

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

STEVEN HEWETT,	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	1:12-CV-1179-JAB-JLW
	)	
CITY OF KING,	)	
	)	
Defendant.	)	
and	)	
	)	
THE AMERICAN LEGION and	)	
AMERICAN LEGION POST 290	)	
OF KING, NORTH CAROLINA,	)	
	)	
Defendant-Intervenors.	)	
_____	)	

Wednesday, October 30, 2013  
Winston-Salem, North Carolina

Deposition of LEWIS DONALD HOLLAND, a witness herein, called for examination by counsel for Plaintiff in the above-entitled matter, pursuant to 30(b)(6) Notice, before Angelica Scott, Certified Shorthand Reporter and Notary Public in and for the State of North Carolina, taken at Kilpatrick Townsend & Stockton, LLP, 1001 West Fourth Street, Winston-Salem, North Carolina, commencing at the hour of 9:35 a.m.

KNOWLES COURT REPORTING  
CHARLOTTE, NORTH CAROLINA 704.338.5438

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APPEARANCES:

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On behalf of the Defendant:

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On behalf of the Defendants-Intervenors:

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P R O C E E D I N G S

1  
2 Whereupon,

3 LEWIS DONALD HOLLAND,

4 called as a witness and having first been duly  
5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MR. LIPPER:

8 Q. Good morning, sir.

9 A. Good morning.

10 Q. Can you please state your full name for the  
11 record.

12 A. It's Lewis Donald Holland.

13 Q. All right. And my name is Gregory Lipper. I  
14 am one of the lawyers for the plaintiff in this case,  
15 Steven Hewett. Have you ever had your deposition taken  
16 before?

17 A. No, I haven't.

18 Q. And have you ever testified in any proceeding  
19 under oath?

20 A. No, sir.

21 Q. All right. Let me go over a couple of ground  
22 rules with you. First of all, please wait for me to  
23 finish the question before answering. That will also  
24 give your attorney an opportunity to object if he wants  
25 to. If you don't understand my question or don't hear

1 my question, please ask me to either rephrase it or  
2 repeat it.

3 And if at any time you need a break, you  
4 know, get a drink or whatnot, just let me know. The  
5 only thing I'll ask is if there's a question pending,  
6 I'll ask you to answer it first. Does that make sense?

7 A. Uh-huh.

8 Q. All right. You understand today that you are  
9 appearing as the designated representative of American  
10 Legion Post 290 of King, North Carolina?

11 A. Yes.

12 (Holland Exhibit 1 marked for identification.)

13 BY MR. LIPPER:

14 Q. All right. And I'm going to hand you what's  
15 been marked as Exhibit 1. Take a look at that and let  
16 me know when you're ready.

17 A. I understand that.

18 Q. Have you seen this document before?

19 A. No, sir.

20 Q. If you turn to the deposition -- page 3 of  
21 the document marked "Deposition Topics." Whether or  
22 not you've seen this particular document, are you  
23 prepared to testify today on behalf of American Legion  
24 local about these topics?

25 A. Yes, I am.

1 Q. All right. And just for the sake of  
2 conciseness and the court reporter's sanity, when I say  
3 "American Legion," I am referring to American Legion  
4 Post 90 of King, North Carolina.

5 A. It's 290.

6 Q. 290, pardon me. Let me say that again just  
7 to be clear.

8 When I say "American Legion," I will be  
9 referring to American Legion Post 290 of King, North  
10 Carolina. If I want to refer to American Legion  
11 National or some other permutation of American Legion,  
12 I'll make that clear.

13 A. Okay.

14 Q. What did you do to prepare for today's  
15 deposition?

16 A. Very little, actually. I've had a month of  
17 personal problems and stuff like that, and I have read  
18 over some of the stuff that I wrote, but very little  
19 else.

20 Q. All right. I'm sorry to hear about your  
21 personal problems. When you say you read over some  
22 stuff that you wrote, do you mean the affidavits that  
23 you submitted in this case?

24 A. Right.

25 Q. Did you meet with counsel to prepare for the

1 deposition?

2 A. Yesterday we met.

3 Q. Okay. And what is your current position with  
4 American Legion?

5 A. I'm first vice commander.

6 Q. What are your responsibilities as first vice  
7 commander?

8 A. Basically to take over the position of  
9 commander when he's not available.

10 Q. Who is the commander?

11 A. Lane Bennett.

12 Q. And when the commander is not available, what  
13 then responsibilities do you assume?

14 A. I can assume his responsibilities for the  
15 major part.

16 Q. What was the last thing you said?

17 A. For the major part I can assume his  
18 responsibilities.

19 Q. Okay. And what are his responsibilities?

20 A. His responsibilities basically are to make  
21 the decisions to be brought before the American Legion  
22 body. He makes arrangements for different ceremonies.  
23 He purchases a lot of the materials that we need, stuff  
24 like that.

25 Q. When you say "he purchases," I take it



1 American Legion has a budget of some sort?

2 A. Not particularly, but we purchase fruits and  
3 stuff for homeless people. We give out baskets for  
4 Thanksgiving. We purchase a lot of supplies for the  
5 Stokes County Fair, and just the general stuff that we  
6 need to run the American Legion.

7 Q. Where does American Legion raise its money  
8 from?

9 A. Basically bingo.

10 Q. All right. How often do you hold bingo?

11 A. Every Friday night.

12 Q. Do you get a good crowd at bingo?

13 A. Fair. Sometimes good, sometimes bad.

14 Q. Fair enough. Is that held at your hall?

15 A. It is.

16 Q. Other than filling in for the commander when  
17 he's unavailable, do you have any other  
18 responsibilities?

19 A. Yes, I do.

20 Q. What are those?

21 A. I am membership chairman. I am booth-rental  
22 chairman for the Stokes County Fair. I'm on the  
23 executive board.

24 Q. Anything else?

25 A. That's about it.

1 Q. All right. Who else is on the executive  
2 board?

3 A. We have 13 members on the executive board:  
4 The commander, Lane Bennett; myself; the post adjutant;  
5 post chaplain; the finance officer; three trustees; the  
6 service officer -- I mentioned the adjutant -- and a  
7 couple more of the minor -- minor people that -- the  
8 commander has appointed: Don Adams, Grady -- boy, I  
9 can't remember his last name right now. Know it as  
10 good as my own -- Grady Tuttle. He is also the  
11 assistant finance officer.

12 Q. Anyone else?

13 A. We have a guy named Cal. I can't think of  
14 his last name right offhand. He was membership  
15 chairman before I took it over. We also have Cliff.  
16 He's running for sheriff of Forsyth County. Cliff  
17 Kilby.

18 Q. And how does it work? Does the executive  
19 board have to approve certain decisions that are made  
20 or certain activities that people want to engage in?

21 A. Some of them we do. The commander has a lot  
22 of authority. He can make most of the decisions. We  
23 have an executive board meeting on the major  
24 expenditures, stuff like that.

25 Q. What constitutes a major expenditure?

1           A.    We paid \$30,000 to get a roof replaced this  
2 year.  That's a major expenditure.

3           Q.    Are there regular executive board meetings?

4           A.    No, there isn't.

5           Q.    So simply as needed?

6           A.    As needed.

7           Q.    And does American Legion -- is there some  
8 sort of American Legion email address that board  
9 members are provided or do people just communicate  
10 using their own --

11          A.    We communicate using our own stuff.  Mostly  
12 the telephone.

13          Q.    Got it.  When the board has meetings, are  
14 there printed minutes?

15          A.    No.

16          Q.    So pretty informal?

17          A.    Yeah, it's very informal.  No minutes for the  
18 board meetings.

19          Q.    How many members does the American Legion  
20 have?

21          A.    Last year we had 471 members.  We missed our  
22 goal by 9, so this year we have 470.

23          Q.    And are all of the members residents of King?

24          A.    No.

25          Q.    About what proportion of the members are King

1 residents?

2 A. Probably half. Either King or Stokes County.

3 Q. Is the post just for King or does the post  
4 cover Stokes County?

5 A. The post -- we have members all over the  
6 world, basically.

7 Q. Okay. Are there other posts in other cities  
8 within Stokes County, or are you the only --

9 A. We're the only post.

10 Q. So if I live in Stokes County and wanted to  
11 be within a post in Stokes County, I'd have to join  
12 your post?

13 A. Right. Correct.

14 Q. And are all -- what are the criteria for  
15 membership in American Legion?

16 A. You must be a veteran that has served this  
17 country during time of war.

18 Q. And any war or particular wars?

19 A. Any war.

20 Q. Okay.

21 A. Any conflict.

22 Q. And so do you have members from a variety of  
23 different wars?

24 A. Yes, we do.

25 Q. So do you have members who served during

1 World War II?

2 A. Yes, we do.

3 Q. Members who served during the Korean War?

4 A. Yes.

5 Q. Members who served during Vietnam?

6 A. Yes.

7 Q. Members who served during the first Gulf War?

8 A. Yes.

9 Q. What about, were in Afghanistan?

10 A. Iraq, Afghanistan, the whole Gulf War.

11 Q. All right. And I take it previously you --  
12 let me ask you this. How long has your post existed?

13 A. Before 1940s.

14 Q. All right. So I take it previously there  
15 were members who served during World War I?

16 A. World War I, yeah.

17 Q. What about the Civil War?

18 A. No.

19 Q. Don't go that far back?

20 A. No.

21 Q. And is there an application process, or if  
22 you were a veteran or -- if you served during a war,  
23 are you automatically eligible for membership?

24 A. No. You have to be honorably discharged.

25 Q. All right. So if you served during a war and

1 were honorably discharged, do you then fill out an  
2 application, or how does that work?

3 A. Yes, they do.

4 Q. Is there a membership fee?

5 A. Twenty-five dollars a year.

6 Q. And so I take it, in addition to bingo, the  
7 post gets some of its money from membership fees?

8 A. We only get \$2 1/2 from each member.

9 Q. All right. So not much.

10 A. Not much.

11 Q. You guys need to start using Bitcoin or  
12 something like that.

13 Are most of your members -- had most of your  
14 members served during a particular war? Is it pretty  
15 evenly distributed?

16 A. Well, World War II vets are dying out, so are  
17 the Korean War vets. Mostly Vietnam Era.

18 Q. Okay. I take it you served?

19 A. I did.

20 Q. And from what years did you serve?

21 A. '59 to '62.

22 Q. All right. Were you overseas in Vietnam or  
23 was it -- I guess it was before that?

24 A. I was stationed in Panama. I was in Vietnam.

25 Q. And you were honorably discharged, I take it?

1 A. I was.

2 Q. All right. How long have you lived in the  
3 city of King?

4 A. I moved there in November 2007.

5 Q. Where did you live before that?

6 A. In Winston-Salem.

7 Q. How long did you live there?

8 A. About 45 years.

9 Q. All right. Did you work in Winston-Salem?

10 A. I did.

11 Q. Where did you work?

12 A. Channel 12 News.

13 Q. What was your position there?

14 A. I held every position in the news department,  
15 with the exception of producing, over a 34-year period.

16 Q. So you were on TV and all that?

17 A. Uh-huh.

18 Q. And I take it you're retired now?

19 A. I am.

20 Q. Have you ever been charged with a crime?

21 A. No.

22 Q. All right. And is there also a -- some sort  
23 of -- and I can't pronounce this word, so I apologize  
24 in advance -- auxiliary to the American Legion?

25 A. There is the Ladies Auxiliary.

1 Q. Explain to me what the Ladies Auxiliary does.

2 A. They support us. They give us dinner, stuff  
3 like that. They also support our activities in the  
4 community as far as helping distribute food, raise  
5 funds. They distribute food to rest homes, stuff like  
6 that.

7 Q. How many members are in the auxiliary?

8 A. I have no idea.

9 Q. Is it, like, more than a hundred?

10 A. I don't know.

11 Q. Okay. So it could be 100, could be 500,  
12 could be 10?

13 A. Yeah.

14 Q. Is there a particular criteria for membership  
15 in the auxiliary?

16 A. You must be a spouse of a veteran or a  
17 deceased veteran that has been a member of Post 290.

18 Q. And are there people who are members of both  
19 American Legion and the auxiliary?

20 A. I think we have one lady that used to be a  
21 member of -- well, she is still a member of the  
22 auxiliary, but she is not physically able to attend  
23 meetings anymore, and she does not attend either the  
24 American Legion or the auxiliary meetings.

25 Q. And you mentioned some of the activities you



1 do. Does American Legion, I take it, engage in a  
2 variety of activities to help veterans, former  
3 veterans?

4 A. We do. That's our main objective.

5 Q. And what are some of those activities?

6 A. Well, a lot of our money goes to the national  
7 and -- the National Fights for Veterans Rights.

8 Q. And when you say "Fights for Veterans  
9 Rights," what kind of things are you talking about?

10 A. Well, the V.A., for instance.

11 Q. So working to improve care and conditions at  
12 the V.A.?

13 A. Right.

14 Q. Anything else?

15 A. Not that I know of. I'm not real familiar  
16 with the Nationals.

17 Q. And then locally you do things like  
18 distribute meals and --

19 A. Uh-huh.

20 Q. -- other things along those lines?

21 A. Oh, yeah. We sponsor different events,  
22 Christmas parade, stuff like that. We allow the use of  
23 our fairgrounds for different organizations to hold  
24 meetings, weddings, stuff like that.

25 Q. And is the local post in contact with

1 American Legion National on some occasions?

2 A. Seldom.

3 Q. Okay. When you are in contact with National,  
4 for what reason is that?

5 A. I have only been contacted once, and that was  
6 to name me as spokesman for American Legion Post 290 in  
7 this matter before us.

8 Q. All right. So before that, when was the last  
9 time you had been in contact with the National American  
10 Legion?

11 A. I had not.

12 Q. Okay. And how long have you been -- I've  
13 already forgotten your title. How long have you been  
14 first vice commander?

15 A. This is my second year -- third year, I'm  
16 sorry.

17 Q. Did you have a position on the board before  
18 you were first vice commander?

19 A. I was named to the executive board by the  
20 post commander.

21 Q. How long have you been on the executive  
22 board?

23 A. Four years.

24 Q. What were your responsibilities before you  
25 were first vice commander?

1           A.    I was chairman of booth rental for the Stokes  
2 County Fair.

3           Q.    Anything else?

4           A.    That's about it.

5           Q.    And how long has Mr. Bennett been commander?

6           A.    13 years.

7           Q.    And you were not involved before -- has  
8 Mr. Bennett been the only commander you've served  
9 under?

10          A.    That's -- yes, sir.

11          Q.    Are there any -- well, let me take a step  
12 back. Does -- tell me what the -- American Legion's  
13 role is with respect to veterans memorials.

14          A.    Are you talking about the one in King?

15          Q.    The one in King or if your post is involved  
16 in other veterans memorials.

17          A.    We're not involved in any veterans memorial  
18 except the one in King.

19          Q.    And why does American Legion seek to promote  
20 the building or development of veterans memorials?

21          A.    The American Legion -- overall, I don't know,  
22 nationally.

23          Q.    But with the post.

24          A.    With the post -- it was started, and there's  
25 plaques on either side of the entrance to the thing

1 that says, "The City of King in conjunction with  
2 American Legion Post 290 endeavored to build a  
3 memorial, Veterans Memorial." And so we've been  
4 involved with it since the first inception.

5 Q. And when you say "involved," am I correct  
6 that several American Legion members served on the City  
7 of King's veterans committee?

8 A. They did.

9 Q. And American Legion helped to raise, looks  
10 like, a significant amount of money to help build it.

11 A. They did.

12 Q. Why did American Legion do all that? Why was  
13 it important to American Legion to have a Veterans  
14 Memorial?

15 A. I don't know. I was not involved in it.

16 Q. All right. Why is it important to you that  
17 there is a Veterans Memorial?

18 A. It is important to me to remember our fallen  
19 veterans, our fallen comrades. A place to go and to  
20 remember.

21 Q. And when you're seeking to remember fallen  
22 comrades, I take it you're looking to remember comrades  
23 from all wars, not just particular wars?

24 A. Exactly.

25 Q. All right. And with respect to the flag

1 display -- so the veterans -- the part of the Veterans  
2 Memorial that was the fountain and the 11 flagpoles,  
3 what, in American Legion's view, is the purpose of  
4 having -- well, what, in American Legion's view, is the  
5 purpose of having the Christian flag as part of that  
6 Veterans Memorial?

7 MS. MARTINEAU: Objection to the form of the  
8 question.

9 BY MR. LIPPER:

10 Q. You can go ahead.

11 A. I have no idea why -- other than we had an  
12 extra pole, and they decided to put the Christian flag  
13 up.

14 Q. All right. And do you think it was a good  
15 idea to have the Christian flag displayed at the  
16 Veterans Memorial?

17 MS. MARTINEAU: Objection to the form of the  
18 question. Also irrelevant. Go ahead.

19 THE WITNESS: I was not there.

20 BY MR. LIPPER:

21 Q. I'm sorry, can you answer?

22 A. I said I was not there. I don't know.

23 Q. When the City was discussing, about three  
24 years ago, whether or not to remove the Christian flag  
25 from the Veterans Memorial, did you have a view of that

1 as to whether it should stay or whether it should be  
2 removed?

3 MS. MARTINEAU: Objection. Objection to the  
4 form of the question. Also irrelevant. Go ahead and  
5 answer.

6 MR. HICKS: Objection. Irrelevant.

7 BY MR. LIPPER:

8 Q. You may answer.

9 A. I supported the flag being there at the time.

10 Q. And why is that?

11 A. No particular reason. I mean, I  
12 didn't -- you know, it could have been there or not  
13 been there.

14 Q. Okay. And I take it from the perspective of  
15 the American Legion, the removal of the Christian --  
16 even if the Christian flag were removed, that Veterans  
17 Memorial would not honor veterans any less effectively,  
18 would it?

