

No. 18-107

IN THE
Supreme Court of the United States



R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
—v.— *Petitioner,*

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
and AIMEE STEPHENS,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT

JOINT APPENDIX

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PETITION FOR A WRIT OF CERTIORARI FILED: JULY 20, 2018
CERTIORARI GRANTED: APRIL 22, 2019

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The following parts of the record have been omitted in printing this Joint Appendix because they appear in the appendix to the Petition for a Writ of Certiorari or to the Opposition of Aimee Stephens on the following pages.

In Writ of Certiorari:

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In Opposition of Aimee Stephens:

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UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Docket No. 16-2424

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF-APPELLANT, AND AIMEE STEPHENS,
INTERVENOR,

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT-APPELLEE.

RELEVANT DOCKET ENTRIES

<u>DATE</u>	<u>NO.</u>	<u>PROCEEDINGS</u>
10/13/2016	<u>1</u>	Civil Case Docketed. Notice filed by Appellant EEOC.
1/26/2017	<u>19</u>	MOTION to INTERVENE filed by Daniel S. Korobkin for Aimee Stephens.
2/6/2017	<u>21</u>	RESPONSE in opposition filed regarding a motion to intervene, [19]; previously. Response from Attorney Mr. Douglas G. Wardlow for Appellee R.G. & G.R. Harris Funeral Homes, Inc.
2/10/2017	<u>22</u>	APPELLANT BRIEF filed by Ms. Anne Noel Occhialino for EEOC. Argument Request: requested.

2/13/2017 23 REPLY filed by Daniel S. Korobkin for Aimee Stephens in support of motion to intervene.

3/27/2017 28 ORDER filed: The motion to intervene is therefore GRANTED, for briefing purposes only. Stephens shall file her brief on or before twenty days from the date of entry of this order. Harris's briefing time shall not begin until Stephens files her brief. Should the appeal be scheduled for oral argument, Stephens may move the court at that time for permission to participate.

4/26/2017 60 CORRECTED INTERVENOR BRIEF of Aimee Stephens filed by Mr. John Anthony Knight for Aimee Stephens.

4/26/2017 61 CORRECTED AMICUS BRIEF filed by Mr. Richard Brian Katskee for Seventy-six members of the clergy.

4/26/2017 62 CORRECTED AMICUS BRIEF filed by Mr. Doron M. Kalir for Equality Ohio, with parties' consent.

4/26/2017 63 CORRECTED AMICUS BRIEF filed by Ms. Mary Eaton and Ms. Elizabeth Reiner Platt for Public Rights/Private Conscience Project, with parties' consent.

4/27/2017 64 CORRECTED AMICUS BRIEF filed by Mr. Gregory R. Nevins for Lambda Legal Defense and Education Fund, Inc., Service Employees International Union and Human Rights Campaign, with parties' consent.

4/28/2017 65 CORRECTED AMICUS BRIEF filed by Mr. Eric Alan Isaacson for Unitarian Universalist Association, with parties' consent.

5/17/2017 66 APPELLEE BRIEF filed by Mr. Douglas G. Wardlow for R.G. & G.R. Harris Funeral Homes, Inc.

5/18/2017 67 MOTION filed by Mr. Douglas G. Wardlow for R.G. & G.R. Harris Funeral Homes, Inc. requesting oral argument.

5/24/2017 70 AMICUS BRIEF filed by Public Advocate of the United States, U.S. Justice Foundation, and Conservative Legal Defense and Education Fund, with parties' consent.

6/9/2017 72 REPLY BRIEF filed by Attorney Ms. Anne Noel Occhialino for Appellant EEOC.

6/12/2017 73 REPLY BRIEF filed by Attorney Mr. John Anthony Knight for Intervenor Aimee Stephens.

8/14/2017 76 ORAL ARGUMENT SCHEDULED for 9:00 a.m. (Eastern

Time) on Wednesday, October 4, 2017.

- 08/14/2017 77 MOTION filed by Mr. John Anthony Knight for Aimee Stephens requesting leave for an Intervenor to appear at oral argument.
- 08/22/2017 80 RESPONSE in opposition filed regarding a motion requesting leave to appear at oral argument, [77]; previously filed by Mr. John Anthony Knight for Aimee Stephens. Response from Attorney Mr. Douglas G. Wardlow for Appellee R.G. & G.R. Harris Funeral Homes, Inc.
- 09/20/2017 81 ORDER filed granting motion requesting leave to appear at oral argument [77] filed by Mr. John Anthony Knight. Entered by order of the court.
- 10/04/2017 84 CAUSE ARGUED by Ms. Anne Noel Occhialino for Appellant EEOC, Mr. Douglas G. Wardlow for Appellee R.G. & G.R. Harris Funeral Homes, Inc. and Mr. John Anthony Knight for Intervenor Aimee Stephens before Moore, Circuit Judge; White, Circuit Judge and Donald, Circuit Judge.
- 3/7/2018 95 OPINION and JUDGMENT filed: The district court's grant of summary judgment in favor of

R.G. & G.R. Harris Funeral Homes, Inc. is REVERSED, and summary judgment to the Equal Employment Opportunity Commission on its unlawful-termination claim is GRANTED. IT IS FURTHER ORDERED that the district court's grant of summary judgment on the Equal Employment Opportunity Commission's discriminatory-clothing-allowance claim is REVERSED. The case is REMANDED to the district court for further proceedings consistent with the opinion of this court. Decision for publication. Karen Nelson Moore (AUTHORING), Helene N. White, and Bernice Bouie Donald, Circuit Judges.

5/8/2018 96 MANDATE ISSUED with no costs taxed.

07/26/2018 97 U.S. Supreme Court notice filed regarding a petition for a writ of certiorari filed by Appellee R.G. & G.R. Harris Funeral Homes, Inc. Supreme Court Case No:18-107, 06/24/2018.

4/23/2019 98 U.S. Supreme Court letter filed:
The petition for a writ of certiorari is GRANTED limited to the following question: Whether Title VII prohibits discrimination against transgender people based on (1) their status as transgender or (2) sex stereotyping under *Price Waterhouse v. Hopkins*, 490 U. S. 228 (1989). Supreme Court Case No: 18-107, 04/22/2019.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Docket No. 14-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF,

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

RELEVANT DOCKET ENTRIES

<u>DATE</u>	<u>No.</u>	<u>PROCEEDINGS</u>
9/25/2014	<u>1</u>	COMPLAINT filed by Equal Employment Opportunity Commission against R.G. & G.R. Harris Funeral Homes, Inc. with Jury Demand.
11/19/2014	<u>7</u>	MOTION to Dismiss <i>Complaint</i> by R.G. & G.R. Harris Funeral Homes, Inc.
12/10/2014	<u>9</u>	RESPONSE to 7 MOTION to Dismiss Complaint filed by Equal Employment Opportunity Commission.
12/23/2014	<u>10</u>	REPLY to Response re 7 MOTION to Dismiss <i>Complaint</i> filed by R.G. & G.R. Harris Funeral Homes, Inc.

4/21/2015	<u>12</u>	OPINION and ORDER Denying 7 MOTION to Dismiss Complaint.
4/23/2015	<u>13</u>	AMENDED OPINION and ORDER Denying 7 MOTION to Dismiss Complaint.
4/29/2015	<u>14</u>	ANSWER to Complaint with Affirmative Defenses with Jury Demand by R.G. & G.R. Harris Funeral Homes, Inc.
5/19/2015	<u>18</u>	MOTION to Amend/Correct 1 Complaint, by Equal Employment Opportunity Commission.
5/26/2015	—	TEXT-ONLY ORDER GRANTING 18 MOTION to Amend/Correct 1 Complaint, filed by Equal Employment Opportunity Commission.
5/29/2015	<u>20</u>	ANSWER to Amended complaint filed May 26, 2015 by R.G. & G.R. Harris Funeral Homes, Inc.
6/1/2015	<u>21</u>	AMENDED COMPLAINT with Jury Demand filed by Equal Employment Opportunity Commission against R.G. & G.R. Harris Funeral Homes, Inc.
6/4/2015	<u>22</u>	ANSWER to Amended Complaint with Affirmative Defenses by R.G. & G.R. Harris Funeral Homes, Inc.

7/14/2015	<u>23</u>	MOTION for Protective Order by Equal Employment Opportunity Commission.
7/28/2015	<u>25</u>	RESPONSE to 23 MOTION for Protective Order filed by All Defendants.
8/7/2015	<u>28</u>	REPLY to Response re 23 MOTION for Protective Order filed by Equal Employment Opportunity Commission.
9/24/2015	<u>34</u>	ORDER granting in part and denying in part 23 Motion for Protective Order.
11/9/2015	<u>41</u>	REPLY to Response re 36 MOTION to Set Aside Plaintiff's Objections To The Magistrates Order Granting In Part And Denying In Part EEOCs Motion For Protective Order Compliant Brief filed by R.G. & G.R. Harris Funeral Homes, Inc.
4/7/2016	<u>51</u>	MOTION for Summary Judgment by Equal Employment Opportunity Commission.
4/7/2016	<u>52</u>	STATEMENT of Material Facts Not in Dispute by Equal Employment Opportunity Commission.
4/7/2016	<u>53</u>	MOTION for Summary Judgment by R.G. & G.R. Harris Funeral Homes, Inc.

4/7/2016	<u>54</u>	MOTION for Summary Judgment <i>and Memorandum of Law in Support of Motion for Summary Judgment</i> by R.G. & G.R. Harris Funeral Homes, Inc.
4/7/2016	<u>55</u>	STATEMENT of Material Facts Not in Dispute by R.G. & G.R. Harris Funeral Homes, Inc.
5/2/2016	<u>60</u>	RESPONSE to 51 MOTION for Summary Judgment filed by R.G. & G.R. Harris Funeral Homes, Inc.
5/2/2016	<u>61</u>	STATEMENT of Counter-Statement of Disputed Facts by R.G. & G.R. Harris Funeral Homes, Inc.
5/2/2016	<u>63</u>	RESPONSE to 54 MOTION for Summary Judgment <i>and Memorandum of Law in Support of Motion for Summary Judgment</i> filed by Equal Employment Opportunity Commission.
5/2/2016	<u>64</u>	STATEMENT of Counter-Statement of Disputed Facts by Equal Employment Opportunity Commission.
5/19/2016	<u>67</u>	REPLY to Response re 54 MOTION for Summary Judgment and Memorandum of Law in Support of Motion for Summary Judgment filed by R.G. & G.R. Harris Funeral Homes,

Inc.

5/19/2016	<u>68</u>	STATEMENT of Plaintiffs Reply to Defendants Counter Statement of Material Facts Not in Dispute by Equal Employment Opportunity Commission.
5/19/2016	<u>69</u>	REPLY to Response re 51 MOTION Summary Judgment filed by Equal Employment Opportunity Commission.
8/18/2016	<u>76</u>	OPINION and ORDER Granting in Part and Denying in Part 54 MOTION for Summary Judgment, and Denying 51 MOTION for Summary Judgment.
8/18/2016	<u>77</u>	JUDGMENT.
10/13/2016	<u>78</u>	NOTICE OF APPEAL by Equal Employment Opportunity Commission re 13 Memorandum Opinion & Order, 77 Judgement, 76 Memorandum Opinion & Order.
10/13/2016	<u>79</u>	Certificate of Service re 78 Notice of Appeal.

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EQUAL EMPLOYMENT)	
OPPORTUNITY)	
COMMISSION,	)	CIVIL ACTION NO.
)	
Plaintiff,	)	<u>First Amended</u>
	)	<u>Complaint</u>
	)	<u>and Jury Demand</u>
v.)	
)	
R.G. & G.R. HARRIS)	
FUNERAL HOMES INC.,)	
)	
Defendant.)	
_____)	

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Aimee Stephens who was adversely affected by such practices. As alleged with greater particularity in paragraphs 8 through 16 below, Defendant R.G. & G.R. Harris Funeral Home, Inc., fired Stephens, a transgender woman, because of sex. Additionally, as alleged in paragraphs 12 and 17 below, Defendant discriminated against female employees by not providing them work clothing while providing work clothing to male employees.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for Eastern District of Michigan, Southern Division.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the “Commission”), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

4. At all relevant times, Defendant, R.G. & G.R. Harris Funeral Home, Inc. (the “Employer”), a Michigan Corporation, has continuously been doing business in the State of Michigan and the Cities of Detroit, Livonia, and Garden City, and has continuously had at least 15 employees.

5. At all relevant times, Defendant Employer has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h).

CONDITIONS PRECEDENT

6. More than thirty days prior to the institution of this lawsuit, Stephens filed a charge with the Commission alleging violations of Title VII by Defendant Employer.

7. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF FACTS

8. Aimee Stephens had been employed by Defendant as a Funeral Director/Embalmer since October 2007.

9. Stephens adequately performed the duties of her position.

10. Stephens is a transgender woman. On or about July 31, 2013, Stephens informed Defendant Employer and her co-workers in a letter that she was undergoing a gender transition from male to female and intended to dress in appropriate business attire at work as a woman from then on, asking for their support and understanding.

11. On or about August 15, 2013, Defendant Employer's owner fired Stephens, telling her that what she was "proposing to do" was unacceptable.

12. Since at least September 13, 2011, the Defendant Employer has provided a clothing allowance to male employees but not female employees. Defendant Employer provides work clothes to male employees but provides no such assistance to female employees.

STATEMENT OF CLAIMS

13. Paragraphs 8 through 12 are fully incorporated herein.

14. Defendant engaged in unlawful employment practices at its Garden City, Michigan facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by terminating Stephens because of sex.

15. Defendant Employer's decision to fire Stephens was motivated by sex-based considerations. Specifically, Defendant Employer fired Stephens because Stephens is transgender, because of Stephens's transition from male to female, and/or because Stephens did not conform to the Defendant Employer's sex- or gender-based preferences, expectations, or stereotypes.

16. The effect of the practices complained of in paragraphs 8 through 11 and 14 through 15 above has been to deprive Stephens of equal employment opportunities and otherwise adversely affect her status as an employee because of her sex.

17. Defendant engaged in unlawful employment practices at its Garden City, Michigan facility, in violation of Section 703(a)(1) of Title VII, 42 U.S.C. § 2000e-2(a)(1), by providing a clothing allowance/work clothes to male employees but failing to provide such assistance to female employees because of sex.

18. The effect of the practices complained of in paragraphs 12 and 17 above has been to deprive a class of female employees of equal employment

opportunities and otherwise adversely affect their status as employees because of their sex.

19. The unlawful employment practices complained of in paragraphs 8 through 18 above were intentional.

20. The unlawful employment practices complained of in paragraphs 8 through 18 above were done with malice or with reckless indifference to the federally protected rights of Stephens and a class of female employees.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant Employer, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in any unlawful practice which discriminates against an employee or applicant because of their sex, including on the basis of gender identity.

B. Order Defendant Employer to institute and carry out policies, practices, and programs which provide equal employment opportunities regardless of sex (including gender identity), and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant Employer to make Stephens whole by providing appropriate backpay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful

employment practices, including but not limited to front pay for Stephens.

D. Order Defendant Employer to make Stephens and a class of female employees whole by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 8 through 18 above, including medical losses, job search expenses, and lost clothing allowances, in amounts to be determined at trial.

E. Order Defendant Employer to make Stephens and a class of female employees whole by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 8 through 18 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

F. Order Defendant Employer to pay Stephens and a class of female employees punitive damages for its malicious or recklessly indifferent conduct described in paragraphs 8 through 18 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

Respectfully submitted,
EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION

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**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Equal Employment)	
Opportunity)	
Commission)	
Plaintiff,	)	Case No. 14-13710
)	
)	
v.)	
R.G. & G.R. Harris	)	HON. SEAN F. COX
Funeral Homes, Inc.,	)	United States
Defendant.	)	District Court Judge
)	

**ANSWER OF DEFENDANT R.G. & G.R. HARRIS
FUNERAL HOMES, INC. TO PLAINTIFF'S
AMENDED COMPLAINT**

Defendant, R.G. & G.R. Harris Funeral Homes, Inc. (“Funeral Home”), by and through its undersigned counsel, and for its Answer to Plaintiff’s Amended Complaint, states as follows:

1. It does not appear that the information contained in the section of the Amended Complaint entitled “NATURE OF THE ACTION” requires any response; however, to the extent such section of the Amended Complaint asserts any allegations, Funeral Home denies each and every allegation asserted therein.

2. Funeral Home denies the averments set forth in paragraph 1 of Plaintiffs' Amended Complaint.

3. Funeral Home denies the averments set forth in paragraph 2 of the Amended Complaint.

4. Funeral Home admits that the EEOC is the agency of the United States of America charged with the administration of Title VII but, except as so admitting, Funeral Home denies the remaining averments set forth in paragraph 3 of the Amended Complaint.

5. Funeral Home admits the averments set forth in paragraph 4 of Plaintiff's Amended Complaint.

6. Funeral Home admits the averments set forth in paragraph 5 of Plaintiff's Amended Complaint.

7. The averments contained in paragraph 6 of the Amended Complaint state legal conclusions to which no answer is required and the Funeral Home is otherwise without information sufficient to form a belief about the truth of the allegations set forth therein, and therefore denies the same.

8. Funeral Home is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraph 7 of the Amended Complaint and therefore denies the same.

9. Funeral Home denies the averments set forth in paragraph 8 of the Amended Complaint.

10. Funeral Home denies the averments set forth in paragraph 9 of the Amended Complaint.

11. Funeral Home denies the averments set forth in paragraph 10 of the Amended Complaint.

12. Funeral Home denies the averments set forth in paragraph 11 of the Amended Complaint.

13. Funeral Home denies the averments set forth in paragraph 12 of the Amended Complaint.

14. The averments contained in paragraph 13 of the Amended Complaint state legal conclusions to which no answer is required; however, to the extent paragraph 13 of the Amended Complaint contains any allegations, Funeral Home denies them.

15. Funeral Home denies the averments set forth in paragraph 14 of the Amended Complaint.

16. Funeral Home denies the averments set forth in paragraph 15 of the Amended Complaint.

17. Funeral Home denies the averments set forth in paragraph 16 of the Amended Complaint.

18. Funeral Home denies the averments set forth in paragraph 17 of the Amended Complaint.

19. Funeral Home denies the averments set forth in paragraph 18 of the Amended Complaint.

20. Funeral Home denies the averments set forth in paragraph 19 of the Amended Complaint.

21. Funeral Home denies the averments set forth in paragraph 20 of the Amended Complaint.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The EEOC's Amended Complaint fails to state any claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The EEOC's bringing and prosecution of this case exceeds the scope of the EEOC's legal authority and is ultra vires.

THIRD AFFIRMATIVE DEFENSE

The EEOC's claims are barred by the doctrine of at-will employment.

FOURTH AFFIRMATIVE DEFENSE

The EEOC's claims are barred by virtue of the fact that the Funeral Home was legally justified in any and all acts of which the EEOC complains, including but not limited to the Funeral Home's right to impose sex-specific dress codes on its employees.

FIFTH AFFIRMATIVE DEFENSE

The EEOC's claims are barred by virtue of the fact that Stephens anticipatorily breached or anticipatorily repudiated, or breached or repudiated, Stephens's employment contract with Funeral Home.

SIXTH AFFIRMATIVE DEFENSE

The EEOC's claims are barred by the doctrines of waiver, estoppel, unclean hands, laches, and other equitable doctrines.

SEVENTH AFFIRMATIVE DEFENSE

Some or all of the claims the EEOC asserts against Defendant Funeral Home are barred by applicable statutes of limitations.

EIGHTH AFFIRMATIVE DEFENSE

The EEOC's claims are barred due to the fact that they are not brought in the true name of the party in interest and/or for the failure to join an indispensable party.

NINTH AFFIRMATIVE DEFENSE

The EEOC's claims are barred or diminished by Stephens's failure to mitigate Stephens's alleged damages.

TENTH AFFIRMATIVE DEFENSE

Stephens's damages, if any, are the direct and proximate result of Stephens's own actions and/or the actions of others over whom the Funeral Home has no control.

ELEVENTH AFFIRMATIVE DEFENSE

The EEOC's claims violate the Funeral Home's right to due process under the 5th and 14th Amendments to the United States Constitution.

TWELFTH AFFIRMATIVE DEFENSE

The EEOC's claims violate the Funeral Home's right to free exercise of religion under the First Amendment to the United States Constitution.

THIRTEENTH AFFIRMATIVE DEFENSE

The EEOC's claims violate the Funeral Home's rights under the federal Religious Freedom Restoration Act (RFRA).

WHEREFORE, having fully answered, Funeral Home respectfully requests this Court to dismiss Plaintiff's Amended Complaint with prejudice, to award Funeral Home its attorney's fees and costs herein, and to award Funeral Home any and all further and other relief to which the Funeral Home is entitled by law or equity or as the Court determines is just.

JURY TRIAL DEMAND

Defendant requests a jury trial.

Respectfully submitted,

**KIRKPATRICK LAW
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Dated: June 4, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on June 4, 2015 and was served electronically on all parties by operation of the Court's electronic filing system. Parties may access the filing through the Court's system.

/s/ Joel J. Kirkpatrick
Joel J. Kirkpatrick (P62851)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Case No. 14-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

V.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Thursday, Nov. 12, 2015

30(B)(6) DEPOSITION OF THOMAS ROST

[55]

BY MR. PRICE

Q Okay. You indicated as part of the healing process, but what about your religious beliefs specifically are violated by continuing to employ Stephens?

A I believe it would violate my faith, yes, absolutely.

Q Okay. What aspects of it?

A Well, I believe that God created a man as a man and God created a woman as a woman. And to -- to not honor that, I would feel it's a violation of my faith, absolutely.

Q So Stephens would be presenting in a way that offended your religious beliefs, essentially?

A Yes. Yes.

Q And as a result you would not have to -- it would be within your rights to terminate them according to your religious belief, terminate Stephens from your religious belief?

A Yes. Uh-huh.

Q Have you ever terminated anybody else because of the belief that they were acting contrarily to your religious faith?

A No.

Q Are there any other circumstances you can think of where you would terminate somebody for [56] violating your religious beliefs?

