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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT KANSAS

COLLEEN STUART, JANA HARDEN,
AND JENNIFER CROSS,

Plaintiff,

vs.

Case No. 23-CV-2021-JWB-RES

CITY OF TOPEKA, KANSAS, AND
BRYAN WHEELLES, in his
individual capacity,

Defendant.

DEPOSITION
OF
COLLEEN STUART,

taken on behalf of the Defendants, pursuant to Notice to
Take Deposition, beginning at 9:04 a.m. on the 31st day
of August, 2023, at the law offices of Henson, Hutton,
Mudrick, Gragson & Vogelsberg, LLP, 3649 SW Burlingame
Road, Suite 200, in the City of Topeka, County of
Shawnee, and State of Kansas, before Jane E. Piles, CSR,
RPR, Certified Shorthand Reporter.

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Att. 2

A P P E A R A N C E S

ON BEHALF OF THE PLAINTIFFS; COLLEEN STUART, JANA HARDEN, AND JENNIFER CROSS ALL APPEARING IN PERSON:

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I N D E X

Certificate 193

W I T N E S S

ON BEHALF OF DEFENDANTS: PAGE

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E X H I B I T S

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42 Kagay Interview Guide - Police Major 100
43 Clark Interview Guide - Police Major 100
44 Collection of Documents 112
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46 Employee Benefit Manual/Benefit Acknowledgement 184
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48 CoT Policy Acknowledgement 184

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COLLEEN STUART,

called as a witness on behalf of the Defendants, was sworn and testified as follows:

DIRECT-EXAMINATION

BY GRAGSON:

Q. Please state your full name for the record.

A. Colleen Stuart.

Q. And Ms. Stuart, we are here today to take your deposition in a lawsuit that was filed by you, Ms. Harden, and Ms. Cross against Chief Wheelles and the City of Topeka. Do you understand that?

A. I do.

Q. And it's accurate to state that you were here yesterday during Ms. Harden's deposition?

A. Yes.

(THEREUPON, a discussion was had off the record.)

Q. (BY MR. GRAGSON) I want to go through with you some of the rules for a deposition that I went over with Ms. Harden yesterday to make sure you and I are on the same page. First of all, have you had your deposition taken before?

A. No.

Q. Have you testified in court before?

A. Yes.

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Q. Approximately how many occasions?

A. Numerous occasions during my patrol career.

Q. Okay. You understand that you're under oath here today?

A. Yes.

Q. And do you understand that if this case goes to trial and you testify substantially differently than you do here today I'll have the opportunity to point that out to a judge and jury?

A. Yes.

Q. As you might have picked up yesterday, I'll sometimes ask a confusing question. Can we have the agreement that if I ask you a questions that you find confusing you will let me know before answering it?

A. Yes.

Q. Okay. Can we also have the agreement that if you answer the question without telling me that it is confusing or misleading I can assume that you understood it?

A. Yes.

Q. Again, this is a not a marathon. I hope we don't go as long as we did yesterday, but we'll work to that end. If at some point you need a break, let me know. Just kind of like what we did yesterday. Is that all right?

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1 interacting with the person at the door. The person is
2 verbally aggressive. It gets to the point where a taser
3 is necessary. I have the needed intermediary weapon,
4 the taser. I withdraw it and announce that the taser
5 will be used. At which time the male subject
6 immediately deescalates and they are able to put him
7 into custody without any further incident. When they
8 transport him to the Department of Corrections I
9 confront that officer on why he felt I wasn't -- why he
10 felt he needed an additional officer there when he heard
11 I was his initial back. He said he didn't know what I
12 could bring to the table, he wasn't familiar enough with
13 me. So he -- he wanted someone that he knew. And I
14 responded to him in some fashion, well, now you know.
15 So from this point forward hopefully we are good. And I
16 have not had any issues with that particular officer
17 since that point.

18 Q. Okay. Do you recall what that officer's name
19 was?

20 A. Alexander Wall.

21 Q. Did you form a belief that he requested
22 backup because you were a female?

23 A. I did.

24 MS. JESS: Calls for speculation.

25 THE WITNESS: I'm sorry.

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1 A. My mistake in understanding you. I did not
2 pose that particular question.

