

Transcript of the Testimony of

Elizabeth McDougall

April 25, 2017

J.S. v. Village Voice Media Holdings LLC

*****Confidential -- Subject to Protective Order*****



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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF PIERCE

J.S., et al.,)
)
) Plaintiffs,)
)
 vs.) No. 12-2-11362-4
)
 VILLAGE VOICE MEDIA HOLDINGS, LLC,)
 et al.,)
)
) Defendants.)
)

VIDEOTAPED DEPOSITION OF ELIZABETH MCDUGALL

April 25, 2017

Seattle, Washington

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

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**Elizabeth McDougall
April 25, 2017**

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1 APPEARANCES (CONTINUED)
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16
17
18
19
20
21
22
23
24
25

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1 EXHIBIT INDEX (CONTINUED)
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3 Exhibit No. 9 Printout of Backpage 116
4 advertisements of L.C.,
5 various Bates numbers.
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1 BE IT REMEMBERED that on Tuesday,
2 April 25, 2017, at 1201 Third Avenue, Suite 4900,
3 Seattle, Washington, at 9:54 a.m., before Terilynn
4 Simons, Certified Court Reporter, CCR, RMR, CRR, CLR,
5 appeared ELIZABETH MCDUGALL, the witness herein;
6 WHEREUPON, the following proceedings
7 were had, to wit:
8
9 <<<<<< >>>>>>
10
11 VIDEOGRAPHER: We are now on the
12 record.
13 Please note that microphones are sensitive and may
14 pick up whispering and private conversations.
15 Please turn off all cell phones or place them away
16 from the microphones as they may interfere with the
17 deposition audio.
18 Recording will continue until all parties agree to
19 go off the record.
20 My name is Joel Winter, videographer for Byers &
21 Anderson Court Reporters & Video, located at 600
22 University Street, Suite 2300, Seattle, Washington 98101.
23 Phone is 206-340-1316.
24 Today is April 25th, 2017. The time is 9:54 a.m.
25 This is the videotaped deposition of Elizabeth

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1 McDougall being taken on behalf of the plaintiff in the
2 case of J.S. versus Village Voice Media Holdings LLC.
3 Cause number is 12-2-11362-4.
4 This deposition is being held at Perkins Coie, 1201
5 Third Avenue, Suite 4900, Seattle, Washington 98101, and
6 will the attorneys please introduce themselves for the
7 record.
8 MR. SCHNEIDER: Harry Schneider on
9 behalf of the defendants, corporate defendants.
10 MS. ROOS: Breena Roos on behalf of
11 the defendants.
12 MR. RYAN: Stephen Ryan on behalf of
13 Ms. McDougall.
14 MR. QUIGLEY: Daniel Quigley on
15 behalf of Village Voice Media Holdings.
16 MR. AMALA: Jason Amala on behalf of
17 Plaintiffs.
18 MR. BAUER: Erik Bauer on behalf of
19 Plaintiffs.
20 VIDEOGRAPHER: The court reporter
21 today is Terilynn Simons.
22 Please swear in the witness and proceed with the
23 deposition.
24 /////
25 /////

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1 ELIZABETH McDOUGALL, having been first duly sworn
2 by the Certified Court Reporter,
3 testified as follows:
4
5 EXAMINATION
6 BY MR. AMALA:
7 Q Would you please state and spell your full name for the
8 record?
9 **A My name is a Elizabeth McDougall, E-L-I-Z-A-B-E-T-H.**
10 **"McDougall" is spelled M-C-D-O-U-G-A-L-L.**
11 Q Ms. McDougall, what is your date of birth?
12 **A [REDACTED]**
13 Q Where do you currently reside?
14 **A With all the traveling I do, it's hard to say where I**
15 **reside, but my house is in [REDACTED]**
16 Q Where do you consider to be your residence?
17 **A My official residence is my house in [REDACTED]**
18 **[REDACTED]**
19 Q Where were you born?
20 **A [REDACTED]**
21 Q Where did you grow up?
22 **A Mostly in Ottawa, Ontario, Canada.**
23 Q Did you go to high school?
24 **A I did.**
25 Q What high school did you go to?

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1 **A Fisher Park High School.**
2 Q Did you graduate?
3 **A I did.**
4 Q What year did you graduate high school?
5 **A I have no idea. Sorry.**
6 **I'm not good with dates.**
7 Q Did you go on to college?
8 **A I did.**
9 Q Where did you go for college?
10 **A I did my first year at the University of Western**
11 **Ontario, and then I graduated from the University of**
12 **Ottawa.**
13 Q Why did you switch schools?
14 **A I took a break after my first year of college and**
15 **decided to work and travel.**
16 Q Where did you work during that one year?
17 **A I worked as a waitress and a bartender at TJ's**
18 **Speakeasy, and then-- that was for six months, and then**
19 **I went traveling in Europe and ended up staying in**
20 **Europe about another six months after that.**
21 Q Why did you decide to take a break from school for a
22 year?
23 **A I went straight from high school to the university, and**
24 **I decided to live in a house with some friends rather**
25 **than in the dorm, and it just wasn't a-- it wasn't a**

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1 **positive experience.**
2 Q What was it that was a negative experience?
3 **A They had all been at the school for one to two years**
4 **previously and had their own social circles, and not**
5 **living on campus, it was harder to develop a social**
6 **circle.**
7 **I wasn't interested in being in a sorority.**
8 **I joined the sky diving club, but not many other**
9 **clubs.**
10 **Ultimately I just felt like it wasn't the right**
11 **school for me.**
12 Q What year did you graduate college?
13 **A I don't know.**
14 **Probably about 1989.**
15 Q Do you have any health issues that affect your memory?
16 **A Age.**
17 Q Any other health issues that affect your memory?
18 **A None that I'm aware of.**
19 Q Are you on any medication that affects your memory?
20 **A I took some Advil Cold & Sinus earlier this morning, but**
21 **other than that, no.**
22 Q If you hadn't taken the Advil Cold & Sinus medicine this
23 morning, would you be able to remember when you
24 graduated high school and when you graduated college?
25 **A Unlikely, but I can tell you the year I graduated law**

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1 **school.**
2 Q After graduating college-- strike that.
3 What was your degree in for college?
4 **A It was a bachelor of social science with a major in**
5 **sociology, magna cum laude.**
6 Q Why did you choose to get those degrees?
7 **A I am interested in people and their interactions and the**
8 **way society has and is evolving in its treatment of**
9 **different cultures, different groups of people.**
10 Q Can you give me an example?
11 **A I'm very interested currently in the integration of**
12 **Muslim Americans, Muslim immigrants in the United**
13 **States.**
14 **I am very interested in issues around people who**
15 **have suffered trauma and their integration back into**
16 **society.**
17 **With our current President, I am very concerned for**
18 **the treatment of people of color.**
19 **I also, actually, more so previously, but was very**
20 **involved and concerned about discrimination and the**
21 **treatment of people in the LGBTQ community.**
22 Q When you were in college, what were the social issues
23 that caused you to get a degree in sociology?
24 MR. STEVE: I object at this point.
25 If you want to get to the issues in this case,

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1 let's get to the issues in the case.
2 Certainly you are entitled to her academic
3 background but not her innermost thoughts about why she
4 took a course in college.
5 Why don't we move on.
6 MR. AMALA: Can you read that
7 question back?
8 (Question on Page 11, Line 22-
9 23 read by the reporter.)
10
11 THE WITNESS: When I decided on
12 sociology, my-- my first year of college, my major was
13 going to be in psychology, and I found that that was not
14 really so interesting. It was much more introspective
15 and less of a broader perspective, and then after I took
16 a couple years off and returned to college-- and when I
17 returned, I returned to the University of Ottawa, not to
18 the University of Western Ontario.
19 I was accepted into the sociology program, which
20 fit well with my interests.
21 There was not a particular issue at that time that
22 drove me to that decision.
23 Q (By Mr. Amala) After you graduated college, did you
24 continue on with additional education or did you start
25 working?

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1 **A Immediately after graduating from college, I entered law**
2 **school.**
3 Q Where did you go to law school?
4 **A But I was working all the time through college.**
5 **I went-- my first year of law school was at the**
6 **University of Ottawa.**
7 Q It sounds like you switched law schools?
8 **A I did.**
9 Q Where did you go next?
10 **A I went to New York University school of law.**
11 Q Why did you switch to New York University school of law?
12 **A [REDACTED]**
13 **[REDACTED].**
14 **Initially we thought it would be for one year.**
15 **I took a one year break from the University of**
16 **Ottawa to be with him.**
17 **We learned that it was going to be very difficult**
18 **for him to get a medical license in Canada, and upon**
19 **learning that, I applied to transfer to various law**
20 **schools in the United States.**
21 Q Did you graduate from the New York University school of
22 law?
23 **A I did.**
24 Q What year did you graduate?
25 **A 1993.**

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1 Q Did you have any disciplinary problems while you were in
2 law school?
3 **A No.**
4 Q Have you ever been arrested?
5 **A No.**
6 Q Since you have never been arrested, I take it you have
7 never been convicted of a crime?
8 **A No.**
9 Q What did you do with your life after you graduated from
10 law school in 1993?
11 **A That's a big question.**
12 MR. SCHNEIDER: Object to the form of
13 the question.
14 Can you break it down to some timeframe?
15 Q (By Mr. Amala) Did you go on to additional education
16 after law school or did you start working?
17 **A I started working.**
18 Q Can you give me a thumbnail sketch of your employment
19 history after you graduated from law school?
20 **A I will do my best to make it a thumbnail.**
21 **Immediately after law school I was employed by the**
22 **law firm of Curtis Mallet-Prevost Colt & Mosle in New**
23 **York City.**
24 **I worked there primarily in the maritime law**
25 **department doing both litigation and corporate**

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1 **transactional work in the maritime industry.**
2 **I also worked in the litigation group.**
3 **I also participated in the pro bono practice,**
4 **primarily doing-- it was civil rights work for people**
5 **who were HIV positive with the Gay Men's Health Crisis**
6 **Center in New York.**
7 **After about two and a half years in New York-- my**
8 **husband had had to move to rural North Carolina for**
9 **professional reasons, and I became pregnant, and so I**
10 **commuted for a while, and then I moved to North Carolina**
11 **where he was, and I found a position as a volunteer with**
12 **the Legal Services Center in Boone, North Carolina.**
13 **I worked there throughout my pregnancy and for a**
14 **number of months after the baby was born.**
15 **Then when our term in North Carolina was up, we**
16 **moved to Seattle, Washington.**
17 **I joined the law firm of Bogle & Gates.**
18 **I worked in the litigation department doing general**
19 **litigation as well as environmental litigation.**
20 **I continued in a pro bono practice there, primarily**
21 **representing, again-- a civil rights case, a woman**
22 **discriminated against because of her sexual orientation.**
23 **When Bogle & Gates dissolved in about March of**
24 **1999, I moved to Perkins Coie and joined the litigation**
25 **department and continued to do a variety-- initially a**

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1 **variety of things in environmental law, but my career**
2 **quickly focused on internet-related law, cyber crimes,**
3 **and intellectual property, as well as an ongoing pro**
4 **bono practice with representing children-- representing**
5 **casas who were representing children in dependency and**
6 **parental termination rights cases.**
7 **Also, I became involved and provided some pro bono**
8 **support to the National Center for Missing & Exploited**
9 **Children, and I became pro bono counsel for what then**
10 **was known as the DNA Foundation, the Demi Moore and**
11 **Ashton Kutcher Foundation, focused on the intersection**
12 **of technology and child sex trafficking.**
13 **I may have left out parts of my life, but I had**
14 **in there as well.**
15 Q Let's go in reverse order.
16 What was the work you described as being involved
17 with online sex trafficking?
18 **A With respect to the pro bono work that I did for the DNA**
19 **Foundation, that would be protected by the**
20 **attorney-client privilege.**
21 **I can tell you generally I helped in the evaluation**
22 **of different strategic projects and plans that they were**
23 **considering, as part of a technology group that included**
24 **all of the major tech firms at the time: Facebook,**
25 **Microsoft, Google, Craig's List, Twitter.**

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1 Q Approximately what years did you do that work?
2 **A This is my best guess.**
3 **As I said, I'm very bad with dates.**
4 **2007-- 2006, 2007-- actually, no, it would have**
5 **been-- it would have been later than that, maybe 2008,**
6 **2009.**
7 Q When you were first describing that work, you related it
8 to online sex trafficking.
9 Why did you relate that work to online sex
10 trafficking?
11 **A Because that's what it was related to.**
12 Q Any particular segment of online sex trafficking?
13 **A It was primarily related to the fact that traffickers**
14 **were increasingly using technologies and new**
15 **technologies, in a variety of ways, to traffic victims**
16 **-- children, women, men, transgender -- and the goal was**
17 **to use the technology that they were trying to use to**
18 **turn it around and use it against them to both prevent**
19 **their efforts and to be able to identify them and report**
20 **them and provide evidence to law enforcement.**
21 Q When you were doing that work, do you know what the
22 largest source of online sex trafficking was?
23 MR. SCHNEIDER: Object to the form of
24 the question.
25 THE WITNESS: Well, the Internet

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1 overall is the largest source of online sex trafficking.
2 Next to that it would be search engines.
3 Q (By Mr. Amala) Such as?
4 **A Well, the leading search engine, to my knowledge, is**
5 **Google.**
6 Q During the time that you did the work for the DNA
7 Foundation, do you know if any particular website was
8 the largest source of online sex trafficking ads in the
9 country?
10 **A I'm sorry, I didn't hear the last part of your question.**
11 **You know what, I should have it here.**
12 MR. SCHNEIDER: You can ask for it to
13 be read back or you can ask that it be restated.
14 THE WITNESS: Okay. I don't have
15 personal knowledge of that.
16 Q (By Mr. Amala) So if I went back and looked at your
17 work for the DNA Foundation, I wouldn't see any
18 indication by the DNA Foundation indicating what website
19 at the time was the largest source of online sex
20 trafficking ads in the country?
21 MR. SCHNEIDER: I will object to the
22 form of the question to the extent it calls for any
23 attorney-client privileged information, which I presume
24 this witness is not authorized to waive on behalf of any
25 prior or former client.

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1 You can answer to the extent you would not disclose
2 any privileged information.
3 THE WITNESS: I see that the question
4 was, if you went back to look at the work at the DNA
5 Foundation, you wouldn't see any indication by the DNA
6 Foundation indicating what website at the time was the
7 largest site of online sex trafficking ads-- I don't
8 know what you would find throughout the records of the
9 DNA Foundation.
10 Q (By Mr. Amala) You don't recall if during the time that
11 you worked for the DNA Foundation, whether Craig's List
12 was known as the largest source of online sex
13 trafficking ads in the country?
14 MR. RYAN: I am going to remind you
15 that you have no right to waive the client privilege for
16 that organization, and you could be held responsible if
17 you do, so you have to do this from public sources or
18 nonprivileged sources as you answer any question about
19 this.
20 THE WITNESS: Okay. You should know,
21 along those lines, in addition to representing the DNA
22 Foundation, beginning in 2008 I represented Craig's
23 List, so there will be privilege issues there as well.
24 I know that at the time I worked for the DNA
25 Foundation, media and various nonprofit organizations,

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1 primarily religious-based ones at the time, accused
2 Craig's List of being-- as the largest source of online
3 sex trafficking.
4 I have no knowledge-- no personal knowledge as to
5 whether or not that was true.
6 Q (By Mr. Amala) When you started working for Craig's
7 List in 2008, did you do anything to determine whether
8 or not that was true?
9 MR. SCHNEIDER: Same--
10 MR. RYAN: Don't--
11 MR. SCHNEIDER: Go ahead.
12 MR. RYAN: Please.
13 MR. SCHNEIDER: Same objection to the
14 extent that question calls for the disclosure of
15 information received or given by you in the course of an
16 attorney-client relationship.
17 Absent authorization from your former client to
18 disclose it, you are not to disclose it.
19 THE WITNESS: Yeah, I believe that
20 would-- can I consult with counsel to determine whether
21 the answer to that may or may not be privileged?
22 MR. AMALA: Sure.
23 THE WITNESS: Excuse me for one
24 minute.
25 VIDEOGRAPHER: Going off the record,

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1 the time is 10:18 a.m.
2 (Recess 10:18 to 10:27 a.m.)
3
4 VIDEOGRAPHER: Back on the record,
5 the time is 10:27 a.m.
6 THE WITNESS: I apologize for that
7 break.
8 I cannot answer that question based on the
9 attorney-client privilege and confidentiality.
10 Q (By Mr. Amala) So you are declining to answer based on
11 the attorney-client privilege?
12 **A Yes.**
13 Q Who did you work with at the DNA Foundation?
14 **A I worked with a variety of people, and I don't recall**
15 **any of their names, except Demi Moore and Ashton**
16 **Kutcher.**
17 Q Earlier when you were describing your work for Perkins
18 Coie, you indicated that your focus eventually became on
19 Internet-related law.
20 Can you tell us how your focus developed on
21 Internet-related law?
22 **A I was retained by a client, a technology client, to do**
23 **work that caused me to learn a lot about Internet law,**
24 **and that grew into an expertise.**
25 Q Was your representation of that client ever made

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1 publicly known?
2 **A Yes.**
3 Q Who was the client?
4 MR. RYAN: Before you answer,
5 "publicly known," did you ever register in a public way
6 or did you go to court for them?
7 THE WITNESS: Yes.
8 MR. RYAN: You can answer.
9 THE WITNESS: Amazon.com.
10 Q (By Mr. Amala) You said-- strike that.
11 You said that in approximately 2008 you started
12 doing work for Craig's List; is that correct?
13 **A Yes.**
14 Q What work did you do for Craig's List?
15 MR. RYAN: Objection. I direct you
16 not to answer.
17 MR. SCHNEIDER: Objection.
18 THE WITNESS: I decline to answer on
19 the basis of attorney-client privilege and
20 confidentiality.
21 Q (By Mr. Amala) Was your work for Craig's List ever
22 publicly disclosed?
23 **A Some.**
24 Q What aspect of your work for Craig's List was publicly
25 disclosed?