19 A. I don't know.

20 Q. If someone were to start over and say, "We're  
21 going to build a Veterans Memorial, and we're going to  
22 have ten flagpoles. We're going to have all the other  
23 flags but no Christian flag," would American Legion  
24 support that?

25 A. I would think so.

1 Q. You would think so? Can you answer audibly,  
2 please?

3 A. I said I would think that we would support  
4 that. I mean, we have other things there other than  
5 the flagpole.

6 Q. Okay. And what other things are you  
7 referring to?

8 A. Well, the Boy Scouts just put up a --

9 Q. The dog?

10 A. No -- well, there's supposed to be a dog  
11 there but -- honoring the service dogs. We have no  
12 objections to that.

13 Q. And you have been involved -- you have  
14 submitted applications to participate in the flag  
15 lottery; is that correct?

16 A. I have.

17 Q. And you have displayed a flag on a number of  
18 occasions?

19 A. I have.

20 Q. And have you displayed the Christian flag on  
21 each occasion?

22 A. I have.

23 Q. Why is it that you've chosen to display the  
24 Christian flag?

25 A. Because that's the flag of my choice.

1 Q. Why is it the flag of your choice?

2 Let me ask it another way. If I were to ask  
3 you would you want to fly the Muslim flag one week,  
4 what would you say?

5 A. I personally would not, but I would not  
6 object to someone else flying it.

7 Q. And why would you personally not fly it?

8 A. Because I'm not a Muslim.

9 Q. So you chose to fly a Christian flag because  
10 you're a Christian?

11 A. Right.

12 Q. And has American Legion provided any  
13 assistance to any individuals who needed help putting  
14 their flag up when it was their week?

15 A. Yes.

16 Q. What kind of assistance has American Legion  
17 provided?

18 A. Well, not the American Legion, per se. Just  
19 this one guy, Jim Rosemond.

20 Q. Who is Jim Rosemond?

21 A. He is our second vice commander, and he kind  
22 of looks after it.

23 Q. When you say "looks after it" --

24 A. Well, for instance, the week before last, I  
25 was working, I had to go in very early. He took my



1 flag down for me. Another instance, the commander was  
2 flying his flag. It was my time to fly the flag; I  
3 gave him my card; he put my card up. But as far as the  
4 assistance to general population, no.

5 Q. Okay. And has American Legion ever provided  
6 the flag -- a flag for anyone to fly?

7 A. No.

8 Q. Where do you get -- just out of curiosity,  
9 where do you get your flag? Do you have a Christian  
10 flag in your home or --

11 A. I have a flag in my home and I have one that  
12 I fly at the memorial.

13 Q. And did you have the Christian flag in your  
14 home even before the debate about whether the City was  
15 going to remove the Christian flag?

16 A. I did.

17 Q. All right. Do you view the Christian flag as  
18 a religious symbol?

19 A. Yes.

20 Q. Let me ask you one other question. When you  
21 make a decision about what flag to fly, are you  
22 choosing to fly the Christian flag because you are a  
23 Christian or because the person you are honoring is a  
24 Christian?

25 A. Both.

1 Q. All right. I take it everyone you've chosen  
2 to honor, as far as you know, is a Christian?

3 A. They have been my aunts and uncles. Or my  
4 uncles rather, not my aunts.

5 Q. And are there any -- on the American Legion  
6 board, the post's board, is there anyone on the board  
7 who is not a Christian, that you know of?

8 A. I do not know.

9 Q. Do you know -- do you know of anyone on the  
10 board who is not a Christian?

11 A. I don't know that.

12 Q. And I take it you know there are at least  
13 several Christians on the board?

14 MS. MARTINEAU: Objection as to the form of  
15 the question.

16 THE WITNESS: I don't know.

17 BY MR. LIPPER:

18 Q. So are you saying you have no idea whether  
19 anyone on your board is Christian or not Christian?

20 A. We are a nonreligious organization. We do  
21 not discriminate against any religion.

22 Q. I understand.

23 A. We embrace all of them.

24 Q. I understand, but of the people who are  
25 currently on the American Legion board, the local post

1 board, do you know of anyone on the board who is not a  
2 Christian?

3 A. I don't know.

4 Q. Do you know that some people -- do you know  
5 the religious beliefs of anyone who is on your board?

6 A. That's between them and their beliefs. We  
7 don't discuss that. I don't know.

8 Q. Okay. So --

9 A. I know that people go to church. Whether  
10 they're Christian or not, I don't know.

11 Q. When you say "go to church," you mean  
12 Christian churches?

13 A. Uh-huh.

14 Q. Do you know anyone on the board who goes to  
15 religious services other than Christian religion  
16 services?

17 A. I do not know.

18 Q. When you say you don't know, I take it you  
19 don't know of anyone who does --

20 A. We don't discuss that. I don't know what  
21 their religions are.

22 Q. Sir, please listen to my question. Do you  
23 know of any -- you mentioned you know that some of the  
24 people on the board do go to Christian church services.  
25 Do you know of anyone on the board who goes to services

1 other than Christian services?

2 A. No, I don't.

3 (Holland Exhibit 2 marked for identification.)

4 BY MR. LIPPER:

5 Q. Okay. All right. I'm handing you what the  
6 court reporter has marked as Exhibit 2.

7 Mr. Holland, these are minutes from a King  
8 city council meeting from November 22, 2010, in which  
9 the so-called limited public forum policy was  
10 discussed. Take as much time as you need to read  
11 however much of this document you'd like, but I want to  
12 ask you about a couple of questions you asked, which  
13 are reflected on the top of page 2. So go ahead and  
14 read what you'd like to and then let me know when  
15 you're ready.

16 A. Okay. I read the top section.

17 Q. All right. So the second question, you  
18 asked, "Is the limited public forum limited to just  
19 citizens of King or Stokes County?" What was the  
20 reason you were interested in knowing the answer to  
21 that question?

22 A. Well, because it's the city of King memorial  
23 and I had uncles that did not live in the city of King,  
24 and I was wanting to know if I could place a flag up in  
25 their honor.

1 Q. Were you concerned about people from outside  
2 of Stokes County participating in the limited public  
3 forum?

4 A. Yes.

5 Q. Why is that?

6 A. Because they're not a member of the City of  
7 King nor of Stokes County.

8 Q. And why is that distinction important to you?

9 A. Because it's the City of King and the  
10 American Legion's -- with the American Legion's input  
11 that built the memorial.

12 Q. What if they were members of your American  
13 Legion Post, would it concern you then?

14 A. No.

15 Q. So if -- you would be okay with someone from  
16 outside of Stokes County flying a flag if they were a  
17 member of the American Legion Post?

18 A. Absolutely.

19 Q. But if they were not a member of the American  
20 Legion Post, you don't think they should have the right  
21 to fly a flag?

22 A. I don't.

23 Q. Okay. And why is that?

24 MS. MARTINEAU: Just to be clear, this is a  
25 question you're asking him in his individual capacity,

1 correct?

2 MR. LIPPER: Yes.

3 THE WITNESS: In my individual capacity, if  
4 they have a plaque up there with somebody's name on it,  
5 I would not object.

6 BY MR. LIPPER:

7 Q. Okay. If they didn't have a plaque, you  
8 would object?

9 A. If they were not a member of Post 290, I  
10 would, yes.

11 Q. And why is that?

12 A. Because they have no right to fly the flag or  
13 any other thing. They have no right to participate in  
14 any of the programs.

15 Q. Okay.

16 A. They can visit.

17 Q. Do you visit the Veterans Memorial on some  
18 occasions?

19 A. I do.

20 Q. When do you visit it?

21 A. I just like to go up there and walk around.

22 Q. How often would you say you do that?

23 A. A couple times a month probably.

24 Q. When you walk around, do you look at both the  
25 fountain and the flags, as well as the kneeling-soldier

1 statue?

2 A. I see them. I don't dwell on them. I just  
3 go walking.

4 Q. All right. American Legion has been involved  
5 in organizing ceremonies to commemorate Memorial Day  
6 and Veterans Day; is that correct?

7 A. That's correct.

8 Q. How long has American Legion been doing that?

9 A. From the very first one.

10 Q. Do you know when the first one was?

11 A. It was the dedication ceremony.

12 Q. So that was -- as far as you know there were  
13 not Memorial Day or Veterans Day services before the  
14 memorial was dedicated?

15 A. I don't know. I was not up there.

16 Q. Okay. So your understanding is, on behalf of  
17 American Legion, that the -- that at least since the  
18 Veterans Memorial was dedicated, American Legion has  
19 been helping to organize and sponsor Memorial Day and  
20 Veterans Day ceremonies?

21 A. Every day. Every one.

22 Q. Every one. All right. How has American  
23 Legion helped to sponsor and organize these events?

24 A. Our duties are to supply the honor guard,  
25 select speakers, play taps, and determine the order of

1 the program, in conjunction with the City of  
2 Winston-Salem, as far as the order goes.

3 Q. You said the City of Winston-Salem. Do you  
4 mean the City --

5 A. I mean City of King.

6 Q. -- of King?

7 And has American Legion's responsibilities  
8 with respect to these ceremonies changed over time?

9 A. No.

10 Q. So American Legion is engaging in the same  
11 activities with respect to these ceremonies as it was,  
12 for instance, five years ago?

13 A. Yes.

14 Q. And why does American Legion help to organize  
15 these ceremonies?

16 A. Because we have built the memorial and we  
17 have an interest in it.

18 Q. Why do you have an interest in having these  
19 ceremonies?

20 A. Because we are the organization in King, the  
21 only organization that has the capacity to do so.

22 Q. All right. And I take it it's important to  
23 American Legion to have these ceremonies?

24 A. Yes.

25 Q. Why is that?



1           A.    To honor our fallen comrades and also alive  
2 veterans.

3           Q.    And you want veterans within the city of King  
4 to be able to attend these events and commemorate their  
5 fallen comrades?

6           A.    Yes, I do.

7           Q.    All right.  Does the list of responsibilities  
8 you mentioned a moment ago with respect to organizing  
9 these ceremonies -- are American Legion's  
10 responsibilities the same with respect to the Memorial  
11 Day ceremonies and the Veterans Day ceremonies?

12          A.    They are.

13          Q.    In the Veterans Day ceremonies, I understand  
14 there's a part of the ceremony that involves dedication  
15 of new pavers?

16          A.    Yes, there is.

17          Q.    Can you explain to me exactly what happens in  
18 that dedication?

19          A.    Last year I had my paver put up there.  The  
20 only thing they do is just read the names of the new  
21 pavers.

22          Q.    All right.  And who reads the names?

23          A.    I don't recall.

24          Q.    You don't recall whether it was a city --

25          A.    I don't recall.

1 Q. And have you attended -- how many Memorial  
2 Day ceremonies have you attended?

3 A. Memorial Day service -- I probably attended  
4 all of the Memorial Day services.

5 Q. Okay. All of them dated back to --

6 A. Since dating back to 2008.

7 Q. And how many of the Veterans Day ceremonies  
8 have you attended?

9 A. I don't recall because I work, usually,  
10 during that time. I did attend last year because I was  
11 not working.

12 Q. When you say "working" --

13 A. I work part-time.

14 Q. Where do you work?

15 A. At the ice rink.

16 Q. Is that in the city of King?

17 A. No. It's in the city of Winston-Salem.

18 Q. What do you do at the ice rink?

19 A. I take care of the ice.

20 MS. MARTINEAU: Do you drive that Zamboni  
21 machine?

22 THE WITNESS: Yes.

23 MR. LIPPER: I'm half tempted to ask you for  
24 a ride on the Zamboni machine.

25 MS. MARTINEAU: After the deposition is over.

1 MR. HICKS: See how the deposition shapes up.

2 MR. LIPPER: And I'll note that that request  
3 drew no objections.

4 BY MR. LIPPER:

5 Q. All right. So just so I'm clear, so you  
6 attended -- I just want to make sure I have this right.  
7 You attended last year's Veterans Day ceremony, but  
8 before that you don't recall having attended any of the  
9 others?

10 A. I don't. I might have, but I don't recall,  
11 because I'm normally working on Veterans Day. Last  
12 year I quit before Veterans Day and just said I don't  
13 want anything else to do with it.

14 Q. And was American Legion involved when the  
15 City used to hold September 11 ceremonies? Was  
16 American Legion involved in those ceremonies at all?

17 A. I don't know that. I don't know.

18 Q. You're not aware of any involvement by  
19 American Legion?

20 A. Well, I just don't know because I was not  
21 involved in it.

22 Q. Okay. And presumably, I mean, had American  
23 Legion been involved in sponsoring those ceremonies, is  
24 it something you probably would know about?

25 A. No, because I haven't been there that long.

1 Q. Okay. So certainly within -- since the time  
2 you've been on the American Legion board, you're not  
3 aware of any involvement by the organization?

4 A. And which ceremony?

5 Q. In the September 11th ceremonies.

6 A. I'm not aware of any, no.

7 Q. And does -- has American Legion had any  
8 involvement in sponsoring National Day of Prayer  
9 ceremonies?

10 A. No.

11 Q. Now, at the Memorial Day ceremonies, at least  
12 the ones you've attended, have there been prayers  
13 delivered?

14 A. Yes, there has.

15 Q. Am I correct that there has been at least  
16 one, if not two, prayers at each of the ceremonies  
17 you've attended?

18 A. At least one. I'm not sure about two.

19 Q. Has the American Legion chaplain delivered  
20 any of those prayers?

21 A. He did this past Memorial Day.

22 Q. And do you recall if those prayers were  
23 Christian prayers or nondenominational prayers or some  
24 other kind of prayers?

25 A. They were Christian.

1 Q. Now, does it concern American Legion -- if  
2 American Legion is a nonreligious organization, why  
3 have the prayers been Christian as opposed to  
4 nondenominational?

5 A. I don't know. The commander selects those  
6 people.

7 Q. Okay. Do you have any concern that the  
8 prayers that are Christian prayers might serve to  
9 exclude veterans who are not Christian?

10 A. No.

11 Q. Why not?

12 A. I -- if they don't want to listen, they don't  
13 have to listen. They don't have to participate.

14 Q. Do you have a concern that having any prayers  
15 might serve to exclude veterans who simply don't  
16 believe in God or aren't religious?

17 A. No, I don't.

18 Q. And why not?

19 A. Because it's -- they can either attend or not  
20 attend.

21 Q. And so if someone didn't like the religious  
22 concert of the ceremony, their solution, in your view,  
23 is to not attend the ceremony?

24 MS. MARTINEAU: Object to the form of the  
25 question.

1 THE WITNESS: I really don't have a view on  
2 that.

3 MR. LIPPER: Okay. Could we take a quick  
4 break?

5 (A recess was taken.)

6 BY MR. LIPPER:

7 Q. Mr. Holland, who from American Legion has  
8 been involved in the Memorial Day and Veterans Day  
9 event organization?

10 A. The commander usually does that.

11 Q. And anyone else other than the commander?

12 A. Coley Hunsucker spoke at one of the meetings,  
13 I know that.

14 Q. So other than people giving particular  
15 speeches, as far as you know, it's the commander who is  
16 the point person --

17 A. Exactly.

18 Q. -- for those activities?

19 And what has -- how has American Legion  
20 decided which speakers to invite? In other words, what  
21 are you looking for in a speaker at these events?

22 A. We're looking for a veteran.

23 Q. Any other particular criteria?

24 A. No.

25 Q. All right. And the mayor has spoken at these

1 events; is that correct?

2 A. He usually gives the welcome address.

3 Q. And he's also been involved in laying the  
4 wreath?

5 A. Yes.

6 Q. And why does American Legion want to have the  
7 mayor at these events?

8 A. He's not required to be at them. If he wants  
9 to attend, he can.

10 Q. I understand he's not required to, but why  
11 has American Legion sought to have him or sought to  
12 invite him to the events?

13 A. Well, this is the first year that he has not  
14 been involved in it.

15 Q. Okay. And so why did American Legion invite  
16 him this year?

17 A. Out of respect for his position.

18 Q. And what do you mean by that?

19 A. Well, he is a legionnaire. He is also the  
20 head of the Forty and Eight.

21 Q. When you say "the Forty and Eight," what do  
22 you mean by that?

23 A. The Forty and Eight is an elite organization.  
24 It's actually outside the American Legion, but to be a  
25 member of the Forty and Eight you must be a -- you must

1 be an American -- a legionnaire, and you must be  
2 invited in. It is a private organization.

3 Q. Are those invitations made by the local post  
4 or by American Legion National?

5 A. By a local post.

6 Q. And when did the local post invite Mayor  
7 Warren to be a member of the Forty and Eight?

8 A. I have no idea.

9 Q. So it was before you --

10 A. Before I came.

11 MR. LIPPER: Okay. Bear with me here. I'm  
12 flying solo today.

13 (Holland Exhibit 3 marked for identification.)

14 BY MR. LIPPER:

15 Q. I'm handing you what's been marked as  
16 Exhibit 3. Take a look at this and let me know when  
17 you're ready.

18 A. Okay.

19 Q. Have you seen this document before?

20 A. I have.

21 Q. And what is this document?

22 A. It's an agreement between American Legion  
23 Post 290 and the Arts Council, to take over the  
24 responsibilities of the Veterans Day and Memorial Day  
25 services.



