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STATE OF INDIANA)
) SS:
COUNTY OF MONROE)

IN THE CIRCUIT COURT OF MONROE COUNTY

CAUSE NO. 53C06-2203-PL-000509

COUNTY RESIDENTS AGAINST)
ANNEXATION, INC., et al.,)

Petitioners,)

-vs-)

CITY OF BLOOMINGTON, INDIANA,)
et al.)

Respondents.)

DEPOSITION OF RUSSELL NUNN

The deposition upon oral examination of
RUSSELL NUNN, a witness produced and sworn before
me, Colleen Brady, Notary Public in and for the
County of Monroe, State of Indiana, taken on behalf
of the Respondent, at Bloomington City Hall, 401
North Morton Street, Room 225, Bloomington, Monroe
County, Indiana, on the 8th day of September 2022,
at 8:56 a.m., pursuant to the Indiana Rules of
Trial Procedure with written notice as to time and
place thereof.

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Deposition Exhibit No.:

Exhibit 20 - Deposition Subpoena and 6
Subpoena Duces Tecum

Exhibit 21 - Waiver of Protest of12
Annexation, dated 6/3/1999

Exhibit 22 - Facebook Post34

Exhibit 23 - Facebook Post36

Exhibit 24 - Facebook Post37

Exhibit 25 - Facebook Post39

Exhibit 26 - Affidavit of Russell Nunn,54
dated 6/3/2021

1 (Time noted: 8:56 a.m.)

2 RUSSELL NUNN,
3 having been duly sworn to tell the truth, the whole
4 truth, and nothing but the truth relating to said
5 matter, was examined and testified as follows:

6

7 DIRECT EXAMINATION,

8 QUESTIONS BY ANDREW M. MCNEIL:

9 Q Please state your name for the record.

10 A Russell L. Nunn.

11 Q Mr. Nunn, my name is Andrew McNeil, and I'm one
12 of the attorneys for the City of Bloomington
13 in -- it's a lawsuit that involves remonstrance
14 petitions with respect to proposed annexation.

15 Do you understand that?

16 A Yes, I do.

17 Q Have you ever been deposed before?

18 A I have not.

19 Q As you can see, it's an informal process, but
20 it's formal at the same time. So it's part of a
21 court proceeding, but there's no judge in the
22 room.

23 A Correct.

24 Q So your job today is to answer my questions as
25 completely and as truthfully as you can.

1 Do you understand that?

2 A Yes, sir.

3 Q If you don't understand my question, will you
4 let me know?

5 A Yes, sir.

6 Q I don't expect this to be a marathon session,
7 but if you need to take a break to use the
8 restroom or stretch your legs, get some water,
9 will you let me know that?

10 A Yes, sir.

11 Q And you are here today pursuant to a subpoena.

12 A Yes.

13 Q And you were personally served with that
14 subpoena?

15 A Yes, I was.

16 Q I want to show you a copy of the subpoena
17 because it had some document request in it. I
18 just want to ask you some questions about that.
19 So this is identified as Exhibit 20.

20 Does this look like a copy of the subpoena
21 you were served with?

22 (Deposition Exhibit 20 marked for
23 identification.)

24 A Yes.

25 Q Starting on page 2 there's a series of requests

1 for records; 1 through 6.

2 Were you able to identify any records
3 responsive to those requests?

4 A I don't -- didn't have anything to begin with.
5 The only thing I had was the affidavit I sent to
6 Mr. Heeb.

7 Q That was it? That's the only --

8 A That's the only, yes.

9 Q So no emails, text messages?

10 A I do not.

11 Q How did you get a -- so you signed an
12 affidavit --

13 A Electronically, yes.

14 Q And who sent you that affidavit?

15 A Ryan Heeb.

16 Q Do you know who Margaret Clements is?

17 A I do not.

18 Q Do you know who Rhonda Gray is?

19 A I have heard the name. I do not know her
20 personally.

21 Q Okay. So you didn't have any --

22 A I did not.

23 Q And one thing I didn't say in the preliminary
24 ground rules was the court reporter is making a
25 record of everything that we say; so all my

1 questions and all your answers.

2 A Yes, I understand.

3 Q We make it a lot easier for her if I let you
4 finish your answer before I start my next
5 question and you let me finish my question.
6 Even if you already know what I'm going to ask
7 you, just let me finish the question before you
8 start your answer. That way, we make her job a
9 little easier.

10 Does that make sense?

11 A Yes, sir.

12 Q So did you have any email or electronic
13 communication with Rhonda Gray or Margaret
14 Clements about the annexation?

15 A Not to my recollection, I did not.

16 Q Do you know who Rita Barrow is?

17 A I have heard of her, and she actually sent me a
18 friends request on Facebook last week that I
19 accepted. We've had no communication.

20 Q Who do you understand her to be?

21 A She's a -- I'm not sure exactly what her -- I
22 think she is part of the government at some --
23 like a commissioner or somewhere; is that
24 correct? I'm not exactly sure who she is.

25 Q What township do you live in?

1 A Perry, I believe it is. I live in the Highlands
2 addition.

3 Q My understanding of her is she's a township
4 trustee. Something of that nature.

5 Do you know her outside of the Facebook
6 friends request?

7 A I do not.

8 Q Do you know who Catherine Smith is?

9 A I do not.

10 Q Do you understand she's the auditor for Monroe
11 County?

12 A I take your word for it.

13 Q Okay. So you had no -- other than the friend
14 request from Rita Barrow, no communication with
15 her about the annexation or anything related to
16 the remonstrance?

17 A Not to my recollection, I do not.

18 Q Did you have any electronic or written
19 communication with Catherine Smith or the county
20 auditor concerning the annexation or the
21 remonstrance?

22 A I do not believe so.

23 Q I handed you Exhibit 20, but you have a couple
24 of other -- at least one other set of papers in
25 front of you. What are those?

1 A That's my copy of the subpoena and the affidavit
2 that I have there.

3 Q Okay. Anything else besides the subpoena and
4 the affidavit?

5 A That's all I have, sir.

6 Q Okay.

7 A I'm not a good record keeper. I apologize.

8 Q That's okay. Where do you currently live?

9 A 1527 West Leighton, L-e-i-g-h-t-o-n, Lane in
10 Bloomington.

11 Q How long have you lived there?

12 A We purchased the house in 2002.

13 Q And you've lived there continuously since 2002?

14 A Yes.

15 Q Do you own the house with someone else?

16 A My wife.

17 Q What's your wife's name?

18 A Lori, L-o-r-i, S. Nunn, N-u-n-n.

19 Q Is there a mortgage on the property?

20 A Yes, there is.

21 Q Does anyone else live at that 1527 West Leighton
22 Lane with you and your wife?

23 A I have 2 minor children, yes.

24 Q How old are your children?

25 A I have a daughter that is 17, and a son that is

1 12.

2 Q Does your daughter go to high school?

3 A At Bloomington Graduation School.

4 Q Is your 12-year-old in middle school now?

5 A Middle school, Batchelor, yes, sir.

6 Q So in, let's say, the 2021-2022 school year --
7 so last school year -- where did they go to
8 school? Is it the same?

9 A Daughter was going to Graduation school; son was
10 at Clear Creek Elementary.

11 Q Does the City of Bloomington provide your
12 water -- sewer and water service at your
13 residence?

14 A I believe so, yes.

15 Q You pay a water bill?

16 A Yes.

17 Q Who do you pay it to?

18 A I believe it's -- I don't pay it. My wife pays
19 all the bills. I believe it's City of
20 Bloomington Utilities, correct.

21 Q Has that been the case throughout the time
22 you've lived at that --

23 A To my knowledge, yes.

24 Q I'm going to show you Exhibit 21. So Exhibit 21
25 has a title on it, "Waiver of Protest of

1 Annexation." And there are Lots 1, 2, and 3;
2 the Wickens Subdivision.

3 Do you recognize that as where you live?
4 (Deposition Exhibit 21 marked for
5 identification.)

6 A I know mine is Lot 114, I believe.

7 Q Lot 114. Did I give you two copies?

8 A Yes.

9 Q You keep that one. I'll take the other.

10 Are you aware of whether your property has
11 an annexation waiver attached to it?

12 A I'm not aware of that.

13 Q When you bought the house, do you know if there
14 was a title search done?

15 A I'm not aware of whether there was or not.

16 Q So did you ever see a copy of the title search
17 that was prepared in connection with your
18 purchase of the property?