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1 **A When I appeared on pleadings or in court on their**
2 **behalf.**
3 Q That is what I am trying to understand.
4 What was the subject matter of the pleadings and
5 court appearances that you participated in for Craig's
6 List?
7 MR. RYAN: You can describe any case
8 that you recall in the sense of the name of the case,
9 civil, criminal, but you are not to describe the case
10 further because the risk is that your description will
11 provide a secret, but you can identify the case, if you
12 recall the location of the court, federal court, state
13 court, et cetera, if you recall.
14 THE WITNESS: Okay.
15 MR. AMALA: I don't agree with that
16 limitation at all, so I am going to need you to indicate
17 on the record what aspects of my question you are not
18 answering because of attorney-client privilege because I
19 do not agree that if you are in court or you are filing
20 pleadings regarding certain subjects for Craig's List,
21 that I can't ask you to tell me about what that work
22 involved.
23 I am going to need you to make sure you are very
24 clear today on when you are withholding information
25 based on privilege.

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1 MR. RYAN: Why don't we do this in
2 two stages, why don't she just list cases that she can
3 recall, and then you can ask further questions, and we
4 will interpose objections as we see fit.
5 Does that work?
6 MR. AMALA: That works.
7 MR. RYAN: So you get the basis.
8 Q (By Mr. Amala) Go ahead.
9 MR. RYAN: The question pending is do
10 you remember specific cases that you made appearances
11 for Craig's List.
12 THE WITNESS: I can't remember them
13 all.
14 I can remember some.
15 I represented Craig's List in a case-- I believe it
16 was in state court in New York.
17 I believe it was called Gibson versus Craig's List.
18 I also represented Craig's List in a case in
19 California. I can't remember off the top my head if it
20 was state or federal court, called Scott P. versus
21 Craig's List.
22 Then I represented Craig's List in approximately 26
23 other lawsuits filed, I believe, all in federal court.
24 I cannot remember the names of those cases.
25 Q (By Mr. Amala) How is it that you remember there were

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1 26 of them?
2 **A Good luck.**
3 Q What does that mean?
4 **A It means that I think I've displayed that I'm not very**
5 **good with dates or with numbers, but 26 is something**
6 **that I recall.**
7 MR. SCHNEIDER: For the record, the
8 testimony was "approximately," I believe.
9 THE WITNESS: Mm-hm.
10 Q (By Mr. Amala) If I was to review the court pleadings
11 for those 26 lawsuits in federal court, what was the
12 general subject matter?
13 MR. RYAN: You may answer without
14 disclosing any privileged information.
15 THE WITNESS: Okay. They all had to
16 do with different types-- trying to stop different types
17 of abuse and misuse of the classified advertising
18 website.
19 Q (By Mr. Amala) Did any of those cases involve sex
20 trafficking?
21 MR. RYAN: Same instruction.
22 THE WITNESS: I don't know and I
23 don't recall.
24 Q (By Mr. Amala) Do you recall if you ever did any work
25 for craigslist.com where it was publicly disclosed that

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1 you were working on a case involving sex trafficking?
2 MR. RYAN: Same instruction with
3 regard to do not disclose privileged information, but
4 you may otherwise answer.
5 THE WITNESS: I do not recall if I
6 ever did any work for Craig's List where it was publicly
7 disclosed that I was working on a case involving sex
8 trafficking.
9 Q (By Mr. Amala) What was the Gibson case about?
10 MR. RYAN: Same instruction.
11 THE WITNESS: The complaint filed by
12 Mr. Gibson sought to hold Craig's List liable for
13 injuries Mr. Gibson suffered when he was shot by a man
14 who had allegedly purchased a gun on Craig's List.
15 Q (By Mr. Amala) What was the Scott P. case about?
16 MR. RYAN: Same instruction.
17 THE WITNESS: The only thing I recall
18 about the Scott P. case was that there was an employment
19 component to it.
20 It also involved-- strike that. Sorry.
21 Q (By Mr. Amala) Did the Scott P. case involve any
22 allegations of sex trafficking?
23 MR. RYAN: Same instruction.
24 THE WITNESS: I don't believe so.
25 Q (By Mr. Amala) And sitting here today, you don't recall

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1 whether or not any of those approximately 26 other
2 lawsuits that were filed in federal court against
3 Craig's List involved sex trafficking?
4 MR. RYAN: Same instruction.
5 THE WITNESS: I don't know if they
6 did.
7 Q (By Mr. Amala) My question assumed that they were filed
8 against Craig's List, so kind of a broader question:
9 Do you recall whether or not any of those
10 approximately 26 other lawsuits involved allegations, by
11 either the plaintiff or the defendant, regarding sex
12 trafficking?
13 **A The cases were all filed by Craig's List.**
14 Q Have you ever publicly disclosed that you did work for
15 Craig's List regarding child sex trafficking on
16 craigslist.com?
17 **A I've publicly disclosed that I did work for Craig's List
18 regarding alleged child sex trafficking on
19 craigslist.com.**
20 Q Okay. Tell me about those efforts.
21 MR. RYAN: Hold on.
22 I am instructing you not to disclose any privileged
23 information.
24 That also includes the attorney work product
25 doctrine as well as the attorney-client privilege.

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1 If there's a nonpublic matter, you can't disclose
2 it.
3 THE WITNESS: Understood.
4 MR. RYAN: If there is a public
5 matter, you may disclose it.
6 MR. SCHNEIDER: And I will object to
7 the form of the question.
8 THE WITNESS: Could you be more
9 specific with your question?
10 You said "tell me about those efforts."
11 Q (By Mr. Amala) You said that you have publicly
12 disclosed that you did work for Craig's List on alleged
13 sex trafficking involving its website, correct?
14 **A I think so.
15 It's scrolled off, but I believe so. (Indicating.)**
16 Q I want to understand, what information have you publicly
17 disclosed regarding your work on alleged sex trafficking
18 involving Craig's List?
19 **A In-- I believe it was September 2010, I testified before
20 the House Judiciary Committee on behalf of Craig's List
21 in a hearing on domestic minor sex trafficking.**
22 Q What did you tell the Senate?
23 Was it the Senate or the House?
24 MR. SCHNEIDER: Testimony was
25 "House."

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1 THE WITNESS: House--
2 Q (By Mr. Amala) What did you tell the House?
3 MR. SCHNEIDER: Object to the form of
4 the question.
5 The testimony was House Judiciary Committee.
6 Q (By Mr. Amala) What did you tell the House Judiciary
7 Committee?
8 **A I don't recall.**
9 Q Did you receive the permission of Craig's List to
10 testify before the House Judiciary Committee?
11 MR. RYAN: You can answer that "yes"
12 or "no" without describing further.
13 THE WITNESS: Yes.
14 Q (By Mr. Amala) When did you personally first become
15 aware that people were using the Internet for sex
16 trafficking?
17 MR. RYAN: You have to answer that
18 from nonprivileged work.
19 THE WITNESS: Understood.
20 My best estimation is 2005 or 2006.
21 It is my "best estimation"-- (Indicating.)
22 COURT REPORTER: It will get fixed.
23 MR. SCHNEIDER: That is, by
24 definition, a draft, so the particular word might not be
25 the same as it will be in the final. (Indicating.)

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1 THE WITNESS: Okay.
2 MR. SCHNEIDER: And I have high
3 expectations and confidence that the final will be the
4 actual word you used.
5 THE WITNESS: Okay. Sorry.
6 MR. SCHNEIDER: So don't get
7 distracted by it.
8 THE WITNESS: I didn't mean to tell
9 you how to do your job. I'm sorry.
10 MR. AMALA: Teri is arguably the
11 best.
12 Q (By Mr. Amala) Just because you looked a few times and
13 we have a clear record, Ms. McDougall, you actually have
14 a laptop next to you today, that I don't know if it
15 shows up on the videotape, but you are actually
16 reviewing my questions as I ask them and also reviewing
17 your answers, correct?
18 **A Not with respect to every question and answer, but yes,
19 it's available to me, and I do consult it at times.**
20 Q And Counsel pointed out it's a draft of the transcript
21 in realtime so you are seeing my questions or at least
22 some of my questions transcribed in realtime by the
23 court reporter, to the extent this is a draft, correct?
24 **A Yes.**
25 Q You are also able to occasionally look at the answers

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1 that you give to my questions in realtime as you are
2 giving them, correct?
3 **A Yes.**
4 Q You said that in approximately 2005 or 2006 is when you
5 believe you first learned that people were using the
6 Internet for sex trafficking.
7 How was it that you first learned of that issue?
8 MR. RYAN: Again, you have to do it
9 from nonprivileged sources.
10 THE WITNESS: As I recall your
11 question, it was how I learned of child sex trafficking.
12 I don't recall you saying "sex trafficking in the
13 Internet," but in any event, I learned of it through a
14 friend who worked with a nonprofit involved with those
15 issues.
16 Q (By Mr. Amala) Who was your friend?
17 **A Tim Cranton.**
18 Q And what was the nonprofit?
19 **A The International Center for Missing & Exploited
20 Children.**
21 Q So why is it that you had a conversation with
22 Mr. Cranton about the issue of children being sold for
23 sex online?
24 **A I'm pausing only to try to sort out-- he worked for
25 Microsoft, and Microsoft was a client of mine at the**

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1 time--
2 MR. RYAN: If this was a client
3 conversation, you cannot relate it.
4 If it was even a mix of client and personal
5 interest on his part or your part, it is privileged.
6 THE WITNESS: Okay.
7 MR. RYAN: You have a duty of loyalty
8 and a duty not to disclose client secrets, and you have
9 to follow that.
10 THE WITNESS: Okay. Pursuant to that
11 advice, I have to decline to answer the question based
12 on attorney-client privilege.
13 Q (By Mr. Amala) Was Mr. Cranton a client of yours when
14 he first talked with you about the issue of children
15 being sold for sex online?
16 MR. RYAN: If he was working for
17 Microsoft and you perceived him as a client, in a
18 corporation, you may not, you know-- how you define the
19 client-- if he's part of the client in any way, then you
20 have to define it that way.
21 THE WITNESS: The answer is yes.
22 Q (By Mr. Amala) He was a client at the time?
23 **A To my recollection, yes.**
24 Q Why did you choose to do work for the DNA Foundation?
25 **A I learned that they had a need for counsel, and I spoke**

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1 **with one of the individuals who was organizing and
2 overseeing the foundation--**
3 MR. RYAN: I think if you are talking
4 to us about someone-- your conversations with the
5 client. You really can't do that.
6 THE WITNESS: Okay. I learned about
7 the foundation. I learned that they had a need for
8 counsel with my particular expertise, and I volunteered
9 my services.
10 Q (By Mr. Amala) What I am trying to understand is, you
11 as a lawyer, worked at, probably at the time, the
12 largest law firm in Seattle or at least one of them. I
13 assume you could have the pick of the litter as far as
14 the work you did.
15 Is that fair?
16 **A No.**
17 Q Were you hurting for work when you chose to start
18 working for the DNA Foundation?
19 **A No.**
20 Q So at some level you had a choice as to whether or not
21 you would do work for the DNA Foundation, correct?
22 **A It was pro bono work, and Perkins Coie was very liberal
23 about allowing us to choose our pro bono work.**
24 Q That's what I'm trying to understand, why did you choose
25 to do this particular pro bono work?

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1 **A Because it was a cause that interested me and I felt**
2 **passionate about.**
3 **I believe that I had the skill and expertise to be**
4 **able to help them.**
5 Q What was the cause?
6 **A Sex trafficking in the United States.**
7 Q Was it in particular sex trafficking in the United
8 States online?
9 **A I'm sorry, Jason--**
10 Q Was it more focused than that?
11 Was it your ability to help combat child sex
12 trafficking on the Internet?
13 **A I believe that my particular expertise in technology and**
14 **Internet law and cyber crimes would benefit any efforts**
15 **to help combat the use of technologies in relation to**
16 **sex trafficking and human trafficking overall.**
17 Q Why were you passionate about helping to prevent online
18 sex trafficking of children?
19 **A I'm passionate about the rights of all human beings to**
20 **be able to live free of violence and exploitation.**
21 **This is one area where I believe that violations of**
22 **those things occur, and as I said, I had the-- I believe**
23 **the skills, and at least relevant expertise, to be able**
24 **to stop that.**
25 Q Why do you say "this is one area where violations of the

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1 right to be free of violence and exploitation" was
2 occurring?
3 **A Because there are more than one.**
4 Q Tell me what you mean by that.
5 **A Violence and exploitation of human beings is occurring**
6 **all over the world all the time.**
7 **One person can't fight every battle.**
8 Q But why is it that you said "this is one area where the
9 violations of the right to be free from violence and
10 free from exploitation occurs"?
11 **A I said it's one area because there are many, many areas,**
12 **and I was identifying one.**
13 Q How is it that you knew at the time that this was an
14 area where violations of the right to be free of
15 violence and free of exploitation was occurring?
16 MR. RYAN: Again, you have to do this
17 from nonprivileged sources, if you can.
18 If you can't, then you don't have an answer.
19 THE WITNESS: I'm sorry, you said
20 "How is it that you knew at the time that this was an
21 area where violations of the right to be free of
22 violence and free of exploitation was occurring?"
23 I lost track of it.
24 At what time are you referring?
25 Q (By Mr. Amala) So my original question is:

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1 Why is it that you chose to start doing work for
2 the DNA Foundation, and you said that's because you
3 believe that people have the right to live free of
4 violence and free of exploitation.
5 Am I tracking you so far?
6 **A I believe-- maybe not word for word, but conceptually,**
7 **yes.**
8 Q Okay. And you said you started to do work for the DNA
9 Foundation because this is one area where violations of
10 those rights occur.
11 Is that correct?
12 **A The DNA Foundation is not a place where those violations**
13 **occur.**
14 Q But online is one of the areas where violations of those
15 rights occur, correct?
16 **A Technology.**
17 Q And you understood the DNA Foundation was taking steps
18 to try to address those violations online, correct?
19 **A I don't think I can answer that based on privilege.**
20 Q So you are not going to answer that based on privilege?
21 **A I am not.**
22 Q --going to answer that based on privilege?
23 **A Correct.**
24 Q This is when-- we're off the record.
25 We'll get the hang of it, but I just need to make

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1 sure I have a clear record of you refusing to answer
2 based on privilege.
3 **A Okay.**
4 Q That's why.
5 I don't think I can, I just need you to
6 affirmatively state, "I won't answer it because of
7 privilege."
8 **A Got it. Sorry.**
9 MR. SCHNEIDER: The witness
10 understood your question to call for the disclosure of
11 information that would be attorney-client privileged,
12 and once she has identified that-- what I will call the
13 defect in the question, she is not going to answer, and
14 follow-up questions are not going to change that.
15 Q (By Mr. Amala) How long did you do work for Craig's
16 List?
17 **A You are asking me to do some mental math, so just bear**
18 **with me here.**
19 **Approximately three years.**
20 Q What is the approximate timeframe of those three years?
21 **A About the summer of 2008 through 2011.**
22 Q Were you working for Craig's List when it shut down the
23 adult section of the website?
24 MR. SCHNEIDER: You are asking for a
25 milestone in the duration she has testified as to when

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1 she was engaged by Craig's List?
2 You can answer if you have a recollection that such
3 an event occurred during the period 2008 through 2011,
4 "yes" or "no."
5 THE WITNESS: Yes.
6 Q (By Mr. Amala) During the time that you worked for
7 Craig's List, do you know if the company had any
8 policies and procedures in place to prevent children
9 from being sold for sex on the website?
10 MR. RYAN: Objection. It calls for
11 privileged information.
12 Unless you have a nonprivileged source for that
13 information, and you have been exposed to privileged
14 information, you cannot answer.
15 THE WITNESS: I decline to answer
16 based on privilege.
17 Q (By Mr. Amala) Did you ever post ads on Craig's List
18 when you were working for the company?
19 MR. SCHNEIDER: Objection to the form
20 of the question.
21 THE WITNESS: I don't recall.
22 Q (By Mr. Amala) Did you ever watch someone else post ads
23 on craigslist.com when you were working for the company?
24 MR. SCHNEIDER: You are asking
25 outside of her work as an attorney--

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1 MR. AMALA: Here is my problem--
2 Q (By Mr. Amala) Here is my problem:
3 You worked for the company for three years. You
4 obviously did work involving sex trafficking stuff.
5 You are being instructed not to answer my questions
6 regarding whether the company had policies and
7 procedures in place.
8 I assume that the company had policies and
9 procedures in place that were disclosed publicly, so
10 that's my struggle I'm having, because you are being
11 instructed not to answer questions where I assume you
12 went through a website and saw the process that was used
13 or you know what policies and procedures were publicly
14 known that the company had in place, for example, when
15 you testified in front of the House Judiciary Committee,
16 so that's what I'm trying to get at with some of these
17 questions.
18 You being instructed just not to answer because you
19 worked for the company isn't going to work, so we have
20 to figure out a way to get there.
21 MR. SCHNEIDER: That's not the
22 basis--
23 MR. RYAN: That whole syllogism was
24 fraught with problems.
25 The bottom line is you can't disclose any client

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1 secrets that you learned representing Craig's List.
2 That includes everything you learned there.
3 You know, if there is any risk of you disclosing
4 that secret, you can't answer it.
5 It's that simple.
6 You have a duty as a lawyer not to disclose their
7 secrets.
8 MR. AMALA: I strongly disagree with
9 that characterization of the law, at least as far as
10 Washington Courts apply it.
11 MR. SCHNEIDER: I will also point out
12 that in aid of my objection to the form of the question,
13 the testimony so far is that the only involvement with
14 regard to Craig's List was testimony given to the House
15 Judiciary Committee, so your statement that she
16 obviously was doing other things is outside any record
17 that's been made so far.
18 THE WITNESS: I also need to make a--
19 MR. RYAN: There's no question
20 pending.
21 There is no question pending.
22 Let him put a new question to you.
23 Q (By Mr. Amala) Go ahead and say what you wanted to say.
24 **A I just want to make a correction on the record that I**
25 **don't actually recall ever posting something on Craig's**

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1 **List.**
2 **I've purchased things from Craig's List.**
3 Q When you were working for Craig's List, did any of your
4 work involve how the company-- strike that.
5 While you were working for Craig's List, did any of
6 your work involve the company's policies and procedures
7 with regard to ads that might be for child sex
8 trafficking?
9 MR. RYAN: Objection.
10 We can go on a long time today on this--
11 MR. AMALA: We are going to go a long
12 time because I asked some direct questions--
13 MR. RYAN: That's fine.
14 If you want to--
15 MR. AMALA: See, one thing is raising
16 your voice isn't going to be productive--
17 MR. RYAN: If you want to waste your
18 time--
19 MR. AMALA: So keep your voice down.
20 MR. RYAN: That's fine.
21 MR. AMALA: Talk like a normal
22 gentleman and say your objections, but I have to set my
23 record, so--
24 MR. RYAN: You interrupted me.
25 MR. AMALA: Well, you were shouting,

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1 so I am asking you to please be professional.
2 You are here in our state. I assume you put in a
3 pro hac vice application, if it hasn't already been
4 granted, and one of the things we do here is act
5 professionally.
6 We don't raise our voices and get agitated, and
7 threats about going on all day, I will do that to make
8 my record, so keep calm--
9 MR. SCHNEIDER: Are you done?
10 MR. AMALA: Let's keep concise
11 objections and let me make my record, and let's not
12 coach the witness with your objections.
13 Q (By Mr. Amala) Go ahead.
14 MR. RYAN: Are you done?
15 I think it was unprofessional to interrupt me, but
16 that happens, and I have my deepest respect for every
17 member of the bar until proven otherwise, and you
18 haven't proven otherwise.
19 On the other hand, you're asking for privileged
20 information that she cannot disclose, and we have
21 already established that by the prior question, so you
22 can go into this area all you want.
23 I have to say then the same instruction applies,
24 that you cannot disclose the secrets of your client or
25 the information that you obtained there.

