. FALK: I think that was the answer to the question. You asked whether it's typical of the beliefs and he interpreted that rightfully as asking beliefs about the issue we're here about which is posting the ten commandments and he answered the question.

Q And how do you know that these four individuals'

beliefs concerning the monument are typical of the ACLU's members?

A Just by my conversations with other members.

Q So anecdotally?

A Just anecdotally, life experience. It's a pretty fundamental position of the American Civil Liberties Union of Indiana that state and religion have nothing to do with each other.

Q And you indicated for each of these members that they park on the west side of the Statehouse?

A What I understand is that it is Ms. Drake and Ms. Conrad's regular practice to park on that west side, that Dean Lesesne often is entering through the west side because of the accessibility issue, depending on the issue and who the folks are he's there with, but I'm sure there are times when they might park someplace else, but the question is do they have regular contact with this area where the monument purports to be located or intends to be located.

Q So that actually brings me to the next thing that I wanted to discuss in this paragraph where it mentions direct and unwelcome contact with the monument. What sort of direct and unwelcome contact is ACLU referring to?

A It's my understanding that, number 1, it's just knowing that it's there which is unwelcome by what I believe to be any member of the ACLU. Direct contact I guess would be seeing it. So for example, many folks who drive west on Washington Street and pass the south lawn of the Statehouse could see it.

Then there's just a larger population who, as I said, would consider it to be unwelcome just knowing that it's on public property.

Q And so it's sort of a generalized offense?

A Interesting characterization, but yeah, I can accept that.

Q So ACLU is not arguing that any of those individuals are being physically harmed by the monument?

A Well, they might be repulsed by it, but I don't think they're suffering a physical harm by it.

Q And they're not suffering any sort of economic harm, we're purely talking about being offended by it?

A Well, you're an employee of the State of Indiana and we pay your salary and you're working on a case that has to do with violating the constitution, so I suppose maybe our resources could be better used

by not litigating a case having to do with putting ten commandments on public property.

Q So is it just offense then or is ACLU arguing some form of taxpayer standing as well?

MR. FALK: We're not. I'll speak like a lawyer, we are not claiming taxpayer standing.

MR. LOWREY: Okay, thank you.

Q Bill, is it just offense then?

A Well, I'm careful about your term. When I adopt your word offense, it is that I am offended by the state violating the constitution.

Q I didn't hear an answer beyond what offense is, offended by the monument?

A The members of the ACLU believe that the placement of the ten commandments on the Statehouse lawn violates the First Amendment.

Q But what I'm trying to clarify is that the four members on whom the ACLU is relying for standing are claiming that their injury from the monument is that they are offended by knowing that the monument is there or seeing it; is that correct?

A I think that is correct.

Q Other -- strike that. So going down further in that paragraph, ACLU says or uses the term state sponsored religious display. What does ACLU mean

by state sponsored religious display?
A Well, first of all, the State of Indiana controls the property around the Statehouse and allowing a religious monument to be placed on that property would be state sponsored. The governor has made statements, to my knowledge, about his intent to cause a religious monument to be placed on state property and so I believe that's what we interpret as state sponsored.
Q So have you been to the Statehouse and the rotunda, Bill?
A Yes.
Q Are you aware that there are -- there's a placard stating, "In God we trust," in the rotunda of the Statehouse?
A I don't recall from my specific memory, but I am not surprised.
Q If I represent that to you, do you have any reason to disagree with me?
A No.
Q Is that a state sponsored religious display?
A At some level, but not as overtly as a version of the ten commandments that is supported by Christians.
Q Is it offensive to the ACLU and its members?

A I'm sure it is to some.
Q How about are you familiar with the plaque in the rotunda containing the text of, "Ain't God good to Indiana"?
A I am not specifically, but I'm not surprised there would be such a statement.
Q Are you familiar with the poem in question?
A No.
Q Would a plaque containing a poem, "Ain't God Good To Indiana," constitute a state sponsored religious display?
MR. FALK: And I'll just make an objection, continuing objection to all of this as going far beyond the 30(b)(6), but go ahead.
A To me, as I think about what I know about this organization, generic references to a higher being are not as offensive to our position about establishment as actions by the state that support specific religious beliefs.
Q How about the plaque in the rotunda commemorating the first religious service in Indiana being held on the grounds that became the Statehouse, is that a state sponsored religious display?
A Well, it does beg the question of why it's there, but again, I'd have to see the plaque and see the

language and see how it's accredited in some way or who it's attributed to, to think about an analysis that I would think a member of our organization might undertake in thinking about whether it moves in the direction of an establishment.