3 Q. All right. Okay. Was there anything about
4 that incident that caused you to report anything to your
5 management?

6 A. I did report to my direct sergeant.

7 Q. And who was that?

8 A. Kelly Roberts.

9 Q. And what did you tell Kelly Roberts and what
10 did Kelly Roberts say to you?

11 A. I reported to Sergeant Roberts exactly what I
12 have relayed to you; the call, and what Officer Wall had
13 requested upon hearing who his initial back was; the
14 conversation that I had with Officer Wall at the
15 Department of Corrections. And he asked what came of
16 it. And I told him that Officer Wall had said he didn't
17 know what I would bring to the table. He was not
18 familiar with me. And I had responded to Officer Wall;
19 well, now you are, so hopefully we will be good from
20 this point forward. And Sergeant Roberts asked if there
21 was anything else that I would want to have happen. No,
22 I said, I think we're good from this point forward.

23 Q. You felt like you resolved it by directly
24 speaking with Officer Wall?

25 A. I did.

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1 Q. (BY MR. GRAGSON) You understand I'm asking
2 what was in your mind, right?

3 A. Yes.

4 Q. Okay. Did you form a belief as to whether or
5 not he asked for backup because you were a female?

6 MS. JESS: Same objection.

7 THE WITNESS: I did.

8 Q. (BY MR. GRAGSON) And what did you come to
9 believe?

10 MS. JESS: Same objection.

11 THE WITNESS: That it was because I was a
12 female.

13 Q. (BY MR. GRAGSON) Okay. And so if I
14 understand, if you -- had you been a male do you think
15 he would have asked for backup because he didn't know
16 who you were or were familiar with you?

17 MS. JESS: Same objection.

18 THE WITNESS: Correct.

19 Q. (BY MR. GRAGSON) Okay. Did you ask him
20 about that?

21 A. In the conversation I just relayed to you,
22 yes.

23 Q. Okay. You asked had I been a male and you
24 didn't know who I was would you still have asked for
25 additional backup?

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1 Q. Okay. And your Sergeant Roberts, is that a
2 white male?

3 A. Yes.

4 Q. Did you feel like he was being responsive to
5 what you were telling him?

6 A. I felt like he didn't know how to respond so
7 he did the best he could with the awkward situation.

8 Q. Okay. If I understand your testimony, he did
9 ask you if there was something else you wanted done,
10 correct?

11 A. Correct.

12 Q. Did you consider that an appropriate response
13 by Sergeant Roberts?

14 A. Yes.

15 Q. Okay. Was there anything else that you
16 wanted him to do that he didn't do as a result of you
17 reporting the conversation with Officer Wall?

18 A. No.

19 Q. Okay. Still while you're corporal in USD
20 were there any other situations that occurred that made
21 you feel uncomfortable or created a concern about in
22 terms of how you were treated by anyone else working in
23 the Topeka Police Department?

24 A. As far as other employees within the Police
25 Department?

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1 promotion, you said something about always wanting to
2 get into the Criminal Investigations Bureau?

3 A. Yes.

4 Q. And somehow being kept from that, did I
5 misstate that?

6 A. **Not that I was being kept from it, I**
7 **mentioned that there had been numerous meetings with**
8 **various chiefs during my career as a commander in which**
9 **the question would come up; where would you like to see**
10 **yourself, where would you like to have more experience**
11 **or knowledge as far as bureaus are concerned. And I**
12 **would mention I've never served in CIB. That would be a**
13 **place that I would like to gain more exposure or more**
14 **experience. But I've never been placed in the bureau.**

15 Q. Okay. What would you do to get into the
16 bureau? Are there any conditions that you would have to
17 satisfy to get in the bureau?

