

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Doug and Geri Boyer,

Complainants,

v.

MRB Development, LLC d/b/a  
Copper Fire; Renae Eichholz; and  
Mark Eichholz,

Respondents.

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PCB 22-9

(Enforcement)

**COMPLAINANTS' OPPOSITION TO RESPONDENTS' MOTION FOR SUMMARY  
JUDGMENT AND MEMORANDUM OF LAW IN SUPPORT**

Complainants Doug and Geri Boyer ("Complainants"), pursuant to the standards set forth in 735 ILCS 5/2-1005(C), submit this memorandum in opposition to Respondents MRB Development, LLC d/b/a Copper Fire, Renae Eichholz, and Mark Eichholz's (collectively "Respondents") Motion for Summary Judgment ("Motion"). Respondents failed to demonstrate there are no issues of material fact, and instead focus on immaterial and disputed facts. Respondents' Motion does nothing more than highlight the genuine fact issues to be decided at a hearing before the Illinois Pollution Control Board ("Board"). Summary Judgment must be denied.

**INTRODUCTION**

Complainants filed this action because Respondents are creating unreasonable and unlawful noise pollution. Nearly every night of the week and throughout the day during weekends, Respondents insist on playing amplified, live music inside Copper Fire with no regard for Complainants. Despite Complainants' many requests, Respondents refuse to decrease the noise to a reasonable and appropriate level or install any sound mitigation devices. As a result,

Complainants are forced to endure a home and work environment filled with unreasonable noise pollution, which interferes with Complainants' ability to sleep, watch television, and have regular conversations in their home, or operate their business in a quiet and peaceful work environment. Put simply, the noise from Copper Fire is unbearable.

In their Motion, Respondents ignore the law and the standards enforced by the Board, and offer their own, disputed opinion, arguing they are in compliance with all Illinois regulations, and therefore summary judgment must be granted. Respondents mistakenly believe Copper Fire's live music, which unreasonably interferes with their neighbors' enjoyment of life, is permitted because Copper Fire is so "perfectly suited" on Main Street in Belleville. Far from proving compliance with Section 901.102, Respondents' Motion does little more than highlight the fact issues permeating this case and the clear deficiencies with their expert's opinion. Respondents' Motion is filled with contested facts, unsupported statements of law, irrational conclusions, and unsupported blanket statements of compliance. Respondents' arguments lack both legal and factual support, and Respondents ignore material, undisputed evidence demonstrating their unreasonable interference with Complainants' enjoyment of life.

For the reasons stated above, Respondents have failed to meet their burden to conclusively prove there are no disputed issues of material facts; therefore, Respondents are not entitled to judgment as a matter of law. This Motion must be denied.

**COMPLAINANTS' RESPONSES TO RESPONDENTS' UNDISPUTED FACTS**

Respondents provided purported undisputed facts in support of their Motion. Many of Respondents' facts are indeed contested and fail to show there are no genuine issues of material fact in dispute. Complainants provide the following responses to Respondents undisputed facts:

1. On September 30, 2021, Complainants Doug and Geri Boyer filed the Complaint with 38 paragraphs and one prayer for relief. (See Complaint attached hereto as Exhibit A<sup>1</sup>).

**RESPONSE: Admit.**

2. On March 3, 2022, this Board struck, as frivolous, paragraphs 33 through 38, because this Board has no authority to hear the alleged violations of local rules such as the Belleville City Code and the St. Clair County Zoning Code.

**RESPONSE: Object as this statement is not material to the dispute before the Illinois Pollution Control Board. Admit.**

3. Complainant Geri Boyer agrees that she lives in a vibrant downtown. (See transcript of Geri Boyer attached hereto as Exhibit B, p. 5, lines 23 to 24).

**RESPONSE: Object as the term “vibrant” is vague and confusing. Further, object as living in a “vibrant” downtown is not material to Respondents’ noise pollution which unreasonably interferes with Complainants’ enjoyment of life and in no way excuses Respondents’ noise pollution. Otherwise admit for the purposes of summary judgment that Geri Boyer agrees downtown Belleville is vibrant.**

4. Complainant Geri Boyer moved downtown because she wanted to be part of the redevelopment. (Exhibit B, p. 6, lines 14-17).

**RESPONSE: Object to this statement as it is an incomplete representation of Geri Boyer’s rationale for moving downtown. While Ms. Boyer moved downtown as she wanted to be a part of the redevelopment, but this was not her sole reason for moving to Belleville. Further, object to this statement insofar as it implies a desire to redevelop Belleville excuses Respondents’ noise pollution which unreasonably interferes with Complainants’ enjoyment of life. Otherwise admit for the purposes of summary judgment that Ms. Boyer wanted to be part of the redevelopment of Belleville.**

5. Complainant Geri Boyer moved into the area with the full understanding that there were bars and restaurants in the area. (Exhibit B, p. 7, lines 10-13).

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<sup>1</sup> All lettered exhibits refer to those attached to Respondents’ Motion. All numbered exhibits refer to those attached to Complainants’ Response.

**RESPONSE: Object to this statement insofar as it implies an understanding of the location of bars and restaurants in the area excuses Respondents' noise pollution which unreasonably interferes with Complainants' enjoyment of life. Further object to the extent this statement implies the bars and restaurants in the area at the time Ms. Boyer moved to Belleville included Copper Fire, or any bar or restaurant at 200 E. Main Street, Belleville, Illinois 62220, playing unreasonably loud live music. Otherwise admit for the purposes of summary judgment there were other bars and restaurants in downtown Belleville.**

6. Respondent MRB Development, LLC owns Copper Fire restaurant. (See

Affidavit of Renae Eichholz attached hereto as Exhibit C).

**RESPONSE: Admit.**

7. Copper Fire is located at 200 E. Main Street, Belleville, Illinois 62220. (Exhibit C).

**RESPONSE: Admit.**

8. Within two blocks to the east and west of Copper Fire are the following bars/restaurants: Bennie's Pizza Pub, Margaritas Mexican, The Quarter Restaurant and Bar, the Cornerstone Bistro, Tavern on Main, Big Daddy's 618, and Seven Shichi Sushi Bar. (Exhibit C).

**RESPONSE: Object to this statement as the location of other bars not located at 200 E. Main Street, Belleville, Illinois 62220 is immaterial. Further object to this statement insofar as it implies the existence of other bars and restaurants excuses Respondents' noise pollution which unreasonably interferes with Complainants' enjoyment of life. Otherwise admit.**

9. Copper Fire participates in group called Live Music Row [www.livemusicrow.com](http://www.livemusicrow.com) which promotes live music on Main Street in downtown Belleville. (Exhibit C).

**RESPONSE: Object to this statement as it is immaterial to Respondents' summary judgment motion. Further object to this statement insofar as it implies Respondents' participation in Live Music Row excuses Respondents' noise pollution which unreasonably interferes with Complainants' enjoyment of life. Otherwise admit.**

10. Live Music Row helps the redevelopment of downtown Belleville, and is strongly supported by the Greater Belleville Chamber of Commerce. (Exhibit C).

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Further object to this statement as it is immaterial to Respondents' summary judgment motion and implies Respondents' participation in Live Music Row excuses Respondents' noise pollution which unreasonably interferes with Complainants' enjoyment of life. Further object to this statement as "strongly" is vague and confusing. Otherwise admit for purposes of summary judgment.

11. Discovery has proceeded in this case, including depositions of experts.

**RESPONSE: Admit.**

12. At a hearing in this case on March 7, 2023, all parties agreed that written discovery is complete and depositions are complete.

**RESPONSE: Admit.**

13. Geri Boyer plead in the Complaint (¶ 26) and admitted at her deposition that she believes 901.102 is the regulation Copper Fire is violating in this lawsuit. (Exhibit B, p. 26, lines 1 to 6).

**RESPONSE:** Deny Geri Boyer admitted at her deposition she believes 901.102 is the regulation Copper Fire is violating. Ms. Boyer stated she is not a noise expert but believes "900.102" is the applicable regulation. Further, object to this statement insofar as it is not a comprehensive recitation of all laws and regulations Copper Fire is violating. (*See also* Complaint, Exhibit A to Respondents' Motion, ¶¶ 25–32.) Further, object to this statement as the applicable law for this matter is an issue solely before the Illinois Pollution Control Board, and the opinion of Geri Boyer, who is not a lawyer, is immaterial and irrelevant. Admit for the purposes of summary judgment Section 901.102 is identified as an applicable regulation for this lawsuit.

14. Complainants' expert, Mike Biffignani, conducted sound testing in Complainants' loft. (Report of Mike Biffignani attached hereto as Exhibit D).

**RESPONSE:** Object to this statement as it is incomplete. Complainants' expert Mike Biffignani conducted sound testing at Complainants' loft twice. This statement fails to cite to or acknowledge Mr. Biffignani's sound testing on November 16, 2021. (*See* November 2021 Report of Mike Biffignani, Exhibit J to Respondents' Motion.) Admit Complainants' expert Mike Biffignani conducted sound testing in Complainants' loft on April 23, 2021, April 24, 2021, and November 16, 2021.

15. Respondents' expert, Gary Brown, conducted sound testing inside Copper Fire, inside Complainants' loft and outside of Copper Fire. (See the report of Gary Brown attached hereto as Exhibit E).

**RESPONSE: Admit.**

16. Mike Biffignani compared his testing results to the standards in 901.102. (Exhibit D).

**RESPONSE: Admit.**

17. Mike Biffignani offered an opinion in his report that the nighttime standards of 901.102 were violated because the peak decibels violated the standard.

**RESPONSE: Object to this statement as is it an incomplete recitation of Mr. Biffignani's expert opinion. In addition to concluding Copper Fire's nighttime sound emissions exceeded the Illinois EPA's regulations, Mr. Biffignani determined the continuous duration of daytime sound levels renders daytime sound levels a potential noise annoyance, as well. Object to the statement insofar as it implies Respondents' noise pollution did not unreasonably interfere with the enjoyment of life. Further object as there is no mention of "peak" decibels in Mr. Biffignani's report. Deny this statement accurately summarizes Mr. Biffignani's opinion. (See April 2021 Report of Mike Biffignani, Exhibit D to Respondents' Motion; November 2021 Report of Mike Biffignani, Exhibit J.)**

18. In his deposition, Mike Biffignani admitted that 35 Ill. Adm. Code § 910.100 requires the use of Leq measurements (not peak) when determining whether a noise is compliant with 901.102. (See the transcript of Mike Biffignani attached hereto as Exhibit F, p. 22-23 lines 22-24 and lines 5.)

**RESPONSE: Object to this statement as the applicable law for this matter is an issue solely before the Illinois Pollution Control Board. Admit Mike Biffignani agreed 35 Ill. Adm. Code § 910.100 states "specifications for sound measurement equipment as well as the specific sound measurement techniques to be used when conducting time-averaged Leq measurements to determine whether a noise is compliant with 35 Illinois Adm. Code 900 and 901."**

19. Exhibit G shows the results of Mike Biffignani's octave band measurements on April 23, 2021. (Exhibit G is attached hereto).

**RESPONSE: Admit.**

20. The blue column in Exhibit G represents the Leq measurements for the entire time period that Mr. Biffignani tested on that evening. (Exhibit F, p. 48-49 lines 22-24, 1-4).

**RESPONSE: Admit.**

21. The red line shows the Leq measurement for the time period 10:12 to 10:17, which Mr. Biffignani called a snapshot in time. (Exhibit F, p. 49, lines 5-23).

**RESPONSE: Admit.**

22. The black line (may look purple on the exhibit), shows the peak one-second sound level. (Exhibit F, p. 50, lines 2 through 18).

**RESPONSE: Admit.**

23. The blue columns and red lines on Exhibit G are lower than the 901.102 (b) standard at each frequency. (Exhibit G).

**RESPONSE: Object as the raw data does not provide an analysis of Section 901.102(b) as it applies to the circumstances of this matter, which is for noise pollution measured inside the Boyers' loft, not outside Copper Fire. Deny the sound measurements were lower than those required by Section 901.102(b). (See Deposition Transcript of Mike Biffignani ("Biffignani Depo."), Exhibit F to Respondents' Motion, at 36:16-24; Deposition Transcript of Gary Brown "Brown Depo."), Exhibit K to Respondents' Motion, at 76:17-77:8, 78:2-10, 83:22-84:2.)**

24. Exhibit H marked at the deposition of Mike Biffignani shows the results of his octave band measurements on April 24, 2021. (Exhibit F, p. 51 and Exhibit H)

**RESPONSE: Admit.**

25. The blue column is the Leq from the entire time period. (Exhibit F, p. 51, lines 10-13).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

26. The red line is the Leq for the time period shown at the bottom which is 9:48 to 10:37 for Octave 32 Hz and 9:59 through 11:02 for the other frequencies. (Exhibit F, p. 51, lines 14-17).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

27. The black line shows the peak one-second sound level. (Exhibit F, p. 52, lines 2 through 5).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

28. The blue columns and red lines on Exhibit H are lower than the 901.102 (b) standard at each frequency.

**RESPONSE: Object as the raw data does not provide an analysis of Section 901.102(b) as it applies to the circumstances of this matter, which is for noise pollution measured inside the Boyers' loft, not outside Copper Fire. Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Deny the sound measurements were lower than those required by Section 901.102(b). (See Biffignani Depo., Exhibit F, at 36:16-24; Brown Depo., Exhibit K, at 76:17-77:8, 78:2-10, 83:22-84:2.)**

29. Exhibit I marked at the deposition of Mike Biffignani shows the results of his octave band measurements on November 21, 2021. (Exhibit F, p. 52 and Exhibit I).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the**



**noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

30. The blue column is the Leq from the entire time period. (Exhibit F, p. 52, lines 11-13).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

31. The red line is the Leq for the time period shown at the bottom which is 5:05 through 5:07. (Exhibit F, p. 52, lines 14-18).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

32. The black line shows the peak one-second sound level. (Exhibit D, p. 53, lines 14-18).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

33. The blue columns and red lines on Exhibit I are lower than the 901.102(b) standard at each frequency. (Exhibit I).

**RESPONSE: Object as the raw data does not provide an analysis of Section 901.102(b) as it applies to the circumstances of this matter, which is for noise pollution measured inside the Boyers' loft, not outside Copper Fire. Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Deny the sound measurements were lower than those required by Section 901.102(b). (See Biffignani Depo., Exhibit F, at 36:16-24; Brown Depo., Exhibit K, at 76:17-77:8, 78:2-10, 83:22-84:2.)**

34. Mr. Biffignani wants to “normalize” these results under the World Health Organization’s inside noise standard. (Exhibit F, p. 34 through 36).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Deny. Mr. Biffignani’s opinion states 901.102 standards set forth outdoor noise regulations, which need to be normalized to the indoor setting in the present circumstances. Mr. Biffignani normalized the data two different ways using the World Health Organization’s standards as one way to normalize the outdoor standards to indoors. Without normalization, Section 901.102 cannot be used to compare measurements which were taken indoors. (Biffignani Depo., Exhibit F, at 34-37, 44, 56-58:5.)**

35. Mr. Biffignani found the average daytime ambient sound level inside the loft was 30 dBA. (Exhibit D).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

36. Mr. Biffignani found the average nighttime ambient sound level inside the loft was 29 dBA. (Exhibit D).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit.**

37. During his testing on April 23, 2021, with music playing at Copper Fire, Mr. Biffignani found the evening Leq inside the loft to be 38 dBA during a time period from 10:26 to 11:00 p.m. (Exhibit D).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Deny. Mr. Biffignani found the average LeqA on April 23, 2021 between 10:26 to 11:00 p.m. to be 38 dBA. (April 2021 Report of Mike Biffignani, Exhibit D.)**

38. During his testing on April 24, 2021, with music playing at Copper Fire, Mr. Biffignani found the evening Leq inside the loft to be 39 dBA from 10:00 p.m. to 11:25 p.m. (Exhibit D).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Deny. Mr. Biffignani found the average LeqA on April 24, 2021 from 10:00 to 11:25 p.m. to be 39 dBA. (April 2021 Report of Mike Biffignani, Exhibit D.)**

39. During his testing on November 21, 2021, with music playing at Copper Fire, Mr. Biffignani found the daytime Leq inside the loft to be between 33 dBA and 37 dBA. (See the report of Mike Biffignani attached hereto as Exhibit J).

**RESPONSE: Object to this statement insofar as it implies that Mike Biffignani measured sound outside the Boyer's loft, as the Boyers are not taking issue with the noise on the street, but rather complain about the unreasonable noise intruding into their apartment, which was in place before Copper Fire opened. Otherwise admit Mike Biffignani measured between 33dBA and 37dBA inside Complainants' loft during daytime hours on November 21, 2021.**

40. Respondent's expert, Gary Brown, found the average background noise inside the loft was 30.2 dBA. (Exhibit E).

**RESPONSE: Object as this statement is incomplete. Gary Brown found the average background sound pressure level from 1:00 to 2:00 p.m. (daytime) to be 30.2 dBA.**

41. Mr. Brown found the average sound pressure level inside the loft during an afternoon band was 34.5 dBA to 35.5 dBA. (Exhibit E).

**RESPONSE: Admit.**

42. Mr. Brown found the average sound level inside the loft during the evening band was 38 dBA to 39 dBA. (Exhibit E).

**RESPONSE: Admit.**

43. Mr. Brown's results by frequency are shown in Figure 1 below:

**RESPONSE:** Object to the use of Figure 1 as an accurate representation and comparison between Mr. Brown's results and the IL Noise Limits (Nighttime). Mr. Brown admits his calculation in his expert report for IL nighttime noise limits was incorrect and should be 44.4 dBA. (See IL Octave Band Sound Limits produced by Respondents after Mr. Brown's deposition, attached hereto as Exhibit 1.) Further, deny Figure 1 represents the appropriate noise limits for inside noise. (Brown Depo., Exhibit K, at 76:17-77:8, 78:2-10, 83:22-84:2.) Admit Figure 1 shows Mr. Brown's results for measured sounds inside the Boyer loft by frequency.