19 A I did not.

20 Q Were you the first owner, or did someone else
21 own it?

22 A We were the first owners.

23 Q Did you buy it from the developer essentially?

24 A Yes. I believe it was -- at that time, it was
25 Crossman Homes, I believe. It was either

1 Crossman or Beazer Homes. I can't remember
2 which one had it at that time. There's been
3 three different builders in there.

4 Q Have you ever heard that your property or your
5 subdivision was subject to a waiver of
6 annexation in exchange for connection to the
7 city water and sewer?

8 A I have not.

9 Q What's the name of your subdivision?

10 A The Highlands.

11 Q Highlands, you said that. Do you understand
12 that your property is located in one of the
13 particular annexation park territories as
14 described by the Bloomington annexation
15 ordinances?

16 A Yes.

17 Q What is your understanding of which section
18 you're in?

19 A I thought I was in phase -- what's called Phase
20 2.

21 Q Phase 2. Do you know if it's -- have you heard
22 of Section 1A and 1B?

23 A I have heard of them. Sorry, I couldn't tell
24 you which ones are which.

25 Q Okay. Did you ever sign a petition

1 remonstrating against or opposing the
2 annexation?

3 A I did not.

4 Q In the summer of 2021, so June; July; August
5 time period, before the city adopted the
6 annexation ordinances, did you sign any petition
7 sort of expressing your opposition to the
8 annexation?

9 A I did not.

10 Q Do you know if your wife signed the petition?

11 A To my knowledge, no.

12 Q To your knowledge did your wife sign an official
13 remonstrance petition opposing the annexation in
14 the October to January -- October of 2021 to
15 January of 2022?

16 A Not to my knowledge, no.

17 Q Have you heard of an organization called County
18 Residents Against Annexation?

19 A No, sir.

20 Q I asked you if you had communications with
21 Margaret Clements. Do you know who that is?

22 A I do not.

23 Q Have you ever heard her name in connection with
24 the opposition to the city's annexation plans?

25 A I had not heard her name until you mentioned it.

1 Q Were you, say, the summer and fall of 2021, were
2 you aware that the City of Bloomington was
3 moving forward with an annexation process?

4 A I was aware due just through radio news. I
5 listen to the local radio station. So I was
6 aware of it, yes.

7 Q Which radio station?

8 A GC on 1370.

9 Q Is that mostly a news channel? Talk radio?

10 A Yeah. News, talk, sports, yeah.

11 Q Okay. Other than getting information from 1370
12 about the annexation, did you get information
13 about the annexation from any other source?

14 A Possibly the newspaper. I read it about once a
15 week. I might have read an article there. That
16 would have been the only other place.

17 Q Which newspaper?

18 A Harold-Times.

19 Q Did you read that in paper copy or online?

20 A Paper.

21 Q Did you get any information about the annexation
22 process or the remonstrance process from any
23 online source?

24 A I did not.

25 Q You mentioned that Rita Barrow had recently sent

1 you a Facebook friend request. So you do have a
2 Facebook page or profile?

3 A Yes.

4 Q And how long have you had or been a user,
5 Facebook user? A while?

6 A Yeah, yeah. I'd say five to seven years.
7 Somewhere in there.

8 Q So more specifically though, you were a Facebook
9 user in the summer of 2021 and the fall of 2021?

10 A Yes.

11 Q Did you ever see any information about the
12 annexation or remonstrance process through
13 Facebook?

14 A No. None of my friends pay attention to it.

15 Q What do you do for a living?

16 A I'm the plumbing manager at Allied Wholesale in
17 Bloomington.

18 Q What's the address for Allied Wholesale?

19 A 1208 West 2nd Street, Bloomington.

20 Q How long have you been the pluming manager
21 there?

22 A For six years.

23 Q Did you get any information about the annexation
24 or remonstrance process through your workplace?

25 A No.

1 Q Any of your coworkers talk with you about it?

2 A No.

3 Q During the COVID pandemic era, was there a
4 period of time where you worked remotely? Or
5 did you always work on-site?

6 A We were on-site.

7 Q Did you understand that your business was
8 considered essential?

9 A Yes.

10 Q Did your workplace adopt or implement any COVID
11 protocols?

12 A We had mask mandates and we also had our -- we
13 set up a drive-through. We had an open
14 warehouse where customers could call their
15 orders in. We would place the material on a
16 table outside. They would pick up the material,
17 sign the receipts, and then we would retrieve
18 the receipts.

19 Q How long was there a mask mandate in effect at
20 Allied Wholesale?

21 A Yes.

22 Q How long?

23 A I would say somewhere between 9 and 12 months.

24 Q So starting March/April 2020?

25 A Probably, I would say, April 2020.

1 Q And roughly the rest of the year --

2 A Yes.

3 Q -- and maybe a little into 2021?

4 A Probably more towards the end of 2020, yeah. I
5 don't think it went into 2021.

6 Q Did Allied Wholesale have a vaccination
7 requirement?

8 A They did not.

9 Q How long did you have the open warehouse set up
10 as a drive-through?

11 A I would say 4 to 6 months. From the April
12 through, probably, end of August.

13 Q So when you don't have the open drive-through --
14 open warehouse drive-through set up, what's the
15 day-to-day business activity of Allied?

16 A It is walk in or phone and delivery service.

17 Q Is the customer base mainly contractors?

18 A Contractors. Some individual homeowners, but I
19 would say it's 80/20 contractors.

20 Q It's not -- I mean, it's call Allied Wholesale;
21 so it's not really a retail store, is it?

22 A We do sell to the public. That's just the name
23 they chose to go with.

24 Q So once the time where the open warehouse
25 drive-through set up was done, did you go back

1 to normal business operations?

2 A I would say, yes.

3 Q What was your schedule?

4 A I worked -- my hours are 7 to 4:30, Monday
5 through Friday. But I'm in the office from 5 in
6 the morning till usually 6 at night doing my
7 ordering.

8 Q And was that consistently your schedule in, say,
9 the summer of 2021 and fall of 2021?

10 A Yes.

11 Q Is that your schedule today?

12 A Yes.

13 Q Did you ever get COVID?

14 A Yes, I did.

15 Q When did you have COVID?

16 A It was in the early -- it was early May of 2020.

17 Q So early in the pandemic?

18 A Yes.

19 Q I'm sure that was a little unsettling;
20 particularly then, when we didn't know a lot
21 about how it worked and treatments and those
22 kind of things. But did you fully recover?

23 A I did.

24 Q And is that the only time that you knew you had
25 COVID?

1 A Only time I knew I had it, yes.

2 Q Anyone else in your family have COVID -- in your
3 household have COVID?

4 A My entire family has had it, yes.

5 Q What are the time frames of when your wife had
6 it?

7 A My wife had it later in 2020, and my daughter
8 had it in mid '21.

9 Q So summertime '21?

10 A I'd say May to June, in that area, yeah.

11 Q What about your son?

12 A My son was after that. He was probably July to
13 August of '21. Somewhere in there.

14 Q And were those the only occasions where those
15 members of your family knowingly had COVID?

16 A Knowingly, yes.

17 Q And I don't mean to pry in your personal
18 business, but did you get the COVID vaccine?

19 A I have had both dosages, yes.

20 Q Did you get a booster?

21 A I have not had the booster yet, no.

22 Q When did you get your vaccine?

23 A I have to look at my phone. I've got a picture
24 if you want.

25 Q It's up to you.

1 A I actually have a picture of the card. Give me
2 just a second here.

3 Q I'm not requesting that you do that, but if you
4 want to use that as a resource, that's fine.

5 A I'm more than happy to. Give me one second
6 here. First dose was 3/25/21; second dose was
7 4/22/21.

8 Q How old are you?

9 A I'm 54.

10 Q I'm 53; so I'm guessing that was roughly around
11 the time your age range was eligible?

12 A Yes, correct.

13 Q Same schedule roughly I was on.

14 Was there ever a COVID outbreak at your
15 workplace?

16 A We had two people -- so our company is very
17 small. We only have about six employees. But
18 the most at work we've had, I would be the third
19 one of them out of that had it, yes.

20 Q When did the other two people have COVID?

21 A It might -- actually, our power -- electrical
22 manager just had it less than two months ago,
23 and the delivery drivers had it twice; once in
24 '21 and the second time early in '22.