1 Q. And why did American Legion and the Arts  
2 Council take over responsibilities for these  
3 ceremonies?

4 A. The City asked us to.

5 Q. Did the City say why they wanted you to take  
6 over responsibilities?

7 A. No, they did not.

8 Q. Did you ask them?

9 A. No, I didn't.

10 Q. Why not?

11 A. We didn't need to. We were in total  
12 agreement, we'd take it over.

13 Q. When the City asked you to take it over, did  
14 they provide you any guidance as to what that would  
15 entail?

16 A. They said they would no longer be involved in  
17 it in any way, and it was our responsibility.

18 Q. Did they give you any materials to help you?

19 A. No, they didn't.

20 Q. You sure about that?

21 A. They didn't give me any materials.

22 Q. Did they give Mr. Bennett any materials?

23 A. Not that I know of, other than this letter.

24 Q. All right. And what has American Legion done  
25 differently now that the -- now that the City has

1 handed over responsibility?

2 A. Just the laying of the wreath.

3 Q. And what do you mean by that?

4 A. Previously, one year the City would pay for  
5 the wreath, and the next year the American Legion would  
6 pay for the wreath. And now we divide it between the  
7 American Legion and the Arts Council.

8 Q. All right. So just so I have this correct,  
9 so before the transfer the City and the American Legion  
10 would alternate paying for the wreath. After the  
11 transfer, American Legion and Stokes County Arts  
12 Council alternate paying for the wreath?

13 A. We pay for it together.

14 Q. So the Legion and Arts Council divide the  
15 costs each year?

16 A. Right.

17 Q. Any other changes other than the payment for  
18 the wreath?

19 A. That's it.

20 Q. All right. And is the mayor the one that  
21 still lays the wreath?

22 A. I don't recall whether he laid it at this  
23 time or not.

24 Q. And did American Legion submit any sort of  
25 permit applications with respect to the ceremony -- the

1 Memorial Day ceremony?

2 A. No.

3 Q. Why not?

4 A. Well, we're not required to.

5 Q. Why do you say that?

6 A. We're a nonprofit organization.

7 Q. And why aren't you required to, as a  
8 nonprofit organization, obtain a permit?

9 A. Well, no nonprofit organization is required  
10 to get a permit.

11 Q. And is that something you've determined by  
12 looking at the city ordinance?

13 A. No. I haven't seen the city ordinance.

14 Q. So how do you know you're not required to  
15 obtain a permit?

16 A. I asked the mayor, and he said nobody was --  
17 had to obtain a permit. Only reservations.

18 Q. When he said "nobody," was he talking about  
19 the Memorial Day and the Veterans Day events?

20 A. Any event conducted by a nonprofit  
21 organization. A community-oriented nonprofit  
22 organization, let's put it that way.

23 Q. When did you have this conversation with the  
24 mayor?

25 A. Regarding what?

1 Q. The need to obtain a permit.

2 A. I have never had a conversation with the  
3 mayor over the need to require a permit.

4 Q. Okay. Just a moment ago I think you said the  
5 mayor told you that a community-oriented nonprofit did  
6 not need to obtain a permit. When was that  
7 conversation held?

8 A. I have no idea. It was -- I think I asked a  
9 question at one of the meetings that he attended.  
10 After the meeting, I just -- I asked if we needed any  
11 permits, and he said no.

12 Q. All right. And when you say "a meeting,"  
13 this is an American Legion meeting that he attended?

14 A. Yeah.

15 Q. Did you ask him this question after --

16 A. After the meeting.

17 Q. And when was this meeting? Was this within  
18 the last few months?

19 A. During the summer.

20 Q. Over the summer?

21 A. Yeah. In other words, I was asked a question  
22 by another organization if they needed a permit. I did  
23 not know the answer to it.

24 Q. Another organization asked whether they  
25 needed a permit to hold an event at Central Park?

1           A.    Uh-huh.  And the mayor said no  
2 organization -- no tax-exempt organization needed a  
3 permit.

4           Q.    How many people attended the Memorial Day  
5 ceremony this spring?

6           A.    I have no idea.

7           Q.    Would you say it was more than a hundred?

8           MS. MARTINEAU:  Objection to the form.

9           THE WITNESS:  I don't know.

10          BY MR. LIPPER:

11          Q.    More than 50?

12          A.    I don't know.

13          Q.    More than 10?

14          A.    Oh, yeah.

15          Q.    So you can say it's more than 10.  More than  
16 20?

17          A.    Yeah.

18          Q.    All right.  So you can tell me it's more than  
19 20.  More than 30?

20          A.    I don't know.

21          Q.    And how many people typically attend -- or  
22 how many people attended the Veterans Day ceremony you  
23 attended last year?

24          A.    I don't know that.  We don't count.

25          Q.    Would you say more than 50?

1 A. Probably.

2 Q. More than a hundred?

3 A. I don't know.

4 Q. Okay. And what does American Legion do to  
5 publicize -- or let me ask this again.

6 What did American Legion do to publicize this  
7 year's Memorial Day ceremony?

8 A. We did nothing.

9 Q. Who handled the publicity?

10 A. I believe the Arts Council.

11 Q. And does American Legion have any plans to  
12 help publicize the Veterans Day ceremony next month?

13 A. No.

14 Q. Is that going to be the Arts Council as well?

15 A. If it's publicized. The citizens of King  
16 have it every year.

17 Q. Okay. And I take it you rely on that, just  
18 general knowledge?

19 A. Right.

20 Q. Who is your contact at the Stokes County Arts  
21 Council for the purpose of organizing these events?

22 A. Eddie McGee.

23 Q. Does American Legion or Mr. Bennett have  
24 periodic meetings with Mr. McGee to handle the  
25 organization?

1 A. No.

2 Q. How do Mr. Bennett or Mr. McGee coordinate?

3 A. By phone.

4 Q. And does American Legion have any documents  
5 related to organizations? Is there a checklist or  
6 invitations or correspondence or anything like that?

7 A. The American Legion does not. The Arts  
8 Council has a form that they check off.

9 Q. All right. And did American Legion make any  
10 changes -- after the City told American Legion that the  
11 City could not be involved anymore, did American Legion  
12 make any changes to the program?

13 A. No.

14 Q. So you simply took the previous year's  
15 program and updated it for the current year?

16 A. It's been that way since the inception.

17 Q. And so nothing has changed in terms of the  
18 program?

19 A. No.

20 Q. All right. Why didn't American Legion  
21 decide, you know, "Let's" -- "Now that we're in charge,  
22 let's do something different"?

23 A. Well, the American Legion and the City of  
24 King got together and made this program to start with.

25 Q. Okay. And what about -- it's my

1 understanding that the City had already invited a  
2 speaker to speak at the Memorial Day ceremony in 2013.  
3 Did American Legion choose to invite a different  
4 speaker or follow up with that speaker?

5 A. I have no knowledge of that.

6 Q. So you don't know one way or another --

7 A. No.

8 (Holland Exhibit 4 marked for identification.)

9 BY MR. LIPPER:

10 Q. Mr. Holland, I'm handing you what's been  
11 marked as Exhibit 4. Take a look at this. Let me know  
12 when you're ready.

13 A. Okay.

14 Q. Have you seen this before?

15 A. I have.

16 Q. What is this?

17 A. It's the Arts Council's check-off.

18 Q. And do you know where the Arts Council got  
19 this?

20 A. I have no -- I guess they made it  
21 themselves.

22 Q. All right. Did you get a copy of this from  
23 the Arts Council?

24 A. No, I did not. I got a copy of it after the  
25 fact. I did not have one before it was organized.



1 Q. So when did you get a copy of this document?

2 A. I asked Eddie McGee for one. I asked him --  
3 I had a question about how the advertisements were  
4 posted.

5 Q. And Mr. McGee gave you this document?

6 A. Uh-huh.

7 Q. Why were you speaking to Mr. McGee about the  
8 advertisements?

9 A. Because I needed to know whether we needed to  
10 do anything about it.

11 Q. And he told you the Arts Council was handling  
12 it?

13 A. He did.

14 Q. When did you have this conversation with  
15 Mr. McGee?

16 A. It was back in the summer.

17 Q. Was this by phone or email or in person?

18 A. By phone.

19 Q. Other than this discussion with Mr. McGee  
20 about advertising, have you had any other conversations  
21 about the organizing of these events?

22 A. No, I haven't.

23 Q. Why were you asking Mr. McGee about the  
24 advertisements over the summer?

25 A. Because we had taken it over and I didn't

1 know what our involvement would be as far as  
2 expenditures for advertising.

3 Q. How much money did American Legion spend on  
4 the event -- the Memorial Day event this year?

5 A. I don't know.

6 Q. Was it more or less than American Legion had  
7 spent on previous years' ceremonies?

8 A. Probably the same, just for the wreath.

9 Q. And how much money does American Legion plan  
10 to spend on this year's Veterans Day ceremony?

11 A. Same thing.

12 Q. Would that be the same amount that it had  
13 spent on previous Veterans Day ceremonies?

14 A. Depends on the cost of the wreath.

15 Q. Other than the possible fluctuation in the  
16 cost of the wreath, there wouldn't be any additional  
17 expenditures?

18 A. No.

19 Q. Okay. And for the Veterans Day ceremony, is  
20 American Legion making any changes to the previous  
21 year's program?

22 A. Not that I know of.

23 Q. Is American Legion involved in selecting the  
24 speakers for the Veterans Day ceremony?

25 A. Yes.

1 Q. And who has American Legion invited to speak?

2 A. I have no idea.

3 Q. So that would be Mr. --

4 A. That would be Mr. Bennett.

5 Q. And will the mayor be invited to speak this  
6 year?

7 A. I do not know.

8 Q. Do you know who will be laying the wreath?

9 A. No, I don't.

10 Q. And how does American Legion know which  
11 pavers to dedicate at the ceremony?

12 A. They get a list from the City of who has paid  
13 for a paver.

14 Q. Do you know who from American Legion is  
15 responsible for that?

16 A. It would be the commander.

17 Q. So Mr. Bennett?

18 A. Uh-huh.

19 (Holland Exhibit 5 marked for identification.)

20 BY MR. LIPPER:

21 Q. All right. Court reporter has handed you  
22 what's been marked as Exhibit 5. Take a look at this  
23 and let me know when you're ready.

24 A. I'm ready.

25 Q. All right. Do you recognize this image?

1 A. I do.

2 Q. And what is it we're looking at here?

3 A. It is the silhouette of the soldier kneeling  
4 at a gravesite of a fallen comrade.

5 Q. All right. And why do you say that he's  
6 kneeling at the gravesite of a fallen comrade?

7 A. Because there's a mound of dirt there and a  
8 cross, which marks his grave.

9 Q. Does a cross mark all graves of fallen  
10 soldiers?

11 A. No.

12 Q. Why do you look at a cross and say it marks  
13 the grave?

14 A. Because it's a permanent grave.

15 Q. All right. So you think it's a permanent  
16 grave?

17 A. Yes.

18 Q. And why is that?

19 A. Because the soldier is coming back to pay his  
20 respects.

21 Q. Why would the soldier have his rifle at a  
22 permanent cemetery?

23 A. Well, it's -- to me, this is -- it's a  
24 battlefield thing, but this is a depiction of the  
25 battlefield grave.

1 Q. So it's not a permanent grave in a cemetery.

2 It's a grave --

3 A. It's a grave somewhere where a comrade has  
4 fallen.

5 Q. So on the battlefield itself?

6 A. Well, it could be.

7 Q. What else could it be?

8 A. Well, it could be drug off the battlefield  
9 and buried someplace else very hastily.

10 Q. If a soldier is burying someone on the  
11 battlefield, where are they getting the cross?

12 MS. MARTINEAU: I'm going to object to the  
13 form of the question. This is beyond the scope of  
14 30(b)(6). Is this just in his individual capacity?

15 MR. LIPPER: No. This is part of the  
16 30(b)(6).

17 MS. MARTINEAU: It is? Okay.

18 THE WITNESS: I suppose a cross is easier to  
19 get than a headstone.

20 BY MR. LIPPER:

21 Q. Is that something -- I mean, are soldiers  
22 carrying around crosses?

23 A. No, but they use sticks and everything else.

24 Q. Okay. So to the extent they're putting  
25 together a cross, it would be put together with sticks?

1           A.    It could be.  It could be put together with  
2 boards.  It could be put together with anything.

3           Q.    And when you say "with boards," where would  
4 the -- where would the boards come from?

5           A.    Wherever they could scavage them from.

6           Q.    And if a cross was put together with sticks,  
7 I take it it wouldn't look like the cross in this  
8 photo?

9           A.    No, but it would still be a cross.

10          Q.    And do you look at this soldier and see  
11 someone from a particular war?

12                MS. MARTINEAU:  Objection to the form of the  
13 question.  Beyond the scope of 30(b)(6).

14                THE WITNESS:  Do I have to answer it?

15                MS. MARTINEAU:  Yes.

16                THE WITNESS:  It could be from World War II,  
17 Korea, or Vietnam.

18                BY MR. LIPPER:

19           Q.    And why do you say that?

20           A.    Because it appears to me to be an M-1 rifle,  
21 and the M1 was used in all three of those wars.

22           Q.    And what about the rifle tells you it's an M1  
23 rifle?

24                MS. MARTINEAU:  Same objection.

25                THE WITNESS:  Well, in Vietnam there were

1 no -- they had used carbines, and they also used  
2 another type of weapon that had clips on them. This  
3 has no clip.

4 BY MR. LIPPER:

5 Q. And does American Legion have a position as  
6 to whether this kneeling soldier is intended to be a  
7 memorial to soldiers from a particular war?

8 A. No.

9 Q. So from American Legion's perspective, this  
10 is a memorial that honors all fallen soldiers?

11 A. Exactly.

12 Q. And I take it not only all fallen soldiers  
13 but all veterans, more generally; is that correct?

14 A. Yes.

15 Q. And does American Legion have any concerns  
16 that the cross marker suggests a Christian soldier but  
17 no other soldier?

18 A. No, I don't think so.

19 Q. Why not?

20 A. It's a grave marker, period.

21 Q. But would this be a grave marker for a  
22 non-Christian?

23 A. Could be.

24 Q. And how could it be a marker for a  
25 non-Christian?

1           A.     Because it's just a grave marker where a  
2 fallen soldier has died. We don't know what their  
3 religion are.

4           Q.     Well, but why would -- if a soldier who fell  
5 in the battlefield was Jewish or Buddhist or atheist or  
6 Muslim, why would they be marked with a cross?

7           A.     Because to me X marks the spot where a fallen  
8 soldier is, and this -- it's just a symbol of a fallen  
9 soldier.

10          Q.     All right. And when you served, were you  
11 aware of any symbols other than crosses being used to  
12 mark graves on the battlefield?

13          A.     I was never on the battlefield.

14          Q.     Okay. Are you aware -- whether or not you  
15 were on the battlefield, are you aware of any other  
16 symbols being used to mark someone's grave?

17                 MS. MARTINEAU: I'm sorry. Are these  
18 individual questions?

19                 MR. LIPPER: This is individual.

20                 THE WITNESS: Temporarily.

21                 BY MR. LIPPER:

22          Q.     Okay. And what other symbols would be used?

23          A.     A rifle.

24          Q.     Anything else?

25          A.     Not that I know of.



1 Q. Okay. And if the design of this statue -- if  
2 the cross were replaced with a rifle, would that be an  
3 equally effective way of memorializing fallen soldiers?

4 A. I don't think so.

5 Q. Why not?

6 A. Because it would be a temporary marker. If  
7 we had to withdraw from a battlefield, the enemy could  
8 come over and take the weapon and use it against us.

9 Q. But it was -- a rifle had been used, correct,  
10 as a temporary marker?

11 A. It has been, yes.

12 Q. And obviously nobody is going to steal the  
13 silhouette rifle, right, and use it against anyone; is  
14 that correct?

15 A. I wouldn't think so.

16 Q. So why wouldn't it be -- if the rifle was  
17 used to mark battlefield graves, why wouldn't the rifle  
18 be an equally appropriate means of marking the grave --  
19 the battlefield grave of a fallen soldier?

20 MS. MARTINEAU: Objection. Beyond the scope  
21 of 30(b)(6).

22 THE WITNESS: The rifle would be a temporary  
23 marker only.

24 BY MR. LIPPER:

25 Q. But I thought we were talking about

1 battlefield markers.

2 A. Well, I still say that I don't agree with it,  
3 because if you had to retreat from the battlefield, the  
4 enemy would get the rifle and use it against you.

5 Q. All right. What about some other marker that  
6 wasn't a rifle that couldn't be picked up by an enemy  
7 soldier? Would that be an appropriate way to  
8 commemorate fallen soldiers?

9 MS. MARTINEAU: Objection. Beyond the scope  
10 of 30(b)(6).

11 THE WITNESS: I don't think so.

12 BY MR. LIPPER:

13 Q. Why not?

14 A. What symbol would you use?

15 (Holland Exhibit 6 marked for identification.)

16 BY MR. LIPPER:

17 Q. Let's do this. The court reporter has handed  
18 you what's been marked as Exhibit 6. Mr. Holland, this  
19 is an expert report prepared on the plaintiff's behalf  
20 by a military history professor. Have you seen this  
21 report before?

22 A. I have not.

23 Q. All right. I'm going to ask you to turn --

24 MR. HICKS: I object to the extent you're  
25 going to ask him any questions about a report he hasn't

1 read.

2 BY MR. LIPPER:

3 Q. That's fine. If you want to turn to page 8  
4 of the report -- if you see on page 8, there's a number  
5 of photos.

6 A. Uh-huh.

7 Q. All right. So the photo on the top left  
8 where it looks like a rifle with a helmet on top of it.

9 A. Yes, sir.

10 Q. And does that -- from as far as you can tell,  
11 does that look like the battlefield or a temporary  
12 marker?

13 A. It could be.

14 Q. And, in your view, that would be  
15 inappropriate to include in the silhouette because were  
16 this used in real life, it could be taken by the enemy  
17 and used against America?