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1 If you can answer his question without disclosing
2 those secrets, please go ahead.
3 Otherwise, you are so instructed.
4 THE WITNESS: Thank you.
5 Q (By Mr. Amala) Are you declining to answer my question
6 based on attorney-client privilege?
7 **A I need you to repeat the question, please.**
8 MR. AMALA: Go ahead.
9 (Question on Page 41, Line 5-
10 8 read by the reporter.)
11
12 THE WITNESS: I decline to answer
13 based on the attorney-client privilege.
14 Q (By Mr. Amala) While you were working for Craig's List,
15 did you ever do anything to familiarize yourself with
16 the process for posting an ad on the website?
17 MR. RYAN: Same objection.
18 THE WITNESS: I decline to answer
19 based on the attorney-client privilege.
20 Q (By Mr. Amala) Did anyone from Craig's List ever ask
21 you to help them commit a crime?
22 MR. RYAN: Same objection, and to the
23 degree that I don't know the law in Washington -- I
24 certainly don't on crime-fraud exception -- we can
25 discuss it, but it would appear to call for a privileged

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1 communication, but I don't know how you handle that
2 here, quite honestly.
3 MR. SCHNEIDER: Well, as stated, the
4 question may call for the disclosure of attorney-client
5 privileged information, and you can answer so long as
6 you don't waive, on behalf of Craig's List, any such
7 privilege.
8 THE WITNESS: I'm not sure I
9 understand what you said.
10 MR. SCHNEIDER: Well, the privilege
11 belongs to your former client, Craig's List.
12 It is not yours to waive or compromise.
13 To the extent any information came to you in the
14 attorney-client relationship, which was for the purpose
15 of receiving or providing legal advice, and was not
16 shared outside that relationship, you are not to
17 disclose it.
18 THE WITNESS: Jason, I decline to
19 answer that question based on attorney-client privilege,
20 but for the sake of time, instead of taking a break now,
21 when we take a break, I'll discuss it with my counsel,
22 and if I think there's-- that the privilege doesn't
23 apply, then I would be glad to answer your question.
24 MR. SCHNEIDER: For planning
25 purposes, we will take a morning recess, and I think

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1 that given we have less than an hour left in the
2 morning, we should do it now.
3 MR. AMALA: Yes, I agree.
4 VIDEOGRAPHER: Going off the record,
5 the time is 11:03 a.m.
6 (Recess 11:03 to 11:25 a.m.)
7
8 VIDEOGRAPHER: Back on the record,
9 the time is 11:25 a.m.
10 Q (By Mr. Amala) Ms. McDougall, I believe my last
11 question is whether anyone from Craig's List ever asked
12 you to help them commit a crime.
13 Did they?
14 **A That would be privileged information, and I decline to
15 answer on that basis.**
16 Q Did you ever help anyone from Craig's List commit a
17 crime?
18 MR. RYAN: You may answer.
19 THE WITNESS: No.
20 Q (By Mr. Amala) Have you ever helped anyone from
21 Backpage.com commit a crime?
22 **A No.**
23 **You know, as I think-- I apologize.**
24 **As I think about it, your question, I believe my--**
25 **the last question is whether "Anyone from Craig's List**

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1 **ever asked you to help them commit a crime."**
2 MR. SCHNEIDER: Any objection to her
3 answering that?
4 MR. RYAN: No.
5 THE WITNESS: So the answer to that
6 question-- I apologize for my confusion in this area.
7 My answer to that would be "no."
8 Q (By Mr. Amala) In January of this year you--
9 **A I'm sorry?**
10 Q In January of this year you testified before the U.S.
11 Senate, correct?
12 **A Yes.**
13 Q And when you were asked questions by the U.S. Senate,
14 you pled the Fifth Amendment, correct?
15 **A I pled the Fifth Amendment, the First Amendment, and**
16 **where applicable, the attorney-client and other**
17 **applicable common law privileges.**
18 Q You understand that in a criminal proceeding, pleading
19 the Fifth Amendment is the right not to incriminate
20 yourself, correct?
21 **A I am not a criminal lawyer--**
22 MR. RYAN: Objection; calls for a
23 legal conclusion from her as a person as opposed to her
24 as a lawyer, but if you can answer that, go ahead and
25 answer it.

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1 THE WITNESS: That would actually
2 call for privileged information.
3 Q (By Mr. Amala) You are telling me you don't have any
4 personal knowledge as to whether or not the indication
5 of the protections of the Fifth Amendment reflects the
6 right not to incriminate yourself?
7 **A I believe that I learned that, but you asked it in the**
8 **context of the Senate hearing.**
9 **In that context, my information-- any information I**
10 **have would be from privileged communications.**
11 Q Why did you plead the Fifth Amendment--
12 MR. RYAN: Objection.
13 Go ahead.
14 Q (By Mr. Amala) Ms. McDougall, why did you plead the
15 Fifth Amendment when you were asked questions by the
16 U.S. Senate in January this year?
17 MR. RYAN: Objection. I think it
18 calls for disclosure of attorney-client communications.
19 THE WITNESS: And I decline to answer
20 based on attorney-client privilege.
21 Q (By Mr. Amala) Did you decline to answer questions
22 based on the Fifth Amendment because providing answers
23 would incriminate you?
24 **A I declined to answer based on attorney-client privilege.**
25 Q You understand that the attorney-client privilege

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1 doesn't protect a lawyer if the lawyer has helped the
2 client commit a crime, correct?
3 MR. RYAN: I apologize, I just got
4 distracted.
5 Let me just read the question.
6 Well, it calls for a legal conclusion, but she's a
7 lawyer, so if you can answer in a non Backpage context,
8 then answer.
9 If it's in the context of a particular decision
10 that she was making with regard to that appearance, then
11 don't answer.
12 I am not sure of the context of your question.
13 If you could make it clear, are you asking about
14 her decision not to testify or are you talking about her
15 knowledge of the attorney-client privilege?
16 Q (By Mr. Amala) Let's start with the general
17 understanding.
18 You understand that the attorney-client privilege
19 does not cover communications with a client that are
20 undertaken in furtherance of a crime, correct?
21 **A I believe that's correct.**
22 **I hesitate on the word "furtherance," but**
23 **conceptually I believe that's correct.**
24 Q And you are declining to tell me why you pled the Fifth
25 Amendment in response to questions by the U.S. Senate

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1 because of the attorney-client privilege; is that
2 correct?
3 **A That is correct, as well as the First Amendment and**
4 **the-- sorry.**
5 MR. RYAN: That's correct.
6 THE WITNESS: I'm sorry, so my answer
7 should have been "yes, that's correct."
8 Q (By Mr. Amala) Are you also invoking the Fifth
9 Amendment?
10 MR. RYAN: I'm sorry, I object to the
11 form of the question.
12 The question is unintelligible to me, but the
13 witness may be able to answer it.
14 THE WITNESS: No, I don't understand
15 the question.
16 Could you clarify, please?
17 Q (By Mr. Amala) When you appeared before the U.S. Senate
18 on January 10th, 2017, Senator McCaskill asked you
19 whether or not you believe that the First Amendment
20 protects Backpage.com if it stripped out words like
21 "rape" and "little girl" from ads before publication,
22 and in response to that question you pled the Fifth
23 Amendment; is that correct?
24 **A I don't-- as I sit here, I don't specifically recall on**
25 **each of the questions that I was asked, but I pled the--**

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1 **I asserted my Fifth Amendment rights, I asserted the**
2 **First Amendment, and I asserted attorney-client**
3 **privilege where applicable in response to each of the**
4 **questions I was asked, other than the preliminary name,**
5 **et cetera.**
6 Q Why did you plead the Fifth Amendment in response to
7 that question by Senator McCaskill?
8 MR. RYAN: Objection. It calls for
9 privileged communications.
10 If you can answer outside of privileged
11 communications, you go right ahead.
12 THE WITNESS: I decline to answer
13 based on attorney-client privilege.
14 Q (By Mr. Amala) Are you also declining to answer based
15 on the Fifth Amendment?
16 **A Am I declining to answer your question today based on**
17 **the Fifth Amendment?**
18 Q Correct.
19 MR. RYAN: Objection. It calls for a
20 legal conclusion.
21 You may answer.
22 THE WITNESS: No.
23 Q (By Mr. Amala) Do you believe that the First Amendment
24 protects Backpage.com from liability if it was stripping
25 out words like "rape" and "little girl" from ads before

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1 they were published on the website?
2 MR. RYAN: Objection; calls for a
3 legal conclusion.
4 MR. SCHNEIDER: We will also object
5 to the form of the question so far as it may call for
6 attorney-client privileged information and work product.
7 THE WITNESS: Harry, I'm sorry, I'm
8 not clear--
9 MR. RYAN: Do you want to talk to
10 your lawyer outside the room for a moment?
11 How do you guys do that?
12 Is that permissible?
13 MR. BAUER: Not while a question is
14 pending.
15 MR. SCHNEIDER: With regard to
16 matters of attorney-client privilege, I think that's not
17 accurate.
18 If you have a question or wish to have a
19 conversation with your counsel with respect to whether
20 your answer to the question will divulge attorney-client
21 information that you are not authorized to convey, I
22 believe we can take a break.
23 MR. RYAN: Maybe as a matter of
24 graciousness you could withdraw the question for a
25 moment, we will confer, come back, and be in a better

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1 position to answer.
2 MR. AMALA: I am not going to
3 withdraw the question but agree if that's the issue,
4 then we can take a break.
5 MR. RYAN: Thanks.
6 VIDEOGRAPHER: Going off the record,
7 the time is 11:34 a.m.
8 (Recess 11:34 to 11:51 a.m.)
9
10 VIDEOGRAPHER: Back on the record.
11 The time is 11:51 a.m.
12 MR. AMALA: Can you read back the
13 last question, please?
14 (Question on Page 50, Line 23-
15 25 and Page 51, Line 1 read
16 by the reporter.)
17
18 THE WITNESS: I decline to answer
19 that question based on the attorney-client privilege.
20 MR. SCHNEIDER: I will object to the
21 form of the question as phrased, asking for her belief.
22 Q (By Mr. Amala) Are you refusing to answer my question
23 based on the Fifth Amendment?
24 **A No.**
25 Q Ms. McDougall, do you believe that Backpage.com is

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1 entitled to immunity under Section 230 of the
2 Communications Decency Act for ads where it deleted the
3 words "rape" or "little girl"?
4 MR. SCHNEIDER: Object to the form of
5 the question.
6 THE WITNESS: I have to decline to
7 answer that question based on the attorney-client
8 privilege.
9 Q (By Mr. Amala) Another question that Senator McCaskill
10 asked you is whether you were aware of Backpage's
11 practice of altering the content of adult advertisements
12 by removing evidence of criminality when Backpage filed
13 its briefs in the First Circuit case under your
14 supervision.
15 MR. SCHNEIDER: Same objection.
16 Q (By Mr. Amala) Were you aware of that practice at the
17 time?
18 **A I have to decline to answer the question based on the**
19 **attorney-client privilege.**
20 Q Are you also declining to answer based on the Fifth
21 Amendment?
22 **A No.**
23 Q Did you decline to answer my prior question, regarding
24 whether you believe Backpage is entitled to immunity
25 under Section 230 of the Communications Decency Act for

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1 ads which it-- where it deleted the words "rape" or
2 "little girl", based on the Fifth Amendment?
3 MR. RYAN: Objection; asked and
4 answered, but you can answer it again.
5 THE WITNESS: The answer is "no."
6 Q (By Mr. Amala) Senator Portman also asked whether you
7 were aware-- strike that.
8 Senator Portman also asked whether your outside
9 litigation counsel in the First Circuit case was aware
10 of Backpage.com's editing practices when they submitted
11 signed briefs to that case-- in that case, where they
12 convinced the Court to throw out the lawsuit on the
13 theory that Backpage just posts whatever it receives--
14 MR. SCHNEIDER: Objection, if the
15 question is finished.
16 Q (By Mr. Amala) Can you tell us today whether or not
17 your outside litigation counsel, in the First Circuit
18 case, was aware of Backpage's editing practices at the
19 time that they submitted briefs to the Court in that
20 case that eventually caused the Court to throw the case
21 out on the theory that Backpage just posts whatever it
22 receives?
23 MR. SCHNEIDER: Objection to the form
24 of the question on various grounds, including that it
25 may call for information Ms. McDougall acquired only in

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1 the attorney-client relationship in the course of
2 providing legal advice.
3 THE WITNESS: Sorry, I'm pausing
4 because I think the question has some assumptions in it
5 about what caused the Court to throw the case out and
6 the Court's thinking, but with respect to the first part
7 of the question, whether or not outside counsel in the
8 First Circuit case was-- what they were aware of when
9 they submitted briefs, I decline to answer based on the
10 attorney-client privilege.
11 Q (By Mr. Amala) Are you also declining to answer that
12 question based on the Fifth Amendment?
13 **A No.**
14 Q The final question that Senator McCaskill asked you
15 during the Senate hearing on January 10th, 2017 is
16 whether you ever told law enforcement, when you were
17 responding to requests for information by law
18 enforcement, that Backpage had edited any of the ads for
19 which law enforcement had requested information.
20 Did you ever tell law enforcement, when you were
21 responding to requests for information, that the ads
22 that Backpage was giving them had been sanitized?
23 **A You would have to tell me what you mean by the word**
24 **"sanitized" for me to be able to answer that question.**
25 Q When you responded to requests by law enforcement for

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1 information regarding ads on Backpage, did you ever tell
2 law enforcement that Backpage had removed any of the
3 content from the ads before they were posted on the
4 website?
5 MR. SCHNEIDER: Object to the form of
6 the question.
7 I would invite you to ask a question specific to a
8 particular communication.
9 THE WITNESS: Yeah, that's what I'm
10 struggling with.
11 The question asks about-- seems to ask about all
12 requests from law enforcement, and there were many
13 different requests in different contexts.
14 Q (By Mr. Amala) That's where I'm starting.
15 Can you recall any time that you ever told law
16 enforcement, when they requested information regarding
17 an ad on Backpage.com, that the company had a practice
18 of stripping out information from the ads before they
19 were posted on the website?
20 MR. SCHNEIDER: I take it when you
21 say "any time," you are asking about does she recall any
22 specific communication?
23 THE WITNESS: We did not have a
24 practice of stripping out information from all ads
25 before they were posted on the website, so I'm

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1 struggling with how to answer your question.
2 Q (By Mr. Amala) Is your testimony today under oath that
3 Backpage.com didn't have a practice of stripping out
4 certain words from ads before they were posted on the
5 website?
6 **A What I said is that we did--**
7 MR. RYAN: I apologize, I'm going to
8 interrupt.
9 You are not listening to the fact that he has
10 abandoned his line of questioning about the Senate.
11 You have to stop looking at the Senate question and
12 only look at the question he's now asking you.
13 THE WITNESS: As posed, okay.
14 MR. RYAN: I think the fair question
15 that he's putting, and he can rephrase it, is do you
16 remember any conversation you had with law enforcement
17 where you affirmatively indicated that-- not
18 information, but words were taken from ads.
19 Is that fairly put, getting back to what you're
20 asking now as opposed to what the Senate-- overlay of
21 that--
22 THE WITNESS: I think maybe I'll just
23 ask Mr. Amala if he'll repeat the question.
24 Q (By Mr. Amala) Well, my last question is:
25 Is it your testimony today under oath that

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1 Backpage.com did not have a practice of removing certain
2 terms from ads before they were posted on the website?
3 MR. SCHNEIDER: I will object to the
4 form of the question to the extent it may call for the
5 disclosure of attorney-client privileged information or
6 work product.
7 THE WITNESS: That was something that
8 Backpage did for a brief period of time.
9 There was not a general practice in place for the
10 duration of the website.
11 Q (By Mr. Amala) Was there ever a general practice in
12 place, during the duration of the website, where
13 Backpage would remove certain terms from ads before they
14 were posted on the website?
15 MR. SCHNEIDER: Same objection.
16 THE WITNESS: Could you tell me what
17 you mean by "general practice"?
18 Q (By Mr. Amala) I'm just using your own words, ma'am.
19 **A When I used the words "general practice" it was because**
20 **I was trying to understand your practice.**
21 **A "general practice," to me, means a practice that**
22 **has existed throughout the duration of the company's**
23 **operations or service s.**
24 **That's the way I used the term.**
25 **Is that the way you are using it in your question?**