25 Q Does your wife work?

1 A She works for Indiana University, yes.

2 Q What does she do there?

3 A She is in student loans.

4 Q Did she work there in 2021?

5 A Yes.

6 Q In her job, was there ever a period of time
7 where she worked remote?

8 A My wife is currently still working remotely.
9 She has a home office.

10 Q So has she been remote since the beginning of
11 the pandemic, roughly?

12 A Yes.

13 Q Does she have any periods where she regularly
14 goes into the office? Or is she 100 percent
15 remote?

16 A She might go in once a month to pick up some
17 papers, that's it. Other than that, she is
18 100 percent remote.

19 Q Other than the time when your workplace had a
20 mask requirement or a face-covering requirement
21 for that 9 to 12 months, did you have a personal
22 mask COVID protocol outside of what was required
23 for your workplace?

24 A We -- my family wore masks any time we were out.

25 Q How long did your family do that?

1 A Probably through the third quarter of '21. Once
2 everybody had been vaccinated.

3 Q When you say once everybody had --

4 A My family.

5 Q Your family.

6 A Yes.

7 Q Does your youngest son, was he the last one to
8 get vaccinated? Or the kids might have gotten
9 it at the same time.

10 A I think they got it the same time. The dates,
11 I'm not sure of.

12 Q But it was sometime in, say, summer of 2021?

13 A Yes.

14 Q Did their schools have vaccine requirements?

15 A No.

16 Q Did you understand that -- sitting here today,
17 do you understand that the -- what a
18 remonstrance period is?

19 A I'm assuming it's the time you're allowed to
20 sign one.

21 Q Right. A 90-day period where you're able to
22 sign a petition opposing the annexation after
23 the ordinances have been lifted.

24 A Yes.

25 Q I think it's been established in this case, I

1 might be off by a day or two, but it was roughly
2 October 8, 2021 through January 6 of 2020 [sic]
3 as the remonstrance period for these -- the
4 Bloomington annexations.

5 Does that --

6 A That sounds right, yes.

7 Q So what steps did you take between October 8, or
8 thereabouts, 2021 to January 6 of '22, or
9 thereabouts, to sign a remonstrance petition?

10 A I did not.

11 Q Why not?

12 A I was not going out. We were not going into
13 public areas. I have an 81-year-old father with
14 cancer that we take care of. I have asthmatic
15 bronchitis. I don't go around a lot of people,
16 to be honest with you, other than when I have to
17 and that's work and -- or people that I'm
18 100 percent sure have been vaccinated.

19 Q Are you comfortable in this setting here today?

20 A Today, yes, because it seems to have kind of
21 ebbed out; so ...

22 Q You mentioned, was it your father?

23 A My father, yes.

24 Q Does he live with you? Or does he live nearby?

25 A He lives nearby.

1 Q And you mentioned asthmatic bronchitis.

2 A That's me.

3 Q Any other -- I think they call those
4 comorbidities now. Any other conditions that
5 make COVID potentially a higher risk? Are there
6 other members of your immediate household with
7 any comorbidities or conditions?

8 A My wife and I both have high blood pressure
9 whether that's considered one or not.

10 Q How long did you avoid going into public places
11 or public areas?

12 A I still try to avoid it if I can as much as
13 possible, like I said, unless I know the
14 majority of the people that are there.

15 Q Was that true -- when I say "that," I mean your
16 efforts to avoid going into public places
17 without knowing the people there, their status,
18 when did that start?

19 A To be honest with you, I have always been that
20 way.

21 Q Okay.

22 A That's just a personal trait of mine. I'm just
23 not that good in large group settings to be
24 honest with you.

25 Q Sure. So then, I mean, other than the world

1 kind of being disrupted during the -- especially
2 early in the COVID pandemic, did you change any
3 behaviors?

4 A Yeah. I shrunk my group up even more than
5 before, yes. Mainly, like I said, mainly due to
6 the fact that we take care of my father. You
7 know, he's 81 years old with cancer. I'm not
8 going to take a chance of bringing something to
9 him, mask or without a mask on me.

10 Q Sure. Did he ever get COVID?

11 A My father, not to my knowledge. I think we
12 avoided it.

13 Q Does he live on his own, or is he in a --

14 A He lives on his own.

15 Q And is he local?

16 You have to say yes.

17 A Yes, I'm sorry.

18 Q During this time, you know, the COVID era --
19 March 2020 to, we'll just say, the end of 2021,
20 so that 21-month period, roughly -- how did you
21 get your groceries?

22 A My wife went with masks.

23 Q And do you do handywork around the house?

24 A I'm sorry?

25 Q Do you personally do handywork or repair work

1 around the house?

2 A Yes.

3 Q Did you ever need hardware supplies during this
4 March 2020 to the end of '21 time period?

5 A If I did, it was either plumbing or electrical,
6 which I have at my store because that's all I
7 feel comfortable doing. I don't do much of
8 anything else.

9 Q And you go to church?

10 A No.

11 Q Social clubs? Like, you know, AMVETS or the
12 Moose Lodge or anything like that?

13 A No.

14 Q Your wife handles your family finances?

15 A Correct.

16 Q Do you know how your property tax bills get
17 paid? Do they get paid through the mortgage, or
18 do you pay them directly?

19 A I believe they are through the mortgage.

20 Q Did you go out to eat at all in 2021?
21 Restaurants?

22 A If we did, it would have been through the
23 drive-through.

24 Q So, like, birthday dinners or anniversary
25 dinners, did you go out to any restaurants

1 during 2021?

2 A I can't say we didn't go to one. If we did, I
3 don't recall going to a sitdown restaurant for
4 any reason. We always had family gatherings at
5 home.

6 Q Did you go to any sporting events?

7 A I watched my daughter bowl in the high school
8 state finals in February '22.

9 Q How did she do?

10 A She finished fifth.

11 Q That was in February of '22?

12 A Yes.

13 Q So my kids play soccer; so we do sectionals,
14 regionals, semi-state.

15 Does bowling work the same way?

16 A It does, but the sectional and the regional are
17 local. There was only like 12 kids in the
18 sectionals. Bowling is a very, very small high
19 schools sport.

20 Q Sure. Where was the sectional?

21 A Classic Lanes. Here in Bloomington.

22 Q Do you remember the dates, roughly?

23 A Would have been late January '22.

24 Q Where was the regional?

25 A Evansville, would have been very late January

1 '22.

2 Q Did you drive to Evansville?

3 A Yes.

4 Q Did you attend the regionals?

5 A I did attend the regionals, yes.

6 Q You said there's about 12 kids in the
7 sectional --

8 A There's probably double that in the regional.
9 And then from there, it was state -- where was
10 it -- Anderson in mid February.

11 Q You approximated the sectionals in late
12 January --

13 A The sectionals would have been mid January
14 probably. Then the regionals the next week,
15 which would have been later January. Then the
16 state is in mid February. They give them two
17 weeks off.

18 Q Approximately how many participants were there
19 in the state meet or tournament?

20 A Would have been 40 girls and about the same boys
21 separated on a -- in an 80-lane house.

22 Q In your observation, were there other, you
23 know -- the participants' families there as
24 well?

25 A Yes.

1 Q So when you watch a high school bowling
2 tournament as a fan, like, most bowling allies
3 have, you know, the lanes and the tables and
4 chairs for the bowlers; where do the fans
5 observe from?

6 A Stood behind the lanes.

7 Q Was that true for the sectionals, regionals and
8 the state meet -- tournament?

9 A Correct.

10 Q You call it a tournament? Meet? I mean --

11 A It's a tournament.

12 Q Okay. I ran cross-country and track.
13 Everything was a meet.

14 Did you go to any IU sporting events in
15 2021?

16 A I do not recall going to any.

17 Q Before the pandemic, did you go to football or
18 basketball games or anything like that?

19 A I might have been to three football games in the
20 last ten years. That's just if somebody had an
21 extra ticket.

22 Q Does IU have a bowling team?

23 A Yes.

24 Q Do you ever go to bowling events?

25 A No. Not since -- I take that -- I'll rephrase

1 that. Not since 2018 when my son was a bowler
2 for IU.

3 Q So you have older children out of the home?

4 A Yes.

5 Q How many?

6 A One.

7 Q Do you bowl?

8 A Yes.

9 Q Did you bowl during the pandemic?

10 A With a mask, yes.

11 Q How often do you bowl?

12 A Once a week.

13 Q Was that true throughout 2021?

14 A They shut down for four months back at the
15 height of the pandemic, but other than that, it
16 goes from August -- season runs from August till
17 late March.