A No, offhand I can't.

Q Okay. Are your religious expectations communicated to your employees in any way?

A I would say indirectly.

Q Indirectly?

A Yes.

Q How so?

A Well, number one, they know the material is around the funeral home.

Q The material?

A Yeah, I mean, we have little devotional books for people to pick up, they have these Jesus cards, they know where I attend church. They do know, yes.

Q Okay. Would the continued employment of Stephens have interfered with your right to place the devotional booklets or Jesus cards around your facility?

A No.

Q Would it have been interfered in any way with your ability to continue to worship as you chose?

A Go back to the question. You said just because he was there or if he was there dressed as a [57] woman?

Q After he made the announcement to you, okay? Would the continued presence of Stephens as an employee presenting as female have interfered with your ability to place devotional booklets or Jesus cards?

A No, he wouldn't be an employee.

Q Okay. I'm just speaking hypothetically.

A Yes, that is hypothetical. Yeah.

Q Okay. But you could have still placed Jesus cards and devotional booklets, right? There's nothing about Stephens presence that would affect that?

A No, hypothetically.

Q Okay. Likewise, hypothetically, there would have been nothing about Stephens presence that would have affected your ability to go to Oak Pointe or Highland Park, correct?

A Yeah, hypothetically, yes.

Q Okay. Would you say that your dress code for men and women also embodies your religious beliefs? As to how men and women are supposed to dress?

A No, I would say our dress code conforms to what is acceptable attire in a professional manner [58] for the services that we provide. In other words, there's an expectation for people that work in a fu-

neral home how they're going to dress and how they're going to look.

Q Okay.

A The culture dictates that.

Q So the culture dictates what you're supposed to be wearing?

A To some extent, uh-huh.

Q But isn't it the case that the dress code does align with the way you believe that men should dress in the workplace and that women should dress in a workplace?

A Yes, of course.

Q Okay. And that also aligns with your religious beliefs on that point?

A I guess if you want to put it in that term, but I don't know what it would have to do with religious terms.

Q Okay.

A I mean, you're an attorney, you have a white shirt and a tie like just about all attorneys look. You have a certain dress.

Q Okay. You indicated earlier that God made men as men and women as women. That was one of [59] your concerns about continuing to employ Stephens. You have a deep belief in that --

A Yes.

Q -- stemming presumably from Genesis, correct?

A Yes.

Q Male and female, he created them?

A Yes.

Q Okay. So, men and women should dress accordingly in your opinion, right, men should dress as men and women should dress as women; is that one of your concerns with Stephens?

A For employment at the funeral home, yes.

Q Okay. Now, you indicated also that one of the concerns you had was that people be protected and safe in the grieving process, I believe so. How would continuing to employ Stephens affect that?

A Well, his employment there would be looked upon as -- well, a -- let me back up. Let's see. Families come to us because they want an environment where they can begin the grieving process and the healing process and begin the experience of healing. We're there to meet their emotional, relational and spiritual needs. They're there with their [60] family and friends in an environment that they don't need some type of a distraction that is not appropriate for them and their family that they want to be involved in. And his continued employment would negate that.

Q So it's your belief that continuing employment would have posed that kind of distraction to people who are coming to use your services?

A Absolutely.

Q Okay. You never saw Stephens in anything other than a suit and tie, correct?

A That is correct.

Q Okay. So, you can't speak as to how Stephens would have presented --- you never saw Stephens present in female attire, correct?

A Correct.

Q Okay. So you don't know how they would have -- how Stephens would have looked, correct?

A I don't know how he would have looked, no.

Q Okay. So, but nevertheless, despite that it was your belief that it would have been a distraction?

A Yes.

Q Why would it be distracting for Stephens to so present?

[61]

A If he was dressed as a woman?

Q Yes.

A Well, just because I think common sense is going to tell you that most people identify men dressed a certain way in a funeral home and women as a certain way and I've yet to see a man dressed up as a woman that I didn't know was not a man dressed up as a woman, so that it's very obvious.

Q So it's your belief that there is no way that Anthony Stephens would be able to present -- the person you knew as Anthony Stephens would be able to present in such a way that it would not be obvious that it was --

A That is correct.

Q Okay. And that's based on your personal experience?

A Yes.

Q What -- you said it would be kind of a distraction, it would be disruptive for the process. How would you know that someone who is transgender and presenting would be a distraction or interruption --

MR. KIRKPATRICK: Objection, foundation on what transgender is.

* * * * *

[69]

follower of Jesus to present that faith through your business?

A That is true.

Q However, when you were presented with the letter, that did interfere with --

MR. KIRKPATRICK: Objection, what letter are you talking about?

MR. PRICE: The letter Stephens gave you.

MR. KIRKPATRICK: Okay.

BY MR. PRICE:

Q So when you were presented with that letter, at that point it was your belief that there was -- they could no longer serve that function, he could no longer serve that function?

A That is true. He what not going to conform to the dress code that was required.

Q The dress code is part of that ministry, correct?

A Yes, it is.

Q Okay. And it's part of the way you present your business through -- as a follower of Jesus Christ, correct?

A Yes.

Q And part of the way that you present your [70] business and your ministry and your exercise of your religious freedom is that men should be dressing in suits as part of this process and that women should be dressing conservatively in skirts, correct?

A Yes.

Q Now, with respect to this and also the previous affirmative defense, did you ever raise religious freedom or free exercise during the investigation as a basis for your decision-making?

A When the young lady was there?

Q Yeah. Or any other point?

A I don't recall.

Q Okay. If I tell you that there was no such mention in any of the filings that came through your attorney of religious freedom or free exercise, would you have any explanation for why that is?

A No.

Q Okay. Do you have any understanding why the religious freedom and free exercise were not mentioned in your first Answer to the Complaint that was filed starting this lawsuit?

A No.

* * * * *

[73]

in this case violate your religious freedom?

A Any other ways other than this?

Q Other than this, yeah.

A Yeah, I don't think there is any other way.

Q Okay. So that's the sole -- that's the sole basis of your claim that your rights are being violated is that we brought suit on behalf of -- to keep Stephens employed or to -- because you fired Stephens? That was badly stated. I'm sorry. Even I can recognize that.

So the sole basis of your rights being violated is the fact you're being sued for terminating Stephens' employment; that's the sole basis of your religious freedom being violated here?

A My religious freedom, yes.

Q Religious freedom. Okay. Backing up slightly, you talked about people -- your clients feeling protected and safe as part of the grieving process. In what ways would Stephens presenting as female violate that? I mean, you already talked about -- you had other discussions, but with other people, you know, other families. Can you think of other ways that it [74] would be -- in what ways is it really violating people's sense of protection and safety?

A Well, I've -- don't forget that common sense tells you that the people that come to the funeral home, I have wives, I have daughters, I have sisters, I have grandchildren, I have great-grandchildren, granddaughters, I have all of these ladies that are there. They -- not only would they be seeing an indi-

vidual like this and have to participate with the person, but you have also the bathroom situation where they -- are they going to share a bathroom with a man dressed up as a woman.

So, I have from older ladies to children, granddaughters that we're dealing with.

Q So, you were worried on their behalf that the presence of Stephens would be -- violate the safety of these people?

A Absolutely.

Q Was there anything about Stephens that indicated he was a danger to others, his behavior was -- did you ever have to write him up for being -- you know, for being threatening or anything like that?

[75]

A No, but I don't think that has anything to do with him being now dressed as a woman and confronting families and being involved with that. That sounds hypothetical to me too.

Q Certainly nothing about Stephens' manner of dealing with families before you received this letter raised any concern with you, correct?

A Correct.

Q Okay. Stephens had been solicitous of their feelings. Stephens had blended in well. Stephens had, you know, been courteous and compassionate to the people, the clients who came into your facility, correct?

A I would say so, yes.

Q Do you have any reason to believe that this would have changed just because of the outward presentation in female clothing?

A Don't know.

Q Okay. You don't know of anything that would have -- you can't speculate as to whether anything would have changed?

A I don't know.

Q Okay. But certainly before that, his manner was completely appropriate and in --

A It seemed to be, yes.

Q It conformed with what your expectations --

[76]

A Yes.

Q -- and hopes were for this what you call a ministry?

A Yes.

Q All right. Now, you're talking about granddaughters and sisters and that sort of thing, are you talking about your family members coming in --

A No, I'm talking about families --

Q Oh, extended family members coming in for funerals?

A Yes.

Q Okay.

A Uh-huh. But specifically the female part.

Q But you never got around to even -- there was no discussion of bathrooms with Stephens, correct?

A No.

Q That never came up at all?

A No.

Q So the bathroom thing is really hypothetical, I mean, because you never even got to that point?

A That's true.

Q Are there employee bathrooms as well as --

[77]

A There is not.

Q Just one set of bathrooms?

A That's it. Male and female. No unisex.

Q Is that the case in all of your facilities?

A It is not.

Q Okay.

A Just there, though.

Q Just Garden City?

A Uh-huh.

Q What about the other ones? What about Detroit?

A No, they're just male and female, there's nothing unisex there.

Q What about Livonia?

A They do have unisex.

Q Moving ahead to -- excuse me -- would be item -- it's not in the Complaint -- the answer --

It's not one of these?

Q It's not one of those. Yeah.

A All right.

Q It is Item Number 6 on our Notice which was "The creation and/or incorporation of Harris including any articulated purposes or mission statements and the identity of incorporating officers and subsequent officers during Aimee ***

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[86]

BY MR. PRICE

Q Just to clarify, earlier, actually a couple times you described it as -- your business as a ministry. What do you mean by that?

A Well, what I mean by that is, it's a ministry to people to serve them on the worst day of their lives for them and their family, and they come to use under the highest anxiety that they can possibly have, and they need help.

They need help to make decisions and they need help to get their lives and their family's lives back together and that's why we say that we're there to help them begin healing and to help meet their emotional, relational and spiritual needs,. And in a sense so much of what we do is involved, in a religious way if you want to call it that, it is a ministry. And my faith calls me to do that.

Q Your faith informs the way you operate the ministry?

A Yes. Yes. Absolutely.

Q Moving on to Number 7 in the Deposition Notice, it walks about “Non-privileged communications concerning or touching upon Harris’ exercise of ***

* * * * *

[106]

A Well, I’d be happy to do that, but, you know, when you’re as small as we are, we’re talking all the time, you don’t need to have everything written down.

Q Okay. Are there any unwritten policies?

A No.

Q Okay. Any unwritten expectations of employees?

A No.

Q Are there any reviews conducted, evaluations, that sort of thing?

A Not -- not in a -- in a formal setting.

Q Not like an annual review process or anything like that?

A No. No.

MR. PRICE: All right. I’m going to take a break before we finish the last section.

(Off the record at 12:10 p.m.)

MR. PRICE: Okay. We are back on.

(Back on the record at 12:17 p.m.)

BY MR. PRICE:

Q Moving on to 30(b)(6) Deposition Notice, Number 13, “The circumstances and reasons for

Aimee Stephens' separation from employment -- of employment from Harris and all policies Harris [107] relied upon in terminating Ms. Stephens."

Basically we'll be talking about just that whole process, determining to end the employment of Aimee Stephens.

Now, were -- you were involved in the hiring of Stephens, correct?

A I was.

Q What role did you play?

A I believe, if I remember, he -- he just came in looking for a job. I don't think he came in from an advertisement. I don't remember the circumstances. But, I believe I was the initial one that interviewed him.

Q Okay. And what job was this for?

A For a funeral director/embalmer, I guess.

Q Did you check-out the resume and references?

A Don't know.

Q Did you ever have any reason to believe that Stephens did not have the certifications or background to do the job?

A No.

Q In fact Stephens was able to perform the jobs of a funeral director and embalmer, correct?

A He was. Uh-huh.

Q All right. Now, was there somebody already [108] working as a funeral director and embalmer at that time?

A Don't know.

(Mr. Schrameck exited the conference room at 12:19 p.m.)

BY MR. PRICE:

Q Okay. What location was this?

A This is at the Garden City location.

(Jeffrey Schrameck entered the conference room at 12:19 p.m.)

BY MR. PRICE:

Q All right. Do you recall whether or not Stephens replaced somebody at that location?

A I don't recall. I don't know.

Q Is it possible?

A Oh sure, it's possible.

Q Okay. During your interview with Mrs. Dickinson, I believe you said that Stephens could do the job, correct?

A Yes.

Q All right. We've already talked earlier about, you know, that Stephens showed sensitivity and compassion to the clients who came in, correct?

A Yes.

Q Okay. And that there were no -- is it safe to [109] say then that there were no performance-related reasons for termination of employment?

A Not at that time, but we did have some issues beforehand.

Q But they didn't motivate the decision to terminate the employment, correct?

A No. No.

Q So performance was not the basis for discharge?

A That's right.

Q Did you have any kind of suspicion that -- prior to receiving the letter from Stephens announcing this desire to present as female, did you have any suspicion or thought that anything like that could be happening?

MR. KIRKPATRICK: Objection.

THE WITNESS: No --

MR. KIRKPATRICK: Objection based on foundation. Go ahead.

THE WITNESS: No.

BY MR. PRICE:

Q Okay. How did you receive this letter?

MR. PRICE: And let's have it marked as 7, please. (Deposition Exhibit No. 7 was marked for identification.)

[110]

THE WITNESS: (Reviewing.)

BY MR. PRICE:

Q Have you had a chance to review the letter?

A Well, I -- I know it from before.

Q Okay. You recognize it then?

A Yes.

Q Okay. Is this the letter that Stephens gave to you?

A Yes.

Q Okay. How did you come to get it?

A He handed it to me.

Q Okay. Where was this?

A I believe at the Garden City location.

Q Now, do you visit all the facilities every day?

A No.

Q No. Okay. How often do you get out to each of them?

A Oh, I'm -- couple times a week. Yeah.

Q Okay. Do you recall time of day, whatever, like that?

A I don't recall. I'm assuming he wanted -- he asked me to speak to him. I don't recall that though.

Q Okay. Do you recall -- was it in an office there?

[111]

A I believe it was just in the chapel.

Q Okay.

A What we call a chapel.

Q The living room facility?

A The living room, yes. You probably wouldn't call it that.

Q Okay. Was there anybody else present?

A No.

Q Do you recall the time of day?

A I don't.

Q Okay. So Stephens asked to meet with you or just approached you, what was the --

A I'm not quite sure.

Q Okay. Handed you the letter, though, correct?

A Uh-huh.

Q All right. You read the letter?

A I read the letter.

Q Okay. What was your reaction upon reading it?

A Well, it was kind of a shocking letter. I believe I just said to him that I would get back to him. He was going to go away on vacation in a couple weeks and I would get back to him.

Q He was going on vacation?

A Yes.

[112]

Q Stephens was going on vacation?

A Yes.

Q Okay. All right. Did Stephens say anything to you?

A I think he just -- he explained to me how he had been taking medication, I don't know how long, but he had been involved in wanting to present himself as a female.

Q Okay. Anything else?

A I don't believe so.

Q You indicated you were shocked at the letter. Did you have any other feelings about it?

A No, I don't think so.

Q Okay. You indicated that you would get back -- you were going to decide what to do?

A Yes.

Q Okay. So what did you do next?

A Contacted our corporate attorney.

Q Okay. And I don't want to know anything about details or anything like that. But who is your corporate attorney?

A David Thoms.

Q Was that the same day?

A I'm not sure.

Q All right. Do you recall roughly when -- are [113] we talking about the first week of August here, end of July, what's the time frame for this?

A I'm going to say it was in August, because it seemed like he was going to go away in September and so I think it was two weeks before. So, I think it was probably certainly in August.

Q Certainly in August. Okay. Now, who is David Thoms?

A He's an attorney.

Q From what firm?

A Miller Canfield at the time.

Q Where is Mr. Thoms now?

A He's just moved to another law firm and I don't know the name offhand.

Q Okay. Still your corporate attorney, though?

A He is.

Q How long has Mr. Thoms been your corporate attorney?

A 40 years.

Q What kind of work does Mr. Thoms do for you, what kind of --

A Well, whatever corporate attorneys do. You know, they fill out our forms and --

Q Okay. The corporate filings -- ***

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[117]

Q All right. What was the next thing that you did?

A Well, I met with Joel and --

Q We don't need to know the substance.

MR. KIRKPATRICK: Let's just be clear I'm objecting now, we're getting into some privileged communication.

THE WITNESS: Oh, okay.

MR. KIRKPATRICK: So I think -- I don't want to tell you what you're asking, but what did you do after -- what was next thing that happened. I -- go on and ask your question.

BY MR. PRICE:

Q Right. I do not want to, I'm not entitled to know what your conversations with your attorney are. So that is a privileged matter, but I do want to know what you yourself did.

A Well, the only thing I did was -- was meet with him and then formulate a letter in response.

Q Was this the severance letter?

A Yes.

Q Okay. So you decided to terminate Aimee Stephens' employment, correct?

A Yes. That -- yes. Yes.

[118]

Q Okay. And it was your decision?

A Yes, it was.

Q Did you get any input from anybody else in making the decision apart -- leaving aside lawyer stuff, we don't want to touch that?

A No. No.

Okay. Did you tell anyone at Harris that you were going to be terminating Stephens?

A I don't believe so. Not ahead of time.

Q Did you give a copy of Exhibit 7, Stephens' letter, to your attorney, Mr. Kirkpatrick as well?

A Oh, yes. Yes.

Q Okay. Now, why did you decide to offer a severance agreement to Stephens?

A It was just determined that we would want to approach it that way. I don't really recall why.

Q Okay. Do you -- have you ever offered severance agreements to any other employees that you've terminated?

A I have not.

Q You can't think of any specific reasons why you would choose to do so in this case?

A Not specifically.

[119]

Q Generally did you have any mindset behind offering that -- your thinking behind offering an agreement in this case?

A Well it was just, I would say, to see if there was some kind of a fair agreement that we could come to with his leaving under the circumstances.

Q Okay.

MR. KIRKPATRICK: I'm going to object to this line of questioning on the fact that this goes along with settlement discussions, potentially, and that's not admissible.

MR. PRICE: Okay. Well, let me see if I can --

BY MR. PRICE:

Q You did -- as part of the severance agreement wasn't there an agreement to waive Title VII claims?

MR. KIRKPATRICK: Again, it's -- I'm just going to object again and place it so we're really clear that we're getting into settlement options which are not admissible in court.

MR. PRICE: Well, the fact that -- ***

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[126]

Q Okay. How did you fire Stephens; how did you let Ms. Stephens know that she was being released?

A Well, I said to him, just before he was -- it was right before he was going to go on vacation and I just -- I said -- I just said "Anthony, this is not going to work out. And that your services would no longer be needed here."

Q That's at the Garden City location?

A Yes.

Q What time of day was it?

A It was later in the afternoon.

Q Where did you meet Stephens?

A In the chapel.

Q Chapel again?

A Uh-huh.

Q Did you ask for the meeting or did he ask --

A Yes.

Q All right. Did you present them with a severance agreement?

A I did.

Q Okay. Apart from saying "Not going to work out", do you recall anything else that you said?

A No.

[127]

Q How long did this conversation take?

A Not very long. Couple minutes.

Q Couple minutes total?

A Uh-huh.

Q What did Stephens say?

A He was sorry that it wasn't going to work out. And said that he might have to contact his attorney or an attorney. And I said, "Well, you do whatever you feel you have to do." And that was the end of the conversation.

Q Did Stephens leave the facility at that point?

A He did.

Q Did you ever talk to anybody else about -- apart from your management team, did you ever talk to anybody else about Stephens and the letter that you received?

A No. Obviously everybody became aware of it in the staff pretty quickly, but no.

Q Did you let people know that you fired Stephens?

A After the -- sure. Afterwards, sure.

Q Okay. Who did you contact?

A I probably sent it out in a little notice of some kind, that's usually what we would do, just to --

[128]

Q Is that e-mail or what?

A No, it's fax.

Q Okay. Do you still have a copy of that fax?

A No.

Q Do you recall what it said?

A I do not.

Q Would you have personally faxed it or would that have been something that you would have Shannon or --

A She would have sent it, yes.

Q Okay. Now, when your -- did you tell Stephens about any of your concerns regarding that you've talked about today, your religious freedom rights, you know, the affect on the ministry or anything like that?

A Did not talk to him about anything.

Q Just said "This is not going to work out"?

A That's exactly right.

Q And "Here's a severance agreement"?

A Yes.

Q And that's it?

A That's it.

Q Have you ever fired anyone else at Harris because of a -- what you believe to be a conflict with your religious concerns?

[129]

MR. KIRKPATRICK: Objection, relevance. Go ahead and answer.

THE WITNESS: No.

BY MR. PRICE:

Q Okay. Never fired anybody for adultery or sex out of marriage or anything like that, no?

A No.

Q Okay. No other kind of moral objection, any objection you would have that would have a religious objection, you've never fired anybody for?

A No.

Q Moving on to Number 14 in the last item on the Notice 30(b)(6), "The identity of the individuals or individual or individuals who decided to terminate Aimee Stephens and who played any role in making, reviewing or supporting that decision."

This was your decision, correct?

A Correct.

Q Okay. You did not ask for the input of anybody else at R.G. G.R.?

A No.

Q Okay. And it was -- the only documents that you reviewed in making the decision would have * * *

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[134]

which is the answer to the Complaint. Turn to page 3.

Now, you were asked by Mr. Price about the affirmative defenses; do you recall that?

A Yes.

Q Just so we understand, are you an attorney?

A No.

Q Do you have any legal training, per se?

A No.

Q Do you understand, perhaps conceptually, what affirmative defenses are in the context of a Federal lawsuit?

A No.

Q Okay. So, can you speak to perhaps what may be an appropriate affirmative defense or what might not be an appropriate affirmative defense in the context of answering a lawsuit?

A No.

Q Okay. You just relied on Counsel's advice?

A Yes.

Q All right. I'm going to ask you to review Exhibit 2. Can you tell me the date of that Exhibit at the bottom, what it's dated?

A It looks like 9, September, '13.

[135]

Q 2013?

A Yes.

Q Would it be fair to say that that date is shortly after Stephens was terminated from employment?

A Yes.