44. Mr. Brown will offer an opinion that the sound level inside Complainants' loft is below the Illinois laws and regulations at all frequencies. (See transcript of Gary Brown attached hereto as Exhibit K).

**RESPONSE:** Object to the extent this statement implies Mr. Brown's opinion is true and accurate. Admit Mr. Brown will offer this opinion, but deny this opinion is supportable and accurate. Mr. Brown's testimony is flawed and must be assessed by the Illinois Pollution Board because Mr. Brown acknowledges Section 901 was created to determine reasonable and appropriate standards for outside noise – not inside noise. Mr. Brown admits the standards for what is reasonable for inside noise is not the same as what is reasonable for outside noise, but his opinion only applied outside noise levels to noise captured inside the Boyer loft. He has not determined what the appropriate inside levels should be, and instead only opines the noise inside the Boyers' residence meets the outside noise standards. (Brown Depo., Exhibit K, at 76:17-77:8, 78:2-10, 83:22-84:2, 85:9-13.)

45. The objective results from both experts are remarkably similar.

**RESPONSE:** Object to this statement as it is vague and confusing. To the extent this statement means the objective sound levels measured by both experts produced similar results, admit.

46. From May 2021 through the present, Respondents have taken numerous remedial measures in a good faith effort to be responsive to the Boyer's complaints. (See Respondent's Answers to Complainants' Interrogatories attached hereto as Exhibit L, response to interrogatory 6).

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Deny Respondents have taken numerous remedial measures to be responsive to the Boyer's complaints, and deny any of these purported remedial efforts have fixed Respondents' noise pollution which unreasonably interferes with Complainants'

enjoyment of life. (Transcript of Geri Boyer Deposition (“Boyer Depo.”), Exhibit B to Respondents’ Motion, at 22:8-24:2.) Deny the purported remedial efforts are adequate. (Affidavit of Geri Boyer, “Boyer Aff.”, attached hereto as Exhibit 2, at ¶¶ 9–10, 19.)

47. Respondents downloaded the NIOSH Sound Level meter to monitor noise inside Copper Fire. (Exhibit L).

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret’ A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they have downloaded the NIOSH Sound Level meter, but deny the meter is used to adequately monitor noise inside Copper Fire. According to Respondents, the meter is only used “[i]f anyone *inside the restaurant* has a concern, the manager on duty will check the app . . . to ensure the levels stay below 95 decibels.” (Respondents’ Answers to Complainants’ Interrogatories, Exhibit L to Respondents’ Motion, at 6.) This is not a proactive step and only responds to complaints from patrons of Copper Fire, not issues with noise pollution for Copper Fire’s neighbors. Further, deny staying below 95 decibels inside Copper Fire is adequate to conform with Illinois EPA guidelines and avoid unreasonably interfering with the enjoyment of life. In fact, Mr. Biffignani recommended numerous remedial efforts which should be taken to reduce the sound levels in the loft, including reducing the sound levels in the restaurant by 10 decibels. (April 2021 Report of Mike Biffignani, Exhibit D.) Also, deny Copper Fire’s current decibel level has stopped the noise pollution as the Boyers’ can “hear every word of every song in [their] loft.” (Boyer Depo., Exhibit B, at 76:4-10; Boyer Aff., Exhibit 2, at ¶¶ 9–14, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.

48. Respondents tried a three-week trial period of working with the Boyers to address noise complaints. (Exhibit L).

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret’ A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit there was a three-week trial period, but then Respondents cut off communication and continue to cause noise pollution. (Boyer Depo., Exhibit B, at 17:4-7, 42:21-43:22; Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Deny the three-week trial period fixed the noise pollution as it continues to unreasonably interfere with Complainants’ enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.

49. Respondents tried moving the band inside the restaurant. (Exhibit L).

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret’ A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they tried moving the band inside the restaurant. Deny

**Respondents trying to move the band fixed the noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.**

50. Respondent Renae Eichholz has consulted with musicians and other sound experts to get advice. (Exhibit L).

**RESPONSE: Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they consulted with musicians and sound experts to get advice. Deny any advice was followed or has remediated Respondents' noise pollution which continues to unreasonably interfere with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.**

51. Respondents adopted a noise level sound level policy and enforce this policy with all bands that play inside the restaurant. (Exhibit L).

**RESPONSE: Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they adopted a noise level policy and enforce the policy. Deny Respondents' purported policy has remediated Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at, ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.**

52. Respondents tell all bands before they are booked about the noise policy and the fact that they will enforce the policy. (Exhibit L).

**RESPONSE: Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they tell all bands before the bands are booked about the noise policy. Deny Respondents' purported policy has remediated Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.**

53. Respondents also have a sign inside the restaurant for all bands to see asking them to comply with the policy. (Exhibit L).

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they have a sign inside the restaurant for all bands to see asking them to comply with the policy. Deny Respondents' purported policy has remediated Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.

54. Respondents ask all bands to stop playing live music at 11:00 p.m., even though the bar is open until 1:00 a.m.

**RESPONSE:** Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Admit Respondents state they ask all bands to stop playing at 11:00 p.m. Deny all bands actually stop playing at 11:00 p.m., as some bands play until midnight. (Transcript of Renae Eichholz Deposition, Corporate Representative for Respondents, "Eichholz Depo.," attached hereto as Exhibit 3, at 99:24-100:8, 102:17-19.) Deny Respondents asking bands to stop playing at 11:00 p.m. cures or excuses Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Further, deny Respondents have taken all reasonable steps to remediate their noise pollution.

**COMPLAINANTS' RESPONSES TO RESPONDENTS' ADDITIONAL NON-DISPOSITIVE FACTS**

Respondents also listed additional non-dispositive facts in support of their Motion. These facts are similarly ripe with controversy, and as admitted by Respondents, are non-dispositive. Complainants provide the following responses to Respondents additional non-dispositive facts:

55. During the three-week trial period mentioned in paragraph 48, Renae Eichholz was allowed into the Boyer's business office and the 2nd floor loft. (Exhibit C).

**RESPONSE:** Admit Renae Eichholz was allowed into the Boyers' business office and 2nd floor loft once during the three-week trial period. Deny this fact has any bearing on this Motion or is representative of Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Listening to Copper Fire's noise in one instance and at a time when Respondents were aware Renae was listening has no bearing on this Motion.

56. Renae Eichholz turned the house music stereo in Copper Fire to full volume to see if the house music could be heard. (Exhibit C).

**RESPONSE: Admit Renae Eichholz states she turned the house music to full volume. Deny this fact has any bearing on this Motion or is representative of Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Listening to Copper Fire's noise in one instance and at a time when Respondents were aware Renae was listening has no bearing on this Motion.**

57. The house music could not be heard inside the Boyer's business office. (Exhibit C).

**RESPONSE: Admit Respondents state the music could not be heard from the Boyer's business office. Deny this fact has any bearing on this Motion or is representative of Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Listening to Copper Fire's noise in one instance and at a time when Respondents were aware Renae was listening has no bearing on this Motion.**

58. The house music also could not be heard inside the Boyer's loft. (Exhibit C).

**RESPONSE: Admit Respondents state the music could not be heard from the Boyer's loft. Deny this fact has any bearing on this Motion or is representative of Respondents' noise pollution which is unreasonably interfering with Complainants' enjoyment of life. (Boyer Aff., Exhibit 2, at ¶¶ 10, 19.) Listening to Copper Fire's noise in one instance and at a time when Respondents were aware Renae was listening has no bearing on this Motion.**

59. There was at least one occasion during the Covid shutdown where Geri Boyer complained to Renae and Mark Eichholz that she could hear music late in the evening, and the only music playing inside Copper Fire was the house music. (Exhibit C).

**RESPONSE: Admit Geri Boyer complained she could hear the music late in the evening.**

60. In her deposition, Geri Boyer admitted that "I will say that when the stereo is playing at Copper Fire, for the most part, we can't hear that." (Exhibit B, p. 47 lines 1 to 3).

**RESPONSE: Admit.**



61. Mike Biffignani and Gary Brown will offer an opinion that the live music in Copper Fire does not violate the daytime standards in 901.102. (Exhibit F, p. 61, lines 7-11, and p. 73, lines 9-20).

**RESPONSE: Object to this statement as it is an incomplete recitation of Mr. Biffignani's opinion. While Mr. Biffignani opines Copper Fire is not violating the numeric daytime standards in 901.102, Mr. Biffignani will offer the opinion the continuous duration of daytime sound levels renders daytime sound levels a potential noise annoyance. (April 2021 Report of Mike Biffignani, Exhibit D.)**

62. Nevertheless, Geri Boyer has complained often about the noise level during the daytime hours. (See text messages between Geri Boyer and Copper Fire attached hereto as Exhibit M).

**RESPONSE: Object to this statement to the extent it implies any daytime complaint is improper. Admit Geri Boyer has complained about the noise level during daytime hours.**

63. Geri Boyer has even admitted in a text message, "We aren't going for loud. We are going for not hearing your music." (Exhibit M, page 4).

**RESPONSE: Object to this statement as it contains a text message quote without any context. Admit this is a quote from a text message from Geri Boyer. Ms. Boyer goes on to state she is looking for "a reasonable level. This doesn't have to be so hard." (Text Messages, Exhibit M to Respondents' Motion, at BOYER000046.)**

64. Geri Boyer also admitted in her deposition that she is unconcerned if the sound actually violates the law:

Q Does it not matter to you whether the sound is violating the law?

A It matters to me that I am living with noise. That's what matters to me.

That's disturbing my life.

(Exhibit B, p. 35-36, lines 23-24, 1-3).

**RESPONSE: Deny Geri Boyer admitted "she is unconcerned if the sound actually violates the law." The quoted section of the deposition speaks for itself. Ms. Boyer stated it matters to her whether the noise is disturbing her life, which is a violation of the law.**

65. Notwithstanding the above testimony, Geri Boyer also testified:

Q And so in that case, what have you done inside your apartment to address that noise that's bothering you so much?

A. I'm not the source.

Q. Okay. Again, what have you done –

A. I haven't done anything.

(Exhibit B, p. 36, lines 4-9).

**RESPONSE: Admit this is a quote from Geri Boyer's deposition testimony.**

66. In paragraph 12 of the Complaint, the Boyer's allege "this dividing wall consists of brick on both sides, with air space between the walls. No additional plaster or other sound dampening material is on the brick wall."

**RESPONSE: Admit.**

67. Mike Biffignani was told the wall inside Copper Fire is an exposed brick wall.

(Exhibit D).

**RESPONSE: Admit.**

68. The wall inside Copper Fire that is adjacent to the Boyers is and has been since its opening, a brick wall covered by drywall. (Exhibit C).

**RESPONSE: Admit.**

69. The wall inside Geri Boyer's loft is exposed brick. (Exhibit C).

**RESPONSE: Admit.**

70. The exposed brick wall inside the Boyer's apartment has multiple holes in the mortar, of unknown depth. (Exhibit C).

**RESPONSE: Object to this statement as it is unsupported by admissible, reliable evidence. *Owen v. Pret' A Porter Boutique, Inc.*, 15 Ill. App. 3d 438, 442 (1973). Renae Eichholz has not established she has ever been inside the Boyer loft to analyze the**

**brick wall. In fact, she stated numerous times “I’ve never been able to go in and hear it [the noise inside the Boyer’s loft] myself.” (Eichholz Depo., Exhibit 3, at 57:9-10.) Deny there are multiple holes in the brick wall inside the Boyer’s apartment. (Boyer Aff., Exhibit 2, at ¶ 17–18.)**

71. In paragraph 13 of the Complaint, the Boyer’s allege that the music is so loud that vibrations can be felt throughout the Boyer’s home and office space. (Exhibit C).

**RESPONSE: Admit.**

72. There is no evidence to support the allegation in paragraph 13, and Mike Biffignani admitted he could have tested for it, but was not asked to test vibration. (Exhibit F, p. 103, lines 18-21).

**RESPONSE: Deny there is no evidence. Complainants can testify about the vibrations before the Illinois Pollution Control Board. (Boyer Aff., Exhibit 2, at ¶ 12.) Complainants are not required to do vibration testing in order to prove vibrations can be felt inside the loft.**

73. Gary Brown will testify that no vibration can be felt in the Boyer loft.

**RESPONSE: Admit Respondents allege Gary Brown will testify no vibration can be felt in the loft. Mr. Brown did not testify about vibrations during his deposition, and he did not conduct a vibration study. Mr. Brown testified he was not inside the Boyer’s loft during his entire sound study. (Brown Depo., Exhibit K, at 58:17-61:15.) Complainants were not present in the loft when Mr. Brown conducted his study. Complainants will provide testimony of the vibrations felt inside the loft on other occasions. (Boyer Aff., Exhibit 2, at ¶ 12.)**

74. There are multiple annual city-wide celebrations that take place on Main Street near Geri Boyer’s apartment where thousands of people crowd the streets, such as the Belleville Chili cookoff and Art of the Square. (Exhibit C).

**RESPONSE: Object as this statement is irrelevant. The experts’ noise studies were not conducted during any of these named days. Nothing about the existence of these celebrations impacts the unreasonable noise pollution caused by the loud music at Copper Fire and its impact on Complainants’ enjoyment of life. There is no evidence any of the complaints about Respondents’ noise pollution occurred during any of the celebrations. Admit there are annual celebrations in Belleville.**

**COMPLAINANTS' STATEMENT OF ADDITIONAL UNCONTROVERTED  
MATERIAL FACTS**

Respondents ignored numerous uncontroverted facts failing to support their Motion. The following facts are uncontroverted and provide a basis for the Board to find Respondents are violating Illinois noise pollution regulations and are unreasonably interfering with Complainants' enjoyment of life. At the very least, these facts show there remains genuine issues of material fact, precluding summary judgment.

75. The construction of Complainants' loft began in 2007. (Boyer Aff., Exhibit 2, at ¶ 3.)

76. Complainants purchased and moved into their loft by early 2008. (Boyer Aff., Exhibit 2, at ¶ 3; Boyer Depo., Exhibit B, at 5:7-9.)

77. At the time, and until 2018, the adjacent building (now Copper Fire) had a Quiznos on the first floor which is now occupied by Copper Fire. (Boyer Aff., Exhibit 2, at ¶ 5; Eichholz Depo., Exhibit 3, at 14:15-21.)

78. Before Copper Fire went in next door, Complainants did not experience any noise pollution from their neighbors at 200 East Main Street, Belleville, Illinois 62220. (Boyer Aff., Exhibit 2, at ¶¶ 6-7; Biffignani Depo., Exhibit F, at 130:1-8.)

79. The Complainants' loft was constructed, and Complainants purchased and moved into the loft before Copper Fire existed. (Eichholz Depo., Exhibit 3, at 47:14-16; Boyer Aff., Exhibit 2, at ¶¶ 3-4; Boyer Depo., Exhibit B, at 5:7-9.)

80. Renae and Mark Eichholz each own a 40 percent interest in Copper Fire. (Eichholz Depo., Exhibit 3, at 11:22-12:3.)

81. Brett Eichholz, Renae's stepson, owns a 20 percent interest in Copper Fire. (Eichholz Depo., Exhibit 3, at 11:22-12:3.)

82. When Copper Fire was constructed, sound mitigation to Copper Fire's neighbors was not discussed and no modifications were made to the inside of the exterior walls of Copper Fire. (Eichholz Depo., Exhibit 3, at 17:16-20.)

83. There is no insulation, drop ceiling or sound deadening devices in Copper Fire. (Eichholz Depo., Exhibit 3, at 20:20-24.)

84. Copper Fire plays live music Wednesday through Sunday. (Eichholz Depo., Exhibit 3, at 27:2-14.)

85. Copper Fire amplifies all its performers. (Eichholz Depo., Exhibit 3, at 29:1-30:1.)

86. While people have suggested additional sound mitigation efforts, including putting in their own sound system and hanging things from the ceiling, Respondents did not incorporate any of these sound mitigation efforts inside Copper Fire. (Eichholz Depo., Exhibit 3, at 36:9-15.)

87. Other bars and restaurants in downtown Belleville have had complaints related to noise. (Eichholz Depo., Exhibit 3, at 110:11-111:2.)

88. Other bars and restaurants in downtown Belleville have installed sound deadening systems. (Eichholz Depo., Exhibit 3, at 38:20-39:8.)

89. In fact, despite proclaiming that sound mitigation efforts would be "cost prohibitive" and "probably [\$]50,000," Copper Fire has never even sought a bid or looked into any plan to install a sound deadening system. (Eichholz Depo., Exhibit 3, at 36:19-22, 39:15-22.)

90. Complainants continue to hear music from Copper Fire inside their loft, and at times, Complainants can feel vibrations inside their loft from the excessively loud music. (Boyer Aff., Exhibit 2, at ¶¶ 8-9, 12-14; Boyer Depo., Exhibit B, at 23:12-24:2, 36:1-3, 75:20-23.)

91. The noise from Copper Fire is interfering with Complainants ability to sleep and conduct regular activities such as having conversations, watching television, and operating their

engineering business. (Boyer Aff., Exhibit 2, at ¶¶ 8–9; Boyer Depo., Exhibit B, at 14:1-20, 15:1-16:21.)

92. In fact, on four separate occasions, Geri Boyer has recorded the music from Copper Fire inside Complainants' loft where specific songs can be heard through the wall. (Boyer Aff., Exhibit 2, at ¶ 11; Audio Recordings, attached hereto as Exhibit 4.)

93. Further, other residents in the Writers' Loft share a wall with Copper Fire and describe the noise as "intolerable", finding it "impossible to sleep" and "impossible to hear the television over the noise emanating through the walls from Copper Fire." (Julie Orlet Letter, attached hereto as Exhibit 5, BOYER000022-23.)