18 Q So are you in a bowling season right now then?

19 A Yes, just started.

20 Q So looking at 2021 to 2022, August of '21 to
21 March of '22, were you in a legal?

22 A Yes.

23 Q And are you on a team?

24 A Yes.

25 Q How many on a team?

1 A Five.

2 Q So how does that -- do you play against a -- or
3 bowl against another five-member team?

4 A Correct.

5 Q Are you on lanes next to each other?

6 A It's a pair of lanes, yes.

7 Q Your five on one lane, and their five on the
8 other?

9 A Yes, yes.

10 Q And that was true every week from August of '21
11 to March of '22? Taking out maybe for
12 holidays --

13 A Other than holidays, and if you just wanted a
14 night off, you got someone else to bowl for you,
15 yes.

16 Q So is it just one continuous season from August
17 to March? Or do you have, like, a mid-season
18 tournament?

19 A One continuous season.

20 Q And is there like a championship tournament at
21 the end of the season?

22 A The last week, yes.

23 Q So I would presume, then, that there are weekly
24 standings?

25 A Yes.

1 Q Do you play golf?

2 A Play at it.

3 Q Did you golf at all in 2021?

4 A I played in a cancer fundraiser in Cloverdale in
5 September of '21.

6 Q Which fundraiser was that?

7 A It's called the Bill Gardner Charity.

8 Q You've play in that one before?

9 A I've played in it -- they didn't have in 2020.
10 I played in '19 and '21.

11 Q Did you play this year?

12 A It's not happened yet. It's in two weeks.

13 Q Okay. Later September?

14 A Yes.

15 Q Got you. Are you signed up to play?

16 A Yes.

17 Q Is that in Cloverdale every year?

18 A Yes, it is. Clover Meadows Golf Course, I
19 believe it's called.

20 Q So is that a scramble?

21 A Yes.

22 Q Is there, like, dinner and awards afterwards?

23 A They give you a box lunch to take with you on a
24 course, and then they have a raffle. There's no
25 real gathering after, no.

1 Q Did you go on vacation in 2021?

2 A I did not.

3 Q Did you go to, like, any concerts or shows?

4 A No, sir.

5 Q Any movies?

6 A No, sir.

7 Q Did you go to, like, amusement parks?

8 A Not in 2021, no.

9 Q Who's Jack Spencer?

10 A Jack Spencer is my father-in-law.

11 Q Did you go to Kings Island with family in June
12 of 2021?

13 A I thought we went in 2020, but maybe it was '21.
14 I don't recall going in '21.

15 Q I'm going to give you Exhibit 22.

16 Is that -- are you in that picture?

17 (Deposition Exhibit 22 marked for
18 identification.)

19 A Yes.

20 Q That's at Kings Island?

21 A Yes, it is.

22 Q That's the Kings Island Eiffel tour in the
23 background?

24 A Correct.

25 Q You gave yourself away with that IU hat I think.

1 Did you go to IU or just live in
2 Bloomington all your life?

3 A Live in Bloomington all my life. Had a son that
4 graduated from IU, and my wife works there;
5 so ...

6 Q Sure. Who else is in the picture?

7 A That is my wife in the middle and my
8 mother-in-law on the right.

9 Q It's probably a little hard to see, but this
10 is -- do you see on the right, where it says
11 "Jack Spencer"?

12 A Yeah.

13 Q So that's his Facebook profile picture? Do you
14 recognize that?

15 A Yes, it is.

16 Q It says with Rusty Nunn and Lori Nunn at Kings
17 Island.

18 Do you see there?

19 A Uh-huh.

20 Q Then the date says January 21, 2021, Kings
21 Mills, Ohio.

22 A June.

23 Q June, yeah, sorry. Did I say January?

24 A Yes. We did go, but I thought it was 2020 was
25 the last time we went.

1 Q Now, no one in that picture is wearing a face
2 covering; correct?

3 A No.

4 Q Did you wear a mask in Kings Island?

5 A No. They did not have a mandate order there.

6 Q Did your kids go, or was it just a grownup trip?

7 A I believe the kids were there also. If we went,
8 the kids went.

9 Q Here's Exhibit 23. So Exhibit 23 is a
10 photograph.

11 Do you recognize yourself in that
12 photograph?

13 (Deposition Exhibit 23 marked for
14 identification.)

15 A Yes.

16 Q The tallest one with the American flag on your
17 shirt?

18 A Yeah. Third one in on the left, yes.

19 Q Who are the other three?

20 A The one on the left's name is Craig Conyer. The
21 one on my left in the picture is Lee Price. And
22 the one next to me on the other side, the
23 shortest one, is Lee's son-in-law. I'm not sure
24 what his name is.

25 Q Is this from the Bill Gardner golf --

1 A Yes, it is.

2 Q If you look, it's a little hard to see, but it
3 looks like September 21, 2021.

4 And in that photograph, is anyone wearing a
5 mask?

6 A They are not.

7 Q Was that true for the entirety of the round of
8 golf?

9 A In this group, yes.

10 Q Were there other folks at the tournament wearing
11 face masks?

12 A There were some there that were wearing some.
13 Most were not.

14 Q Why were you not wearing one?

15 A I didn't feel the need to outdoors, and I knew
16 everyone. Like I said, I'm not sure of the
17 one's name, but I do know that they're all
18 vaccinated because they are all firefighters.

19 Q Okay. Here's Exhibit 24. Is that a picture
20 of -- Exhibit 24, is that your daughter in the
21 middle?

22 (Deposition Exhibit 24 marked for
23 identification.)

24 A Yes, it is.

25 Q Is this at the sectional bowling tournament?

1 A Classic Lanes, yes.

2 Q So that's you on the left. And is that your
3 wife on the right?

4 A I'm on the left, my daughter in the middle, my
5 wife on the right, yes.

6 Q Is Emily Nunn, is that your daughter?

7 A Yes, it is.

8 Q And it's a little hard to read here. I think it
9 says January 3. Does that sound -- was the
10 sectionals right after the --

11 A I thought it was a little later in January, but
12 I can't make that out. I can't make the date
13 out on that one, but it was definitely January,
14 yes.

15 Q We can confirm the date either through the IHSAA
16 or through your calendar.

17 According to the Indianapolis High School
18 Bowling Facebook page, sectionals were around
19 January 6.

20 A I found it in my phone, and the date on the
21 picture is January 4.

22 Q Okay. January 4 of 2022?

23 A Correct.

24 Q And in this photograph of you, your wife, and
25 your daughter, no one is wearing a face mask;

1 correct?

2 A Correct.

3 Q Here's Exhibit 25. Is that you in the
4 photograph?

5 (Deposition Exhibit 25 marked for
6 identification.)

7 A Yes, sir.

8 Q Where is this?

9 A That is at Lincoln Park Speedway.

10 Q Where is Lincoln Park Speedway?

11 A Putnamville, Indiana.

12 Q What event is this?

13 A That would have been a dirt track. Probably a
14 sprint car race.

15 Q Who's in the photograph with you?

16 A My daughter is in the middle, my youngest son is
17 on the left.

18 Q And your daughter has a sash.

19 A Yeah. It was her 16th birthday weekend.

20 Q So you went to the track?

21 A I work at the racetrack there, yes.

22 Q What do you do there?

23 A I am director of competition.

24 Q How long have you done that?

25 A I have been involved with dirt track racing for

1 30 years.

2 Q Did you ever drive there?

3 A Yes, mid '80s to right around '91.

4 Q And then how long have you been involved with
5 the Putnamville Speedway?

6 A Putnamville, I've been there -- this would be my
7 fourth season there I believe.

8 Q So you were there through the pandemic?

9 A They were. They were shut down for quite a bit,
10 yes.

11 Q When were they shut down?

12 A They didn't run -- excuse me, I take that back.
13 Bloomington shut down for a little while.
14 Putnamville did not because their county did not
15 have the mandates that Monroe did.

16 Q Okay. So, say, 2021, what's the schedule like?

17 A Racing season for '21 would have been through --
18 at Putnamville would have been April through
19 probably mid to late September.

20 Q How frequently do they race?

21 A Once a week. Not every week, but that's the
22 most they would race would be once a week.

23 Q How many races total, roughly, during the race
24 season?

25 A I would say somewhere between 16 and 20 total.

1 Q And how far is the Putnamville Speedway from
2 where you live?

3 A It's about -- it's an hour drive; so I'm going
4 to say about 50 miles.

5 Q In this picture, you can see, you know, there's
6 empty bleachers, but you can see some people in
7 the stands too.

8 A Correct.

9 Q Roughly how many people? What's the attendance
10 like at an event like this?

11 A On a normal night, you'll get 12- to 1,800
12 people there. Spread out.

13 Q Oh, my word. Okay.

14 A It's a several acre facility.

15 Q And was that attendance roughly consistent for
16 the 2021 season?

17 A It was down in the COVID year, yes. That's a
18 normal night this season. Back then you might
19 get, I'm going to say -- I'll say 8- to 1,200
20 people maybe.