18 MS. MARTINEAU: Objection. Beyond the scope  
19 of 30(b)(6).

20 THE WITNESS: It could be.

21 BY MR. LIPPER:

22 Q. And what about -- if you look in the middle  
23 photograph on the bottom row, do you see where the  
24 arrow is pointing to -- looks like a stick with a  
25 helmet on top of it?

1 A. Uh-huh.

2 Q. Does that look to be marking a fallen  
3 soldier?

4 A. I couldn't make a comment on that. I don't  
5 know.

6 Q. Okay. And then if you look at the photo on  
7 the bottom half of the page, does that look like the  
8 kind of a cross put together from sticks that you were  
9 describing earlier?

10 A. That could be, yes.

11 Q. All right. And then if you turn to page 14,  
12 if you see on the bottom of page 14, there are a couple  
13 of photographs. In the photograph on the left, if the  
14 statue had used the marker reflected in the photograph  
15 on the left, would that be an appropriate way to honor  
16 fallen soldiers?

17 A. I don't think anybody would know what it  
18 meant.

19 Q. If this were, in fact, used to mark the  
20 graves of soldiers during wartime, would it be  
21 appropriate?

22 MS. MARTINEAU: Objection. Beyond the scope  
23 of 30(b)(6).

24 MR. LIPPER: I'm just going to note for the  
25 record that the 30(b)(6) includes American Legion's

1 involvement in the soldier statue, which, of course,  
2 they've intervened to defend, so I think these  
3 questions are not only within the scope of the notice  
4 but perhaps at the heart of it.

5 BY MR. LIPPER:

6 Q. You can go ahead.

7 A. To me, that is still a marker that people  
8 would not understand because the cross has been a  
9 symbol of death for centuries.

10 Q. For all soldiers, regardless of their faith?

11 A. Yes.

12 Q. So you think that someone -- or American  
13 Legion thinks that someone looking at this statue and  
14 see the cross and think that a non-Christian soldier  
15 might be buried under there?

16 MS. MARTINEAU: Objection. Beyond the scope  
17 of 30(b)(6).

18 THE WITNESS: I think so.

19 BY MR. LIPPER:

20 Q. And why is that?

21 A. Nazi cemeteries have crosses for their  
22 markers. They're not Christians.

23 Q. When you say "Nazi cemeteries," what do you  
24 mean?

25 A. I mean all German military cemeteries are

1 marked with crosses.

2 Q. And are you saying we want to be replicating  
3 the burial practices of the Nazis?

4 MS. MARTINEAU: Objection. Beyond the scope.

5 MR. HICKS: Argumentative. Objection.

6 BY MR. LIPPER:

7 Q. You may answer.

8 A. A cross is just a spot where a fallen comrade  
9 is buried. Doesn't matter what religion.

10 Q. But not all soldiers were buried under  
11 crosses, right? I mean, Jewish soldiers would have  
12 been buried under something else; is that correct?

13 A. A lot of the Jewish soldiers would be buried  
14 with a cross with a star of David right in the center  
15 where the cross is.

16 Q. And if a Jewish soldier had been buried under  
17 a star of David, is it in your view still appropriate  
18 to honor them using a cross?

19 A. Yes, because they do it today.

20 Q. So you think that today, Jewish soldiers --  
21 the graves of Jewish soldiers on the battlefield are  
22 marked by crosses?

23 A. Sometimes.

24 Q. When does that happen?

25 A. I guess when a soldier dies.

1 Q. So is it American Legion's position that in  
2 wartime today the graves of non-Christian soldiers are  
3 marked by crosses?

4 MS. MARTINEAU: Objection. Beyond the scope  
5 of 30(b)(6).

6 THE WITNESS: It's just a symbol for a fallen  
7 comrade. It doesn't matter what religion they are.

8 BY MR. LIPPER:

9 Q. But --

10 A. Because we don't know what religion they are.

11 Q. Let me get back to my question. Soldiers  
12 wear dog tags, right, that has their religion marks?  
13 Is that your understanding?

14 A. Wear what?

15 Q. Dog tags.

16 A. Yes.

17 Q. And dog tags reflect the soldier's religion;  
18 is that correct?

19 A. Yes.

20 Q. And so is it your position that even when a  
21 soldier has a dog tag that reflects that they are --  
22 practice a religion other than Christianity, they would  
23 still be marked by a cross?

24 A. Yes.

25 MS. MARTINEAU: Objection. Beyond the scope.

1 BY MR. LIPPER:

2 Q. And that is something you think we should be  
3 commemorating?

4 MS. MARTINEAU: Same objection.

5 THE WITNESS: Yes.

6 BY MR. LIPPER:

7 Q. And you think that is entirely appropriate,  
8 for a non-Christian soldier to have their grave marked  
9 by a cross?

10 MS. MARTINEAU: Same objection.

11 THE WITNESS: We don't feel that the cross  
12 used in this instance is a Christian symbol, period.  
13 It's merely a marker to denote a fallen comrade.

14 BY MR. LIPPER:

15 Q. And you believe that it is appropriate to use  
16 the cross to mark the grave even of a non-Christian  
17 soldier?

18 A. Yes.

19 MS. MARTINEAU: Objection. Beyond the scope.

20 BY MR. LIPPER:

21 Q. And you believe that that is, in fact, done  
22 today?

23 MS. MARTINEAU: Objection. Beyond the scope.

24 THE WITNESS: I would think so.

25 BY MR. LIPPER:



1 Q. Why would you think so?

2 A. Because it's been done for centuries.

3 Q. All right. For centuries. Not in the United  
4 States, of course?

5 A. Well, the United States hadn't been here that  
6 long.

7 Q. So if you're wrong about that, if it hasn't  
8 been done for centuries, would that change American  
9 Legion's opinion?

10 MS. MARTINEAU: Same objection. Beyond the  
11 scope.

12 THE WITNESS: I don't think so.

13 BY MR. LIPPER:

14 Q. So whether or not the cross has been used to  
15 mark the graves of non-Christian soldiers for  
16 centuries, American Legion believes that the cross  
17 should be used in this silhouette?

18 A. Yes.

19 Q. Because why?

20 A. Because it's a symbol of a fallen comrade.  
21 It's an international symbol.

22 Q. It's an international symbol of a fallen  
23 comrade?

24 A. Yes, it is.

25 Q. Where would I look that up?

1           A.    Do you have Google on your computer? Look up  
2 military cemeteries in France, Italy, Russia, Germany.

3           Q.    I thought we just established this wasn't a  
4 permanent cemetery.

5           A.    It could be or it could not be.

6           Q.    Well, but if it were a permanent cemetery,  
7 the soldier wouldn't have his rifle, correct?

8           A.    Which soldier?

9           Q.    The soldier kneeling before the cross right  
10 here.

11          A.    It depends.

12          Q.    So are you aware of instances in which a  
13 soldier in uniform with his rifle would be visiting a  
14 permanent cemetery?

15                MS. MARTINEAU: Is this a 30(b)(6) question  
16 or a personal question?

17                MR. LIPPER: This is a 30(b)(6) question.

18                MS. MARTINEAU: Objection. Beyond the scope.

19                THE WITNESS: I do not know.

20                BY MR. LIPPER:

21          Q.    In your individual capacity, have you ever  
22 heard of a soldier visiting a permanent cemetery in  
23 full uniform with a rifle?

24          A.    In my personal life, no.

25          Q.    And turning to page 15 of the report, if you

1 look in the bottom -- the photograph on the bottom  
2 left, does that look like a temporary cemetery to you?

3 A. I can't make that determination. Probably.

4 Q. And you see there's a cross on the right, and  
5 then there are three triangular symbols to the left of  
6 the cross?

7 A. Yes.

8 Q. And assuming the cross is marking a fallen  
9 soldier, would you say that the other symbols are  
10 marking a fallen soldier as well?

11 A. Probably.

12 Q. And would any of those symbols, the three  
13 symbols on the left, be an appropriate way to  
14 commemorate a fallen soldier on the statue?

15 MS. MARTINEAU: Objection. Beyond the scope.

16 THE WITNESS: I don't think so, no.

17 BY MR. LIPPER:

18 Q. Why not?

19 A. Because the public would not know what it is.

20 Q. Has American Legion done any surveys of what  
21 the public would know?

22 A. No.

23 Q. So on what basis do you say that the public  
24 wouldn't know what it was?

25 A. Because I don't know what they are. I'm a

1 military man.

2 Q. What if the marker, the triangular marker,  
3 replaced the cross and a little placard was put up near  
4 the statue explaining what it was? Would that satisfy  
5 American Legion's concerns?

6 MS. MARTINEAU: Objection. Beyond the scope.

7 THE WITNESS: No.

8 BY MR. LIPPER:

9 Q. Why not?

10 A. Because, once again, who's going to get down  
11 and read a little plaque?

12 Q. What if the sign were bigger?

13 A. No.

14 MS. MARTINEAU: Same objection.

15 BY MR. LIPPER:

16 Q. Why not?

17 A. Because it does not represent what the  
18 American people are used to seeing.

19 Q. And because the American people are used to  
20 seeing a cross, the statue should have a cross?

21 A. Yes.

22 Q. All right. Now, would your view that the  
23 American people are not -- wouldn't know what the  
24 marker meant, would that apply to the rifle as well?

25 MS. MARTINEAU: Objection. Beyond the scope.

1 THE WITNESS: I think they would probably  
2 recognize that.

3 (Holland Exhibit 7 marked for identification.)

4 BY MR. LIPPER:

5 Q. Court reporter has handed you what has been  
6 marked as Exhibit 7. Take a look at this. Let me know  
7 when you're ready.

8 A. Okay.

9 Q. So, Mr. Holland, have you seen the image to  
10 the left -- so if you see, there's a title that says  
11 "Fallen Soldier Wood Crafting Pattern," and then you  
12 see there's a green image on the top left?

13 A. With the TWC?

14 Q. I'm sorry. With the --

15 MR. HICKS: No, the picture of the soldier.

16 BY MR. LIPPER:

17 Q. The picture of the soldier.

18 A. Yes.

19 Q. Does that strike you as an appropriate fallen  
20 soldier?

21 A. No, sir.

22 Q. And why not?

23 A. Because this symbol with the boots and the  
24 helmet is a ceremonial thing that a soldier is not  
25 there. Usually if a soldier is killed in Iraq, he's a

1 member of the -- he come out of Fort Bragg -- they  
2 would have this lined up with all the other soldiers,  
3 these boots with a helmet, and they would have a  
4 ceremony, and the soldier wouldn't be there.

5 Q. And so you think this isn't something -- the  
6 boots and the rifle and the helmet, you think is not  
7 something that would have been used on the battlefield?

8 A. No, sir.

9 Q. If you're wrong and if it, in fact, had been  
10 used on the battlefield, would it become an appropriate  
11 way of commemorating a fallen soldier?

12 A. I don't think you would ever -- well, you may  
13 see a boot on a battlefield, but I -- I don't know of  
14 any.

15 Q. All right. And let's just say that --  
16 suppose I represent to you -- I understand you don't  
17 have to agree with me -- but suppose the image here --  
18 the rifle and the boots and the helmet were used, had  
19 been used on the battlefield to mark a fallen soldier.  
20 Would it then be appropriate to use in a statue paying  
21 tribute to fallen soldiers?

22 MS. MARTINEAU: Objection. Beyond the scope.

23 THE WITNESS: This particular one, no.

24 BY MR. LIPPER:

25 Q. And why not?

1           A.     Because that is definitely a Vietnam War  
2 weapon.  It would not represent soldiers other than  
3 Vietnam War and Gulf War.

4           Q.     Well, but the rifle in the City's memorial,  
5 you just told me, was World War II, Korea, and Vietnam,  
6 correct?

7           A.     Correct.

8           Q.     And so does that statue represent soldiers  
9 who fought in wars other than those three?

10           MS. MARTINEAU:  Beyond the scope.

11           THE WITNESS:  I don't know.

12           BY MR. LIPPER:

13           Q.     So I take it American Legion does not object  
14 to the current statue even though the rifle there would  
15 have been used for only three wars, correct?

16           A.     That's correct.

17           Q.     All right.  So, in your view, the current  
18 statue is intended to pay tribute to a soldier who lost  
19 his life in Iraq or Afghanistan, correct?

20           A.     It is.

21           Q.     Even though the rifle depicted in the City's  
22 soldier was not used in Iraq or Afghanistan.

23           A.     That's correct.

24           Q.     So turning back to Exhibit 7, why does the  
25 fact that the rifle -- I'm sorry -- Exhibit 7, the one

1 you have in front of you. Why does the fact that the  
2 rifle there as a Vietnam Era rifle say to you that  
3 veterans of other wars are excluded?

4 A. It's just a new type weapon that one  
5 particular era used.

6 Q. In your view, for a statue to be inclusive of  
7 all veterans, does it have to reflect a rifle used from  
8 every war?

9 A. It doesn't have to be, no.

10 Q. So why is it that the rifle in Exhibit 7 is  
11 somehow problematic?

12 A. Well, I just don't think that that particular  
13 rifle is appropriate.

14 Q. Why not?

15 A. I just don't like it.

16 Q. Why don't you like it?

17 A. Because to me that would represent only the  
18 Gulf War, for this particular weapon, and possibly the  
19 Vietnam War.

20 Q. And why is that a problem?

21 MS. MARTINEAU: Objection. Asked and  
22 answered.

23 THE WITNESS: The M1 rifle, everyone  
24 recognizes. This could be a Russian rifle. It could  
25 be anything. It could be an AK-47. You don't know



1 what type of weapon that is.

2 BY MR. LIPPER:

3 Q. Is it your view that someone would look at  
4 this image and think that was something other than a  
5 soldier?

6 MS. MARTINEAU: Beyond the scope of 30(b)(6).

7 THE WITNESS: No.

8 BY MR. LIPPER:

9 Q. So why does it -- why does it matter if the  
10 viewer couldn't pinpoint the precise manufacturer of  
11 the rifle?

12 MS. MARTINEAU: Beyond the scope of 30(b)(6).  
13 Objection.

14 BY MR. LIPPER:

15 Q. You may answer.

16 A. It doesn't make any difference to me.

17 Q. And so what is it, then, that's a problem  
18 with this rifle?

19 MS. MARTINEAU: Same objection.

20 THE WITNESS: Same thing. It's modern-day  
21 warfare.

22 BY MR. LIPPER:

23 Q. But I thought we were seeking to honor  
24 veterans of the modern war as well.

25 A. We are.

1 Q. So why is it a problem to have a modern  
2 rifle?

3 MS. MARTINEAU: Same objection. Beyond the  
4 scope of 30(b)(6).

5 THE WITNESS: Because the M1 weapon is the  
6 weapon that's been used for years. That's the weapon  
7 we use in our ceremonies. We don't use an AK-47 or  
8 whatever this thing is. It's not an AK-47. I don't  
9 know what it is.

10 BY MR. LIPPER:

11 Q. But, I mean, the M1 rifle was used only for  
12 three wars, you just told me.

13 A. It was used for three wars.

14 Q. And the City's memorial, even using a rifle  
15 that was used only for three wars, is nonetheless  
16 intended to represent soldiers from all wars; is that  
17 correct?

18 A. Yes.

19 Q. But for some reason the rifle in Exhibit 7 is  
20 representative of only the wars it was used in. Is  
21 that what you're saying?

22 MS. MARTINEAU: Objection. Beyond the scope.  
23 Go ahead, sir.

24 THE WITNESS: It's not only the weapon. I  
25 object to the boots.

1 BY MR. LIPPER:

2 Q. And why do you object to the boots?

3 A. Because it's -- boots are seldom ever left  
4 behind, period. I mean, you don't take the boots off a  
5 soldier and bury him. Most boots were recycled.

6 Q. And so if the boots would be removed from  
7 this image, would, at that point, it be appropriate?

8 MS. MARTINEAU: Objection. Beyond the scope.

9 THE WITNESS: It could be.

10 BY MR. LIPPER:

11 Q. Okay. Let me just ask you more generally  
12 from the American Legion's perspective. Is the goal of  
13 a veterans memorial, is it to be a precise  
14 representation of something that actually happened, or  
15 is it to serve as a symbol of soldier sacrifice?

16 A. It's to serve as a symbol of soldier  
17 sacrifice.

18 MR. LIPPER: All right. Let's take a break.

19 (A recess was taken.)

20 BY MR. LIPPER:

21 Q. Mr. Holland, could we turn back to Exhibit 5,  
22 the image of the kneeling-soldier statue? I just want  
23 to clarify one thing. If the cross were replaced by,  
24 for instance, one of the triangular markers we looked  
25 at a few minutes ago and the soldier was kneeling in

1 front of it, is it American Legion's position that the  
2 public would nonetheless not be able to figure out what  
3 the scene represented?

4 A. I don't think they would.

5 Q. And why is that?

6 MS. MARTINEAU: I'm objecting. I think it's  
7 beyond the -- I know you disagree. I think it's beyond  
8 the scope of 30(b)(6).

9 BY MR. LIPPER:

10 Q. But if a soldier were kneeling in front of  
11 it, what would you think it -- I mean, what else could  
12 it be?

13 MS. MARTINEAU: Same objection.

14 THE WITNESS: I have no idea.

15 (Holland Exhibit 8 marked for identification.)

16 BY MR. LIPPER:

17 Q. Okay. Court reporter has handed you what's  
18 been marked as Exhibit 8, and I want to turn to the  
19 image of the soldier kneeling in front of the rifle  
20 with the helmet. I know we've talked about variance of  
21 this, but does this image -- assuming this photograph  
22 is authentic, would a statue depicting this image  
23 adequately memorialize veterans?