Q Was there a Federal lawsuit filed against your company at the time, Harris Funeral Homes at the time that that thing was filled out?

A No. I -- no.

Q Okay. And so, would it be fair to say that you received that document at some point; was it mailed to your location?

A Yes.

Q Okay. I think there was testimony you didn't recall and that it might have gotten to somebody else, but is it possible that you received that?

A Yes, we would have received it, yes.

Q Now, you had given some testimony pursuant to Mr. Price's questioning about why you terminated Stephens. Do you recall that?

A Yes.

Q Okay. Why did you -- what was the specific reason that you terminated Stephens?

[136]

A Well, because he -- he was no longer going to represent himself as a man. He wanted to dress as a woman.

Q Okay. So he presented you this letter, which I think is Exhibit -- I forgot what Exhibit Number it was -- might have been the last one.

Is it 7?

A Number 7, yes.

Q Yeah, Exhibit 7. So just for a little background and pursuant to the question of Mr. Price, you were presented that letter from Stephens?

A Correct.

Q Okay. And did anywhere in that letter indicate that Stephens would continue to dress under your dress code as a man in the workplace?

A No.

Q Did he ever tell you during your meeting when he handed you that letter that he would continue to dress as a man?

A No.

Q Did he indicate that he would dress as a woman?

A Yes. Yes.

Q Okay. Is it -- the reason you fired him, was it because he claimed that he was really a [137] woman; is that why you fired him or was it because he claimed -- or that he would no longer dress as a man?

A That he would no longer dress as a man.

Q And why was that a problem?

A Well, because we -- we have a dress code that is very specific that men will dress as men; in appropriate manner, in a suit and tie that we provide and that women will conform to their dress code that we specify.

Q So hypothetically speaking, if Stephens had told you that he believed that he was a woman, but would only present as a woman outside of work, would you have terminated him?

A No.

Q Would you have hired and terminated somebody for being gay?

A No.

MR. PRICE: Objection, speculation.

MR. KIRKPATRICK: Okay. Okay. Speculation.

BY MR. KIRKPATRICK:

Q You had some questions about your moral beliefs and whether or not you fired somebody for being an adulterer; do you recall that?

[138]

A Yes.

Q Would you fire someone just for being an adulterer?

A No.

Q As long as they followed the rules would they stay?

A Yes.

Q Including the dress code?

A Yes.

Q Okay. Or a woman who claimed that she had an abortion, as long as she followed the rules, would you have fired her?

A Yeah -- no, I wouldn't have fired her.

Q Okay. As long as she followed the rules, she could stay?

A Yes.

Q All right. Have you ever hired any gay people?

A Yes.

Q Or I should say, have you ever had any gay people work for you?

A Yes.

Q Have you ever fired them for that reason?

A No.

Q Okay. Now, there was questions about issues after Stephens was fired and things that you [139] were thinking of when Mr. Price was questioning you and there was an issue of safety using restrooms; do you recall that?

A Yes.

Q That word "Safety", was it -- what, you believed that he was going to be physically dangerous to people?

A No. No.

Q What do you mean about you were concerned about safety about girls and women and granddaughters using the restroom with someone who was a man dressed as a woman?

A Well, just presenting in a funeral home an environment that is suitable for them to begin the healing process.

Q Okay. Would it be uncomfortable?

A Yeah, that it's a comfortable situation, yeah.

Q But, just to be clear, you didn't believe that just because Stephens had presented you this letter and told you what he told you, that somehow he was going to be a physical danger to anyone?

A No.

Q Okay. There was some questions that Mr. Price asked you about your interview you had with the ***
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Thursday, Jan. 21, 2016

DEPOSITION OF MATTHEW ROST

[33]

THE WITNESS: Yes.

BY MR. PRICE:

Q. Okay. When was this, do you recall?

A. I believe -- I mean, I didn't come out and ask if the person was gay.

Q. Sure. Fair enough.

A. But I believe that the person that we had employed for 40 years was gay.

Q. Okay. What role was that person in?

A. Licensed funeral director.

Q. Okay. When did the person stop working there, if you can recall?

A. 12 years ago.

Q. So back in 2002 -- sorry, 2004?

A. Probably earlier than that.

Q. Probably before then?

A. Uh-huh.

Q. Okay. Do you recall that person's name?

A. Uh-huh.

Q. Who is it?

A. Dave Sosnowski.

Q. That person retired?

A. He was let go.

Q. He was let go. Why was he let go, do you recall?

A. I think it had to do with making a family upset. [34] I don't know what it was about.

Q. Okay.

A. But it had to do with confrontation with a family that we served.

Q. You don't recall any more details than that?

A. No.

Q. All right. And your father made that decision to let him go?

A. The manager at that time or my father.

Q. Okay. Do you recall who the manager was?

A. That was Richard Kumert.

Q. Do you have an understanding of what insurance coverage is available through -- provided to employees at R.G. & G.R. Harris?

A. No.

Q. All right. Do you yourself have coverage through R.G. & G.R. Harris?

A. Yes.

Q. Okay. Do you know the provider?

A. It was Blue Cross but not anymore.

Q. United Health Care?

A. Yeah, United.

Q. All right. After Stephens was fired, was there - do you recall participating in any discussions with Stephens with anyone at R.G. & [35] G.R. Harris?

A. Sure.

Q. Okay. Whom did you -- what was the nature of the discussions after the fire?

A. That we were sad to see him go and we wished he wouldn't have made that decision.

Q. Who did you have this discussion with?

A. Other managers.

Q. Okay. Dave Cash?

A. Uh-huh.

Q. Yes?

A. Yes.

Q. David -- is it Kowalewski?

A. Yes.

Q. All right. Anybody else?

A. No.

Q. You ever discuss it with your father post-termination?

A. No.

Q. Just take a second. Is there any significance for the card there?

A. No. I just had it out in case you were going to ask me the address.

Q. Okay. Could you -- actually, could we have the address for the Detroit?

* * * * *

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 14-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Thursday, Nov. 12, 2015

DEPOSITION OF THOMAS ROST

[13]

Do you know who updated it the last time it was done?

A Do not know.

Q Okay. Now, with respect to -- we talked about a dress code and I'll get back to that in a little bit, but there is a clothing allowance policy at R.G. G.R. Harris, correct?

A Well, not for men. No, because we give them the suits.

Q Okay.

A They don't buy -- we buy the suits. We tell them what to wear.

Q Okay. So the men are told what to wear?

A And we give it to them, we provide it.

Q Okay. Where do you get this -- what are the men given?

A This is what they're given right here.

Q So it's a blue --

A It's a blue striped shirt and they get a tie.

Q Blue striped suit and tie?

A Yeah.

Q Where do you get the suits from?

A A place on 12 Mile and Middlebelt called Sam Michael's.

Q And how often are suits issued to the male [14] employees?

A Well, it's different for -- let's say --- I get suits, we'll say, like every three or four years because I'm not very hard, but U have some people that are -- they're animals, you know, they're --

Q They wear their suits out?

A They wear their suits out, so they require --

Q Okay. So you get -- how many suits are issued at hire?

A Well, for a full-time person, he gets two. For a part-time person he gets one.

Q So a full-time male employee gets one -- or two suits?

A Right.

Q And two ties?

A And two ties.

Q Okay. And the part-time gets one?

A One, right.

Q And then as they wear out they're replaced, is that correct?

A Well, it's likely every couple years normally.

Q Every two years?

A Yeah. But sometimes people have an emergency or something.

[15]

Q But generally speaking every two years?

A Two or three years, yeah.

Q Okay. Now, how much does a suit cost you?

A I'm going to say about 225.

Q And how much does a tie cost?

A Ten bucks.

Q Do you get the ties from the same place?

A Yep.

Q Are they ordered all at once or just kind of --

A No.

Q Just periodically?

A No. We used to do that, but we don't anymore, no.

Q When did that cease to happen?

A Oh, probably 20 years ago.

Q Okay. With respect to female employees, what do they get?

A They get a little allowance.

Q Okay. And how is the allowance, how is it doled out?

A They get a check.

Q Annually?

A They get it annually.

Q Okay. How much -- how is it determined how much a female employee will get?

[16]

A A female gets 150 bucks -- dollars, and a part-time gets 75.

Q So full-time gets 150 and part-time 75?

A Right.

Q And who -- how is that calculated; who sets how much the men and woman are going to be getting?

Let's go back to the women. Who determines -- how is it set that women would get 150 if they're full-time and 75 for part-time?

A I guess I set it. Yeah.

Q Okay. How long has that been the case?

A A few years.

Q Do you know how -- was it stretching back before Stephens was employed?

A Just about the same time.

(Mr. Schrameck entered the conference room at 2:28 p.m.)

BY MR. PRICE:

Q Okay. That's when women would get 150 and 75?

A Yeah.

Q All right. Was it different before then?

A No, they -- they didn't get anything before.

MR. PRICE: Okay. Now we were given -- have the following marked as Exhibit 8 here. Am I correct on that?

[17]

THE COURT REPORTER: Yes.

MR. PRICE: Oh, good. Marked as Exhibit 8, please. • Thank you.

(Deposition Exhibit No. 8 was marked for identification.)

THE WITNESS: (Reviewing.)

BY MR. PRICE:

Q Do you recognize this Exhibit?

A Yes.

Q Okay. Do you know how it was prepared?

A I do not know. I have not seen this before.

Q Okay. This was provided to us as part of a chart for how much was allocated to the various employees, either they're given suits and ties or they're given a stipend. Okay?

A All right.

Q Do you know what time frame this covers, is this like a couple year time frame?

A I do not know.

Q Do you have any idea who prepared this?

A Probably Shannon Kish.

Q Okay. But it's at least your understanding that women are getting -- full-time women get \$150?

A That's my understanding, yes.

[18]

Q Okay. And part-time women get 75?

A Yes.

Q And then part-time men get 225 plus 10, and full-time men get --

A You might say that.

Q Okay. 450 plus 20?

A You might say that, yeah.

Q Okay. What do you mean by that?

A I mean if you added it up, yeah.

Q Okay, yeah. At least it looks like on what you've described to me the men are getting a little bit more monetary value. You know, a suit and tie for \$235 for part-time as opposed to \$75 for a part-time female employee. Do you have any understanding of the discrepancy there?

A Well, because that man is going to keep that suit and wear it for three or four years.

Q Okay.

A Most part-time people I never have to replace the suit, so they may wear it for ten years.

Q Okay.

A So actually they're receiving more. Or the women are receiving more benefit.

Q What about full-time men, do they tend to wear [19] them out faster?

A Well, they're wearing them every day, but you know, they'll go three years.

Q Or less if they're, like you said, something --

A They might need a pair of pants.

Q Okay.

A You know, things like that. They might rip them.

Q Do you have records on the replacement and stuff like that?

A No.

Q Would that be Ms. Kish would have it?

A She might, yeah.

Q And if a suit is damaged they can get that replaced too, suit coat?

A They could or get it fixed. They'll repair them for them.

Q Do they have to pay for the repairs?

A No.

Q You'll pay for the repairs?

A Well, probably we don't pay for them at all. I mean they probably repair them at no charge.

Q This is the Sam Michael people?

A Yes, he would, yeah.

Q How long have you done business with Michael's?

[20]

A Maybe ten years.

We talked a little bit before, but I'm going to touch on some related stuff. Before we discussed the fact that you became aware that my agency was investigating your company based on the charge filed by Aimee Stephens and that there was prepared as part of that, a response by the company filled out by Mr. Kirkpatrick, I believe it was --

MR. KIRKPATRICK: I put them in order.

MR. PRICE: Yeah, I have a problem keeping them there.

BY MR. PRICE:

Q Exhibit 3.

A (Reviewing.)

Q I believe I asked you if you -- do you recognize this, and --

A Well, this is -- yeah. You're right, he wrote the response, yes, and I do recognize the response, yes.

Q Okay. Did you see it before it went out, to your recollection?

A I would assume I did, but I don't recall. But I'm sure I did.

[21]

Q Okay. Now, there's some references in there to, you know, they don't know -- there's no awareness of who Aimee Stephens is, but there was an Anthony Stephens. Now, when Stephens presented you the letter, which was Exhibit --

A Uh-huh.

Q -- there was a reference to -- there was also signed not just Anthony Stephens, but Aimee Stephens, correct?

A Uh-huh.

Q Okay. "Yes"?

A Yes.

Q Okay. So, was there any confusion as to who was filing the charge in this case?

A Well, yes, there's confusion because everything in our employment records is Anthony. And that was his name and employment, that's his driver's license, that's his insurance policy, that's his mortuary science license, that's everything is Anthony Stephens. There is no Aimee Stephens that's involved in our organization.

Q Okay. But the letter that was presented to you did say Aimee Stephens, correct?

A It probably did, yeah. Let's see.

[22]

Q Let's double check.

MR. KIRKPATRICK: Here it is.

THE WITNESS: Okay. So he signs both names.
Okay.

BY MR. PRICE:

Q Okay. So, was there any confusion on your end as to who was bringing this charge?

A Either Anthony or Aimee Stephens.

Q It would have been the same person, though --

A Would be the same person.

Q -- the person you knew as Anthony Stephens was filing it, right?

A Yes.

Q There's no question as to that?

A That's true.

Q Now, did you -- okay, I apologize. Did you see it before it went out or not?

A Did I see?

Q The position statement?

A Yes.

Q Okay.

A Correct.

Q Did you recommend any changes to it, that you can remember?

A I don't believe so.

[23]

Q Okay. Does it fairly reflect your views as to the case and the position of the company?

A Yes. Yes. Uh-huh.

Q Were you uncomfortable with the fact that the name Aimee Stephens was being used in the charge?

A I'm uncomfortable with the name because he's a man.

Q Okay. And you wanted to keep referring to Stephens as Anthony Stephens, correct?

A That's who the employee was.

Q I'm sorry, the employee?

A Yeah. He was the employee.

Q Okay. And we have already talked a little bit about the fact it doesn't talk about religious freedom or free exercises and it was that -- it was your belief that you didn't have to raise this at this point?

A Yes.

Q Okay. Have you ever disciplined anyone for a violation of the dress code?

A No. I wouldn't say discipline, no.

Q Okay. Have you ever counseled somebody that they're -- they weren't adhering to the dress code?

[24]

A We have done that.

Q Okay. How recently?

A It hasn't been very recent.

Q Okay. What was the issue?

A Hard to say. It might be a woman, possibly, on her dress, or -- pretty hard for a man since we dress them.

Q Okay. What is the woman's dress code, what do they have to wear?

A Well, they wear a skirt and usually a jacket.

Q Okay.

A A professional-looking suit.

Q Okay. What about pants, no pants?

A No pants.

Q Why is that?

A I guess I'm just old-fashioned and I believe this is a funeral home and there's a certain tradition that we want to keep there. We want -- and I think the consumer out there, families believe that they -- a male should look like a particular individual, like a man,

A We have done that.

Q Okay. How recently?

A It hasn't been very recent.

Q Okay. What was the issue?

* * * * *

[46]

MR. PRICE: Okay. We do not have anything else.

MR. KIRKPATRICK: All right. I guess we'll have a few questions here.

EXAMINATION

BY MR. KIRKPATRICK:

Q Mr. Price asked you several questions using the chart here about allowances and suits and that

kind of thing. I'm just going to ask you a question, why is there a difference with women getting an allowance and men having suits purchased for them?

A We want men to look a certain way as professional funeral directors as people have come to know what they would look like, a dark suit, white shirt and a tie. The difference with women, if we had a woman funeral director she would look comparable to a man, but our other female employees dress in a professional manner, as we have talked about, in a skirt and usually in a jacket, and in an appropriate blouse --

Q Okay. So -- oh, go ahead.

A But the reason we haven't given them a uniform is because they can't come to an agreement on [47] what type of a uniform would be appropriate for them.

Q So did you at one point consider having a uniform, so to speak, like the men have a suit uniform for the women?

A Yes, absolutely.

Q And it was going to be something specific, the same color, that kind of thing?

A Yes.

Q And why did that not materialize?

A They couldn't come to an agreement on anything.

Q And what do you mean by that?

A One likes this color, one likes that color; one wants stripes that go this way, one wants stripes that go that way.

Q Okay. So, you came up with a policy you have now in place for women as professional business attire?

A Professional business attire, exactly.

Q Now, do you currently have any female funeral directors?

A I do not.

Q If you did have a female funeral director, what would describe what her uniform would be or what she would be required to wear?

[48]

MR. PRICE: Objection, speculation.

But go ahead.

THE WITNESS: She would have a dark jacket and a dark skirt, matching. Matching.

BY MR. KIRKPATRICK:

Q Okay. A skirt. So just like the male funeral director she would have a business suit, but a female business suit?

A Yes.

Q As a skirt?

A Yes.

Q Now, you were asked by Mr. Price about Exhibit 3. This letter here. And I know you recognize that, right?

A Yes.

Q That was actually prepared by me, correct?

A Yes, correct.

Q I kind of touched on this the first time during the first deposition, but you have no legal training, right?

A That's correct.

Q Do you fully understand all of the legal concepts that were enumerated and set forth in that letter?

A No.

[49]

Q Okay. Thanks. Now, Mr. Price asked you about what would happen and the speculation of perhaps a customer may have seen Stephens after work, let's say, outside of the funeral home wearing a dress or presenting as a woman and they might be upset what you might do, correct, do you remember that?

A Yes.

Q I think you said you would be uncomfortable, right?

A I would be uncomfortable.

Q Would you fire him for that?

A Probably not, but I would ask him some questions.

Q Okay. How about if a customer maybe saw another employee outside of the funeral home on their

own time carrying a -- several pornographic videotapes, would that make you uncomfortable?

A Make me uncomfortable, but I wouldn't fire them.

Q Okay. Why do you have a dress code?

A Well, we have a dress code because it allows us to make sure that our staff is -- is dressed in a professional manner that's acceptable to the [50] families that we serve, and that is understood by the community at-large what these individuals would look like.

Q Is that based on the specific profession that you're in?

A It is.

Q And again, tell us why it fits into the specific profession that you're in that you have a dress code?

A Well, it's just the funeral profession in general, if you went to all funeral homes, would have pretty much the same look. Men would be in a dark suit, white shirt and a tie and women would be appropriately attired in a professional manner.

Q And why do you provide suits to your funeral directors?

A Well, because we want them all dressed exactly the same. We want them to look the same.

Q Is it to comply with the dress code?

A It is to comply with the dress code, yes.

MR. KIRKPATRICK: That's it, guys.

MR. PRICE: Okay.

RE-EXAMINATION

BY MR. PRICE:

[51]

Q It's not just the funeral directors that gets suits, though, it's the funeral director assistants, correct?

A That's what -- yes, the men's, yes.

Q Okay.

A Yeah, because they're -- to the consumer they think they're funeral directors, I mean, any male person.

Q Okay. Now, have you been to funeral homes where there have been women wearing businesslike pants before?

A I believe I have.

Q Okay. So, the fact that you require women to wear skirts is something that you prefer, it's not necessarily an industry requirement?

A That's correct.

Q Okay. But women could look businesslike and appropriate in pants, correct?

A They could.

Q Okay. Now you were asked about what if a customer had seen Stephens in this hypothetical about, you know, Stephens only presented as female outside of work, if that person had said that they were not going to come back -- they were not going to use the services of the [52] Harris Funeral Homes what would you have done?

A Don't know.

Q Okay. But that would have been a factor to consider in how you addressed Stephens' situation in that case, correct?

A It probably would have been.

Q And it could have been reason to let Stephens go if --

A Perhaps, yes.

Q Okay. Now, you were asked about 3 and it's true this was -- letter was drafted by Mr. Kirkpatrick, but you hired him to represent you?

A That is true.

Q You hired him to represent Harris in defense against this charge?

A Yes.

Q Okay. And if you had any questions about what was in the letter, you certainly were encouraged to ask questions; is that the case?

A Yes.

Q Did you choose to ask any questions?

A Do not know.

Q You do not recall?

A I do not recall.

* * * * *

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

V.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Livonia, Michigan
Wednesday, Dec. 16, 2015

DEPOSITION OF AIMEE A. STEPHENS

[17]

apprentice for visitations?

A. Basically what any other funeral director would do, which is to be available in case somebody needed something.

Q. And did you like participate in bringing the body upstairs in the casket?

A. Yes.

Q. Did you participate in interacting with the family?

A. Yes.

Q. Did you participate in running the logistics of having a visitation with family and that kind of thing? If that makes sense.

A. Yes.

Q. Were you required to wear certain clothes or a certain uniform?

A. Yes.

Q. As a full-time apprentice?

A. Yes.

Q. What were you required to wear?

A. Then, a coat and tie.

Q. Coat and tie.

A. Of their choosing.

Q. Of your choosing?

A. Their choosing.

Q. Their choosing. Do you recall specifically what they [18] chose to wear?

A. Not right offhand. I mean it didn't stay the same. It changed season to season.

Q. I guess what I'm getting at, was it like a navy blue suit, coat, tie, or was it a black suit, that kind of thing?

A. It changed season to season. Whatever they agreed on.

Q. Now, when you said it changed season to season, was there kind of a certain class of suit? I'll explain what I mean by that. Was it that they used certain color schemes where maybe they wouldn't wear a bright red coat? I mean I'm just trying to understand. Did they have a certain policy of what kind of suits that they required people to wear?

A. They bought them, they provided them, you wore them.

Q. Okay. Do you ever remember wearing anything what I would maybe say is a loud suit? I know maybe that's not your interpretation, but I'm saying like a bright lime green suit?

A. No, but I have worn baby blue.

Q. Okay. Now, when you say coat and tie, is this understanding of a man's coat and tie?

A. Yes.

Q. And were there any female apprentices at this location?

[19]

A. No.

Q. Were there any female funeral directors at that location?

A. Yes.

Q. What were they required to wear?

A. She was the owner.

Q. So she required herself to wear. But what would she normally wear?

A. She wore everything from a pantsuit to a skirt and jacket.

Q. When you say pantsuit, are you referring to --

A. Jacket.

Q. -- a female pantsuit that is made --

A. Yes.

Q. Did they have any kind of employee manual they gave you when you started working there?

A. Yes, they did.

Q. Was there, the dress code that you were required to wear, was that contained in the employee manual?

A. To some degree, yes.

Q. Do you know if they're still in operation today?

A. I think they are, but I'm not sure they're under the same name anymore.

Q. Now, I think you said you worked there from '84 to approximately '86. What did you do in 1986?

* * * * *

[45]

Construction.