94. Renae Eichholz, as corporate representative for Copper Fire, testified she believes it is reasonable for someone in another building to be able to hear a specific song through the walls of their living space. (Eichholz Depo., Exhibit 3, at 64:15-21.)

95. Copper Fire has not hired any sound expert to identify the lowest decibel limit which would allow Copper Fire to have live music and operate its business. (Eichholz, Depo., Exhibit 3, at 71:13-19.)

96. Complainants do not complain about Copper Fire's music every time Copper Fire has live music but only when it is unreasonably loud. (Eichholz Depo., Exhibit 3, at 77:6-8, 78:5-8.)

97. Other individuals separate from the Complainants have complained about the noise level at Copper Fire. (Eichholz Depo., Exhibit 3, at 96:3-6; Julie Orlet Letter, Exhibit 5.)

98. Respondents' expert Gary Brown agrees the Illinois EPA guidelines located in Section 901 were created to determine outside noise issues. (Brown Depo., Exhibit K, at 76:17-77:8.)

99. Gary Brown opines the noise inside the Boyer loft was below the Illinois EPA guidelines for outside noise. (Brown Depo., Exhibit K, at 77:5-19.)

100. Gary Brown agrees the standard of what is reasonable noise inside a residence is not the same as what is considered reasonable outside a residence. (Brown Depo., at Exhibit K, at 78:2-9.)

101. Gary Brown did not determine acceptable indoor noise limits based on the Illinois EPA guidelines or any other sources. (Brown Depo., Exhibit K, at 84:17-85:13.)

102. In his expert report, Gary Brown took the Illinois EPA's guidelines by octave band frequency and converted those numbers to decibel limits. (Brown Depo., Exhibit K, at 74:4-21; Brown Report, Exhibit E to Respondents' Motion.)

103. Gary Brown miscalculated the decibel limit for nighttime noise in his expert report, which should be 44.4 decibels for outside noise. (*See* IL Octave Band Sound Limits produced by Respondents after Mr. Brown's deposition, Exhibit 1.)

104. Neither expert measured noise emissions and sound levels for any bars except Copper Fire. (Biffignani Depo., Exhibit F, at 132:22-133:13; Brown Report, Exhibit E.)

105. When Mike Biffignani conducted his April 2021 and November 2021 noise studies, he walked up and down the street in downtown Belleville and observed the general atmosphere was "pretty quiet." (Biffignani Depo., Exhibit F, at 134:12-135:9.)

106. While the measured daytime sound levels taken by Complainants' and Respondents' experts did not exceed the numeric limits in the EPA guidelines (Section 901.102), the continuous duration of the daytime sound levels renders daytime sound levels a potential noise nuisance. (April 2021 Report of Mike Biffignani, Exhibit D.)

107. Mr. Biffignani will testify the best way for Respondents to conform with EPA guidelines would be to reduce the sound levels in Copper Fire by 10 decibels or more. (April 2021 Report of Mike Biffignani, Exhibit D.)

### **ARGUMENT**

#### **I. SUMMARY JUDGMENT STANDARD**

Summary judgment is appropriate where the pleadings, depositions, and admissions on file, together with the affidavits, if any, reveal there is no genuine issue on any material fact and the moving party is entitled to a judgment as a matter of law. 735 ILCS 5/2-1005(c) (2002); *Crichton v. Golden Rule Ins. Co.*, 358 Ill. App. 3d 1137, 1144 (2005). In ruling on a motion for a summary judgment, the Court must construe the pleadings, depositions, and affidavits in the light most favorable to the non-moving party. *Id.* While the non-moving party in a summary judgment motion is not required to prove its case, it must nevertheless present more than a scintilla of evidence to raise a genuine issue of material fact and survive a motion for summary judgment. *Benner v. Bell*, 236 Ill. App. 3d 761, 768–69 (1992). Ultimately, “[s]ummary judgment is a drastic measure and should only be granted if the movant’s right to judgment is clear and free from doubt.” *Lindblad v. Nelson*, 2019 IL App (1st) 181205, ¶ 22 (quoting *Outboard Marine Corp. v. Liberty Mut. Ins. Co.*, 154 Ill. 2d 90, 102 (1992)).

#### **II. RESPONDENTS ARE NOT ENTITLED TO SUMMARY JUDGEMENT AS THERE REMAINS GENUINE ISSUES OF MATERIAL FACT AS RESPONDENTS ARE IN VIOLATION OF ILLINOIS NOISE POLLUTION STANDARDS.**

The record is ripe with evidence Respondents have and continue to produce noise pollution which unreasonably interferes with Complainants’ enjoyment of life. In addition, Respondents’ Motion fails to demonstrate there are no issues of material fact. Instead, Respondents’ Motion runs afoul of the purpose of summary judgment and attempts to try issues of fact, rather than contend



there are no material issues of fact. *See Lindblad v. Nelson*, 2019 IL App (1st) 181205, ¶ 22 (quoting *Schrager v. North Community Bank*, 328 Ill. App. 3d 696, 708 (2002)) (“The purpose of summary judgment is not to try an issue of fact but . . . to determine whether a triable issue of fact exists). Respondents failed to meet their burden, and therefore, Respondents’ Motion must be denied.

**A. Summary of Illinois Nuisance Noise Pollution Standards and Regulations.**

The Illinois Environmental Protection Act (the “Act”) states “[n]o person shall emit beyond the boundaries of his property any noise that unreasonably interferes with the enjoyment of life or with any business activity, so as to violate any regulating or standard adopted by the Board under this Act.” 415 ILCS 5/24. The Act enables the Board to establish maximum permissible limits for certain noise emissions, whereby violations of these limits may categorically be considered unreasonable interference. *See* 415 ILCS 5/25.

To enforce the noise prohibitions of the Act, the Board has the power to conduct proceedings regarding any citizen complaint under the Act as well as regulations adopted by the Board, including Sections 900.101, 900.102 and 901.102 of the Illinois Administrative Code (the “Code”). Section 900.101 incorporates the nuisance standards of the Act, defining “noise pollution” as “the emission of sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity.” 35 Ill. Adm. Code § 900.101. Section 900.102 further prohibits noise pollution and enforces the noise regulations in reference to the narrative and numerical standards:

A person must not cause or allow the emission of sound beyond the boundaries of that person’s property . . . that **causes noise pollution in Illinois or violates any provision of this Chapter.**

35 Ill. Adm. Code § 900.102. (emphasis added). This Board has referred to the combination of Section 900.102 of the Code and Section 24 of the Act as “a prohibition against nuisance noise pollution.” *Fiser v. Henry’s Double K, LLC.*, PCB 18-084, (January 21, 2021), slip op. at 7 (internal quotation omitted). Finally, Section 901.102 establishes maximum permissible limits for certain sound level decibels emanating from “Class B Land”, such as Respondents’ property, to any residential or “Class A Land,” such as Complainants’ residence (the “Numerical Limits”). 35 Ill. Adm. Code § 901.102. The Board follows a two-step process to determine if noise emissions constitute “nuisance noise pollution” violation: (1) whether the noise constitutes interference with the enjoyment of complainants’ life; and (2) whether the interference is unreasonable considering the factors set forth in Section 33(c) of the Act. *Fiser*, slip. op. at 7.

Respondents argue there is no factual dispute regarding the first prong of the inquiry because their expert’s decibel readings establish Respondents’ noise emissions did not exceed the Numerical Limits. (Resp. Br.<sup>2</sup> 11.) Respondents state they are entitled to summary judgment because by establishing maximum noise emission levels in the Code, “this Board necessarily found that sound within those limits cannot interfere with the enjoyment of life.” (Resp. Br. at 14-15.) As fully discussed below, there is a factual dispute regarding Respondents’ expert findings precluding summary judgement. *See infra*, Section II.C. Further assuming, *arguendo*, Respondents were compliant with the Numerical Limits, the Board may find noise pollution based on Complainants’ testimony regarding how the noise emissions unreasonably interfere with their lives. *Discovery South Group, Ltd. v. Pollution Control Bd.*, 275 Ill. App. 3d 547 (1995) (affirming Board determination respondents’ outdoor amphitheater constituted noise pollution based on

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<sup>2</sup> Respondents’ Joint Memorandum in Support of Their Motion for Summary Judgment hereinafter referred to as “Resp. Br.”

community members' testimonial evidence); *Roti v. LTD Commodities*, 355 Ill. App. 3d 1039 (2005) (affirming Board determination respondents' nighttime warehouse operations constituted noise pollution based on residential neighbors' testimonial evidence despite numerical evidence respondents complied with Numerical Limits); *Fiser v. Henry's Double K, LLC.*, PCB 18-084, (Jan. 21, 2021) (finding respondents' live musical performances constituted noise pollution based on neighboring homeowners' testimony describing unreasonable interference with sleep and household activities); *Charter Hall Homeowner's Ass'n v. Overland Transp. Sys., Inc.*, PCB 98-81, 1998 WL 714214 (Oct. 1, 1998) (finding respondents' truck terminal operations constituted noise pollution despite lack of proof respondents' noise emissions violated the Numerical Limits).

**B. Complainants Are Entitled to Demonstrate Respondents' Violation of Illinois Noise Pollution Standards Through Narrative Evidence and Numerical Evidence.**

Respondents believe the battle of the parties' experts before this Board should render a quick and determinative outcome in their favor based on the "objective numbers" of the experts. (Resp. Br. 11.) Contrary to Respondents' contention, numerical evidence of decibel readings is not an absolute defense against a complaint of nuisance noise pollution.<sup>3</sup> See *Discovery South Group, Ltd.*, 275 Ill. App. 3d 547 (1995); *Roti*, 355 Ill. App. 3d 1039 (2005).

In *Discovery South*, the appellate court affirmed this Board's finding of noise pollution because complainants provided sufficient evidence to prove the noise emissions from respondents

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<sup>3</sup> While Respondents make the bold assertion "[t]here has never been an enforcement action in front of this Board where the Respondent proved compliance with 901.102 and this Board then moved on to determine if the sound level sound was noise pollution," Respondents ignored, or failed to read, the opinions cited in their own brief. See *Charter Hall Homeowner's Ass'n v. Overland Transp. Sys., Inc.*, PCB 98-81, 1998 WL 714214, at \*1 (Oct. 1, 1998) ("The Board finds that complainants have failed to establish that respondents violated the Board's numeric sound limits. However, the Board does find that noise from respondents' facility has unreasonably interfered with the enjoyment of life. The Board therefore finds that respondents have violated the Act and the Board's regulations."); *Fiser v. Henry's Double K, LLC.*, PCB 18-084, at p. 4 (Jan. 21, 2021) (noting the Board may consider evidence of actual sound levels, but allegations for nuisance noise does not require noise readings to find a nuisance).

unreasonably interfered with their lives. The complainants in *Discovery South* were communities and residents affected by an outdoor amphitheater which regularly hosted live concerts and events. 275 Ill. App. 3d at 550. The Board relied on testimonial evidence from the complainants, describing the “[e]xcessive noise . . . emanating beyond the boundaries of the amphitheater, interfering with their lives and activities.” *Id.* The Board weighed the fact the noise emanating from live concerts and events disturbed complainants’ sleep, and complainants were unable to hear their televisions at regular volume. *Id.* at 551. The Board found the amphitheater’s noise violated the noise prohibitions of the Act and the noise regulations of the Code. *Id.* at 550.

The owners of the amphitheater appealed the Board’s decision, arguing it was against the weight of the evidence because there was “no numeric data concerning noise emissions.” *Id.* at 551. The court noted testimonial accounts are sufficient proof of a nuisance noise pollution because complainants “merely had to show, by a preponderance of the evidence, that noise emitted by the theater during concerts or other events unreasonably interfered with enjoyment of life and lawful activities.” *Id.* at 555. The court affirmed the Board’s decision based on complainants’ “narrative testimony” which sufficiently proved “the [t]heater noise interfered with [complainants’] enjoyment of life and lawful activity.” *Id.* at 556.

Similarly in *Roti*, the appellate court affirmed this Board’s decision finding a noise pollution despite alleged compliance with the Numerical Limits and the Board’s regulations because complainants presented narrative evidence of respondents’ nighttime commotions. The homeowners provided the Board with testimonial evidence describing how respondents’ nightly warehouse operation noise constantly disrupted their “ability to sleep.” *Roti*, 355 Ill. App. 3d at 1044. The respondents defended themselves not by denying the character and nature of the noise, but rather by hiring an expert acoustical consultant, who found the noise from the warehouse did

not exceed the Numerical Limits. *Id.* at 1046. The Board acknowledged the expert's measurements but determined the noise emissions constituted nuisance noise pollution because:

[The warehouse] had interfered with the petitioners' use and enjoyment of their homes. The Board found that the interference was unreasonable. The noise was substantial and frequent. The petitioners could not sleep, read, work, or study, had to keep their windows closed, could not use their decks and backyards, and sometimes felt vibrations.

*Id.* at 1047. The Board also gave special attention to the fact the warehouse "substantially increased its operation after the petitioners moved into their homes," giving petitioners "priority of location" in the nuisance analysis. *Id.*

The operators of the warehouse appealed the Board's final opinion and order, arguing the finding of the noise nuisance was against the manifest weight of the evidence. *Id.* at 1051. The court affirmed the Board's decision in totality, using similar reasoning to the court in *Discovery South*. The court emphasized its deferential role in reviewing the Board's evidentiary analysis, stating a decision "must be affirmed if any evidence fairly supports the determination", and such evidence was properly presented to the Board. *Id.* at 1051–52. The court did not accept argument regarding other noise emissions from the nearby community because such noise did not disturb the homeowners. *Id.* at 1052.

Illinois appellate courts have clearly affirmed the Board's evidentiary procedures and determinations, holding narrative testimony is sufficient evidence to prove noise emissions may constitute nuisance noise pollution. *Discovery South Group, Ltd.*, 275 Ill. App. 3d at 556; *Roti*, 355 Ill. App. 3d at 1047. Respondents improperly request summary judgment because "this Board **must find**" certain noise emission levels do "not meet the definition of noise pollution." (Resp. Br. 2, emphasis added.) However, the Board has no such mandate. The Board may consider narrative testimony to determine if certain noise is interfering with Complainants' lives, as well as

if certain decibel readings violate the Numerical Limits. As described below, there is a genuine dispute of material facts provided through both the narrative and numerical standards in the present case precluding summary judgment.

**C. Complainants Have Established Substantial and Undisputed Testimonial Evidence to Demonstrate Respondents' Noise Emissions Violate the Act and the Code Through the Narrative Standard.**

In the present case, Complainants have provided uncontested testimonial accounts regarding the unreasonable interference with their lives caused by Respondents' music events. Respondents admit they host live music concerts Wednesday through Sunday on a regular basis and amplify all performances occurring inside the restaurant. (SOAF,<sup>4</sup> ¶¶ 84–85.) Complainants testified they not only hear the noise from the music inside the walls of their neighboring residence, but also the noise interferes with their ability to sleep, converse with one another or guests, or even watch television. (SOAF, ¶¶ 90–91.) Complainants also testify when Copper Fire plays excessively loud music, Complainants can feel vibrations from the noise disturbance inside their loft. (SOAF, ¶ 91.) Other community members have also complained about the noise levels emanating from Copper Fire. (SOAF, ¶¶ 93, 97.) Respondents only answer to Complainants' narrative evidence is a redirection to other irrelevant noise sources, listing other entities in the downtown Belleville area which may host musical events or create noise from time to time. (SOAF, ¶¶ 8, 74.) The restaurants and events listed by Respondents have no bearing on the nuisance noise pollution at issue because Complainants' testimony describes the specific, particular harms caused by Respondents as the direct source of the unreasonable interference.

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<sup>4</sup> Complainants' Statement of Additional Uncontroverted Material Facts and responses to Respondents Statement of Facts hereinafter referred to as "SOAF."

Like the complainants in *Discovery South*, Complainants are forced to suffer through Respondents' regular live music performances next door to their home and workspace. Perhaps worse than the problematic outdoor amphitheater in *Discovery South*, Respondents choose to host their live week-night bands inside and alongside a shared wall with Complainants' residence,<sup>5</sup> exacerbating nighttime noise and the unreasonable interference with Complainants' ability to sleep. (SOAF, ¶ 91.) Like the complainants in *Roti*, Complainants moved to their residence before the Respondents began hosting nighttime band concerts and have testified how the unrelenting noise emissions, and even at times vibrations, make sleep and basic residential enjoyment very difficult. (SOAF, ¶¶ 76–79, 90–92.) There is clearly sufficient narrative testimony to demonstrate Respondents' live, raucous concerts interfere with Complainants' enjoyment of life. At the very least, this creates a material issue of fact regarding whether Respondents are violating the Act and the Code. Therefore, summary judgment is improper, and Respondents' Motion must be denied.

**D. Complainants Can Prove Respondents Are Not Complying with the Numerical Limits.**

As described in the fact section above, Complainants' expert (Mr. Biffignani) and Respondents' expert (Mr. Brown) measured similar levels of sound from Copper Fire in the Complainants' residence. (SOAF, ¶ 45). Respondents contend the numerical evidence from these experts is dispositive proof Respondents are not in violation of Illinois noise pollution standards. This conclusion is simply wrong, as Complainants may establish a violation under the narrative standard. Further, Complainants can establish a violation under the Numerical Limits.

Respondents cannot use noise data from three expert reports (two from Complainants and one from Respondents) as proof Respondents have never committed noise pollution at any time.

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<sup>5</sup> Respondents are seemingly unconcerned with their decision because they believe it is acceptable to hear identifiable songs playing from the neighboring building in one's personal residence. (SOAF, ¶ 94.)