24 MS. MARTINEAU: Beyond the scope of 30(b)(6).  
25 Objection.

1 THE WITNESS: It could, yes.

2 BY MR. LIPPER:

3 Q. Would it, in American Legion's view,  
4 memorialize veterans less effectively than the current  
5 design?

6 MS. MARTINEAU: Same objection.

7 THE WITNESS: As far as veterans would  
8 recognize it. I'm not sure that the general public  
9 would.

10 BY MR. LIPPER:

11 Q. So you think if a member of the public saw  
12 this soldier kneeling in front of the rifle and the  
13 helmet, they wouldn't know what that reflected?

14 MS. MARTINEAU: Same objection.

15 THE WITNESS: They may.

16 BY MR. LIPPER:

17 Q. Okay. Can you describe for me what role  
18 American Legion had in the construction or design of  
19 that kneeling-soldier statue?

20 A. We had no role in it. The beautification  
21 committee selected this. One of our members cut it  
22 out. It's an international symbol. It's easily  
23 recognized by all Americans as a gravesite, and we  
24 support it.

25 Q. All right. And how did your member -- the

1 member who cut it out, are you referring to  
2 Mr. Calloway?

3 A. Uh-huh.

4 Q. How did he get selected to cut out the  
5 design?

6 A. Because he's a welder.

7 Q. All right. And so who contacted him?

8 A. I'm not sure if -- it's probably the  
9 beautification committee or the Arts Council, one of  
10 them. I would assume that it's the beautification  
11 committee.

12 Q. And do you know what -- where the design --  
13 in other words, where the City found the design that  
14 was presented to Mr. Calloway?

15 A. I don't know where they found it. I do know  
16 it's a Winfield Collection.

17 Q. And you weren't involved -- the American  
18 Legion wasn't involved at the time --

19 A. We were not involved in the construction of  
20 it, selection of it, or anything else.

21 Q. Did anyone from American Legion attend the  
22 city council meeting when the design was approved?

23 A. I don't know.

24 (Holland Exhibit 9 marked for identification.)

25 BY MR. LIPPER:

1 Q. All right. Court reporter has handed you  
2 what's been marked as Exhibit 9. Take a look at this  
3 and let me know when you're ready.

4 A. Okay.

5 Q. All right. So do you recognize this  
6 document?

7 A. I do.

8 Q. And this is an affidavit that you signed; is  
9 that correct?

10 A. I did sign it.

11 Q. The signature on page 6 is yours?

12 A. Yes, sir.

13 Q. And you obviously, when you signed this, did  
14 so under penalty of perjury; is that correct?

15 A. I did.

16 Q. So I want to turn to page 3 of the affidavit,  
17 and, in particular, I want to read to you starting at  
18 paragraph 13.

19 First of all, "In 2009 the Stokes County Arts  
20 Council suggested adding the statue to the Veterans  
21 Memorial to the King Community Appearance Committee."  
22 Do you still believe that to be true?

23 A. No, but at the time I did.

24 Q. And why did you believe that to be true at  
25 the time?

1 A. Just from general conversation with people.

2 Q. And what people led you to believe that?

3 A. Just different people within the American  
4 Legion.

5 Q. Anyone in particular --

6 A. No.

7 Q. -- tell you that Stokes County Arts Council  
8 suggested adding the statue?

9 A. No.

10 Q. And paragraph 15 says, "The Stokes County  
11 Arts Council obtained the pattern for the statue from  
12 The Winfield Collection, a company selling patterns  
13 online for use in wood and metal craft projects." Do  
14 you still believe that to be true?

15 A. No, but at the time I did.

16 Q. And, again, you can't tell me who had given  
17 you the impression that it was the Stokes County Arts  
18 Council that had obtained the pattern?

19 A. At the time this was done, I was in the  
20 hospital flat on my back. I was making phone calls  
21 trying to figure out how to answer these questions. I  
22 was sedated a lot of the time, and there was some  
23 mistakes made, and I think we have since corrected  
24 those.

25 Q. Okay. And just so I'm clear, in



1 paragraph 17, where it says, "Chairwoman Hunsucker  
2 presented the idea for the statue to American Legion  
3 Post 290 for the organization's input."

4 A. That is not correct.

5 Q. That's not correct. And do you recall who  
6 led you to believe that it was correct?

7 A. No, I don't, because, like I said, I was in  
8 the hospital.

9 Q. And I hope you have recovered.

10 Paragraph 18, where it says, "American Legion  
11 Post 290 suggested that the pattern be slightly altered  
12 from that available in The Winfield Collection catalog  
13 through replacing the generic rifle silhouette with one  
14 that reflected the rifles used from World War II  
15 through the Vietnam War."

16 And, again, that is -- I take it you no  
17 longer understand that to be correct.

18 A. That is not true.

19 Q. Do you recall who led you to believe that was  
20 true?

21 A. No, I do not.

22 Q. All right. And paragraph 19, "The CAC  
23 accepted American Legion Post 290's recommendation to  
24 alter the statue to reflect a rifle type used in World  
25 War II and the Vietnam War." Again, you no longer

1 understand that to be true, correct?

2 A. I no longer understand that to be true.

3 Q. And do you recall who had led you to believe  
4 that at the time?

5 A. I do not.

6 Q. How did American Legion realize that these  
7 statements were not true?

8 A. I didn't realize that they were not true  
9 until a few months after I got out of that. And when  
10 the American Legion -- I don't know when they got a  
11 copy of it or anything else. I did not give anybody a  
12 copy of this.

13 Q. So when did you find out that some of these  
14 statements weren't true?

15 A. Probably during the summer after I had  
16 recovered and my wife had recovered.

17 Q. And was there a particular person that gave  
18 you the correct information, or was it looking at some  
19 sort of document that --

20 A. Barbara Hunsucker told me.

21 Q. And when did you have the conversation with  
22 Barbara Hunsucker?

23 A. Sometime during summer.

24 Q. And how did this topic come up in your  
25 conversation?

1           A.    She just told me a bunch of that stuff in the  
2 letter wasn't true.  I asked her what was it and she  
3 told me.

4           Q.    And do you know how it came to be that she  
5 had seen the affidavit?

6           A.    I do not.

7           Q.    And so Ms. Hunsucker refreshed your  
8 recollection about what, in fact, had happened?

9           A.    Right.

10          Q.    All right.  And you said it was sometime in  
11 the summer?

12          A.    I think so, yes.

13          Q.    Do you remember exactly when?

14          A.    No, I don't.

15          Q.    All right.  Was it June?

16          A.    Well, I was in the hospital in June, so it  
17 could have been.  I got out in June again.  It could  
18 have been in June.  I just don't know.  I don't  
19 remember.

20                (Holland Exhibit 10 marked for identification.)

21                BY MR. LIPPER:

22          Q.    Okay.  Court reporter has handed you what's  
23 been marked as Exhibit 10.  This is a brief that  
24 American Legion and American Legion Post 290 filed in  
25 support of their motion to intervene in this case, and

1 I want to turn your attention to page 6 of the brief.

2 Have you seen a copy of this brief before?

3 A. I have seen a copy of it several -- it's been  
4 a while.

5 Q. And take whatever time you need to review  
6 whatever you'd like.

7 A. Are you asking off of page 6?

8 Q. Yeah. I'm going to ask you about -- in  
9 page 6 the paragraph that begins "Fourth" and the  
10 sentence that begins "while the Movant-Intervenors"  
11 and -- the sentence reads, "While the  
12 Movant-Intervenors agree with the defendant that  
13 display of the statue is legal, the Movant-Intervenors'  
14 primary concern is defending the statue in its current  
15 or an alternate form as a monument dedicated to  
16 veterans of the United States military." And then  
17 you'll see that "or an alternate form" is in italics.

18 What alternate form of the statue is American  
19 Legion interested in defending?

20 MR. HICKS: Objection. Attorney-client  
21 privilege. I have to instruct my client not to answer  
22 that question.

23 BY MR. LIPPER:

24 Q. Other than alternatives that you've discussed  
25 with your attorney, am I correct that American Legion

1 has not considered any alternatives to the statue?

2 A. We did not build it. We don't have the  
3 authority to change the statue, I don't believe.

4 Q. I understand that. But putting aside whether  
5 the City would have to listen to American Legion,  
6 has -- and, again, I'm not looking for conversations  
7 you may have had with your attorney, but outside of  
8 attorney conversations, has American Legion discussed,  
9 considered, brainstormed any alternative forms for the  
10 kneeling-soldier statue?

11 A. No, we haven't.

12 (Holland Exhibit 11 and 12 marked for identification.)

13 BY MR. LIPPER:

14 Q. All right. The court reporter has handed you  
15 two exhibits: One marked Exhibit 11 and then one  
16 marked Exhibit 12. Let's start with Exhibit 11, which  
17 is an affidavit of Carl Calloway. Have you seen this  
18 affidavit before?

19 A. I have not.

20 Q. All right. Take a moment to review the  
21 affidavit and let me know when you're ready.

22 A. I've read it. I'm ready.

23 Q. Okay. I understand you didn't fill out this  
24 affidavit, but does the information in the affidavit  
25 reflect American Legion's understanding of

1 Mr. Calloway's role in the construction of the statue?

2 A. It reflects my recollection. I talked with  
3 Mr. Calloway about this.

4 Q. All right. And in paragraph 5 in particular,  
5 which is on page 2, the -- I'm going to read it to you.  
6 It says, "During March 2010, I agreed with the City of  
7 King Community Appearance Advisory Commission to  
8 procure all necessary materials for the construction of  
9 the statue and to fabricate the statue. The CAAC  
10 provided me with an actual-size template of the statue,  
11 which the CAAC procured from The Winfield Collection.  
12 I agreed to use the template to fabricate the statue.  
13 The agreement with the CAAC provided for recovery of  
14 the cost of the materials used in fabricating the  
15 statue but did not provide compensation for the time or  
16 labor expended in fabricating the statue. Donation of  
17 the cost for my time and labor are not customary and in  
18 this instance were motivated by my desire to contribute  
19 to the construction of the statue."

20 And you as American Legion understand that --  
21 that to be accurate; is that correct?

22 A. Yes, sir.

23 Q. All right. Turning to Exhibit 12 for a  
24 moment, and there are two pages to this exhibit, but I  
25 want to -- if you look at the first page of Exhibit 12,

1 which appears to be an invoice from Butch's Portable  
2 Welding dated April 8, 2010. And if you look at the  
3 first entry, it says, "3/29/10, Cut from steel plate  
4 and painted a cutout of soldier kneeling." Amount,  
5 \$225.

6 And so my question is, how do I reconcile  
7 this invoice which seems to reflect the \$225 charge for  
8 cutting and painting with Mr. Calloway's representation  
9 in his affidavit that he was not compensated for his  
10 labor?

11 A. If you look on the next page, the invoice, it  
12 says, "Materials only - to fabricate the statue of the  
13 kneeling soldier, \$225."

14 Q. Okay. So let's turn to that, because this  
15 invoice -- if you look at the bottom of this invoice,  
16 it's dated June 4, 2012, and the work was done in --  
17 according to Mr. Calloway's affidavit -- in March 2010;  
18 is that correct?

19 A. That's correct.

20 Q. So why is there a second invoice being  
21 generated two years later reflecting a different  
22 description?

23 A. Because this \$45 is a repair for a backhoe  
24 that Calloway did. That was -- \$45 was his labor.

25 Q. What does "repair to backhoe" mean?

1           A.    That means that he did some welding on the  
2 backhoe for the City.

3           Q.    But isn't cutting and painting also labor?

4           A.    He only charged for the materials.

5           Q.    All right.

6           A.    That is what he told me.  The materials was  
7 \$225.

8           Q.    All right.  And so the 2010 invoice, in your  
9 view, is -- in American Legion's view, is just in  
10 error?

11          A.    The 2010 invoice, I asked him to clarify  
12 this.  I asked him personally to do that.

13          Q.    Yes.  And --

14          A.    So the materials only is what he used to  
15 fabricate the statue of the kneeling soldier.  That's  
16 what he got paid for the kneeling soldier.

17          Q.    So why were you asking him to clarify this in  
18 June of 2012?

19          A.    Because the question had been raised, I  
20 believe, by you-all that he had --

21          Q.    But we didn't -- I mean, I'm a little  
22 confused because we didn't file this lawsuit until  
23 November 2012, so why was this an issue in June 2012?

24          A.    In 2012?

25          Q.    That's what the notary --



1           A.    Well, yeah, 2012 is last year.  That, I have  
2 no idea.

3           Q.    All right.  And why is this invoice being  
4 made out to the Stokes County Arts Council?  I thought  
5 we had established they had not been involved.

6           A.    I have no idea why this was made out to  
7 Stokes.  This invoice was only to clarify this.  It was  
8 not for a payment.

9           Q.    Okay.  So the second invoice, the second page  
10 of Exhibit 12 wasn't an actual invoice that was  
11 actually presented to anyone.

12          A.    No.

13          Q.    All right.  This was made after the fact to  
14 reflect what Mr. Calloway had said in his affidavit?

15          A.    Exactly.

16          Q.    And is it possible that the June 2012 -- is  
17 it possible that was in error and it was meant to be  
18 2013?

19          A.    It could -- I'm sure it was because it was  
20 this year.

21          Q.    All right.  Just so I'm clear, the  
22 second-page invoice was not submitted either to the  
23 City of King or to the Stokes County Arts Council?

24          A.    No.

25          Q.    It is simply sitting in Mr. Calloway's file?

1 A. Right. And was to clarify this bill.

2 Q. Okay. And how would I know that? If I'm  
3 just looking at this invoice, how would I know -- this  
4 second page, how would I know that it hadn't actually  
5 been sent to anyone?

6 A. You wouldn't.

7 Q. All right.

8 A. I'd say it's a clarification only.

9 Q. Okay. Did American Legion understand  
10 Mr. Calloway's work, whether he was donating labor or  
11 materials or nothing or whatever he was doing -- did  
12 American Legion understand Mr. Calloway to be acting on  
13 American Legion's behalf or acting on his own?

14 A. On his own behalf.

15 Q. Okay. And so American Legion didn't  
16 reimburse Mr. Calloway --

17 A. No.

18 Q. -- for any costs he might have incurred?

19 A. No.

20 Q. And American Legion didn't ask Mr. Calloway  
21 to undertake the assignment in the first place?

22 A. No.

23 (Holland Exhibit 13 through 16 marked for  
24 identification.)

25 BY MR. LIPPER:

1 Q. Okay. The court reporter has handed you  
2 exhibits marked 13, 14, 15, and 16. Let's go  
3 through -- let's take a look first at 13 and 14.

4 All right. So Exhibit 13 is an agenda for a  
5 Community Appearance Advisory Commission meeting, dated  
6 March 18, 2010. And if you look on the second page, at  
7 Roman numeral -- I guess it's Roman numeral 11,  
8 "Recommendation of yard shadow figure for Veterans  
9 Memorial," parentheses, "Attachment B." And then you  
10 turn to Attachment B on the back, and you see an image  
11 of a kneeling soldier and a cross.

12 So I think we established American Legion  
13 wasn't involved in this March 18 meeting; is that  
14 correct?

15 A. That's correct.

16 Q. From your perspective, does the image  
17 reflected in the last page of Exhibit 13 differ  
18 materially from the image that the City ended up using?

19 A. It does, but I have seen the pattern myself,  
20 and he cut it out exactly towards the pattern.

21 Q. So I'm just curious. What is the differences  
22 between the image on the back of Exhibit 13 and the  
23 image the City used? What is different about it?

24 A. Little different, the mound and the front of  
25 the cross.

1 Q. Does the mound -- does the presence or  
2 absence of the mound affect, in your view, the message  
3 that's conveyed by the statue?

4 MS. MARTINEAU: Objection. Beyond the scope.

5 THE WITNESS: I think it adds to it.

6 BY MR. LIPPER:

7 Q. What does it add to it?

8 A. It shows that it is definitely a grave.

9 Q. Okay. And so without the mound, it wouldn't  
10 necessarily be a grave?

11 MS. MARTINEAU: Same objection.

12 THE WITNESS: It would be a grave, but it  
13 would not be as effective.

14 BY MR. LIPPER:

15 Q. When you say "as effective," what do you  
16 mean?

17 A. When you see a mound of dirt, to me that  
18 represents a fresh grave.

19 Q. Anything else other than the mound of dirt  
20 that's materially different in your view?

21 A. The helmet is not on this one. The helmet is  
22 on the original pattern that Butch received.

23 Q. Okay. And so does it look to you like this  
24 soldier in Exhibit 13 isn't wearing a helmet?

25 A. It looks like he may be wearing a helmet.

1 Q. He may be wearing a helmet, whereas the  
2 City's image, the helmet is removed?

3 A. It was removed on the pattern that he  
4 received.

5 Q. And what is the significance of the fact that  
6 the soldier in the City's statue has its helmet  
7 removed?

8 MS. MARTINEAU: Objection. Beyond the scope.

9 BY MR. LIPPER:

10 Q. You may answer.

11 A. He just paid his respects.

12 Q. And so the soldier with the helmet in  
13 Exhibit 13 is less likely to be paying his respects  
14 because his helmet is on?

15 A. No.

16 MS. MARTINEAU: Same objection.

17 BY MR. LIPPER:

18 Q. So what is the significance, then, of the  
19 helmet to paying respects?

20 MS. MARTINEAU: Same objection.

21 THE WITNESS: When I pay respect to any  
22 gravesite, if I'm wearing a cap, I normally take it  
23 off.

24 BY MR. LIPPER:

25 Q. And do you know if that's the case for

1 everyone?

