

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MELISSA ELAINE KLEIN, dba
Sweetcakes by Melissa; and **AARON**
WAYNE KLEIN, dba Sweetcakes
by Melissa, and, in the alternative,
individually as an aider and abettor
under ORS 659A.406,

Petitioners,
v.

OREGON BUREAU OF LABOR
AND INDUSTRIES,

Respondent.

Agency Nos. 44-14, 45-14

CA A159899

PETITIONERS' SUPPLEMENTAL REPLY BRIEF

**Petition For Review Of A Final Order
Of The Oregon Bureau Of Labor And Industries**

Petition includes constitutional challenges to the application of
ORS 659A.403 and ORS 659A.409

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September 26, 2019

INDEX

TABLE OF AUTHORITIES	i
INTRODUCTION	1
ARGUMENT	2
I. Under <i>Masterpiece Cakeshop</i> this Court Must Aggregate the Cumulative Indications of BOLI’s Hostility To Strictly Enforce Religious Neutrality.	2
II. BOLI’s Statements Reveal Anti-Religious Hostility.	4
A. Commissioner Avakian’s Statements About the Kleins’ Religious Beliefs Were Not General Statements of Law.....	4
B. BOLI, Not Complainants, Called Petitioners’ Religion “an Excuse.”.....	6
III. BOLI Demonstrated Bias by Awarding Damages for a Religious Dialogue Separate from the Denial of Service, that Was Initiated by a Third Party.....	8
IV. BOLI’s Comparison of the Kleins’ Case to Prolonged Physical Violence, Sexual Harassment, and Religious Coercion Betrays BOLI’s Anti- Religious Animus.	11
V. BOLI’s Gag Order Demonstrates Anti-Religious Bias.....	12
VI. The Free Speech and Free Exercise Clauses of the United States and Oregon Constitutions Would Require the Invalidity of BOLI’s Decision Even if There Were No Impermissible Hostility.	13
CONCLUSION.....	15

TABLE OF AUTHORITIES

CASES

<i>Brush & Nib Studio, LC v City of Phoenix</i> , No CV-18-0176-PR, 2019 WL 4400328 (Ariz Sept 16, 2019)	13, 14
<i>Church of the Lukumi Babalu Aye, Inc. v City of Hialeah</i> , 508 US 520 (1993)	3
<i>Klein v. Oregon Bureau of Labor & Indus</i> , 289 Or App 507 (2017)	6, 9, 10, 11
<i>Masterpiece Cakeshop, Ltd v. Colorado Civil Rights Comm’n</i> , 138 S Ct 1719 (2018)	passim
<i>McCoy v. Massachusetts Inst of Tech</i> , 950 F2d 13 (1st Cir 1991)	13
<i>State v. Hickman</i> , 358 Or 1 (2015) (en banc)	6
<i>Telescope Media Grp v. Lucero</i> , No 17-3352, 2019 WL 3979621 (8th Cir Aug 23, 2019)	13, 14
<i>Thornhill v. Alabama</i> , 310 US 88 (1940)	12

CONSTITUTIONAL PROVISIONS

Or Const, Art I, § 2–3	6
------------------------------	---

STATUTES

ORS 659A.409	12
--------------------	----

ADMINISTRATIVE DECISIONS

<i>In re Andrew W. Engel, DMD</i> , 32 BOLI 94 (2012)	12
<i>In re From the Wilderness, Inc.</i> , 30 BOLI 227 (2009)	11, 12
<i>In re Maltby Biocontrol, Inc.</i> , 33 BOLI 121 (2014)	11

INTRODUCTION

On remand from the Supreme Court, BOLI's strategy is to take each piece of evidence of its anti-religious bias in isolation and distinguish it from the specific facts of *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 138 S Ct 1719 (2018). But *Masterpiece Cakeshop* itself forecloses this approach. In that case, the Supreme Court considered all of the evidence of the Colorado Commission's anti-religious hostility *in the aggregate*. The Court's comprehensive review included statements that would have been ambiguous "standing alone" but that, "[i]n view of the comments that followed," were "more likely" to be seen as "inappropriate and dismissive comments showing lack of due consideration for [the baker's] free exercise rights." 138 S Ct at 1729. After rehearsing *all* of the evidence of the Colorado Commission's bias, the Court held that the Commission's treatment of the baker's case violated the Free Exercise Clause "[f]or the reasons just described" without singling out any single overwhelming piece of evidence. *Id.* at 1731. At the end of its opinion, the Court again summarized *all* of the evidence—"official expressions of hostility," the Commission's failure to "disavow[]" those comments, and its "disparate consideration" of the baker's case—before concluding that "[f]or these reasons, the order must be set aside." *Id.* at 1732.

BOLI's conduct in the present case composes a similar mosaic of anti-religious bias. Viewed together, the BOLI Commissioner's comments on social media and in the press, BOLI's description of the Kleins' religion as "an excuse," BOLI's decision to award crushing damages based on the Kleins' quotation of the Bible to a third party, and BOLI's gag order reflect "clear and impermissible hostility toward the sincere religious beliefs that motivated" the Kleins. *Id.* at 1729.

ARGUMENT

I. Under *Masterpiece Cakeshop* this Court Must Aggregate the Cumulative Indications of BOLI's Hostility To Strictly Enforce Religious Neutrality.

In *Masterpiece Cakeshop*, the Supreme Court held that "religious neutrality ... must be strictly observed" when a State's interest in enforcing a public accommodations statute like Oregon's is "weighed against [a baker's] sincere religious objections." *Id.* at 1732. In applying that strict standard, the Court relied on no single conclusive piece of evidence, but instead weighed the totality of the evidence "in all the circumstances of the case." *Id.* at 1729. The Court identified multiple "indication[s] of hostility," which individually "cast doubt on the fairness and impartiality of the Commission's adjudication," *id.* at 1730, and "sen[t] a signal of official disapproval," *id.* at 1731. Viewed together, the evidence led to the conclusion that the baker's "religious objection was not

considered with the neutrality that the Free Exercise Clause requires.” *Id.* at 1731.

On remand, BOLI argues that religious hostility must be “readily apparent” in a single piece of evidence to violate the Free Exercise Clause. BOLI Supp Br 6. BOLI now claims that *Masterpiece Cakeshop*’s outcome rested on one commissioner’s expression of “*overt* hostility to Phillips’ religious beliefs.” BOLI Supp Br 3 (emphasis added). But the Supreme Court emphasized that “even ‘*subtle* departures from neutrality’ ” violate the Free Exercise Clause. *Id.* at 1731 (quoting *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 US 520, 534 (1993) (emphasis added)). That Clause forbids “*covert* suppression of particular religious beliefs” and “protects against government hostility which is masked as well as overt.” *Lukumi*, 508 US at 534 (emphasis added).

The *Masterpiece Cakeshop* Court reiterated *Lukumi*’s nonexhaustive list of “[f]actors relevant to the assessment of governmental neutrality.” 138 S Ct at 1731. They include “the historical background of the decision under challenge, the specific series of events leading to the enactment or official policy in question,” and “the legislative or administrative history, including contemporaneous statements made by members of the decision-making body.” 138 S Ct at 1731 (quoting *Lukumi*, 508 US at 540). This multi-factor inquiry into “both direct and circumstantial evidence,” *Lukumi*, 508 US at 540,

necessarily requires that the body of evidence be interpreted as a whole.

Individual evidence of bias that, on its own, is “susceptible of different interpretations,” may—viewed in light of the other evidence—be “more likely” to “show[] lack of due consideration for ... free exercise rights.” *Id.* at 1729.

This is the kind of review that the Supreme Court undertook in *Masterpiece Cakeshop*. It viewed all evidence of bias in the aggregate, interpreted each piece of evidence in light of all the others, and weighed together the Colorado Commission’s statements, silence, and “suggest[ions]” of “disparate” treatment before concluding that it had not handled the case with “the neutrality that the Free Exercise Clause requires.” 138 S Ct at 1731–32.

That is what this Court should do here.

II. BOLI’s Statements Reveal Anti-Religious Hostility.

A. Commissioner Avakian’s Statements About the Kleins’ Religious Beliefs Were Not General Statements of Law.

Before the Kleins’ case was even before him, Avakian announced his views on the merits in a Facebook post: “Everyone has a right to their religious beliefs, but that doesn’t mean they can disobey laws already in place. Having one set of rules for everybody assures that people are treated fairly as they go

about their daily lives.” Amended Supplemental Excerpts of Record (“ASER”).¹¹.

BOLI defends Avakian’s statement as a “general description[] of public accommodations law.” BOLI Supp Br 9. But viewed in context, it was a specific statement about the Kleins’ case: Avakian’s comment appeared above a link to a news story with the headline, “‘Ace of Cakes’ offers free wedding cake for Ore. Gay couple,” which detailed the facts of the Kleins’ case. ASER.¹¹.

Masterpiece Cakeshop instructs that context matters: Like the Colorado Commissioners’ comments, Avakian’s “remarks were made ... by an adjudicatory body” that would soon “decid[e] a particular case.” *Masterpiece Cakeshop*, 138 S Ct at 1730. It is of no moment that Avakian’s comments on the news story, like his similar quotation in *The Oregonian*, did not rehearse the particular facts the story contained. His statement about the rights and legal obligations of “[e]veryone,” was made in reference to the Kleins. As in *Masterpiece Cakeshop*, such comments demonstrate unconstitutional hostility by “endors[ing] the view that religious beliefs cannot legitimately be carried into the public sphere or commercial domain, implying that religious beliefs and persons are less than fully welcome” in Oregon’s business community. *Id.* at 1729.

Avakian’s public insistence on “one set of rules for everybody” prejudged the Kleins’ arguments that they are entitled to a religious exemption

under the Oregon Constitution’s Worship and Conscience Clauses. *See* Klein Opening Br. 54–56 (Apr. 25, 2016) (quoting Or Const, Art I, §§ 2–3); *see also State v Hickman*, 358 Or 1, 15 (2015). BOLI does not explain how Avakian possibly could have granted a religious exemption consistent with his public statements that the public accommodations law does not admit exceptions.