Q So it's a matter of context?

A I think that's fair to say.

Q Are you aware that there is a meditation room equipped with bibles on the fourth floor of the Statehouse?

A I'm not aware of that.

Q Is that a state sponsored religious display?

A Is it only the Christian Bible?

Q I haven't done an exhaustive search of the bibles that are in there.

A Well, first of all, you have to ask yourself why we're worried about people reading religious texts when they're at the Statehouse, since it's a governmental place, it's not a church, but the answer to the question may depend in my mind on what else is there. Can I read the Quran, for example.

Q Moving a little bit away from the Statehouse, how about the annual Christmas tree lighting that takes place in downtown Indianapolis, is that a state

sponsored religious display?
A I don't think so. It celebrates the season of lights. That's why we have Christmas trees. It's the winter solstice. It's tradition. There are no crosses.
Q So ACLU would view a nativity scene, though, as a religious display, presumably?
A Clearly.
Q What about are you familiar with the -- are you familiar with the inscription on the Liberty Bell?
A Oh, I'm sure I've seen it many times.
Q Are you aware that the inscription on the Liberty Bell contains a Bible versus?
A I'm not familiar with that, to be honest. I'm not saying I haven't read it, but I don't make the connection in my mind right now.
Q So the inscription of the Bible verse on the Liberty Bell would not constitute a state sponsored religious display to you?
A Well, I think it --
MR. FALK: I'm going to object, because he indicated he doesn't know what the inscription is.
Q I can read you what the inscription is if you'd like.
A If you would, that would be great. Thank you.

Q "Proclaim liberty throughout all the land unto all the inhabitants thereof."
A Where is the Liberty Bell located?
MR. LOWREY: It's not in Indiana, I'll acknowledge that.
A I believe it's in Philadelphia. Isn't it?
Q Yes.
A Is it on state property?
Q That I don't know. I believe so.
A That's the line being drawn. If the Liberty Bell were in Indianapolis or anywhere else in our beloved state and if it's on state property, then we start to have a discussion about the concern of whether there's an establishment or the movement in the direction of an establishment of religion.
Q How about are you familiar with the Supreme Court building in Washington, D.C.?
A I have seen it. I have been there. I've not argued there like Mr. Falk, though.
Q Are you aware that Moses is depicted on several of the pieces of artwork in the building, most notably on the east pediments?
A I am not surprised that that's true, but I can't speak to the fact of it.
Q Is that a state sponsored display of religion?

A It's a U.S. government sponsored, potentially, establishment of religion and it depends a lot on context.

Q How about on the doors leading into the Supreme Court courtroom? Famously, there's the inscription of the ten commandments. Is that a state or Federal sponsored display of religion?

MR. FALK: I'm just going to object and I don't know if this is the proper objection, I apologize, but John, I don't think there's an -- I went and looked. I don't think the wording of the ten commandments is there which is what your question implied. Maybe I'm wrong, but . . .

MR. LOWERY: That is my understanding from things I've read, but I'll admit I have not gone and directly checked.

MR. FALK: I think I looked and I think it's just -- again, I don't think the wording is there, but go ahead and ask the question. I apologize.

Q If it is there, is that a state sponsored display of religion?

A I would prefer that it wasn't there.

Q But that isn't the question. Is it or is it not a state sponsored display of religion?

A I think the position of our organization which is

what I'm sure you're asking me is that we should not have any religious doctrine that is located on Federal or state property.

Q Have you ever been to the Library of Congress?

A Yes.

Q Are you aware that there are scriptural inscriptions on the walls of the Library of Congress?

A I don't think I took note of it. I may have seen it, but I may have not taken note of it. It's not in my memory.

Q The inscriptions read: "Thou shalt love thy neighbor as thyself," from Leviticus 19:18, "What doth the Lord require of thee but to do justly and to love mercy and to walk humbly with God," Micah 6:8 and, "The heavens declare the glory of God and the firmament show us his handiwork," from Psalm 19:1."

Are those a state sponsored display of religion or a Federally sponsored display of religion?

A Yes.

Q Does it matter to the ACLU or its members what else is displayed on a monument alongside -- on a monument or other religious display in addition to whatever the claimed religious material is?