18 A. **I would have no idea. Again, with the**
19 **commander position that's all at the chief's leisure.**

20 Q. Discretion?

21 A. Yes.

22 Q. Is that something you looked into getting
23 into, the CIB, prior to reaching let's say lieutenant
24 level?

25 A. **No. I never saw detective or detective**
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1 Q. Okay. And you never engaged in that test or
2 interview process?

3 A. Correct.

4 Q. All right. Okay. Next paragraph, page 168
5 on Exhibit No. 44 it says, "In meetings, non documented
6 but witnessed by all commanders, a female commander will
7 bring up a point or idea and it will quickly be talked
8 over. A male commander will restate the idea and be
9 hailed a hero. With no one realizing what just happened
10 but the female commander." Did I read that correctly?

11 A. Yes.

12 Q. Okay. And can you give me some examples of
13 what you're talking about there?

14 A. **I can give you an example, although this did**
15 **not contain all commanders. This particular meeting**
16 **involved many detectives. It had some attorneys from**
17 **the DA's Office. And there was a couple of commanders**
18 **from both CIB and FOB, as I was the captain in FOB at**
19 **the time. And the topic was talking about a database**
20 **for TPD to share with the DA's Office. And as they went**
21 **through the system I made a comment to the room that**
22 **perhaps IT would be able to help streamline the**
23 **information by creating a couple of extra fields. That**
24 **was quickly dismissed and they went on with their**
25 **conversation. Captain Jones, who I believe was a**

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1 sergeant.

2 Q. Is there any reason you didn't reach out to
3 be a detective or detective sergeant?

4 A. **I had -- I had been interested prior to**
5 **applying as an officer. After graduation from the**
6 **Academy at that time there was a cross-training piece**
7 **where we would go out with different units for --**

8 Q. Uh-huh.

9 A. **-- a week or so to see, to have exposure to**
10 **those different units. And I was about a couple of days**
11 **with CIB, with detectives. And maybe it was the**
12 **detective it was they chose, maybe it was the couple**
13 **days I was with them, but it was something that turned**
14 **me off completely --**

15 Q. Miserable?

16 A. **-- from that particular job. So -- and then**
17 **I just never reconnected to that bureau and pursued**
18 **other avenues.**

19 Q. Okay. If you're going to -- if you were to
20 get into CIB as a detective was there a testing process
21 or anything?

22 A. **Yes. Those are both contractual positions,**
23 **both the detective and -- well, to be a sergeant is**
24 **contractual as well. But to be a detective is a**
25 **contractual position. So it is a test and an interview.**

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1 lieutenant at the time from CIB was in the meeting. And
2 a short time later after the conversation had gone on,
3 mentions, hey, Diane in IT could probably help us with a
4 couple fields and that might streamline things. And
5 everyone in the room was like that's fantastic. I
6 should have thought of that. And so after that meeting
7 I spoke with a detective sergeant at the time, Donna
8 Eubanks. And I asked her did you hear me pose that idea
9 before Lieutenant Jones had. And she said -- she took a
10 moment to think. And then she said, "Yes, I did. I
11 can't even believe that I didn't react or remember that
12 you had said anything." All she remembered was
13 Lieutenant Jones mentioning the idea. So I'm sure
14 there's some phenomenon to that. I don't know. But
15 that was one that I remember quite clearly.