This Court’s now-vacated conclusion that Avakian’s comments on the pending case did not reflect bias or prejudgment, *Klein v. BOLI*, 289 Or App 507, 553 (2017), was made without the benefit of *Masterpiece Cakeshop*, which disapproved of similar comments from similarly situated commissioners. *See, e.g.*, 138 S Ct at 1729 (quoting a commissioner’s statement that the baker “can believe ‘what he wants to believe,’ but cannot act on his religious beliefs ‘if he decides to do business in the state,’ ” and concluding that such words “might be seen as inappropriate and dismissive comments showing lack of due consideration for [the baker’s] free exercise rights,” depending on the other evidence).

B. BOLI, Not Complainants, Called Petitioners’ Religion “an Excuse.”

In response to an interrogatory, BOLI stated that “[Petitioners] have continually used their religion as *an excuse* for not serving Complainants.” ASER.2 (emphasis added). Calling the Kleins’ religious beliefs “an excuse” for discrimination is akin to “characterizing it as merely rhetorical—something

insubstantial and even insincere.” *Masterpiece Cakeshop*, 138 S Ct at 1729.

Under *Masterpiece Cakeshop*, such a label is evidence of impermissible hostility.

BOLI, which has a duty to protect against such religious discrimination, disclaims any ownership of this disparaging statement about the Kleins’ faith. BOLI argues that it was merely explaining the Complainants’ views. But the interrogatory BOLI was answering asked BOLI to explain “what ‘alienation toward religion’ means as used by Complainants *in the list of symptoms* provided on October 14, 2014.” ASER.2. Only BOLI could explain that phrase, because “alienation toward religion” originated in a pre-typed list of symptoms drafted by BOLI. BOLI provided its list to the Complainants, who then made handwritten tic-marks or stars in the margin of BOLI’s list. *See* ASER.5 (Tr 182) (“Actually, they [BOLI] gave me a list and asked me to check off anything that I felt like applied.”); *see* ASER.26–30 (Symptoms Checklists).

And the record on appeal makes clear that the interrogatory response was drafted and adopted by BOLI, not the Complainants: “The following is *the Agency’s Response* to [Petitioners’] Interrogatories for Oregon Bureau of Labor and Industries ...” ASER.1 (emphasis added). While the Complainants swore that they “read the Agency’s Response,” the Complainants only provided input “to the extent that answers required” it. ASER.6.

BOLI turns to the hearing transcript for proof that the Complainants, not BOLI, are responsible for calling the Kleins' religion "an excuse." But Complainants never used that term or said anything of the sort. Indeed, when Petitioners' counsel asked about the term "alienation toward religion," Rachel stated, "That's not true. I did not write that." ASER.16 (Tr 204). She suggested it "probably" applies to Laurel. *Id.* But Laurel also said nothing to suggest the Kleins' religious beliefs were "an excuse." *Cf.* ASER.20, 23–25 (Tr 466, 502–04).

BOLI alone is responsible for characterizing Petitioners' religion as "an excuse." BOLI's attempt to disclaim its own response now comes too late. Because the Kleins were entitled to neutrality "in all the circumstances of the case," *Masterpiece Cakeshop*, 138 S Ct at 1729, BOLI's disparaging treatment of their faith "cast[s] doubt on the fairness and impartiality" with which it adjudicated the Kleins' religious objection. *Id.* at 1730.

III. BOLI Demonstrated Bias by Awarding Damages for a Religious Dialogue Separate from the Denial of Service, that Was Initiated by a Third Party.

BOLI admits that it awarded damages based on Aaron's quotation of the Bible but argues that damages were appropriate because Aaron's religious speech was "the manner in which petitioners refused services." BOLI Supp Br 15. This is a distortion of the record. Aaron's quotation of Leviticus was distinct from the denial of service. It occurred in a separate conversation initiated by

Rachel's mother Cheryl for Cheryl's own purposes, which had nothing to do with ordering a cake. *Id.* at 16. BOLI tries to justify its punishment of the Kleins' religious views by eliding the denial of service with this separate conversation and with Cheryl's subsequent distortion of Aaron's statement.

BOLI agrees that Rachel and Cheryl left the premises after Aaron stated that he and Melissa could not create a cake for a same-sex wedding ceremony. *Id.* at 14 (citing 289 Or App at 512). BOLI does not dispute that Cheryl independently—in fact, against Rachel's wishes—“turned the car back around” and drove back to the Kleins' bakery. ASER.9 (Rachel “didn't want her mother to go back into there”). Cheryl thus intervened in the causal chain of events that led to Complainants' emotional injury.

BOLI does not dispute that Cheryl left Rachel in the car and returned to the bakery not to request a custom wedding cake, but to share her own religious views. Indeed, after their initial meeting with Aaron but before Cheryl returned to the store, Cheryl had “assured [Rachel] that they would find someone to make the wedding cake.” 289 Or App at 512. Cheryl returned because she wanted to tell Aaron how her religious views had evolved from once sharing Aaron's beliefs to her current support of her daughter's same-sex marriage. As

the BOLI investigator recorded, “Cheryl thought she could open [Aaron’s] eyes a little bit.” ASER.9.¹

Cheryl explained to Aaron that she “was raised in a southern Baptist home” but that her “truth now has changed,” because God “blessed [her] with two gay children.” *Id.* BOLI recognizes that only after Cheryl initiated this conversation did Aaron respond with his own religious viewpoint, quoting Leviticus 18:22. BOLI Supp Br 14.

This exchange, initiated by Cheryl for her own purposes, outside the Complainants’ presence, was distinct from the denial of service that preceded it. It was in this second conversation that Aaron quoted Scripture—not even, as BOLI now argues, “to explain[] his refusal to provide services,” BOLI Supp Br 14, but to respond to Cheryl’s contention that the Bible is silent about same-sex marriage. ASER.35 (Declaration of Aaron Klein).

BOLI also ignores that Cheryl incorrectly relayed Aaron’s response to Complainants, proximately causing “the effect of the word ‘abomination’ on the complainants.” 289 Or App at 559. But for Cheryl’s decision to engage Aaron

¹ On remand, *Amici* Rachel and Laurel Bowman-Cryer and Lambda Legal Defense and Education Fund state for the first time that Cheryl returned “to ask Aaron to reconsider his rejection of their business.” Supp Br of *Amici Curiae* Rachel and Laurel Bowman-Cryer & Lambda Legal Defense and Education Fund, Inc. 7 (Sept 19, 2019). This assertion finds no support in the record, and it is contradicted by Cheryl’s contemporaneous statements about her purpose for the conversation. It should be rejected as a belated attempt to recast Cheryl’s conversation as part of the denial of service.

in religious dialogue and her false report to Rachel “that Aaron had called her ‘an abomination,’” that misstatement of the Kleins’ religious views would never have reached either of the Complainants. *Id.* at 512.

Neglecting this important context, BOLI erroneously treated Cheryl’s misquotation of Aaron’s speech as part of the “denial of service,” and then ordered the Kleins to pay damages for the harm inflicted by Cheryl’s account of it. In effect, BOLI treated Cheryl’s religious expression (and her crude caricature of Aaron’s) as legitimate, and it treated Aaron’s own religious expression as illegitimate. The Free Exercise Clause forbids this result. For the government “has no role in deciding or even suggesting whether the religious ground for [a] conscience-based objection is legitimate or illegitimate.” *Masterpiece Cakeshop*, 138 S Ct at 1731.

IV. BOLI’s Comparison of the Kleins’ Case to Prolonged Physical Violence, Sexual Harassment, and Religious Coercion Betrays BOLI’s Anti-Religious Animus.

BOLI justified its \$135,000 damages award by comparing it to four cases involving radically dissimilar conduct. BOLI now responds that “fact-matching” is of “limited value” “when considering emotional distress damages.” 289 Or App at 564. But BOLI unquestionably treated the emotional distress from a passing moment on a single day as equivalent to over four years of verbal and physical abuse, *In re Maltby Biocontrol, Inc.*, 33 BOLI 121, 132, 135, 140–41 (2014), two full months of sexual harassment, *In re From the*

Wilderness, Inc., 30 BOLI 227, 258–84 (2009), and several days of pressure to attend a religious conference on threat of termination, *In re Andrew W. Engel, DMD*, 32 BOLI 94, 118–19 (2012). Together with all the other evidence of anti-religious hostility in this case, this incongruity strongly suggests that bias inflated the award in violation of the Free Exercise Clause.

V. BOLI’s Gag Order Demonstrates Anti-Religious Bias.

BOLI responds that it merely “erred in interpreting the record,” and was not animated by “bias or improper motive,” BOLI Supp Br 20, when it imposed a “cease and desist” gag order on the Kleins. But imposing that gag order required BOLI to characterize the Kleins’ expressive conduct—their description of the facts of this case, their view of the law, and their vow to vindicate their religious beliefs through litigation—as unlawful communications of intent to discriminate under ORS 659A.409. As this Court correctly held, the Kleins’ statements did not threaten future violations of the law, and they lie within the core of the First Amendment right “to discuss publicly and truthfully all matters of public concern without previous restraint or fear of subsequent punishment.” *Thornhill v. Alabama*, 310 US 88, 101–02 (1940).

Viewed with all the other evidence, BOLI’s unlawful cease and desist order, over the ALJ’s contrary opinion and clear explanation, cannot be attributed to a mere good-faith disagreement about the record or the law. BOLI exhibited anti-religious bias when it interpreted the Kleins’ speech about their

case and the religious beliefs that guided them as a threat of future discrimination. BOLI's attempt to silence such speech in the future represents an "official expression[] of hostility to religion." *Masterpiece Cakeshop*, 138 S Ct at 1732.

VI. The Free Speech and Free Exercise Clauses of the United States and Oregon Constitutions Would Require the Invalidity of BOLI's Decision Even if There Were No Impermissible Hostility.

BOLI dismisses the guiding principles the Supreme Court announced in *Masterpiece Cakeshop* as "introductory comments," BOLI Supp Br 22. Even if that were true, "appellate courts are bound by the Supreme Court's considered dicta almost as firmly as by the Court's outright holdings." *McCoy v. Mass Inst of Tech*, 950 F2d 13, 19 (1st Cir 1991).