In fact, the Board should call into question whether it can even rely on sound readings from Respondents' expert which were taken at Respondents' direction and with Respondents' knowledge. However, even more astounding is Respondents' belief their expert's conclusion is rational, much less provides a basis for summary judgment. While both Mr. Brown and Mr. Biffignani had similar sound readings, Mr. Brown's analysis is wholly deficient. Mr. Brown agrees the Code provides guidelines created to determine *outside* noise pollution.<sup>6</sup> (SOAF, ¶ 98.) Mr. Brown then opines the sound measured *inside* Complainants' residence is below the numeric guidelines for *outside* noise, and therefore, Respondents are not creating noise pollution. (SOAF, ¶ 99.) While Mr. Brown logically agrees acceptable and reasonable noise inside a residence is not the same as what would be considered reasonable outside a residence, Mr. Brown ignores his own simple logic and stamps Respondents' assertions with his seal of compliance. (SOAF, ¶ 100.)

In their Motion, Respondents attempt to use Mr. Biffignani's "normalization" of the standards set forth in Section 901.102 as a sword for summary judgment, but in fact, Respondents have merely pointed out the clear deficiency in their expert's report. Mr. Brown did absolutely nothing to account for the fact the sound readings were taken inside Complainants' residence and not outside (SOAF, ¶ 101), whereas Mr. Biffignani accounted for the fact Section 901.102 sets forth outside numbers and employed multiple means of "normalizing" those numbers to inside noise readings. The Board must hear this testimony and cannot merely rely on Respondents' baseless assertion the "Board cannot accept Mr. Biffignani's 'normalization' argument." (Resp. Br. at 15.) There is no such law prohibiting the Board from hearing Mr. Biffignani's opinion and weighing the credibility of his expert report.

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<sup>6</sup> Mr. Brown also made a material error in his expert report. Mr. Brown chose to convert the guidelines in Section 901.102 from octave band by frequency into decibel limits. Mr. Brown miscalculated the decibel limit for nighttime noise in his expert report, which should be 44.4 decibels for outside nighttime noise. (SOAF, ¶ 103.)



Finally, it is imperative to note in addition to Mr. Biffignani's raw data and opinion on Respondents' noncompliance with the nighttime standards in Section 901.102, Mr. Biffignani will also offer an opinion describing how the daytime sound may also be perceived as a noise nuisance given its continuous and lengthy duration. (SOAF, ¶ 106.) Thus, Mr. Biffignani's testimony supports the fact Respondents are unreasonable interfering with Complainants' enjoyment of life based on both numerical and narrative evidence.

**III. SECTION 33(C) FACTORS MUST BE ANALYZED BASED ON RESPONDENTS' VIOLATION OF ILLINOIS NUISANCE NOISE STANDARDS, AND THESE FACTORS WEIGH IN FAVOR OF FINDING RESPONDENTS' NOISE POLLUTION IS AN UNREASONABLE INTERFERENCE WITH COMPLAINANTS' ENJOYMENT OF LIFE.**

As addressed above, Complainants can establish Respondents' noise emissions interfere with their lives pursuant to the Act and the Code, and at the very least Respondents have failed to establish there are no genuine issues of material fact, thus precluding summary judgment. Since Complainants can prove how the noise pollution causes interference, the Board is required to consider whether this interference is unreasonable and therefore nuisance noise pollution. To determine the reasonableness of the interference, the Board must analyze the factors located in 415 ILCS § 5/33(c) ("Section 33(c)") to balance the costs and benefits of abatement and determine if Respondents' interference is unreasonable. *Roti*, 355 Ill. App. 3d at 1051. Respondents failed to demonstrate the Section 33(c) factors justify, much less establish their noise emissions are reasonable, and therefore summary judgment is inappropriate.

**A. Section 33(c) Factors.**

To determine whether interference is unreasonable, the Board must look to the criteria referenced in Section 33(c). Under Section 33(c) the Board must consider the following facts and circumstances to determine if the noise pollution is unreasonable:

- (i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
- (ii) the social and economic value of the pollution source;
- (iii) the suitability or unsuitability of the pollution sources to the area in which it is located, including the question of priority of location in the area involved;
- (iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
- (v) any subsequent compliance.

*Id.* However, Complainants are not obligated to introduce evidence on each Section 33(c) factor nor does the Board need to find against Respondents on each enumerated factor to find a violation. *Charter Hall Homeowner's Ass'n*, 1998 WL 714214, at \*18; *Wells Mfg. Co. v. Pollution Control Bd.*, 73 Ill. 2d 226, 233 (1978). In fact, the Board may consider any relevant factors as determinative in reaching its decision. *Wells Mfg. Co.*, 73 Ill. 2d at 233. Respondents failed to establish any of Section 33(c) factor, or any other relevant factors, favor summary judgment.

**B. Weight & Analysis of Section 33(c) Factors Favors Complainants.**

Respondents are not entitled to summary judgment under the Section 33(c) factors as their noise pollution was and is unreasonable under the Section 33(c) factors.

First, the character and degree of the injury to and inference with Complainants' health and wellbeing is substantial. When assessing the first factor, the standard applied is whether the noise substantially and frequently interferes with health and wellbeing, beyond minor annoyance or discomfort. *Charter Hall Homeowner's Ass'n*, 1998 WL 714214, at \*18. Applying this standard, the evidence establishes the noise from Copper Fire is interfering with Complainants' ability to sleep and conduct regular activities (such as having conversations, watching television, conducting business, etc.) affecting Complainants' wellbeing. (SOAF, ¶ 91.) This evidence is corroborated by

numerous sound recordings of the noise from Copper Fire inside Complainants' loft. (SOAF, ¶ 92.) Other residents of the Writers' Loft describe the noise as "intolerable" and find it "impossible to sleep." (SOAF, ¶ 93.) Further, Respondents play amplified music five nights per week, making the noise substantial and frequent. (SOAF, ¶¶ 84–85.) Therefore, the first factor demonstrates unreasonable interference and favors Complainants.

Respondents mistakenly assert the first factor weighs in their favor as the sound levels in Complainants' loft are below the noise levels of most appliances and the average ambient noise level in an urban environment, and thus the minimal injury supports summary judgment. As the Board recognized in *Roti*, however, evidence of ambient noise in the area is not dispositive. Complainants can distinguish between ambient noise and the noise pollution coming from Copper Fire. Further, although Respondents seem to suggest otherwise, Complainants' residence and Belleville are relatively quiet, except for discrete city events which are irrelevant to this dispute. (SOAF, ¶ 105.) Therefore, the existence of ambient noise has no bearing on the first factor, which demonstrates unreasonable interference and favors Complainants.

The second factor is, at best, neutral. To assess this factor, the Board must look at the number of persons employed by Respondents and whether Respondents are important to the particular market, which may be done by reviewing taxes and wages. *Charter Hall Homeowner's Ass'n*, 1998 WL 714214, at \*20. While Respondents assert Copper Fire is helping redevelop downtown Belleville, Respondents have not conclusively established the social and economic value of loud live music at Copper Fire. Further, Respondents have not provided specific evidence, such as employment or tax revenue, to conclusively demonstrate the positive financial impact created by Copper Fire for the community. Given the weak evidence in support of this factor, at best, this factor is neutral and therefore does not support finding the interference is reasonable.

The third factor, the suitability or unsuitability of the pollution source and priority of location, weighs against Respondents. Respondents wholly ignore priority of location. When Complainants moved into their residence, a Quiznos occupied the first floor of the adjacent building which is now occupied by Copper Fire. (SOAF, ¶ 77.) At the time, and for years, Complainants did not experience any noise pollution from their neighbors. (SOAF, ¶ 78.) Thus, Copper Fire is not suitable to its location regardless of the other restaurants and bars in the area, and Complainants clearly have priority at the location. Therefore, the third factor demonstrates unreasonable interference and favors Complainants.

The fourth factor also weighs against Respondents. There are several practical and economically feasible measures Respondents have refused to implement or explore in order to reduce the effect of their noise pollution. (SOAF, ¶¶ 82–83, 86, 89.) Instead, Respondents keep all bands amplified, do not keep decibels under an acceptable limit,<sup>7</sup> and have made no effort to investigate or install any sound deadening devices in Copper Fire. (SOAF, ¶¶ 82–83, 85–86, 95.) While Respondents allege they have taken efforts to reduce or eliminate the sound, they have not established their purported remediation efforts are sufficient to stop the unreasonable interference with Complainants' enjoyment of life. (SOAF, ¶¶ 90–91.) Further, the Board cannot simply rely on Respondents' own assertion the sound levels have been reduced to an appropriate level as Respondents believe it is reasonable to be able to hear a specific song from a neighbor through the walls in a living space. (SOAF, ¶ 94.) Respondents' statement severely undermines whether any of Respondents' purported remediation efforts would effectively reduce noise emissions.

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<sup>7</sup> Respondents claim they have now created a policy to keep sound emissions under a certain decibel by requesting all bands to do so in a written policy. Respondents have not established their self-proclaimed appropriate decibel level is, in fact, appropriate. Further, there is no evidence bands comply with this written policy as Respondents only measure sounds in Copper Fire in response to a customer complaint, admittedly ignoring any complaints or issues from their neighbors. (SOF, ¶ 47, Complainants' Response; Respondents' Answers to Complainants' Interrogatories, Exhibit L to Respondents' Motion, at 6.)

Therefore, the fourth factor demonstrates the unreasonable nature of the interference and favors Complainants.

Finally, the fifth factor weighs against Respondents. While Respondents assert they have taken several measures in an attempt to comply with noise nuisance standards, the evidence reveals the noise problems are ongoing, primarily due to Respondents refusal to reduce decibel levels to a reasonable level, install sound deadening devices, and not amplify bands. (SOAF, ¶¶ 82–86, 89–90, 95.) Therefore, the fifth factor of Respondents' failure to subsequently remedy their noise emissions demonstrates the unreasonable nature of their noise pollution and favors Complainants.

In sum, the evidence supports a determination the noise emissions from Copper Fire interfere with Complainants enjoyment of life and the interference is unreasonable when weighing the Section 33(c) factors, as four out of the five factors clearly weigh in favor of Complainants.

**CONCLUSION**

WHEREFORE, Complainants respectfully ask this Court deny Respondents' Motion for Summary Judgment, and for other and further relief as deemed just and proper.

Dated: June 15, 2023

**LATHROP GPM LLP**

*/s/ Matthew A. Jacober*  
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**ATTORNEY FOR COMPLAINANTS**  
**DOUG AND GERI BOYER**

**CERTIFICATE OF SERVICE**

It is hereby certified true and correct copies of the foregoing was served via email on June 15, 2023, upon the following:

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Don Brown  
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Attorneys for Respondents

/s/ Matthew A. Jacober  
Matthew Jacober

# **EXHIBIT 1**

	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz	8kHz	dB	dB(A)
IL-Day Time	72	71	65	57	51	45	39	34	32	75.1	54.6
IL-Night Time	63	61	55	47	40	35	30	25	25	65.6	44.4



# **EXHIBIT 2**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

---

Doug and Geri Boyer,

Complainants,

v.

MRB Development, LLC d/b/a  
Copper Fire; Renae Eichholz; and  
Mark Eichholz,

Respondents.

PCB 22-9

(Enforcement)

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**AFFIDAVIT OF GERI BOYER**

I, Geri Boyer, being of lawful age and first sworn upon my oath, do hereby affirm and state as follows:

1. The facts in this Affidavit are based on my personal knowledge.
2. 208 East Main Street is a historic, three-story building in downtown Belleville (“Writer’s Lofts”).
3. My husband and I purchased and moved into our loft in the Writer’s Lofts in early 2008 following construction which began in 2007. We purchased the entire building in 2011 after the developer filed for bankruptcy.
4. I am a civil engineer by trade and own an engineering business located on the first floor of the Writer’s Lofts.
5. When construction of our loft was completed, and we moved into the Writer’s Loft, the adjacent building, located at 200 East Main Street, Belleville, Illinois 62220, had a Quiznos on the first floor, that is now occupied by Copper Fire.

6. Before Copper Fire went in next door, we did not experience any noise issues from our neighbors at 200 East Main Street, Belleville, Illinois 62220.

7. For nearly a decade, we experienced no noise issues from our neighbors or from any other sound sources in downtown Belleville.

8. The noise disturbances began when Copper Fire became our neighbor and began playing amplified music five nights and two afternoons per week.

9. The noise disturbance from Copper Fire is constant and is interfering with our ability to have conversations, watch television, operate our engineering business in a quiet work environment, or sleep.

10. While Respondents' claim they have made numerous efforts to mitigate the noise polluting our loft and interfering with daily activities, we continue to experience a constant and unreasonable disturbance from Copper Fire.

11. On April 2, 2021, April 10, 2021, May 8, 2021 and February 11, 2022, I used my phone to record the noise disturbance from the bands at Copper Fire and demonstrate how loud and disturbing the noise is for us. True and correct copies of my sound recordings are attached to Complainant's Response in Opposition to Respondents' Motion for summary Judgment as **Exhibit 4**.

12. At times the noise disturbance from Copper Fire is so loud, I can feel vibrations on the walls in my loft.

13. Other residents at the Writer's Lofts have complained to me about the noise from Copper Fire.

14. I can tell the sound in our loft is coming from Copper Fire as I can hear every word of specific songs through the wall, and it is clear that the music is coming directly from the neighboring bar.

15. Over the last decade, other restaurants and bars have opened in downtown Belleville; however, we do not hear music or noise from these other businesses inside our loft or business, and these other businesses do not cause a noise disturbance inside our loft or interfere with our ability to conduct regular activities or sleep.

16. When there is no live music at Copper Fire and they are only playing recorded music, our loft and business space are generally quiet and peaceful.

17. There are no holes in the exposed brick wall inside our loft.

18. Renae and Mark Eichholz have never been inside our loft long enough to inspect the condition of the brick wall.

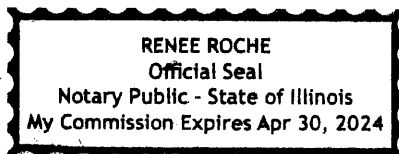
19. While we have attempted to work with Renae and Mark Eichholz to resolve the sound issues, Renae and Mark ignore our complaints, refuse to accept there is an issue, and continue to play loud, amplified music inside Copper Fire five nights and two afternoons per week.

Further Affiant sayeth naught.

By:

  
Geri E. Boyer

Subscribed and sworn before me, a Notary Public, this 14 day of June, 2023.



  
Notary Public

# **EXHIBIT 3**

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DOUG AND GERI BOYER,	)	
	)	
Complainants	)	
	)	
vs.	)	PCB 22-9
	)	(Enforcement)
MRB DEVELOPMENT, LLC d/b/a COPPER	)	
FIRE; RENAE EICHHOLZ; AND MARK	)	
EICHHOLZ,	)	
	)	
Respondents.	)	

DEPOSITION OF RENAE EICHHOLZ  
 Taken on behalf of the Complainants  
 January 26, 2023

Sheryl A. Pautler, RPR,  
 MO-CCR 871, IL-CSR 084-004585

(The proceedings began at 9:04 a.m.)

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3	Mr. Petruska	119
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7	Exhibit 1 (Notice of deposition.)	6
8	Exhibit 2 (List of bands.)	30
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11	Exhibit 5 (May 18, 2018 e-mail.)	47
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13	Exhibit 7 (Text messages.)	54
14	Exhibit 13 (Interrogatories.)	80
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17	Exhibit 16 (Facebook posting.)	97
18	Exhibit 18 (Noise and Tabs policy.)	66
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20		
21	Exhibit 19 (Police records.)	97
22		
23	(Whereupon the exhibits were attached to the original and copies.)	
24		

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A P P E A R A N C E S

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The Court Reporter:  
Ms. Sheryl Pautler  
Veritext Legal Solutions  
701 Market Street, Suite 310  
St. Louis, Missouri 63101  
314-241-6750

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1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
2  
3 DOUG AND GERI BOYER, )  
4 Complainants )  
5 vs. ) PCB 22-9  
) (Enforcement)  
6 MRB DEVELOPMENT, LLC d/b/a COPPER )  
FIRE; RENAE EICHHOLZ; AND MARK )  
7 EICHHOLZ, )  
8 Respondents. )  
9 DEPOSITION OF WITNESS, RENAE EICHHOLZ,  
10 produced, sworn, and examined on the 26th day  
11 of January, 2023, between the hours of nine  
12 o'clock in the forenoon and one o'clock in the  
13 afternoon of that day, at Greensfelder, Hemker  
14 & Gale, PC, 821 West Highway 50, O'Fallon,  
15 Illinois, before SHERYL A. PAUTLER, RPR,  
16 Certified Shorthand Reporter within and for the  
17 State of Illinois and Certified Court Reporter  
18 within and for the State of Missouri, in a  
19 certain cause now pending before the Illinois  
20 Pollution Control Board, wherein DOUG AND GERI  
21 BOYER are the Complainants, and MRB  
22 DEVELOPMENT, LLC, et al. are the Respondents.  
23  
24

Page 5

1 IT IS HEREBY STIPULATED AND AGREED, by and  
2 between counsel for Complainants and counsel  
3 for Respondents, that the deposition of RENAE  
4 EICHHOLZ may be taken in shorthand by Sheryl A.  
5 Pautler, shorthand reporter, and afterwards  
6 transcribed into typewriting; and the signature  
7 of the witness is expressly waived.  
8 \* \* \* \* \*  
9 RENAE EICHHOLZ,  
10 of lawful age, being produced, sworn and examined on  
11 behalf of the Complainants, deposes and says:  
12 [EXAMINATION]  
13 QUESTIONS BY MR. JACOBER:  
14 Q. Good morning.  
15 A. Good morning.  
16 Q. Could you state your name for the record,  
17 please.  
18 A. Renae Eichholz.  
19 Q. And, Ms. Eichholz, you're here today as  
20 the corporate representative of Copper Fire; is that  
21 correct?  
22 A. Yes.  
23 Q. I'm going to hand you what's been marked  
24 as Exhibit 1, and ask you to take a look at that.