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1 Q Was there a period of time where Backpage had a practice
2 of removing certain terms from ads before they were
3 posted on the website?
4 **A There was a period of time when Backpage did remove**
5 **certain terms from ads before they were posted on the**
6 **website.**
7 Q Did Backpage ever inform law enforcement, when it was
8 responding to requests for information, that it had a
9 practice of removing certain terms from ads before they
10 were posted on the website?
11 MR. SCHNEIDER: Object to the form.
12 THE WITNESS: Can you tell me what
13 you mean by "responding to requests for information"?
14 We had many different ways and circumstances in
15 which we communicated with law enforcement and still do.
16 Q (By Mr. Amala) I will start from a general 30,000 foot
17 level.
18 During any of those times that you were providing
19 information to law enforcement, did Backpage disclose to
20 law enforcement that it had a practice of removing
21 certain terms from ads before they were posted on the
22 website?
23 **A You'll notice in my prior responses that I'm not using**
24 **the word "practice" because I don't fully understand**
25 **what you mean by that.**

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1 **I can confirm, as I said before, that during a**
2 **period of time Backpage removed certain terms and**
3 **photographs from ads before they were posted on the**
4 **website, and in certain occasions, when we were**
5 **providing information to law enforcement, we did make**
6 **that disclosure.**
7 Q You are aware that the practice-- well, strike that.
8 You are aware that Backpage had an automatic filter
9 in place to remove certain terms that the company
10 defined as being terms reflecting sex for money,
11 correct?
12 **A The company had a filter in place for removing terms,**
13 **phrases, URLs, phone numbers, IP addresses, e-mail**
14 **addresses, things like that, for many purposes,**
15 **including primarily spam, fraud, scams, that kind of**
16 **thing.**
17 **At a point in time terms related to adult content**
18 **were added to that filter.**
19 Q What were the terms related to adult content?
20 **A I couldn't name them, as I sit here.**
21 **They've been provided to you in documents I**
22 **produced in discovery.**
23 Q Thousands of those terms were terms that the company
24 identified as terms reflecting sex for money, correct?
25 **A I cannot confirm that it's thousands of terms.**

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1 **I have not counted up the number of terms that**
2 **relate to sex or that relate to adult entertainment.**
3 Q How many of those terms reflected sex for money?
4 **A To the best of my recollection, and, again, I don't**
5 **recall every single term, no particular term reflects**
6 **sex for money.**
7 Q It's your testimony today under oath that Backpage did
8 not add hundreds of those words to its filter because
9 the company concluded that those were terms that
10 reflected sex for money?
11 MR. SCHNEIDER: Object to the form of
12 the question so far as it invites the witness to
13 disclose privileged attorney-client communications.
14 THE WITNESS: It's got like a
15 negative in it. (Indicating.)
16 No, that's not my testimony today, so far as I
17 understand your question.
18 Q (By Mr. Amala) So do you agree with me that
19 Backpage.com included hundreds of words in its automatic
20 filter because the company had concluded that those
21 terms reflected sex for money?
22 **A No.**
23 Q You don't agree with that?
24 **A No.**
25 Q During the time-- strike that.

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1 You also understand that in addition to its
2 automatic filter, there was a period of time where
3 Backpage also had moderators who would review ads after
4 they had been filtered by the automatic filter who would
5 then manually remove terms that the company identified
6 as reflecting sex for money?
7 MR. SCHNEIDER: Same objection.
8 THE WITNESS: In addition to the
9 automatic filter, there was a period of time where
10 Backpage also had moderators who would review ads after
11 they had been filtered by the automatic filter-- there
12 was a period of time where Backpage also had moderators
13 who would review ads after they had been filtered by the
14 automatic filter who would then manually remove terms
15 that the company identified as potentially reflecting
16 sex for money or other content that violated the terms
17 of use or was objectionable to the company.
18 Q (By Mr. Amala) Okay. So during this time period where
19 there was an automatic filter in place that was removing
20 terms that may suggest sex for money, followed by a
21 manual removal of those ads looking for terms that may
22 reflect sex for money, when Backpage would respond to
23 subpoenas from law enforcement for ads, did the company
24 tell law enforcement that the ads had been subjected to
25 this automatic filter and manual filter?

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1 MR. SCHNEIDER: Same objection.
2 THE WITNESS: The complication I am
3 having with answering your question is time periods
4 because different things happened at different periods
5 of time.
6 During the time period where there was an automatic
7 filter in place that was removing terms that may suggest
8 sex for money-- may suggest potential sex for money or
9 otherwise violated the terms of use or were
10 objectionable to the company, followed by a manual
11 review of those ads, looking for, again, terms that may
12 reflect potential sex for money or other violations of
13 the terms of use or rules, and otherwise be
14 objectionable, when Backpage responded to subpoenas from
15 law enforcement, the cover e-mail that went to law
16 enforcement did not specify that content may have been
17 removed from the ad, but in the documents that were
18 produced to law enforcement, during a period of time
19 that I can't off the top of my head specify, there was
20 indicia of photographs that had been removed from
21 advertisements.
22 Q (By Mr. Amala) Was that the only indication that was
23 given to law enforcement, that the ads may have been
24 edited by Backpage before they were produced?
25 **A Are you referring specifically in response to subpoenas?**

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1 Q I'm following up my line of questioning.
2 I started with during that period Backpage gets a
3 subpoena requesting ads, Backpage responds, and you told
4 me that the cover page didn't include any information
5 indicating the ad had been edited, but that sometimes
6 the ads themselves would reflect that an image had been
7 removed.
8 Am I tracking you so far?
9 **A Not the ads themselves, the administrative data, the
10 background data, that came with the ad would indicate
11 where photographs had been removed.**
12 Q How would it do that?
13 **A Because the administrative data would have-- it would
14 show the images that had been publicly displayed, and
15 then there was a section below that, that would show
16 images that had been deleted and not publicly displayed.**
17 Q What time period was that information provided to law
18 enforcement?
19 MR. SCHNEIDER: Object to the form.
20 I think she's already answered that.
21 THE WITNESS: You are referring to
22 the information about images that had been deleted?
23 MR. AMALA: Correct.
24 THE WITNESS: I don't recall at this
25 time.

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1 Q (By Mr. Amala) When is the first time that Backpage
2 ever informed law enforcement that the company had an
3 automatic filter followed by a manual filter that was
4 removing content from ads before they were posted on the
5 website?
6 **A I have no personal knowledge of that.**
7 Q When did Backpage.com first publicly disclose that the
8 company had an automatic filter in place that was
9 removing texts from ads that reflected sex for money
10 before they were posted on the website?
11 **A I can tell you that I'm not certain what you mean by
12 "publicly disclosed," but regardless of that, I believe
13 that occurred sometime before I joined the company, and
14 I have no knowledge of what that particular date was.**
15 Q What's the basis for your belief that that occurred
16 before you joined the company?
17 **A Because other company representatives were engaging with
18 assorted members of law enforcement and having
19 communications, to which I was not a party.**
20 Q What I am trying to understand is, what is the basis for
21 that knowledge?
22 How do you know that those meetings were taking
23 place?
24 MR. RYAN: You need to be careful.
25 You are coming very close to the line of privileged

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1 communications.
2 It is asking about your duties as Backpage general
3 counsel and how you knew that others were communicating
4 to law enforcement agencies.
5 I had no objection when he was asking about
6 communications that you knew of to a third party, law
7 enforcement agencies.
8 He is now asking for the communications internally
9 about how you knew about others communicating with law
10 enforcement, which raises issues of privilege, so just
11 bear that in mind as you answer his questions now.
12 MR. SCHNEIDER: Same objection.
13 THE WITNESS: Okay.
14 I have seen documents that were written before the
15 time that I joined the company that discussed the
16 company's moderation processes, which included the
17 automatic filter.
18 Q (By Mr. Amala) Is it your testimony that those
19 documents reflected a disclosure by Backpage to law
20 enforcement that the automatic filter was removing terms
21 that the company believed may reflect sex for money
22 before the ads were being posted online?
23 **A As I sit here, I don't know because I don't know that I**
24 **have seen or reviewed every one of those communications.**
25 Q But is it your testimony that those communications that

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1 you are referring to actually indicate, in the
2 communications, that Backpage was removing terms that
3 may reflect sex for money before the ads were being
4 posted on the website?
5 **A I recall that they reference the automatic filter, but I**
6 **don't recall specifically what they described about the**
7 **automatic filter because it had-- it triggered a variety**
8 **of actions, and removing terms was only one, and it was**
9 **one that was not used nearly as often as the others.**
10 Q Did those communications reflect that the manual review
11 by moderators was including the removal of terms that
12 the company had identified as possibly reflecting sex
13 for money?
14 MR. SCHNEIDER: And "the
15 communications," you mean the documents to which she's
16 made reference?
17 MR. AMALA: Correct.
18 THE WITNESS: I'm sorry, I just don't
19 recall.
20 Q (By Mr. Amala) When Backpage.com responded to subpoenas
21 from King County in 2010 that requested information
22 regarding ads that had been posted online here in King
23 County, did Backpage disclose to law enforcement that
24 they were receiving ads that may have been edited by the
25 company to remove content that reflected sex for money?

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1 MR. SCHNEIDER: I will object to the
2 form of the question.
3 THE WITNESS: That was before I was
4 with the company.
5 I don't know the answer.
6 MR. AMALA: We'll take a break at
7 12:30. I am just going to do some quick housekeeping
8 stuff, and then we'll take a break.
9 THE WITNESS: Take a break now?
10 MR. AMALA: Ten minutes.
11 MR. SCHNEIDER: I think he said
12 12:30.
13 (Exhibit No. 1 marked
14 for identification.)
15
16 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
17 been marked as Exhibit No. 1.
18 Do you recognize Exhibit No. 1?
19 MR. SCHNEIDER: The question is have
20 you seen it before.
21 THE WITNESS: I haven't seen this
22 exact one with the note of the court reporter and
23 videographer requested, but I believe I have seen the
24 substance of the three pages of the notice.
25 Q (By Mr. Amala) Are you-- well, strike that.

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1 Who is your current employer?
2 **A [REDACTED]**
3 Q What is your understanding as to who owns [REDACTED]
4 [REDACTED]
5 **A I do.**
6 Q Is [REDACTED] a company that you set up for your own
7 personal work as a lawyer?
8 **A Yes.**
9 Q Are you currently-- strike that.
10 Do you currently hold any positions with
11 Backpage.com?
12 **A I am the general counsel for Backpage.com LLC as an**
13 **independent contractor.**
14 Q Have you ever been employed by Backpage.com?
15 **A No.**
16 Q Have you ever been employed by any of the various
17 entities that have held an ownership interest in
18 Backpage.com?
19 **A No.**
20 Q How are you-- well, strike that.
21 When did you first start working as general counsel
22 to Backpage.com?
23 **A February 15th, 2012.**
24 **I got a date.**
25 Q How are you compensated for your work as general counsel

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1 for Backpage.com?
2 **A I'm paid on the basis of a retainer, monthly retainer.**
3 Q Has that been true since you first started working for
4 the company on February 15th, 2012?
5 **A Yes.**
6 Q Tell me-- you indicated you are on a monthly retainer,
7 but what does that mean?
8 **A It means that they pay a monthly amount for my work.**
9 **I don't bill on an hourly basis.**
10 Q When did you form [REDACTED]
11 **A In the first half of 2012, sometime after February 15th,**
12 **2012.**
13 Q So before [REDACTED] was formed, how were
14 you compensated for your work as general counsel for
15 Backpage.com?
16 **A I was not.**
17 Q Were you working for the company pro bono?
18 **A No.**
19 **The agreement was that they would not pay me until**
20 **I had the company formed.**
21 **Once the company was formed, they paid the monthly**
22 **retainer going back to February 15th, 2012.**
23 Q Who signed-- well, strike that.
24 Starting-- strike that.
25 Who signed your first paycheck for your work as

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1 general counsel for Backpage.com?
2 **A I don't receive paychecks.**
3 **It's an automatic deposit system.**
4 Q Who sends the automatic deposit?
5 **A I don't know.**
6 Q What company-- starting in 2012 with the first time that
7 you were paid for your services, what company sent you
8 the money for that work?
9 **A I could only speculate.**
10 **I didn't look at the bank information to see who it**
11 **came from.**
12 Q You said you had an agreement that they would not
13 compensate you for your time until you had [REDACTED]
14 [REDACTED] set up; is that correct?
15 **A No, that's not correct.**
16 Q Okay. Tell me where I'm wrong.
17 **A The agreement was that they wouldn't-- that they would**
18 **compensate me, but they wouldn't send the compensation**
19 **until I had the company formed.**
20 Q Who was that agreement with?
21 **A I don't recall.**
22 Q Okay. Who sends the money today?
23 **A I don't know.**
24 Q What is your monthly retainer agreement today-- sorry,
25 strike that.

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1 What is the amount of your monthly retainer today?
2 MR. RYAN: Let me just raise an
3 issue.
4 Earlier you asked her birth date and now you are
5 asking her salary or retainer amount.
6 I would consider both of those to be confidential
7 information not to be put in the public.
8 I understand there's a protective order for some
9 things in the case.
10 Would you be agreeable that answers like this, that
11 I ask to be designated, with your agreement, be treated
12 as confidential, so that if the deposition itself is
13 made public, her birth date, for example, which could
14 help identity theft, and the amount of her salary, which
15 is personal, not be included until you have such other
16 proceeding to disclose that?
17 MR. SCHNEIDER: I will make it easy.
18 We will designate the testimony given today as
19 confidential under the protective order.
20 THE WITNESS: Could you make it
21 attorneys' eyes only, please?
22 MR. SCHNEIDER: There will be
23 portions which we will designate as attorneys' eyes
24 only, but we will review the transcript in its entirety
25 once it's prepared, and we will provide the court

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1 reporter with a copy of the protective order unless I
2 hear counsel for Plaintiffs volunteer to do that.
3 MR. AMALA: I will let you do that
4 just to make sure we don't mess up.
5 MR. SCHNEIDER: Very good.
6 THE WITNESS: Are you okay with all
7 that, Jason?
8 MR. AMALA: Well, the protective
9 order allows him to designate, that's the process we
10 have, so--
11 MR. SCHNEIDER: It's a unilateral
12 designation, so we will designate the entire transcript,
13 the subject of theoretically financial interest with
14 respect to a party based on compensation--
15 Q (By Mr. Amala) Ms. McDougall, I believe the protective
16 order addresses financial information.
17 **A Okay. Thank you.**
18 Q Go ahead.
19 **A I'm sorry--**
20 MR. SCHNEIDER: The question is, what
21 is the retainer these days?
22 THE WITNESS: What is the retainer
23 today? I said I'm not good with numbers.
24 I don't know the specific amount.
25 It's approximately [REDACTED] per month, and that goes

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1 to [REDACTED]
2 Q (By Mr. Amala) Did you do any work in 2016 for anyone,
3 other than Backpage.com?
4 **A No.**
5 Q What was the amount of your total income in 2016?
6 **A I don't know.**
7 Q Aside from the monthly retainer, have you ever received
8 any sort of bonus from Backpage.com?
9 **A Yes.**
10 Q When was the last time you received a bonus from
11 Backpage.com?
12 **A It would have been late spring or early summer 2016, I**
13 **believe.**
14 Q How much was the bonus?
15 **A I don't know the exact amount.**
16 **It was approximately [REDACTED]**
17 Q What is your understanding is the basis for the bonus?
18 **A Roughly [REDACTED] of the annual amount of the**
19 **retainer.**
20 MR. SCHNEIDER: We are now one minute
21 past 12:30, if you want to take an afternoon break--
22 MR. AMALA: Let's take our lunch
23 break.
24 MR. SCHNEIDER: Your noon break.
25 VIDEOGRAPHER: Going off the record,

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1 the time is 12:31 p.m.
2 (Lunch recess 12:31 to 1:43 p.m.)
3
4 VIDEOGRAPHER: We are back on the
5 record. The time is 1:43 p.m. This is the beginning of
6 Disc No. 2 in the video deposition of Elizabeth
7 McDougall.
8 Q (By Mr. Amala) Ms. McDougall, before the lunch break,
9 you indicated you received a bonus in 2016 that was
10 approximately [REDACTED] of your annual retainer
11 amount.
12 Is that correct?
13 **A I believe so.**
14 Q Since 2012 have you ever received a bonus from
15 Backpage.com that was in excess of [REDACTED] of
16 the annual amount of your retainer?
17 **A No.**
18 **I'm sorry, let me qualify that.**
19 **Again, I'm not-- starting in 2012, I'm not sure who**
20 **exactly the money came from.**
21 MR. RYAN: He is merely asking
22 whether the percentage of bonus, wherever it came from,
23 is--
24 THE WITNESS: Yeah.
25 MR. RYAN: Its relationship to the

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1 33, 35.
2 THE WITNESS: Correct.
3 Q (By Mr. Amala) Have you ever received compensation for
4 your work as general counsel at Backpage.com beyond the
5 annual total amount of your retainer and a bonus that's
6 [REDACTED] of the annual amount of your retainer?
7 **A No.**
8 **(Exhibit No. 2 marked**
9 **for identification.)**
10
11 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
12 been marked as Exhibit No. 2.
13 Have you seen Exhibit No. 2 before?
14 **A Yes, I have.**
15 Q Do you recognize Exhibit No. 2 as a subpoena and
16 subpoena duces tecum that asks that you appear today for
17 this deposition and also bring certain records with you?
18 **A Yes.**
19 Q Did you bring any records with you today?
20 **A Yes.**
21 Q Where are those records?
22 MS. ROOS: I can go get them.
23 THE WITNESS: They're here. They are
24 coming.
25 (Exhibit No. 3 marked