That is why, although *Masterpiece Cakeshop* was decided without reaching all of Jack Phillips' claims, other courts have cited the decision for its guidance on the merits of Free Speech and Free Exercise claims. *See Brush & Nib Studio, LC v. City of Phoenix*, No CV-18-0176-PR, 2019 WL 4400328, at *16 (Ariz Sept 16, 2019) (citing *Masterpiece Cakeshop*, 138 S Ct at 1723); *see also Telescope Media Grp v. Lucero*, No 17-3352, 2019 WL 3979621, at *4 (8th Cir Aug 23, 2019) (citing *Masterpiece Cakeshop*, 138 S Ct at 1727).

These two recent cases applied the principles discussed in *Masterpiece Cakeshop* to protect the free speech rights of artists against government compulsion to create artistic expressions for weddings.

The Arizona Supreme Court concluded that custom wedding invitations were protected as pure speech because “[p]ure speech also includes original artwork” and “[p]rotection for pure speech is not solely based on the medium.” *Brush & Nib*, 2019 WL 4400328, at *12. It made no difference that “the invitations may contain the speech of both Plaintiffs and their customers.” *Id.* at *17

The Eighth Circuit likewise concluded that wedding video producers could not be compelled to film same-sex wedding ceremonies because “[t]he videos themselves are, in a word, speech.” *Telescope Media*, 2019 WL 3979621, at *4 (citing *Masterpiece Cakeshop*, 138 S Ct at 1727) (quotation marks omitted).

These cases also reaffirmed that free speech rights apply with full force to for-profit activity. “A business does not forfeit the protections of the First Amendment because it sells its speech for profit.” *Brush & Nib*, 2019 WL 4400328, at *13; *see also Telescope Media*, 2019 WL 3979621, at *4 (“It also does not make any difference that the [videographers] are expressing their views through a for-profit enterprise.”).

And while these cases involved custom wedding invitations and videography, rather than wedding cakes, three Supreme Court Justices in *Masterpiece Cakeshop* agreed that the design and creation of a custom wedding cake is also protected speech. 138 S Ct at 1738 (Gorsuch, J., concurring, joined

by Alito, J.) (“Nor can anyone reasonably doubt that a wedding cake without words conveys a message.”); *id.* at 1743 (Thomas, J., concurring, joined by Gorsuch, J.) (The “creation of custom wedding cakes is expressive.”).

This Court should disregard BOLI’s suggestion that it only “consider the narrow issue of whether BOLI was hostile toward petitioners’ religion.” BOLI Supp Br 22. As the Arizona and Eighth Circuit decisions attest, *Masterpiece Cakeshop* provides relevant guidance beyond the issue of anti-religious bias. This Court should revisit the Kleins’ arguments under the Free Speech and Free Exercise Clauses of the federal and Oregon Constitutions in light of *Masterpiece Cakeshop*.

CONCLUSION

This Court should vacate BOLI’s Order and direct BOLI to enter final judgment for Melissa and Aaron Klein.

DATED this 26th day of September, 2019.

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CERTIFICATE OF COMPLIANCE

On June 24, 2019, the Court issued an Order granting Petitioners leave to file a supplemental reply brief, not to exceed 3,300 words. I hereby certify that this brief complies with the Court's June 24, 2019 Order. The word count of this brief as described in ORAP 5.05(2)(a) is 3,299 words.

DATED this 26th day of September, 2019.

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CERTIFICATE OF FILING AND SERVICE

I certify that on September 26, 2019, I directed Petitioners' SUPPLEMENTAL REPLY BRIEF to be electronically filed with the Appellate Court Administrator, Appellate Records Section.

I further certify that on September 26, 2019, I directed a true copy of the Petitioners' SUPPLEMENTAL REPLY BRIEF to be served on Respondent at the address set forth below:

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Service was made by eFiling.

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AMENDED EXCERPT OF RECORD

TABLE OF CONTENTS

<i>Agency Response to Respondents' Interrogatories,</i> Exhibit R-38..	ER-1
<i>Investigative Interview</i> Exhibit R-22 ..	ER-7
<i>Brad Avakian Facebook</i> Exhibit R-2 ..	ER-11
<i>The Oregonian Article</i> Exhibit R-34 ..	ER-12
<i>Rachel Bowman-Cryer Testimony</i> Transcript 182.....	ER-15
<i>Rachel Bowman-Cryer Testimony</i> Transcript 204.....	ER-16
<i>Rachel Bowman-Cryer Testimony</i> Transcript 246.....	ER-18
<i>Laurel Bowman-Cryer Testimony</i> Transcript 446.....	ER-20
<i>Laurel Bowman-Cryer Testimony</i> Transcript 501.....	ER-22
<i>Laurel Symptom List</i> Exhibit 35 ..	ER-26
<i>Rachel Symptom List</i> Exhibit 36 ..	ER-28
<i>Declaration of Aaron Klein</i> Exhibit 2 ..	ER-30

**BEFORE THE COMMISSIONER
OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON**

In the Matter of:

Case Nos. #44-14 & 45-14

Oregon Bureau of Labor and
Industries on behalf of Rachel Cryer
& Laurel Bowman-Cryer,
Complainants,

Agency's Response to Respondents' Second
set of Interrogatories for Oregon Bureau of
Labor and Industries

v.

Melissa Elaine Klein, dba
Sweetcakes by Melissa,

and Aaron Wayne Klein, individually
and as an aider and abettor under
ORS 659A.406

Respondents.

The following is the Agency's Response to Respondents' Interrogatories for
Oregon Bureau of Labor and Industries.

1. *On pages 2 and 3 of Complainants' discovery provided on October 14, 20-14, Complainant Rachel Cryer listed over 80 physical and mental distress descriptions in alphabetical order. Explain how that list was created and whether the Agency provided a prepared list of potential symptoms to Complainant Rachel Cryer.*

Complainant Rachel Cryer met with the Agency, and her counsel, to discuss her symptoms. Part of that discussion involved the Agency providing a list of non-exhaustive list of potential symptoms. During this meeting, Complainant Rachel Cryer advised the Agency of the symptoms from which she suffered.

2. *On pages 3 and 4 of Complainants' discovery provided on October 14, 2014, Complainant Laurel Bowman-Cryer listed 90 physical and mental distress symptoms in alphabetical order. Explain how that list was created and whether the Agency provided a prepared list of potential symptoms to Complainant Laurel Bowman-Cryer.*

Exhibit R-38
P1 & L

ITEM 208

00133

Complainant Laurel Bowman-Cryer met with the Agency, and her counsel, to discuss her symptoms. Part of that discussion involved the Agency providing a list of non-exhaustive list of potential symptoms. During this meeting, Complainant Laurel Bowman-Cryer advised the Agency of the symptoms from which she suffered.

3. *Explain stating when, why, and from whom Complainant Rachel Cryer was "forced to borrow money" because of the Respondents' actions on January 17, 2013.*

Answer: Complainant Rachel Cryer had to borrow money from her mother during the middle of February, 2013, when she and Complainant Laurel Bowman-Cryer traveled to Seattle. Complainants traveled to Seattle out of fear for their safety and to remove themselves from the public spotlight. Complainant Rachel Cryer borrowed money from her mother again for a trip that occurred in mid-March 2013.

4. *Explain when and why Complainant Rachel Cryer was "forced to sell [her] possessions" because of Respondents' actions on January 17, 2013.*

Complainant Rachel Cryer placed items into pawn for the times Complainants took trips out of fear for their safety and to remove themselves from the public spotlight in February and March, 2013.

5. *List the possessions Complainant Rachel Cryer sold because of Respondents' actions on January 17, 2013.*

Complainant Rachel Cryer sold a guitar, amplifier and speakers.

6. *Explain how Complainants were ridiculed by Respondents.*

Complainants were ridiculed because of the numerous statements made by Respondents to the media on numerous separate occasions. Respondent Aaron Klein called Complainant Rachel Cryer an "abomination." Respondents have also insinuated that Complainants are involved with a boycott of Respondents' business and have accused Complainants of bullying behavior.

7. *Explain what "alienation toward religion" means as used by Complainants in the list of symptoms provided on October 14, 2014.*

Complainants are both practicing Christians. Respondents have continually used their religion as an excuse for not serving Complainants, which has caused Complainants to question their religious views, which has alienated Complainants toward their religion.

8. *Explain how Respondents' actions on January 17, 2013 caused Complainants "alienation toward religion."*

Exhibit R38
pg 2 of 6

Complainant Rachel Cryer was raised as a Southern Baptist and remains a member of that congregation. Complainant Laurel Bowman-Cryer was raised Roman Catholic and remains a member of that congregation. Following Respondents' actions on January 17, 2013, Complaints questioned their religious beliefs because of the way religion was being used by Respondents and their supporters to attack Complainants. Complainants stopped attending religious ceremonies because of how they felt their sexual orientation was being used to discriminate against them.

9. *Explain how Respondents' actions on January 17, 2013 caused Complainant Laurel Bowman-Cryer the loss of opportunity to bond with an infant.*

At the time of Respondents' actions on January 17, 2013, Complainants were foster parents to two young girls with special needs. The increased attention to their lives made it more difficult for Complainant Laurel Bowman-Cryer to spend as much time bonding with the girls as she would have liked.

10. *List the names and addresses of Complainant Laurel Bowman-Cryer's employers from 2012 through the present along with the dates Complainant was employed by each.*

Complainant Laurel Bowman-Cryer was a foster parent and the State of Oregon provided supplemental income based on the special needs of her children. Presently, Complainant Laurel Bowman-Cryer is a homemaker.

11. *State and explain in detail when Complainant Laurel Bowman-Cryer applied for jobs and was turned down because of Respondents' actions on January 17, 2013.*

To date, Complainant Laurel Bowman-Cryer has not applied for and been turned down from a job because of Respondents' actions on January 17, 2013.

12. *Explain in detail how Respondents' actions on January 17, 2013 damaged Complainant Laurel Bowman-Cryer's future job opportunities.*

Complainant Laurel Bowman-Cryer has experienced name recognition based on Respondents' actions and fears that this may extend to potential job opportunities after she returns to the workforce.

13. *Explain in detail how Respondents' actions on January 17, 2013 kept Complainant Laurel Bowman-Cryer from finding work.*

Complainant Laurel Bowman-Cryer has experienced name recognition based on Respondents' actions and fears that this may extend to potential job opportunities after she returns to the workforce.