Page 6

1 (Whereupon Exhibit 1 was marked  
2 for identification.)  
3 Q. (By Mr. Jacober) Have you seen this  
4 document before?  
5 A. Yes.  
6 Q. And if you could, turn to a couple pages  
7 in. It has a list of topics, ten topics. You're on  
8 it. You paged past the first page of it. Go one  
9 page back.  
10 A. Okay.  
11 Q. Let me see. I'm not doing a good job at  
12 telling you where to go. Well, it's missing a page.  
13 No, it's not. It starts on the first page of the  
14 deposition topics. You see that 1 through 10 on the  
15 document?  
16 A. Yes.  
17 Q. Are you prepared to testify on all those  
18 topics today?  
19 A. Yes.  
20 Q. Is there anyone that you can think of  
21 before we start who might be a better individual  
22 from Copper Fire to answer one of -- any of those  
23 ten topics?  
24 A. No.

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1 Q. Thank you.  
2 Before we get into the actual  
3 questioning, have you ever had your deposition taken  
4 before?  
5 A. Yes.  
6 Q. In what context?  
7 A. In my other job.  
8 Q. What is your other job?  
9 A. President and founder of Precision  
10 Practice Management.  
11 Q. What does Precision Practice Management  
12 do?  
13 A. Medical billing and software for  
14 physicians and hospitals.  
15 Q. How many times have you been -- is that  
16 the only time you've been deposed is in relation to  
17 that, your --  
18 A. I believe so.  
19 Q. -- your ownership of that company?  
20 A. Yes.  
21 Q. How many times have you been deposed?  
22 A. I think that's the only time.  
23 Q. Just once?  
24 A. I believe so.

Page 8

1 Q. Is that in some kind of commercial  
2 dispute?  
3 A. It's done. It was an ownership  
4 shareholder dispute.  
5 Q. Okay. Not -- it was a dispute among the  
6 owners of the company?  
7 A. Uh-huh.  
8 Q. And that --  
9 MR. PETRUSKA: Hold on. Uh-huh; I didn't  
10 talk to you about that. Remember, I talked to  
11 you about talking over people. I forgot to  
12 mention, "uh-huh" doesn't work on the record.  
13 You have to do yes or no or I don't know. But  
14 "uh-huh" or shake of the head is --  
15 THE WITNESS: You might have to remind me  
16 of that.  
17 MR. PETRUSKA: That's fine. Don't ever  
18 think you're being reprimanded. I'm just  
19 reminding you.  
20 Q. (By Mr. Jacober) And I was about to turn  
21 to some of these things real quick. We need all of  
22 your responses to be verbal.  
23 A. Okay.  
24 Q. So yes, no, I don't know, whatever your

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1 answer is. But the uh-huhs, uh-uhs, they look the  
2 same on the record. And then the record is useless.  
3 A. Got it.  
4 Q. The court reporter obviously is here.  
5 Let's make sure that I don't interrupt you. I'll do  
6 my best not to do that. You don't interrupt me.  
7 And then she won't kick us under the table because  
8 we're making her job a nightmare.  
9 A. Okay.  
10 Q. If you don't understand one of my  
11 questions, which is absolutely likely to happen  
12 today. Just let me know.  
13 A. Okay.  
14 Q. I would rather you tell me that my  
15 question is not clear than you answer a question  
16 that you did not really understand, because we can  
17 always fix that. And if you need a break, just let  
18 me know. My only request to you is that if you need  
19 a break, you answer the question that's pending and  
20 then we'll take a break.  
21 A. Sure.  
22 Q. The lawsuit you mentioned in relation to  
23 your other business, is that the only lawsuit that  
24 you've been involved in besides this one?



<p style="text-align: right;">Page 10</p> <p>1 MR. PETRUSKA: I'm going to object at this  2 point. It's beyond the scope of the corporate  3 representative deposition.  4 Q. (By Mr. Jacober) You can go ahead and  5 answer.  6 A. I think there was one other minor dispute  7 over 20 years ago with our courier service through  8 the business.  9 Q. No other current lawsuits pending  10 regarding --  11 A. Oh, there was one more. Sorry to  12 interrupt.  13 Q. It's okay.  14 A. I was involved in a business to business  15 type ownership of software dispute. If that makes  16 sense. That was 12 years ago.  17 Q. Any other lawsuits that are pending right  18 now involving Copper Fire?  19 A. No.  20 Q. Are you currently taking any medication  21 that would prevent you from being able to remember  22 answers today or from telling the truth?  23 A. No.  24 Q. We're going to jump into some additional</p>	<p style="text-align: right;">Page 12</p> <p>1 Brett Eichholz, 20 percent.  2 Q. Who's Brett Eichholz?  3 A. My stepson.  4 Q. You've already told me that you are the  5 president and founder of a medical services company.  6 Other than that, what's your work history?  7 A. I've been -- I founded Precision 30 years  8 ago. Prior to that, I did the billing, accounts  9 receivable for one physician -- a four-physician  10 orthopedic group. And then prior to that, I did the  11 same for a three-physician ophthalmology group.  12 Before that, I had a real estate license in  13 Brentwood, Missouri, and ran their rentals and  14 accounting.  15 Q. Is it fair, then, to say that the vast  16 bulk of your professional career has been in medical  17 billing?  18 A. Yes.  19 Q. Prior to opening Copper Fire, had you ever  20 run a restaurant or a bar?  21 A. No.  22 Q. Did Mark?  23 A. No.  24 Q. Did Brett?</p>
<p style="text-align: right;">Page 11</p> <p>1 background stuff. Then we'll get into the heart of  2 the matter.  3 A. Okay.  4 Q. But if you could, tell me your address.  5 A. Which, the corporate?  6 Q. Let's do corporate and then your home  7 address.  8 A. Actually the corporate address and the  9 home are the same. 6950 Reinneck, R-E-I-N-N-E-C-K,  10 Road, Belleville, Illinois, 62221.  11 Q. And remind me where Copper Fire is  12 located.  13 A. 200 East -- 200 East Main Street,  14 Belleville, 62220.  15 Q. Are you married?  16 A. Yes.  17 Q. What is your husband's name?  18 A. Mark.  19 Q. Is Mark an owner or partner in Copper  20 Fire?  21 A. Yes.  22 Q. What is the ownership breakdown of Copper  23 Fire?  24 A. Mark, 40 percent. Renae, 40 percent. And</p>	<p style="text-align: right;">Page 13</p> <p>1 A. No.  2 Q. Similar to that question, prior to opening  3 Copper Fire, I understand that you ran the medical  4 billing company. But did you ever run any other  5 business that interacted with the public on a  6 day-to-day basis?  7 A. Did I run a business?  8 Q. Yes.  9 A. No.  10 Q. Have you ever worked at a restaurant or a  11 bar?  12 A. Yes.  13 Q. When was that?  14 A. I worked at McDonald's when I was 16 to  15 18. And then I worked at a bar named Brinker's when  16 I was 20, while I was working in Brentwood.  17 Q. When did you, Mark and Brett decide to  18 open Copper Fire?  19 A. 2000 -- January of 2016 is when we formed  20 the corporation.  21 Q. When was it formally opened?  22 A. March of 2018. St. Patrick's Day party.  23 Q. In between January of '16 and March of  24 '18, were you redoing the space to turn it into a</p>

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1 bar?

2 A. Yes.

3 Q. Tell me about the location. How did you

4 choose that place?

5 A. We owned the building.

6 Q. How long had you -- who owned the

7 building?

8 A. Initially my mom, myself and my brother

9 owned it. We bought it in, I believe, 2009, like

10 January of 2009. We owned it for quite a while.

11 And then my husband and I bought it in, I believe,

12 the end of 2015 from my family.

13 Q. In 2015?

14 A. Late 2015, I believe, yeah.

15 Q. What was in the building prior to Copper

16 Fire?

17 A. When I bought it with my family, there was

18 a very large tenant up on the fourth floor. There

19 were other tenants throughout some of the other

20 floors. And there was a Quiznos occupying the exact

21 space that Copper Fire is in.

22 And then when Mark and I bought it,

23 Quiznos abruptly -- along the way, Quiznos had

24 financial problems and disputes with their

Page 15

1 franchise. And it ended up owing us money for quite

2 a while. And we made arrangements to reduce his

3 space. And then we basically cut it in half.

4 And then we rented the other side to

5 Junction Coffee, then they struggled. And they

6 ended up adding coffee to their -- I'm sorry. It

7 started as a yogurt, and then they added the coffee.

8 And they were on a month-to-month lease. They were

9 both occupying that when Mark and I bought my family

10 out.

11 We knew -- we bought it because we

12 felt it was a money pit. It was very risky. We had

13 a hard time occupying it. And we were going to take

14 over the financial responsibility of the building.

15 I bought my mom and my brother out.

16 And then we wanted -- then Quiznos

17 abrupt -- all in that same time frame, Quiznos

18 abruptly left. Just shut the doors. And that is

19 when we -- we had only had one -- somebody

20 interested in it. And we did not -- it wasn't an

21 attractive tenant. So we decided we wanted to do

22 some kind of shotgun bar or add gaming.

23 We hired a consultant with restaurant

24 experience. He was a disaster. But we were

Page 16

1 committed, so far in already, that he remained on

2 until we opened.

3 Q. What do you mean by a shotgun bar?

4 A. Just you walk in the door. It just goes

5 straight back.

6 Q. So just like a neighborhood bar, if you

7 will?

8 A. Right. We weren't sure if we were going

9 to put a kitchen in or do any of that.

10 Q. And at the time, the coffee place -- the

11 yogurt and coffee place was still there?

12 A. No. They did not want to -- well, what

13 ended up happening is we started having

14 conversations with them. We wanted them to commit

15 to their lease. They would not commit to their

16 lease. So we said we're going to terminate their

17 lease.

18 Q. And then gaming, are you talking legalized

19 gaming spots for the state of Illinois?

20 A. Yes.

21 Q. Ultimately you decided to build out the

22 space into Copper Fire, correct?

23 A. Yes. We got an architect in St. Louis.

24 They drew up plans. It was to be the full first

Page 17

1 floor and then the second floor. But we basically

2 ran out of money. And kind of took a pause for a

3 few months to figure out -- we knew we were going to

4 run out of money. We hadn't run out of money yet.

5 But we knew it was going to be too much for what we

6 were wanting to do.

7 So we took a couple of months where

8 Mark, Brett and I basically looked at the design and

9 decided how can we kind of cut back. We cut back.

10 Did not finish -- or move forward on the second

11 floor, and only focused on the first floor. My

12 husband is an electrical contractor. And he managed

13 the construction on all of that.

14 Q. Are those plans still available?

15 A. They're at the city.

16 Q. Did those plans take into account any

17 sound mitigation relating to neighbors of Copper

18 Fire?

19 A. That was not discussed. And there were no

20 modifications made to the exterior walls.

21 Q. When you say it wasn't discussed, what do

22 you mean by that, wasn't discussed with who?

23 A. So we were having a lot of meetings with

24 the City. We had plans -- I forget what it's

Page 18

1 called, when they are signed off by your engineer --  
 2 submitted. When we started construction, the City  
 3 called us back in and went through everything with a  
 4 fine-tooth comb and said what we needed to do  
 5 further. And we did that.  
 6         So we took another pause. And we had  
 7 to get our plumbing, HVAC, all of that was reviewed.  
 8 And we worked with the City on what needed to be  
 9 done.  
 10 Q. What was added by the City after you  
 11 started?  
 12 A. They wanted individual signed off  
 13 engineer -- they didn't just want one global  
 14 engineer signed off plans. They wanted one for  
 15 electric. One for plumbing. One for each type of  
 16 engineering.  
 17 Q. So they wanted all the systems to have  
 18 their own engineer?  
 19 A. Yeah.  
 20 Q. Or have their own individual plans?  
 21 A. Yeah. They had to be signed off by each  
 22 department in the City of Belleville.  
 23 Q. Altogether, how long did the construction  
 24 take?

Page 19

1 A. Once we actually started?  
 2 Q. Yes.  
 3 A. Less than six months for the, like,  
 4 finishing of it.  
 5 Q. And on the first floor -- Well, strike  
 6 that.  
 7         Is the first floor where -- I  
 8 understand there are additional floors that you  
 9 occupy at this time. But is the first floor where  
 10 you -- is what you could consider to be Copper Fire  
 11 itself?  
 12 A. The first floor is actually two floors.  
 13 Since the beginning of time from what I understand,  
 14 when you walk in the door, it's two stories. When I  
 15 say we were going to do the second floor finishing,  
 16 but we didn't do it at that time, that was a  
 17 mezzanine years ago that overlooked the first floor.  
 18         We put a temporary wall there. We  
 19 also had to remove asbestos from both areas. That  
 20 was all occurring in that first year. And then it  
 21 has a basement and third and fourth floor.  
 22 Q. And is that mezzanine area where the --  
 23 the conference area is located now or the event  
 24 space?

Page 20

1 A. Yes.  
 2 Q. And what's on the third and fourth floors  
 3 of the building?  
 4 A. Tenants.  
 5 Q. Tenants as in people who rent apartments  
 6 or businesses?  
 7 A. No. Businesses.  
 8 Q. Are those businesses open in the evening  
 9 or just during the day?  
 10 A. One is open evenings a couple times a week  
 11 and on Sundays during the day. The other is a law  
 12 firm.  
 13 Q. What law firm?  
 14 A. Gary Mack.  
 15 Q. Do you ever get complaints from those  
 16 tenants about the sound?  
 17 A. No.  
 18 Q. Is there any insulation on the ceiling of  
 19 Copper Fire?  
 20 A. No. Is there insulation between that and  
 21 the other floor? I don't know. But there's no  
 22 insulation or drop ceiling.  
 23 Q. No sound deadening devices on the ceiling?  
 24 A. No.

Page 21

1 Q. When you were doing the original  
 2 construction of Copper Fire, was the plan to have  
 3 live music?  
 4 A. Yes.  
 5 Q. So Copper Fire's been open now for  
 6 approximately four years, correct?  
 7 A. Five.  
 8 Q. Five years.  
 9 A. It'll be five in less than 60 days.  
 10 Q. I'm sorry. Yeah. Okay.  
 11         Is it making a profit?  
 12 A. I would say it's breakeven.  
 13 Q. Has it ever made a profit?  
 14 A. No.  
 15 Q. Is your plan to keep it open regardless of  
 16 the fact that it's just a breakeven?  
 17 A. Is my plan to keep it open?  
 18 Q. Yeah.  
 19 A. Yes, because our plan is to be profitable.  
 20 Q. When do you believe it will turn into a  
 21 profitable business?  
 22 A. This year.  
 23 Q. What is happening that will make it  
 24 profitable?

Page 22

1 A. I work within a budget. Everything is in  
2 budget except for one thing and we have -- which is  
3 the food cost, because of the volatility of food  
4 cost right now. So we are implementing some changes  
5 that will get things back in line.  
6 Q. What changes are those?  
7 A. We're putting software in to manage  
8 inventory, waste, food costs from minute to minute,  
9 rather than from week to week or month to month.  
10 Q. What's the breakdown of revenue between  
11 alcohol sales and food sales?  
12 A. Food is about 50 to 55 percent. That was  
13 the numbers for the end of May '22.  
14 Q. And alcohol is 50 to 55?  
15 A. 45 to 50 -- yeah. It's always slightly  
16 under the food.  
17 Q. Does your liquor license require you to  
18 sell a certain amount of food?  
19 A. To -- yes, I believe for the gaming in  
20 downtown Belleville, they want it to be 50 percent  
21 or more.  
22 Q. How many gaming spots do you have in the  
23 restaurant or the location?  
24 A. Currently we have six.

Page 23

1 Q. I'm going to assume that as a restaurant  
2 and bar, that you receive complaints from customers  
3 from time to time?  
4 A. Sure.  
5 Q. How do you deal with those complaints?  
6 A. Can you be more specific on like if it's a  
7 face to face versus -- a face-to-face complaint?  
8 Q. Well, do you deal with face-to-face  
9 complaints versus, I guess, online complaints  
10 differently?  
11 A. Well, we prefer a face-to-face complaint  
12 so we can deal with the situation right then and  
13 there.  
14 Q. Is there a set policy on how you address  
15 complaints?  
16 A. In terms of if it's face-to-face in the  
17 restaurant as it's occurring, yes. We --  
18 Q. Is there a difference how you deal with a  
19 face-to-face versus --  
20 A. Uh-huh.  
21 Q. Okay. What's the approach of face-to-face  
22 complaints?  
23 A. Face-to-face complaints happen. As  
24 they're occurring, person in charge, manager, will

Page 24

1 discuss the complaint, identify what the problem is.  
2 And if there is -- we may credit their bill. We may  
3 take something off. We may make something right.  
4 Q. What if they're online?  
5 A. If they're online, I manage the reviews  
6 and messaging.  
7 Q. Has Copper Fire ever received complaints  
8 from customers face-to-face about the sound level in  
9 the restaurant and bar?  
10 A. There could be somebody at a table or at  
11 the bar that may say it's too loud.  
12 Q. Okay. I want to make sure we have a clear  
13 record on this. I'm asking if there have been any  
14 complaints made from customers who are face-to-face  
15 about the sound?  
16 A. To me directly or to my staff?  
17 Q. To anyone. You're here as Copper Fire. I  
18 know that's kind of an odd thing.  
19 A. Yeah.  
20 Q. So it's not about you. It's about Copper  
21 Fire.  
22 A. Yeah.  
23 Q. Were any complaints made to Copper Fire  
24 about the level of sound in the bar?