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1 for identification.)
2 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
3 been marked as Exhibit No. 3.
4 Can you tell me what Exhibit No. 3 is?
5 **A This is a collection of the documents I brought today in**
6 **response to the subpoena duces tecum to me, dated April**
7 **5th, 2017, in this case.**
8 Q Ms. McDougall, do you possess any documents that are
9 responsive to the subpoena, that is Exhibit No. 2, that
10 you did not bring with you today?
11 **A There are other documents responsive to the subpoena**
12 **that have already been produced in this case.**
13 Q Do you possess any documents that are responsive to the
14 subpoena, that is Exhibit No. 2, that have not been
15 produced in discovery in this case to the plaintiffs and
16 not been produced by you today as we see in Exhibit
17 No. 3?
18 **A Not to my knowledge.**
19 Q You understand that your counsel lodged objections to
20 the subpoena that is Exhibit No. 2?
21 **A Yes.**
22 Q Do you know if documents were withheld from your
23 production of records in response to the subpoena, that
24 is Exhibit No. 2, based on those objections?
25 **A Yes, I believe some were.**

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1 Q Do you know what documents were withheld?
2 **A I could not recite them as I sit here.**
3 **I don't recall.**
4 **(Exhibit No. 4 marked**
5 **for identification.)**
6
7 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
8 been marked as Exhibit No. 4.
9 Please review it and let me know when you're
10 finished.
11 **A Okay. Yes, I reviewed it.**
12 Q What is Exhibit No. 4?
13 **A It is my declaration in support of the defendant's**
14 **motion to stay this action pending resolution of ongoing**
15 **criminal proceedings and government investigations.**
16 Q Do you know if Backpage.com has produced e-mails from a
17 private account maintained by you in response to
18 subpoenas it received from the U.S. Senate?
19 MR. SCHNEIDER: Hang on just a
20 second.
21 Thank you.
22 THE WITNESS: Can you clarify what
23 you mean by "a private e-mail account" maintained by me?
24 Q (By Mr. Amala) My understanding is that Backpage.com,
25 in response to a subpoena from the Senate, produced

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1 records that were maintained in an e-mail address or
2 e-mail account owned by you.
3 Is that your understanding?
4 **A I don't know all of the records that were produced to**
5 **the Senate subcommittee.**
6 **I know that I turned over to the lawyers collecting**
7 **and reviewing the documents-- they had access to my**
8 **Backpage account, and they had full access to and I**
9 **think collected my personal Gmail account.**
10 Q Why is it that you provided access to the lawyers for
11 Backpage.com to your personal Gmail account?
12 **A When I first--**
13 MR. SCHNEIDER: I object to the form
14 of the question insofar as it invites the witness to
15 disclose confidential and protected attorney-client
16 privileged information.
17 THE WITNESS: When I first started
18 working for Backpage, they had not yet created a
19 Backpage.com e-mail address for me, and I started
20 immediately, and so I used my personal e-mail address
21 until I had a Backpage e-mail address set up, and then I
22 had some trouble getting some people to stop using my
23 personal e-mail address and move to my Backpage address.
24 That took a few weeks.
25 That's why I gave them access.

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1 (Exhibit No. 5 marked
2 for identification.)
3
4 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
5 been marked as Exhibit No. 5.
6 Do you recognize Exhibit No. 5?
7 **A I'll need a minute to look through it.**
8 **I don't recognize the format of Exhibit No. 5, but**
9 **I believe that the content is an opinion piece or op-ed,**
10 **whatever it's called, that I wrote for the Seattle Times**
11 **back in 2012.**
12 Q Does this appear to be a true and accurate copy of that
13 editorial that you wrote for the Seattle Times back in
14 2012?
15 MR. SCHNEIDER: The content?
16 MR. AMALA: Correct.
17 THE WITNESS: I believe so, but I
18 would have to look back at the actual copy to verify
19 that.
20 Q (By Mr. Amala) In this editorial, that is Exhibit
21 No. 5, it indicates that you at the time were general
22 counsel for Village Voice Media Holdings.
23 Do you see that?
24 **A Yes.**
25 Q It states that Village Voice Media Holdings at the time

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1 was the owner of Backpage.com, correct?
2 **A Can you point me to where--**
3 Q Right after it says, "As general counsel for Village
4 Voice Media Holdings" it states, quote, "Owner of
5 Backpage.com."
6 **A I think we are looking at different places.**
7 Q It is the top of Page 2.
8 **A Yes, it says that.**
9 Q Did you receive-- strike that.
10 Who was your client at the time that you wrote this
11 editorial?
12 MR. SCHNEIDER: I will object to the
13 form of the question.
14 THE WITNESS: My client was Village
15 Voice Media Holdings and Backpage.com.
16 I don't recall at the time whether Backpage.com was
17 a subsidiary or was simply a business owned by Village
18 Voice Media Holdings.
19 Q (By Mr. Amala) Did you receive the permission of your
20 clients to write this editorial?
21 **A Yes.**
22 Q Earlier I asked you to provide a thumbnail sketch of
23 your employment history, and I believe you took us up
24 until the time that you started doing the work for
25 Craig's List, but I think you stopped at that point, so

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1 can you finish your employment history for us?
2 MR. SCHNEIDER: Just to be clear, I
3 think that the witness earlier did testify as to when
4 she began her work as general counsel for Backpage.
5 THE WITNESS: I took the employment
6 history through to the time that I joined Perkins Coie.
7 You didn't ask me to go through my entire career
8 and clients and work well during the 16 years I was at
9 Perkins Coie.
10 Q (By Mr. Amala) And I don't want to get into that today,
11 but I do want to make sure I understand, when did you
12 leave Perkins Coie?
13 **A February 14th, 2012.**
14 Q Why did you leave Perkins Coie?
15 **A To take the position that I have now.**
16 Q Which is?
17 **A General counsel for Backpage.com.**
18 Q How did you learn about the position with Backpage.com?
19 **A The company had sought to retain Perkins Coie, and**
20 **particularly me as a partner with Perkins Coie, to**
21 **assist them with various legal matters.**
22 MR. RYAN: You are in an area now
23 where you have to be cognizant of the privilege both as
24 an outside counsel at Perkins and then internal when you
25 transferred over.

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1 THE WITNESS: Okay. Thanks.
2 Q (By Mr. Amala) What is your understanding as to why
3 Backpage.com wanted to retain Perkins Coie?
4 MR. SCHNEIDER: Object to the form of
5 the question and advise the witness that if it calls for
6 attorney-client privileged information, to not disclose
7 such information absent client's consent.
8 THE WITNESS: Yeah, I decline to
9 answer on the basis of the attorney-client privilege.
10 Q (By Mr. Amala) Do you know if Backpage.com wanted to
11 retain Perkins Coie, particularly your services at
12 Perkins Coie, to assist it in avoiding liability for ads
13 that were being posted for sex trafficking on the
14 Backpage.com website?
15 MR. SCHNEIDER: Same objection.
16 THE WITNESS: I decline to answer
17 based on attorney-client privilege.
18 Q (By Mr. Amala) When you accepted the position with
19 Backpage.com as general counsel, what did you understand
20 would be your responsibilities?
21 MR. SCHNEIDER: Same objection.
22 If you can answer as to your understanding, without
23 disclosing confidential information provided to you by
24 your client, you may do so.
25 For instance, if there were specific tasks, which

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1 were described to you in confidence, I would expect that
2 that may well be attorney-client privileged.
3 If there are general responsibilities that you can
4 discuss without disclosing confidences, I believe you
5 may.
6 THE WITNESS: I can't, at this time,
7 think of anything I can disclose without violating the
8 attorney-client privilege, so I have to decline to
9 answer on that basis.
10 Q (By Mr. Amala) If you look at Exhibit No. 5 and turn to
11 the second page, the third paragraph from the bottom
12 states, "Village Voice Media management tracked me down
13 to talk about leading its fight against online
14 trafficking. I listened, investigated, researched and
15 made inquiries; I weighed my principles, and priorities,
16 knowledge and experience fighting crimes online; and I
17 joined."
18 Do you see that?
19 **A I do.**
20 Q Tell me about what you describe here in terms of Village
21 Voice Media management tracking you down to talk about
22 leading its fight against online trafficking.
23 MR. SCHNEIDER: Same objection.
24 To the extent the question invites the witness to
25 disclose attorney-client privileged information, unlike

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1 what's in Exhibit No. 5, which she's previously
2 testified was authorized disclosures, I would instruct
3 her not to answer with regard to the confidential
4 information.
5 THE WITNESS: The company had done
6 research and identified the work that I had been
7 involved in, in private practice, related to human
8 trafficking, civil rights, and Section 230 and other
9 Internet law.
10 That's how they-- that's what I'm told, that's how
11 they identified me and decided to approach Perkins Coie.
12 Q (By Mr. Amala) Who told you that?
13 MR. SCHNEIDER: Same objection.
14 THE WITNESS: I believe I was told
15 that by more than one person.
16 It was the Village Voice management and board
17 members, certain board members.
18 Q (By Mr. Amala) Who?
19 **A I know that one was [REDACTED]**
20 **I am not sure which of the other members of**
21 **management were-- may have been involved in that, may**
22 **have discussed that with me.**
23 Q Did Carl Ferrer ever relay that information to you?
24 **A Not that I recall, no.**
25 Q Did Jim Larkin ever relay that information to you?

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1 **A Not that I recall, but it's possible.**
2 Q Why do you say it's possible?
3 **A Because I met with multiple people on kind of a rolling**
4 **basis, and I just can't distinguish precisely who said**
5 **what at what point.**
6 Q Who did you meet with?
7 **A To the best of my recollection, I met with-- I met with**
8 **Mr. Larkin, I met with Mr. Lacey, I believe I met with**
9 **██████████, I think I met with ██████████, I conversed**
10 **with Mr. Ferrer via WedEx, and there were others, but I**
11 **just don't remember who.**
12 Q The editorial that you wrote for the Seattle Times, that
13 is Exhibit No. 5, states that the Village Voice Media
14 management tracked you down to talk about leading its
15 fight against online trafficking.
16 What did Village Voice Media management tell you,
17 at the time, about its fight against online trafficking?
18 MR. SCHNEIDER: Same objection.
19 THE WITNESS: Yeah, I can't answer
20 that based on attorney-client privilege.
21 Q (By Mr. Amala) Earlier we were talking about the--
22 strike that.
23 Earlier you described an automatic filtering system
24 and a manual moderator system that Backpage had in place
25 for a period of time.

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1 When is the first time that you learned that
2 Backpage.com had an automatic system in place where it
3 was stripping terms from ads that the company had
4 defined as likely being terms that reflected sex for
5 money?
6 MR. RYAN: If you learned that in a
7 privileged capacity, you can't answer.
8 THE WITNESS: I guess-- I don't mean
9 to be nitpicky, but you said that earlier I described
10 the automatic-- an automatic filtering system and manual
11 moderation system, but really you described those and
12 asked me some questions.
13 When is the first time I learned that it had an
14 automatic system-- oh, I also did not-- I certainly did
15 not say that it had an automatic system in place where
16 it was stripping terms that reflected sex for money.
17 There was a period of time where the automated
18 filter-- the automated filter existed for a long time
19 and stripped terms for many reasons, spam, scams, that
20 we talked about already, and there was a brief period of
21 time where it also removed terms that could potentially
22 reflect sex for money or other violations of the terms
23 of use or terms or activities that were simply not
24 permissible or not acceptable to the site.
25 Q (By Mr. Amala) When is the first time that you learned

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1 Backpage.com had an automatic filter in place that
2 removed terms from ads that may indicate that the ad was
3 for sex for money?
4 MR. RYAN: Same objection with regard
5 to if you learned it in a privileged capacity, you can't
6 answer.
7 If you didn't learn it in a privileged capacity,
8 you can answer.
9 THE WITNESS: Yeah, I can't answer
10 that question based on the attorney-client privilege.
11 Q (By Mr. Amala) When you were interviewing for a
12 position-- well, strike that.
13 When you were interviewing for the position of
14 general counsel for Backpage.com, did anyone, during
15 that process, tell you that the company was removing
16 terms from ads that might reflect that the ad was an ad
17 for sex for money?
18 MR. SCHNEIDER: Objection to the form
19 of the question so far as it invites the witness to
20 disclose information that would have been exchanged in
21 anticipation of forming an attorney-client relationship.
22 THE WITNESS: I don't know whether I
23 can answer that question or not without violating the
24 privilege.
25 I would like to consult with counsel to make that

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1 determination.
2 MR. AMALA: Go ahead.
3 THE WITNESS: Thanks.
4 VIDEOGRAPHER: Going off the record,
5 the time is 2:13 p.m.
6 (Recess 2:13 to 2:21 p.m.)
7
8 VIDEOGRAPHER: Back on the record,
9 the time is 2:21 p.m.
10 MR. AMALA: Madam Court Reporter, can
11 you please read back the last question?
12 (Question on Page 88, Line 14-
13 18 read by the reporter.)
14
15 THE WITNESS: I cannot answer that
16 question without violating the attorney-client
17 privilege.
18 Q (By Mr. Amala) In your editorial that is Exhibit No. 5,
19 you indicate that Village Voice Media management tracked
20 you down to talk about leading its fight against online
21 trafficking, and then you state that you listened,
22 investigated, researched, and made inquiries.
23 Do you see that?
24 **A I do.**
25 Q What did you do to investigate whatever Village Voice

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1 Media told you about its fight against online
2 trafficking?
3 MR. SCHNEIDER: I will object to the
4 form with respect to the phrase "what Village Voice
5 Media told you."
6 The question may invite the witness to disclose
7 privileged information.
8 THE WITNESS: Yeah, I didn't say I
9 investigated what they told me.
10 I said I listened, investigated, researched, and
11 made inquiries, and in addition to listening to what
12 they told me, I did my own, primarily online, research
13 and investigation regarding the company, regarding the
14 intersection of technology and Backpage, particularly
15 with respect to misuse for illegal purposes and,
16 foremost, human trafficking.
17 Q (By Mr. Amala) What conclusions did you reach?
18 MR. SCHNEIDER: I will object to the
19 form again as it may invite the witness to disclose
20 privileged information or, more likely, work product
21 with respect to legal services that she was to provide
22 in the future.
23 THE WITNESS: As stated in the
24 editorial, the conclusion I reached was to join
25 Backpage.

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1 Q (By Mr. Amala) Did you reach any conclusions as to
2 whether or not sex trafficking was occurring on
3 Backpage.com?
4 MR. SCHNEIDER: I will object to the
5 form of the question.
6 Same objection.
7 THE WITNESS: And I can't answer that
8 question without divulging attorney-client privilege.
9 Q (By Mr. Amala) Did you-- strike that.
10 When you were interviewing for the position as
11 general counsel of Backpage.com, did you provide the
12 management of Village Voice Media with your thoughts on
13 how the company could try to evade liability by relying
14 on the Communications Decency Act?
15 MR. SCHNEIDER: Same objection.
16 THE WITNESS: I cannot answer that
17 question without divulging attorney-client privileged
18 information.
19 Q (By Mr. Amala) When you were interviewing for the
20 position of general counsel with Backpage.com, did you
21 discuss the issue of online sex trafficking with
22 management for Village Voice Media?
23 MR. SCHNEIDER: Same objection.
24 THE WITNESS: I cannot answer that
25 question without divulging attorney-client privileged

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1 information.
2 Q (By Mr. Amala) If you turn to Page 3 of your editorial
3 in the Seattle Times, that is Exhibit No. 5, in the
4 first full paragraph your editorial states,
5 "Backpage.com already employs a triple-tiered policing
6 system that includes automated filtering and two levels
7 of manual review of the adult and personal categories."
8 Do you see that?
9 A I do.
10 Q What was the triple-tiered policing system that
11 Backpage.com employed at that time?
12 A As that sentence continues, it included the automated
13 filtering as one, and two levels of manual review as the
14 other two.
15 Q The automated filtering that you describe in that
16 editorial included removing certain terms that the
17 company had identified as possibly reflecting that an ad
18 was sex for money, correct?
19 A I can't answer that question without divulging
20 attorney-client privileged information.
21 Q Same question with regard to the two levels of manual
22 review of the adult and personal categories at the time
23 you wrote this editorial.
24 Those two levels of manual review of the adult and
25 personal categories included a manual review to remove

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1 content that suggested that the ad was an ad for sex for
2 money, correct?
3 A I can't answer that question without divulging
4 attorney-client privileged information.
5 Q Do you think it is misleading to represent to the public
6 that Backpage.com had a triple-tiered policing system to
7 detect and thwart human trafficking when that system
8 involved removing content that the company had
9 identified as reflecting sex for money and then posting
10 the sanitized ad?
11 A I can't answer--
12 MR. RYAN: Objection to the form of
13 the question.
14 THE WITNESS: I can't answer that
15 question because I don't agree with the premise.
16 Q (By Mr. Amala) Does that mean you don't think it's
17 misleading to represent that the triple-tiered policing
18 system was actually helping to prevent sex trafficking?
19 A That's not what I said.
20 Q Okay. Well, help me understand your position.
21 MR. SCHNEIDER: Wait for a question--
22 THE WITNESS: Help me understand your
23 question.
24 MR. SCHNEIDER: Wait for a question.
25 Q (By Mr. Amala) I asked you, do you think it's

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1 misleading to represent to the public that Backpage.com
2 had a triple-tiered policing system--
3 **A That is not misleading.**
4 Q Do you think it's misleading to represent to the public
5 that that triple-tiered policing system was an effort to
6 prevent sex trafficking when in reality that system
7 removed content that indicated an ad was sex for money
8 and then posted the sanitized ad?
9 MR. SCHNEIDER: Object to the form.
10 THE WITNESS: I do not think it's at
11 all misleading to represent to the public that
12 Backpage's triple-tiered policing system was an effort
13 to prevent trafficking.
14 I do not agree that the triple-tiered policing
15 system was in reality a system that removed content if
16 the ad was for sex for money or potentially for sex for
17 money and then posted the-- it posted a sanitized ad,
18 and I can't agree with the phrase "sanitized ad."
19 I also don't understand the use of the term
20 "sanitized" in that context.
21 Q (By Mr. Amala) If an ad, at the time you wrote this
22 editorial, was submitted that said, "Come have a good
23 time with Jenny tonight, Amber Alert, Amber Alert," and
24 Backpage removed the term "Amber Alert," how is it
25 helping to prevent sex trafficking by then posting the

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1 ad with the "Amber Alert" text removed?
2 MR. SCHNEIDER: Object to the form.
3 THE WITNESS: I don't think I can
4 answer that question without divulging attorney-client
5 privileged information.
6 Q (By Mr. Amala) How does it help to prevent sex
7 trafficking if Backpage.com is removing terms that
8 suggest an ad is for sex and then posting the rest of
9 the ad?
10 MR. SCHNEIDER: Object to the
11 phrase-- object to the form of the question.
12 THE WITNESS: Unfortunately I can't
13 answer that question without divulging attorney-client
14 privileged information.
15 (Exhibit No. 6 marked
16 for identification.)
17
18 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
19 been marked as Exhibit No. 6.
20 Please take a moment to review Exhibit No. 6, and
21 let me know when you're finished.
22 **A Yes, I am done with it.**
23 Q Do you recognize Exhibit No. 6?
24 **A I do.**
25 Q What is Exhibit No. 6?