14. *Explain in detail when and why Complainants were pale and sick at home after work.*

Complainants did not keep a diary of the days when the stress resulting from Respondents' actions caused them to be pale and sick, however, these symptoms were the result of Respondents' actions.

15. *State the name of any person who was Complainant Laurel Bowman-Cryer's husband from January 17, 2013 through June 26, 2013.*

Complainant Laurel Bowman-Cryer's spouse is Rachel Cryer.

16. *Explain how Respondents' actions on January 17, 2013 caused Complainant Laurel-Bowman Cryer to not want her husband to touch her.*

The stress resulting from Respondents' actions on January 17, 2013 caused a lack of intimacy between Complainant Laurel Bowman-Cryer and her spouse.

17. *Explain in detail how Respondents' actions on January 17, 2013 caused Complainant Rachel Cryer to distrust former friends and list the names and contact information for each of the friends referenced.*

a. Complainant Rachel Cryer's sister, April Thrasher (205 2nd Street, Crandall, TX 75114) does not agree with Rachel's sexual orientation and the fact that Rachel is asserting her rights under Oregon law to be free from discrimination.

b. Suzanne Rexford (address unknown) is a friend of Rachel's who posted things on Facebook concerning this matter without Rachel's consent or permission. Rachel did not feel that she could trust Suzanne afterwards.

c. Xavier Vargas (4110 SE Hawthorne Blvd., #162, Portland, OR 97214) is a wedding photographer that Rachel feared might disseminate unauthorized photos.

Complainant Rachel Cryer was concerned with what was said to friends about this matter because of potential unauthorized dissemination. As a result, she did not discuss much of anything with friends, which led to alienation and distrust.

18. *Explain how Complainant Rachel Cryer suffered from insomnia, loss of sleep, and excessive sleep simultaneously.*

These are separate conditions that did not necessarily happen simultaneously.

19. *Explain in detail the nature of the "pressure" Complainants allege resulted from Respondents' actions on January 17, 2013.*

The public nature of this matter has caused Complainants additional pressure in several ways: Complainants were concerned about how this case might affect their adoption process; Complainants felt pressure from friends and strangers regarding their complaint and how it should be handled; Complainant Laurel

Bowman-Cryer's aunt regularly pressured her regarding the complaint, stating that she should drop the complaint and not further the matter against Respondents; and Complainant Rachel Cryer's sister pressured her regarding the complaint, also stating that she should drop the complaint and not further the matter against Respondents.

20. *Explain the meaning of the word "demeanment" as used in the list of symptoms provided by Complainants on October 14, 2014.*

When Complainants stated they felt demeanment, they mean that they did not feel worthy of equal rights and that they were second-class citizens.

21. *Explain in detail why Respondents' actions on January 17, 2013 caused Complainant Rachel Cryer to distrust men.*

At first, Complainant Rachel Cryer believed that Respondent Melissa Klein was not aware of or supportive of Respondent Aaron Klein's actions on January 17, 2013 based upon Rachel's interactions with Melissa Klein prior to January 17, 2013.

When Complainant Rachel Cryer was younger, she witnessed women in her family in abusive relationships with men and Respondents' actions on January 17, 2013 brought up past trauma. She distrusted any strange men she would see and was "hyper sensitive."

22. *Explain in detail how Respondents' actions on January 17, 2013 affected Complainant Laurel Bowman-Cryer's important personal relationships.*

Respondents' actions on January 17, 2013 caused a multi-generational fight in Laurel's family with different family members taking sides either for or against her participation in this case.

23. *Explain Complainant Laurel Bowman-Cryer's history of high blood pressure.*

Complainant Laurel Bowman-Cryer did not have high blood pressure before Respondents' actions on January 17, 2013, but this is now a symptom she must treat.

24. *Explain what caused Complainant Laurel Bowman-Cryer's "apprehension over possible physical confrontation with Respondent."*

Complainant Laurel Bowman-Cryer was apprehensive because Aaron Klein posted Complainants' personal information online, including their home address. Laurel did not know whether she would ever see Respondent Aaron Klein in public and what his reaction would be.

25. Explain how Complainant Laurel Bowman-Cryer's listed symptom "embarrassment relating to circumstances of discharge to prospective employers" was caused by Respondents' actions on January 17, 2013.

Laurel Bowman-Cryer was afraid that she and Rachel would be removed as foster parents and that their kids would be taken away.

Submitted By: Cristin Casey
Cristin Casey
Administrative Prosecutor
Oregon Bureau of Labor and Industries

Dated: 1-13-15

I have read the Agency's Response to Respondents' Interrogatories for Oregon Bureau of Labor and Industries and, to the extent that answers required my input, I swear that my responses are true and accurate.

Rachel Bowman-Cryer
Rachel Cryer

Dated: 1-13-15

I have read the Agency's Response to Respondents' Interrogatories for Oregon Bureau of Labor and Industries and, to the extent that answers required my input, I swear that my responses are true and accurate.

Laurel Bowman-Cryer
Laurel Bowman-Cryer

Dated: 1-13-15

Notary:

State of Oregon, County MULTNOMAH
This was acknowledged
Before me on Jan 13th, 2015
By Rachel Cryer and Laurel Bowman-Cryer
Marie J. Petrasy
Notary Public
Commission Expires 09/30/2018

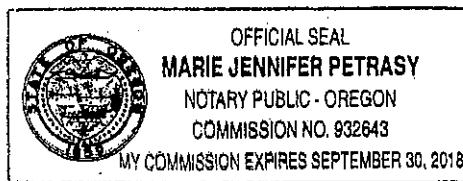


Exhibit R38

00058

00128

INVESTIGATIVE INTERVIEW

Complainant: Rachel Cryer
 Respondent: Sweet Cakes By Melissa
 Case Number: STPASO130808-11097

Person Interviewed:

Name: Cheryl McPherson
 Address: N/A
 Phone: [REDACTED]

CRD Interviewer:

Name: Jessica Ponaman
 Date: September 9, 2013
 Time: 1:50pm-2:30pm
 Place: Tel.

Position/Relationship: Witness
 Protected Class: Sexual Orientation
 Others Present: None
 Reason for Interview: Witness Interview

INTERVIEW:

- o My name is Jessica Ponaman; I am an investigator with BOLI.
- o Rachel Cryer v. Sweet Cakes by Melissa has been assigned to me for investigation.
- o We are an impartial/neutral organization responsible for investigating the complaint. This means we neither represent the Complainant or Respondent.
- o My job is to see if there is substantial evidence to prove the Complainant's allegations, that Ms. Cryer was denied services based on her sexual orientation in violation of ORS 659A.403(1)
- o In addition, my job is to investigate whether Respondents Aaron Klein and Melissa Klein made or published any communication, notice, advertisement that their services would be denied to any individual based on their sexual orientation in violation of 659A.409.
- o If necessary, there may be follow-up interviews.
- o I will be taking notes, so don't be concerned if you hear pauses and please give me time to make full note of your statement.

EVENT	COMMENTS
Cake tasting and services for the wedding of Rachel's mother.	When: November 2010 Who is present: Respondent Melissa Klein, Complainant Rachel Cryer & Laurel Bowman-Cryer. Respondent Aaron Klein was <i>not</i> present.

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INVESTIGATIVE INTERVIEW

Page #2

	<p>What happened:</p> <p>They had a wonderful experience, her daughter (CP) had called and set the appointment. CP and Laurie wanted to buy the mother's wedding cake. Melissa had a beautiful room set up for them; all the cakes were laid out, it was very professionally done. They sat down and said the cake was for the mother. They laughed because it was the mother's 6th marriage and her husband's fourth. Cheryl said that her daughter and partner were buying the cake and that her mother's husband was picked out by her (online).</p>
	<p>"Everything went smooth as glass." Melissa knew that CP was in a same sex relationship, they talked about how they were together for 8 years (at that time).</p> <p>Nothing out of the ordinary at all, Cheryl says "Melissa was a sweetheart." Cheryl remembers CP saying that if they ever got married, they would use them again. Melissa didn't say anything at all when they made this comment in front of her.</p>
CP Rachel starts to plan her own wedding; venue and caterer recommend Sweet Cakes by Melissa.	<p>When: October 4th, 2012 CP Rachel started to look for wedding venues.</p> <p>Who is present: CP Rachel, Cheryl McPherson, Lauren Bowman-Cryer.</p> <p>What happened:</p> <p>Yes, they did. She told them it was fine with us because they were planning on using her anyway.</p> <p>Venue: not sure, doesn't remember talking to venue.</p> <p>Catering: she spoke to John at Premier catering and told him that they were denied services. He had already seen it on the news at that time. He just said "that's not right; we are open to giving services to anyone." She did not ask him to take Respondents off the list, she just told him so that he would be aware and not send another gay couple over there.</p>
Portland Bridal Expo Show	<p>When: January 13, 2013</p> <p>Who is present: Rachel Cryer; Cheryl McPherson; Respondent Melissa Klein.</p> <p>What happened:</p> <p>They walked up to her booth, she was offering a tasting and she reminded Melissa that she had done her own wedding cake. She said we know your cakes, we want to order one for Rachel and Laurie's wedding. She said to email her because she didn't have a book. It was clear it was for a same sex couple.</p>

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INVESTIGATIVE INTERVIEW

Page #3

	Nothing unusual or out of the ordinary when she said she would contact her for an appointment.
Cake tasting for CP Rachel's wedding.	<p>When: January 17, 2013</p> <p>Who is present: Rachel Cryer and Cheryl McPherson, Aaron Klein</p> <p>What happened: She was shocked and disappointed that Melissa wasn't there. Mother didn't know he had anything to do with the cake business up until that point. Mother said they're there for the cake tasting. He said Melissa isn't here, he's going to be handling it.</p> <p>The entire place looked different than when they had been in there the first time. There was a couch, a coffee table and chair. She can't remember, there might have been a couple of plates of cake on the coffee table, the entire place looked different. He said who is the bride, and she said "Rachel," "who is the groom?" "it's not a groom, it's a bride and her name is Laurel." He looked down and said "I'm sorry, we don't do same sex weddings." CP replied, "you're kidding me," and he said "I don't want to offend anyone but I'm a Christian." And Cheryl says, "And so am I."</p> <p>Cheryl and CP walked out. Got in the car, CP was crying because she wanted her cake from them. Mother started to drive away and turned the car back around because the mother wanted to tell him what she thought. CP didn't want her mother to go back into there. Cheryl thought she could open his eyes a little bit, she walked back in the door, and he was at the counter. She said "I walked out here and didn't do my due diligence; I used to be just like you and believe in the same things. I was raised in a southern Baptist home... god blessed me with two gay children and my truth now has changed."</p> <p>Respondent Aaron Klein stated "Your children are an abomination of god."</p> <p>Cheryl went home and posted reviews saying "if you're a gay couple and having a commitment ceremony or wedding, don't go to this place because they discriminate against gay people." She posted one on her page (sweet cakes wedding page); and another review on another site but is unable to remember which wedding site. Cheryl believes it might have been wedding wire.</p>
Other relevant information/Damages:	Coming from a red neck town in east Texas, her entire side of the family has totally written them off because she has two gay children. Her two gay children are more productive members of society.