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1 A. Yes.  
2 Q. How often does that happen?  
3 A. Not very often.  
4 Q. Once a month? Once a week?  
5 A. Yeah, maybe -- it rarely occurs anymore,  
6 but once in a while. And that's another indicator.  
7 If we think they are getting too loud, we will look  
8 at the decibels again and make sure they are within  
9 our limit.  
10 Q. And what do you tell the bands who perform  
11 there about the decibel limit?  
12 A. We have signs posted. And I have  
13 conversations with them through messaging or texting  
14 prior to them coming. About we have limits on our  
15 decibels. And if we ask them to turn it down and  
16 they don't respond, we ask them again. Then we'll  
17 ask them to leave.  
18 Q. What are the decibel limits that you tell  
19 the bands they have to stay under?  
20 A. Last year, it was 95, I believe. And I  
21 think this year, we brought it down even further. I  
22 believe I have notices of exactly what we have  
23 posted.  
24 Q. I have that. We'll get to that. I was

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1 just wondering if you recall off the top of your  
 2 head.  
 3 A. Yes. And I lowered it this year. And we  
 4 posted it on the sign. And I've been communicating  
 5 with the musicians.  
 6 Q. How do you now monitor that?  
 7 A. We have an app on our phone and we have  
 8 the phone there. A lot of the staff actually loaded  
 9 the app on their phone as well.  
 10 Q. So you use a decibel meter on your phone?  
 11 A. Yes.  
 12 Q. There isn't a decibel meter somewhere in  
 13 the location that's just a decibel meter?  
 14 A. No.  
 15 Q. Have you ever had staff complain about the  
 16 noise?  
 17 A. No, not really. No.  
 18 Q. How many days a week is there live music?  
 19 A. Wednesday through Sunday.  
 20 Q. Do you charge a cover for bands?  
 21 A. No.  
 22 Q. When does the music start -- is the start  
 23 and end time different on Wednesday and Thursday  
 24 versus Friday, Saturday, Sunday?

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1 A. Yes.  
 2 Q. Let's talk about Wednesday and Thursday.  
 3 When does the music start on Wednesday and Thursday?  
 4 A. 6:00 to 9:00.  
 5 Q. And what about on a Friday through Sunday  
 6 or is it Friday, Saturday, and Sunday is unique as  
 7 well?  
 8 A. Well, Friday and Saturday nights are  
 9 8:00 to 11:00. Saturday and Sunday afternoons,  
 10 2:00 to 5:00. It might change if we're having a  
 11 festival or a downtown event. I may change or add.  
 12 Q. Does it ever go past 11:00?  
 13 A. Maybe twice a year. Depending on -- I try  
 14 not to, but it has happened.  
 15 Q. Are all of the acts that come and  
 16 perform -- Strike that. That's a bad question.  
 17 Do you have acts who perform at  
 18 Copper Fire who are amplified?  
 19 A. Yes.  
 20 Q. Do you have any acts who perform at Copper  
 21 Fire who are not amplified?  
 22 A. Yes.  
 23 Q. What -- if you can generalize, what is the  
 24 big picture breakdown between amplified versus

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1 acoustic or not amplified?  
 2 A. The breakdown, I -- I try -- on my  
 3 Wednesday, Thursday -- I really don't know the  
 4 answer to that. I'd have to look at my music. But  
 5 a rough estimate would probably be 40, 60.  
 6 40 percent acoustic, 60 percent amplified. I don't  
 7 know.  
 8 Q. Are the amplified acts generally quieter?  
 9 A. Are the amplified acts generally quieter?  
 10 MR. PETRUSKA: I'm going to object as  
 11 vague. Do you mean acoustic?  
 12 MR. JACOBBER: I'm sorry. I'm sorry.  
 13 Thank you. Bad question.  
 14 Q (By Mr. Jacobber) See that's when you  
 15 should tell me I don't understand what the hell  
 16 you're saying.  
 17 Are the acoustic acts generally  
 18 quieter?  
 19 A. I would have to say no. I've got a couple  
 20 of acoustic men musicians that can wail it out.  
 21 That I've had to ask our acoustic members to bring  
 22 it down.  
 23 Q. So I want to make sure we're on the same  
 24 page when we talk about amplified versus acoustic.

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1 A. Oftentimes our problem is the microphone.  
 2 And I know what you're saying. If it's plugged into  
 3 an amplifier, they all have amplifiers, even our  
 4 acoustic.  
 5 Q. Right. That's what I -- so when I'm  
 6 thinking amplified versus acoustic. I'm thinking  
 7 the instruments are not connected to any  
 8 amplification source for acoustic.  
 9 A. Our acoustics are amplified.  
 10 Q. So all of the bands are amplified?  
 11 A. Not a hundred percent. I don't think I've  
 12 ever looked at them like that.  
 13 Q. And all of the singers always sing into a  
 14 microphone that ties into an amplification system?  
 15 A. A speaker system, yes.  
 16 Q. So is it fair to say that all of the --  
 17 all of the vocals are amplified?  
 18 A. Yeah, I guess. I'm not an expert in terms  
 19 of amplification. But they all have microphones,  
 20 guitars, even if it's a solo, and they always plug  
 21 into something.  
 22 Q. You don't have anyone who gets up on your  
 23 stage with a guitar, no microphone, and just plays  
 24 the guitar and sings?

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1 A. Never.  
2 (Whereupon Exhibit 2 was marked  
3 for identification.)  
4 Q. (By Mr. Jacober) I'm going to show you  
5 what is marked as Exhibit 2. There's two parts of  
6 it unfortunately. One is what's been previously  
7 produced. And one is what was produced this morning  
8 which is an updated version from April -- looks like  
9 from April 1st of 2022, and ask you to take a look  
10 at this exhibit.  
11 A. Yeah. I produced this.  
12 Q. And is this a complete list of bands who  
13 have been booked to play at Copper Fire?  
14 A. Yes.  
15 Q. Excuse me. Some -- occasionally you'll  
16 see cancellations or that Copper Fire was closed or  
17 something along those lines, correct?  
18 A. Yes.  
19 Q. You can set that to the side.  
20 Do you recall the first time you  
21 heard that sound was an issue for someone, for any  
22 neighbor of Copper Fire?  
23 A. It was Geri.  
24 Q. And do you remember the first time that

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1 you heard that?  
2 A. The day we tried to see if we could expose  
3 the brick on the wall, exterior wall. We -- my  
4 stepson was there just chipping at it to see if we  
5 could get to the brick. And she came in and told  
6 him to stop. That was our first complaint.  
7 Q. And is this the wall that faces -- or  
8 that -- that maybe isn't connected completely, but  
9 there is just a little air space separation between  
10 the building where the Writers' Lofts and Kaskaskia  
11 Engineering is located and where Copper Fire is  
12 located?  
13 A. Yes. It's the wall that is next to her  
14 building.  
15 Q. So was that before you opened?  
16 A. Oh, yeah. It was like in 2016.  
17 Q. So was that before you had any plans  
18 drawn?  
19 A. I don't recall the exact date. We were  
20 probably in the middle of doing all of that at that  
21 time.  
22 Q. Do you recall if you ever mentioned  
23 something to your engineer that the neighbor seems  
24 to be able to hear more of what's going on in here

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1 than other neighbors do?  
2 A. He had a sledge hammer. And it was like  
3 construction. So did we mention it to our -- no, we  
4 probably didn't mention it to our architect.  
5 Q. And then eventually Copper Fire opened,  
6 correct?  
7 A. In 2018.  
8 Q. Right.  
9 (Whereupon Exhibit 3 was marked  
10 for identification.)  
11 Q. (By Mr. Jacober) I'm going to hand you  
12 what's been marked Exhibit 3, and ask you to take a  
13 look at this.  
14 MR. JACOBER: I apologize. That's 2.  
15 That's 3. Sorry about that.  
16 MR. PETRUSKA: Sure.  
17 Q. (By Mr. Jacober) Do you recall getting  
18 this e-mail?  
19 A. I don't recall it. But it's here.  
20 Q. And it looks like it's on your opening  
21 day.  
22 A. It is.  
23 Q. St. Patrick's Day 2018. Did -- and the  
24 e-mail is an e-mail from Ms. Boyer to yourself

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1 congratulating you for partially opening. And then  
2 saying that the music was loud in their loft space  
3 and asking you to look into acoustic remediation.  
4 A. Right.  
5 Q. Do you see that?  
6 A. Uh-huh.  
7 Q. Did you do that?  
8 A. No.  
9 Q. And let me ask maybe a bigger question.  
10 Have you ever talked to anyone about acoustical  
11 remediation steps that could be taken at Copper  
12 Fire?  
13 MR. PETRUSKA: I'm going to object as  
14 vague as to what -- the definition of  
15 acoustical remediation.  
16 But you can answer.  
17 Q. (By Mr. Jacober) Do you understand my  
18 question?  
19 A. Yes, vaguely. But I feel I have talked to  
20 numerous people about acoustical in our space.  
21 Q. Okay. I understand that Copper Fire has  
22 live music five days a week.  
23 A. Uh-huh.  
24 Q. And for this discussion, I want to make

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1 sure that we focus not on you talking to people  
 2 about how the music can sound good to the patrons of  
 3 Copper Fire, which would be one acoustical  
 4 discussion.  
 5 A. That's not what I meant.  
 6 Q. Well, I want to make sure that we're  
 7 clear. As opposed to talking to engineers or sound  
 8 experts about how you can mitigate the noise that --  
 9 how you can mitigate the sound coming from Copper  
 10 Fire that may disturb neighbors. Is that what we're  
 11 talking about?  
 12 MR. PETRUSKA: I'll object to the term  
 13 "neighbors," plural. There's only been one.  
 14 A. Several of our musicians are sound  
 15 technicians for places like the Fox, the Pageant,  
 16 things like that. They played at our place numerous  
 17 times. I've spoken to these musicians and sound  
 18 technicians numerous times. And we've come to the  
 19 conclusion that -- and that is basically what the  
 20 musician that I have spoke to the most about,  
 21 basically said that it's about communicating with  
 22 the musicians and talking to them about keeping  
 23 their sound at a level that is appropriate.  
 24 So that is -- we have done a lot of

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1 talking with a lot of different people. And  
 2 everybody has their advice or what they think we  
 3 should do, including Geri. And we decided to, you  
 4 know, work with our musicians and keep the sound  
 5 controlled through decibel readings.  
 6 Q. (By Mr. Jacober) Who were these musicians  
 7 you've talked to?  
 8 A. The one we have relied on the most is  
 9 Tim Albert.  
 10 Q. And which band is Tim Albert a part of?  
 11 A. He and his wife are both musicians. The  
 12 full band is Uncle Albert. And his wife, Lisa, and  
 13 he have played as duos several times. And I've had  
 14 the band several times.  
 15 Q. Has Tim been engaged as a consultant or  
 16 anything?  
 17 A. No, not paid. Not -- I -- I can't  
 18 remember if I approached him or he approached me.  
 19 But we've talked numerous times about what we could  
 20 do to be better. But he in terms of -- and in  
 21 talking to him without really knowing anything  
 22 that's really going on on the other side of the  
 23 wall.  
 24 So when I talked to him about what he

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1 thought I should do, he didn't think that there was  
 2 really anything that we could do without, you know,  
 3 basically reconstructing or putting like crazy --  
 4 make crazy changes that would solve the problem.  
 5 Q. What kind of changes did he think you  
 6 could do regardless of how intense they were? And  
 7 I'm assuming when you say that, you mean changes to  
 8 the structure?  
 9 A. I mean people have suggested that we put  
 10 our own sound system in that everybody plugs into.  
 11 That's one suggestion. Hang, you know, things from  
 12 the ceilings, you know, the bottom line is it's a  
 13 two story space. And it would take a lot of,  
 14 whatever, baffles and etc., etc. to make a  
 15 difference.  
 16 Q. Have you --  
 17 A. And he wasn't sure if it would even fix  
 18 the problem.  
 19 Q. Have you had anyone provide a bid or a  
 20 plan to Copper Fire to install sound deadening -- a  
 21 sound deadening system at Copper Fire?  
 22 A. No.  
 23 Q. Have you talked to anyone about the  
 24 possibility of installing -- other than Tim Albert,

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1 about installing a sound deadening system?  
 2 A. No.  
 3 Q. To the best of your knowledge, is  
 4 Tim Albert a sound engineer?  
 5 A. I believe he is. I don't know his exact  
 6 degree. But I know he's been doing the sound for  
 7 places like the Fox and the Pageant and that for  
 8 years.  
 9 Q. When Copper Fire opened on March 17 of  
 10 2018, was everything finished at Copper Fire, like  
 11 all the construction? I'm sorry.  
 12 A. Yes.  
 13 Q. Were you still talking to the architect  
 14 who designed the building at that time?  
 15 A. No.  
 16 Q. So you didn't tell the architect who  
 17 designed the space that you've received complaints  
 18 from the neighbor?  
 19 A. Correct. We hadn't worked with him for  
 20 months.  
 21 (Whereupon Exhibit 4 was marked  
 22 for identification.)  
 23 Q. (By Mr. Jacober) I'm going to hand you  
 24 what's been marked as Exhibit 4. It looks like this

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1 starts with an e-mail from you.  
2 MR. PETRUSKA: May 2.  
3 THE WITNESS: Okay.  
4 Q. (By Mr. Jacober) Do you recall this e-mail  
5 exchange with Geri?  
6 A. Yes.  
7 Q. Okay. And I want to focus on your e-mail  
8 where you say: We think we may have found  
9 something, although not cheap.  
10 What are you referencing?  
11 A. Ceiling tiles. Ceiling -- you know,  
12 attaching something to the ceiling.  
13 Q. Like some kind of sound baffle?  
14 A. Uh-huh.  
15 MR. PETRUSKA: Hold on. You did "uh-huh"  
16 again.  
17 A. Yes. I'm sorry.  
18 MR. PETRUSKA: Can you give a --  
19 A. Yes.  
20 Q. (By Mr. Jacober) Let's just start over on  
21 that one. When you say you may have found  
22 something, are you talking about you found a sound  
23 baffling system?  
24 A. Yeah. I wanted to go down to Tavern and

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1 see what they had done and we did.  
2 Q. What's Tavern?  
3 A. It's another restaurant/bar.  
4 Q. Where?  
5 A. A block away.  
6 Q. And did they have some kind of sound  
7 deadening system in the ceiling?  
8 A. They had a few ceiling tile panels.  
9 Q. Is that what you think you found?  
10 A. Yeah. Yes.  
11 Q. "Yeah" is fine.  
12 A. Okay.  
13 Q. It's the "uh-huhs" that aren't. You don't  
14 have to be formal.  
15 So what was -- what was the cost of  
16 what you found at Tavern?  
17 A. We didn't -- we -- I -- this is four  
18 years, five years ago. I don't recall exactly. But  
19 it was pretty cost prohibitive.  
20 Q. Do you recall generally speaking what that  
21 cost was?  
22 A. Probably 50,000.  
23 Q. To put ceiling tiles on the ceiling?  
24 A. Uh-huh, close down, lifts, installation,

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1 plus the cost of the panels.  
2 Q. And did you get a bid for that?  
3 A. We priced it ourselves. You can just go  
4 online and do it.  
5 Q. Where did you price it yourself?  
6 A. I don't recall the exact company. But  
7 there are acoustical tile companies out there  
8 online. You put your dimensions in and it tells you  
9 what it will be.  
10 Q. Did you print anything out or keep any  
11 e-mails from those companies?  
12 A. Not that I recall.  
13 Q. Did you receive a bid from them?  
14 A. It calculates it online.  
15 Q. Do you remember the name of the company?  
16 A. No.  
17 Q. Did you talk to the owner of Tavern?  
18 A. No.  
19 Q. So you have no -- you have no record as we  
20 sit here today regarding what the cost of this sound  
21 remediation system would cost?  
22 A. No.  
23 Q. Other than your memory, it was expensive?  
24 A. Correct.

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1 Q. Did you -- sorry. Do you see that Geri  
2 also indicates that the sound on Friday when you did  
3 have live music, so I guess May -- it would have  
4 been April, the weekend before, that the sound was  
5 at 112 decibels?  
6 MR. PETRUSKA: And I'll object. This  
7 calls for hearsay upon hearsay. And no  
8 evidence that any foundation was laid for the  
9 112.  
10 But you can answer the question.  
11 MR. JACOBER: I didn't ask you to say that  
12 that was accurate. I'm just saying is that  
13 what she was told.  
14 A. That's what -- right.  
15 Q. (By Mr. Jacober) So accepting that that's  
16 an accurate representation --  
17 MR. PETRUSKA: I'll object that's contrary  
18 to the evidence in this case to accept that as  
19 an accurate representation.  
20 But you can answer.  
21 Q. (By Mr. Jacober) Are you aware that  
22 112-decibel is an unsafe level of sound?  
23 A. Of course.  
24 Q. Did you do anything to investigate whether



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1 the sound was that loud on that Friday in late April  
2 of 2018?  
3 A. No. And I'll tell you why. Because as  
4 you can see in the second paragraph, how she also  
5 talks about the complaint from her renters about the  
6 people hanging out in the back, their language is  
7 pretty vulgar. These are the types of comments,  
8 things that she e-mails, texts. Just for her  
9 telling me that it measured at 112, I just don't  
10 believe her.  
11 So I've had a long history with Geri.  
12 So there are a lot of comments and things that are  
13 said that when they're said so many times and some  
14 of them aren't true, you stop believing what she's  
15 telling you.  
16 Q. Well, by the second e-mail exchange you  
17 had with Geri, correct?  
18 A. Sure.  
19 Q. So I'm not sure I understand how many  
20 times you had -- had you talked to her other than  
21 this from March until May?  
22 A. I think, yes, we've had other complaints  
23 about other things besides sound prior to this. So  
24 I've been dealing with her on other issues.