A I think our position would be that the state should not be posting religious material period.
Q So it doesn't matter if it's put in context with other documents or things?
A Correct.
Q And would it be fair then to say that there isn't any context in which the ACLU believes its members would not object to the placement of the ten commandments in -- on state or Federal property?
A I can't think of any exception that our organization would support.
Q And is it just the commandments or would analogous things from other religions or philosophical traditions be equally objectionable?
A I think the issue is one of religion because it has to do with establishing religion. It doesn't matter what the religion is. It's the state sponsorship establishment of religion that is the concern.
Q So the ACLU would object just as much to the five pillars of Islam?
A Correct.
Q Or the yamas and niyamas?
A With which I'm unfamiliar.
Q They're from Hinduism.

A With which I'm unfamiliar.
Q Fair enough. Or the five precepts of Buddhism?
A It wouldn't matter.
Q Confucian virtues?
A It wouldn't matter.
Q The Wiccan rede?
A It certainly wouldn't matter.
Q The four cardinal virtues from stoicism and other Hellenic philosophies?
A Now we're bleeding over into philosophy which is different than religion.
Q Where is the line drawn between philosophy and religion from the ACLU's point of view?
A Interesting line drawing. I don't know the technical answer to the question.
Q But it's somewhere between the ten commandments and the cardinal virtue from Hellenic thought?
A I think the ten commandments is a real easy question, recognized as a document, depending on which version you look at, supported by Christians or Jews. It is entirely religious derived from the old testament. You know, in a courthouse for there to be philosophical statements that have to do with principles of law, then there's gray areas somewhere in between.

Q And is the ACLU more concerned with the ownership of the monument or the proximity of the monument?
A The fact that it's located on state property.
Q So say for example that particular area of the lawn was sold to a private organization and in this hypothetical that private organization places this same monument on that property after it has been sold. Is that still a problem from the ACLU's point of view?
A Now we get an interesting factual question where the proximity becomes important or the intent becomes important, because the appearance would be that it's a monument that is endorsed by the Statehouse that's right next door and particularly when there are statements by a governor and now a lieutenant governor that makes it very apparent that matters of religion are important to them.
Q So if it were on the -- if it were still on that lawn, it's more of a proximity question for the ACLU than it is an ownership question?
A I think under your scenario, if the State of Indiana unloaded a small piece of property on the Statehouse lawn to a private organization so they could put a religious monument there, then yes, the proximity and the intent are at issue.

Q So what if the sale had taken place say a decade earlier, completely unrelated to the monument and then that private organization decided of its own will to put the monument there?
A Then I think there's an interesting factual dispute that you and Mr. Falk would work through by finding witnesses and emails and letters and witness statements about why that happened the way that it did.
Q But the ACLU would still view that as a state sponsored religious display?
A I think that would be our concern, yes.
Q What if instead of the lawn, it was on that sidewalk on Washington Street, a portion of the sidewalk was alienated and the monuments was placed there. Is that still a state sponsored religious display from the ACLU's point of view?
A Now we're getting into a line drawing discussion, because the public perception is that it is on public property.
Q What if it's across the street next to Patachou?
A On private property?
Q Yes. Well, remember in this hypothetical, in this hypothetical we're assuming that the relative piece of land has already been alienated and it's private

property either way. We're talking about proximity.

A Well, I think whoever owns the property where Patachou is located has the right to post a religious monument on their property and there's nothing that the ACLU can do about it.

Q So if it's across the street, then the proximity isn't an issue for the ACLU anymore?

A As long as it's on private property.

Q And then moving down past that to the next paragraph, paragraph 46 of the complaint, would you read that paragraph to yourself.

(Witness examines document.)

A I've read it.

Q The paragraph discusses persons altering their routines. Which routines would the four members on which ACLU is relying for its standing have to modify?

A Again, I think you would have to speak with each of them individually to get the detail, but clearly, based on their normal current routines, they're encountering the location where we understand the monument is intended to be located. Number 2, there's also just the issue of knowing that the monument is on public property, the Statehouse

lawn, and, three, in ensuring I don't know that I should have to go out of my way to not see something that the state has done that offends my constitutional rights.

Q Well, again, I was asking about the routines, but okay. I'm guessing -- am I correct in presuming since I would need to speak with the individuals regarding their routines, I would also need to speak with the individuals about how they would need to alter their routines and what burden, if any, would be associated with that alteration?

A I think that's a fair statement.

MR. LOWREY: Why don't we take ten minutes off the record for me to be able check my notes to see if there's anything else I'm after and consult with my colleagues here.

MR. FALK: Off the record.

(A short recess is taken.)

Q Bill, I just have one last question for you and that is whether there's anything that the ACLU believes is important or germane to the subject of this deposition that we haven't discussed.

A I'll leave that to the wisdom of Mr. Falk.

Q Is that a yes or a no?

A Well, I think I've answered your questions.