2 A. No, I don't.

3 Q. Okay. Other than the helmet and the mound of  
4 dirt, any other -- and feel free, if you need to take a  
5 look at Exhibit 5 to compare them, feel free.

6 MS. MARTINEAU: Is this individual or is  
7 this --

8 MR. LIPPER: This is all 30(b)(6).

9 THE WITNESS: It's in here someplace.

10 MS. MARTINEAU: What are you looking for,  
11 sir?

12 THE WITNESS: I was looking for the big  
13 picture.

14 MR. HICKS: Here you go.

15 THE WITNESS: The cross --

16 MS. MARTINEAU: If there was a question  
17 pending, I wasn't aware of it. I just want to put my  
18 objection, beyond the scope of 30(b)(6).

19 BY MR. LIPPER:

20 Q. You can go ahead and answer.

21 A. The weapons are turned differently. The  
22 cross is slanted on the picture.

23 Q. So does the angle of the weapon have any  
24 impact on how you would view the image?

25 MS. MARTINEAU: Same objection.

1 THE WITNESS: No.

2 BY MR. LIPPER:

3 Q. And what about the slanted -- the tilt of the  
4 cross, would that have an impact on how you would  
5 view --

6 A. It doesn't bother me.

7 MS. MARTINEAU: Same objection.

8 BY MR. LIPPER:

9 Q. Whether it bothers you, does it convey  
10 anything different to you?

11 MS. MARTINEAU: Same objection.

12 THE WITNESS: It could be hastily erected.

13 BY MR. LIPPER:

14 Q. The --

15 A. The cross.

16 Q. The fact that it's at a tilt suggests it's  
17 been hastily erected?

18 A. Probably.

19 Q. All right. And then turning to Exhibit 14 --  
20 do you need another moment to --

21 A. No.

22 Q. Turning to Exhibit 14, have you or has anyone  
23 in American Legion had any discussions with any members  
24 of this commission about the March 18, 2010 meeting?

25 A. No.

1 Q. Okay. And then turning to -- and I already  
2 lost track of my numbering. Turning to Exhibits 15 and  
3 16 for a moment.

4 MS. MARTINEAU: The agenda is 15?

5 MR. LIPPER: Correct.

6 MS. MARTINEAU: Okay.

7 BY MR. LIPPER:

8 Q. So Exhibit 15 is a King city council agenda  
9 from April 5th, 2010, and then Exhibit 16 is the  
10 minutes from the King city council meeting for April 5,  
11 2010.

12 MR. HICKS: Greg, I don't have a copy of  
13 that.

14 MS. MARTINEAU: Which one are you missing?

15 MR. HICKS: The minutes.

16 BY MR. LIPPER:

17 Q. Okay. And, again, does the American Legion  
18 have any knowledge of what took place at this April 5,  
19 2010 meeting?

20 A. No, we don't.

21 Q. And are you aware of whether Mr. Calloway or  
22 someone else actually brought in, like, a life-size  
23 cutout of the statue image?

24 A. I have no knowledge of that.

25 Q. All right. And have you had any discussions



1 with anyone about -- other than counsel -- other than  
2 your lawyer -- about the kneeling-soldier statue since  
3 it was put up?

4 A. With friends and stuff like that, yeah, and I  
5 specifically met with Mr. Calloway and saw the actual  
6 pattern of the cross.

7 Q. When did you meet with Mr. Calloway?

8 A. I'm not sure. Sometime this spring or  
9 summer. Butch had been in the hospital too. It's  
10 very -- it's a large pattern. It's in pretty bad shape  
11 where he had used it, but the pattern that he used is  
12 this right here.

13 Q. All right. So he still has -- is the case  
14 when you order it from Winfield, it comes in the  
15 size --

16 A. The actual size.

17 Q. -- the actual size? I see.

18 Other than your discussion with Mr. Calloway,  
19 have you had any other discussions about the  
20 kneeling-soldier statue?

21 A. Just in general conversation with different  
22 members of the Legion, asking them what they thought  
23 about it, and they -- a lot of them approached me.

24 Q. And what have people said when they  
25 approached you?

1 A. They're for leaving it like it is.

2 Q. And has anyone given any reasons?

3 A. No. No one's given me any reasons to change  
4 it.

5 Q. Has anyone suggested that the statue should  
6 be taken down or changed?

7 A. Absolutely not.

8 Q. All right. And when did American Legion  
9 decide to get involved in this lawsuit?

10 A. Sometime in November of 2012.

11 Q. So how did you find out about the lawsuit?

12 A. I was riding down the road and got a call  
13 from the national adjutant. He says, "I understand  
14 that you are the representative from the American  
15 Legion of the lawsuit with the kneeling soldier and the  
16 Veterans Memorial Park." I knew nothing about it.

17 And he says, "Well, you have been. You'll  
18 receive a letter that we would like for you to sign."

19 And I received that letter, I signed it, sent  
20 it back, and I also received one from Steptoe &  
21 Johnson. I signed it, sent it back.

22 I let my commander know, and I said, "How in  
23 the devil did I get selected to do this?"

24 And he said -- he just kind of grinned and he  
25 said, "I don't know."

1 Well, I found out this summer, right before  
2 the fair in September, how I got to be selected.  
3 Someone -- and I do not know who -- contacted our  
4 commander. The commander got with the adjutant and  
5 selected me to be the spokesman. That's how I became  
6 involved in it.

7 Q. Lucky you, right?

8 A. Lucky me.

9 Q. So let me walk through some of the stuff. So  
10 who --

11 MR. HICKS: Greg, I'm really sorry. Could we  
12 take two minutes? I know we're at 12:00.

13 MR. LIPPER: Yeah, no problem.

14 (A recess was taken.)

15 BY MR. LIPPER:

16 Q. So, Mr. Holland, before we broke, we were  
17 talking about the lucky phone call you got in which you  
18 found out about the lawsuit and that you had been  
19 designated as the spokesperson.

20 Who from American Legion National called you  
21 about that?

22 A. The guy's got a funny name that I can't even  
23 pronounce. He is the adjutant.

24 Q. Adjuncter?

25 A. Uh-huh.

1 Q. All right. So a guy from National with the  
2 funny name.

3 A. Yeah.

4 Q. And so this was right after the lawsuit had  
5 been filed?

6 A. Yes.

7 Q. And he asked -- he was under the impression  
8 that you had already been designated as the  
9 spokesperson for the local post?

10 A. Uh-huh.

11 Q. And I give you credit for not fleeing town  
12 immediately after that.

13 Did he, during that phone conversation, ask  
14 or tell you that American Legion National wanted  
15 American Legion local to attempt to intervene in the  
16 lawsuit?

17 A. Yes.

18 Q. All right. And did he say why?

19 A. No, he didn't. He told me the hired assessor  
20 from Liberty Institute would be contacting me.

21 Q. And did you have any reaction to his  
22 suggestion that the local post intervene in the  
23 lawsuit?

24 A. No.

25 Q. And I see you're laughing when I asked you

1 that question. Were you skeptical?

2 A. I was skeptical in my abilities to represent  
3 the post, if you want to know the truth about it.

4 Q. And why was that?

5 A. I'm not an attorney.

6 Q. Fair enough. And did you then speak with  
7 Mr. Bennett or other members of your board about  
8 whether the local post should get involved in the  
9 lawsuit?

10 A. I did. This happened just a very, very few  
11 days before our November meeting, and I told the  
12 commander -- and I'm sure that he was aware of it  
13 because he was the one who appointed me, he and the  
14 adjutant, and I told him, I said, "Look, we got a  
15 problem. I still got this statue. Somebody may need  
16 to represent the legion," and he says, "Yeah."

17 And I says, "We need to set up a phone system  
18 where we can hear our attorneys talk at the meeting  
19 Monday, because he wants the Legion to know what's  
20 going on and see if we want to become involved in it."  
21 And that's what we did.

22 Q. And so why -- and I'm not looking for any  
23 discussions you had with your attorneys, but why did  
24 the local post decide to get involved in the case?

25 A. Because we feel that this is an accurate

1 representation of something that could have happened  
2 and we wanted to honor our fallen comrades. That's it.

3 Q. And did the gentleman from American Legion  
4 National indicate to you why National wanted to get  
5 involved?

6 A. No, he did not.

7 Q. Did you ask him why they wanted to get  
8 involved in this local dispute?

9 A. No. I was kind of shocked. I did not ask  
10 him any questions other than, Okay, I'll do it. He  
11 says, "Will you do this?" And I says, "Yeah." Very  
12 short.

13 Q. You mentioned a letter. I forget if it was a  
14 letter from American Legion National to you or a letter  
15 from local post to American Legion, but can you remind  
16 me what that letter was?

17 A. It was the letter just for us to agree to let  
18 Liberty Institute represent us in the lawsuit. It was  
19 signed by Hiram Sasser --

20 Q. Let me stop you, because I'm not interested  
21 in -- I'm actually not interested in the letter from  
22 Mr. Sasser. I had understood you to say that there  
23 were two letters: One came from Liberty Institute, but  
24 one was a separate letter just from American Legion  
25 National.

1           A.    No, I did not get a letter from National.  I  
2 got a letter from Steptoe & Johnson.

3           Q.    Got it.  And I don't need to know what was in  
4 that letter.

5                    All right.  And you mentioned your November  
6 meeting when -- that all this happened a few days  
7 before your November meeting.  Does American Legion  
8 have monthly meetings?

9           A.    Regular -- second Monday of the month.

10          Q.    Those are held at your headquarters?

11          A.    American Legion Hall.

12          Q.    And are those meetings opened to the  
13 membership?

14          A.    Yes.

15          Q.    How many people attend those meetings  
16 typically?

17          A.    We usually have between 25 and 50.

18          Q.    And what happens at those meetings?  Or what  
19 are some examples of things that happen at those  
20 meetings?

21          A.    Well, we go through a standard opening  
22 ceremony, we have the reading of the minutes, we have  
23 reports of the committees, and that's about it.

24          Q.    And who takes the minutes at these meetings?

25          A.    Gary Thomas.  He would be our post adjutant.

1 Q. And was the lawsuit or the possibility of  
2 intervening in the lawsuit discussed at this  
3 November --

4 A. At that meeting it was.

5 Q. And Mr. Thomas took minutes?

6 A. He did.

7 Q. And what happens to those minutes?

8 A. He keeps them.

9 Q. Okay. And so does he type them up on a  
10 laptop or does he take handwritten notes and then turns  
11 them into --

12 A. He takes handwritten notes.

13 Q. And then types them up?

14 A. Yeah. Well, he records it and then types  
15 them up.

16 Q. Okay. And do you know what he does with his  
17 recordings and his notes?

18 A. I have no idea.

19 Q. All right. And was the lawsuit discussed at  
20 any meetings after that November 2012 meeting?

21 A. The only time that the lawsuit will be  
22 discussed -- and it will not be discussed then if  
23 some -- I keep the post updated on the steps that we're  
24 in, not on what we do.

25 Q. So, in other words, "We're in the discovery



1 phase" or "Lucky me, I'm having my deposition taken  
2 next month" or --

3 A. Well, they don't even know that.

4 Q. Got it. So are those updates that you  
5 provide, are those at the meetings themselves or are  
6 they just --

7 A. They're at the meeting. And like I said, I  
8 probably have updated them twice.

9 Q. And do counsel -- let me get my subject-verb  
10 agreement correct. Does counsel attend those monthly  
11 meetings?

12 A. No.

13 Q. So even at the monthly meetings where you're  
14 providing updates, counsel isn't present there?

15 A. No.

16 Q. You mentioned at your monthly meetings  
17 there's an opening ceremony of some sort. What is  
18 involved in the opening ceremony?

19 A. Well, first thing we do is Pledge of  
20 Allegiance -- well, we salute the flag with colors in  
21 place, Pledge of Allegiance. We go through the POW/MIA  
22 ceremony. It's the "Empty Chair Ceremony," it's  
23 called. And then we have the reading of the minutes  
24 from the last meeting approved, then we have the  
25 finance report.

1 Q. Does the legion open its meetings with  
2 prayers?

3 A. Yes. Well, after -- on down in the meeting  
4 we -- the first thing we do is not with prayer. It  
5 comes after the Pledge of Allegiance and the POW/MIA  
6 stuff.

7 Q. Who leads the prayer?

8 A. The post chaplain. And if he is not  
9 available, Don Adams will. He is the assistant  
10 chaplain.

11 Q. Are those typically Christian prayers?

12 A. Yes.

13 Q. Is the local post membership predominantly  
14 Christian, or is it varied in terms of religious  
15 beliefs?

16 A. I would say it's predominantly Christian, but  
17 we --

18 Q. Is that --

19 A. We embrace all faiths. It doesn't matter.

20 Q. I just want to be clear. The gentleman who  
21 takes the minutes, he records -- each meeting he  
22 attends he writes up notes by hand and also records the  
23 meeting?

24 A. Yeah, but then he records over what he's just  
25 recorded. He's just got a little tiny recorder. He

1 records over that for the next meeting.

2 Q. So at the December meeting, he would have  
3 recorded over the --

4 A. The November meeting.

5 Q. -- the November meeting?

6 A. Right.

7 Q. At the November meeting the -- by the time  
8 that the November meeting happened, were you already  
9 being represented by counsel?

10 A. No.

11 Q. When were you -- I'm not looking for any  
12 conversation at this time, but at what point did your  
13 legal representation begin?

14 A. At the meeting on -- may have been  
15 November 12, but I'm not sure. But the second Monday  
16 in November of 2012.

17 Q. So, in other words, at the meeting, the  
18 Legion agreed or voted to join the lawsuit and accept  
19 the offer of representation from the Liberty Institute?

20 A. That's correct.

21 Q. Okay. Did American Legion receive or did you  
22 receive any sort of document-preservation notice from  
23 anyone at any time during the pendency of the lawsuit?

24 A. Not that I recall.

25 (Holland Exhibit 17 marked for identification.)

1 BY MR. LIPPER:

2 Q. Okay. Court reporter has handed you what's  
3 been marked as Exhibit 17. This is initial disclosures  
4 of the American Legion and American Legion Post 290.  
5 Take a look at this and let me know when you're ready.

6 A. Okay.

7 Q. Have you seen these initial disclosures  
8 before?

9 A. I have not.

10 Q. Let's turn to page 2, if we could, and if you  
11 see at the bottom third of the page under Section A  
12 where it says, "Individuals likely to have discoverable  
13 information" and then "The following individuals may  
14 have discoverable information that Intervenors may use  
15 to support their claims or defenses, other than for  
16 impeachment purposes."

17 And then there's a list of some names. The  
18 first name is Lane Bennett in that subject matter  
19 "Kneeling-soldier statue." What information does  
20 Mr. Bennett have about the kneeling-soldier statue?

21 A. No more than I do.

22 Q. So anything other than what we've discussed  
23 today, anything else that Mr. Bennett would know about  
24 the kneeling-soldier statue?

25 A. No.

1 Q. All right. And then turning to the next  
2 page, the next name, which is you, other than what  
3 we've discussed today, any other information about the  
4 kneeling-soldier statue you have?

5 A. No, sir.

6 Q. All right. And then the next individual is  
7 Coley A. Hunsucker, subject matter kneeling-soldier  
8 statue. What information does Mr. Hunsucker have about  
9 the kneeling-soldier statue?

10 A. What I have.

11 Q. And "Carl F. (Butch) Calloway,  
12 kneeling-soldier statue." What information does  
13 Mr. Calloway have?

14 A. Only that he made it.

15 Q. So other than what we've discussed about  
16 today, none of the listed individuals have any  
17 additional knowledge about the kneeling-soldier statue?

18 A. No.

19 Q. Do any of these individuals have any  
20 additional knowledge about the flag display portion of  
21 the Veterans Memorial?

22 A. I have no idea. Was not involved in that.

23 Q. And what about the Memorial Day and Veterans  
24 Day ceremonies?

25 A. Let's see, just the commander, and Mr. McGee

1 sets those up. The rest of the legion is not involved  
2 in it. They just ask for the honor guard to show up  
3 and whatever else is needed.

4 Q. All right. And when you say "Mr. McGee," is  
5 that Eddie McGee?

6 A. That's Eddie McGee, yes, sir.

7 Q. If you could turn a few pages down to a  
8 document entitled "City of King Public Records  
9 Request." So, first of all, can you tell me what --  
10 after where it says, "Name or other manner of  
11 identification," is that Barbara Hunsucker's signature?

12 A. It is.

13 Q. Why was she submitting a public-records  
14 request for American Legion?

15 A. I have no idea.

16 Q. All right. And do you know why American  
17 Legion submitted this request?

18 A. No, I don't.

19 Q. All right. And then --

20 A. Wait a minute. I think she gave me a copy of  
21 this.

22 Q. Ms. Hunsucker?

23 A. Yeah.

24 Q. Did she say why?

25 A. I think that I may have asked her to get a

1 copy of the public records when it was approved.

2 Q. The public records related to the statue?

3 A. To the statue, when the statue was approved.

4 Q. When did you ask her to obtain those records?

5 A. I'm not sure. Shortly before she signed this  
6 thing, I would imagine.

7 Q. Okay. And turning a few more pages to the  
8 letter with American Legion letterhead on top, where it  
9 says, "The American Legion National Headquarters," have  
10 you seen this letter before?

11 A. No, I haven't.

12 Q. Do you know anything about why it was sent?

13 A. No.

14 Q. All right. And then turning to the next  
15 page, which is the beginning of an article entitled  
16 "Humanists Sue Over War Memorial."