16 Q. So if I understand your testimony, Donna
17 Eubanks is female, correct?

18 A. That is correct.

19 Q. And she didn't recall hearing you mention the
20 IT solution, correct?

21 A. **No one in the room remembered. But she's the**
22 **one that I asked.**

23 Q. Okay. Did you make any further inquiry why
24 she thought she didn't hear you?

25 A. No.

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1 Q. Any other examples?
 2 A. **Specific examples, no. But that doesn't mean**
 3 **it hasn't occurred.**
 4 Q. Well, that may or may not be. I'm here to
 5 ask you, you know, about your claim. And you've said
 6 that it happened a lot. I'm just -- if you can't recall
 7 any other specific examples, that's fine. Is that your
 8 answer, you can't recall any specific --
 9 A. **-- I can't recall any other specific.**
 10 Q. Okay. All right. Let's talk about the next
 11 paragraph, Exhibit 44, page 168, starting, "During my
 12 career I was placed within the Admin Bureau as the
 13 agency public information officer who managed social
 14 media and mainstream media in way of interviews and
 15 media releases. I was expected to be available 24/7,
 16 coming back from crime scenes to provide information to
 17 media, doing all media releases regardless if I was on
 18 duty or not, one example was in 2016 at the Country Club
 19 Hotel, which occurred around 0200 in the morning. I was
 20 in charge of volunteers, emergency management,
 21 accreditation, a civilian meeting specialist, and crime
 22 analysis as well as building maintenance."
 23 Continuing next paragraph, "When I was
 24 promoted to captain I left those responsibilities
 25 behind. A male lieutenant was promoted to the position.
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1 Soon after his promotion his title was changed to,
 2 'Executive Officer to the Chief' (XO) and he was given
 3 an exclusive office. His responsibilities of
 4 volunteers, crime analysis, building maintenance and
 5 emergency management were transferred to others." And
 6 you continue on. So who is the person that took your
 7 place that you're referring to here?
 8 A. **Well, I need to correct something because**
 9 **this is my memory and I misspoke.**
 10 Q. Okay.
 11 A. **The person who replaced me was a male**
 12 **lieutenant. It was Andy Beightel. It was the person**
 13 **who then replaced him which was Manny Munoz whose title**
 14 **was changed to Executive Officer even though it was the**
 15 **same position that he held. And his responsibilities**
 16 **changed. And he retained the -- he had retained**
 17 **accreditation. And he retained some social media,**
 18 **although it was reduced significantly. And we had a**
 19 **civilian media specialist. So the media -- the social**
 20 **media fell to them. He continued to do media,**
 21 **mainstream media, but that also was reduced**
 22 **significantly. Emergency Management was eliminated from**
 23 **the City entirely. Volunteers moved to another bureau.**
 24 **And I don't remember where crime analysis went. That**
 25 **might -- sometimes it went to Criminal Investigations**
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1 **and sometimes it remained within the Chief's Office. So**
 2 **at that time I don't remember where it landed.**
 3 Q. Okay. I want to make sure I understand. You
 4 mentioned Andy?
 5 A. **Beightel.**
 6 Q. Beightel?
 7 A. **Yes.**
 8 Q. Are you saying there was a period of time
 9 when you left the position and he was in it and then
 10 Manny Munoz got it?
 11 A. **Yes.**
 12 Q. How long a period of time was that? Do you
 13 recall, if you know?
 14 A. **I don't believe that Lieutenant Beightel was**
 15 **in it for that long.**
 16 Q. Okay. Is it your testimony that it wasn't
 17 until Manny Munoz was in the position that the name and
 18 duties changed?
 19 A. **Correct.**
 20 Q. And you describe this situation for what
 21 purpose? Sort of a bad question. I'm trying to get the
 22 question out. Is there something about that that you
 23 formulated a belief was motivated by virtue of you being
 24 a female?
 25 A. **At the time of writing it was my opinion that**
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1 **the responsibilities were deferential treatment, a**
 2 **female having the position versus a male. When I spoke**
 3 **about being the PIO and the expectations made to me of**
 4 **being available 24/7, to come back for crime scenes,**
 5 **that was not expected of Beightel, who took my spot, as**
 6 **well as subsequent PIOs.**
 7 Q. How did you find that out?
 8 A. **They weren't doing interviews at 2:00 in**
 9 **morning as I was when I was in that position.**
 10 Q. And I'm assuming you weren't there at 2:00 in
 11 the morning to watch. I mean, did you ask somebody?
 12 How did you find out that information that they weren't
 13 doing what you had been doing?
 14 A. **Whether it was through conversations with,**
 15 **for instance, Lieutenant Beightel -- when he was in that**
 16 **position, he and I have a good working relationship,**
 17 **knowing what I had done and talking with him. And him**
 18 **telling me that he did not -- he did not have that same**
 19 **expectation being in that position. And then from**
 20 **Lieutenant Beightel to the transition of Lieutenant**
 21 **Munoz, that presumption that that expectation of**
 22 **Lieutenant Beightel would then transfer to Lieutenant**
 23 **Munoz.**
 24 Q. Do you recall who was chief at the time of
 25 the new name change?
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1 **personality conflict. And so the topic then switched to**
 2 **do you ever feel like although you haven't had a**
 3 **personality conflict, but because you're female you have**
 4 **trouble, you know, moving ahead, or that where you do**
 5 **get is because of that.**