Q. Westview Construction. Where were they located?

A. Whitmore Lake.

Q. What was your job title there?

A. Mechanic.

Q. So were you the working mechanic for their vehicles?

A. Yes.

Q. How long did you work there?

A. Until like August of 2007.

Q. And why did you leave in August 2007?

A. His company went down hill.

Q. Oh, really. So paychecks were going to be vanishing at some point?

A. They vanished.

Q. Okay. So what did you do in August of 2007?

A. That's when I decided to go back to funeral service.

Q. Tell me what you did when you made a decision to go back to funeral services? What did you do to get back into funeral services?

A. I called the State Board, asked them what I needed to do to get my license here in Michigan.

Q. Okay.

A. After doing their research or whatever, they said that I needed to serve a six-month apprenticeship and then take the State exam for funeral service.

[46]

Q. Did you take a six-month apprenticeship?

A. That's when I went to work for R.G. & G.R. Harris.

Q. So was that where you served your apprenticeship?

A. Yes.

Q. And then after a six-month period or so, then you applied and took the test, or whatever, the licensing?

A. Yes.

Q. And when did you get licensed in the State of Michigan?

A. I think it was in April of 2008.

MR. PRICE: Excuse me, can we take a break right now?

MR. KIRKPATRICK: Sure. Let's take a five, ten-minute break.

MR. PRICE: I'd go for ten. I appreciate it.

MR. KIRKPATRICK: And just so you know, if you need to take a break at any time, just let us know. I don't think I said that.

(Off the record at 10:17 a.m.)

(Back on the record at 10:27 a.m.)

MR. KIRKPATRICK: Back on the record.

BY MR. KIRKPATRICK:

Q. All right. What is your current legal name?

A. Aimee Australia Stephens.

[47]

Q. That's the name you used early on in the thing. Okay.

Has that always been your legal name?

A. Prior to August 29th or 30th of 2013.

Q. So what was your legal name prior to August of 2013?

A. William Anthony Beasley Stephens.

Q. And when did you begin that process to change your name from Anthony Stephens to Aimee Stephens?

A. Probably May of 2013.

Q. Just so I understand, what did that entail for you to do to legally change your name?

A. There's a ton of paperwork to be done.

Q. Okay.

A. With the county court house, applications and affidavits and so on to be filed.

Q. All right.

A. Fingerprints had to be done through the Michigan State Police.

Q. Okay.

A. Basically a background check.

Q. All right.

A. It was advertised in the Legal News.

Q. Okay.

A. And then a court date was set.

Q. Did you do this yourself? Did you fill out the paperwork?

[48]

A. Yes.

Q. You didn't hire an attorney?

A. No.

Q. And you said the county court house. Was that in Wayne County?

A. Wayne County.

Q. And this happened in, I think, August 29th or 30th, I think, 2013?

A. Yes.

Q. Was that the Court Order changing your name?

A. Yes.

Q. So did you go before a judge or something like that?

A. Yes.

Q. Did you have the name Anthony Stephens that you said prior to that your whole life?

A. Pretty much.

Q. You were born with that name?

A. Yes.

Q. I'm assuming your parents named you Anthony; right?

A. Yes.

Q. Now, I think you testified you began to work for R.G. & G.R. Funeral Home in 2007; is that right?

A. Yes.

Q. Was your legal name when you took that job the William Stephens?

[49]

A. Yes.

Q. Was that always your name legally when you were employed by R.G. & G.R. Funeral Homes?

A. Yes.

Q. Were you born a male?

MR. PRICE: Objection. I think this is getting to the part of the Protective Order here.

MR. KIRKPATRICK: It's not the Protective Order. I'm asking were you born a male or female. I'm not asking about any transition, I'm just asking about sex assigned at birth. Does that assist?

MR. PRICE: You can go ahead and answer.

A. I was assigned male at birth.

BY MR. KIRKPATRICK:

Q. What does that mean to be assigned male at birth, or any sex at birth? When I say that, what your understanding is.

MR. PRICE: I really think we're getting into the transition phase. I'm going to object. I mean I really think this is relating to the transition from male to female, and I think we are -- it really does fall within the Protective Order.

MR. KIRKPATRICK: I don't believe it does fall in the Protective Order.

[50]

Why don't we go off the record for a minute and maybe the attorneys can have a conversation.

MR. PRICE: Okay.

(Off the record at 10:31 a.m.)

(Back on the record at 10:37 a.m.)

MR. KIRKPATRICK: Back on the record.

BY MR. KIRKPATRICK:

Q. So as we fast forward or actually go back to August of 2007, you testified already that you worked at R.G. & G.R. Funeral Home; right?

A. As of October 1st.

Q. I'm sorry.

A. 2007.

Q. You're right. October 1st, 2007. What was your position?

A. When I first started, I would basically have been an apprentice.

Q. So your job title was apprentice. Was that similar to the job title you had in the very first funeral home you worked at back in North Carolina?

A. Yes.

Q. And was it your understanding that at some point you'd get another job title such as funeral director?

A. Yes.

Q. And how long did you work in that role as apprentice?

* * * * *

[66]

A. Well, like I said, I've come as close as I can get for you.

Q. Okay. I appreciate that.

And your typical job duties at R.G. & G.R. Funeral Home, what else did you do besides embalmings?

I know we've kind of gone over that with others, but since we're in this litigation, I want to focus on your specific duties with this funeral home.

A. Embalming, cosmetizing, casketing, dressing.

Q. Anything else?

A. Viewing.

Q. Viewing like we talked before where --

A. Correct.

Q. -- you prepare. Okay.

A. Funerals.

Q. How about removals?

A. Oh, of course removals.

Q. And interaction with families, that kind of thing?

A. Every time that you make a removal you have that chance.

Q. And you always wore this suit and tie that was purchased for you by the company?

A. Yes.

Q. Did you ever request any other kind of clothing other than suit and ties when you were with R.G. & G.R. [67] Funeral Home to wear?

A. No.

Q. Why don't you tell me a little bit about the circumstances surrounding your termination from the funeral home? What happened and how were you terminated from the funeral home?

A. There was a letter given to Mr. Rost stating my intentions and what I needed to do.

Q. Okay.

A. As far as my life went or was going at that time.

Q. Okay.

A. He read the letter, and basically that was it at that point.

Q. All right. Let's back up a little bit.

You say you gave him a letter. Is it a letter that you typed up and wrote or --

A. Yes, it is.

MR. KIRKPATRICK: Just for the record --

MARKED FOR IDENTIFICATION

DEPOSITION EXHIBIT 3 (Letter) 11:02 a.m.

BY MR. KIRKPATRICK:

Q. You had an opportunity to review that Exhibit?

A. Yes.

[68]

Q. Is this the letter you were talking about?

A. Yes.

Q. If you look on page two, is that your signature, Anthony Stephens?

A. Yes.

Q. Is that your signature, Aimee A. Stephens?

A. Yes, it is.

Q. I notice this is not dated. Do you recall when you wrote this letter?

A. The letter itself actually took a while.

Q. Okay.

A. Many drafts. It was delivered to Mr. Rost on July 31st.

Q. So July 31st, 2013?

A. Yes.

Q. And did you just present this letter only to Mr. Rost?

A. It was presented to him.

Q. Okay. Did you give it to anyone else?

A. About everybody else that worked for the funeral home had read it.

Q. So did you give copies of this letter --

A. No.

Q. -- to anyone else?

A. No.

Q. So there's one letter you brought in and gave to Mr. ***

* * * * *

[74]

A. Yes.

Q. And you present him with this letter; right?

A. Yes.

Q. Was anyone else present at that meeting?

A. No.

Q. Where did the meeting take place?

A. It was at Garden City in the chapel.

Q. The chapel is just that really big room?

A. Yes.

Q. No one else was around?

A. No.

Q. I think you stated that.

Tell me what happened?

A. I already did. I gave him the letter, he read it, and basically that was it.

Q. So did you say anything to him other than what was on the letter?

A. Not really. The letter pretty much explains everything.

Q. Just so I understand, you gave him the letter and he read it while you were standing there?

A. We were sitting down.

Q. Okay. Sitting down.

Did you say Tom, I have something to show you?

[75]

A. I told him, I said, Tom, I've got a letter I'd like for you to read.

Q. Okay.

A. And I gave him the letter.

Q. Did you say anything else to him about that?

A. I don't recall, no.

Q. What did he say after he read the letter?

A. I don't recall him saying much of anything.

Q. Okay. So he reads the letter, you don't recall what he said. What happened next?

A. He folded up the letter, put it in his coat pocket, and that was it.

Q. He didn't --

A. Because we were right at the end of the day.

Q. He didn't say anything to you about the letter, he just -- you don't recall him saying anything?

A. I don't recall him saying anything.

Q. And then what happened next?

A. Well, I worked for the next two weeks.

Q. All right.

A. Then he came in just before I left for my vacation.

Q. Okay.

A. And said basically this is not going to work, and handed me a letter.

Q. Not going to work is what Tom said?

[76]

A. Paraphrasing, yes. I don't remember exactly.

Q. I understand. Did he say anything else to you?

A. Like I said, he handed me a letter.

Q. Okay.

A. Which was a separation agreement.

Q. All right.

A. And things that he was willing to give me a specified severance agreement if I agreed not to say anything or do anything.

Q. Okay. And did you agree to sign that then?

A. No, I did not.

Q. So he gave you this letter, he said it's not going to work. You don't recall him saying anything else other than that?

A. Well, he really didn't have to. The letter pretty much explained it.

Q. And then what happened after those exchanges occurred? Did you leave?

A. Well, there again, right at the end of the day, I finished what I was doing and went home.

Q. Did you --

A. And started my vacation.

Q. Did you ever follow up with the information he gave you or was there anything else said to you? Did you [77] think you were going back to work? I'm just trying to understand what next happened.

A. Do you have a copy of the letter he sent me?

Q. Well, it works when I ask you a question. I understand --

MR. PRICE: Just let him --

A. Okay.

BY MR. KIRKPATRICK:

Q. I mean please understand, I just have to ask questions because there's been a lawsuit initiated that we're litigating, so I need to know specifically what you recall about what happened at these meetings and what happened next.

A. Okay. I told you what I recall.

Q. Okay. I appreciate that. Were you under the impression when he gave you that letter that you were no longer employed?

A. Yes.

Q. Did you like clean out your locker, if you have a locker, or take your personal stuff home?

A. I took my personal stuff home.

Q. Did you speak to any other employees?

A. I think I was the only one there by the time we finished.

Q. During that two-week period of time between the time [78] you gave Tom the letter and this meeting where he gave you a letter, did you talk to any employees about this?

A. No.

Q. Did anyone ask you about it?

A. Not really.

Q. Did Dolly ask you anything about it?

A. No.

Q. How about Michelle?

A. No.

Q. How about Sharon?

A. No.

Q. How about any employees at Livonia?

A. No.

Q. How about any employees at Detroit?

A. No.

Q. And George Crawford didn't ask you anything about it?

A. He didn't know anything about it.

Q. Do you know if he ever became aware of it before you were let go?

A. Not before I left.

Q. Was he not there at the office or something?

A. He wasn't there that particular day.

Q. And no other managers knew -- you had no interaction with any employees during that two-week period?

[79]

A. No.

Q. Other than Tom Rost?

A. No.

Q. Okay.

MR. PRICE: Just to clarify, do you mean no interaction with anybody regarding the letter?

MR. KIRKPATRICK: Yes.

MR. PRICE: Okay.

MR. KIRKPATRICK: Obviously you're going to have conversations in a work place.

BY MR. KIRKPATRICK:

Q. I'm talking about the letter you gave Tom Rost and what you were hoping to accomplish with your letter?

A. No.

Q. After you believed you were fired then, terminated, whatever, what did you do next?

A. I think that was like on a Friday when we had -- exchanged that second letter. On Monday I was at an attorney's office.

Q. And did you file a claim with the EEOC?

A. Eventually, yes.

Q. So if you presented him the letter on July 31st, 2014, it was approximately two weeks later he met with you and gave you some document?

A. Yes.

[80]

Q. And that you believed at that point you were fired?

A. Yes.

Q. So would that be approximately August 13th, August 14th?

A. Yes.

Q. But it was a Friday?

A. I'm pretty sure it was.

Q. Okay. At that point your name was still legally Anthony Stephens?

A. Yes.

Q. I know I asked this kind of a question, but legally I'm asking certain things here.

What was your understanding of why you were fired? I know you said Tom said something about this

isn't going to work. But do you have any understanding of why you were fired?

A. My understanding from what he said was that me coming to work dressed as a woman was not going to be acceptable.

Q. Did he say that actually to you?

A. I don't recall exactly.

Q. Okay. I think you said you recalled it's not going to work?

A. Correct.

Q. And you can't recall anything else. But you don't [81] know if he actually said anything of what you just said, I can't have somebody working here dressed as a woman?

A. I couldn't swear he said it, no.

Q. Well, that's --

A. But that's the impression that I got.

Q. Okay, it's the impression you got. I just want to be clear about that.

Did you ever reach out to Mr. Rost after that letter and say I'll keep working here and still comply with the dress code as you believed he thought it should be complied with?

A. No. As I stated in my letter, I was prepared to return to work after my vacation wearing the appropriate female attire, which is basically what I'm dressed in today.

Q. So you never offered to, hey, Tom, I'll come back dressed as I've always been dressed in a coat and tie that you purchased for me?

A. No.

Q. Do you believe that he had the impression that you were going to continue dressing in the coat and tie that was purchased for you since you started your employment with R.G. & G.R.?

A. I can't say what he thought.

[82]

Q. Well, I know. But you just told me your impressions about certain things. Did you have any impressions to challenge that thought, that he thought you may come back dressed in the same business attire that he had purchased for you for the previous six years?

A. No.

Q. Did you ever challenge or ask questions as to why that R.G. & G.R. Funeral Homes required you to wear a male suit and tie when you became employed there in 2007?

A. No.

Q. Did you ever ask why they required you to wear a male suit coat and tie?

A. No.

Q. Did you ever wonder why they required you to wear a male suit coat and tie when you became employed there?

A. No.

Q. Why not?

A. Actually, I think that's hinging on transition.

MR. PRICE: Can you repeat the question, please?

MR. KIRKPATRICK: First of all, I want to object to the deponent objecting. It's the role for an attorney to object.

BY MR. KIRKPATRICK:

Q. I'm asking you why you never asked why you were [83] required to wear a male suit coat and tie since 2007. Because you said you never questioned it, and I said why did you not question it.

MR. PRICE: You're being asked about -- Let's take a quick break.

(Off the record at 11:23 a.m.)

(Back on the record at 11:29 a.m.)

MR. KIRKPATRICK: Back on record. Can you read the last question I asked, please?

(Record read back by reporter as follows:

Q. Did you ever wonder why they required you wear to a male suit coat and tie when you became employed there?

A. No.

Q. Why not?)

A. I was perceived as a male and that's the way that I was presenting at that time.

BY MR. KIRKPATRICK:

Q. Okay. I think you just testified about you had drafts of the letter that we showed you that you presented to Tom Rost on July 31st. Do you have copies of those drafts?

A. No.

Q. Did you throw them away or something?

A. They've been -- I don't know what really happened to [84] them.

Q. Did you write it out in longhand --

A. It was in longhand when I started.

Q. And then when you were finished, you typed it out?

A. Yes.

Q. What did those other drafts say that wasn't said in this letter?

A. Basically said the same thing, there was just a few words changed here and there to clarify.

Q. Why did you show it to all these other employees and not management for this period of time?

A. Because I guess I wanted their input.

Q. Did they give you input?

A. I didn't get anything negative.

Q. What did you get?

A. Most of them said they understood.

Q. Okay.

A. What I was going through and what I was up against.

Q. Specifically who gave you, in your words, positive responses?

A. Number one would be Tia Macklin.

Q. Tia Macklin, okay.

A. She's the, I guess probably the only one that was really positive.

Q. Okay. Anybody else?

* * * * *

[90]

Is it fair to say you've been involved with the funeral business for nearly 30 years?

A. Yes.

Q. And I think you've testified at every place there's been some sort of dress code?

A. Yes.

Q. Why is there a need or why does the funeral business, why is there a dress code, if you know?

A. Well, I wouldn't think you'd want somebody showing up in shorts.

Q. Okay.

A. And a t-shirt for a funeral.

Q. Why not?

A. Doesn't look professional.

Q. Okay. So in your experience, the industry standard is to have professional clothing?

A. Yes.

Q. Have you ever been in a situation where they, they, being a funeral home, have not followed any kind of professional clothing dress code?

A. Other than the ones I've mentioned, no, but it was still perceived.

Q. So there's an understanding of presenting yourself, if you work in the industry, in a professional --

A. Manner, yes.

[91]

Q. Would the term conservative clothing mean something in the industry? If you understand what I'm saying. I could explain that if you need me to.

A. Please do.

Q. Well, I have what I would consider more of a conservative suit on, it's a dark suit, you know, not a very loud tie, at least I don't think it's loud, and shirt, whereas you may see people where wild colors.

I say wild colors, they could be orange, whatever, things that might be offensive that still might be a business suit. Does that make sense?

A. I suppose it does. But I put that in non-professional wear to begin with.

Q. I just want to make sure we're kind of on the same page with professional business attire.

So you wouldn't think that somebody would show up -- I could give you all kinds of examples, but I don't know if you'd even know what I'm talking about -- but crazy orange-colored tuxedo as an appropriate funeral business attire?

A. I wouldn't think so.

Q. Well, I just want to know if there's a standard.

Now, did you get any training on that or classes on that or instruction during your mortuary science curriculum?

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[101]

Q. And I may have asked this, and I apologize if I did ask you this, but you understood there was a dress code at the funeral home; right? When I say funeral home, R.G. & G.R.?

A. There would be a professional dress code anywhere you went.

Q. Okay. So your understanding was that at R.G. & G.R. Funeral Home, there was a dress code; right?

A. Yes.

Q. And while you were employed there, you complied with the dress code?

A. Yes.

Q. And you complied with the male dress code?

A. That's the way I was perceived up until the time of this letter.

Q. But you did comply with the male dress code?

A. Yes.

Q. I think you said that they purchased these suits for you to wear as part of their dress code?

A. Yes.

Q. A suit and tie; correct?

A. Yes.

Q. And it was male clothing?

A. Yes.

Q. And did everyone have a dress code, all employees, or [102] was it just certain classes of employees?

A. Having never saw that employee handbook before, I couldn't tell you.

Q. Well, from your six plus years at the funeral home, what did you perceive? Did people wear a dress code, did they dress professionally?

A. Yes.

Q. Did everyone wear a suit and tie that was a funeral director?

A. As far as I'm aware, yes.

Q. And that was a male suit and tie?

A. Yes.

Q. Were there any female funeral directors?

A. No.

Q. Did the female employees, did they wear professional suits or professional dress for women in the funeral home?

A. I would say so, yes.

Q. Do you believe that the funeral home, in this case, R.G. & G.R., can impose a dress code for its employees?

MR. PRICE: Objection; calls for legal conclusion. Go ahead and answer.

A. Yes.

BY MR. KIRKPATRICK:

[103]

Q. Do you believe that the funeral home can impose a dress code for their female employees?

A. Yes.

MR. PRICE: Same objection. Go ahead.

A. Yes.

BY MR. KIRKPATRICK:

Q. That being R.G. & G.R.?

A. Yes.

Q. Do you believe that R.G. & G.R. can impose a dress code for its male employees?

A. Yes.

MR. PRICE: Same objection.

MR. KIRKPATRICK: Did we get that yes down? All right.

BY MR. KIRKPATRICK:

Q. While you were employed with R.G. & G.R. Funeral Home, did you ever dress in anything other than the male dress code clothing that you were provided?

A. No.

Q. Are you aware if Tom Rost ever saw you dressing in female attire?

A. No.

Q. Do you know if any other employees at the funeral home, R.G. & G.R., saw you dress in anything other than male clothing?

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[105]

allow anyone at the funeral home to perceive you as anything other than a man while you were employed there?

A. You need to clarify.

Q. Well, what I'm asking for is that you testified that they perceived you as a man; correct?

A. Yes.

Q. Because you were wearing suits and ties and male dress code; right?

A. Yes.

Q. Is there anything that happened that you believe that they should have seen you or did see you presenting as anything other than a man while you were employed there?

A. There should have been subtle changes they should have picked up on.

Q. Such as what?

A. Facial features.

Q. What about facial features?

A. I mean you look at somebody, you can -- ought to be, if you look at them close enough, determine where they're at.

Q. So when it comes specifically to you, what about your facial features, if that's what you're saying, that they should have picked up on?

[106]

MR. PRICE: Objection to the extent that we're talking about the transition process. I think that falls within the code -- or the Protective Order, excuse me.

MR. KIRKPATRICK: Well, the deponent brought it up. I'm just asking him -- he says he was perceived as a male. I'm asking anything that he perceived not

to be a male, a female, and the deponent brought that up. So that's called opening the door.

I'm just trying to find if there's anything --

MR. PRICE: I mean the Protective Order, I don't think you can open a door on a Protective Order.

MR. KIRKPATRICK: But you can't start answering the question and then follow it up. I think you see what I'm getting at here. I just want to see -- he said facial features. I'm asking what. I didn't ask about transition, I'm asking what.

MR. PRICE: Well, it could be transition related.

MR. KIRKPATRICK: Well, it could be. I don't know if it is or not. But the point is that the deponent said that they should have perceived changes, facial features, and I'm asking what. That's all I'm asking. You're speculating as to where he's going.

MR. PRICE: I still think that it falls [107] within -- I mean if you're asking about changes in facial features, that's suggestive right there of transition.

MR. KIRKPATRICK: Well, I didn't bring up facial features, the deponent brought that up.

MR. PRICE: Well, that's true enough. But I think that we are in Protective Order territory now.