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INVESTIGATIVE INTERVIEW

Page #4


	<p>They just wanted a wedding cake; they weren't asking Respondents to participate in the wedding. They had no problem making the mother's wedding cake when she had been married 6 other times.</p> <p>Cheryl says CP is visibly stressed from what's going on; as soon as it starts to die down, it pops back into the news. For days CP couldn't get out of bed, she did nothing but cry for days.</p> <p>Her sister won't talk to her; nobody in Texas wants anything to do with Rachel or any of this. She's under the same impression that Laurie's family said the same thing, "Don't call us, we'll call you."</p> <p>Laurie has said that CP has not slept well, she's lost a lot of sleep and she's been "grouchy." Her son had been living with CP at the time and he noticed a change in her personality. Everything about the wedding from that point forward was difficult. She had just started to repair her relationship with her sister and then her sister didn't come, she didn't want anything to do with the wedding.</p> <p>Everything regarding CP's emotional distress she gets second hand, Cheryl believes she's trying to spare her.</p> <p>CP would be throwing up, she would get so nervous. She had to go to the doctor because a medical condition she was previously diagnosed with was exacerbated by stress.</p>
Investigator notes:	I told Cheryl that I would try to move the investigation along as quickly as possible and that CP will be notified once my determination is reviewed and approved by management.
Next Steps:	<ul style="list-style-type: none"> • Interview Respondents • Consider Interviewing other witness to address damages

www.kxl.com

The Agency now has a one-stop-shop for final orders and digests

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18 2

 Brad Avakian shared a link.
February 12

It's so wonderful to see that the Senate approval of the Violence Against Women Act is so disappointing that 22 Senators dissented. It's very sobering to be reminded that issues like protecting women from violence still require constant advocacy to receive adequate funding.


Chat (Off)

Senate Approves VAWA Re-authorization, on to House —
MSNBC
tv.msnbc.com

Among the 22 opponents were Sens. Marco Rubio and Rand Paul, the two GOP speakers expected to deliver rebuttals to President Obama's State of the Union speech Tuesday.

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29 1

 Brad Avakian
February 4

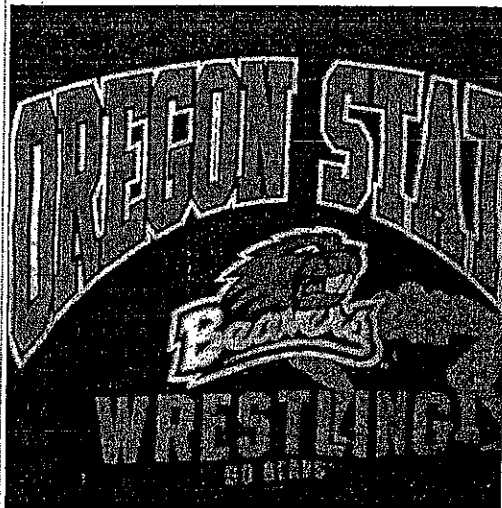
Had a fantastic day in Salem meeting with Senators, Representatives and advocates as the 2013 legislative session gets underway. I'm looking forward to an exciting and productive year in Oregon policy-making.

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57 6


 Brad Avakian
February 3

Just back from OSU where friend Jock Mills and I rooted on my #9 ranked OSU wrestling team as they took care of tough Cal State Bakersfield 35-7. Go Beavs!!



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11

 Brad Avakian
January 23

I'm looking forward to emceeding tonight's Chocolate for Choice event. It's a great way to celebrate the 40th Anniversary of Roe v. Wade and support the critical work of protecting Oregonians' reproductive rights.

It's been one of the great honors of my life meeting and working with Lt. Col. Linda Campbell and Nancy Lynchild. My hope is that this decision will bring Linda peace and help pave the way for other loving, caring couples to enjoy the benefits and respect they deserve. A huge thanks to my friend Jeff Merkley, who was as relentless and effective of a partner as always.




In a first, VA approves request by Oregon woman to bury same-sex spouse in national cemetery
blog.oregonlive.com

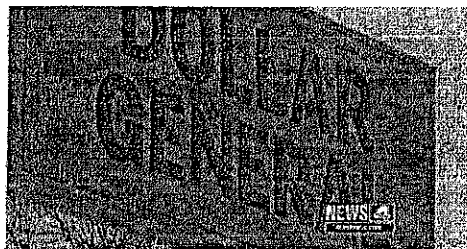
The Oregonian's exclusive story of the first such waiver of federal military burial policy centers on retired Air Force Lt. Col. Linda Campbell of Eugene and her spouse, Nancy

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50 7 14

 Brad Avakian shared a link.
February 5

Everyone has a right to their religious beliefs, but that doesn't mean they can disobey laws that are already in place. Having one set of rules for everybody ensures that people are treated fairly as they go about their daily lives.




'Ace of Cakes' offers free wedding cake for Ore. gay couple
www.kgw.com

The Oregon Department of Justice is looking into a complaint that a Gresham bakery refused to make a wedding cake for a same sex marriage.
It started when a mother and daughter showed up at Sweet Cakes by Melissa looking for a wedding cake.

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65 20

 Brad Avakian shared a link.
February 2


I'm excited about this program and its potential to provide opportunity and hands-on training for returning veterans. That's good for Oregon's workforce and communities around the state.

Forest Grove student volunteer program to serve as statewide model for helping U.S. veterans
www.oregonlive.com

The student volunteer program with Forest Grove Fire and Rescue received approval from the U.S. Department of Veterans Affairs on Monday, Jan. 28.

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21

 Brad Avakian shared a link.
January 29

Today, I announced that I officially filed a Commissioner's Complaint under the Oregon Equality Act against the Twilight Room Annex, formerly The P Club. For more information, here's the story on Oregonlive.



Labor Commissioner Brad Avakian files formal charges against P Club for discrimination against trans
www.oregonlive.com

The bureau of labor and industries tried to reach a settlement with the club, now known as The

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32 6

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Create a palette
own colours, we
trend or classic
Shop now.



OREGONLIVE
The Oregonian

Lesbian couple refused wedding cake files state discrimination complaint



Melissa Klein, co-owner of Sweet Cakes by Melissa in Gresham, with a customer earlier this year. (Everton Bailey Jr./The Oregonian)

Print



By Maxine Bernstein | mbernstein@oregonian.com

on August 14, 2013 at 5:30 AM, updated January 20, 2014 at 10:01 AM

A same-sex couple who requested a cake for their wedding in January but were refused service by a Gresham bakery have filed a complaint with the state, alleging Sweet Cakes by Melissa discriminated against them based on their sexual orientation.

EXHIBIT 1234

PAGE 1 of 3 ITEM 204

00141

Oregon's Bureau of Labor and Industries' civil rights division will investigate to determine if the business violated the Oregon Equality Act of 2007, which protects the rights of gays, lesbians, bisexual and transgender people in employment, housing and public accommodations.

It's the 10th complaint to the state in the last five years involving allegations of discrimination in a public place based on sexual orientation or gender identity, according to the bureau.

Rachel N. Cryer, 30, said she had gone to the Gresham bakery on Jan. 17 for a scheduled appointment to order a wedding cake. She met with the owner, Aaron Klein.

Klein asked for the date of the wedding and names of the bride and groom, Cryer said.

"I told him, 'There are two brides and our names are Rachel and Laurel,' " according to her complaint.

Klein responded that his business does not provide its services for same-sex weddings, she said.

"Respondent cited a religious belief for its refusal to make cakes for same-sex couples planning to marry," the complaint says.

Klein earlier this year told The Oregonian that he and his wife, Melissa, turn down requests to bake cakes for same-sex marriages because that goes against their Christian faith and cited their freedom of religious opinion. He has denied disparaging the couple.

Melissa Klein said the complaint was delivered to the bakery Tuesday. She said she and her husband had expected it because the same-sex couple had initially made an inquiry to the state attorney general's office.

"It's definitely not discrimination at all. We don't have anything against lesbians or homosexuals," she said. "It has to do with our morals and beliefs. It's so frustrating because we went through all of this in January, when it all came out."

The complaint will be assigned to an investigator. If substantial evidence of discrimination is found, the inquiry could lead to a settlement or to prosecution before an administrative law judge. A proposed order would be made to the labor commissioner, who serves as the final arbiter and decides if violations are warranted.

"We are committed to a fair and thorough investigation to determine whether there's substantial evidence of unlawful discrimination," said Labor Commissioner Brad Avakian. He advocated for the 2007 law when he was a state senator.

In the other nine discrimination complaints based on sexual orientation, four were unsubstantiated, three resulted in a negotiated settlement before a finding, one was

EXHIBIT R 34
PAGE 2 of 3

00140

privately settled and withdrawn, and one is pending -- a Portland case involving a bar called the P Club.

The law provides an exemption for religious organizations and parochial schools, but does not allow private business owners to discriminate based on sexual orientation, just as they cannot legally deny service based on race, age, veteran status, disability or religion.

"Everybody is entitled to their own beliefs, but that doesn't mean that folks have the right to discriminate," Avakian said, speaking generally.

An administrative law judge could assess civil penalties.