6 Q. What do you recall responding to Mr. Johnson?

7 A. **I said I feel like that often, that it is**
 8 **difficult to discern if it is merit or not.**

9 Q. Your entry references supervisors and
 10 commanders as well. Can you tell me the last time you
 11 heard a commander say that sentence or something similar
 12 to it to you?

13 A. **Lieutenant Johnson is considered a commander.**

14 Q. Okay.

15 A. **So that would be that. And then as far as**
 16 **officers, you know, it could have very well been again**
 17 **during my tenure, first round in Patrol as an officer.**

18 Q. Has Chief Wheelles or Deputy Chief Haltom made
 19 any comments like that to you?

20 A. **No.**

21 Q. All right. Next entry, "Repeatedly being
 22 addressed as 'gentlemen' when sitting in a staff
 23 meeting." And you reference, "Jerry Monasmith and
 24 others over the years."

25 A. **Yes.**

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1 Q. Correct?

2 A. **Yes.**

3 Q. When was the last time you heard Jerry
 4 Monasmith say that?

5 A. **I believe it has been a couple of months. I**
 6 **feel like someone has addressed that. However, he will**
 7 **say, and it's usually in our Monday staff meeting. He**
 8 **will say, "Good morning, sirs." And I don't know if**
 9 **it's sirs or sir. But yeah, he would every week say**
 10 **"gentlemen" in a staff meeting.**

11 Q. Have you had a conversation with him about
 12 making that statement?

13 A. **I have not.**

14 Q. Did you report him for making that statement?

15 A. **No.**

16 Q. It mentions others. Is there anybody else
 17 that you can think of that you're referencing there that
 18 may have used that phrase gentlemen to refer to anybody
 19 in the room that you were in?

20 A. **I know it says others. I may have misspoken**
 21 **when I put others on the paper. I know for certain**
 22 **Monasmith.**

23 Q. Okay. Next entry, "Being introduced at
 24 meetings and functions as the prettier version, better
 25 looking version, etc," various past chiefs and

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1 commanders. Is that the full statement or what's the
 2 context? I'm not particular picking up on that.

3 A. **So while everyone is in uniform, there have**
 4 **been times -- and this happened particularly with**
 5 **interim Chief Kramer. Kris Kramer would often say, oh,**
 6 **here's the prettier version of me or the prettier**
 7 **version of an officer. And then would introduce, not**
 8 **only myself, but any female officer or female commander**
 9 **who happened to be there. So that's how he would**
 10 **typically present us.**

11 Q. Okay. And when was he the interim, do you
 12 recall? Ballpark.

13 A. **He was after Brown but before Cochran.**

14 Q. Okay.

15 A. **So he was the interim between Brown and**
 16 **Cochran.**

17 Q. Would it have been more than five years ago?

18 A. **Yes.**

19 Q. Okay. And your entry says, "Various past
 20 Chief/commanders." Can you think of anybody else
 21 besides Chief Kramer?

22 A. **I'm trying -- I'm trying to think of his**
 23 **name. Gary Herman was one of our deputy chiefs quite a**
 24 **while ago, much longer than five years ago.**

25 Q. Okay. He would do similar introductions?

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1 A. **Yes.**

2 Q. Did you report any of these introductions
 3 you're telling me about to anyone at HR?

4 A. **No.**

5 Q. Did you report it to anybody above the chain
 6 of command?

7 A. **No.**

8 Q. Next entry, "Being told I have a pretty smile
 9 and should do that more so people would like me." You
 10 reference many supervisors. Can you tell me about the
 11 last time a supervisor said that to you?