17 A. Uh-huh.

18 Q. Have you seen this article before?

19 A. No, I haven't.

20 Q. Are you aware of a lawsuit in California over  
21 a statue that has the similar kneeling soldier image as  
22 the one displayed in King?

23 A. No.

24 Q. And are you aware that a federal judge  
25 granted a preliminary injunction requiring the City to

1 stop displaying that kneeling soldier image?

2 A. No, I'm not.

3 Q. Would that change your opinion of the merits  
4 of the statue?

5 A. No.

6 Q. Why not?

7 A. Because I don't feel this is a religious  
8 marker. I feel it's a normal -- just basically a grave  
9 marker and that's it.

10 (Holland Exhibit 18 marked for identification.)

11 BY MR. LIPPER:

12 Q. Okay. Court reporter has handed you what's  
13 been marked as Exhibit 18. This is a copy of  
14 "Defendant-Intervenors Objections and Responses to  
15 Plaintiff's First Set of Interrogatories to American  
16 Legion Post 290." Have you seen this document before?

17 A. Yes, sir.

18 Q. All right. And you understand, to the best  
19 of your knowledge, the information in these responses  
20 is accurate?

21 A. To the best of my knowledge, yes.

22 Q. If you could turn to Interrogatory No. 6,  
23 which is on page 9, and this is -- the interrogatory  
24 asks to "Identify any American Legion local member or  
25 officer, including, but not limited to, any American



1 Legion local chaplain, who has delivered remarks,  
2 including, but not limited to, religious remarks at  
3 City ceremonies from 2004 to present, and describe the  
4 contents of any such remarks."

5           Then at the bottom of that answer it states,  
6 "The local legion's chaplain, Reverend Tom Southern,  
7 has participated in several ceremonies, including the  
8 most recent Memorial Day service in 2013." Why does  
9 American Legion have its chaplain participate in the  
10 Memorial Day and Veterans Day ceremonies?

11           A. Because we feel it's appropriate.

12           Q. And why do you feel that way?

13           A. I just personally feel that it's appropriate.  
14 It's the way it was from the inception and we haven't  
15 changed it.

16           Q. All right. And when you say "personally," I  
17 mean, would American Legion take the same position?

18           A. I would think so.

19           Q. All right. And when you say "it's the way it  
20 was from the inception," what do you mean by that?

21           A. From the dedication on the ceremony list that  
22 you have, it's basically not changed. Only the  
23 speakers' names have changed, not the order.

24           Q. If the Memorial Day and Veterans Day  
25 ceremonies were kept exactly the same except that the

1 prayers were omitted, would that make the ceremonies  
2 any less appropriate in your view?

3 A. I feel that this is a private ceremony. The  
4 public can come if they want to. And since it is a  
5 private ceremony, that we're entitled to do whatever we  
6 want to in regard to prayer.

7 Q. I understand your view on that, but let's  
8 just hypothesize for a moment that you were to have the  
9 same exact ceremony except without the prayer. Would  
10 that ceremony be any less meaningful for veterans or  
11 fallen soldiers?

12 A. For some people it would be, yes.

13 Q. It would be less meaningful?

14 A. Uh-huh.

15 Q. Why is that?

16 A. I just think that they expect it.

17 Q. Why do they expect it?

18 A. Because it's always been.

19 Q. Any other reason?

20 A. No.

21 Q. And if the prayers -- if rather than having  
22 Christian prayers at these ceremonies, the prayers were  
23 nondenominational, would that make the ceremonies any  
24 less meaningful for veterans or fallen soldiers?

25 A. I don't know, but I think that since our --

1 we are the ones responsible for selecting the speakers  
2 or whoever delivers the prayer, that we could select  
3 somebody else. I don't have control over that.

4 Q. I'm actually not -- I'm not asking about the  
5 process by which they're selected. What I'm asking  
6 is -- let's pretend for a moment that next year's  
7 ceremonies were exactly the same as previously, but  
8 instead of having Christian prayers, the prayers were  
9 nondenominational. Would those ceremonies be any less  
10 meaningful for veterans or fallen soldiers?

11 MS. MARTINEAU: I object. Beyond the scope.  
12 Go ahead, sir.

13 THE WITNESS: It would be less meaningful to  
14 me.

15 BY MR. LIPPER:

16 Q. Why is that?

17 A. Who would you be praying to?

18 Q. To God.

19 A. Then what difference does it make what you  
20 call Him?

21 Q. So, in your view, it would be -- it would be  
22 less meaningful to refer to God as opposed to Jesus  
23 Christ, for instance?

24 A. No. And I'm not sure that they refer to  
25 Jesus Christ in all of them.

1 Q. In the ones that do refer to Jesus Christ, if  
2 those prayers were to become nondenominational, would  
3 the ceremony become less meaningful for veterans or  
4 fallen soldiers?

5 MS. MARTINEAU: Beyond the scope of 30(b)(6).

6 BY MR. LIPPER:

7 Q. You may answer.

8 A. Well, first off, the people that pray up  
9 there pray from the heart. They don't have a written  
10 prayer that they follow, and if they mention God's name  
11 or Christ's name or Jesus's name, they're one in the  
12 same. It makes no difference to me.

13 Q. Do you think a ceremony that -- in which the  
14 prayers were nondenominational would be more inclusive  
15 of people from a variety of different religious  
16 backgrounds?

17 MS. MARTINEAU: I'm going to object to the  
18 form of the question. I'm not sure, based on the  
19 witness's response, if he understands what you mean by  
20 "nondenominational."

21 BY MR. LIPPER:

22 Q. Do you understand my question?

23 A. I mean, what's the difference between the  
24 Catholics, the Methodists or anybody else using God's  
25 name? I don't really see any difference in it.

1 Q. I guess here's my question. If instead of  
2 having a prayer to Jesus Christ, you had a prayer to  
3 God, first of all, would that make the ceremony any  
4 less meaningful in your view?

5 A. In my view, probably.

6 Q. And why is that?

7 A. I think you should mention the person's name  
8 that you're praying to. Praying to God is fine. Like  
9 I said, they're one in the same.

10 Q. All right.

11 A. So if they mention God's name or Jesus  
12 Christ's name, we have no control over that, what they  
13 pray.

14 Q. And are you concerned that prayers to Jesus  
15 Christ are not inclusive of people who might be  
16 attending who are Jewish or Buddhist or Muslim or Hindu  
17 or Bahá'í or some other religion?

18 MS. MARTINEAU: Beyond the scope of 30(b)(6).

19 BY MR. LIPPER:

20 Q. You may answer.

21 A. Well, if I was at a Jewish ceremony, which I  
22 have been, didn't offend me that they didn't mention  
23 Jesus Christ's name. To me it's not offensive.

24 Q. So you think the Memorial Day and Veterans  
25 Day ceremonies are Christian ceremonies?

1 A. No.

2 MS. MARTINEAU: Beyond the scope of 30(b)(6).

3 THE WITNESS: That is one prayer. That is  
4 one part of it.

5 BY MR. LIPPER:

6 Q. And have you ever heard of a -- has there  
7 ever been a prayer at any of the ceremonies you've  
8 attended -- any of the Veterans Day and Memorial Day  
9 ceremonies that you've attended -- was anything other  
10 than a Christian prayer?

11 A. Not that I know of. I don't recall the  
12 prayers.

13 (Holland Exhibit 19 marked for identification.)

14 BY MR. LIPPER:

15 Q. Court reporter has handed you what's been  
16 marked as Exhibit 19. Take a look at these and let me  
17 know when you're ready.

18 MS. MARTINEAU: Could we take a 30-second  
19 break?

20 MR. LIPPER: Sure. Go off.

21 (A recess was taken.)

22 BY MR. LIPPER:

23 Q. Are you all set, Mr. Holland?

24 A. Yes, sir.

25 Q. So have you seen these interrogatory

1 responses before?

2 A. No, I haven't.

3 Q. You haven't. All right.

4 MR. LIPPER: Actually, Counsel, do you know  
5 who -- I don't recall, actually, if these have been  
6 verified or not or who from the post actually  
7 verified -- provided the verification for these.

8 MR. HICKS: Mr. Holland has seen these.

9 MR. LIPPER: He has? Okay.

10 THE WITNESS: I've seen the basic stuff of  
11 what I have written. I hadn't seen this particular  
12 thing where -- your response to it.

13 BY MR. LIPPER:

14 Q. All right. Is anything in what you just  
15 read -- or is the material that you just read accurate,  
16 as far as you know?

17 A. As far as I know, yes.

18 Q. And if you could turn to page 4 -- actually,  
19 let's start at the bottom of page 3, where you see  
20 Interrogatory No. 10, and the question asks, "With  
21 respect to the 2013 Memorial Day ceremony held at  
22 Central Park, describe the process by which you or your  
23 co-sponsors secured the use of Central Park and/or any  
24 permits and/or services from the City of King,  
25 including, but not limited to, any reservations

1 requested by you or your co-sponsors; permit or other  
2 applications submitted by you or your co-sponsors;  
3 permits issued to you or your co-sponsors; services,  
4 including the presence of police officers or  
5 firefighters, provided to you or your co-sponsors; fees  
6 assessed to or paid by you or your co-sponsors; and/or  
7 insurance certificates or other insurance-related  
8 information provided by you or your co-sponsors."

9 All right. And then turning to page 4 where  
10 your response is, I want to turn to -- towards the end  
11 of the response, the sentence beginning "neither,"  
12 where it says, "Neither the Stokes County Arts Council  
13 nor the local legion has ever requested the presence of  
14 any police or fire personnel at the Memorial Day  
15 ceremony. Any police or fire personnel that have  
16 attended these ceremonies came of their own volition."

17 With respect to that part of your answer, did  
18 anyone from the City ever tell American Legion that due  
19 to the nature of the Memorial Day event, certain police  
20 or fire department presence was required?

21 A. No, they didn't.

22 Q. All right. What about for the upcoming  
23 Veterans Day --

24 A. No.

25 Q. -- event?



1 All right. And as far as you know, did the  
2 City tell Stokes County Arts Council that any police or  
3 fire presence was necessary at the Memorial Day  
4 ceremony?

5 A. No.

6 Q. And what about the upcoming Veterans Day  
7 ceremony?

8 A. No.

9 Q. Okay. Then the next sentence says, "The fire  
10 department, of its volition, displays the American flag  
11 on one of its trucks at the Memorial services." Did  
12 that happen at the most recent Memorial Day service?

13 A. Yes, it did, and it's happened at every  
14 Memorial Day service I've been at.

15 Q. Is that something that American Legion  
16 requested?

17 A. No.

18 Q. And has the fire department, slash, American  
19 flag appeared at the Veterans Day services as well?

20 A. I think so.

21 Q. Are you expecting -- do you recall the fire  
22 department with the American flag displayed on its  
23 truck at last year's Veterans Day ceremony?

24 A. I don't recall.

25 Q. Do you expect the fire truck to display the

1 American flag at the upcoming Veterans Day ceremony?

2 A. I don't know.

3 Q. Again, this isn't something that American  
4 Legion has requested?

5 A. No.

6 Q. And has American Legion been charged for the  
7 fire truck flag --

8 A. No.

9 Q. -- presence? And as far as you know, there's  
10 been no discussion of charging American Legion in the  
11 future for any such appearance?

12 A. No, sir.

13 Q. If you turn to Interrogatory No. 12 -- and  
14 this is an interrogatory about the meeting that took  
15 place between American Legion, Stokes County Arts  
16 Council, and the mayor regarding the transfer of  
17 responsibility for the Memorial Day and Veterans Day  
18 ceremony. And if you look -- turning to page 6, the  
19 bottom of the first paragraph on page 6 where it  
20 states, "Subsequently, Mr. Holland asked Mayor Warren  
21 to draft a written document memorializing the agreement  
22 reached in the meeting for the local legion. A written  
23 agreement was drafted and signed, as confirmed by the  
24 King 2309 document."

25 Why did you ask Mayor Warren to draft a

1 written document of that nature?

2 A. Because I wanted to have an understanding on  
3 the record as to what it would be, what our responses  
4 would be. Responsibilities.

5 Q. And how did that document -- how did that  
6 document provide that record of responsibilities?

7 A. Well, it just turns over the ceremony to us  
8 and the Arts Council. We can do whatever we choose.

9 Q. But would anything have stopped you -- the  
10 American Legion getting together with the Stokes County  
11 Arts Council and holding a Memorial Day ceremony even  
12 without permission from the mayor of the city?

13 A. We would have had to have had reservations  
14 for the park. That would have been the only thing.

15 Q. So was the purpose of the memo, then, to sort  
16 of transfer to American Legion and Stokes County Arts  
17 Council arrangements that had already been made by the  
18 City?

19 MS. MARTINEAU: Objection to the form of the  
20 question.

21 THE WITNESS: I don't know.

22 BY MR. LIPPER:

23 Q. I guess I'm not -- in other words, if nothing  
24 stopped you from, on your own, holding a Memorial Day  
25 or a Veterans Day ceremony, why did you need some sort

1 of written permission from the City?

2 A. This is not a written permission. It just  
3 gives us -- it turns the responsibilities over to us  
4 for the thing -- for the ceremonies.

5 Q. But why did you need a written transfer of  
6 responsibilities? I guess I'm confused. You tomorrow  
7 could decide to hold an event on Veterans Day in  
8 Central Park.

9 A. No, I couldn't.

10 Q. Why not?

11 A. Because I'm not a 401 -- I'm not a nonprofit  
12 organization, and I would not be working on behalf of  
13 the residents of King.

14 Q. Let me ask it again. American Legion could  
15 decide tomorrow to hold a -- its own separate Veterans  
16 Day ceremony in Central Park, correct?

17 A. Not without reservations.

18 Q. Okay. And so was the purpose of the memo,  
19 then, to transfer the City's reservations?

20 A. That's my --

21 MS. MARTINEAU: Objection to the form of the  
22 question. Leading.

23 BY MR. LIPPER:

24 Q. You may answer.

25 A. It's my opinion that this letter gives us

1 permission to hold all future Memorial Day and Veterans  
2 Day services at the park.

3 Q. All right. So, in other words, you view the  
4 memo as kind of a perpetual reservation?

5 A. Exactly.

6 (Holland Exhibit 20 marked for identification.)

7 BY MR. LIPPER:

8 Q. Okay. Court reporter has handed you what's  
9 been marked as Exhibit 20. This is the answer of  
10 Defendant-Intervenor as the American Legion and  
11 American Legion Post 290. Have you seen this document  
12 before?

13 A. I would have to read it to see. I typed a  
14 lot of stuff.

15 I think I've seen this, yes.

16 Q. I just want to ask you about a couple of  
17 paragraphs in this answer. If you turn to paragraph 17  
18 on page 3, the paragraph says, "Intervenors deny the  
19 conclusion that the Latin cross is the most significant  
20 symbol of Christianity." Why does American Legion deny  
21 that?

22 A. Because I didn't even know that this was a  
23 Latin cross.

24 Q. I'm not asking about the statue. Just as a  
25 general matter. Does American Legion -- what does

1 American Legion think the most important symbol of  
2 Christianity is?

3 MS. MARTINEAU: Objection. Beyond the scope  
4 of 30(b)(6).

5 THE WITNESS: Probably the flag. Or a cross  
6 on a church or something of that nature.

7 BY MR. LIPPER:

8 Q. And when you say "the flag," you mean the  
9 Christian flag?

10 A. Uh-huh.

11 Q. And turning to paragraph 45 -- I'm sorry.  
12 44, it's on page 6. In the second sentence, it states,  
13 "Intervenors deny that the statue displays a soldier  
14 praying before a cross." If you take a look at  
15 Exhibit 5 again, which is to your right, you look at  
16 that and you think -- you think that there's -- let me  
17 ask it -- is there any way that soldier is praying?

18 A. I don't think so.

19 Q. All right. Do you think it would be  
20 unreasonable for someone to think that the soldier was  
21 praying?

22 A. I think it probably would be.

23 Q. It would be unreasonable to think that?

24 A. I would think so.

25 Q. Why is that?

1           A.    Well, number one, I've never gone to a  
2 graveyard and prayed to a cross, a headstone or  
3 anything else. I have been to the Vietnam Wall  
4 Memorial in D.C. I've got down on my knees. I haven't  
5 prayed to the wall or anybody else. I just got down  
6 and kind of talked to my buddy, but -- who is no longer  
7 with us. I wasn't paying respect to anybody except my  
8 buddy that is on that wall.

9           Q.    Whether or not somebody would be praying to  
10 the wall or to the cross, do you think someone might go  
11 to a headstone or grave and pray?

12           MS. MARTINEAU: Are you asking him  
13 individually or as a representative of the American  
14 Legion?

15           MR. LIPPER: Either.

16           MS. MARTINEAU: Objection. Beyond the scope.

17           MR. HICKS: I agree.

18           THE WITNESS: No.

19           BY MR. LIPPER:

20           Q.    All right. So from American Legion's  
21 perspective, there is no way to read that soldier in  
22 that statue as someone who's praying?

23           A.    No.

24           Q.    All right. If you could take a look again at  
25 Exhibit 15, which is -- you just put Exhibit 5 right on

1 top of Exhibit 15. And if you look at the -- give me a  
2 moment.

3 Do you see in the image where it's being  
4 described as a praying soldier?

5 A. I do.

6 Q. Do you think that's an unreasonable  
7 description?

8 A. It's not the only description, in my opinion.

9 Q. Okay. I understand there might be another  
10 description, but do you think it's unreasonable for  
11 that image to be referred to as a praying soldier?