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1 Q. What other issues?  
2 A. We've dealt with her on other neighborly  
3 type issues. She's called us a bad neighbor in the  
4 past. She's called in inspections, fire escapes,  
5 things that she says we've done wrong, prior to all  
6 of this.  
7 Q. Prior to May of 2018?  
8 A. Oh, yeah.  
9 Q. While you were under construction?  
10 A. Before we even started construction, we've  
11 had issues with Geri.  
12 Q. When you say issues, you mean Geri's made  
13 complaints about what you're doing?  
14 A. Uh-huh.  
15 Q. And you don't like that?  
16 A. No. She was mad at me for us not doing  
17 something she wanted us to do with our building for  
18 her benefit. That was years before this.  
19 Q. Okay. Tell me about that.  
20 A. She e-mailed me prior to Christmas. I  
21 forget which year. I still owned the building with  
22 my mother and my brother. She e-mailed me saying  
23 she was putting decks on, and she needed to attach  
24 them to our building. And I said, you know, I can't

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1 give you that authorization. I don't own the  
2 building a hundred percent. I need to go talk to my  
3 family.  
4 And she wasn't happy. And basically  
5 said, They're putting these decks on like in a  
6 couple days. I need an answer.  
7 I said, No problem. I need to go  
8 talk to my family. I said, Are they wanting to put  
9 holes in our building to attach? And that was going  
10 to be the case. And I said, Well, I can't give that  
11 authorization of, you know, you putting holes in our  
12 wall to attach your deck without talking to my  
13 brother and my mom. And my brother's a contractor.  
14 Do you have any plans that you can share with me so  
15 I can have him look at those?  
16 She did not give me those. She went  
17 on a rant about how I should be a good neighbor, how  
18 I should just do this. And I said, I'm not telling  
19 you no. I'm saying I have to get approval from my  
20 family, the other owners.  
21 And she berated me. My husband was  
22 with me. And we were trying to respond as  
23 professionally as possible. And she started saying  
24 things like, you know, she's a good neighbor. I'm

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1 not. I have all my utilities on her building. I'm  
2 like, What are you talking about? Because it's the  
3 opposite. Anyway that ended that.  
4 So that was the beginning of our  
5 conflict. And then over the course of time when we  
6 did open, sound, our employees, anything that we did  
7 was a problem for her.  
8 Q. So because it was a problem, you decided  
9 you were going to just ignore any of her complaints?  
10 A. No. That is not what happened. That  
11 didn't happen until I had to block her from all the  
12 texts and everything that I was getting from her.  
13 Because we have been doing everything we can to try  
14 to reduce the noise to a level where our customers  
15 are content and we're complying with the laws. And  
16 we feel we have done that.  
17 Up until that time, they were -- I  
18 had been asking if I could hear it for myself, have  
19 Mark hear it for himself, have anybody hear it for  
20 themselves. We've only been up -- we've only been  
21 in her building twice since this ever happened.  
22 Once was when attorneys prior to you were in her  
23 second floor, in her loft. And the only other time  
24 was I was flying out of town to -- for a client and

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1 she's texting saying it was too loud. It was  
2 actually Tim Albert, Uncle Albert, that was playing  
3 that day.  
4 And I said, I'm heading out of town.  
5 I said, I'll send Mark up. Can he come in? Can he  
6 hear it? She wouldn't let him into the second  
7 floor. She only let him into the first floor. And  
8 he's like, this is it? This is why we're getting  
9 all these complaints?  
10 And they kind of got into it. Just  
11 kind of angry at each other. And they walked out  
12 the front door. And she basically said something to  
13 him like, See, this is coming out the window. This  
14 is just too loud. And that is breaking the  
15 ordinance. And it's like, No, it's not.  
16 We have been dealing with her for a  
17 very long time. She throws a lot of things out that  
18 aren't quite facts. And a lot of times I didn't  
19 believe it. Because when I'm asking to go over and  
20 hear it for myself over and over again and we're  
21 never allowed to hear it and the only thing we hear  
22 is her telling everybody else how horrible it is, we  
23 were -- you know, we came to the realization there  
24 was nothing we could do to make her happy or to

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1 satisfy her.  
2 Q. Would you agree that her home was in that  
3 building before Copper Fire was built?  
4 A. Well, does it matter? Because they're all  
5 zoned commercial. And I don't know that who was  
6 there first is even a factor, because I believe  
7 we're both multiuse commercial buildings. And I  
8 feel that we are -- and I have -- I'm a rule  
9 follower. I have looked at all of the rules. I  
10 have looked at the ordinances. And I feel like we  
11 have followed the rules.  
12 Q. Let me ask the question again and just  
13 listen to my question and answer my question.  
14 Would you agree that her home was in  
15 that building before Copper Fire was opened?  
16 A. Sure.  
17 (Whereupon Exhibit 5 was marked  
18 for identification.)  
19 Q. (By Mr. Jacober) I'm going to show you  
20 what's been marked as Exhibit 5, and ask you to take  
21 a look at that and tell me if you recall that  
22 e-mail.  
23 A. Uh-huh. Yes.  
24 Q. Did you meet with Geri and the mayor on

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1 May 29; do you recall?  
2 A. I don't remember. I remember meeting with  
3 the mayor. I don't remember her being there.  
4 Q. When did you meet with the mayor?  
5 A. I don't remember.  
6 Q. She also references cigarettes on the  
7 sidewalk in front and the back and then people  
8 hanging out in the back. Did you do anything to  
9 address those issues or those complaints from Geri?  
10 A. Yes.  
11 Q. What did you do?  
12 MR. PETRUSKA: I'm going to object now.  
13 Don't even answer that. We're not here for  
14 cigarette issues. Can we talk about what's on  
15 the corporate rep notice that you asked to talk  
16 about? We're not going to talk about cigarette  
17 issues.  
18 (Whereupon Exhibit 6 was marked  
19 for identification.)  
20 Q. (By Mr. Jacober) I'm going to hand you  
21 what's been marked Exhibit 6, and ask you to take a  
22 look at that.  
23 A. Yes. I remember this.  
24 Q. This is an e-mail from -- starts with an

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1 e-mail from Mayor Eckert kind of in the middle of  
2 COVID, right?  
3 A. Uh-huh.  
4 MR. PETRUSKA: Yes?  
5 A. Yes.  
6 Q. (By Mr. Jacober) So what -- explain to me  
7 what's going on here.  
8 A. Explain why my husband sent the e-mail?  
9 Q. Well, if you know, and maybe you don't,  
10 what prompted Mayor Eckert to send his initial  
11 e-mail?  
12 A. We were in the middle of COVID with  
13 outdoor seating. And it was the first weekend we  
14 had live music outside.  
15 Q. Okay. So what -- do you think this e-mail  
16 was sent by Mayor Eckert at the behest of  
17 Geri Boyer?  
18 MR. PETRUSKA: Objection, calls for  
19 speculation.  
20 Answer if you know.  
21 A. I can't know what he -- why he did it.  
22 Q. (By Mr. Jacober) Well, this is part of  
23 what you're supposed to be able to testify to today?  
24 A. Testify why Mayor Eckert said that to me?

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1 MR. PETRUSKA: Hold on. She's asked to  
2 testify about the issues on there. She cannot  
3 testify about what Mark Eckert thought.  
4 Q. (By Mr. Jacober) Well, it was sent on  
5 behalf of Copper Fire, correct?  
6 MR. PETRUSKA: Not Mark Eckert's e-mail.  
7 Q. (By Mr. Jacober) No. I'm talking about  
8 your husband's e-mail.  
9 A. You're asking why Mark Eckert sent that to  
10 us and if I thought that's because of Geri?  
11 Q. I'm sorry. When I said Mark, I meant your  
12 husband Mark. So I'm asking why Mark believes that  
13 Mayor Eckert -- why Mark believed Mayor Eckert's  
14 e-mail was sent at the behest of Geri Boyer?  
15 A. Why my husband thought that that was  
16 because of Geri Boyer? Well, it's well-known in  
17 Belleville that Geri and Mark Eckert were best  
18 friends.  
19 Q. Okay. So because the mayor of Belleville  
20 and Geri are friends, Copper Fire believed that the  
21 e-mail that was sent to all of the businesses  
22 including Copper Fire, was sent at the behest of  
23 Geri Boyer?  
24 A. On the surface, it doesn't look like it,

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1 right? But all the background with what has  
2 occurred between us, Geri Boyer, and Mark Eckert,  
3 then, yes, it does appear that it was because of his  
4 relationship with Geri Boyer.  
5 Q. Is there any evidence that you have that  
6 supports Mayor Mark Eckert's June 2, 2020 e-mail to  
7 Tavern on Main, Copper Fire, and it looks like at  
8 least one or two other bars, their names aren't as  
9 clear, was sent based on Geri Boyer trying to target  
10 Copper Fire?  
11 A. There have been -- I believe there's a  
12 letter from Geri Boyer where she copied in Mark --  
13 Mayor Eckert, the fire chief, the police chief and  
14 everybody else. And which I thought was  
15 inappropriate for her to be putting the mayor on a  
16 letter from her attorney to us. And I believe it  
17 was around this time.  
18 Q. Okay. I'm asking if you have any proof,  
19 if you have any evidence that the June 2 e-mail from  
20 Mayor Eckert was sent at the behest of Geri Boyer?  
21 A. Only hearsay.  
22 Q. What hearsay?  
23 A. That the mayor and Geri didn't like the  
24 music outside. And he thought it was too festival

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1 like. And this is why the letter went to all the  
2 bars.  
3 Q. So it's not necessarily hearsay. It's  
4 just your conclusion?  
5 A. No. We heard that the conversation  
6 occurred between Geri and Mark Eckert. We heard  
7 that. That's why I said it was hearsay. That that  
8 was a discussion that they had had. Do I approve,  
9 no.  
10 Q. From whom did you hear that?  
11 A. I don't remember.  
12 Q. Do you remember where you heard it?  
13 A. I was at Copper Fire when I heard it.  
14 Q. Was it from a patron?  
15 A. Probably.  
16 Q. Do you remember if the patron was a male  
17 or a female?  
18 A. No. I don't remember who told me that.  
19 Q. So you remember hearing it, but you don't  
20 remember anything about who told you that?  
21 A. I don't.  
22 Q. And that's the basis of your conclusion  
23 that that e-mail was -- was sent at the behest of  
24 Geri Boyer?

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1 A. No. Because if -- outside of this and  
2 prior to this, if everyone knew the relationship  
3 between Geri and Mark Eckert, and how my  
4 relationship with Mark Eckert -- because I've been  
5 in Belleville for 30 years with a business downtown,  
6 how my relationship with him went -- was great until  
7 we were Geri Boyer's neighbor, and then my  
8 relationship with Mark Eckert went bad. And that in  
9 my opinion is because of their relationship.  
10 Q. And when you say when you became neighbors  
11 with Geri Boyer, you don't mean when you owned the  
12 building next to Geri, because you've been neighbors  
13 of Geri for a long time, right?  
14 A. Yes.  
15 Q. You're referencing to when Copper Fire  
16 opened?  
17 A. Yeah.  
18 Q. Did you ever talk to Mayor Eckert about  
19 that?  
20 A. He told me I should be a good neighbor.  
21 Q. Did he tell you what that meant?  
22 A. No.  
23 Q. Did you ever talk to Mayor Eckert about  
24 this e-mail exchange in June of 2020 that --

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1 A. Which one, this one?

2 Q. In Exhibit 6, yes.

3 A. No. Because by then, he wasn't even

4 coming into our place, calling me, nothing.

5 Q. And did -- we don't have it. So did Mayor

6 Eckert respond to your husband's e-mail?

7 A. No.

8 Q. Did you try to call him and talk to him

9 about it after that e-mail?

10 A. No.

11 MR. JACOBBER: I think now would be a good

12 time to take a quick break. but I'm going to

13 hand you Exhibit 7 in case you want to look at

14 that on the break.

15 (Whereupon Exhibit 7 was marked

16 for identification.)

17 (Whereupon there was a short

18 break.)

19 Q. (By Mr. Jacobber) Earlier you testified --

20 and I'm paraphrasing. We can find it in the

21 record -- that when you talked to bands, you focused

22 on the fact that there are rules you have to follow

23 and that you're a rule follower. Do you recall

24 that?

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1 A. Uh-huh.

2 Q. I'm paraphrasing.

3 A. That's okay.

4 Q. Definitely not a quote. And what is -- I

5 think you referenced you did investigation or

6 research on the rules. Tell me what rules you

7 looked into.

8 A. The state and EPA. I've read those

9 guidelines.

10 Q. Anything relating to the City of

11 Belleville?

12 A. Yes. I've attended meetings regarding

13 that.

14 Q. And City of Belleville has a noise

15 ordinance, right?

16 A. Yes.

17 Q. Tell me what your understanding of the

18 City of Belleville noise ordinance is.

19 MR. PETRUSKA: Object to form. I'm going

20 to object to the relevancy of that.

21 But you can answer the question.

22 A. Well, I'm not legal. But it occurred

23 because of Geri's complaints and the turmoil it

24 caused between all the bar owners. So the City

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1 asked the police to get involved. One particular

2 police officer who's now the chief of police

3 coordinated all of that, took everybody's input and

4 modified the ordinance.

5 Q (By Mr. Jacobber) And what my question to

6 you is: What is your understanding the City of

7 Belleville noise ordinance requires you to do as a

8 bar?

9 A. They -- if you could put it in front of

10 me, but basically they are, I need to comply with

11 the state and EPA rules and reasonableness.

12 Q. What is your understanding as the owner

13 of -- or what is Copper Fire's understanding of what

14 the Illinois EPA rules require Copper Fire to do in

15 relation to noise?

16 A. Daytime and nighttime hours have different

17 decibel limits. 25 feet from the property line, I

18 believe after 10:00, it needs to be lower than 63.

19 And I think it's 70 during the day.

20 Q. And what does Copper Fire do to ensure

21 that it is in compliance with EPA regulations on

22 noise?

23 A. We've done a lot of different things. We

24 have the policies that we put in place for our staff

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1 and the musicians. We loaded the decibel app on

2 multiple phones and a house phone. We've been

3 through like a three-week trial with the Boyers. We

4 had one meeting where -- we received cease and

5 desist letters. We were to halt all noise, all

6 music including our house music. And which -- so we

7 had a meeting -- we had -- we went on like a

8 three-week trial.

9 All that time, I've never been able

10 to go in and hear it for myself. But we were doing

11 the testing with the Sound House, with Paul, and she

12 had another attorney. That was the one time that I

13 was able to go up and we did not hear anything even

14 when it was on full blast. We don't turn it on full

15 blast anyway. So we keep that usually no higher

16 than three-quarters of the volume on the house

17 sound.

18 We had music -- we've tried the music

19 on various sides of the front area. And it

20 actually -- according to Geri, it was worse. So we

21 brought them back over to the side they're at

22 currently. We enforce the decibel limits by -- and

23 my staff has the authorization to go up and talk to

24 the band and tell them to turn it down. If they

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1 don't, we can terminate their visit with us. And we  
 2 have done that.

3 I have -- I actually saw some  
 4 messages that I turned people away, because I think  
 5 they might be too loud. Not hired them. And had  
 6 ongoing conversations with the musicians.

7 We met the police. A lot of times  
 8 during the complaints, I don't even know -- didn't  
 9 even know there was one. They -- we've never been  
 10 cited and -- and I confirmed that we haven't been  
 11 cited ever. So I feel like we've been in  
 12 compliance.

13 We are -- we've always taken  
 14 everything that has been told to us and listened.  
 15 But there have been times when she will make a  
 16 complaint, and it's in these text messages, where we  
 17 don't understand. That's why it goes back to where  
 18 I don't always believe what she says when she can  
 19 say it's just too loud. And I'm looking at a  
 20 decibel reading of 80 or 85. And it's -- so we've  
 21 just had a lot of situations like that.

22 Q. Okay. And my question -- and I appreciate  
 23 that answer. My question, though, is what has  
 24 Copper Fire done -- and maybe that list is what

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1 Copper Fire -- Strike that. Let me ask it  
 2 differently.

3 Is there anything Copper Fire has  
 4 done specifically to ensure that the decibel levels  
 5 25 feet from its property line are within the EPA  
 6 standards of your estimation -- or your memory is 70  
 7 during the day and 63 at night?

8 MR. PETRUSKA: I'm going to object.  
 9 She's -- I'm not going to hold her to her  
 10 opinion on what that number is.

11 MR. JACOBBER: That's why I said it that  
 12 way.

13 MR. PETRUSKA: Yeah.

14 Q. (By Mr. Jacobber) So regardless of what the  
 15 number is, has Copper Fire done anything to ensure  
 16 that its decibel limits 25 feet from its property  
 17 line are in compliance with the EPA standards?  
 18 A. The policy that we put in place with the  
 19 decibel reader not to exceed 95 or now this year 92  
 20 or whatever we put out there.

21 Q. And what has Copper Fire done to ensure  
 22 that that internal policy means that the policy of  
 23 the decibels 25 feet from its property line is in  
 24 compliance with EPA standards?

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1 A. The police have taken readings numerous  
 2 times. And when we're at that level, we're below  
 3 those decibels when they take their decibel reading  
 4 outside.

5 Q. The City of Belleville Police Department?  
 6 A. Uh-huh.

7 MR. PETRUSKA: Off the record.  
 8 (Whereupon there was a short  
 9 break.)

10 Q. (By Mr. Jacobber) You just testified that  
 11 the City of Belleville Police Department came and  
 12 took readings 25 feet from the Copper Fire property  
 13 line to ensure that the decibel limits that you're  
 14 enforcing inside complied -- are sufficient to make  
 15 sure that Copper Fire's complying with the EPA  
 16 decibel limits 25 feet off its property line,  
 17 correct?  
 18 A. Yes.

19 Q. When did those measurements by the City of  
 20 Belleville's Police Department occur?  
 21 A. They've occurred numerous times over the  
 22 last several years. They're noted in the police  
 23 reports that I've read. And I've discussed it with  
 24 the chief of police.