"The goal is never to shut down a business. The goal is to rehabilitate," Avakian said. "For those who do violate the law, we want them to learn from that experience and have a good, successful business in Oregon."

The bureau's civil rights division conducts about 2,200 investigations a year on all types of discrimination, Avakian said.

This summer, the bureau expects a ruling on the P Club complaint: Transgender customers complained that the North Portland bar told them not to return. In that case, Avakian himself filed the complaint against the club, accusing it of refusing service to patrons based on their gender identity. A deputy commissioner will serve as arbiter in that case.

The labor bureau previously obtained negotiated settlements in the past on allegations by lesbian partners that they were denied a hotel room in Sutherlin, that a Eugene market and gas station subjected a gay man to homophobic jokes and that a Umatilla County event facility would not host a lesbian couple's wedding.

The bureau provides training to businesses to help them avoid potential violations of the relatively new law.

"I think you're going to see numbers (of complaints) increase with additional training and awareness," Avakian said.

-- Maxine Bernstein

EXHIBIT 234
PAGE 3 of 3

00139

1 Sweet Cakes through social media, Facebook, and Twitter."

2 Do you recall that?

3 A. Yes, I do.

4 Q. Did that actually happen?

5 A. Yes.

6 Q. And did that cause you an injury?

7 A. Yes.

8 Q. And you listed out the injuries from that were pain,
9 suffering, torture, shame, humiliation, degradation, and
10 destruction of your reputations, correct?

11 A. Yes.

12 ALJ: Mr. Smith, are you referring to a specific
13 exhibit in your questioning?

14 MR. SMITH: I'm not right now, Your Honor.

15 ALJ: Okay. Thank you.

16 BY MR. SMITH:

17 Q. And so you gave a -- you gave the Bureau of Labor and
18 Industries' prosecutors a list of those symptoms that you might
19 be able to get money for, correct?

20 A. Actually, they gave me a list and asked me to check
21 off anything that I felt like applied.

22 Q. Why don't you turn to Exhibit R-36, if you will. Do
23 you see that document marked R-36?

24 A. Yes.

25 Q. Is this the list that BOLI gave you? On top it says,

1 A. Yes, that's true.

2 Q. And that was ridicule that came from third parties,
3 correct?

4 A. Which third party? You mean someone other than
5 myself?

6 Q. And other than the Kleins.

7 A. Yes.

8 Q. So we talked earlier about the "alienation towards
9 religion" claim. If you can turn to Exhibit R-38, line 7 --
10 paragraph 7 -- excuse me -- page 2 of R-38. You wrote in here
11 that this incident caused you to question your religious views,
12 which alienated you towards your religion, didn't you?

13 A. That's not true. I did not write that.

14 Q. So whoever wrote this wrote something false, right?

15 A. It's not entirely false. I believe that Laurie
16 probably -- Laurel has probably experienced more of that than I
17 have because I have kind of a different view on the religion.

18 Q. But didn't you review that document and certify that
19 it was true? Why don't you turn to page R-38 page 6.

20 A. It is -- it appears to be signed by me. I did review
21 the document, and, as I said, the general part of it is true.

22 Q. But it applies to Laurel?

23 A. Yes.

24 Q. So we've gone two years into this case with multiple
25 assertions that you were alienated towards your religion, but

1 that's just simply not the case, was it?

2 A. I'm sorry. Was there another assertion that I was
3 alienated towards religion --

4 Q. "Complainant."

5 A. -- other than this?

6 Q. "Complainant Rachel Cryer was raised a Southern
7 Baptist and remains a member of that congregation. Following
8 the action, Complainants questioned their religious beliefs
9 because of the way religion was being used."

10 That statement is not true either, is it?

11 A. No, that's true.

12 Q. Now, isn't it true that it was the increased attention
13 to your lives that made it difficult for you to spend time
14 bonding with your girls?

15 A. No, no.

16 Q. Okay. Why don't you take a look at Exhibit R-38,
17 page 3, paragraph 9, the very next page here. You swore under
18 oath here that "The increased attention to their lives made it
19 more difficult for Complainant Laurel Bowman-Cryer to spend much
20 more time with the bonding of the girls than she would have
21 liked."

22 That didn't apply to you, right?

23 A. And if you had allowed me to finish that last answer
24 before cutting me off and asking me another question, I would
25 have explained to you that that was only a portion of it. The

1 in the situation where somebody else could do the same thing to
2 us. And I had a lot of anxiety about even wanting to move
3 forward with the wedding and also the anxiety of the actual
4 logistics of having to continue the process.

5 Q. If I can next direct your attention to Exhibit R-38 in
6 the Respondents' folder, page 2. And let me know when you get
7 there.

8 A. R-38, page 2, you said?

9 Q. Yes.

10 A. Okay.

11 Q. I want to follow up on No. 7. So down towards the
12 bottom of the page, Mr. Smith had questioned you about the
13 answer provided in this, and there's a statement that says,
14 "Respondents have continually used their religion as an excuse
15 for not serving Complainants, which has caused Complainants to
16 question their religious views, which has alienated Complainants
17 towards religion."

18 Does questioning your religious views mean the
19 same thing to you as being alienated from your religion?

20 A. No.

21 Q. And can you explain, to you, what the distinction is
22 between those two terms, questioning your religion and
23 alienation towards religion mean?

24 A. I think when you are just questioning your religious
25 views, you are still having them. You are still -- I view

1 alienating from the religion as kind of making you not want to
2 be a part of your religion anymore. My -- my religion, the way
3 I see it, is very all-encompassing of all different kinds of
4 religions, and it's not something specific that I would just be
5 alienated and just stop believing that way.

6 I just generally believe in God, and I believe
7 that he loves us, and I believe that we should be good people
8 and that we will be rewarded for it in the end. So, to me,
9 there is a difference between being alienated versus just
10 questioning whether maybe -- maybe you are right about your
11 religious views, or maybe somebody else makes a point that makes
12 you question your religious views. I see that as being
13 different than just not wanting to have anything to do with your
14 religion because you are alienated towards it.

15 Q. So would it be correct to say that you have questioned
16 your religion because of the events that happened on January
17 17th, 2013?

18 A. Yes.

19 Q. Have you felt alienated from your religion because of
20 events on January 17th, 2013?

21 A. Not me specifically.

22 Q. Okay. If I can have you turn to the next page,
23 Exhibit R-38, page 3, and I'm going to question you about No. 9.

24 A. Okay.

25 Q. Can you tell me what Question No. 9 asks?

1 confidence' -- can you tell me about that? What is that, and
2 when did you have that?"

3 Your answer was, line 12:

4 "ANSWER: When my family started attacking me over
5 this."

6 A. Then I must have been misunderstanding you, sir. That
7 was -- my acute loss of confidence happened when your client
8 refused to serve me.

9 Q. So you are changing your story?

10 A. No, sir, I am --

11 MS. GADDIS: Objection. Argumentative.

12 THE WITNESS: -- saying that I must have
13 misunderstood you.

14 BY MR. SMITH:

15 Q. Okay. Let's go to the next one. On that same list,
16 "Alienation towards religion." Isn't it true that that started
17 long after the cake was not served to Rachel?

18 A. No, sir.

19 Q. Okay. Page 67 on your transcript, line 21, I asked
20 you the question:

21 "QUESTION: Was that the same when it started for
22 the alienation towards religion?"

23 Your answer, line 23:

24 "ANSWER: The fight with my aunt. If my own flesh
25 and blood won't listen to me" --

1 And then it goes on.

2 A. That is not long after, sir.

3 Q. Let's go to the next one. We talked about
4 apprehension -- or anger -- sorry.

5 The next one down is "Anger." Page 68 -- well, I'll
6 just ask you the question first.

7 Your anxiety and your anger and your apprehension, did
8 those all start when this came out in the media."

9 A. You cannot quantitatively lump those together, sir.

10 Q. Now, I asked you -- on page 68 of the your deposition,
11 I asked you the question -- oh, next one down:

12 "QUESTION: Anger -- is that the news that caused
13 you the anger?"

14 You answered:

15 "ANSWER: Yes, your client's actions are what
16 caused me anger.

17 "QUESTION: The actions being taken to the news --
18 in taking this to the news?

19 "ANSWER: Taking this to the news and airing out
20 my most humiliating moment.

21 "QUESTION: Same with anxiety?

22 "ANSWER: Yes.

23 "QUESTION: The same with apprehension?

24 "ANSWER: This all started around the same time.

25 "QUESTION: All started" --

1 ALJ: Before we go on, before you folks went out
2 of the room, there was some testimony about a doctor's visit
3 that the witness had gone to. My mistake. I let it slip.
4 That's covered by the protective order. So I would ask that you
5 please not repeat any testimony that you heard or even the
6 questions about the witness's doctor's visit.

7 BY MR. SMITH:

8 Q. Ms. Bowman-Cryer, can you turn to Exhibit R-38,
9 please? Can you turn back to page 8 of R-38, please?

10 A. It says that there's only six pages in R-38.

11 ALJ: That's what mine says, too..

12 THE WITNESS: There is no 7 or 8.

13 ALJ: Just hold on.

14 MR. GREY: Is there a packet in the back?

15 MR. SMITH: Yes. We handed out multiple packets
16 of these. Those were the pages that were left off.

17 (DISCUSSION off the record.)

18 MR. SMITH: Oh, page 6 of 6. Did I say 8? I'm
19 sorry. We have all of them.

20 ALJ: You meant 6.

21 MR. SMITH: No wonder we passed out multiple
22 copies.

23 BY MR. SMITH:

24 Q. Exhibit R-38, page 6 of 8, is that your signature --
25 page 6 of 6? Is that your signature on page 6 of 6?

1 A. Yes.

2 Q. And that certified that you had read the Agency's
3 response to the interrogatories for the Oregon Bureau of Labor
4 and Industries and, to the extent the answers required your
5 input, you had sworn that your responses were true and accurate?

6 A. Yes.

7 Q. Let me go backwards, then, to page 2 of R-38.
8 Yesterday I asked Rachel to explain what this "alienation
9 towards religion" meant. She explained that it was referencing
10 you where it says: "Complainants" -- "which has caused
11 Complainants to question their religious views, which has
12 alienated Complainants towards their religion." Is that your
13 position?