21 Q 800 to 1,200?

22 A Yes.

23 Q If this is your daughter's 16th birthday, when
24 is that?

25 A That would be in July.

1 Q So this picture is July 2021?

2 A Yes.

3 Q Let's use the bowling sectionals as sort of a
4 benchmark because that's -- you said that's
5 January 4, 2022, and I had said earlier that the
6 remonstrance period was roughly October 8 of '21
7 to January 6 of 2022. Were you aware, say as of
8 the bowling sectional time, when the bowling
9 sectionals occurred that there was this movement
10 to remonstrate against or oppose the Bloomington
11 annexation ordinances?

12 A I would say I was aware of it, yes.

13 Q When did you become aware or understand you had
14 the right or ability to sign a remonstrance
15 opposing the annexation?

16 A I would say probably around Thanksgiving time.

17 Q How did you learn that?

18 A I think my wife brought it up that they were
19 taking signatures somewhere at that point.

20 Q And to the best of your ability, tell me what
21 you and your wife talked about with respect
22 to --

23 A I think she read it in an article there and just
24 said that that was -- that it was going on right
25 now.

1 Q And did the two of you talk about whether you
2 wanted to oppose the annexation?

3 A To be honest with you, we never had a
4 conversation about it.

5 Q Were you, in that fall of 2021, in your mind,
6 were you opposed to the annexation?

7 A Yes, I was.

8 Q What was your concern with it?

9 A I just don't see the benefit in our area. I
10 just didn't see where it was going to benefit
11 our neighborhood.

12 Q Did you have concerns about increase taxes or
13 other costs in exchange for no benefit, or you
14 just didn't see the benefit?

15 A The taxes never crossed my mind. We're going to
16 get taxed one way or the other whether it's the
17 city, county, whatever.

18 But, no, it was just I didn't see the
19 benefit.

20 Q So did you and your wife ever discuss whether
21 your household, one of you should sign the
22 remonstrance opposing it?

23 A Not to my recollection, we did not.

24 Q One of the contentions here in this lawsuit is
25 that the COVID and COVID-related restrictions

1 and the COVID pandemic prevented people from
2 signing a remonstrance petition or participating
3 fully in the process.

4 A Okay.

5 Q Were you prevented in some way from signing a
6 remonstrance petition?

7 A I would not say I was prevented, no.

8 Q Was there a point in time where you thought, "I
9 want to oppose this annexation, but these are my
10 concerns with going out and signing a petition"?

11 A Yes, I would say there was. And the main reason
12 being was the health of my father. I didn't
13 want -- I don't go around many people that I
14 don't know.

15 Q What did you understand the process to be for
16 signing a petition?

17 A I would not -- the only thing I'll admit that I
18 thought I understood was you had to go to a
19 certain place, which I think was the
20 fairgrounds, at the time that I was considering
21 signing.

22 Was that one of the locations?

23 Q Yeah, I can't testify, but I think other
24 witnesses have said there were events at
25 fairgrounds where people could come sign the

1 petitions.

2 A Yes. That was my main concern, was being around
3 people that I did not know were vaccinated and I
4 don't know, and then taking it back to my
5 father's house.

6 Q Sure, understandable. Did anybody ever come
7 knock on your door to ask you to sign a petition
8 during that 90-day period?

9 A I do not -- no, I've got no solicitor signs up.
10 So, I don't -- I can't recall. But I'm --
11 whether they did when my wife was home during
12 the day when I'm at work, I don't know. Just
13 like I say, she works at home. But nobody came
14 while I was present.

15 Q And was there ever an evening where you get home
16 from work and your wife said, "Hey, someone came
17 around today with petitions for the annexation,"
18 or anything like -- any conversations like that?

19 A Not to my recollection.

20 Q Were you aware of other people in your
21 neighborhood seeking to oppose the annexation?

22 A I talk to one neighbor in my whole addition and
23 it's my nextdoor neighbor, and we don't talk
24 about -- I mean, we talk about the weather.

25 Q Sure.

1 A So, no.

2 Q How many homes are in your addition?

3 A Oh, Lord. I'm guessing somewhere in the 300
4 range. That's a ballpark. The neighborhood has
5 more than doubled since I moved in.

6 When I moved in, in '02, I was the last
7 house and now I am almost in the middle; so ...

8 Q Did you ever hear that people would have
9 signings at the end of their driveway, where you
10 could just come up and sign the petition without
11 having to interact with anybody?

12 A I did not hear that.

13 Q And did you ever see any signage, people in your
14 neighborhood -- whether you talk to them or
15 not -- posting or putting yard signs out?

16 A I saw oppose annexation yard signs, yes.

17 Q Did you see any yard signs about "Come sign a
18 petition at this address or this location"?
19 Anything like that?

20 A I did not. All I saw was one just saying,
21 "Oppose annexation."

22 Q Do you know whether any of your neighbors signed
23 remonstrance petitions?

24 A I wouldn't know if anybody did.

25 Q Like the one neighbor you do talk to, do you

1 have any idea if they signed the petition?

2 A I do not.

3 Q Do you know how many people, through news
4 reports or otherwise, were able to or did in
5 fact sign a remonstrance petition?

6 A I do not.

7 Q You don't have any information if it's tens or
8 hundreds or thousands?

9 A I couldn't tell you if it was 1 in a million.

10 Q Did you ever call the auditor's office during
11 the remonstrance period to talk about the
12 annexation?

13 A I did not.

14 Q Did you ever call anybody at the city about the
15 annexation during that 90-day period?

16 A No, I did not.

17 Q At any time, because I know this has been going
18 on for a while; there's been some court related
19 noted things. At any time did you call anybody
20 at the city about the annexation?

21 A I have made no phone calls about annexation to
22 anybody.

23 Q So none to the city? None to the county?
24 Nobody?

25 A No.

1 Q Did you attend -- there have been a series of
2 public meetings over the course of the years,
3 including in 2021, both in person and online.

4 Did you attend any public meetings about
5 the annexation?

6 A I did not.

7 Q Did you attend any public hearings about the
8 annexation?

9 A I did not.

10 Q How did you find out about this particular
11 lawsuit or proceeding?

12 A I believe Mr. Heeb sent me or called me to fill
13 out an affidavit, if I was interested in filling
14 it out is the first that I heard about this.

15 Q Do you have any information or knowledge about
16 how Mr. Heeb got your name as someone who might
17 consider an affidavit?

18 A I do not. Let's -- let me go back. There was a
19 lady that had called first before him.

20 Q Do you remember that person's name?

21 A I'm trying to think of it. I'm sorry, sir, I do
22 not.

23 Q So the names I mentioned earlier, at least two,
24 Rhonda Gray and Margaret Clements have been
25 deposed and described their activity in sort of

1 organizing some of the opposition to the
2 remonstrations -- or to the annexation.

3 And I know we talked about those names but,
4 now, sitting here thinking about that phone call
5 from a lady, any belief that it may have been
6 either Rhonda Gray or Margaret --

7 A The second name, possibly.

8 Q Margaret Clements?

9 A That's possible, yes.

10 Q Understanding that it's possible, I'm not
11 holding you to that --

12 A No -- yes.

13 Q -- did -- I'll just call her Margaret.

14 A Sure.

15 Q With the qualification I understand that you are
16 not 100 percent sure, did she explain how she
17 got your name or why she was calling?

18 A She didn't explain how she got my name, no. But
19 she did explain why she was calling.

20 Q What did she say?

21 A It was about the annexation of the neighborhood
22 and the remonstrance against it.

23 Q And as specifically as you can, what exactly did
24 she say?

25 A She just -- she asked if we would be interested

1 in signing the affidavit -- pardon me -- if she
2 could get one to us to remonstrance against the
3 annexation of our neighborhood. And at that
4 point, I believe I said, yes.

5 Q Is that the first time that you were contacted
6 by anyone about opposing the annexation?

7 A To my recollection, yes.

8 Q And I know I asked you this, but as you're
9 thinking about the conversation, did she suggest
10 why she thought you might be interested in
11 signing an affidavit?

12 A I don't think she mentioned any interest in why,
13 no.

14 Q I'm just curious, you know, you didn't know who
15 she was before she called; correct?

16 A No.

17 Q When you say "No," my question was is that
18 correct? And; so ...

19 A Yes, that is correct. I'm sorry.

20 Q That's okay. It was a poorly phrased question,
21 but we got there.

22 As far as you're concerned, she called you
23 out of the blue?

24 A I believe I was under the understanding when she
25 called that she was like a trustee or something

1 in our -- of our homeowner's association or of
2 the district.