MR. KIRKPATRICK: I understand. The deponent has to answer that question at least that the deponent brought up. You don't get the benefit of providing testimony and not have that testimony clarified.

Do you want to take a break?

MR. PRICE: Yeah, why don't we take a break.

(Off the record at 1:09 p.m.)

(Back on the record at 1:16 p.m.)

MR. KIRKPATRICK: Back on the record.

BY MR. KIRKPATRICK:

Q. I just want to follow up on our last questions and ask you, was there anything during your employment with R.G. & G.R. Funeral Home that would let anyone, any of the employees perceive you to be anything other than a man?

A. No.

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[117]

A. Not really attracted me or drew me there.

Q. You just remember seeing one?

A. Right.

Q. Did you share with people that you were a Baptist minister or that you pastored a church at all?

A. Oh, yeah, they all knew.

Q. I just wondered, was they any kind of just coffee shop discussions with employees about religion at all?

A. No.

Q. Was it forced on you at all?

A. No.

Q. Was there an expectation or understanding that you had to participate in any kind of prayer service?

A. No.

Q. Any kind of Bible study or anything like that?

A. No.

Q. Was there any strong expression that the funeral home was religious in nature?

A. Other than what you saw lying around on the tables, no.

Q. Did you participate in any services for clients or customers that were not of the Christian faith?

A. Yes.

Q. Such as what, Jewish?

A. No, we didn't -- I don't think we ever did any Jewish [118] services.

Q. What other --

A. But there was Chinese, Hindu.

Q. So the funeral home would accommodate that?

A. Yes.

Q. Did anyone at the funeral home ever comment to you, like a manager or something, that they didn't believe that you were dressing appropriately?

A. No.

Q. Did anyone make a comment that you weren't -- strike that.

MR. KIRKPATRICK: I want to take a break actually.

MR. PRICE: Sure.

(Off the record at 1:28 p.m.)

(Back on the record at 1:35 p.m.)

MR. KIRKPATRICK: Back on the record.

BY MR. KIRKPATRICK:

Q. Do you believe that the funeral home, in this case, R.G. & G.R., can impose sex-specific dress codes on its employees? MR. PRICE: Objection; calls for a legal conclusion. Also -- to the extent you can answer it, go ahead.

A. As it pertains to a man or a woman, yes.

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[125]

A. No.

Q. Have you had any conversations, other than -- we've already kind of talked about this at the dinner you had --

Have you had any conversations with any other people that are somehow connected to the funeral home since your removal?

A. No.

Q. Hypothetically speaking, you presented to this letter to Tom Rost and if he would have allowed you, for lack of a better term, to present as a woman, would that preclude you from going back to present as a man later on?

MR. PRICE: Objection, calls for speculation.

To the extent that it's relevant, go ahead and answer.

A. To go back as a male?

BY MR. KIRKPATRICK:

Q. Yes.

A. No.

Q. If a male funeral director, hypothetically speaking, wanted to present as woman at work, is it your position the funeral home must allow him to do so?

MR. PRICE: Objection. Again, same [126] objection. But go ahead and answer.

A. Yes.

BY MR. KIRKPATRICK:

Q. Why?

A. If that individual is willing to adhere to the female dress code, then I see no problem in it.

Q. Okay. So following that up, what you just told me, would the funeral home be required -- again, hypothetically speaking -- to allow a male funeral director who was, say, bald and neatly trimmed beard and mustache, to wear a professionally female dress and high heels while meeting with a bereaved family or officiating at a funeral?

MR. PRICE: Objection; calls for speculation. No such facts in evidence.

BY MR. KIRKPATRICK:

Q. Hypothetically speaking.

MR. PRICE: Go ahead and answer.

A. If that's the way he was going to present himself, no.

BY MR. KIRKPATRICK:

Q. Why not?

A. Typically doesn't meet the expectations of a female.

Q. What meets the expectations of a female?

A. Your guess is as good as mine. I mean you assume if she has hair, long hair, as long as it's groomed [127] nicely, what difference does it make what she wears as long as it's within that dress code.

Q. Even though that male believed -- wanted to be perceived as a female?

MR. PRICE: Same objection.

A. I think I've already answered your question.

BY MR. KIRKPATRICK:

Q. Well, actually, that was a new question.

A. The same one you asked before.

Q. Can you answer the question, please?

MR. PRICE: Objection; asked and answered. But you can answer.

MR. KIRKPATRICK: Actually, it has not been asked and answered. But go ahead.

A. Repeat the question.

MR. KIRKPATRICK: Can you repeat the question, please?

(Record read back by reporter as follows:

Q. Even though that male believed -- wanted to be perceived as a female?)

A. I think if you're going to present in that fashion, you have to basically ad-

here to the part you're professing to play.

BY MR. KIRKPATRICK:

Q. So playing a part, if that person perceived that they [128] were a female and wanted to do that and they were playing a part, they should be able to do that or not?

A. Well, yes, as long as they're willing to adhere to the female dress code.

Q. I know I asked you previously about the letter you wrote and presented that we discussed, that you presented to Tom Rost, that you had drafts beforehand, and you showed some of the employees maybe up to two months before.

Is there something you're looking at in the Exhibit that we presented you?

A. There's something that caught my thought.

Q. Well, I'll tell you what. Why don't put that down for a minute. Your Counsel, or Counsel can ask you questions if you want.

MR. PRICE: We can follow up.

BY MR. KIRKPATRICK:

Q. But to follow up what I just said, I want to make sure I had your attention, so I'm going to repeat my question.

We already discussed the letter you prepared, I think you had some drafts, maybe up to two months before July 31st and showed some employees at some point some of those drafts. Do you recall that testimony?

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[133]

before. What's your understanding of what a sex-specific dress code is?

A. That you dressed as however you presented.

Q. Was it your understanding that -- let me put it this way.

Were you intending on adhering to the female dress code expectations at R.G. & G.R. when you presented your letter?

A. Yes.

Q. And you had no intention of changing that?

A. No.

Q. You were asked earlier about a resumé that you sent out before -- or after you were terminated at R.G. & G.R., and you were asked if there were any changes from the resumé you were shown earlier, Exhibit 1 with the cover letter.

Were there changes to that resumé substantively?

A. Well, basically R.G. & G.R. Harris was added as a place of employment.

Q. So you added R.G. & G.R. to your workplace experience list?

A. Correct.

Q. But was there any other changes that you can recall?

A. The cover letter changed some in respect that, of [134] course, name changed, and I mentioned in

the cover letter that I had a name change done and that all my experience is under my old name.

Q. You were also asked earlier about a dialysis schedule that you're on, and it's currently Tuesday, Thursday and Saturday.

Is there any way currently that that can be altered?

A. It can be altered in the respect that I could do nocturnal dialysis.

Q. What's nocturnal dialysis?

A. You go get put on at night after 6:00 p.m., and your dialysis session is done at night rather than during the day.

Q. Have you ever done this?

A. No.

Q. Okay. You were also asked about if there was any way that people, your coworkers or managers or supervisors at R.G. & G.R., could have understood that you were going to be presenting as female.

When you gave the -- when you showed the letter to people or gave it to them in the case of Mr. Rost, were you intending to notify people that you were going to be presenting as female?

A. Yes.

* * * * *

The R.G. & G.R. Harris Funeral Home

A Tradition Of Trust

Employee Manual 1998

EXHIBIT
2
12-16-05
Stephans

EEOC002717

THE FUNERAL HOME'S DRESS CODE

DRESS CODE

September 1998

For All Staff:

To create and maintain our reputation as "Detroit's Finest", it is fundamentally important and imperative that every member of our staff shall always be distinctively attired and impeccably groomed, whenever they are contacting the public as representatives of The Harris Funeral Home. Special attention should be given to the following consideration, on all funerals, all viewings, all calls, or on any other funeral work.

MEN

SUITS BLACK GRAY, OR DARK BLUE ONLY (as selected) with conservative styling. Coats should be buttoned at all times. Fasten only the middle button on a three button coat.

If vests are worn, they should match the suit. Sweaters are not acceptable as a vest. NOTHING should be carried in the breast pocket except glasses which are not in a case.

SHIRTS WHITE OR WHITE ON WHITE ONLY, with regular medium length collars. (Button-down style collars are NOT acceptable). Shirts should always be clean. Collars must be neat.

TIES As selected by company, or very similar.

SOCKS PLAIN BLACK OR DARK BLUE SOCKS.

SHOES BLACK OR DARK BLUE ONLY. (Sport styles, high tops or suede shoes are not acceptable). Shoes should always be well polished.

TOPCOATS BLACK, GRAY OR DARK BLUE CLOTH ONLY. A current style and length. A velvet collar, or gray coat with velvet collar are optional. No raincoats with or without liners except in rainy weather. Plastic coats are not permitted.

GLOVES BLACK, GRAY OR DARK BLUE ONLY.

PINS Small service or fraternity pins may be worn.

PERSONAL GROOMING Hair should be neatly trimmed and combed at all times. (Extreme hair styles, sideburns, or beards are NOT acceptable). Neat moustaches are allowed. Every man should always be clean shaven. Nails should always be trimmed and dean.

PART TIME MEN Should wear conservative, dark, business suits, avoiding light brown, light blue, light gray, or large patterns. All part time personnel should follow all details of dress as specified, as near as possible.

FUNERAL DIRECTORS ON DUTY Are responsible for the appearance of the staff assisting them on services and are responsible for personnel on evening duty.

WOMEN

Because of the particular nature of our business, please dress conservatively. A suit or a plain conservative dress would be appropriate, or as furnished by funeral home. Avoid prints, bright colored materials and large flashy jewelry. A sleeve is necessary, a below elbow sleeve is preferred.

Uniformity creates a good impression and good impressions are vitally important for both your own personal image and that of our Company. Our visitors should always associate us with clean, neat and immaculately attired men and women.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Equal Employment
Opportunity Commission,

Plaintiff,

v.

RG. & G.R Harris Funeral
Homes, Inc.,

Defendant.

Civil Action No.
2:14-cv-14-13710
Hon. Sean F. Cox

**AFFIDAVIT OF THOMAS ROST
IN SUPPORT OF DEFENDANT R.G. & G.R.
HARRIS FUNERAL HOMES, INC.'S
MOTION FOR SUMMARY JUDGMENT**

Comes Now Affiant Thomas Rost, and presents the following sworn testimony:

1. My name is Thomas Rost. I have been a resident of Bloomfield Hills, Michigan, for the past thirty (30) years. I have personal knowledge of the facts stated herein.
2. I have been working in the funeral home industry for fifty (50) years. I have been the majority owner of R.G. & G.R. Harris Funeral Homes, Inc. for the past thirty-five (35) years. I currently own 94.5% of RG. & G.R. Harris Funeral Homes, Inc. R.G. & G.R. Harris Funeral Homes, Inc. operates three funeral home locations and the

Cremation Society of Michigan. I have operated up to six different funeral homes at one time.

3. I have served thousands of grieving families, arranged thousands of funerals, and embalmed thousands of bodies.
4. I have previously served as the President of Preferred Funeral Directors International in 1992.
5. R.G. & G.R. Harris Funeral Homes, Inc. was recognized by Preferred Funeral Directors International in 2011 with the Parker award for demonstrating exemplary service.
6. R.G. & G.R. Harris Funeral Homes, Inc.'s Livonia location was recognized as best home town funeral home of the year in 2016 by Livonia residents in a survey by Friday musings newspaper.
7. I operate R.G. & G.R. Harris Funeral Homes, Inc. as a ministry to serve grieving families while they endure some of the most difficult and trying times in their lives.
8. R.G. & G.R. Harris Funeral Homes, Inc. strives to meet clients' emotional, relational, and spiritual needs by training staff in grief management and maintaining strict codes of conduct and decorum at all times so that grieving clients have a place free of distractions to grieve and heal.
9. R.G. & G.R. Harris Funeral Homes, Inc. attempts to create a transformational

experience in order to help our clients, their families, and friends begin the healing process when they have lost a loved one.

10. I believe God has called me to serve grieving people. My purpose in life is to minister to grieving families, and my faith compels me to do that important work. I believe that I would be disobeying God if I were to stop doing this work.
11. I believe that grieving individuals need to move through the stages of the healing experience: (1) hearing of the death of their loved one, (2) sharing about the death, (3) seeing the deceased, (4) gathering with friends or family, (5) connecting with others who knew the deceased, (6) reflecting on the death of their loved one, and (!) celebrating the life of the deceased.
12. We tell families that we are a teaching funeral home, and we show them a wheel outlining the stages of the healing experience and explain to them what acute loss is.
13. Every step in the funeral process, beginning with the initial contact to R.G. & G.R. Harris Funeral Homes, Inc., after a loved one has passed is integral to creating the transformational experience that is important to the healing process.
14. The removal—the release of the decedent's remains into the care of the funeral director—is one of the most emotionally distressing events in the experience for the grieving. This phase is often the family's first face-to-

face contact with the funeral director or funeral home staff. Having just experienced loss, the clients' antennae are on high alert to assess if the funeral director cares and is capable of guiding them through the experience. The removal phase sets the tone for the process and whether it will involve positive or negative surprise. Negative surprise is to be avoided as it will set a negative tone and may prevent our ability to create a healing transformational experience. Funeral staff can avoid negative surprise by, for example, informing the family about the process of removal, and announcing the staff's departure following removal. Conversely, positive surprise (anticipating and meeting unspoken needs) through simple gestures such as our practice of placing a rose on the bed when we remove the remains from a home can set the tone for a healing transformational experience.

15. Stephens, as a funeral director embalmer, was often tasked with removing the remains of a loved one from various facilities including hospitals, nursing homes, hospices, and private residences. When performing this function, he would often be the first member of R.G. & G.R. Harris Funeral Homes, Inc. to make face-to-face contact with the family.
16. The initial contact of the funeral director with the funeral family arranger-that is, the deceased's loved one who is responsible for making the funeral arrangement-is also critical and may occur at a different time

and involve different individuals than those present at the removal. The arranger wants to know that the funeral director and staff care about their loss and that they are capable of leading the family through the funeral arranging process. In this contact the arranger will determine if the funeral director is emotionally safe. By engaging the family about their death experience, the funeral director helps prepare them to share about their loved one's life and establishes the funeral director as trustworthy and competent. Families can be subtly surprised (positively or negatively) even by what the funeral director talks about or does not talk about during this stage.

17. Stephens primarily worked an 8:30 am to 5:00 pm shift and therefore would frequently be the first member of R.G. & G.R. Harris Funeral Homes, Inc. to make contact with the funeral arranger.
18. The arrival of the family at the funeral home can be a difficult moment for them. They may be anxious about entering the facility because a funeral home is generally the last place they wanted or expected to be.
19. On many occasions, Stephens was the first member of R.G. & G.R. Harris Funeral Homes, Inc. to greet the family on arrival at the funeral home.
20. Funeral directors may facilitate the selection of clergy by the family. Funeral directors will also often facilitate the first meeting of clergy

and family members. The funeral director can play a role in building the family's confidence about the role the clergy will play, clarifying what type of religious message is desired, and integrating the clergy into the experience. Funeral directors can give the family a voice by permitting them to speak freely about their unique emotional, relational, and spiritual concerns.

21. As a funeral director embalmer, Stephens facilitated both the selection of clergy and the initial contact of families with clergy members on limited occasions.
22. When dealing with the loss of a loved one, clients need to feel important and to know they matter. Additionally, clients will often seek to gain control of the process. By introducing as many members of the R.G. & G.R. Harris Funeral Homes, Inc. staff to our clients as possible, our families perceive that we place value and significance on their loss. This reduces stress and anxiety for our clients by creating a confidence in the process and the people involved.
23. As a funeral director embalmer, Stephens was introduced to most of our families and was tasked with introducing other staff members to our families.
24. A funeral director should coach the family through the first viewing of the deceased (for the family only) and check with them to see if anything needs to be

changed (such as hair, makeup, clothing, or props) before the public viewing.

25. Stephens occasionally walked the family through the first viewing in his role as funeral director embalmer.
26. A funeral director facilitates any family viewing prior to the funeral service (which consists of the funeral or memorial service). Such family viewings may include gathering family around the casket to read or pray.
27. As a funeral director embalmer, Stephens facilitated family viewings prior to the funeral service on a few occasions.
28. Funeral directors are to make each arriving guest at the funeral service feel like a VIP. During that event, the funeral director may be involved in a welcome announcement, thanking those who attended and participated in the service, and creating a formal ritual for the closing of the funeral service.
29. As a funeral director embalmer, Stephens was involved in greeting guests. Indeed, he regularly served as a parking attendant for the guests. In addition, on rare occasions, Stephens facilitated the funeral service, and on those occasions he could have been involved in making opening and closing statements as described in the preceding paragraph.

30. The family's final farewell is a highly anticipated moment in the process and in many cases the most difficult moment in the funeral experience. The deceased is no longer the main attraction, the family's exit from the deceased is. The funeral director would be present at the casket, provide as private a place as possible, and gather family for a final prayer with clergy.
31. As a funeral director embalmer, Stephens was present for the final farewell on a few occasions, and when he was, he performed the activities described in the preceding paragraph.
32. R.G. & G.R. Harris Funeral Homes, Inc.'s funeral directors are our most prominent public representatives. They are the face that R.G. & G.R. Harris Funeral Homes, Inc. presents to the world.
33. The funeral director embalmer position is physically demanding. Funeral director embalmers must be able to move the deceased alone or with assistance, and they may be involved in carrying the casket and remains.
34. Maintaining a professional dress code that is not distracting to grieving families is an essential industry requirement that furthers their healing process.
35. R.G. & G.R. Harris Funeral Homes, Inc. administers its dress code based on our employees' biological sex, not based on their subjective gender identity.

35. It is important that a funeral home is an emotionally safe space for mourners beginning the healing process.
36. RG. & G.R Harris Funeral Homes, Inc.'s dress code forbids male funeral directors from wearing the female uniform because allowing them to do that would attract undue attention to themselves and disrupt the grieving process for the families.
37. A male funeral director dressing in a female uniform would disrupt our clients' healing process.
38. Having known Stephens for more than five years and having observed Stephens in the funeral home environment, I believe that Stephens wearing a female uniform in the role of funeral director would have been distracting to my clients mourning the loss of their loved ones, would have disrupted their grieving and healing process, and would have harmed my clients and my business and business relationships.
40. I believe that allowing one of my male funeral directors to wear the uniform for female funeral directors would have driven away many of my prospective clients because allowing that would have fallen short of those clients' basic expectations for their funeral experience.
41. I sincerely believe that the Bible teaches that God creates people male or female.

42. I sincerely believe that the Bible teaches that a person's sex is an immutable God-given gift and that people should not deny or attempt to change their sex.
43. I sincerely believe that I would be violating God's commands if I were to permit one of R.G. & G.R. Harris Funeral Homes, Inc.'s funeral directors to deny their sex while acting as a representative of my organization. This would violate God's commands because, among other reasons, I would be directly involved in supporting the idea that sex is a changeable social construct rather than an immutable God-given gift.
44. I sincerely believe that the Bible teaches that it is wrong for a biological male to deny his sex by dressing as a woman or for a biological female to deny her sex by dressing as a man.
45. I sincerely believe that I would be violating God's commands if I were to permit one of R.G. & G.R. Harris Funeral Homes, Inc.'s male funeral directors to wear the uniform for female funeral directors while at work, or if I were to permit one of our female funeral directors to wear the uniform for male funeral directors while at work. This would violate God's commands because, among other reasons, I would be directly involved in supporting the idea that sex is a changeable social construct rather than an immutable God-given gift.
46. I sincerely believe that I would be violating God's commands if I were to pay for a male

funeral director to wear the uniform for female funeral directors while at work, or if I were to pay for a female funeral director to wear the uniform for male funeral directors while at work. This would violate God's commands because, among other reasons, I would be directly involved in supporting the idea that sex is a changeable social construct rather than an immutable God-given gift.

47. Because R.G. & G.R. Harris Funeral Homes, Inc. provides suits for all our funeral directors, if I would have agreed that Stephens could continue to work at R.G. & G.R. Harris Funeral Homes, Inc. while dressing in the female uniform, I would have been paying for a male to wear the female uniform.
48. If I were forced as the owner of R.G. & G.R. Harris Funeral Homes, Inc. to violate my sincerely held religious beliefs by paying for or otherwise permitting one of my employees to dress inconsistent with his or her biological sex, I would feel significant pressure to sell my business and give up my life's calling of ministering to grieving people as a funeral home director and owner.
49. When Stephens provided me notice of his intention to refuse to comply with the male dress code for funeral directors, Stephens never suggested a modification of work duties.
50. I would not have dismissed Stephens if Stephens had expressed to me a belief that he is a woman and an intent to dress or

otherwise present as a woman outside of work, so long as he would have continued to conform to the dress code for male funeral directors while at work. It was Stephens's refusal to wear the prescribed uniform and intent to violate the dress code while at work that was the decisive consideration in my employment decision.

51. I would not discharge or otherwise discipline employees who dress as members of the opposite sex on their own time but comply with the dress code while on the job.
52. R.G. & G.R. Harris Funeral Homes, Inc. has not employed a female funeral director since my grandmother was employed here. She stopped working as a funeral director around 1950. That was prior to R.G. & G.R. Harris Funeral Homes, Inc. beginning to pay for suits for its funeral directors. At the time she was employed, she wore a dress or a skirt suit.
53. Throughout all my years owning and operating R.G. & G.R. Harris Funeral Homes, Inc., I have never had a qualified female apply for an open funeral director position. During that time, I have had only one female applicant apply for an open funeral director position, but she was not qualified.
54. R.G. & G.R. Harris Funeral Homes, Inc. will provide female funeral directors with skirt suits in the same manner that it provides pant suits to male funeral directors. Also,

those female employees will be required to wear those suits while on the job.


- 55. If a female funeral director were to tell me that she would not comply with the uniform requirement for female funeral directors while at work, I would discharge her for refusing to comply with R.G. & G.R. Harris Funeral Homes, Inc.'s dress code.
- 56. R.G. & G.R. Harris Funeral Homes, Inc. provides a suit similar to the funeral director suit for male employees who interact with the public in positions other than funeral director.
- 57. All current male employees, other than funeral directors, who interact with the public are part-time and receive one suit that is replaced by R.G. & G.R. Harris Funeral Homes, Inc. when it is no longer serviceable.