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1 **A It is my declaration submitted in support of the**
2 **defendants' motion for summary judgment.**
3 Q Is this a true and accurate copy of that declaration?
4 **A It appears so.**
5 Q What did you do to prepare this declaration?
6 MR. RYAN: Do not disclose
7 attorney-client communications.
8 THE WITNESS: I processed information
9 that I had learned over time, primarily from documents,
10 and outside counsel wrote the--
11 MR. RYAN: That would be privileged.
12 Client and counsel are the same.
13 THE WITNESS: I would say then
14 ultimately I helped to provide information for the
15 substance, and then I reviewed and signed the document.
16 Q (By Mr. Amala) Did you speak with anyone from
17 Backpage.com in order to prepare the declaration that is
18 Exhibit No. 6?
19 MR. SCHNEIDER: At what time?
20 "In order to prepare the declaration," I think
21 that's the timeframe.
22 THE WITNESS: To prepare the
23 declaration, no.
24 Q (By Mr. Amala) Did you speak with anyone from
25 Backpage.com regarding the representations that you make

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1 in Exhibit No. 6?
2 **A Not specifically, no.**
3 Q How about generally?
4 **A Some of the topics covered in Exhibit No. 6 are things**
5 **that I haven't-- I've discussed with different people at**
6 **different times over the course of the last five years.**
7 Q Did you talk to Carl Ferrer about the representations
8 that you make in Exhibit No. 6?
9 **A Not specifically.**
10 Q How about generally?
11 **A I believe it would violate the attorney-client privilege**
12 **for me to divulge that information.**
13 Q Did you speak with Michael Lacey about any of the
14 representations that you make in your declaration that
15 is Exhibit No. 6?
16 **A No.**
17 Q Why not?
18 MR. SCHNEIDER: Object to the form.
19 THE WITNESS: I'm sorry, but I need
20 to consult with counsel again on the privilege issue.
21 MR. SCHNEIDER: Just as we break, I'm
22 looking at the question.
23 You're asking her the reasons why something did not
24 occur?
25 MR. AMALA: Yeah.

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1 THE WITNESS: The reason why I did
2 not--
3 VIDEOGRAPHER: Going off the record,
4 the time is 2:39 p.m.
5 (Recess 2:39 to 2:55 p.m.)
6
7 VIDEOGRAPHER: The time is 2:55 p.m.
8 We are on the record.
9 MR. AMALA: Madam Court Reporter, can
10 you please read back the last question.
11 (Question and answer on
12 Page 97, Line 14-18
13 read by the reporter.)
14
15 THE WITNESS: I can't answer that
16 question without divulging attorney-client privileged
17 information.
18 Q (By Mr. Amala) Did you speak with Jim Larkin about any
19 of the representations in your declaration?
20 MR. SCHNEIDER: I believe this is
21 still in the timeframe you previously stated, which is
22 with regard to the time-- for purposes of preparing the
23 declaration, correct?
24 MR. AMALA: Correct.
25 THE WITNESS: "So did you speak with

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1 Jim Larkin about any of the representations for purposes
2 of preparing your declaration?" No.
3 Q (By Mr. Amala) Why not?
4 **A I cannot answer that question without divulging**
5 **attorney-client privileged information.**
6 Q Did you speak with Andrew Padilla regarding the
7 representations made in your declaration that is Exhibit
8 No. 6?
9 **A Not for purposes of preparing the declaration.**
10 Q Why not?
11 **A I cannot answer that question without divulging**
12 **attorney-client privileged information.**
13 Q In the second paragraph of your declaration that is
14 Exhibit No. 6, you state, "As part of my role as general
15 counsel for Backpage.com, I have reviewed documents
16 sufficient to testify regarding the below. If called as
17 a witness, I could and would testify thereto."
18 Do you see that?
19 **A I do.**
20 Q Did the defendants authorize you to submit this
21 declaration?
22 **A Yes.**
23 Q What documents did you review in order to make the
24 representations that you make in Exhibit No. 6?
25 **A I reviewed the documents that are attached to my**

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1 **declaration as the exhibits.**
2 **In addition, I relied on documents that I've seen**
3 **and information that I've gleaned from documents that**
4 **I've seen since the outset of the case, including our**
5 **discovery responses, including documents that we've**
6 **produced, and including documents from other sources.**
7 Q What documents from other sources?
8 **A In particular, records of the criminal trials and**
9 **proceedings related to the plaintiffs and the defendants**
10 **in those criminal cases and the criminal investigation**
11 **records.**
12 **Those are the things that come immediately to mind.**
13 **There may be more.**
14 Q You indicated that some of the documents that you
15 reviewed in order to make the representations that you
16 make in Exhibit No. 6 are the defendants' discovery
17 responses; is that correct?
18 **A Yes.**
19 **I was referring specifically, and I should clarify,**
20 **to interrogatory responses.**
21 Q Did any of the other managers of the Backpage.com
22 defendants provide information that was disclosed in
23 those interrogatory responses?
24 **A I don't believe I can answer that question without**
25 **divulging information protected by the attorney-client**

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1 **privilege.**
2 Q Ms. McDougall, just to make sure we have a good record
3 on this, in response to a number of my questions on
4 this, you've indicated that you don't think you can
5 respond without invading privilege, and I want to make
6 sure we are clear.
7 To the extent you have said that, that is an
8 indication to me that you will not answer the question
9 based on attorney-client privilege.
10 Is that correct?
11 **A That is correct.**
12 Q Earlier when I asked what information you relied on in
13 order to make the representations that you make in your
14 declaration, that is Exhibit No. 6, you indicated that
15 you processed information that you've learned over time.
16 Does that include conversations that you've had
17 with management at Backpage.com regarding issues that
18 you talk about in Exhibit No. 6?
19 **A No.**
20 Q In Paragraph No. 3 of your declaration that is Exhibit
21 No. 6, you state that, "Except where otherwise noted,
22 the policies and practices described below apply to the
23 relevant period in this case, between June 2010 and
24 September 2010 (the 'relevant period')."
25 Do you see that?

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**Byers & Anderson Court Reporters/Video/Videoconferencing
Seattle/Tacoma, Washington**

1 **A I do.**
2 Q You didn't work as general counsel for Backpage.com
3 between June 2010 and September 2010, correct?
4 **A Correct.**
5 Q So what is the basis for your knowledge to be able to
6 testify about the company's policies and practices from
7 June 2010 until September 2010?
8 **A The documents that I described to you previously, and**
9 **that would include, as well, deposition transcripts from**
10 **former employees' depositions that you've taken in this**
11 **case.**
12 Q Do you have any personal knowledge regarding the
13 company's policies and practices from June 2010 until
14 September 2010?
15 **A I was not with the company at that time.**
16 **The personal knowledge I have is the personal**
17 **knowledge of the document and of the testimony of former**
18 **employees.**
19 Q So your declaration is essentially a summary by you of
20 how you interpret or review the documents and prior
21 deposition testimony that you have reviewed; is that
22 correct?
23 **A No, I would not characterize it that way.**
24 Q Tell me why you would not characterize it that way.
25 **A The declaration is a reflection of the facts in the**

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1 **documents and the testimony that I've described.**
2 Q Other than reviewing documents and prior deposition
3 testimony, you don't have any personal knowledge about
4 those facts, do you?
5 **A I have personal knowledge of some of these facts, yes.**
6 Q And what is the basis for that personal knowledge?
7 **A Logging onto the Backpage.com website.**
8 Q Okay. What else?
9 **A Well, to answer that question specifically, I will need**
10 **to go through the declaration paragraph by paragraph.**
11 **Would you like me to do that?**
12 Q That would be great, please.
13 **A I have personal knowledge that I'm general counsel for**
14 **Backpage.com.**
15 **I have personal knowledge that I'm over 18 years of**
16 **age, not by much though.**
17 **I have personal knowledge that I'm competent to**
18 **provide testimony under oath.**
19 **I have personal knowledge that I have reviewed**
20 **documents sufficient to testify to the facts below.**
21 **I have personal knowledge that if I was called as a**
22 **witness, as I have been here today, I can and will**
23 **testify to the facts here.**
24 **Paragraph No. 3, here, as I've indicated, the**
25 **knowledge is derived from documents and testimony from**

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1 other witnesses.
2 **Paragraph No. 4 is based on my own personal**
3 **experience on the website and going back through the**
4 **Wayback Machine on Internet Archive.**
5 **Are you familiar with that?**
6 Q I am.
7 **A Paragraph No. 5 is also based on my use and experience**
8 **with the website and with historic versions of the**
9 **website from Internet.org and any copies of different**
10 **parts of the website that have been preserved and**
11 **produced in this case.**
12 **Paragraph No. 6, the first sentence of Paragraph**
13 **No. 6 is derived from media statements, particularly**
14 **from media statements by the AIM group, so I guess I**
15 **can't say I have personal knowledge of that.**
16 **I haven't counted up the ads.**
17 **The second sentence, "Users post millions of**
18 **classified ads on the Backpage.com website," by personal**
19 **observation I can estimate that that is true.**
20 **That information also derives from, in particular,**
21 **the AIM company's reports.**
22 **I have also-- in the documents produced, there have**
23 **been PowerPoint presentations that I believe indicate**
24 **the millions of classified ads on the website.**
25 **The month of September, the numbers posted there, I**

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1 **did not have personal knowledge at that time.**
2 **That figure came from a PowerPoint presentation,**
3 **and my knowledge came from the PowerPoint presentation.**
4 **The posting in numerous categories and the**
5 **subcategories in the adult category again came from my**
6 **own review of the website, which actually, you know, I**
7 **reviewed the Backpage.com website prior to February**
8 **15th, 2012 when I joined the company. I had looked at**
9 **it before.**
10 **It comes from my review of the website as well as**
11 **looking up historical pages through the Internet**
12 **Archive.**
13 **Paragraph No. 7 is based on documents and on the**
14 **testimony of prior witnesses and also the operation of**
15 **the website today and viewing the pages going back**
16 **historically on Internet Archive that indicate how it is**
17 **that-- that have pages that show how ads are created.**
18 **I would say the same with respect to the second**
19 **sentence of Paragraph No. 7.**
20 **The third sentence of Paragraph No. 7, I would say**
21 **the same thing.**
22 **Fourth paragraph of Paragraph No.-- of 7, I would**
23 **say the same thing.**
24 **Same thing with the next sentence and the next and**
25 **the next.**

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1 Paragraph No. 8, the first sentence comes from my
2 review of the complaint, the first amended complaint,
3 the second amended complaint, and the various deposition
4 transcripts I read and the many, many media statements
5 and performances by one of the plaintiffs and her
6 family.
7 The second sentence, I've seen the documents to
8 know that there were records located that may relate to
9 the plaintiffs in the time period indicated.
10 I think it's the third sentence, the information
11 comes from, again, review of documents and review of
12 transcripts and particularly review of some of the
13 criminal records for the cases at issue.
14 I would say the same with respect to the next
15 sentence.
16 Same thing with respect to the following sentence
17 and the sentence after that and the sentence after that,
18 in particular having sat in on the deposition with
19 Mr. Shabazz and having read the criminal investigation
20 and criminal trial records related to Mr. Hopson.
21 The same with respect to the next sentence.
22 The same with the last sentence of Paragraph No. 8.
23 The first sentence of Paragraph No. 9 comes from
24 current review of the website, again, historical copies
25 of the website. It also comes from my personal

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1 experience with the website, to the extent that that's
2 reflective of what the policies and practices were at
3 the time period addressed by the declaration.
4 Paragraph No. 10, you can see that my information
5 comes from Exhibit B, which was a copy of the terms of
6 use that cover the relevant period.
7 Paragraph No. 11, it's based on my personal
8 experience and knowledge of the current website, of
9 historical copies, and in particular the exhibits that
10 you can see that I've attached to the declaration.
11 First sentence of Paragraph No. 12, again, comes
12 from review of documents, documents that we have
13 produced, review of the website, review of historic
14 copies of the website.
15 I think that's true of that whole paragraph, and in
16 particular I included a screenshot of the posting roles.
17 MR. SCHNEIDER: That's an exhibit?
18 THE WITNESS: Yeah, Exhibit E.
19 Paragraph No. 13, this was based on documents that
20 we produced and my own viewing of this page on the
21 website when it existed.
22 There is a screenshot attached too.
23 14, similarly it was based on-- this was based on
24 documents that I saw.
25 I don't remember seeing this myself on the website.

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1 I may have seen it in Internet Archive, but it was
2 among the documents produced in the case.
3 15 is based on my personal experience of what
4 existed at the company when I arrived, what the policies
5 and practices were, and documents-- third-party
6 documents, as well as documents we produced, and
7 testimony that described the evolution that's referenced
8 in the first sentence of Paragraph No. 15.
9 The second sentence is primarily from internal
10 documents that I reviewed as well as the testimony from
11 depositions in this case.
12 Same answer for the next sentence.
13 The last sentence of 15, same answer.
14 First sentence of 16, that is from my own
15 experience, my own personal experience, with the
16 website, looking at historical pages, also looking at
17 documents that reflected the creation of posting rules
18 and the report buttons, et cetera, and the systems for--
19 the systems for reviewing e-mails sent from users, and
20 then again I have attached an exhibit that demonstrates
21 this.
22 17 is based on my personal knowledge of the system
23 that existed when I arrived at the company, that had--
24 clearly wasn't a new operation, had been in place and
25 evolving for some time.

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1 It is also based on documents produced in this
2 case, particularly some of the PowerPoint presentations
3 and the testimony from witnesses in the case,
4 particularly former employees.
5 Same with the second sentence of Paragraph No. 17,
6 except that I would add that there are also e-mail
7 messages related to this topic that were produced in
8 this case.
9 Same answer with respect to the last sentence of
10 Paragraph No. 17.
11 Paragraph No. 18 came from both my personal
12 experience arriving at the company and observing
13 policies and practices that clearly were not new to
14 anyone.
15 They had seemed to have existed historically. That
16 was my observation and assessment.
17 It was also in, I believe, the testimony of former
18 employees.
19 The next sentence, "Moderators"-- again, that was
20 from my personal experience in arriving at the company
21 and reviewing documents that related to the moderation,
22 both current and historic.
23 The same answer with the next sentence, there were
24 e-mails, in particular, and a-- kind of a guideline
25 training presentation regarding nudity standards.

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1 There's a plethora of documentation regarding the
2 instruction that moderators were to remove-- sorry, no,
3 this is removing images-- certain obscene or sexual-- I
4 was referring to images.
5 There are some, a few documents, that I've seen
6 regarding removing certain obscene or sexual terms or
7 phrases from ads.
8 19 I know from personal experience from the systems
9 when I arrived and from meetings I had personally with
10 NCMEC where we described-- they explained to me the
11 historical evolution of the work between Backpage and
12 NCMEC.
13 Then there is an attached e-mail that supports that
14 as well, that you can see.
15 Paragraph No. 20, this is based on what was clearly
16 the culture of the company when I arrived and had been.
17 It was ingrained at all levels of the company,
18 particularly among anybody working in the moderation
19 system.
20 It is also clear from the deposition testimony of
21 former employees and from the documents regarding
22 implementation of these policies, rules, and
23 restrictions, that were produced in this case.
24 I would say the same of the second sentence of
25 Paragraph No. 20.

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1 Those are also reflected in Exhibits J through N,
2 particularly N, showing our law enforcement guide.
3 Exhibits J through M, that are-- sorry, J, K, and
4 L, that are copies of e-mail communications between
5 Backpage and law enforcement, from the timeframe before
6 I arrived at the company, this is just a small
7 smattering of the e-mails of praise and thanks and
8 accolades from federal, state, and local government and
9 law enforcement officials explaining how far and above
10 we go, compared to other online service providers, to
11 try to help prevent the sexual exploitation of children
12 and to help rescue children and locate, arrest, and
13 convict the perpetrators when an abusive situation has
14 occurred.
15 21 is based on my own personal knowledge of other
16 online service providers and the measures that they use
17 to prevent improper content, particularly content
18 regarding minors, and to cooperate with law enforcement,
19 and these things have been-- sometimes they're published
20 on their websites or they're in the media, but it's
21 information gathered over the course of my experience
22 and my career, which included the year 2010.
23 Finally, my signature on Page 10, I was in a car,
24 which explains why it looks like it was written by a
25 5-year-old.