3 So that was my understanding when she
4 called, that's who she was.

5 Q So as far as you knew, she may have been calling
6 several people asking them the same question?

7 A Yes, yes.

8 Q Did she say she was calling some of your
9 neighbors or anything like that?

10 A She did not specifically say that to my
11 recollection, no. But I assumed that she was,
12 like I said, I thought a trustee or something,
13 that she was making several calls.

14 Q We mentioned Rita Barrow earlier. I know she is
15 a trustee, a township trustee; is it possible it
16 was Rita Barrow? Or you think it was more
17 likely Margaret Clements?

18 A I don't recall having a conversation with Rita
19 Barrow in all honest.

20 Q So in the conversation you had with this lady on
21 the phone, did you talk about any of your
22 specific circumstances about whether you had
23 signed the petition or reasons why you hadn't
24 signed one?

25 A Not to my recollection. Sir, when I get phone

1 calls like that, I end them quickly. I just,
2 you know, "Send me what you want to send me."
3 By the time I get home from work in the evening,
4 I'm done talking on the telephone.

5 Q Sure. You spend a lot of time on the phone at
6 work?

7 A Yes.

8 Q So did you ever talk about the annexation or
9 remonstrance with any of your customers at work?

10 A No.

11 Q So then did you give this lady on the phone an
12 email address or information where she could
13 send you an affidavit?

14 A I possibly gave her my wife's email address
15 because that's the only computer we have at
16 home, is my wife's work computer. So it's
17 possible that I gave her that address.

18 Q Do you have a personal email address that you
19 use?

20 A I do. It's work. It's a work address only.

21 Q So it's the Allied Wholesale email address?

22 A Correct.

23 Q And so you just use it at work for work
24 business?

25 A Yes.

1 Q Does your wife have a personal email address?

2 A Neither one of us have a personal email address.
3 They're both work.

4 Q Through work?

5 A Yes.

6 Q So you mentioned Mr. Heeb before. Is Mr. Heeb
7 the one who sent you the affidavit?

8 A Yes, he is.

9 Q Did you have a conversation with him before you
10 got the affidavit?

11 A He asked me if he could send me one and I said,
12 yes. And that was it. Then I actually had to
13 call him yesterday to email me a copy back
14 because my wife's files had got somehow deleted
15 off her thing. So he sent me back my copy of
16 the affidavit.

17 Q All right. But did you -- like, did you sort of
18 explain your circumstances to Mr. Heeb and then
19 he sent you an affidavit?

20 A Correct, yes.

21 Q And then you had a chance to review the
22 affidavit before you signed it?

23 A Yes, I did.

24 Q Do you remember making any changes to the draft
25 that you received? Anything that needed

1 clarified or corrected?

2 A Trying to remember here. No, I don't believe
3 there were any changes or corrections made to
4 it.

5 Q So can I see just what you're looking at? It
6 looks like it's a few more pages than mine.

7 A That's just my subpoena. That's what that was
8 and the other one's the affidavit, yeah.

9 Q I'm going to give you an exhibit, Exhibit 26.
10 This is your affidavit that we're making a part
11 of the deposition record.

12 So is this the affidavit that you signed?

13 (Deposition Exhibit 26 marked for
14 identification.)

15 A Same one I have, yes.

16 Q And that's your electronic signature?

17 A Yes, it is.

18 Q June 3, 2022; right?

19 A Yes.

20 Q And you had a chance -- you see above your name
21 where it says you "affirm under penalties of
22 perjury the forgoing representations are true"?

23 A Yes.

24 Q You were comfortable -- having read that
25 affirmation, you were still comfortable signing

1 the affidavit?

2 A Yes, I was.

3 Q So if we look on the first page, paragraph 4,
4 that's a true statement; right? You did not
5 sign a remonstrance petition?

6 A Which number? I'm sorry.

7 Q Paragraph Number 4.

8 A That is a true statement, yes.

9 Q So paragraph Number 5, where you say you did not
10 have an opportunity to sign the remonstrance
11 petition, was that because of what you testified
12 to earlier where, by personal choice, you
13 avoided interacting with people?

14 A Correct.

15 Q You say during the remonstrance period you were
16 concerned with getting infected by COVID-19.

17 Do you see that? You have to say yes.

18 A Yes.

19 Q So if the remonstrance period is October 8
20 through January 6, you had already been fully
21 vaccinated and had previously had COVID;
22 correct?

23 A That is correct.

24 Q Paragraph 7 you say during October 8 to
25 January 6, you were not going out to public

1 places because of fear of being infected, but
2 you did go to work during that time period;
3 correct?

4 A That is correct.

5 Q You went to the bowling sectionals during that
6 time period; correct?

7 A Correct.

8 Q Did you do any holiday outings, Christmas or New
9 Year's outings with the family during time
10 period?

11 A I believe all the family gatherings were at my
12 house. I can't -- I can't 100 percent say that
13 I did not go to another family member's house.

14 Q What about Thanksgiving?

15 A That would have been -- that was probably a Jack
16 and Mary Spencer's house, which are my mother
17 and father-in-law.

18 Q Where do they live?

19 A In Ellettsville.

20 Q And who would have -- who attended the
21 Thanksgiving gathering at your in-laws?

22 A Would have been my immediate family, Mr. and
23 Mrs. Spencer, which are my in-laws, and probably
24 my wife's sister and her kids.

25 Q Did your adult son go to Thanksgiving?

1 A No, he lives in Florida.

2 Q So you're four; Mr. and Mrs. Spencer was two --

3 A And then there would have been my wife's sister
4 and her 2 children.

5 Q So 9 people.

6 A Yeah.

7 Q Where does your wife's sister live?

8 A She lived, at that time, in Bloomington. Now
9 she lives in Florida also.

10 Q And how old were your nieces or nephews?

11 A Niece would have been 15; nephew 11.

12 Q What's the high school bowling season? Just the
13 regular season outside of the state tournaments?

14 A Ends in October. It's a very short season.
15 They bowl, like, six regular matches, and then
16 they go out and do the tournament.

17 Q Okay. So --

18 A They bowl every other week -- excuse me. They
19 bowl every other weekend normally.

20 Q So October to December roughly?

21 A Yes.

22 Q Every other weekend. And then in the fall of
23 2021, you had your regular bowling league as
24 well?

25 A Correct.

1 Q Is that at Classic Lanes?

2 A Yes, it is.

3 Q How many teams are in that league?

4 A That season, 22 or 24.

5 Q And each team is 5 members?

6 A Yes.

7 Q Does each team bowl at the same time?

8 A Yes, Thursday nights.

9 Q Thursday nights. So there could be 110, 120
10 people, just bowlers, in addition to the workers
11 and the staff?

12 A Correct.

13 Q That's every Thursday night --

14 A Yes.

15 Q -- including October 8 through January 6, minus
16 holidays?

17 A Correct.

18 Q What's the address for Classic Lanes? What's
19 the street it's on?

20 A North Willis Drive.

21 Q In Bloomington?

22 A Yes.

23 MR. MCNEIL: It's been about an hour.

24 Let's go off the record.

25 (A recess was taken between 10:01 a.m. and

1 10:04 a.m.)

2 MR. MCNEIL: We're back on record after a
3 break. I have no further questions for you at
4 this time.

5 Mr. Heeb may have some, but otherwise,
6 thank you for your time and I appreciate your
7 attendance here.

8 THE WITNESS: Thank you.

9 CROSS-EXAMINATION,

10 QUESTIONS BY RYAN M. HEEB:

11 Q Mr. Nunn, I am Ryan Heeb and I represent the
12 plaintiffs in the lawsuit regarding annexation
13 that's been filed against the City of
14 Bloomington as well as some others. I'm going
15 to jump around a little bit so bear with me
16 here.

17 I will preface this by saying I might cover
18 some ground we've already covered today, but I
19 just want to make sure I get my questions in.

20 Mr. Nunn, as you sit here today, are you
21 still opposed to the annexation?

22 A Yes.

23 Q Mr. Nunn, what's your father's name again?

24 A James R. Nunn.

25 Q And what was his address?

1 A 812 North Oolitic, O-o-l-i-t-i-c, Drive,
2 Bloomington, Indiana.

3 Q Do you know if his property is located in one of
4 the purposed annexation areas?

5 A No, it is not.

6 Q It's not?

7 A Correct. Let me preface that and say I don't
8 believe it is. All the annexation right now is
9 on the southeast side, correct, and southwest
10 side?