12 A. **If I recall correctly, the last supervisor**
 13 **that mentioned that to me would have been Darin Scott**
 14 **when he was a sergeant. And he was my SRO sergeant. So**
 15 **that would have been during the 2003 to 2009 time frame.**

16 Q. And did you talk to Mr. Scott about
 17 introducing you like that or telling you you have a
 18 pretty smile?

19 A. **I did not.**

20 Q. Did you report it to anybody above the chain
 21 of command?

22 A. **I did not.**

23 Q. Did you report it to HR?

24 A. **I did not.**

25 Q. Next. "At a live recorded community meeting

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1 Topeka PD?
 2 **A. I don't recall -- nothing is coming to mind.**
 3 **Q.** Okay. Have you ever heard Ms. Harden or
 4 Ms. Cross say anything that you considered to be
 5 inappropriate to say to another male officer at the
 6 Topeka Police Department?
 7 **A. No.**
 8 **Q.** Do you guys ever get together and laugh and
 9 joke about Chief Wheelles?
 10 **A. No.**
 11 **Q.** Similarly to any other person in the command
 12 staff?
 13 **A. With another commander to joke about Chief**
 14 **Wheelles?**
 15 **Q.** Do you guys get together and joke about
 16 anyone else in the command staff or have conversations
 17 where you are joking about --
 18 **A. -- where we're joking about it, no.**
 19 **MR. GRAGSON:** Those are all the questions I
 20 have.
 21 **MS. JESS:** And I don't have any questions.
 22 But I do know two or three breaks ago she said she had
 23 one clarification that she's never done. And I don't
 24 know if you remember what it was.
 25 **THE WITNESS:** Yes, I do. There was one
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1 read and sign.
 2
 3
 4
 5 (THEREUPON, the deposition concluded
 6 at 4:10 p.m.)
 7
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1 addition that I wanted to bring up in regards to the
 2 Field Training Officer. So it was like way back in the
 3 beginning --
 4 **MR. GRAGSON:** Okay.
 5 **THE WITNESS:** -- when you took me through my
 6 rank history.
 7 **MR. GRAGSON:** Sure. Sure.
 8 **THE WITNESS:** And you talked about the field
 9 training portion. And I mentioned one of my field
 10 training officers I was only with for a couple of weeks
 11 because --
 12 **MR. GRAGSON:** Yes.
 13 **THE WITNESS:** -- then I transferred. The
 14 couple of weeks I was with him he never said a word to
 15 me. I don't know that I mentioned that before. So it
 16 was radio silence inside the car. And then I was
 17 transferred. And that's when I found out his
 18 significant other did not want him to have a female in
 19 the car.
 20 **MR. GRAGSON:** Oh, okay. All right. Is that
 21 it?
 22 **MS. JESS:** Yeah.
 23 **THE WITNESS:** I believe so.
 24 **MR. GRAGSON:** I have no other questions.
 25 **MS. JESS:** I have no questions. And we'll
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1 **CERTIFICATE OF REPORTER**
 2
 3 **STATE OF KANSAS**
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 5 I, Jane E. Piles, RPR, a Certified Shorthand
 6 Reporter, commissioned as such by the Supreme Court of
 7 the State of Kansas, and authorized to take depositions
 8 within said State pursuant to K.S.A. 60-228 and
 9 authorized to administer oaths to witnesses pursuant to
 10 K.S.A. 20-913, certify that the foregoing was reported
 11 by stenographic means, which matter was held on the
 12 date, and at the time and place set out on the title
 13 page hereof and that the foregoing constitutes a true
 14 and accurate transcript of same.
 15 I further certify that I am not related to any of
 16 the parties, nor am I an employee of or related to any
 17 of the attorneys representing the parties, and I have no
 18 financial interest in the outcome of this matter.
 19 Given under my hand and seal the 6th day of
 20 September, 2023.
 21
 22
 23
 24 **Jane E. Piles, CSR, RPR, CRR, CBC**
 25 **CERTIFIED SHORTHAND REPORTER**
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