12 A. Not unreasonable.

13 Q. Okay. And then if you turn back to  
14 Exhibit 6, which was the expert report, and if you turn  
15 to page 9 and if you look at the top image on page 9,  
16 which -- and I'll represent to you that this is a  
17 shot -- a screen shot of The Winfield Collection's Web  
18 site. And if you see the label next to that image:  
19 "Soldier's Prayer Shadow Wood Craft Pattern." Do you  
20 think that's an unreasonable description of that  
21 statue?

22 A. It's not unreasonable. It don't say who he's  
23 praying to.

24 Q. Let me ask you a question. Underneath that  
25 praying soldier image, there's an image of a biker



1 kneeling before a cross, a firefighter kneeling before  
2 a cross, and a cowgirl kneeling before a cross. Does  
3 the fact that there are other, you know, occupations or  
4 professions in the same exact pose -- does that at all,  
5 in your view, diminish the significance of the kneeling  
6 soldier stencil?

7 MS. MARTINEAU: Objection. Beyond the scope.

8 BY MR. LIPPER:

9 Q. You may answer.

10 A. It doesn't diminish that view.

11 Q. Why not?

12 A. Because they're all paying respect to a  
13 fallen friend.

14 Q. And do you know if there's a similar -- do  
15 you believe -- do you know if there's a similar  
16 tradition, in your view, of a fallen cowgirl being  
17 marked by a cross?

18 MS. MARTINEAU: Objection. Beyond the scope.

19 THE WITNESS: I have no knowledge about that.

20 MR. LIPPER: Okay. Let me take a quick  
21 break. I may be about ready to wrap up. I just want  
22 to go through my notes.

23 (A recess was taken between 12:39 p.m. and 12:43 p.m.)

24 BY MR. LIPPER:

25 Q. All right. Mr. Holland, just a few more

1 questions. Have you had any communication with  
2 American Legion's expert Professor Glatthaar?

3 A. No, I haven't.

4 Q. And are you familiar with a conversation that  
5 Professor Glatthaar had with Mr. Calloway?

6 A. No.

7 Q. All right. Are you aware of any other  
8 conversations that Professor Glatthaar had with any  
9 American Legion members?

10 A. No, sir.

11 Q. Have you had any conversations with anyone  
12 from the City of King about the case?

13 A. I have asked Jack Warren for our records of  
14 minutes and stuff like that. As far as discussing the  
15 case, no.

16 Q. What records did you ask Mayor Warren for?

17 A. I asked him for minutes of when -- how much  
18 money that the committee raised.

19 Q. For the Veterans Memorial?

20 A. For the Veterans Memorial.

21 Q. Has anyone -- other than the request for  
22 those records, any other conversation with anyone from  
23 the City?

24 A. No, sir.

25 Q. Has American Legion, more generally, had any

1 conversations with anyone from the City of King about  
2 the case?

3 A. No, sir. Not that I know -- not that I'm  
4 aware of. I haven't.

5 Q. Do you know Steven Hewett?

6 A. I have seen him at the Veterans Memorial  
7 service.

8 Q. Have you had any conversations with  
9 Mr. Hewett?

10 A. No, sir.

11 Q. And Mr. Hewett is an American Legion member;  
12 is that correct?

13 A. He is.

14 Q. And does he ever attend any of your meetings?

15 A. No, sir.

16 Q. And when did you first learn that Mr. Hewett  
17 had raised any concerns about the Veterans Memorial or  
18 the soldier statue or the events?

19 A. When he filed a lawsuit against the City of  
20 King to have the flag removed.

21 Q. So before November 2012, you had not heard of  
22 Mr. Hewett?

23 A. No, sir.

24 Q. When did you hear about the -- whoever it was  
25 that had raised a complaint about the display of the

1 Christian flag?

2 A. When it was in the newspaper.

3 Q. Was that in --

4 A. Stokes News.

5 Q. -- 2010?

6 A. Probably.

7 Q. And would you say that -- if you had to  
8 describe sort of how the City reacted to the complaint  
9 raised about the Christian flag, how would you describe  
10 it?

11 A. First off, I would not have taken the flag  
12 down to start with.

13 Q. Why not?

14 A. Because I would have had to have a lawsuit in  
15 hand rather than just a threat.

16 Q. So you would have waited for a lawsuit to be  
17 filed before --

18 A. I would have.

19 Q. Why is that?

20 A. Just principles.

21 Q. So you think the Christian flag should stay  
22 up?

23 MS. MARTINEAU: Is that a 30(b)(6) question  
24 or an individual question?

25 BY MR. LIPPER:

1 Q. Well, let me ask you first as an individual.  
2 You think the flag should have stayed up?

3 A. It should have stayed up, but I encompassed  
4 the lottery. I think it is fair to everyone. In fact,  
5 Mr. Hewett gets much more time on the flagpole than any  
6 religions, by percentage, in King.

7 Q. Other than Christianity, right?

8 A. Yeah. Well, period. He gets 8 percent of  
9 the time on the flag.

10 Q. Does that bother you?

11 A. No. If -- you know, if we had a Jewish  
12 community who wanted to fly their flag -- no flag that  
13 is approved by the United States government -- and I  
14 think there's eight or so of them, maybe more --  
15 they're welcome to fly any flag they want. It does not  
16 offend me.

17 Q. When Mr. Hewett displays no flag during his  
18 weeks, does that bother you?

19 A. It does not bother me at all.

20 Q. And is American Legion of the view that the  
21 City should have waited to take the Christian flag down  
22 until the filing of a lawsuit?

23 MS. MARTINEAU: Objection. Beyond the scope.

24 THE WITNESS: We can't comment on that since  
25 we're a nonreligious organization.

1 BY MR. LIPPER:

2 Q. And so you believe that commenting on the  
3 display of the Christian flag would be intentioned with  
4 American Legion's status as a nonreligious  
5 organization?

6 MS. MARTINEAU: Objection. Beyond the scope.

7 THE WITNESS: Let's just say that we are  
8 nonpolitical and nonreligious, and as far as the  
9 flagpole goes, any religion that is approved by the  
10 United States government can fly their flag. And we  
11 would welcome that, actually.

12 BY MR. LIPPER:

13 Q. And because the American Legion is a  
14 nonreligious organization, American Legion felt it  
15 could not take a position as to whether or not the City  
16 should have taken down the Christian flag in the first  
17 place?

18 A. Exactly.

19 Q. Other than what we've discussed today, does  
20 American Legion have any other knowledge or information  
21 about the flag display at the Veterans Memorial?

22 A. Not that I know of.

23 Q. Does American Legion have any other knowledge  
24 about the kneeling-soldier statue?

25 A. No, sir.

1 Q. Does American Legion have any other knowledge  
2 about the Memorial Day ceremonies?

3 A. No, sir.

4 Q. Does American Legion have any other knowledge  
5 about the Veterans Day ceremonies?

6 A. Not that I know of.

7 Q. Does American Legion keep records? Does it  
8 have files in its office?

9 A. Not on stuff like this, no.

10 Q. On anything?

11 A. No.

12 Q. What kind of files are kept in the American  
13 Legion hall?

14 A. Just minutes from monthly meetings.

15 Q. And those are kept at the American Legion --

16 A. No, sir. Our post adjutant keeps those.

17 Q. Any other files or file drawers or records or  
18 anything like that?

19 A. No.

20 Q. Does American Legion have a computer in its  
21 hall?

22 A. No, sir.

23 Q. So individuals keep the records on their own?

24 A. Uh-huh.

25 MR. LIPPER: All right. Unless there is any

1 redirect that I have questions about, I'm done for now.

2 Thank you, sir.

3 MR. HICKS: I'm allowing counsel to redirect.

4 EXAMINATION

5 BY MS. MARTINEAU:

6 Q. Mr. Holland, my name is Elizabeth Martineau,  
7 and I'm one of the attorneys for the City of King,  
8 North Carolina, and I think you and I met briefly  
9 before. Do you recall who I am?

10 A. Yes, I do.

11 MR. LIPPER: Ms. Martineau is quite  
12 memorable.

13 BY MS. MARTINEAU:

14 Q. I do have a few questions to you based on  
15 questions Mr. Lipper asked regarding the prayers that  
16 you witnessed and observed during American Legion  
17 meetings, as well as Memorial Day ceremonies and/or  
18 Veterans Day ceremonies.

19 For how long have you been attending American  
20 Legion meetings in King, North Carolina?

21 A. Since July of 2008.

22 Q. Okay. And I think there may be some  
23 misunderstanding or disconnect between what you -- what  
24 your definition or what you are maintaining as a  
25 Christian prayer and what Mr. Lipper might be talking



1 about when he talks about a Christian prayer. So I'm  
2 going to ask you this. When you have attended American  
3 Legion meetings since 2008 -- and I'm going to take a  
4 step back. Are those monthly meetings?

5 A. Monthly meetings, yes, ma'am.

6 Q. And you indicated at some point during the  
7 American Legion monthly meeting, a prayer was given by  
8 a chaplain?

9 A. Right.

10 Q. Do sometimes the chaplains pray to Jesus  
11 Christ when he gives prayers?

12 A. Sometimes.

13 Q. And does sometimes the chaplain pray to  
14 God --

15 A. Yes.

16 Q. -- when he gives prayers?

17 A. Yes.

18 Q. Do you know as you sit here what percentage  
19 of those prayers are prayers that reference God versus  
20 prayers that reference Jesus Christ?

21 A. I do not. I have also delivered prayers at  
22 the meetings, and a lot of times I say "My Heavenly  
23 Father." I don't -- it's just whatever pops into my  
24 mind.

25 Q. And I asked you just a moment ago and I don't

1 remember what your response was, but you've also  
2 attended both Veteran and Memorial Day prayers?

3 A. Yes, ma'am.

4 Q. One more than the other, which one is it?

5 A. The Memorial Day.

6 Q. How long have you been -- and I said  
7 "prayers." How long have you been attending Memorial  
8 Day ceremonies in King? Since when?

9 A. I think I've done them all since 2008.

10 Q. And how about Veterans Day ceremonies in  
11 King?

12 A. I attended last year's. I don't remember  
13 attending another one.

14 Q. In the Memorial Day ceremonies that you have  
15 attended in King since 2008, do you recall prayers  
16 being given at those ceremonies?

17 A. Yes. I don't remember what they were, but I  
18 recall prayers being given.

19 Q. Do you know whether or not those prayers were  
20 given in the name of God versus the name of Jesus  
21 Christ?

22 A. I have no idea.

23 Q. How about the Veterans Day ceremony that you  
24 just attended? Do you recall what the prayer was at  
25 that ceremony?

1           A.    No, I don't.  To clarify, I'm on the honor  
2 guard, and I'm normally standing back behind the thing,  
3 so half the time I don't hear them.

4           Q.    And you talked about -- in response to a  
5 couple of questions from Mr. Lipper related to  
6 Exhibit -- let me find it real quick -- it's the  
7 exhibit where it's like a -- it's a memo signed by the  
8 mayor and other folks related to turning over  
9 ceremonies.

10          A.    Right.

11          Q.    Let me find it real quick.

12                    Here it is.  It's right in front of me, and I  
13 don't know the exhibit number.  It's King 002309 on the  
14 bottom right-hand corner.

15          A.    I have it.

16                   MR. LIPPER:  Give me a moment to dig mine  
17 out, please.

18                   BY MS. MARTINEAU:

19          Q.    First I want to take a step back,  
20 Mr. Holland, and ask you, do you personally know how  
21 many -- well, do you personally know how many expected  
22 attendees would trigger the request for a need to get a  
23 permit from the City of King?

24          A.    No, I don't.  I don't know what the ordinance  
25 is.

1 Q. When you attended the Memorial Day ceremony  
2 this last time, was there more than 300 people present?

3 A. I wouldn't think so.

4 Q. For the Veterans Day coming up, do you know  
5 whether or not the legion or yourself expects more than  
6 300 people to be present?

7 A. It would be a record crowd. I don't expect  
8 that many.

9 Q. How many do you expect, approximately?

10 A. About 50 to a hundred maybe.

11 Q. And has that been your experience with the  
12 memorial services you've attended in the past? I know  
13 I just talked about Veterans Day. I'm going back to  
14 Memorial Day.

15 A. Yeah, sometimes less and sometimes probably  
16 more than a hundred, but not much more.

17 Q. Okay. And looking at King 002309, which is a  
18 document that says "Memorandum" at the top, and I  
19 apologize if I'm repeating questions that were asked by  
20 Mr. Lipper, but did you testify that you yourself asked  
21 the Mayor --

22 A. I did.

23 Q. -- Jack Warren, to provide a memorandum?

24 A. I did.

25 Q. Do you know whether or not you did that at

1 your own on the advice of counsel, or is that something  
2 that you on your own just decided?

3 A. Just on my own, just decided.

4 Q. And what did you tell Mr. Warren that you --  
5 do you recall what you asked him to provide?

6 A. I just asked him if he could provide a  
7 written agreement that the legion and Arts Council  
8 would sponsor the events in the future.

9 Q. Did you say anything else to Mr. Warren about  
10 this memorandum or the purpose of this memorandum?

11 A. No, I didn't.

12 Q. And when you responded to a request from  
13 Mr. Lipper that in your mind this memorandum sort of  
14 acted as a permanent request --

15 A. Yes, ma'am.

16 Q. -- to hold these ceremonies and to  
17 essentially be given permits for -- be allowed to hold  
18 these ceremonies in perpetuity, do you know whether or  
19 not the mayor took that -- took this memo and  
20 understood this memo was essentially a request to hold  
21 these ceremonies in perpetuity at these locations?

22 MR. LIPPER: Object to the form.

23 BY MS. MARTINEAU:

24 Q. Go ahead.

25 A. It's my understanding that's what it was for.

1 Q. Do you know what Jack Warren understood your  
2 memo for?

3 A. I think he understood that, yes.

4 Q. Do you know whether or not the -- either --  
5 whether or not the American Legion and/or -- well,  
6 strike that.

7 Do you know who is -- on behalf of the  
8 American Legion or the Stokes County Arts Council -- is  
9 actually planning the upcoming Veterans Day memorial?

10 A. I have no idea. Lane Bennett probably has  
11 the spokesman. Everything else will remain the same as  
12 it's always been.

13 Q. My question -- I don't want you to speculate  
14 what they're doing. My question was, do you know who's  
15 planning it?

16 A. It would have to be Bobby McGee and the  
17 commander.

18 Q. And do you know who prepared King 002309?

19 A. The City.

20 Q. Do you know that?

21 A. We didn't.

22 MS. MARTINEAU: All right. Sir, thank you.  
23 Those are the questions I have for you.

24 FURTHER EXAMINATION

25 BY MR. LIPPER:

1 Q. Just a couple of quick follow-up questions.  
2 In response to Ms. Martineau's question about  
3 understanding this memo as a way to secure reservations  
4 for future Memorial Day and Veterans Day events, why is  
5 it your impression that the mayor had the same  
6 understanding?

7 A. Because we've always done it. I mean, from  
8 the very time that the memorial was built, everything  
9 has been in conjunction with the City of King and the  
10 American Legion. I understood them to turn the portion  
11 that they had, their responsibilities, over to the  
12 American Legion and Arts Council.

13 Q. And I just want to clarify what you remember  
14 about the prayers at the past Memorial Day and Veterans  
15 Day ceremonies. I believe you just told Ms. Martineau  
16 that you don't remember whether the prayers were to God  
17 or to Jesus Christ. I thought you testified --

18 A. Some --

19 Q. I thought you testified earlier that most of  
20 the -- many of the prayers were Christian prayers. Can  
21 you reconcile that for me, or can you explain what you  
22 meant earlier today?

23 A. To me, a prayer to God is a Christian prayer.  
24 A prayer to Jesus Christ is a Christian prayer. "Our  
25 Heavenly Father" is a Christian prayer.

1 Q. Why do you view a prayer to God as a  
2 Christian prayer?

3 A. Because I think God is the creator and the  
4 being that we should pray to.

5 Q. And so as to whether the prayers were -- when  
6 you hear a Christian chaplain delivering a prayer to  
7 God, you view that as a Christian prayer?

8 A. Yes.

9 Q. Were any of those prayers at those Memorial  
10 Day and Veterans Day ceremonies to Jesus Christ?

11 A. Some of them were to Jesus Christ. Most of  
12 them are to God through Jesus Christ.

13 Q. When you say "God through Jesus Christ," what  
14 do you mean by that?

15 A. A lot of times they'll say -- start off with  
16 "Our God, the father of Jesus Christ" or something like  
17 that, or we pray -- or "We come to Jesus" -- "We come  
18 to God through Jesus Christ."

19 Q. Okay.

20 A. It's not a prayer to, quote, Jesus Christ,  
21 period.

22 MR. LIPPER: I see. All right. That's all I  
23 have. Thank you, sir.

24 (Whereupon, at 1:05 p.m. the deposition was  
25 concluded. Signature was reserved.)



CERTIFICATE OF NOTARY PUBLIC & REPORTER

I, ANGELICA SCOTT, Certified Shorthand Reporter, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

---

Angelica Scott  
Notary #200605400129  
Notary Public in and for the  
State of North Carolina  
County of Lincoln

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Thank you!

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WITNESS CERTIFICATE

(3 of 3)

I, LEWIS DONALD HOLLAND, do hereby certify that I have read and understand the foregoing transcript and believe it to be a true, accurate, and complete transcript of my testimony, subject to the attached list of changes, if any.

---

LEWIS DONALD HOLLAND

\* This deposition was signed in my presence by LEWIS DONALD HOLLAND on (day) \_\_\_\_\_, this (date) \_\_\_\_\_ day of (month) \_\_\_\_\_, 2013.

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Notary Public

My Commission Expires: \_\_\_\_\_

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