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1 (Exhibit No. 7 marked
2 for identification.)
3
4 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
5 been marked as Exhibit No. 7.
6 Please take a moment to review it and let me know
7 when you're finished.
8 **A Okay. I can't say I've read every single line on it,
9 but I've reviewed it.**
10 Q What is Exhibit No. 7?
11 **A It-- I don't-- I didn't create this document.
12 I can tell you that it appears to be printouts of
13 ads from the Backpage.com website.**
14 Q Do you know who these advertisements depict?
15 **A I can't tell from the images, but based on the use of
16 the name "Joy," I believe that they depict the Plaintiff
17 J.S. in this case.**
18 Q Did you review the advertisements that we see in Exhibit
19 No. 7 in order to prepare your declaration that is
20 Exhibit No. 6?
21 **A I reviewed a selection of them.**
22 Q Which selection of them did you review?
23 **A I don't recall.**
24 Q How did you decide which ones to review?
25 **A It was rather random.**

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1 **There were a lot of ads, and I looked through them
2 and examined some more closely than others.**
3 Q Okay. Earlier, when you were describing the basis for
4 your knowledge that the plaintiffs allege that pimps
5 placed advertisements on Backpage.com allegedly offering
6 Plaintiffs for prostitution, you said that some of the
7 information you relied on were performances by the
8 plaintiffs.
9 Did I understand you correctly?
10 **A I don't think so.
11 Are you reading from the declaration?**
12 Q Yes.
13 I believe when you were describing the basis for
14 your understanding that the plaintiffs allege they were
15 advertised on Backpage.com by pimps, I believe you said
16 your basis-- part of the basis for that representation
17 or your understanding is performances by the plaintiffs.
18 Did I not hear you correctly?
19 **A No, I don't recall ever using the word "performances."
20 (Exhibit No. 8 marked
21 for identification.)**
22
23 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
24 been marked as Exhibit No. 8.
25 Please take a moment to review Exhibit No. 8, and

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1 let me know when you're finished.
2 **A Yes, I have looked through Exhibit No. 8.**
3 Q Do you recognize Exhibit No. 8?
4 **A I recognize-- well, I didn't create this exhibit or the**
5 **pages in it.**
6 **I believe that these pages represent ads that were**
7 **posted on Backpage, and they-- like with Exhibit No. 7,**
8 **they also include administrative data, the back end user**
9 **data regarding the ad.**
10 Q And--
11 **A And these-- go ahead.**
12 Q Go ahead.
13 **A No, that's okay. I don't really remember what I was**
14 **going to say.**
15 Q Do you know which Plaintiff is reflected in these ads
16 that we see as Exhibit No. 8?
17 **A I am not sure.**
18 **I think based on the name "Nichole," I believe that**
19 **this plaintiff is S.L., but the e-mail address has the**
20 **name "Tasha," and I believe that "Tasha" referred to**
21 **Plaintiff L.C.**
22 **I can't say for sure, but I believe these refer to**
23 **S.L.**
24 Q The records that I've handed you that comprise Exhibit
25 No. 8, these are records that were produced by

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1 Backpage.com in this litigation, correct?
2 **A That's what the Bates stamp indicates.**
3 Q Do these appear to be true and accurate copies of those
4 records?
5 **A Yes, I believe so.**
6 Q And these are records that Backpage.com maintains in
7 their ordinary course of business, correct?
8 **A Kind of.**
9 Q Help me understand your answer.
10 **A Sorry.**
11 **I believe that these-- I believe that these records**
12 **were produced in response-- just based on-- based on**
13 **their format, I believe these are records that were**
14 **produced to law enforcement in response to a subpoena,**
15 **and they would have been kept in the ordinary course of**
16 **business because-- as part of our records of the**
17 **subpoenas that we've received and responded to.**
18 **Does that make sense?**
19 Q Yes, I understand.
20 The same questions about Exhibit No. 7, do these
21 appear to be true and accurate copies of these records
22 that were produced by Backpage.com in discovery?
23 **A They appear to be.**
24 Q And were these records maintained by Backpage.com in its
25 ordinary course of business?

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1 **A I would apply to Exhibit No. 7 the same explanation that**
2 **I applied to Exhibit No. 8.**
3 MR. SCHNEIDER: Before you get to the
4 next exhibit, I think we will take an afternoon break,
5 and I would defer to you as to when that might be.
6 MR. AMALA: Let's take it now.
7 MR. SCHNEIDER: Sounds like now.
8 VIDEOGRAPHER: Going off the record,
9 the time is 3:37 p.m.
10 (Recess 3:37 to 4:03 p.m.)
11 (Exhibit No. 9 marked
12 for identification.)
13
14 VIDEOGRAPHER: We are back on the
15 record. This marks the beginning of Disc No. 3 in the
16 video deposition of Elizabeth McDougall.
17 Back on the record, the time is 4:03 p.m.
18 Q (By Mr. Amala) Ms. McDougall, I have handed you what's
19 been marked as Exhibit No. 9.
20 Please take a moment to review that exhibit, and
21 let me know when you're finished.
22 MR. SCHNEIDER: I am just looking at
23 your exhibits not yet marked.
24 You are about out, aren't you?
25 There is no need to look for additional ones that

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1 don't exist.
2 THE WITNESS: Okay. I have looked
3 through Exhibit No. 9.
4 Q (By Mr. Amala) Do you recognize Exhibit No. 9?
5 **A I've seen some of these documents before in compilations**
6 **of documents that we've produced in this case.**
7 Q Do you understand that Exhibit No. 9 contains
8 advertisements of Plaintiff L.C.?
9 **A I don't know exactly what each of the documents in**
10 **Exhibit No. 9 is or reflects.**
11 Q Did you review any documents regarding Plaintiff L.C.
12 before you signed the declaration that is Exhibit No. 6?
13 **A Yes, I had seen some.**
14 Q Which-- what documents regarding Plaintiff L.C. did you
15 review before you signed your declaration that is
16 Exhibit No. 6?
17 **A I don't recall.**
18 Q Did you review all of the advertisements in
19 Backpage.com's position regarding Plaintiff J.S. before
20 you signed your declaration?
21 MR. SCHNEIDER: If you know.
22 THE WITNESS: No, I don't believe I
23 reviewed all of them.
24 Q (By Mr. Amala) Did you review all of the advertisements
25 of Plaintiff S.L. before you signed your declaration?

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1 **A S.L.? I believe I did.**
2 Q Did you review all of the advertisements regarding
3 Plaintiff L.C. before you signed your declaration?
4 **A No.**
5 Q Why did you not review all of the advertisements
6 regarding Plaintiffs J.S. and L.C. before you signed
7 your declaration?
8 **A Many of them were the same ad repeated or reposted.**
9 Q In Paragraph No. 8 of your declaration, that is Exhibit
10 No. 6, you state--
11 **A Can I just have a second to get there, please?**
12 Q Mm-hm.
13 MR. SCHNEIDER: 6, right?
14 THE WITNESS: 6.
15 Okay.
16 Q (By Mr. Amala) Exhibit No. 6, Paragraph No. 8.
17 **A Got it.**
18 Q In Paragraph No. 8 of your declaration, that is Exhibit
19 No. 6, the second sentence, you state, "Backpage.com has
20 searched its records and has located advertisements that
21 may relate to Plaintiffs that were placed between June
22 27th, 2010 and September 22nd, 2010."
23 Do you see that?
24 **A I do.**
25 Q What is the basis for your knowledge that Backpage

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1 searched its records and located advertisements that may
2 relate to the plaintiffs that were placed on the website
3 between June 27, 2010 and September 22nd, 2010?
4 **A Because it was done at my direction in response to
5 receipt of the complaints when we were collecting
6 documents to make sure that everything that we had
7 related to the case was preserved.**
8 **Initially there were some limitations because we
9 didn't know the identity of the plaintiffs.**
10 Q Where were those advertisements located?
11 **A It is my recollection that we were only able to--
12 because so much time had passed between the events and
13 the filing of the complaint, we were only able to find
14 copies of the advertisements in our responses to law
15 enforcement subpoenas that we had received.**
16 Q In the fourth sentence of Paragraph No. 8 in your
17 declaration, which is Exh bit No. 6, you state, "Nor is
18 there any evidence that Backpage removed any text or
19 photographs from any of the ads."
20 Do you see that?
21 **A I do.**
22 Q What is the basis for your representation that there is
23 no evidence that Backpage removed any text or
24 photographs from any of the ads of the plaintiffs?
25 **A The basis is the ads that I reviewed myself, but other**

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1 **members of the legal team reviewed all of the ads, and
2 it's based-- it's also based largely on the evidence
3 from the testimony of the former employees and the
4 testimony and defense interviews provided in the
5 criminal cases regarding Hopson and Shabazz and Shadina
6 Rice.**
7 **That's the best of my recollection right now.**
8 **There may have been other things at the time.**
9 Q Backpage does not have-- well, strike that.
10 Backpage did not store copies of what ads looked
11 like before and after they were edited by either the
12 automatic filtering system or the manual moderation
13 system, correct?
14 **A Yes, that's my understanding.**
15 Q So to the extent that Backpage--
16 **A I'm sorry, let me just caveat that.**
17 **I assume that when you asked that question, you are
18 referring to the 2010 time period.**
19 **Again, I wasn't with the company at that time.**
20 **That's a question I may be able to answer for you
21 tomorrow, but I don't have specific personal knowledge
22 about that at this-- about that 2010 time period right
23 now, with respect to your question.**
24 Q During the time period of June 27th, 2010 through
25 September 22nd, 2010, Backpage did not store any data

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1 regarding what an ad looked like before and after either
2 the automatic filtering system or the manual moderation
3 system, correct?
4 **A I think I just answered that question.**
5 Q I'm just making sure we have a clear record, since you
6 wanted--
7 **A Sure.**
8 **My answer is that in-- sitting here today in my
9 personal capacity, I can't answer that with certainty
10 because I wasn't with the company at that time, but I
11 may be able to answer that or the company may be able to
12 answer that for you tomorrow.**
13 Q Sitting here today, are you aware of any evidence that
14 Backpage kept any data regarding what an ad looked like
15 before and after either the automatic filter or the
16 manual moderation practice?
17 **A You are referring to the period from June to September
18 2010?**
19 Q Correct.
20 **A I do not have personal knowledge of that.**
21 Q I am not asking about personal knowledge.
22 Right now I am asking in the context of the
23 discovery deposition.
24 Are you aware of any such evidence?
25 **A Not at this moment.**

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1 Q So if any of the plaintiffs' ads were actually edited by
2 Backpage.com before they were posted on the website,
3 Backpage didn't keep any evidence regarding such edits,
4 correct?
5 MR. SCHNEIDER: Object to the form.
6 THE WITNESS: I don't know, as I sit
7 here today.
8 Q (By Mr. Amala) The representation in your declaration
9 that you submitted in support of Backpage's motion for
10 summary judgment is that there's no evidence that
11 Backpage removed any text or photographs from any of the
12 ads, correct?
13 **A I believe that's correct.**
14 Q Did you ask anyone at Backpage.com whether or not there
15 was any evidence in its possession regarding whether any
16 of these ads were edited before they were posted on the
17 website?
18 **A I don't think I can answer-- I don't think I can answer**
19 **that question without divulging attorney-client**
20 **communications. Yeah.**
21 Q So are you declining to answer that question?
22 **A I am.**
23 Q Based on privilege?
24 **A Yes.**
25 Q In the second to last sentence in Paragraph No. 8 of

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1 your declaration, that is Exhibit No. 6, you state,
2 "Backpage.com personnel did not collude or conspire with
3 the users who posted the ads."
4 Do you see that?
5 **A I do.**
6 Q Did you ask anyone at Backpage.com whether or not,
7 during the period of June 27th, 2010 through September
8 22nd, 2010, they had implemented any policies or
9 procedures to help pimps post sex trafficking ads on
10 Backpage.com?
11 **A I can't answer that question without divulging**
12 **attorney-client communication, but I can refer you to**
13 **the documents produced in this case that address that**
14 **issue.**
15 Q Are you declining to fully answer my question based on
16 attorney-client privilege?
17 **A I am declining to answer your question regarding asking**
18 **anyone at Backpage.com whether they had implemented any**
19 **policies or procedures to help pimps post sex**
20 **trafficking ads on Backpage.com.**
21 MR. SCHNEIDER: I will object to the
22 form.
23 You can rephrase in a way that does not invite the
24 witness to disclose any confidential information.
25 If you can, I would advise you to do so.

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1 Q (By Mr. Amala) Have you ever had any discussions with
2 any of the management team at Backpage.com as to whether
3 the posting rules were intended to help sex traffickers
4 post ads that would not draw the attention of law
5 enforcement?
6 MR. SCHNEIDER: Same objection.
7 THE WITNESS: I can't answer that
8 question without disclosing attorney-client privileged
9 communications.
10 Q (By Mr. Amala) Have you had any discussions with
11 management at Backpage.com as to whether any of the
12 policies and procedures on the website were intended to
13 help sex traffickers post ads that would be less likely
14 to draw the attention of law enforcement?
15 MR. SCHNEIDER: Hang on a second.
16 The witness can stay here.
17 (Pause in the proceedings.)
18 MR. AMALA: Let's go off the record.
19 VIDEOGRAPHER: We are going off the
20 record. The time is 4:26 p.m.
21 (Recess 4:26 to 4:55 p.m.)
22 VIDEOGRAPHER: Back on the record,
23 the time is 4:55 p.m.

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1 THE WITNESS: Okay. You had a
2 question pending.
3 Do you want to have it re-read?
4 MR. AMALA: Yes, please.
5 Madam Court Reporter, can you please read back the
6 last question?
7 (Question on Page 124, Line 11-
8 15 read by the reporter.)
9 THE WITNESS: No.
10 I would also like to go back and correct my answer
11 to your prior question, which was have I ever had any
12 discussions with any of the management team at
13 Backpage.com as to whether the posting rules were
14 intended to help sex traffickers post ads that would not
15 draw the attention of law enforcement, and the answer
16 there is "no" as well.
17 Q (By Mr. Amala) Have you ever asked any of the
18 management of Backpage.com whether or not the policies
19 and procedures for the website were intended to help sex
20 traffickers post ads that would be less likely to draw
21 the attention of law enforcement?
22 **A No.**
23 Q Why not?
24 **A Sorry, my pause is just struggling with these complex**

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1 **privilege issues. It's not that I don't have an answer.**
2 **To explain why not, I would have to divulge**
3 **attorney-client privileged information and**
4 **communications.**
5 Q Have you ever asked any of the management at
6 Backpage.com whether or not the website's policies and
7 procedures were intended to promote sex trafficking on
8 the website?
9 **A No.**
10 Q Why not?
11 **A To explain, I would have to divulge attorney-client**
12 **information.**
13 Q Have you ever told any of the management with
14 Backpage.com that you believed the website was exposed
15 to civil liability for removing content from ads that
16 suggested the ads were sex for money before they were
17 posted on the website?
18 MR. SCHNEIDER: Objection to the form
19 of the question.
20 MR. RYAN: Calls for privileged
21 information.
22 THE WITNESS: I believe I can't
23 answer that question without disclosing attorney-client
24 privileged information.
25 Q (By Mr. Amala) Again, Ms. McDougall, to the extent you

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1 answer today that you believe you can't answer a
2 question because it calls for attorney-client privileged
3 communication, am I correct that you are declining to
4 answer the questions I've asked based on privilege?
5 **A Yes, I am declining at this time.**
6 Q Is that true for the other responses you have given
7 where you have indicated you believe your answer would
8 require the disclosure of attorney-client privileged
9 information?
10 **A Yes.**
11 Q The last sentence of Paragraph No. 8 in your
12 declaration, that is Exhibit No. 6, you state,
13 "Backpage.com had no knowledge, or any way of knowing,
14 at the time the ads were posted, who the plaintiffs
15 were, whether they were minors or whether they were
16 being exploited."
17 That's the last sentence of Paragraph No. 8 in your
18 declaration, that's Exhibit No. 6.
19 Do you see that?
20 **A I do.**
21 Q What is the basis for that representation?
22 MR. SCHNEIDER: Objection; asked and
23 answered.
24 THE WITNESS: The basis is the
25 documents that I've reviewed, including things, for

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1 example, like NCMEC's statement in the PSI report that
2 there's no way to tell if the advertisement or image of
3 someone online is a minor.
4 Also, statements, admissions by the plaintiffs
5 regarding their compliance with terms of use that
6 prohibited advertisements by minors.
7 The testimony of former employees who reviewed
8 examples of ads and explained why they could not know
9 that ads posted regarding the plaintiffs involved
10 minors.
11 There's a whole multitude of reasons.
12 Those are some examples.
13 Q (By Mr. Amala) Any reason that Backpage.com could not
14 have required these girls to provide photo
15 identification showing they were over 18 before their
16 ads were posted on Backpage.com?
17 **A They-- we are talking about the period 2010.**
18 **There was no technical method to do age**
19 **verification through identity cards or otherwise, that**
20 **had any efficacy.**
21 **It could be done for window-dressing purposes.**
22 Q Between June 27th, 2010 and September 22nd, 2010,
23 Village Voice Media had a policy that any ads that were
24 posted in the adult section of its traditional weeklies
25 required a photo identification, correct?

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1 **A I believe that's true.**
2 **I didn't work for the company at the time.**
3 Q Any reason why Backpage.com could not have instituted a
4 similar practice during the time period June 27th, 2010
5 through September 22nd, 2010?
6 **A Yes, many reasons.**
7 **As I just explained, it's not a technological,**
8 **practical, or actually effective solution.**
9 **You have one website that is headquartered in one**
10 **location, and it serves the entire country.**
11 **You can't have-- there's no place for people to go**
12 **in and show their ID, and there's no effective**
13 **technology -- there was certainly none in 2010 -- for an**
14 **online verification.**
15 Q So let's use these girls who were advertised on
16 Backpage.com in the Seattle, Tacoma area.
17 During the time period that we are talking about,
18 from June 27th, 2010 until September 22nd, 2010, why
19 could Village Voice Media-- what was preventing Village
20 Voice Media from requiring that these girls come down to
21 Village Voice's office here in Seattle and present photo
22 identification showing they were over 18 before their
23 ads were posted on the website?
24 MR. SCHNEIDER: I will object to the
25 form of the question.

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1 THE WITNESS: Village Voice Media did
2 not have an office in Seattle.
3 At that time the headquarters was in Phoenix.
4 There wasn't an office in Seattle.
5 I further explained all the technological
6 challenges.
7 I don't think it's reasonable to expect users to
8 fly to Phoenix to show their ID in person, and any
9 requirement to take a photograph of an ID, it's--
10 there's no-- it's so easily thwarted, that there is no
11 efficacy to it.
12 Furthermore, we know that there were false
13 identifications created so-- that showed at least some
14 of the plaintiffs being overage.
15 In fact, the Plaintiff J.S. was able to be arrested
16 and released, I believe, twice through-- using false
17 identity that indicated that she was 22 or 23 rather
18 than underage.
19 The police could not and did not identify her as a
20 minor and hold her.
21 Q Between June 27th, 2010 and September 22nd, 2010,
22 Village Voice Media owned the Seattle Weekly, correct?
23 **A I believe it owned the Seattle Weekly through that whole**
24 **period. I don't know that specifically.**
25 Q Seattle Weekly has offices here in Seattle, correct?