14 A. Yes.

15 Q. Now, when I asked you the same question in your
16 deposition, you had -- isn't it true that you had stated that
17 you resolved internal conflict between you and your sexual
18 orientation and your religion long ago?

19 A. Yes.

20 ALJ: Page, please? If you are referring to the
21 deposition --

22 MR. SMITH: I was referring to my notes. I'm
23 sorry.

24 ALJ: Yes, but if it's from the deposition, I want
25 the Agency to be able to know where you are referring to so they

1 can see what it is.

2 MR. SMITH: I'm sorry, Your Honor, what? I was
3 reading from my notes.

4 ALJ: Okay. But I thought you said it was from
5 the deposition. Did I make -- was I mistaken?

6 MR. SMITH: I think I just said, "Isn't it true
7 that in your deposition you had said that you had resolved any
8 internal conflict between you and your sexual orientation and
9 your religion long ago?"

10 ALJ: Okay. I understand. I thought you were
11 reading -- saying a quotation. Go ahead and answer.

12 THE WITNESS: Prior to this instance, my -- my
13 faith was sound. I had resolved any internal conflicts I had
14 with the Church or with my personal faith in God. After your
15 clients did to us what they did, I lost my faith.

16 BY MR. SMITH:

17 Q. Now, isn't it true that after the cake-tasting you
18 personally had moved on the next day, and you were trying to get
19 Rachel to move on, as well, weren't you?

20 A. No.

21 Q. Isn't it true that you thought Rachel was
22 overreacting?

23 A. No.

24 Q. So if Rachel said that in her testimony, that you
25 thought she was overreacting, she was not correct?

1 A. It was her opinion, and she was incorrect on it.

2 Q. Isn't that true that you testified that that caused
3 you to fight with her?

4 A. Yes.

5 Q. And you also testified that Aaron Cryer said the same
6 thing, that Rachel was overreacting, and that caused you to
7 fight with him?

8 A. I had never said Rachel was overreacting. My fight
9 with Aaron was due to the fact that he said it.

10 Q. Now, earlier today you testified that when Rachel had
11 come back from the bridal show, she told you a tasting had been
12 set up?

13 A. Yes.

14 Q. That's not true, is it?

15 A. It is absolutely true.

16 Q. Didn't Rachel testify that she later had to have a
17 series of e-mails with Melissa to set up a tasting?

18 A. I am not aware of the process it took. What I am
19 aware of is the excitement Rachel had that Melissa agreed to do
20 a cake-tasting with us and that she needed to set up a specific
21 time to come in. But the tasting was set. We were going to go
22 through Sweet Cakes.

23 Q. And I believe earlier today you testified that you had
24 24 to 48 hours of excitement and that was all you got to have
25 about your wedding, wasn't it?

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**TYPES OF HARM FOR WHICH BOLI COMMISSIONER FINAL ORDERS
HAVE ASSESSED MONETARY DAMAGES FOR MENTAL SUFFERING**

- | | |
|--|--|
| <ul style="list-style-type: none"> - Acute loss of confidence - Alienation towards religion - Anger - Anxiety - Apprehension - Apprehension over possible physical confrontation with Respondent - Colitis Attack - Inability to communicate with males - Concern for privacy at home - Concern for safety at home - Crying - Degradation - Demeanment - Depression - Devastation - Didn't want boyfriend to touch her - Difficulty relating to subsequent employers - Disability based on Respondent's assault - Disappointment - Disbelief - Discomfort - Discouragement - Disgust - Disillusionment - Dislike of going to work - Distrust of former white friends - Distrust of men - Disturbed - Doubt - <u>Economic Distress, including:</u> <ul style="list-style-type: none"> - Credit adversely affected - Eviction from housing - Forced to accept charity - Forced to borrow money - Forced to live in an unheated building all winter - Forced to sell possessions - Future job opportunities damaged - Hounded by creditors - Inability to pay bills | <ul style="list-style-type: none"> - Elevated blood pressure - Embarrassment - Embarrassment relating to circumstances of discharge to prospective employers - Excessive sleep - Exhaustion - Family relationship affected - Fear of men - Fear - Fear of being alone - Fear of not being able to get another job - Fear of being alone with a man at work - Feeling devalued - Feeling of betrayal - Feeling outcast at work - Feeling trapped - Feeling isolated - Feelings of devaluation - Felt mentally raped, dirty and <i>emotionally</i> shameful - Felt stupid - Fright - Frustration - Headaches - High Blood Pressure - Horror - Humiliation - Hurt - Hysteria - Impaired digestion - Impatience - Important personal relationships were affected - Inability to accept criticism and suspicion of authority in employment context - Inability to find work - Inability to wear skirts or dresses for a long time - Indignity |
|--|--|

- 1 -Mental Suffering Descriptions

- Insecurity with work ability
- Insomnia
- Insult to dignity
- Intimidated
- Irritability with family and friends
- Less talkative
- Loss of temper
- Loss of appetite
- Loss of self-esteem
- Loss of self-confidence
- Loss of motivation
- Loss of pride
- Loss of enthusiasm for profession
- Loss of opportunity for bonding with infant
- Loss of human dignity
- Loss of sleep
- Meanness to children
- Mental anguish
- Mental distress
- Migraine headaches
- Moodiness
- Moved back into mother's house and slept with mother
- Nervous appetite
- Nervousness
- Nightmares
- Not wanting ^{wife} husband to touch her
- Pain
- Pale and sick at home after work
- Pressure
- Public humiliation
- Resentment
- Resumption of smoking habit
- Ridicule
- Sadness
- Self-doubt
- Shame
- Shock
- Sleeplessness
- Stress
- Stunned
- Suffering
- Surprise
- Tension
- Ulcer
- Uncertainty
- Unhappiness
- Upset stomach
- Upset
- Weight gain
- Worry
- Wounded

- 2 - Mental Suffering Descriptions

Raenel

**TYPES OF HARM FOR WHICH BOLI COMMISSIONER FINAL ORDERS
HAVE ASSESSED MONETARY DAMAGES FOR MENTAL SUFFERING**

Acute loss of confidence*	Elevated blood pressure
Alienation towards religion	Embarrassment *
Anger*	Embarrassment relating to
Anxiety*	circumstances of discharge to
Apprehension *	prospective employers
Apprehension over possible physical	Excessive sleep*
confrontation with Respondent	Exhaustion *
Colitis Attack	Family relationship affected *
Inability to communicate with males	Fear of men
Concern for privacy at home*	Fear
Concern for safety at home*	Fear of being alone
Crying *	Fear of not being able to get
Degradation*	another job *
Demeanment*	Fear of being alone with a man at
Depression *	work
Devastation *	Feeling devalued *
Didn't want boyfriend to touch her	Feeling of betrayal*
Difficulty relating to subsequent	Feeling outcast at work
employers*	Feeling trapped *
Disability based on Respondent's assault	Feeling isolated *
Disappointment *	Feelings of devaluation *
Disbelief *	Felt mentally raped, dirty and
Discomfort*	shameful *
Discouragement *	Felt stupid*
Disgust *	Fright *
Disillusionment*	Frustration *
Dislike of going to work *	Headaches *
Distrust of former white friends *	High Blood Pressure
Distrust of men *	Horror *
Disturbed *	Humiliation*
Doubt *	Hurt *
<u>Economic Distress, including:</u>	Hysteria *
Credit adversely affected	Impaired digestion *
Eviction from housing	Impatience *
Forced to accept charity	Important personal relationships
Forced to borrow money*	were affected *
Forced to live in an unheated	Inability to accept criticism and
building all winter	suspicion of authority in
Forced to sell possessions*	employment context
Future job opportunities	Inability to find work
damaged *	Inability to wear skirts or dresses
Hounded by creditors	for a long time
Inability to pay bills	Indignity*

Insecurity with work ability	Surprise *
Insomnia * + + + +	Tension *
Insult to dignity *	Ulcer
Intimidated *	Uncertainty *
Irritability with family and friends *	Unhappiness *
Less talkative *	Upset stomach *
Loss of temper *	Upset *
Loss of appetite *	Weight gain
Loss of self-esteem *	Worry *
Loss of self-confidence *	Wounded *
Loss of motivation *	
Loss of pride *	
Loss of enthusiasm for profession	
Loss of opportunity for bonding with infant	
Loss of human dignity *	
Loss of sleep *	
Meanness to children	
Mental anguish *	
Mental distress *	
Migraine headaches *	
Moodiness *	
Moved back into mother's house and slept with mother	
Nervous appetite *	
Nervousness *	
Nightmares *	
Not wanting husband to touch her	
Pain	
Pale and sick at home after work *	
Pressure *	
Public humiliation * + + + +	
Resentment *	
Resumption of smoking habit	
Ridicule *	
Sadness *	
Self-doubt *	
Shame *	
Shock *	
Sleeplessness *	
Stress *	
Stunned *	
Suffering *	

- 2 - Mental Suffering Descriptions

BEFORE THE COMMISSIONER OF THE BUREAU OF LABOR AND INDUSTRIES
OF THE STATE OF OREGON

In the Matter of:)
Oregon Bureau of Labor and Industries)
on behalf of RACHEL CRYER,)
Complainant,)
v.)
MELISSA KLEIN, dba SWEET CAKES)
BY MELISSA,)
and AARON WAYNE KLEIN, individually)
as an Aider and Abettor under ORS)
659A.406,)
Respondents.)

Case No. 44-14

DECLARATION OF RESPONDENT
AARON KLEIN

In the Matter of:)
Oregon Bureau of Labor and Industries)
on behalf of LAUREL BOWMAN CRYER,)
Complainant,)
v.)
MELISSA KLEIN, dba SWEET CAKES)
BY MELISSA,)
and AARON WAYNE KLEIN, individually)
as an Aider and Abettor under ORS)
659A.406,)
Respondents.)

Case No. 44-15

DECLARATION OF RESPONDENT
AARON KLEIN**HERBERT G. GREY**Attorney At Law
4800 SW Griffith Drive, Suite 320
Beaverton, OR 97005-8716
(503) 641-4908

1 I, AARON KLEIN, hereby declare as follows:

2 I am one of the Respondents, and I am married to Respondent Melissa Klein. I am over
3 18 years of age, and I have personal knowledge of the facts stated in this declaration.