11 Q I believe so, yes.

12 A He lives on the northern side of town.

13 Q Does your father have any other caregivers, or
14 are you his primary caregiver?

15 A I have an older brother also that we take care
16 of him together.

17 Q Mr. Nunn, in the fall and winter of 2021 and
18 2022, were you aware of the increased risk that
19 the COVID-19 infection posed to people in Monroe
20 County?

21 A I wouldn't say I was aware there was extra risk.
22 I was aware of the risk; so, yes.

23 Q Where you aware of whether or not cases were
24 increasing during that time period?

25 A To my knowledge, yes, they were on a slight

1 uptick. I'm not going to say it was a huge
2 amount but, yes, they were coming back up.

3 Q Mr. Nunn, I want to turn to what has been marked
4 as Plaintiff's Exhibit 26, your affidavit, if
5 you have that there in front of you.

6 A Yes, I do.

7 Q You walked through some of those statements that
8 you made in that affidavit with Mr. McNeil. I
9 want to walk through a couple more of those with
10 you. Starting on paragraph 7, where you say --
11 where you stated, "I was not going out to public
12 places."

13 What do you consider to be public places?

14 A To me -- there's several ways to go. To me, a
15 public place, to me, which I've stated earlier
16 is I try not to go where I don't know a lot of
17 people. Whether it be enclosed area, outdoor
18 area, I try not to go anywhere I don't know a
19 lot of different people.

20 The people I try to stay around, I know
21 they've had their vaccinations or, you know,
22 they're close family friends that I know.

23 Q And that was your practice from -- you continued
24 that practice, shall we say, from October -- or
25 during the period between October 8, 2021, and

1 January 6, 2022?

2 A Yes.

3 Q And there's been some discussion about locations
4 you visited during that period of time. Why did
5 you go to those locations?

6 A For instance, the Classic Lanes Bowling Center,
7 I know everyone in that building. I grew up in
8 that building so that is, to me, it's not a
9 public place. It's a second home to me.

10 The Kings Island trip, yes, we went to
11 Kings Island, socially distanced. We was with
12 our small group.

13 Q Outside?

14 A Outside especially. The racetrack, same amount.
15 I'm outside; I'm in infield with three other
16 people. So, to me, I wasn't -- you know, I
17 wasn't in public places.

18 Q So you consider, under what you just said, you
19 consider going to the Monroe County fairgrounds
20 to sign a remonstrance petition going to a
21 public place because you don't know who's there?

22 A Correct. I don't know who's there, correct.

23 Q And would the same be true of going to the
24 Monroe County courthouse?

25 A Yes.

1 Q And so this -- strike that. Let's go to
2 paragraph 8 in your affidavit.

3 If you can read that paragraph of your
4 affidavit to yourself.

5 A Yes.

6 Q I think you were asked a little bit about this
7 earlier in your deposition today, but do you
8 still standby your statement in paragraph 8?

9 A That's kind of an ambiguous statement I made.
10 COVID-19 itself probably did not prevent me from
11 doing it. The fear of catching it again did. I
12 didn't have COVID at the time; so I can't say
13 that COVID-19 prohibited me from doing that.

14 Q Okay. Would it be more fair if that statement
15 read the presence of the COVID-19 virus and the
16 risk of infection prevented you from executing a
17 remonstrance petition?

18 A Yes, it would.

19 Q And what about paragraph 9, could you read that
20 to yourself please, sir?

21 A Yes.

22 Q And the statement that we just -- or you just
23 said for paragraph 8, does the same apply to
24 paragraph 9?

25 A Yes, it does.

1 Q Mr. Nunn, do you consider it one of your rights
2 as a property owner to decide where -- which
3 jurisdiction you live in?

4 MR. MCNEIL: Objection. Calls for a legal
5 conclusion. You can still answer.

6 A I don't know how to answer that, I have to be
7 honest with you. Property rights for me is I
8 control what goes on on my little plot of land.
9 Now, whether I'm in the county, city, wherever,
10 to me, it's still I control what happens on my
11 little one-acre land I got.

12 I'm not a big rights person as far as
13 property rights go. As far as, you know -- but
14 I just did not see the benefit of being included
15 into the city limits as being something that our
16 neighborhood needed.

17 Q Mr. Nunn, I want you to read the last three
18 paragraphs there of your affidavit -- 10, 11,
19 and, 12 -- to yourself.

20 A Yes.

21 Q Do you still standby those statements you made
22 as you sit here today?

23 A 11 and 12, yes; 10 with the caveat of, as we've
24 done in the last few, really fear of COVID as
25 opposed to as a result of COVID.

1 Q And that fear of COVID-19 comes from some of the
2 health concerns that you yourself have; correct?

3 A Correct.

4 Q And they also come from possibly infecting your
5 father; correct?

6 A Correct.

7 Q Mr. Nunn, are there any other changes or items
8 that need to be amended in your affidavit that's
9 been marked as Plaintiff's Exhibit 26 as you sit
10 here today?

11 A I do not see any.

12 MR. HEEB: I have no further questions.

13 REDIRECT EXAMINATION,

14 QUESTIONS BY ANDREW M. MCNEIL:

15 Q Mr. Nunn, now I'm going to ask you some
16 follow-up questions on those questions.

17 Your affidavit, we went over this some in
18 my questions and then with Mr. Heeb's questions,
19 but you did have a chance to read it before you
20 signed it; right?

21 A Yes, I did.

22 Q At the time you signed it, you were comfortable
23 affirming that the statements in the affidavit
24 were true; right?

25 A I was, yes.

1 Q But here, in deposition testimony in response to
2 questions from the lawyer for the people
3 opposing annexation, you're orally amending your
4 affidavit; is that correct?

5 A Yes, I guess I am. But, like I said, the
6 wording, I guess, confused me.

7 Q Did the wording confuse you at the time you
8 signed it?

9 A I -- I'd say I guess it did.

10 Q But you signed it any way without requesting
11 changes?

12 A Yeah, I did, sir, yes.

13 Q Now you were asked some questions about your
14 rights, and you said you're not a big rights guy
15 and, you know, you said you have your personal
16 property, and I want to talk about that a little
17 bit further.

18 You understand in the United States that
19 citizens have the right to vote; right?

20 A Absolutely.

21 Q Did you vote in the 2020 election in the fall?
22 In November?

23 A I mean, that's representing presidential
24 elections or --

25 Q Yes. That was the Trump versus Biden election.

1 I'm not asking who you voted for.

2 A I'm trying to remember if I voted in that one or
3 not. I honestly can't remember if I did or not
4 in that. I know I did in the one previous, but
5 I'm not sure if I did in 2020.

6 Q But you're referring to the 2016 presidential
7 election?

8 A Correct.

9 Q During the summer and fall 2021 into
10 January 2022, you went to work every day?

11 A Yes, I did.

12 Q You interacted with customers every day?

13 A Yes, I did.

14 Q You interacted with your coworkers every day?

15 A Yes, I did.

16 Q Bowling, you went to the bowling alley; every
17 Thursday, there was a tournament or a league
18 match?

19 A Yes.

20 Q And you said there were 22 to 24 teams in the
21 legal, roughly, in that August '21 to March '22
22 season?

23 A Yes.

24 Q So it's 110 to 120 people. Is it your testimony
25 that you knew all 120 people?

1 A I wouldn't say I knew all 120, but I guarantee I
2 know over 100 of them, yes.

3 Q Sure. Did you know their vaccination status?

4 A Vaccination status on all of them, no, I did
5 not.

6 Q You went to the racetrack during the course of
7 the season in 2021?

8 A Yes.

9 Q Did you miss any events?

10 A Yes.

11 Q How many did you miss?

12 A I would say two probably.

13 Q Kings Island, was it a normal summer crowd the
14 day you were there?

15 A Yes.

16 Q And then the golf outing, about how many people
17 at the Bill Gardner Cancer Classics? How many
18 foursomes were there?