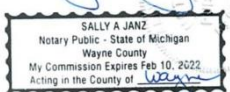
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

FURTHER, AFFIANT SAYETH NAUGHT


Thomas Rost

SUBSCRIBED AND SWORN TO before me this 6 day of April, 2016, by Thomas Rost.


Notary Public



My commission expires: 2-10-2022

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

V.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Friday, Nov. 13, 2015

DEPOSITION OF SHANNON KISH

[16]

Okay. Then you assisted with preparing documents to respond to the EEOC's questions during the investigation, you think?

A Yes.

Q And I believe you in fact have prepared some documents in response to some of the EEOC' discovery requests in this lawsuit; is that correct?

A That is correct.

Q Okay. It's my understanding that R.G. G.R. has a dress code; is that correct?

A Yes.

Q Could you describe what the dress code is?

A The dress code for men, women, both.

Q Let's start with women.

A We are to dress professionally.

Q Are there any other requirements to the dress code?

A Muted colors. Not too flashy jewelry, not crazy nails, you know, per se. A jacket. Not crazy shoes, not crazy high heels.

Q By “Crazy”, you mean flashy, I assume?

A Correct. It’s very muted, is the word I would use. Blouses or -- you know, that are simple, you know, going with the muted color schemes. [17] That kind of thing.

Q And only skirts, no pant suits?

A Skirts are preferred, the preferred method of dress, yes.

Q Okay. And is that it for the female dress code?

A That’s pretty much, yeah. Yeah.

Q Okay. And the male dress code?

A The men wear a suit and pants. There’s a matching tie, so that it’s very uniformed. A white dress shirt. I believe there is a requirement about shoes that they’re not boots or they’re more dress shoes. There’s certain lapel pins that they can wear, and what they can keep in their pocket. So that it’s not overly bulging, and that’s about it.

Q Okay. And the dress code is by gender and not by position type, correct?

A I wouldn’t exactly say that, because I believe that the funeral directors wear the same matching suits, opposed to like a non-funeral director.

Q So what would a non-funeral director wear?

A A dark jacket, a shirt and a tie, dark pants.

Q It's my understanding that R.G. G.R. provides [18] suits to its male employees?

A That -- that is correct.

Q To both funeral directors and non-funeral directors?

A That's correct, yeah.

Q Okay.

A Yeah.

Q You look a little hesitant.

A Well, sometimes if they're -- like sometimes if it's a part-time person, very part-time what I just described, suit or the jacket and pants are acceptable.

Q Okay. I believe Mr. Rost testified that full-time male employees get two suits provided by the company, plus two ties, and part-time employees get one suit, but there are -- are you testifying that there are certain part-time employees that may not get a suit at all?

A Well, there are part-time male employees that are not funeral directors and are not runners that generally just dress in what I'm saying.

Q Okay.

A You know. That they're not funeral directors or runners for us.

Q What is a runner?

[19]

A A runner would be someone who goes and obtains a doctor's signature on a death certificate.

Sometimes they'll make a removal from where the death has occurred. But generally they are all wearing the matching suit.

Q Okay. And do you know where R.G. G.R. obtains the suits that it provides for its male employees?

A Yes. I think it's called Sam's -- I don't recall the exact name. But it's --

Q Okay.

A It's called Sam's, I believe.

Q And are you responsible for paying invoices from that -- from Sam's?

A That is correct. They're usually set up on a charge that is sent to us.

Q And you maintain those records for those invoices?

A I do.

Q Okay. Do you have any knowledge of how much R.G. G.R. pays for a suit from Sam's?

A For each suit individually? I want to say it might be like 200. Depends on the tailoring.

So sometimes they'll vary a little bit.

Q But the charge records would have that [20] information on it?

A Correct.

Q Okay. Do you know how often R.G. G.R. provides suits to its male employees?

A They're pretty much as if -- wear and tear.

Q As needed?

A Uh-huh.

Q So upon hire, full-time employees are given two suits, part-time employees one, and then they're replaced as needed?

A That's fair to say, yeah.

Q So we have two suits and two ties or one suit and one tie. Any other clothing that's provided by R.G. G.R.?

A No.

Q And it's my understanding that R.G. G.R. now has a dress allowance for its female employees; is that correct?

A Clothing allowance.

Q Clothing allowance. Could you describe what the clothing allowance is?

A \$150 for a full-time person and \$75 for the part-time.

Q And this is per year?

A That's correct.

[21]

Q Do you know when the clothing allowance was implemented?

A 2014.

Q 2014. Do you know why the clothing allowance was implemented?

A At one time, they tried to do the womens (sic) -
- to all have the same suit. And I've been there so

long, I can tell you it was a fiasco. We have younger females. We have older females. We have tall and skinny, short and full-figured. No one could agree on anything.

So, it -- and that's just simply the truth. And we were then given the option to wear, you know, the skirt that you were -- you know, whatever you were comfortable in, the colors had to comply; and so they re-brought that in to give us some help to get jackets or blouses or skirts or --

Q Do you remember when those -- that discussion regarding the -- whether R.G. G.R. would provide clothing to its female employees, when that was?

A It was several times over the course of the time that I was there.

Q Okay. So from 1986, '89?

* * * * *

[54]

Q Has any other employee been disciplined or terminated for dress code violations?

A Yes.

Q Do you remember when?

A It was an employee who's no longer with us, he wore a jacket into a nursing home for removal, and the nursing home called because they didn't care for the content of the jacket and he was talked to and told not to wear the jacket anymore, and he didn't.

Q It wasn't a suit jacket --

A It was a regular jacket.

Q Regular jacket that had some writing on it?

A Yes.

Q Do you remember what the writing was?

A It said "body snatcher."

Q So Mr. Rost counseled him verbally?

A The manager, David Kowalewski, talked to him. The other managers talked to him and said no more jacket.

Q Okay. And then he stopped wearing it?

A And never wore it again.

Q So he wasn't -- the reason he no longer works for R.G. G.R. isn't because he was terminated for wearing the jacket?

[55]

A No, he was not terminated for that.

Q Okay. Any other dress code violations that you can remember?

A No. If somebody is not wearing the appropriate clothing, it's brought up to them and they are to wear what we are supposed to wear.

Q Okay. What is your perception or understanding of the religious environment at R.G. G.R.?

A I'm sorry, one more time.

Q What is your perception or understanding of the religious environment at R.G. G.R.? I can be more specific.

A Please.

Q Are there employee Bible studies?

A No.

Q Prayer groups?

A No.

Q Any sort of religious activities that R.G. G.R. sponsors or conducts for its employees?

A No.

Q Mr. Rost or another R.G. G.R. employee -- scratch that. Has Mr. Rost ever discussed his religious beliefs with you?

A No.

[56]

MR. SHULTZ: I think if you give me a couple minutes.

MR. PRICE: Take a break?

(Off the record at 11:16 a.m.)

(Back on the record at 11:26 a.m.)

MR. SHULTZ: Just a few followup questions to tidy up the record, then Joel will have some limited questions, I assume, and then we're almost done. So moving fast, thanks.

THE WITNESS: Okay.

BY MR. SHULTZ:

Q I'd like to go back to the chart.

A This chart?

Q Yeah. I believe you said your son works at the Detroit office, right?

A Correct.

Q David?

A Ryan.

Q Ryan. I don't see him --

A He just started with us --

Q Oh, okay.

A -- not too long ago.

Q So he received the two suits when he started?

A No. He works in the accounting department with me.

[57]

Q Okay. So he doesn't get a suit?

A No.

Q Okay. Will he get a clothing allowance, do you know?

A No.

Q How about the other accounting employees, do they receive any allowance or --

A The -- Pam is now a full-time employee. She now gets it. She's the only other.

Q Okay. Is Ryan a part-time employee?

A He's just a very part-time employee for us.

Q Okay. That's a good segue into -- I wanted to follow up. At the beginning of the deposition we were talking about the R.G. G.R. providing the suits to full-time male employees, part-time male employees, and then you said but there are some employees who are part-time who don't get suits.

Could you provide some definition to what subset of part-time employees don't get --

A The maintenance men don't get suits. That's pretty much it.

Q And then Ryan?

A And then Ryan. But like I said, he's a very ***

* * * * *

[69]

Q And there was apparently somebody who did a removal that had a jacket that had writing on it "body snatcher"?

A Correct.

Q Okay. And that person was talked to; do you recall that?

A Talked to and told never to wear that jacket, as small as it was.

Q And your understanding of how the dress code is effected in your position, if that person continued to wear that body snatcher jacket, would they have been potentially --

A He would have been fired instantly. We can't - - we can't take the chance of things like that.

Q Now, I think you also testified Mr. Shultz asked you any knowledge you had about Stephens' removal or termination from the company. Do you recall that?

A I do.

Q And just to be clear, why was Stephens removed or terminated from the company?

A Because he would not conform to the dress code, the uniform. That was the bottom line.

Q What was the uniform that he was to conform to?

* * * * *

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Grand Rapids, Michigan
Thursday, Dec. 17, 2015

**VIDEOTAPED DEPOSITION OF GEORGE J.
CRAWFORD**

[17]

review that, please.

MR. KIRKPATRICK: The date was 11/12, so I know there were two days of depositions.

MR. PRICE: It would have had to have been.

MR. KIRKPATRICK: So he was first.

Q. (By Mr. Price) Do you recognize this document?

A. I do.

Q. Okay. What is this?

A. It's the employee's handbook.

Q. Okay. Now, is this the employee handbook that was in effect during your entire tenure at R.G. & G.R.?

A. Yes, it was.

Q. All right. Were you responsible for enforcing any aspects of the handbook?

A. Yes.

Q. What were you responsible for enforcing?

A. Just making sure that all employees met the dress codes, just all aspects of the employee handbook.

Q. Now, there's basically two aspects to it. There is a dress code for men and also there's one for women. What was your understanding what the dress code for men was?

A. The dress code for men was pretty straightforward, dark blue suits. They were actually furnished by the company.

[18]

Q. It also would come with a tie, correct?

A. Correct.

Q. Now, who would be responsible -- who would be required to wear the suits?

A. All of the funeral directors.

Q. What about assistant funeral directors?

A. Assistant funeral directors, yes, they were.

Q. All right. All the embalmers?

A. Yes.

Q. All the managers?

A. Correct.

Q. Anybody else that you can think of who would have to wear a suit?

A. Anyone that was employed by the company.

Q. Any of the male employees?

A. All of the male employees were.

Q. Okay. Now, how did you get the suits?

A. They were actually furnished, there was a tailor in Farmington Hills. You would go there, you would get measured, and in about two weeks they'd call and they'd be ready.

Q. Now, my understanding is -- and correct me if I'm wrong -- that these suits would be gradually replaced as they wore out?

A. That is correct.

[19]

Q. How often would you say that you, yourself, would need to get a replacement suit?

A. I would say personally every nine months to a year.

Q. Now, did you have any understanding of how often Stevens would go through a suit at this time? Would it be more or less?

A. I wouldn't really have any knowledge of that.

Q. All right. But for yourself personally every nine to twelve months?

A. Nine to twelve months, yes.

Q. Do you know how much these suits cost?

A. I don't.

Q. Now, at any point during your tenure were women given a clothing allowance to purchase clothing?

A. I'm not aware of that.

Q. Okay. When was your last day at R.G. & G.R., if you can recall?

A. It was June, I'm going to say June 30th, '13.

Q. 2013?

A. 2013.

Q. Okay. About a year and a half -- you said year and a half?

A. Yes.

Q. Okay. What was your understanding of the female dress code?

[20]

A. They were required to wear conservative dark clothing.

Q. Anything else you can think of, any other limitations? Could they wear pant suits or did they have to wear skirts?

A. I believe it was skirts.

Q. Okay. And during the time you were there, they were responsible for providing their own clothing?

A. I believe so, yes.

Q. Okay. You don't recall any women going out to get clothing on the company's -- or being issued checks on behalf of the company?

A. I'm not aware of that.

Q. Okay. Who did you supervise or who was working at the Garden City facility while you were there, while you and Stevens were both there?

A. For office staff we had two women that worked in the office, Dolly and Sharon. Then there was myself and Anthony. We had Michelle who would do hair, cleaning, and also worked visitations.

Q. I want to just back up a little bit. You were still employed when Stevens's employment terminated, correct?

A. Correct.

Q. Okay. So if I tell you this, that -- and I don't think it would be disputed -- Stevens was still working through July of 2013, so would it be safe to say that ***

* * * * *

[40]

BY MR. KIRKPATRICK:

Q. I just have a few. Mr. Crawford, I just want to follow up what Counsel just asked you about whether you participated in the removal of Anthony Stevens as you knew him, and you didn't, you weren't present for any meetings between Tom Rost and Anthony Stevens regarding his removal?

A. No, I was not.

Q. So do you actually know the specific reasons why Mr. Rost removed Anthony?

A. I don't know specifically.

Q. Okay. There was some discussion about the dress code and male dress code I think about dark blue suits that were purchased?

A. Yes.

Q. I think there was the female employees wear something conservative, there was no specific uniform I think you testified to?

A. That is correct.

Q. Do you know why the female employees never had a specific dress code themselves, the uniform?

A. It was my understanding that they could not agree on [41] the specific uniforms as such.

Q. The women themselves couldn't agree what colors looked good?

A. Exactly. That was my understanding.

Q. They expressed concerns about different sizes and shape and what was flattering?

A. Yes, that's correct.

Q. So the plan to have a specific uniform for women was abandoned and just to wear something that a woman would consider conservative?

A. That is my understanding.

Q. Okay. All right. You were shown this employee manual. Do you recall that?

A. Yes.

Q. Do you know if all employees are given that in practice?

A. To my knowledge all employees are given that at the time of hire.

Q. And did Anthony Stevens ever question anything about either the employee manual or the dress code in general?

A. I never had him question it once in my presence.

Q. Did he ever approach you and say I don't want to wear men's clothing?

A. Never.

[42]

Q. Did you know him to be anything other than a man?

A. Never.

Q. Did he ever express to you that he was not a man?

A. Never.

Q. I think Mr. Price asked you questions about did anyone have any concerns, the female staff, did you talk to them about it. Did you ever have any conversations with any of your female staff about bathroom use?

A. After we had discovered that, I asked them if they would feel comfortable using the restroom with Anthony.

Q. Was there a separate ladies' room and a separate men's room?

A. There was, yes.

Q. And they said they would feel uncomfortable?

A. Yes.

Q. I think you testified that 98 percent of your job was meeting with families, making arrangements, and maybe 2 percent --

A. Yes.

Q. -- was doing embalmings, right?

A. Yes.

Q. Or downstairs work I guess is what we refer to.

A. Correct.

Q. Has that always been the way it has been for you since you started in the funeral business?

[43]

A. Not at all.

Q. And can you kind of tell us --

A. When I -- other locations I would do everything, meet with families. I would do the embalming removals.

When I was hired at R.G. & G.R. Harris, Tom specifically said my primary duties would be meeting with families. The 2 percent that I did embalming generally were when we had an embalmer that was off and we didn't have anyone to do it, then I would do that.

Q. And you were the manager, right?

A. Yes, that's correct.

Q. So you had additional duties than a general funeral director?

A. That is correct.

Q. Can you estimate while you were there at R.G. & G.R. Funeral Home, how many embalmings per month that might be done?

A. Are you talking about a specific location or company?

Q. Let's do Garden City.

A. Garden City. Garden City we would probably do, I would say 125 services a year. Out of that maybe 90 to 100 embalmings.

Q. So in an average -- math is bad as I'm a lawyer too -- but would probably be around seven or eight a month; does that sound about right?

[44]

A. I would say that would be correct.

Q. Obviously it fluctuates depending?

A. Yes.

Q. How long does it take to do an average embalming?

A. From an average case, anywhere from an hour to two hours.

Q. Okay. So maybe up to 16 hours a month?

A. I would say, yes.

Q. Okay. In your experience as a funeral director, can a funeral director/embalmer just do 100 percent of their time downstairs work and not have any contact with the public?

A. Not at that location, not in Harris funeral home.

MR. KIRKPATRICK: No further questions.

REEXAMINATION

BY MR. PRICE:

Q. You mentioned that you had this discussion about bathroom use. Whom did you have the discussion with?

A. With Dolly and Sharon.

Q. Okay. And when did this come up?

A. After we discovered that Anthony had --

Q. Had been fired?

A. -- been let go, yes.

Q. All right. Why did it come up?

A. Just in topical conversation. When I had asked them if [45] they had any knowledge of that and I said would you have felt comfortable with that.

Q. Did you ever relay this to Mr. Rost?

A. No, I did not.

Q. Okay. And obviously since you had no role in the firing, to your knowledge that couldn't have played a role in the decision making?

A. It could not have.

Q. Okay. You also mentioned that employees are given the employee manual. Do you hand out the manual yourself to employees?

A. If I'm the one that has hired them, yes.

Q. But you don't hire funeral directors?

A. In the case of Mr. Stevens, he was working there prior to me.

Q. So you don't have any understanding if or how he got it?

A. I don't have any knowledge of that.

MR. PRICE: All right. Nothing else.

MR. KIRKPATRICK: We're good.

VIDEOGRAPHER: This concludes the deposition of George Crawford. We're going off the record and concluding the deposition at 11:26.

Deposition concluded at 11:26 a.m.)

* * * * *

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Friday, Jan. 22, 2016

DEPOSITION OF DAVID CASH

[3]

EXAMINATION

BY MR. PRICE:

Q. Gooding morning, Mr. Cash.

A. Good morning.

Q. My name is Dale Price. We just introduced ourselves a minute ago. I'm an attorney with the Equal Opportunity Employment Commission in Detroit, and we're here today for your deposition.

Have you ever given testimony before?

A. Never.

Q. Okay. What's going to happen is I'm going to ask you a series of questions about what you do or do

not know about the circumstances underlying this lawsuit.

If you understand my answers -- excuse me -- if you do not understand my question, please ask me and I'll try to rephrase. I'm the ***

* * * * *

[20]

enforcing a dress code or a grooming code, correct?

A. Sure. Yes.

Q. Now, what is the dress code -- excuse me, the grooming. No, sorry. Apologies.

What is the dress code for male employees for R.G. & G.R.?

A. The men wear a dark-colored suit, white shirt and tie that is provided. The suit for most of our employees is provided as well.

Q. So a suit, pants, the coat and the pants and the tie?

A. Yes.

Q. Shirt as well?

A. No.

Q. Not shirt. Okay. And who are the suits provided to?

A. They're provided to all of our full-time and part-time men after they've been there for six months or in that neighborhood.

Q. Now, would that include the drivers as well that you mentioned before?

A. Yes.

Q. All right. How many suits are provided?

A. For most part-time employees one suit, and that [21] would be every year to two years. For full-time employees it would be normally two suits per year.

Q. Is that your -- you get two suits per year yourself?

A. Yes. Uh-huh.

Q. It wears out over time, that sort of thing?

A. Absolutely.

Q. Now, you said most part-timers got just one suit. Are there some part-timers who get more?

A. No, I'm sorry. Yeah.

Q. Okay. Fair enough. I just wanted to clarify. And how are the employees, these male employees, provided the suits?

A. They are instructed to go to a men's clothing store that we have an agreement with called Sam Michaels, and they're fitted and they go back. And once a suit is in and they get tailored and that's it.

Q. Okay. Now, if the suit is damaged in some way, at least things happen on the job, you can go get another suit, these people can go get another replacement suit; is that correct?

A. Yes, or have it repaired.

Q. Right, depending on the nature of the -- but they [22] would be repaired free of cost to the employee, correct?

A. Yes.

Q. Okay. Have you ever had to have your suits repaired?

A. Yes.

Q. Do you recall ever paying anything for it or no?

A. No.

Q. Okay. What is your understanding of the dress code for female employees?

A. Female employees are asked to wear conservative dark-colored clothing, a dress, if they are in positions where they will be meeting the public.

Q. Now, you said conservative dark-colored dress. We talking skirts, that sort of thing?

A. Yes.

Q. Okay. Do you know of any women that you supervise who wear pants?

A. Yes.

Q. You do you have someone?

A. Yes.

Q. Who would that be?

A. That would be Denise, my housekeeper.

Q. And she's not seeing the public?

A. Correct.

[23]

Q. All right. So if the women are meeting with the public, interacting with the public, they're wearing these dark colors and a skirt, correct?

A. Yes.

Q. Now, is it the case now that women get a stipend to help with defraying the cost of their clothing?

A. Yes.

Q. Okay. When did that start?

A. About a year ago. Somewhere within the last year.

Q. What was your understanding -- were you asked about -- were you consulted in the process that made the decision that women were going to start getting stipends?

A. No.

Q. From whom did you learn of it?

A. Shannon Kish.

Q. What did she say?

A. She said that we are going to start providing a stipend for the ladies to help with their clothing.

Q. And anything else? Do you recall any other further discussion?

A. No.

* * * * *

[25]

calculated for what the women are going to be paid for their clothing?

A. I do not.

Q. Okay. Do you know how much they are paid?

A. It may have been mentioned to me. I do not recall.

Q. You don't pass out the checks or anything like that to the women, do you?

A. No, I don't.

Q. All right. And you weren't party to the decision for or consulted as part of the decision to say, you know, how much should we pay the women for this?

A. No.

Q. All right. At some point -- well, let's back up a little bit. You see that you are the primary point person for dealing with the families and friends of the deceased?

A. Yes.

Q. All right. What do you do with respect to that? What are your interactions? What do you do with respect to interacting with the families and helping them through this process?

A. Well, when death occurs and the family comes to the funeral home to make funeral arrangements, I [26] or one of the other managers would meet with them, but if it's our Livonia chapel more than likely it would be me unless it was my day off.

I meet with the family, talk about the details relating to filling out a death certificate. I talk about what their wishes are for the type of service they'd like us to perform, all details relating to a funeral; ministers, whether a minister or a celebrant was going to be used; where the funeral would be held, at the funeral home or at a church; discuss visitation times, funeral times; whether they would like to have a notice placed in the newspaper, and if so helping assisting them in doing that; music; all things relating to a funeral.