4 1.

5 Together we have operated Sweet Cakes by Melissa as an assumed business since we
6 opened in 2007. For most of its history, Sweet Cakes by Melissa has been an unregistered
7 business entity, but on or about February 1, 2013 (after the January 17, 2013 cake tasting event at
8 issue here) I registered Sweet Cakes by Melissa as an assumed business name with the Oregon
9 Corporation Division. Until recent months, we both worked actively in the business, primarily
10 derived our family income from the operation of the business, and jointly shared the profits of
11 the business.

12 2.

13 Before and throughout our operation of Sweet Cakes, we have been jointly committed to
14 live our lives and operate our business according to our Christian religious convictions. At the
15 time we opened Sweet Cakes by Melissa, we gathered with our pastor and church at our shop
16 and dedicated our business and craft to God. We practice our religious faith through our business
17 and make no distinction between when we are working and when we are not. Based on the
18 principles espoused in the Bible, we try to give glory to the Lord in all that we do. We believe
19 each person is created in the image of God to reflect His glory according to Genesis 1:26-28.
20 We believe each person is created male and female for the purpose of propagating the human
21 race according to God's design. *Id.* We believe that God uniquely and purposefully designed the
22 institution of marriage exclusively as the union of one man and one woman. Genesis 2:24

Page 2 – DECLARATION OF AARON KLEIN

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EXHIBIT 2
PAGE 2

01197

1 ("Therefore a man shall leave his father and his mother and hold fast to his wife, and they shall
 2 become one flesh."); Mark 10:6-8 ("But from the beginning of creation, God made them male
 3 and female. Therefore a man shall leave his father and mother and hold fast to his wife, and the
 4 two shall become one flesh. So they are no longer two but one flesh."). We believe we are called
 5 as disciples of Jesus Christ to live out our faith on a daily basis in all areas of our lives.
 6 Colossians 3: 17; 24 ("And whatever you do, in word or deed, do everything in the name of the
 7 Lord Jesus, giving thanks to God the Father through him.... Whatever you do, work heartily, as
 8 for the Lord and not for men, knowing that from the Lord you will receive the inheritance as
 9 your reward. You are serving the Lord Christ."); Romans 12:1-2: ("I appeal to you therefore,
 10 brothers, by the mercies of God, to present your bodies as a living sacrifice, holy and acceptable
 11 to God, which is your spiritual worship. Do not be conformed to this world, but be transformed
 12 by the renewal of your mind, that by testing you may discern what is the will of God, what is
 13 good and acceptable and perfect.") In particular, the Bible forbids us from proclaiming messages
 14 or participating in activities contrary to Biblical principles, including celebrations or ceremonies
 15 for uniting same-sex couples. I Timothy 5:22 (Do not be hasty in the laying on of hands, nor take
 16 part in the sins of others; keep yourself pure.")

3.

18 The process of designing, creating and decorating a cake for a wedding goes far beyond
 19 the basics of baking a cake and putting frosting on it. Our customary practice involves meeting
 20 with customers to determine who they are, what their personalities are, how they are planning
 21 their wedding, finding out what their wishes and expectations concerning size, number of layers,
 22 colors, style and other decorative detail, which often includes looking at a variety of design

alternatives before conceiving, sketching, and custom crafting a variety of decorating suggestions and ultimately finalizing the design. Our clients expect, and we intend, that each cake will be uniquely crafted to be a statement of each customer's personality, physical tastes, theme and desires, as well as their palate so it is a special part of their holy union.

4.

This entire design and decoration process is, for us not only a labor of love, but an expression of our Christian faith. The process typically begins with a customer's request to set up a tasting, which can be conducted by one of us. After obtaining the names of the bride and groom and the wedding date, it is customary to show each customer a book of our previous designs as inspiration, but almost no one picks one of those designs. Melissa often draws various designs on sheets of paper to help start the process of directing the design, and once that is finalized, the parties sign a contract and collect a deposit. However, it is also not uncommon for people to change their design after the contract is signed, which is finalized about 10 days prior to the wedding date and secured by final payment.

5.

I am the one who usually bakes the cakes, cuts the layers, adds filling and applies the "crumb coat" (a base layer of frosting). Melissa does most or all of the design and crafting of the decorations since she is an artist and typically is the one who conceives of and understands what the customer wants. As she decorates, it is customary for Melissa to listen to Christian music and to pray specifically for the couple being married. I am the one who delivers the cake to the wedding or reception site in our vehicle that has "Sweet Cakes by Melissa" written in large pink letters on the side and assembles it as necessary, and I am responsible for setting up the cake and

1 finalizing any remaining decorations after final assembly and placement. In that capacity, I often
 2 interact with the couple or other family members, and I often place cards showing we are the
 3 creators of the cake so the guests, caterers and others know who created the cake. I have
 4 delivered and set up wedding cakes as far away as Ashland, Oregon.

5 6.

6 For all these reasons, we have not created, nor chosen to create, cakes with messages
 7 honoring or celebrating ceremonies uniting same-sex couples under any legal framework, nor
 8 have we or will we create cakes for a variety of other events, including a celebration of divorce,
 9 any message including profanity or coarse language, or any message that advocates harm or ill
 10 will toward any person. In our view, if designing and creating a wedding cake was a simple
 11 process requiring no artistic talent or personal attention, people would simply choose to buy
 12 sheet cakes from Costco or other retailers for their weddings or other events.

13 7.

14 We do, have, and would, design cakes for any person irrespective of that person's sexual
 15 orientation as long as the design requested does not require us to promote, encourage, support, or
 16 participate in an event or activity which violates our religious beliefs and practices. It is
 17 important to note that we have previously designed a cake for and provided services to Rachel
 18 Cryer and Laurel Bowman-Cryer on multiple occasions before January 17, 2013. In particular,
 19 we were asked to and did design, create and decorate a wedding cake for Rachel Cryer's mother
 20 Cheryl McPherson at the time of her marriage to her husband, which the Notice of Substantial
 21 Evidence Determination says occurred in or about November, 2010 (Notice of Substantial
 22 Evidence Determination, p. 2, ¶10). Rachel Cryer paid for that cake.

Page 5 – DECLARATION OF AARON KLEIN

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EXHIBIT 2
 PAGE 5

01194

On January 17, 2013 I came to the shop to conduct a tasting by appointment, although I did not know whom I was meeting that day. I now know I met with Rachel Cryer and her mother Cheryl McPherson that day, and I began to follow our customary practice of asking for the names of the bride and groom and the wedding date. Rachel Cryer told me something to the effect "Well, there are two brides, and their names are Rachel and Laurel." At that point, I indicated we did not create wedding cakes for same-sex ceremonies because of our religious convictions, and they left the shop. A few minutes later, Cheryl McPherson came back without Rachel Cryer and said something like, "I used to think like you do, but now my truth has changed because of having two gay children." She also stated her opinion that the Bible does not speak to or condemn homosexuality, and I responded by quoting a passage from the Bible, particularly Leviticus 18:22, which says "You shall not lie with a male as one lies with a female; it is an abomination." I made no statement or judgment about her children or anyone else being an abomination, but was merely quoting the Scripture verse in response to her statement, which I believed to be inaccurate. At that point she left the shop. Laurel Bowman was not there on that day and never asked us to design a cake for her wedding. At the time I told Rachel Cryer that we do not design cakes for same-sex weddings, I did not know, and I never imagined, that the practice of abstaining from participating in events which are prohibited by my religion could possibly be a violation of Oregon law. I believed that I was acting within the bounds of the Oregon Constitution and the laws of the State of Oregon which, at that time, explicitly defined marriage as the union of one man and one woman and prohibited recognition of any other type of union as marriage.

Page 6 – DECLARATION OF AARON KLEIN

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EXHIBIT 2
PAGE 6

01193

9.

Since the filing of the complaints, there has periodically been a great deal of media attention about our choice not to participate in complainants' wedding ceremony, none of which we solicited. In fact, during much of the time, we have been subjected to media requests because of an orchestrated internet campaign to "Boycott Sweet Cakes" that included personal attacks, threats to our children, vandalism to our "Sweet Cakes by Melissa" vehicle and unrelenting phone campaigns threatening our vendors and referral sources if they did not sever their business relationships with us. The details of those actions against us and those we were doing business with will be documented separately in other documents included in the hearing record, but they include support from Laurel Bowman-Cryer on the "Boycott Sweet Cakes" Facebook page as recently as August 12, 2014. For now, it is sufficient to say that the financial consequences of the boycott campaign resulted in us closing our shop and moving our business to our home in September of 2013.

10.

Finally, I did not appear on CBN on or about September 2, 2013 as alleged in the Notice of Substantial Evidence Determination, p. 4, ¶19. Rather, what was broadcast at that time was a tape of an earlier video interview in which I explained the reasons for our decision in this case. As the video (and even the Notice of Substantial Evidence Determination, p. 4, ¶19) shows, I made no statements of any future intention concerning our participation (or lack of participation) in same-sex ceremonies, and neither Melissa nor I were consulted nor approved the re-broadcast of the earlier interview. Similarly, when Tony Perkins' staff requested my participation in the radio interview on or about February 13, 2014 (alleged in Amended Formal Charges, ¶ 8) I

Page 7 – DECLARATION OF AARON KLEIN

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EXHIBIT 2
PAGE 7

01192

1 shared information about the impact of the controversy on our lives to date and again explained
2 the reasons we stand by our faith. As the amended formal charges recite, and the radio program
3 recording makes clear, I mentioned a *past private* conversation with my wife about standing by
4 our religious beliefs if confronted with participation (or lack of participation) in same-sex
5 ceremonies due to *Washington* legalizing same-sex marriage. We have made no public
6 pronouncement of such intention, and even if we had, our right to do so is constitutionally
7 protected. I also want to make clear that at no time have we been paid or compensated in any
8 way for our participation in any media interviews.

9 I hereby declare that the above statement is true to the best of my knowledge and
10 belief, and that I understand it is made for use as evidence in court and is subject to penalty
11 for perjury.

12 DATED this 23rd day of October, 2014.



13
14
15 Aaron Klein, Respondent
16