19 A I want to say 22.

20 Q So about 88 or so people?

21 A Yes.

22 Q Plus whoever was putting the event on; so
23 probably around 100 people all together?

24 A Give or take, yes, I'd say 100.

25 Q Do you have a right to golf?

1 A I'm sorry?

2 Q Do you have a right to golf?

3 A I would say so, yes.

4 Q As an American; right?

5 A Yes.

6 Q If you want to golf, you can go golf; right?

7 Nothing prevented you from -- COVID and the fear
8 of COVID didn't prevent you from golfing; right?

9 A Not since it was outdoors, no.

10 Q And do you have a right to go to Kings Island?

11 A Yes, I do.

12 Q As an American, you are free to travel from one
13 state to another; right? You understand that?

14 A Correct, yes.

15 Q Did fear of COVID prevent you from going to
16 Kings Island?

17 A No, it didn't.

18 Q You have a right to work; right? Either at
19 Allied Wholesale or at the racetrack?

20 A Yes.

21 Q Do you get paid to work at the racetrack?

22 A Yes, I do.

23 Q Okay. So that's not a volunteer thing. That's
24 actual income --

25 A No, it is not.

1 Q -- to your family. And so did COVID prevent you
2 from going to the racetrack?

3 A No, it didn't.

4 Q Did the fear of COVID prevent you from going to
5 the racetrack?

6 A No, it did not.

7 Q Did fear of COVID prevent you from going to work
8 at Allied Wholesale?

9 A No, it did not.

10 Q Did the fear of COVID prevent you from
11 interacting with your customers at Allied
12 Wholesale?

13 A No, sir.

14 Q Did the fear of COVID prevent you from
15 interacting with your coworkers at Allied
16 Wholesale?

17 A No.

18 Q Did the fear of COVID prevent you from going to
19 your daughter's sectional bowling tournament?

20 A No, sir.

21 Q Did the fear of COVID prevent you from going to
22 your daughter's regional bowling tournament in
23 Evansville?

24 A No, sir.

25 Q Did the fear of COVID prevent you from going to

1 the state bowling tournament in Anderson?

2 A No, sir.

3 Q Where does your brother live?

4 A At 815 North Oolitic Drive.

5 Q So roughly nextdoor from your dad?

6 A Across the street.

7 Q Do you have any other family in town?

8 A No, that's it.

9 Q Is your mother still living?

10 A No, she is not.

11 Q At Allied Wholesale, were you always on-site or
12 did you make deliveries?

13 A I'm on-site.

14 MR. MCNEIL: Let me check one thing.

15 Q So the radio station 1370 WGCL, did you listen
16 to that mostly for the news or sports or both?

17 A I listen to it on my way home from work.

18 Q So that would be the afternoon shift?

19 A Yes.

20 Q Was that Glass in the afternoon?

21 A Yes, it is.

22 Q Is that sports mostly?

23 A No, it's mainly news. He's news from 3 to 5 and
24 it's sports from 5 to 6. And I'm in the 4:30 to
25 5 range sometimes going home.

1 MR. MCNEIL: Off the record.

2 (Off the record.)

3 BY MR. MCNEIL

4 Q Mr. Nunn, we're back on record. Just a couple
5 of more questions.

6 Were you aware that you could sign a
7 remonstrance petition in person at the auditor's
8 office?

9 A To my recollection, only place I knew that we
10 could go through our addition was to the
11 fairgrounds.

12 Q Were you aware that you could get a petition
13 emailed to you and you could sign it and then
14 have it returned to the auditor by email?

15 A I do not believe I was aware of an email.

16 Q Were you aware that you could get a petition and
17 sign it and return it in the mail to the
18 auditor's office?

19 A Again only place I knew to go was the
20 fairgrounds.

21 Q So if you were aware of or had known of an
22 option to sign a petition -- receive a petition
23 by email or in the mail and then return it,
24 would that have made a difference to you?

25 A Yes, it would.

1 Q Why?

2 A Could have signed it right there at the house.

3 Q Did you understand that part of the process of
4 signing a remonstrance was having your signature
5 notarized or witnessed?

6 A No, I did not.

7 MR. MCNEIL: I have no further questions
8 for you.

9 MR. HEEB: I have no further questions.

10 MR. MCNEIL: So now we're done. Mr. Nunn,
11 you have the right to review the transcript.

12 The court reporter can type it up and send
13 it to you, you can read it. Then there's a form
14 that comes along with it. If there's any
15 changes you want to make, if she wrote something
16 down wrong or you remember something
17 differently, there's a form you can fill out to
18 make corrections to the transcript.

19 You can take advantage of that right or you
20 can waive it. If you waive it, whatever she
21 writes down -- she has the transcription going,
22 and she also has an audio recording so she'll
23 proof it and check it and stuff before it's
24 finalized.

25 It's your option to either take the right

1 to sign it or waive your signature.

2 What do you want to do?

3 THE WITNESS: Are you asking me that right
4 now?

5 MR. MCNEIL: Yes.

6 THE WITNESS: I would like to read it, yes.

7 (Time noted: 10:24 a.m.)

8 AND FURTHER THE DEPONENT SAITH NOT.

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1 STATE OF INDIANA)
) SS:
2 COUNTY OF MONROE)

3 I, Colleen Brady, a Notary Public in and for
4 the County of Monroe, State of Indiana at large, do
5 hereby certify that RUSSELL NUNN, the deponent
6 herein, was by me first duly sworn to tell the
7 truth, the whole truth, and nothing but the truth
8 in the aforementioned matter;

9 That the foregoing deposition was taken on
10 behalf of the Respondent, at Bloomington City Hall,
11 401 North Morton Street, Room 225, Bloomington,
12 Monroe County, Indiana, on the 8th day of September
13 2022, commencing at the hour of 8:56 a.m., pursuant
14 to the Indiana Rules of Trial Procedure;

15 That said deposition was taken down
16 stenographically and transcribed under my
17 direction, and that the typewritten transcript is a
18 true record of the testimony given by the said
19 deponent; and thereafter presented to said deponent
20 for his signature;

21 That the parties were represented by their
22 counsel as aforementioned.

23 I do further certify that I am a disinterested
24 person in this cause of action; that I am not a
25 relative or attorney of any party, or otherwise

1 interested in the event of this action, and am not
2 in the employ of the attorneys for any party.

3 IN WITNESS WHEREOF, I have hereunto set my
4 hand and affixed my notarial seal on this 15th
5 day of September 2022.

6

7

Colleen Brady

8

Colleen Brady

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10

11 Seal, Notary Public
State of Indiana

My Commission Expires:
March 8, 2029

12

13 Colleen Brady
Commission No. NP073223

County of Residence:
Monroe

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Veritext Legal Solutions
1100 Superior Ave
Suite 1820
Cleveland, Ohio 44114
Phone: 216-523-1313

September 15, 2022

To: Andrew M. McNeil, Esq.

Case Name: County Residents Against Annexation, Inc., et al. v.
City of Bloomington, Indiana, et al.

Veritext Reference Number: 5409135

Witness: Russell Nunn Deposition Date: 9/8/2022

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown

above, or email to production-midwest@veritext.com.

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

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DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5409135
CASE NAME: County Residents Against Annexation, Inc.,
et al. v. City of Bloomington, Indiana, et al.
DATE OF DEPOSITION: 9/8/2022
WITNESS' NAME: Russell Nunn

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Russell Nunn

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections in the appended Errata Sheet;
- They signed the foregoing Sworn Statement; and
- Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

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Indiana Rules of Trial Procedure
Depositions Upon Oral Examination

Rule 30

(e) Submission to witness--Changes--Signing.

(1) When the testimony is fully transcribed, the deposition shall be submitted to the witness for reading and signing and shall be read to or by him, unless such reading and signing have been waived by the witness and by each party. "Submitted to the witness" as used in this subsection shall mean (a) mailing of written notification by registered or certified mail to the witness and each attorney attending the deposition that the deposition can be read and examined in the office of the officer before whom the deposition was taken, or (b), mailing the original deposition, by registered or certified mail, to the witness at an address designated by the witness or his attorney, if requested to do so by the witness, his attorney, or the party taking the deposition.

(2) If the witness desires to change any answer in the deposition submitted to him, each change, with a statement of the reason therefor, shall be made

by the witness on a separate form provided by the officer, shall be signed by the witness and affixed to the original deposition by the officer. A copy of such changes shall be furnished by the officer to each party.

(3) If the reading and signing have not been waived by the witness and by each party the deposition shall be signed by the witness and returned by him to the officer within thirty (30) days after it is submitted to the witness. If the deposition has been returned to the officer and has not been signed by the witness, the officer shall execute a certificate of that fact, attach it to the original deposition and deliver it to the party taking it. In such event, the deposition may be used by any party with the same force and effect as though it had been signed by the witness.

(4) In the event the deposition is not returned to the officer within thirty (30) days after it has been submitted to the witness, the reporter shall execute a certificate of that fact and cause the certificate to be delivered to the party taking it. In such event, any party may use a copy of the

deposition with the same force and effect as though
the original had been signed by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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