Q. And you are also responsible for directing the funeral? That's one of your primary responsibilities?

A. Yes. Uh-huh.

Q. When you direct a funeral, what do you do? What are you doing in this?

A. Well, I make sure that the room is set up properly for a funeral. If it's at the funeral home that the chairs are all set up; that there's [27] a podium for the minister to use. I meet the minister when he comes in. I talk to the family, show them where to be seated, coordinate any music wishes that they would like to have for the service, play music in the background. We record our funerals, video record them, so I set up the video.

And then after the funeral is over I'll go in and give families or give the attendees instructions on what's going to happen next, whether we're going to be leaving and going to a cemetery or if we're going to be invited to a funeral luncheon, things like that.

Q. Fair enough. And do the funeral director embalmers ever do these sort of things, these kind of interactions with the families, you know, the shepherding through the process?

A. Which part of the process?

Q. Meeting with the families to ascertain their wishes and desires. Anything like that?

A. Mostly not.

Q. Okay.

A. Occasionally one of the -- someone other than a manager has met with the family. Mostly not.

Q. Okay. And who else -- who can you recall having done this?

* * * * *

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

v.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Thursday, Jan. 21, 2016

DEPOSITION OF DAVID KOWALEWSKI

[22]

Nothing that derogatory but just not professional, and it got back to us and we just didn't want that associated with us, the lack of professionalism.

Q. Did you ever fire anybody for violating the dress code?

A. No.

Q. Do you understand what I mean by dress code?

A. If you'd like to explain it.

Q. Well, what is R.G. & G.R. Harris's dress code policy?

A. Well, for the males it's a suit and tie. And then for the females it's no slacks, a skirt, a blouse and a jacket. A professional, I guess, business attire.

Q. And you're wearing the suit today?

A. Yes, I am.

Q. And this is provided to you by R.G. & G.R. Harris?

A. Yes, it is.

Q. And what's the policy for providing you with the suit?

A. I was provided with two suits when I started, and as needed I can get more suits.

Q. Can you estimate how often you get a new suit?

* * * * *

[25]

Q. No, I violated my own rule by speaking over your answer.

Besides family complaints, what sort of things do you discipline over?

A. If things don't get done as they should, if there's a list whether verbally, written or things to get done and things don't get done, I just inquire why and why not. If they have a valid excuse, that's fine. If they don't, then we just need to address it and make sure things get done as they should.

Q. Okay. So that's basically for job performance issues?

A. Correct.

Q. That don't involve family?

A. Correct.

Q. How about for violations of the dress code? Do you discipline? Give verbal discipline for violations of the dress code?

A. I've never had to.

Q. Have you ever had an employee who wore an inappropriate jacket that said body snatcher?

A. Oh, that was Dan. Dan Kozlauskos.

Q. Could you describe that incident?

A. I believe it was when he had gone to pick [26] somebody up rather than wearing his suit coat he had that on, and the hospice person or the nurse -- I don't remember if it was a hospice facility or hospital -- had contacted us and just said how inappropriate it was.

Q. What did you do to address that?

A. I told him he can't wear it anymore. So I guess I did. I just answered my own question that you asked.

Q. I just want to make the record clear.

A. Oh, that's fine. I appreciate that.

Q. But he didn't get terminated for that?

A. No, he did not.

Q. He was terminated for other reasons?

A. Yes.

Q. What was his position?

A. He was a runner or transporter.

Q. And what are the duties of a runner or transporter?

A. They get death certificates signed at doctors' offices, file death certificates as well as pick up bodies.

Q. I'd like to revisit the dress code for a second.

Are women provided clothing from R.G. & G.R. Harris?

[27]

A. No.

Q. Are women provided a clothing allowance or stipend?

A. Yes.

Q. Has that always been the case since you've worked there?

A. No.

Q. Do you know when that changed?

A. Within probably about the last few months.

Q. Last few months?

A. I think, yeah. I believe so.

Q. You're not sure?

A. No.

Q. Do you know why that changed?

A. No.

Q. Do you know how much the stipend or allowance is for?

A. I know the part-time and full-time are two different amounts. I believe it's 75 for the part-time.

Q. Okay.

A. And more for the full-time. I'm not sure the exact amount.

Q. Do you know who decided to implement the stipend?

A. No.

[28]

Q. You weren't in any way involved in the process?

A. I was not.

Q. No one asked your input?

A. No.

Q. Has Tom Rost ever fired any employees that you supervised?

A. No. No, not that I remember.

Q. Did you consult with Tom Rost in firing the employees we've previously discussed?

A. Yes.

Q. All of them?

A. Yes.

Q. And what would the nature of those communications with Tom Rost be?

A. Voice my concern as far as why a person should be let go, and Tom would usually concur and proceed with the termination.

Q. Has Tom ever told you not to fire someone you wanted to fire?

A. He has not.

Q. Has Tom Rost ever discussed his religious beliefs with you?

A. No.

Q. Has Tom Rost ever led you in religious activities?

* * * * *

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Case No. 2:14-cv-13710

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,
PLAINTIFF

V.

R.G. & G.R. HARRIS FUNERAL HOMES, INC.,
DEFENDANT

Plymouth, Michigan
Friday, Jan. 22, 2016

DEPOSITION OF WENDY MCKIE

[22]

felt bad. · Sad and bad, sorry.

BY MR. SHULTZ:

Q. Could you say why did you feel sad and bad?

A. For him as an individual with a family, and he's an incredible embalmer, learned a lot. · I just feel bad for somebody's struggles like that with internal issues.

Q. After Stephens was terminated, did you have any communications with any other R.G. & G.R. employees regarding Stephens or Stephens' termination?

A. No.

Q. Have you had any contact with Amy Stephens since she was terminated from R.G. & G.R.?

A. No.

Q. You've never had a meal with her after the termination?

A. No.

Q. Does R.G. & G.R. have a dress code for its employees?

A. Yes.

Q. What is your understanding of that dress code?

A. The gentlemen wear suit and ties, dark suit and ties, white shirts. And the women, we wear skirt suits and tops.

* * * * *

[37]

Q. And it's kind of a uniform. Would you describe what that male uniform looks like?

A. It's a pants suit.

Q. It's a suit like I have on right now?

A. A suit, yes. Suit coat.

Q. Is it, like, navy?

A. It's dark, yes. They just got new ties.

Q. Okay. And they're supposed to wear it daily --

A. Every day.

Q. -- or at work.

Was there ever any discussions at work about implementing or finding a female dress code or female uniform?

A. Yes.

Q. And was that a while back? How long ago was that?

A. It's been a while.

Q. Several years.

A. Yes.

Q. Okay.

A. Been brought up a few times.

Q. Okay. And could you tell me a little bit about the discussion surrounding the female dress code or the female uniform, so to speak? Was there a move to find a specific female uniform that all [38] the women would wear?

A. Correct.

Q. And why was that never implemented?

A. Until Daytona came aboard, I was the youngest in the funeral home female. There's a large age group or -- yeah, and we couldn't get along or agree with the same suit.

Q. So if you're testifying that there was discussions and there was no consensus reached by all the female employees about what color suit to wear, that kind of thing?

A. That and the style of the suit. I think skirt length was a big issue.

Q. So at some point was it determined that since there could be no consensus among the female employees that there would be no specific uniform that all the females had to wear?

A. Correct.

Q. Okay. Was it your understanding that if and when there was a decision made that was agreed upon for a female uniform that the funeral home would purchase that for the females?

A. Correct.

Q. Okay. Now, Mr. Shultz asked you questions about how much shoes cost and shirts, blazers, [39] etcetera. Do you recall that?

A. Yes.

Q. Now, are these clothes that you only wear for work or are you free to wear them any time?

A. Free to wear any time.

Q. Okay.

A. Wouldn't.

Q. Okay. Right. But you could and you have. Have you worn these things, like, to an event or something like that, to a wedding or funeral or something else?

A. Yes.

Q. Okay.

MR. KIRKPATRICK: I don't have any other questions.

RE-EXAMINATION

BY MR. SHULTZ:

Q. Just a limited followup. I promise.

You primarily wear the clothes that we were discussing for work, correct?

A. Correct.

Q. So on an odd occasion you may wear them to a nonwork event?

A. Correct.

Q. Could you estimate how often that happens?

R.G. & G.R. HARRIS FUNERAL HOMES

MISSION STATEMENT

OUR MISSION

R.G. & G.R. Harris Funeral Homes recognize that its highest priority is to honor God in all that we do as a company and as individuals. With respect, dignity, and personal attention, our team of caring professionals strive to exceed expectations, offering options and assistance designed to facilitate healing and wholeness in serving the personal needs of family and friends as they experience a loss of life.

OUR VALUE

The following are values of R.G. & G.R. Harris Funeral Homes and its affiliates which will enable us to carry out our mission.

FAMILIES

The bereaved families and friends we serve are always our primary consideration. We provide the finest quality services to families from all incomes, races, cultural and religious backgrounds, and we will consistently strive to meet their individualized needs as they adjust to the loss of their loved one.

INTEGRITY

In all that we do, we will conduct ourselves with the highest possible integrity, adhering to the company's ethical standards. Honesty and integrity will be our guiding consideration each time we make a decision and each time we communicate with our families.

EXCELLENCE

We will always achieve the highest level of excellence in providing for our families. This will be done through knowledge of company policies and procedures and of the regulations and laws governing our services. We will not compromise the standards of excellence we have set for ourselves.

CAREGIVING PROFESSIONALS

Respecting the expertise of other care giving professionals, we seek to establish and maintain superior working relationships with them. In the best interest of family and friends, we work cooperatively together.

COMMUNITY INVOLVEMENT

We are committed to the well being of our community and dedicated to preserving the integrity of our environment. We strive to be a positive resource and good neighbor.

SUPPLIERS

We strive to develop and maintain superior working relationships with our suppliers and treat them with respect in all situations. **PROFESSION** As innovative and creative leaders in the profession, we strive to foster cooperative relationships within the industry. We bring to the profession the highest standards and a solid reputable organization.

EMPLOYEES

The staff is our most valuable resource. Each individual is honest and trustworthy, and deserves to be treated with dignity and respect. Needs to understand the purpose of his/her work and its relationship to the organization's mission. Makes an im-

portant contribution to achieving the goals of the organization and is willing to be innovative and take risks to accomplish those goals. Strives to achieve his/her potential and is willing to work hard to realize it. Has a role in problem-solving, coordinating work with others, and participating in the decision making process. Is committed to honest, open two-way communication. Is responsible and accountable for his/her work. Needs to be recognized for his/her accomplishments. Seeks to grow in knowledge, skills, and effectiveness. Is committed to working cooperatively as a supportive team member.

“But seek first his kingdom and righteousness, and all these things shall be yours as well.”

Matthew 6:33

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Equal Employment)	
Opportunity)	
Commission)	
Plaintiff,	)	Case No. 14-13710
)	
	)	HON. SEAN F. COX
v.)	
R.G. & G.R. Harris)	
Funeral Homes, Inc.,)	
Defendant.)	
_____)	

**PLAINTIFF'S RESPONSE TO
DEFENDANT R.G. & G.R. HARRIS FUNERAL
HOMES, INC. FIRST SET OF INTERROGATO-
RIES, REQUEST FOR DOCUMENTS AND
ADMISSIONS**

General Objections

Plaintiff objects to Defendant's general instructions and definitions to the extent that they may be construed as placing an obligation or responsibility upon Plaintiff beyond that required by the Federal Rules of Civil Procedure.

Plaintiff objects to Defendant's First Set of Interrogatories, Request for Documents and Admissions to the extent that they request information that is equally available to the Defendant. Plaintiff responds that all answers are based upon information presently available after diligent investiga-

tion. Plaintiff reserves the right to supplement or amend its answers should additional information become available at a later point. In addition, answers will be supplemented by lists of witnesses, lists of exhibits, depositions, and other pleadings and letters.

INTERROGATORIES

Interrogatory No. 1: State the current full legal name of the person you identified in your Amended Complaint as “Aimee Stephens.”

REPLY: Aimee Australia Stephens.

Interrogatory No. 2: State whether Stephen’s name has ever been legally changed and, if so, state each change made and the date each change was made.

REPLY: Stephens’s name was changed from William Anthony Beasley Stephens on August 30, 2013.

Interrogatory No. 3: State in detail and with specificity what you mean, in paragraph 10 of your Amended Complaint, when you state that “Stephens” is a “transgender woman.”

REPLY:

Transgender refers generally to gender non-conforming individuals, especially those whose gender identity (i.e., inner sense of being male or female) or gender expression (i.e., outward appearance, behavior, and other such characteristics that are culturally associated with masculinity and femininity) is different from the sex assigned to the person at birth. Ste-

phens is a transgender woman because her gender identity, female, is different than the sex assigned to her at birth, male.

Interrogatory No. 4: State whether Stephens is the natural/biological father of any offspring and, if so, state the name, sex, and date of birth of each such offspring.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 5: State whether Stephens has ever been married to a woman and, if so, identify Stephens' wife or wives and the dates of such marriage(s), and the current status of such marriage(s).

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 6: State whether Stephens was born a biological male.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 7: State whether Stephens currently has male sexual organs, including but not limited to, a penis and testicles.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July

14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 8: State whether Stephens has had any surgery performed to remove or modify any male sexual organs or has had any “sex reassignment surgery.” If so state the date(s) any such surgery was performed, the location where it was performed, and the names of all medical doctors, medical personnel, and other persons performing or assisting with such surgery.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 9: Prior to August 2013, state whether Stephens informed any employee of the Defendant of any intention of altering Stephens’ physical appearance and “presenting” as a woman as expressed in the August 2013 letter? (attached hereto) If so identify the employee(s), the manner of the communication, the date of the communication, the substance of the communication, and any other information relating directly or indirectly to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 10: Prior to August 2013, state whether Stephens ever “presented” as a woman at defendant’s place of business while employed by Defendant? If Yes, identify the date(s) when

Stephens did so, any witnesses to the presentation, describe any alleged reaction, adverse or otherwise from Defendant, and any other information relating directly or indirectly to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 11: Prior to August 2013, state whether Stephens ever “presented” as a woman in public? If so, describe with specificity Stephens’ habits of “presenting” as a woman in public, the frequency, the date(s), the location(s), and any other information relating directly or indirectly to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 12: Prior to August 2013, state whether Stephens confided in, informed, or in any way communicated to any member(s) of his family, including but not limited to, his wife, his children, his parents, or any other relative, that Stephens was a “transgender woman” as stated in paragraph 10 of your Amended Complaint? If so, identify each such person to whom Stephens communicated, the date(s) of such communication(s), the substance of the communication(s), and any other information relating directly or indirectly to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14,

2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 13: State with specificity the nature and amount of any and all damages you are claiming against the Defendant in this proceeding, including how you calculated such amount, any nonmonetary relief that you seek, and the facts you claim support such damages and non-monetary relief.

REPLY: Plaintiff described the nature and method for calculating damages in its June 5, 2015, Rule 26 initial disclosures. Additionally, the EEOC seeks injunctive and equitable relief regarding the financial difficulties and feelings of humiliation caused by RGGR. This case is in the early stages of discovery, and a specific damage calculation is not available at this time. The Commission will supplement this response as discovery progresses.

Interrogatory No. 14: State whether Stephens has undergone any hormone treatment or therapy on account of or in furtherance of Stephens' claim that Stephens is a "transgender woman," whether for the purpose of creating, enhancing, or exhibiting any "female" physical traits or characteristics. If so state the nature of all such treatment(s) or therapy(ies), the date(s) any such hormone treatment(s) or therapy(ies) was performed, the location(s) where it was performed, and the name(s) of all medical doctors, medical personnel, and other persons performing or assisting with such treatment or therapy.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14,

2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 15: Identify each and every doctor, psychologist, psychiatrist, health care professional, and any other person who evaluated, assessed or treated Stephens for any of Stephens' claimed conditions (including but not limited to transgenderism, gender dysphoria, or gender identity disorder) that form the basis of your Amended Complaint and the contents of the August 2013 letter (attached hereto). Identify each individual by name, address, professional title, contact information, and any other information relative to this interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

Interrogatory No. 16: In the August 2013 letter authored by Stephens (attached hereto), Stephens states "with the support of my loving wife, I have decided to become the person that my mind already is." State with specificity what "support" Stephens is referring to, whether Stephens' wife still supports this decision, and the current state of Stephens' marriage to his wife, and any other information relating to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

[...]

REQUEST FOR ADMISSIONS

1. Admit that at all times during the year 2013, including August 15, 2013, Stephens was anatomically a male - that is, that Stephens was chromosomally a male and had male genitalia.

REPLY: The Commission objects to this request for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

2. Admit that at all times during Stephens' employment with R.G. & G.R. Funeral Homes, Inc., Stephens accepted the clothing allowance the Funeral Homes provided and either purchased or received professional male clothing with such clothing allowance.

REPLY: Admitted.

3. Admit that, during Stephens' employment with Defendant, Stephens never dressed or "presented" as a woman.

REPLY: The Commission objects to this request for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

4. Admit that, prior to the letter Stephens authored in August 2013 Stephens never asked the Defendant for permission or leave to deviate from the Defendant's male dress or grooming code.

REPLY: Admit.

5. Admit that, in this proceeding, the EEOC is contending that “transgender” is a protected class under Title VII, irrespective of whether gender- or sexual-stereotyping has occurred or not.

REPLY: Plaintiff objects that this request pertains to a question of law and is therefore not a proper subject for an admission. Further, Plaintiff alleges that Defendant violated Title VII when it fired Stephens for not conforming to RGGR’s “sex- or gender-based preferences, expectations, or stereotypes” because she is transgender. Dkt. 21, Amended Complaint at 4-5; ECF No. 12, Opinion & Order Denying Defendant’s Motion to Dismiss at 2.

6. Admit that in this action, the EEOC considers Stephens to be a female and not a male for purposes of determining whether discrimination on the basis of “sex” has occurred under Title VII.

REPLY: Denied. This request is confusing. Plaintiff alleges that Defendant violated Title VII when it fired Stephens for not conforming to RGGR’s “sex- or gender-based preferences, expectations, or stereotypes” because she is transgender. Dkt. 21, Amended Complaint at 4-5; ECF No. 12, Opinion & Order Denying Defendant’s Motion to Dismiss at 2.

7. Admit that, while working for Defendant prior to August 2013, Stephens never received any comment from Defendant management regarding Stephens’ dress or grooming

REPLY: Admit that Stephens never received a negative comment about her dress or clothing

from Defendant's management, though Stephens received positive accolades from time to time.

Respectfully submitted,

Dated: July 21, 2015

/s/ Miles Shultz
MILES SHULTZ (P73555)
Trial Attorney
EQUAL EMPLOYMENT
OPORTUNITY
COMMISSION
DETROIT FIELD OFFICE
477 Michigan Ave,
Room 865
Detroit, MI 48226
Miles.Shultz@EEOC.GOV
313-226-6217

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via electronic mail to Counsel for Defendant on July 21, 2015:

Joel Kirkpatrick, Esq.
843 Penniman Ave, Ste 201
Plymouth, MI 481 70

/s/ Miles Shultz
MILES SHULTZ (P73555)

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Equal Employment)	
Opportunity)	
Commission)	
Plaintiff,	)	Case No. 14-13710
)	
	)	HON. SEAN F. COX
v.)	
R.G. & G.R. Harris Fu-)	
neral Homes, Inc.,)	
Defendant.)	
)	
_____)	

**PLAINTIFF’S FIRST SUPPLEMENTAL
RESPONSE TO DEFENDANT R.G. & G.R.
HARRIS FUNERAL HOMES, INC. FIRST SET
OF INTERROGATORIES, REQUEST FOR
DOCUMENTS AND ADMISSIONS**

General Objections

Plaintiff objects to Defendant’s general instructions and definitions to the extent that they may be construed as placing an obligation or responsibility upon Plaintiff beyond that required by the Federal Rules of Civil Procedure.

Plaintiff objects to Defendant’s First Set of Interrogatories, Request for Documents and Admissions to the extent that they request information that is equally available to the Defendant. Plaintiff re-

sponds that all answers are based upon information presently available after diligent investigation. Plaintiff reserves the right to supplement or amend its answers should additional information become available at a later point. In addition, answers will be supplemented by lists of witnesses, lists of exhibits, depositions, and other pleadings and letters.

INTERROGATORIES

Interrogatory No. 9: Prior to August 2013, state whether Stephens informed any employee of the Defendant of any intention of altering Stephens' physical appearance and "presenting" as a woman as expressed in the August 2013 letter? (attached hereto) If so identify the employee(s), the manner of the communication, the date of the communication, the substance of the communication, and any other information relating directly or indirectly to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

By way of further response, and pursuant to the September 24, 2015, Order Granting in Part and Denying in Part EEOC's Motion for Protective Order, the Commission states as follows: Stephens informed employees of her intent to present consistent with her gender identity, female, after returning from vacation in August 2013. To the best of Stephens's present recollection, these employees include: Dolly Nemeth, Sharon Hassett, Michelle

Peterson, Gary Gasiorowski, Tia Macklin, Delores Smith, Summer (last name unknown), William Condron, Wendy McKee, David Kowalewski, and Thomas Rost. These communications were all initiated when Stephens showed them the same letter she gave to Rost and that Defendant attached to its first set of discovery requests. Some employees engaged Stephens in verbal communications after reading the letter. Stephens does not recall the specific substance of these communications except that most of the employees seemed supportive of her. These communications began in June 2013 and lasted until the end of July 2013. Stephens presented Rost the letter on or about July 31, 2013, but Stephens does not remember the specific dates she showed the letter to the other employees.

Interrogatory No. 10: Prior to August 2013, state whether Stephens ever “presented” as a woman at defendant’s place of business while employed by Defendant? If Yes, identify the date(s) when Stephens did so, any witnesses to the presentation, describe any alleged reaction, adverse or otherwise from Defendant, and any other information relating directly or indirectly to this Interrogatory.