MR. LOWREY: All right. Well, in that case, Ken, I'm done for now.

MR. FALK: Thank you.

EXAMINATION

[]BY MR. FALK:

Q Bill, you were asked a lot of questions about the ACLU of Indiana's position concerning establishment issues?

A Yes.

Q In your history as a member, a board member and now president of the board, have you also come to understand the position of the national ACLU and other ACLUs around the United States, their positions on establishment?

A Yes.

Q And is there a consistent pattern among all the ACLUs and THE national ACLU concerning their position on establishment?

A Absolutely consistent, to my knowledge.

Q And what is that position?

A That we oppose state action that suggests an establishment of religion.

Q And are you aware that national ACLU and other ACLUs around the country frequently engage in litigation that advances that position concerning

establishment?
A Yes, I am.
Q And have you in fact been to conferences with people around the country, ACLU members, where establishment clause issues have been discussed?
A Yes, most recently just a few weeks ago at the biennial leadership conference in Washington, D.C.
Q And you were asked a lot of questions about our members' positions on establishment which you answered to the best of your ability. Does our membership necessarily have knowledge of what the Supreme Court law and other courts' current law is concerning establishment?
A I'm sure there may be a few of them who are constitutional lawyers like you, but the rest of us, not specifically the detail of establishment clause law in the last 20 years.
Q And in fact, members may object to things based on establishment that given current law could not be demonstrated as such in court?
A That's what I understand, that there's been a loosening of the standard over time, that some members would be surprised to learn that a specific application would not -- even though it might concern them, may not be a case that, for example,

Ken Falk would pursue.

Q And you were asked questions about your knowledge of Ms. Drake and Ms. Conrad's frequency of presence at the Statehouse. Do you remember those questions?

A I do.

Q And is it your understanding they've also participated in demonstrations sponsored or co-sponsored by the ACLU on the west wing -- the west -- excuse me, the south lawn of the Statehouse?

A Yes, and for example, I think the No Kings rally last fall, I think it was October of '25, was out on the south lawn and there might have been 6000 people there and so that's where Ms. Drake and Ms. Conrad and others from the ACLU were on that day.

MR. FALK: I have no further questions. Thank you.

MR. LOWREY: Just one follow-up then.

EXAMINATION

[]BY MR. LOWERY:

Q For those demonstrations that you referenced, does ACLU have any plans -- any definite plans of holding further demonstrations on the south lawn at

this time?

A I would have to talk to Ms. Drake to know if there's any such rallies on the current calendar, but I think there's a tradition of holding rallies in that location and I would be surprised if they don't happen in the future as they have in the past, the public space being after all for the public.

Q But no definite plans?

A You'd have to ask Ms. Drake to see if anything is planned on the calendar. I really don't know.

MR. LOWREY: Nothing further from me.

MR. FALK: Nothing further on your questions and we'll take signature.

THE LOWERY: Mr. Lowery, are you ordering the transcript?

MR. LOWERY: Yes, if we can get a condensed copy, please.

THE REPORTER: Mr. Falk?

MR. FALK: Yes, please.

(Deposition concluded at 11:36 a.m.)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION
CASE NO. 1:00-cv-00811-SEB-VSS

INDIANA CIVIL LIBERTIES UNION, et al.,

Plaintiffs,

-v-

MIKE BRAUN,

Defendant.

Job No. 209728

I, WILLIAM O. HARRINGTON, 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.

_____
WILLIAM O. HARRINGTON

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STATE OF INDIANA)
)
COUNTY OF ST. JOSEPH)

I, Nancy L. Delaney, RMR, CRR, a Notary Public in and for said county and state, do hereby certify that the deponent herein 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 taken on behalf of the Defendant; that said deposition was taken at the time and place heretofore mentioned between 9:04 a.m. and 11:36 a.m.;

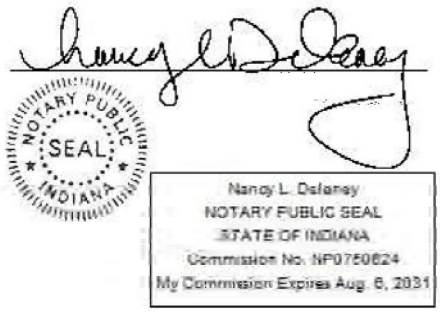
That said deposition was taken by stenographic means and afterwards reduced to typewriting under my direction; and that the typewritten transcript is a true record of the testimony given by said deponent;

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; 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 9th day of

September, 2026.



County of St. Joseph
My Commission Expires:
August 6, 2031

Job No. 209728

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