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1 **A Yes, it did at that time.**
2 Q And if someone wanted to post an ad in the adult section
3 of the Seattle Weekly during that time period, they were
4 required to bring a photo ID down to the offices of the
5 Seattle Weekly, correct?
6 **A I don't know.**
7 Q Did you-- strike that.
8 So are you able to say why Village Voice Media, the
9 same company that owned Backpage.com during the time
10 period we are talking about, could not have required
11 that these girls bring a photo ID to the offices of the
12 Seattle Weekly in Seattle before their ads were posted
13 on Backpage.com?
14 MR. SCHNEIDER: Object to the form.
15 THE WITNESS: I think I have largely
16 answered that question, but the Seattle Weekly offices
17 had nothing to do with the operation of Backpage, so
18 there would-- it would not have made a difference to
19 posting online if girls brought their false ID into the
20 Seattle Weekly's office.
21 Q (By Mr. Amala) What was Backpage.com's net profit back
22 in 2010?
23 **A I don't know.**
24 Q What was Backpage.com's profit in 2011?
25 **A I don't know.**

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1 Q Any reason that Backpage.com could not have devoted some
2 of the profit that it made in 2010 to requiring age
3 verification for ads posted in the escort section of the
4 website?
5 MR. SCHNEIDER: Object to the form.
6 THE WITNESS: Well, I wasn't there in
7 2010, so I can't-- I can't say specifically, but
8 Backpage.com, at that time, was investing heavily in
9 consultation with a child online safety expert in actual
10 practical effective methods to try to prevent the
11 exploitation of children.
12 As I explained, the few technical age verification
13 systems that were offered out there were utterly
14 ineffective, and they were nothing more than window
15 dressing, so it really would have been a false effort if
16 they had spent money to implement age verification at
17 the time.
18 Q (By Mr. Amala) Why was Backpage.com exploring age
19 verification during the period June 27, 2010 through
20 September 22nd, 2010?
21 MR. SCHNEIDER: Object to the form if
22 it invites the disclosure of privileged information.
23 THE WITNESS: And I wasn't there. I
24 don't know.
25 Q (By Mr. Amala) Did you ask anyone from Backpage.com's

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1 management whether there was a way for Backpage.com to
2 know, between June 27, 2010 and September 22nd, 2010,
3 whether any of these girls were being exploited through
4 the ads that were being posted of them on Backpage.com?
5 **A No.**
6 Q Why not?
7 **A Because I already knew the answer.**
8 Q And what's the answer?
9 **A The answer is "no."**
10 Q What is the basis for that answer?
11 **A What limited research has been done to date, the**
12 **statements and conclusions of experts in this area,**
13 **including the National Center for Missing & Exploited**
14 **Children, law enforcement, Dr. Sharon Cooper who advises**
15 **NCMEC on ways to identify children, the experience-- my**
16 **personal experience to date in investigating these**
17 **issues, various research papers that I've read.**
18 Q Did you ask Backpage.com's management team whether or
19 not there was any information available to the company,
20 between June 27th, 2010 and September 22nd, 2010, that
21 would have allowed the company to identify these girls
22 as being exploited?
23 **A No.**
24 Q Did you ever ask any of the management of Backpage.com
25 whether there ever existed evidence as to whether or not

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1 Backpage removed any text or photographs from any of the
2 ads of the plaintiffs?
3 **A Sorry, I am going to have to read that question again**
4 **here.**
5 **I don't believe I can answer that question without**
6 **divulging attorney-client communications.**
7 Q And for that reason are you going to decline to answer
8 that question?
9 **A At this time, yes.**
10 Q Have you ever talked with Carl Ferrer about whether the
11 posting rules for Backpage.com were implemented in order
12 to promote sex trafficking?
13 **A No.**
14 Q Have you ever asked anyone with Backpage.com's
15 management team whether or not the posting rules were
16 implemented to help promote sex trafficking?
17 **A No.**
18 Q Did you ever ask Jim Larkin whether or not the posting
19 rules were implemented to help promote sex trafficking?
20 **A No.**
21 Q Did you ever ask Michael Lacey whether or not the
22 posting rules were implemented to help promote sex
23 trafficking?
24 **A Definitely not.**
25 Q Why did you give different answers to the two?

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1 **A I had very few communications with Mr. Lacey.**
2 **He had very little involvement with Backpage.com.**
3 Q I would like to look at-- strike that.
4 I would like to ask you a few questions about
5 Paragraph No. 15 to your declaration, that is Exhibit
6 No. 6.
7 **A Okay.**
8 Q In the first sentence you state-- strike that.
9 In the first sentence in Paragraph No. 15 of your
10 declaration, that is Exhibit No. 6, you state,
11 "Backpage.com also employed extensive, voluntary
12 monitoring to prevent and remove improper user postings,
13 practices that evolved throughout 2010."
14 Do you see that?
15 **A I do.**
16 Q You then describe those monitoring efforts, practices,
17 and in the next sentence you state, "First, Backpage.com
18 used (and regularly updated) an updated filtering system
19 that scanned millions of potential posts each month,
20 before they appeared on Backpage.com's website, for 'red
21 flag' terms, phrases, codes, e-mail addresses, URLs and
22 IP addresses."
23 Do you see that?
24 **A You mistakenly used the word "updated" where it says,**
25 **"automated."**

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1 Q Thank you.
2 Do you see that?
3 **A I do.**
4 Q Did you ever ask Carl Ferrer whether or not this
5 automated filtering system was intended to help promote
6 sex trafficking on the website?
7 **A No.**
8 Q Did you ever ask anyone from Backpage.com whether or not
9 this automated filtering system was intended to promote
10 sex trafficking?
11 **A No.**
12 Q You understand that this automated filtering system that
13 removed, quote, "red-flag terms," closed quote, included
14 terms that the company had identified as suggesting that
15 the ad was sex for money, correct?
16 **A I believe you misrepresented what that sentence says.**
17 **I can look at the screen.**
18 **Yeah, that sentence does not say the automated**
19 **filtering system removed red-flag terms.**
20 **It said the system scanned millions of posts for**
21 **the red-flag terms.**
22 Q Let's start with that.
23 **A Okay.**
24 Q You understand that that automated filtering system was
25 scanning posts to the website looking for these red-flag

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1 terms, correct?
2 **A Correct.**
3 Q And you understand that a lot of those terms were terms
4 that the company had identified as reflecting that an ad
5 was sex for money, correct?
6 **A No, I would not agree with that statement.**
7 Q Tell me why you don't agree with that statement.
8 **A It was your characterization of the volume of**
9 **adult-related terms.**
10 Q Okay. I said that a lot of those terms were terms that
11 the company had identified as reflecting that an ad was
12 sex for money.
13 You don't agree that a lot of the terms were ads--
14 were words that the company had identified as reflecting
15 an ad was sex for money?
16 **A One, I would need to understand what you mean by "a**
17 **lot," and secondly, I don't agree that they were terms**
18 **that the company had identified as reflecting an ad that**
19 **was sex for money.**
20 **They were terms that related to sex or terms that**
21 **were otherwise objectionable or unacceptable to-- for**
22 **the website, in the opinion of the company.**
23 Q And you understand that that automated filtering system
24 would flag ads that contained its red-flag terms and
25 phrases, and that in some instances Backpage.com removed

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1 those prohibited terms or phrases and then posted the
2 remainder of the ad, correct?
3 **A Sorry, this isn't updating automatically, so I have to**
4 **keep scrolling down to find your question. (Indicating)**
5 **I understand that the automated filtering system**
6 **would flag ads that contained-- you referred to them as**
7 **red-flag terms, terms on the list, and phrases.**
8 **I would have to add to that, "URLs, IP addresses,**
9 **web addresses, e-mail addresses, et cetera," and then--**
10 **and I do understand that for a short period of time**
11 **certain terms, phrases, URLs, phone numbers, et cetera,**
12 **would be removed from the ad and the rest of the ad**
13 **allowed to go live to the site.**
14 Q And that included both automated removal and manual
15 removal, correct?
16 **A I believe so, yes.**
17 Q And that automatic and manual removal-- strike that.
18 That process of terms being scanned by the website
19 and then being either automatically or manually removed,
20 that existed during the time that the plaintiffs alleged
21 they were advertised for sex on Backpage.com, correct?
22 **A I don't know that at this time.**
23 **I don't recall.**
24 Q We have no way of knowing whether or not the ads of the
25 plaintiffs were, in fact, edited either automatically or

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1 manually, because Backpage.com did not keep copies of
2 what an ad looked like before and after the automatic or
3 manual editing, correct?
4 **A No, I wouldn't agree with that.**
5 Q Why wouldn't you agree with that?
6 **A Because it is my understanding that when a term was**
7 **removed, it would-- it would be obvious in the text that**
8 **something was missing.**
9 **It wouldn't read properly, so there would-- that**
10 **would be an indication.**
11 **I'll have to verify the timeframe, which is**
12 **something I can try to do for the 30(b)(6) deposition**
13 **tomorrow, but ads that were deleted, at a certain point**
14 **they were still viewable in the admin mode, so if an**
15 **image had been removed, you would still be able to see**
16 **it in the admin mode, for example when we provided**
17 **returns to subpoenas for law enforcement.**
18 Q If you look at Exhibit No. 8, there are a number of
19 pages of these advertisements for Plaintiff S.L. where
20 there's a box that says, "This image or video has been
21 moved or deleted."
22 Do you see that?
23 **A I do.**
24 Q Does that reflect that-- strike that.
25 Is that an example of what you've been describing,

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1 that when Backpage would remove an image from an ad,
2 this is what would show up on the admin tool?
3 **A No.**
4 **It's my understanding that this is what shows up**
5 **when the site, in this case Photobucket, hosting the ad,**
6 **removed the ad or the video, so instead of the image**
7 **appearing, being pulled from Photobucket, this is what**
8 **was appearing.**
9 Q Do you know why these images were removed by
10 Photobucket?
11 **A No.**
12 Q Did Backpage at the time have any system in place to
13 notify Photobucket if an ad was alleged to include
14 advertisements of a child for sex?
15 **A I don't know.**
16 **I wasn't there at that time.**
17 Q You said that one of the reasons you don't-- strike
18 that.
19 Let me go back.
20 I had asked you whether or not it's true that we
21 don't have-- strike that.
22 Let me start again.
23 I had asked whether or not it's true that we don't
24 know whether or not Backpage either automatically or
25 manually edited any of the ads of the plaintiffs because

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1 Backpage didn't keep a copy of what an ad looked like
2 before and after it was edited, and you said you didn't
3 agree with me, and I asked you to tell me why, and you
4 said, "First, it would be obvious from the text that
5 remains," and then second, you said that "At least in
6 the admin tool if an image was deleted, you would be
7 able to see that."
8 Any other reasons why you don't agree with me that
9 we may never know whether or not the ads of these
10 Plaintiffs were edited before they were posted on
11 Backpage.com?
12 **A That was a very long question, sir. Let me go back and**
13 **read it, please.**
14 **Okay. You asked whether or not it's true that we**
15 **don't know whether or not Backpage either automatically**
16 **or manually edited any of the ads of the plaintiffs**
17 **because Backpage didn't keep a copy of what an ad looked**
18 **like before and after it was deleted.**
19 **You said-- I said I didn't agree with you.**
20 **You asked me to tell you why.**
21 **I said that first it would be obvious from the**
22 **text-- obvious from the text, might be obvious from the**
23 **images.**
24 **Other reasons? Yeah, the evidence and testimony**
25 **from the plaintiffs and from the individuals responsible**

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1 **for trafficking them.**
2 Q Anything else?
3 **A I think the-- you would want to look at the-- sorry, the**
4 **testimony of the former employees who were moderating**
5 **ads at that time, and there may be others.**
6 **That's all I can think of at this time, I'm afraid.**
7 Q Did you ask anyone at Backpage.com whether there was
8 something the company could do to try to determine
9 whether or not the ads of any of these Plaintiffs had
10 been manually or automatically edited by Backpage.com?
11 MR. RYAN: You can't answer to the
12 extent it calls for privileged information.
13 THE WITNESS: That's a good point.
14 I would have to-- I cannot answer that question
15 without divulging privileged communications.
16 Q (By Mr. Amala) And for that reason are you going to
17 decline to answer the question?
18 **A At this time, yes.**
19 Q Let's turn to Paragraph No. 17 in your declaration that
20 is Exhibit No. 6.
21 In Paragraph No. 17 of your declaration, you
22 describe a two-tiered manual review system called
23 "Moderation of ads submitted for posting to the adult
24 category of the website."
25 Do you see that?

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1 **A I do.**
2 Q Did you ever ask anyone with Backpage.com whether or not
3 that system was intended to promote sex trafficking on
4 the website?
5 **A No.**
6 Q You stated that part of your knowledge for this
7 representation is based on your experiences when you
8 first arrived as corporate counsel in 2012.
9 Is that correct?
10 **A I believe that that's one of the things I said earlier**
11 **today.**
12 Q Okay. When you learned that the company was manually
13 editing ads, did you express any concern to the company
14 as to whether or not that might expose the website to
15 civil liability?
16 MR. RYAN: That calls for privileged
17 information.
18 If you can answer it in a nonprivileged way, please
19 do. Otherwise, assert the privilege
20 THE WITNESS: No, unfortunately I
21 can't answer that without divulging privileged
22 information and communications.
23 Q (By Mr. Amala) Have you ever advised the company that
24 it needed to try to appear as though it was engaged in
25 good-faith editing of sex trafficking ads so that it

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1 could try to trigger the safe harbor provision of the
2 CDA?
3 **A No.**
4 Q Have you ever discussed the safe harbor provision of the
5 CDA with management at Backpage.com?
6 MR. RYAN: Object to the form.
7 MR. SCHNEIDER: Objection to the form
8 of the question, insofar as it invites the witness to
9 disclose information that would be attorney-client
10 privileged.
11 MR. AMALA: Glad to see that everyone
12 is awake.
13 THE WITNESS: Yes, I think you will
14 gather from that, that my answer will be I can't answer
15 without disclosing attorney-client privileged
16 communications and information.
17 MR. RYAN: Can I ask, what is your
18 intention about finishing?
19 What have you got?
20 MR. AMALA: Well, we have the
21 30(b)(6) tomorrow. We are obviously not going to finish
22 with her personally today.
23 We have also have a lot of issues we are going to
24 have to ask the Court for guidance on regarding
25 privilege.

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1 I mean, my preference would be to go until 6, and
2 then we will start with the 30(b)(6) tomorrow and go
3 from there, if that works for you guys.
4 Q (By Mr. Amala) Ms. McDougall?
5 **A Yeah, that works for me.**
6 **The other thing I might say is that I think we all**
7 **recognize we are dealing with some very complex**
8 **privilege issues here--**
9 MR. SCHNEIDER: Wait for a question.
10 MR. RYAN: I would like to know what
11 you are about to say.
12 I'm sorry, would you--
13 THE WITNESS: That's okay--
14 MR. RYAN: Let's step out.
15 I just want to hear it first.
16 MR. SCHNEIDER: There is no question
17 pending.
18 THE WITNESS: Okay. Okay.
19 MR. SCHNEIDER: So while there's no
20 question pending, if Mr. Ryan wants to--
21 THE WITNESS: Before we wrap up for
22 the day-- no, it's okay.
23 Before we wrap up for the day I will have a quick
24 consultation with my many counsel here and--
25 MR. SCHNEIDER: Let's do it now.

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1 THE WITNESS: --tell you what I was
2 going to say.
3 MR. RYAN: Yeah, we are broken right
4 now--
5 MR. SCHNEIDER: Let's do it now while
6 there's no question pending. It is just cleaner.
7 VIDEOGRAPHER: Going off the record,
8 the time 5:38 p.m.
9 (Recess 5:38 to 5:42 p.m.)
10 (Off the videotaped record.)
11
12 MR. AMALA: The parties have agreed
13 that we are going to leave the deposition open,
14 acknowledging we have some issues that we need to ask
15 the Court for guidance on, and we will come back another
16 day to finish up with Ms. McDougall.
17 Tomorrow we will do the 30(b)(6)--
18 MR. SCHNEIDER: To be precise, my
19 understanding is you are not completing the deposition
20 now, in your view, right?
21 MR. AMALA: Correct.
22 MR. SCHNEIDER: And that you want to
23 start with the 30(b)(6) in the morning, recognizing you
24 are not going to be able to complete the examination
25 that you had underway today?


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1 MR. AMALA: Correct.
2 MR. SCHNEIDER: Okay. Very good.
3 (Deposition concluded at 5:42 p.m.)
4 (Signature reserved.)
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1 STATE OF WASHINGTON) I, Terilynn Simons, RMR, CRR,
2) ss CLR, a certified court reporter
3 County of Pierce) in the State of Washington, do
4 hereby certify:
5
6 That the foregoing deposition of ELIZABETH MCDUGALL
7 was taken before me and completed on April 25, 2017, and
8 thereafter was transcribed under my direction; that the
9 deposition is a full, true and complete transcript of the
10 testimony of said witness, including all questions, answers,
11 objections, motions and exceptions;
12 That the witness, before examination, was by me duly
13 sworn to testify the truth, the whole truth, and no hing but
14 the truth, and that the witness reserved the right of
15 signature;
16
17 That I am not a relative, employee, attorney or counsel
18 of any party to this action or relative or employee of any
19 such attorney or counsel and that I am not financially
20 interested in the said action or the outcome thereof;
21 That I am herewith securely sealing the said depositions
22 and promptly delivering the same to Attorney Jason P. Amala.
23
24 IN WITNESS WHEREOF, I have hereunto set my signature on
25 the 28th day of April, 2017.


Terilynn Simons, CCR, RMR, CRR, CLR
Certified Court Reporter No. 2047.
(Certification expires 04/29/2020)



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