REPLY: The Commission objects to this interrogatory for the reasons articulated in its July 14, 2015, Motion for a Protective Order. This request is irrelevant, annoying, embarrassing, and oppressive.

By way of further response, and pursuant to the September 24, 2015, *Order Granting in Part and Denying in Part EEOC’s Motion for*

Protective Order, the Commission states as follows: no, prior to her termination, Stephens never presented consistent with her gender identity, female, when she was at Defendant's place of business.

Dated: October 15, 2015

Respectfully submitted,
/s/ Miles Shultz
MILES SHULTZ (P73555)
Trial Attorney
EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION
DETROIT FIELD OFFICE
477 Michigan Ave,
Room 865
Detroit, MI 48226
Miles.Shultz@EEOC.GOV
313-226-6217

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via electronic mail to Counsel for Defendant on October 15, 2015:

Joel Kirkpatrick
843 Penniman Ave, Ste 201
Plymouth, MI 48170
joel@joelkirkpatrick.com

Joseph Infranco
Alliance Defending Freedom
15100 N. 90th St.
Scottsdale, AZ 85260

jinfranco@alliancedefendingfreedom.org

Dated: October 15, 2015 */s Miles Shultz*
MILES SHULTZ (P73555)
Trial Attorney
EQUAL EMPLOYMENT
OPPORTUNITY
COMMISSION
DETROIT FIELD OFFICE
477 Michigan Ave,
Room 865
Detroit, MI 48226
Miles.Shultz@EEOC.GOV
313-226-6217

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**EQUAL EMPLOYMENT)
OPPORTUNITY)
COMMISSION,) CIVIL ACTION NO.
Plaintiff,) 2:14-CV-13710
) Hon. Sean F. Cox**

v.

**R.G. & G.R. HARRIS)
FUNERAL HOMES)
INC.,)
)
Defendant.**

LAURIE A. YOUNG
KENNETH BIRD
DALE PRICE (P55578)
MILES SHULTZ
EMPLOYMENT OPPOR-
TUNITY COMMISSION
Attorneys for Plaintiff
477 Michigan Ave.,
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Detroit, MI 48226
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Dale.Price@eeoc.gov

)
JOEL J. KIRKPATRICK
JOEL J. KIRKPATRICK,
P.C.
Attorney for Defendant
843 Penniman Ave. Ste.
201
Plymouth, MI 48170
(734) 404-5170
Joel@JoelKirkpatrick.com

**DEFENDANT R.G. & G.R. FUNERAL HOMES,
INC.' S ANSWERS TO PLAINTIFF'S
FIRST SET OF DISCOVERY REQUESTS**

Defendant R.G. & G.R. Funeral Homes, Inc. answers Plaintiff's First Set of Discovery Requests, including Interrogatories, Requests for Production of Documents, and Requests for Admissions, as follows:

GENERAL OBJECTIONS

1. Defendant objects to Plaintiff's instructions and definitions to the extent they seek disclosure of information protected by the attorney client-privilege and/or the attorney work product doctrine. Furthermore, Defendant objects to the interrogatories to the extent they request information from any and all agents, attorneys, investigators, consultants, experts, and other representatives Defendant has retained.

2. Defendant objects to each and every interrogatory to the extent they call for information to which Plaintiff has equal or greater access than Defendant.

3. Defendant objects to each and every interrogatory to the extent they require Defendant to obtain and compile information from third parties.

4. Defendant objects to Plaintiff's definition of "you" and "your" to the extent Plaintiff seeks to obtain information outside Plaintiff's personal knowledge and/or seeks information protected by the attorney client privilege and or work product doctrine.

5. Defendant objects to Plaintiff's interrogatories to the extent they purport to impose duties and obligations which exceed or are different than those imposed by the Federal Rules of Civil Procedure or Court orders in this action.

Defendant objects to the several pages of instructions to the extent they create burdens going well beyond those required by the Federal Rules of Civil Procedure governing discovery. Defendant further objects to the scope and reach of the instructions as applied to the Interrogatories, Request for Documents, and/or Requests for Admissions to the extent such creates burdens beyond those generally accepted in discovery practice. Defendant objects to those portions of the instructions which render null and void the plain meaning of the English language and which seek to shift the burden of clarity in communication from the proponent of the Interrogatories to the respondent. Defendant also objects to the requirement of Plaintiff to sign the declaration under oath for the requests for admissions, which is not contemplated by either the Federal Rules of Civil Procedure 36 or the MSPB regulations. Without waiving any objection, and in the interest of cooperation, the following responses are tendered:

**DEFENDANT'S ANSWERS TO PLAINTIFF'S
FIRST SET OF INTERROGATORIES**

* * *

3. Identify all of the reasons Defendant terminated Stephens, when the decision was made, and identify by name and job title all persons who made or were consulted in this decision. For each person identified, state the role he/she played in the process, provide his/her current employment status, and, if no longer employed, provide his/her last known address, phone number and Social Security number.

ANSWER: Thomas F. Rost, President of R.G. & G.R. Funeral Homes, Inc., made the decision to terminate Stephens from employment. The decision was made shortly prior to the date of termination. Stephens was terminated for his anticipatory refusal to comply with the Defendant's male dress/grooming policy, which is, for legitimate business reasons, applied to and imposed upon all the Defendant's male employees. Stephens unwillingness to comply with company policy would have had a deleterious financial impact on Defendant's business operation and would have been contrary to the funeral home industry standard for conducting funeral services and related business activities. Stephens intentions also violated Mr. Ross's sincerely held religious beliefs.

4. Identify all of the reasons why Stephens was not allowed to present as a woman at work.

ANSWER: please see response to interrogatory # 3.

* * *

6. Describe in detail the functions performed by funeral home directors/embalmers.

ANSWER: A funeral director is one whose profession is assisting surviving families and friends with the planning and carrying out of all aspects of caring for a decedent and the decedent's family, including removal of remains, embalming and cremation, making funeral and

memorial arrangements, making sure funerals and memorial services are carried out in accordance with the decedents' and survivors' desires, and assisting survivors through the emotional distress that accompanies the loss of a loved one. The Funeral director helps safeguard the mental and emotional health of the survivors and the living. Therefore, at the time of a family crisis, through death, the Funeral Director needs to be able to function as a supportive counselor concerning coping with grief, helping on funerals, handling arrangements, legal documents, etc. The Funeral Director is always prepared to respond immediately in bringing the deceased to the funeral home where embalming may take place, or the remains are placed in a temperature controlled facility. The Funeral Director is responsible for initiating and coordinating the many details of these arrangements. These responsibilities include making the removal/transfer of the remains to our care from where death has occurred whether it be from a residence, hospital, nursing home and/or hospice facility. The Funeral Director is responsible for meeting with the next of kin, completing obituary notices, assisting survivors with the selecting of funeral services and merchandise, processing death certificates, filing for insurance, union benefits, and social security benefits, arranging the details of funeral and memorial services, appearing at funeral and memorial services, and accompanying families and friends of the deceased to and at burials.

Throughout all the time the Funeral Director spends with the bereaved, the Funeral Director must be sensitive to their needs and perceptive enough to sense their unspoken concerns. The Funeral Director must be discreet as well as helpful. Funeral Directors – in both appearance and behavior - must perform their professional duties without drawing undue attention to themselves or causing the survivors any more stress than absolutely necessary. Indeed, the Funeral Director's job is, to the extent possible, to lessen and protect the survivors from unnecessary stress. This time is about the grieving survivors, and it is our responsibility to assist them in all aspects of arrangements. The Funeral Director needs to be respectful of all religious facilities at which services are conducted. Assistance is also given to families for final disposition, to which end we are often called upon to make appropriate arrangements with cemeteries, churches, and crematories.

Funeral Directors must be knowledgeable in explaining death to children, coping with grief and many aspects of loss through death. The Funeral Director also must have the knowledge, training and attitude to advise and provide resources for people in times of grief. All of the funeral service must involve care for the deceased and also a genuine concern for life and the living.

[...]

AS TO ALL LEGAL OBJECTIONS

**JOEL J. KIRKPATRICK,
P.C.**

/s/ Joel J Kirkpatrick

**JOEL J. KIRKPATRICK,
P.C.**

/s/ Joel J Kirkpatrick

JOEL J. KIRKPATRICK

(P 62851)

Attorney for Defendant
843 Penniman Ave., Ste. 201
Plymouth, MI 48170
Tel. (734)404-5170
Joel@Joel Kirkpatrick.com

**ALLIANCE DEFENDING
FREEDOM**

/s/ Joseph P. Infranco

JOSEPH P. INFRANCO

15100 N. 901h Street
Scottsdale, AZ85260
Tel. No. (480) 444-0020
JInfranco@alliance-
defendingfreedom.org

Dated: June 19, 2015

CERTIFICATE OF SERVICE

The undersigned has certified that *Defendant R.G. & G.R. Harris Funeral Home, Inc.'s Answers to Plaintiff's First Set of Discovery Requests* has been served

on Plaintiff via first class and electronic mail on June 19, 2015, at the address set forth above.

Respectfully submitted,

/s/ Joel J Kirkpatrick

**U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Detroit Field Office**



477 Michigan Avenue, Room 865
Detroit, MI 48226
(313) 226-4600
TTY (313) 226-7599
FAX (313) 226-2778

Aimee Stephens
Redacted

Charge No.: 471-2013-03381
Charging Party

RG. & G,R Harris
Funeral
31551 Ford Rd.
Garden City, MI 48135

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue the following determination on the merits of this charge.

The Respondent is an employer within the meaning of Title VII of the Civil Rights Act of 1964, as amended, and timeliness, deferral and all other requirements for coverage have been met.

The Charging Party alleged that she was discharged due to her sex and gender identity, female, in violation of the Title VII of the Civil Rights Act of 1965, as amended.

Evidence gathered during the course of the investigation reveals that there is reasonable cause to believe that the Charging Party's allegations are true.

Like and related and growing out of this investigation, the Commission found reasonable cause to believe that the Respondent discriminated against its female employees by providing male employees with a clothing benefit which was denied to females, in violation of Title VII of the Civil Rights Act of 1964, as amended.

Title VII of the Civil Rights Act of 1964, as amended, requires that if the Commission determines there is reason to believe violation(s) have occurred, it shall endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation, and persuasion.

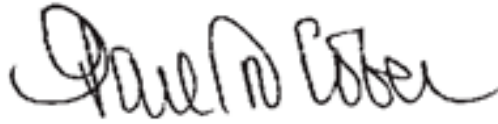
Having determined that there is reasonable cause to believe that a violation has occurred, the Commission now invites the parties to join with it in a collective effort toward a just resolution of this matter. A Coalition Agreement containing the types of relief necessary to remedy the violation of the statute is included for your review.

Disclosure of information obtained by the Commission during the conciliation process will be made in accordance with the statute and Section 1601.26 of the Commission's Procedural Regulations. If the Respondent declines to enter into settlement discussions, or if the Commission's representative for

any other reason, is unable to secure a settlement acceptable to the office Director, the Director shall so inform the Respondent in writing and advise it of the court enforcement alternative available to the Commission.

On Behalf of the Commission:

6/5/14
Date

A handwritten signature in cursive script, appearing to read "Webster Smith".

Webster Smith
District Director

EXHIBIT 17

EEOC AFFIDAVIT

(This form is affected by the Privacy Act of 1974. See Privacy Act Statement on reverse before completing this form.)

NAME Shannon Kish	TELEPHONE NUMBER (Give area code) HOME: WORK:
-----------------------------	--

ADDRESS (Number, street, city, state, zip)
15251 Harper Ave Detroit, MI 48224

THE FOLLOWING PERSON CAN ALWAYS CONTACT ME

NAME AND TELEPHONE NUMBER
ADDRESS (Number, street, city, state, zip)

STATUS OF EMPLOYMENT

CHECK ONE: <input checked="" type="checkbox"/> WORKING <input type="checkbox"/> NOT WORKING <input type="checkbox"/> SOUGHT EMPLOYMENT AT	NAME OF EMPLOYER RG + GR Harris Funeral
---	---

TYPE OF BUSINESS Funeral Home	DATES OF EMPLOYMENT FROM: TO: WHEN EMPLOYMENT WAS SOUGHT FROM: TO:
---	--

POSITION TITLE Business Office Mgr.	DEPARTMENT
---	------------

ADDRESS (Number, street, city, state, zip)

1. Business office Mgr.
2. Almost 26 years I've been employed here. When I first started I was a receptionist then moved to business office. I work with with 7 or 8 others, Maintenance person, Lady who does cleaning, sometimes summer help, a driver, an admin. Assistant.
3. I pay bills, I collect on bills, I take care of each case. I would oversee other employees. I'm sort of what a Human Resources.
4. In ~~Detroit~~ Detroit office. I do not work with the clientel much. I do more contact on phone if at all with clients.
5. I'm the person who does payroll or I answer general business question. I've spoke with all the employees at one time or another.
6. I generally ^{don't} make any employment decisions such as hiring, firing, and discipline.
7. This last month has been very busy. The industry goes in trends sometimes its busy and sometimes its not. Right now business is relatively good but there is some downward turn due to cremations.

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8. We take a strong pride to do the best in the industry. We are family owned which is not as common. We take pride in consulting with the process of grief we try to educate the client. Very important that we help them the best we can help them thats why I'm proud to work for this company. We truly care
9. Local church members use our facilities. Livonia Clientel over more cities then here in Garden City We work w/ rotary, hospitals, churches. We are very word of mouth reccomended or you were in the family beforehand
10. We do get In family befor - its very common to get this repeat business.
11. I believe we have ^{about 32} employees last I counted, it may be even lower than that. We don't have much of a turn over. We may see a young part-timer just getting started in the industry leave but we have a lot of employees who have been here a very long time.
12. We have put ~~it~~ ^{it} in the paper from what I understand. Tom, I, or the facility Mgr's would do this depending on job. I would hire ~~someone~~ for business office only. The facility that has opening, the Mgr would select & hire. For funeral Director/Embalmer Tom + Mgrs would select.

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

DATE	SIGNATURE OF WITNESS	SIGNATURE OF EEOC REPRESENTATIVE	PAGE OF
------	----------------------	----------------------------------	---------

PRIVACY ACT STATEMENT: (This form is covered by the Privacy Act of 1974, Public Law 93-579. Authority for requesting and uses of the personal data are given below.)

1. FORM NUMBER/TITLE/DATE: EEOC FORM 133, EEOC AFFIDAVIT, December 1993.
2. AUTHORITY: 42 USC 2000e(9), 29 USC 201, 29 USC 621, 42 U.S.C. 12117.
3. PRINCIPAL PURPOSES. Provides a standardized format for obtaining sworn statements of information relevant to a charge of discrimination.
4. ROUTINE USES. These affidavits are used to: (1) make an official determination regarding the validity of the charge of discrimination; (2) guide the Commission's investigatory activity; and (3) in Commission litigation, to impeach or substantiate a witness's testimony.
5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION: Voluntary. Failure to provide an affidavit has no effect upon the jurisdiction of the Commission to process a charge. However, sworn statements submitted by the parties, are, of course, relied upon more heavily than unsworn statements in making a determination as to the existence of unlawful discrimination.

EEOC AFFIDAVIT			
(This form is affected by the Privacy Act of 1974. See Privacy Act Statement on reverse before completing this form.)			
NAME		TELEPHONE NUMBER (Give area code)	
		HOME:	WORK:
ADDRESS (Number, street, city, state, zip)			
THE FOLLOWING PERSON CAN ALWAYS CONTACT ME			
NAME AND TELEPHONE NUMBER			
ADDRESS (Number, street, city, state, zip)			
STATUS OF EMPLOYMENT			
CHECK ONE:		NAME OF EMPLOYER	
<input checked="" type="checkbox"/> WORKING	<input type="checkbox"/> NOT WORKING		
<input type="checkbox"/> SOUGHT EMPLOYMENT AT			
TYPE OF BUSINESS		DATES OF EMPLOYMENT	FROM: TO:
		WHEN EMPLOYMENT WAS SOUGHT	FROM: TO:
POSITION TITLE		DEPARTMENT	
ADDRESS (Number, street, city, state, zip)			
<p>13/14 There is Licence Funeral Director / Embalmer, Receptionist, Business office help, Drivers, Maintenance that take care grounds, Inside there are Cleaners. In Garden City She does both. But in Detroit + Livonia different people doing outside grounds maintenance and cleaning inside</p> <p>15. I've worked long enough to know. They do funerals, doctors signature, Cremation permits, removals, preparing remains, transportation to Church and/or cemetery, meeting with families. I believe they are the core job, they meet with the community the most. This is sometimes first impressions use of business with the families. It is the most important job.</p> <p>16. Tom and the Mgrs usually hire for funeral Director / Embalmer position.</p> <p>17. The Dress Code is a suit provided by a company, a tie provided, white shirt provided, shoes polished, fraternity pin very imperable. Its the first impression people are going to get when they meet w/ funeral Directors/Embalmers</p>			

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The only people people not in suits is Maintenance and Cleaning
 Every one meeting w/public needs to ~~be~~ adhere to dress code
 I gave you the mens, for women its a dress
 and suitcoat. Nails done, groomed, hairdone, nothing
 flashy in jewelry, understated colors, not wedding
 attire. We want people to know we are there but not
 stand out. Dress code is set out we never had to
 reprimand people or discipline people. You either
 adhere or you don't work here. Its disrespectful to
 dress as if you are going to a party.

- 19. We've had in the past ~~inter~~ female ~~relationships~~
 interns, but this has been some time ago. I cant
 recall having had any females apply for the job.
 Tom or Mgr would advertise in the paper for positions or
 through internships.
- 21. Yes I know who Anthony Stephens is.
- 22. He was a Embalmer / Funeral Director for us. I'd see
 him and his wife at holiday functions. I seen him
 and say Hi a handful of times.
- 23. He was a very good embalmer I knew of no performance
 problems.

209

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

DATE	SIGNATURE OF WITNESS	SIGNATURE OF EEOC REPRESENTATIVE	PAGE OF
------	----------------------	----------------------------------	---------

PRIVACY ACT STATEMENT: (This form is covered by the Privacy Act of 1974, Public Law 93-579. Authority for requesting and uses of the personal data are given below.)

- 1. FORM NUMBER/TITLE/DATE: EEOC FORM 133, EEOC AFFIDAVIT, December 1993.
- 2. AUTHORITY: 42 USC 2000e(9), 29 USC 201, 29 USC 621, 42 U.S.C. 12117.
- 3. PRINCIPAL PURPOSES. Provides a standardized format for obtaining sworn statements of information relevant to a charge of discrimination.
- 4. ROUTINE USES. These affidavits are used to: (1) make an official determination regarding the validity of the charge of discrimination; (2) guide the Commission's investigatory activity; and (3) in Commission litigation, to impeach or substantiate a witness's testimony.
- 5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION: Voluntary. Failure to provide an affidavit has no effect upon the jurisdiction of the Commission to process a charge. However, sworn statements submitted by the parties, are, of course, relied upon more heavily than unsworn statements in making a determination as to the existence of unlawful discrimination.

EEOC AFFIDAVIT

(This form is affected by the Privacy Act of 1974. See Privacy Act Statement on reverse before completing this form.)

NAME	TELEPHONE NUMBER (Give area code)	
	HOME:	WORK:

ADDRESS (Number, street, city, state, zip)

THE FOLLOWING PERSON CAN ALWAYS CONTACT ME

NAME AND TELEPHONE NUMBER

ADDRESS (Number, street, city, state, zip)

STATUS OF EMPLOYMENT

CHECK ONE:	<input type="checkbox"/> NOT WORKING	NAME OF EMPLOYER
<input checked="" type="checkbox"/> WORKING	<input type="checkbox"/> SOUGHT EMPLOYMENT AT	

TYPE OF BUSINESS	DATES OF EMPLOYMENT	FROM:	TO:
	WHEN EMPLOYMENT WAS SOUGHT	FROM:	TO:

POSITION TITLE	DEPARTMENT
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ADDRESS (Number, street, city, state, zip)

24. I was only given the general outline of what was going on. I do not make the decisions. I was given paper work to file regarding this. He was discharged because he was not going to wear our dress code any longer. He was supposed to wear a suit and to my knowledge he did not want to wear the company provided suit, tie, shirt.

The women at one time provided uniforms 10 or 15 yrs ago. Much smoother now, we bickered because we are all different sizes or shapes but we do have to adhere to a dress code.

25. We have a standard we are out in the community and it could have been disruptive and if you have a uniform you wear it.

26. ^{The Dresscode,} I think this is an important issue and this was the only reason was discharged

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27. I never seen changing party present as female.

28. I hear a lot of things due to ~~my~~ my job but I cannot be bent with gossip or hearsay.

I did not know about the changing parties intentions prior to ~~Tom's letter.~~ Anthony's letter to Tom.

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

DATE 3-25-14	SIGNATURE OF WITNESS <i>Sammon J. Lush</i>	SIGNATURE OF EEOC REPRESENTATIVE	PAGE OF
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PRIVACY ACT STATEMENT: (This form is covered by the Privacy Act of 1974, Public Law 93-579. Authority for requesting and uses of the personal data are given below.)

1. FORM NUMBER/TITLE/DATE: EEOC FORM 133, EEOC AFFIDAVIT, December 1993.
2. AUTHORITY: 42 USC 2000e(9), 29 USC 201, 29 USC 621, 42 U.S.C. 12117.
3. PRINCIPAL PURPOSES. Provides a standardized format for obtaining sworn statements of information relevant to a charge of discrimination.
4. ROUTINE USES. These affidavits are used to: (1) make an official determination regarding the validity of the charge of discrimination; (2) guide the Commission's investigatory activity; and (3) in Commission litigation, to impeach or substantiate a witness's testimony.
5. WHETHER DISCLOSURE IS MANDATORY OR VOLUNTARY AND EFFECT ON INDIVIDUAL FOR NOT PROVIDING INFORMATION: Voluntary. Failure to provide an affidavit has no effect upon the jurisdiction of the Commission to process a charge. However, sworn statements submitted by the parties, are, of course, relied upon more heavily than unsworn statements in making a determination as to the existence of unlawful discrimination.