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1 Q. Where do they take those readings or where  
 2 did they take those readings?  
 3 A. I didn't take the readings. And I'm  
 4 not -- like I said, I'm not there or they're not  
 5 coming in and telling us most of the time that  
 6 they've even done it.

7 Q. Okay. If you could go ahead and get  
 8 Exhibit 7 in front of you. And I'm not going to ask  
 9 you about all of these text messages, but I want to  
 10 highlight a couple of things. And it starts on the  
 11 first page. This is a text exchange between  
 12 yourself and Geri Boyer, correct?  
 13 A. Yes.

14 Q. And she's asking you to turn the music  
 15 down. This is back in -- strange. It looks like  
 16 back in June, on June 11, I'm going to guess, of  
 17 2020. It's hard to tell for sure. Do you see that?  
 18 A. This is during COVID.

19 Q. Right. But -- but Geri asked -- Geri  
 20 asked to -- asked to have the music turned down,  
 21 correct?  
 22 A. Yes.

23 Q. And it looks like you did turn the music  
 24 down?

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1 A. November 6. Then it jumps to June 11.  
2 Q. Right. And that's what I'm referring to.  
3 Your text, We asked them to turn it down. Better?  
4 A. Yeah.  
5 Q. So it looks like, if you look at the first  
6 page, that the text exchange between you and Geri  
7 has a gap of almost eight months?  
8 A. From --  
9 Q. November of 2020 to June of 2021?  
10 A. Yeah. I can explain that.  
11 Q. Go ahead and explain that?  
12 A. We were only open three weeks in November  
13 during COVID. We didn't reopen the restaurant until  
14 February. We were open like 12 days and we had  
15 water damage to the building from a sprinkler head.  
16 And had to shut the restaurant down for two weeks.  
17 We reopened with no food as a bar and music only.  
18 And then this started again.  
19 Q. So it sounds like -- if I'm getting the  
20 time line right, it sounds like you reopened  
21 sometime in March?  
22 A. Yes.  
23 Q. And you were open from March, April, May.  
24 And then the first time you heard from Geri, then,

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1 was June?  
2 A. Uh-huh. Yes, in text.  
3 Q. Did you hear from her otherwise?  
4 A. I don't recall.  
5 Q. Then June 12, it looks like there's a back  
6 and forth where Geri's asking you to turn the music  
7 down. And it looks like you two were working  
8 together to get the music at a level that works for  
9 her?  
10 A. I always tried, yes.  
11 Q. Always? You think every single time that  
12 she texted you that the music was too loud?  
13 A. I would listen. And if I thought -- I  
14 would run to the decibel meter or whatever. But the  
15 thing is not every time did I agree with her.  
16 Q. Well, then the next day on June 13, she  
17 specifies that she can hear a specific song coming  
18 in her space. She's not complaining that it's too  
19 loud. It's during the day.  
20 A. Right.  
21 Q. And she's not trying to sleep or anything.  
22 But do you think it's reasonable for -- for your  
23 neighbor to be able to hear a specific song in their  
24 living space from Copper Fire?

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1 A. My opinion is that I've never heard it for  
2 myself on her side of the wall. So I don't know  
3 what she hears. And she can be standing outside.  
4 Oftentimes her daughter would do that. And it's  
5 very possible that they were standing outside and  
6 heard it through the window and not necessarily her  
7 space. So I don't always believe everything that  
8 she says.  
9 Q. So you didn't answer my question, though?  
10 A. Do I think it's reasonable if she can hear  
11 the sounds of our side on her side?  
12 Q. Uh-huh.  
13 A. It's like living in an apartment and you  
14 hear the TV on the other side of the wall.  
15 Q. Well, not necessarily. But what my  
16 question is, do you think it's reasonable for  
17 someone in another building, not attached to your --  
18 to your restaurant, to be able to hear a specific  
19 song through the walls in their living space?  
20 A. And I'm going to answer, I think it's  
21 reasonable. And the reason I think it is  
22 reasonable, I have a neighbor that parties from  
23 4:00 in the afternoon until 4:00 in the morning  
24 sometimes, often actually. And I can hear them

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1 through my walls at my house. So, yes, I think it  
2 is part of living next to a neighbor, that you can  
3 hear things from the other side.  
4 Q. And you think as a restaurant and bar that  
5 has live music, that you have no responsibility to  
6 ensure that your neighbors aren't being disturbed by  
7 the noise being generated at your location?  
8 A. It is hard for me to satisfy somebody when  
9 I'm only being told what she thinks and never  
10 hearing it for myself. So how can I determine  
11 reasonableness when I've never heard it for myself?  
12 Q. What do you think would be a reasonable --  
13 what do you think would be a reasonable decibel  
14 level that Copper Fire would be willing to require  
15 its acts to perform in?  
16 MR. PETRUSKA: Objection. I think it's  
17 been asked and answered. She's talked about  
18 the policy.  
19 A. It's in our policy.  
20 Q. (By Mr. Jacober) Let me ask it  
21 differently.  
22 Your policy -- I'll go ahead and put  
23 it in front of you so we're not guessing at that.  
24 Your policy, which is Exhibit 18.

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1 MR. PETRUSKA: I have a copy.  
 2 (Whereupon Exhibit 18 was marked  
 3 for identification.)  
 4 Q. (By Mr. Jacober) Is that the policy you're  
 5 referencing?  
 6 A. Yes.  
 7 Q. When did this policy go into effect?  
 8 A. This is this year's, 2023.  
 9 Q. So this is brand new as of January 21?  
 10 A. There's another one. It's very similar to  
 11 this. I just lowered the decibels.  
 12 Q. I'm sorry. We're not communicating well  
 13 on this one. Let me make sure. Exhibit 18 that I  
 14 just put in front of you, is this the most recent  
 15 noise and tabs policy at Copper Fire for bands that  
 16 play there?  
 17 A. There's two of them. One's from two years  
 18 ago and one is from this year.  
 19 Q. That is the only one we have. So if  
 20 you're telling me there's another one, I don't --  
 21 A. We just implemented it three weeks ago.  
 22 MR. PETRUSKA: This is the one I produced.  
 23 And I produced it --  
 24 THE WITNESS: This is the newest one?

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1 MR. PETRUSKA: I produced that months ago.  
 2 So the newer one may have slightly lower  
 3 numbers.  
 4 THE WITNESS: It does.  
 5 MR. JACOBBER: So this is the old one?  
 6 MR. PETRUSKA: I produced this back, what,  
 7 four months ago.  
 8 MR. JACOBBER: Give or take.  
 9 MR. PETRUSKA: This is the old one.  
 10 Q. (By Mr. Jacober) Exhibit 18 is the old  
 11 noise and tabs policy for bands or for musical acts,  
 12 correct?  
 13 A. Yes.  
 14 Q. Do you recall as we sit here what the --  
 15 the new decibel limits are --  
 16 A. I don't recall.  
 17 Q. -- for Wednesday and Thursday?  
 18 A. I don't recall the differences. But I  
 19 know that we tweaked it. And this was because of  
 20 the sound -- we felt that there's a buffer basically  
 21 between the two buildings of roughly 55. And we  
 22 felt that at this level, it was good for us and it  
 23 was low enough on her side, that we were -- and  
 24 outside, that we were abiding by all the

Page 68

1 regulations.  
 2 Q. Okay. Thank you for that answer. But the  
 3 answer to my question is you don't recall the new  
 4 decibel limits --  
 5 A. I do not.  
 6 Q. -- on Wednesday and Thursday?  
 7 A. I do not.  
 8 Q. Do you recall the new decibel limits on  
 9 Friday and Sunday?  
 10 A. I do not.  
 11 Q. Is there a different decibel limit for  
 12 Friday and Saturday nights?  
 13 A. Oh, no. It would have been the same.  
 14 Q. So it would have been the same as what?  
 15 A. The 88 to 92.  
 16 Q. Are the new decibel limits lower now or  
 17 higher?  
 18 A. Lower.  
 19 Q. What led to you lowering the new decibel  
 20 limits?  
 21 A. Because we were finding that it was kind  
 22 of a good spot for us as well for our customers.  
 23 Q. That what was a good spot for --  
 24 A. Bringing it down just a couple of

Page 69

1 decibels.  
 2 Q. Now, setting whatever the decibel limit  
 3 is, aside that you don't recall right now, will you  
 4 produce the new --  
 5 A. Yes.  
 6 MR. PETRUSKA: Yeah. I have it right  
 7 here. I'll print it.  
 8 MR. JACOBBER: Okay. We'll mark that as  
 9 Exhibit 18A.  
 10 MR. PETRUSKA: Sure.  
 11 Q. (By Mr. Jacober) What is the lowest --  
 12 well, you know what, let's go off the record.  
 13 (Whereupon there was a short  
 14 break.)  
 15 (Whereupon Exhibit 18A was  
 16 marked for identification.)  
 17 Q. (By Mr. Jacober) I'm going to show you  
 18 what's been marked as Exhibit 18A, and ask you to  
 19 take a look at that.  
 20 A. Okay.  
 21 Q. Can you identify that for the record,  
 22 please?  
 23 A. It's the noise and tabs policy we put  
 24 in -- out for our staff and musicians. This is

Page 70

1 about three weeks ago.  
2 Q. And you testified earlier that the decibel  
3 limits were lower, correct?  
4 A. Yes.  
5 Q. That's not -- well, you lowered the  
6 decibel limits for Wednesday and Thursday and then  
7 Friday evenings and Saturday afternoons by one  
8 decibel, correct?  
9 A. I lowered -- well, I thought the Friday,  
10 Saturday through Sunday, that included Friday nights  
11 and Saturday nights, that got lowered from 88 to 92.  
12 The afternoons got lowered to 85 to 88.  
13 Q. Right. Friday and Saturday evenings are  
14 still at 88 to 92, correct?  
15 A. Correct.  
16 Q. And Wednesday, Thursday, and then Friday  
17 evenings and Saturday afternoons are at 85 to 88  
18 instead of 85 to 89?  
19 A. Yes.  
20 Q. There's nothing on here about Sunday.  
21 What are the Sunday decibel limits?  
22 A. I'm sorry. They would have been the same  
23 as Wednesday, Thursday.  
24 Q. Okay. Has Copper Fire looked into whether

Page 71

1 a lower decibel limit would still allow it to have  
2 live music than -- than the decibel limits that are  
3 set out in Exhibit 18A?  
4 A. No. I think these are reasonable.  
5 Q. And what is -- has Copper Fire explored  
6 what the lowest decibel limit would be that would  
7 still allow it to have live music?  
8 A. It depends on how many people are in the  
9 place. And if it's busy, you can't hear anything  
10 other than people.  
11 Q. Thank you for that. But listen to my  
12 question.  
13 Has Copper Fire looked into what the  
14 lowest decibel limit would be to allow it to have  
15 live music and still operate its business?  
16 A. Looked into?  
17 Q. Done any study, investigated, anything  
18 to --  
19 A. Hired somebody to help us, no.  
20 Q. Going back to the text messages, if you  
21 want to set that aside. Has Copper Fire had any  
22 sound expert or -- when talking to Mr. Albert, did  
23 frequencies come up as opposed to decibels?  
24 A. I'm not a sound expert. No, not really.

Page 72

1 No.  
2 Q. Does Copper Fire understand the different  
3 frequencies may be heard more clearly regardless of  
4 the decibel level?  
5 A. Yes.  
6 Q. If you could turn to the text message that  
7 is on June 18. It's about six or seven pages in.  
8 A. I don't see dates.  
9 Q. It's kind of towards -- there it is.  
10 A. Okay.  
11 Q. And this is an exchange between you and  
12 Geri back in June of 2021, correct?  
13 A. Yes.  
14 Q. And it's Geri indicating that she was  
15 getting home about 10:00 at night and putting her  
16 grand kids to bed and the music was loud. Do you  
17 see that?  
18 A. Pretty loud.  
19 Q. And you responded -- there's no time, but  
20 you responded looks like soon thereafter: It should  
21 be better now.  
22 And it looks like there's a cordial  
23 exchange of: Yes, that works. They can still hear  
24 it, but it's at an acceptable limit, correct?

Page 73

1 A. I've always been cordial. That's correct.  
2 Q. And Geri was cordial, right?  
3 A. Yes.  
4 Q. And she's not saying, I don't want to hear  
5 it. She just wants it at a level --  
6 A. Not in this one, correct.  
7 Q. -- that is tolerable, correct?  
8 A. In this one, correct.  
9 Q. And then there's further text exchange on  
10 June 25, about a week later, right?  
11 A. Yes.  
12 Q. Exactly a week later. And you reference  
13 that you turned it down, I'm assuming the music, the  
14 sound level, down over 10 decibels.  
15 A. Uh-huh.  
16 Q. And is that based on the decibel reading  
17 from your telephone?  
18 A. Yes.  
19 Q. Has that ever been calibrated or anything?  
20 A. I don't understand. It's -- it's an app  
21 that -- I don't know. If it's got its own  
22 calibration to do it in the app, I haven't done it.  
23 Q. And you indicate that you had the decibels  
24 at 63 -- I'm sorry. I misread your text.



Page 74

1 A. Correct.

2 Q. That you're doing everything that you can

3 to comply with the law and that is 63 decibels and

4 below on your side?

5 A. That's what I said.

6 Q. Do you -- is it your understanding that

7 the EPA standards on 25 feet away from your property

8 line is what the decibel readings need to be inside

9 of a -- an enclosed space within 25 feet of your

10 property line or outside within 25 feet of your

11 property line?

12 A. We tried to abide by 63 decibels or lower

13 25 feet away from our property line, whether it was

14 inside or outside.

15 Q. And then on June 27, Geri texts you and

16 says they got home. It's 5:00 in the afternoon.

17 And they can hear Don't Stop Believing playing.

18 Do you see that?

19 A. Yes.

20 Q. And again, do you think it's reasonable

21 for a building, a -- someone who lives in a building

22 connect -- or not even connected to yours, to be

23 able to hear a song clear enough through the walls

24 coming from your location?

Page 75

1 MR. PETRUSKA: I'll object. It's been

2 asked and answered. She said yes.

3 But you can go ahead.

4 A. This is one I don't understand, because

5 they were averaging in the 80-ish decibels. And

6 this was one of the times that I was like we're

7 never going to be able to satisfy her requests.

8 Q. (By Mr. Jacober) Is this -- is this

9 another instance you think somebody was listening to

10 the music and telling her what the song was?

11 A. Possibly. You mean Becca? Probably.

12 Q. And do you have proof that Becca did that?

13 A. She's the one that made a lot of the

14 police complaints.

15 Q. Do you know where Becca lives?

16 A. On the other side of the building.

17 Q. And you think that Becca's making the

18 noise complaints by going outside and then calling

19 the police?

20 A. There were times we would get the

21 complaint right after they walked their dogs.

22 Q. And did you tell the police you didn't

23 believe she was actually inside when she was making

24 the noise complaints?

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1 A. No, because there's nothing I could do

2 about it.

3 Q. Now, on August 16 -- yeah, you're there --

4 there's a text message from Ms. Boyer about the

5 trash. Did you respond to her at all about that?

6 A. I probably did not.

7 Q. And then again on October 15 -- I'm sorry.

8 On September 2 and October 15, Geri texted you and

9 asked on two different occasions to have the sound

10 turned off, correct -- sound turned down, correct?

11 A. Yes.

12 Q. And those are two months apart, right?

13 A. Yeah.

14 Q. And the last sound complaint from her is

15 on July 18, correct?

16 A. You mean in the very end?

17 Q. No. Go backwards. I'm sorry. Let me

18 state it differently.

19 The most recent sound complaint from

20 her prior to the ones on September 2, October 15,

21 was in July of 2018, correct?

22 A. Right. But as part of your complaint,

23 they've been going out of town every weekend. So

24 they're not here all the time, otherwise she'd be

Page 77

1 complaining every single weekend.

2 Q. So because she has a place to go on the

3 weekends. That makes her complaint less --

4 A. No. I'm just saying maybe that's part of

5 the reason for the gaps.

6 Q. And there are gaps, correct? It's not

7 every time?

8 A. Right.

9 Q. And then Ms. Boyer texts you about some

10 flashing on your -- coming loose on your building

11 and saying that it might cause some water intrusion,

12 right? So she's trying to be a good neighbor?

13 MR. PETRUSKA: You can answer that.

14 A. We didn't take it as that.

15 Q. (By Mr. Jacober) Why wouldn't you take it

16 as that?

17 A. Because Geri's always telling us what we

18 need to do and what we should change and bullying us

19 into what she wants us to do. So we did not take

20 that to be a good neighbor.

21 Q. So you took a neighbor saying, I noticed

22 something on your building that might cause water

23 intrusion, you might want to get it fixed, being --

24 A. Yeah. Just like the trash, she -- sorry.

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1 Just like the trash complaints, when she calls the  
2 police or files a complaint there because of trash.  
3 We just thought this will be another complaint  
4 against us.  
5 Q. Then that brings us to December of 2021.  
6 So there's again a long gap of no complaints about  
7 music, correct?  
8 A. Yes.  
9 Q. And this is when Geri had her aunt who was  
10 in hospice living at her home for some period of  
11 time, correct?  
12 A. Yes.  
13 Q. And she asked you to turn the -- turn the  
14 music down, correct?  
15 A. Uh-huh.  
16 Q. And you wanted to come up there and hear  
17 it as opposed to believing her. Did you turn it  
18 down?  
19 A. I don't recall what we had to do at that  
20 time. But just because it's not in these other  
21 messages, we've asked for years to go up there and  
22 hear it.  
23 Q. And -- and Geri's response to you  
24 requesting to come up and hear it is on the next

Page 79

1 page saying she's caring for her dying aunt. She  
2 didn't want to deal with you as well right then?  
3 A. Right.  
4 Q. And your response then is that she's  
5 harassing you?  
6 A. I said, Stop texting me.  
7 Q. And you eventually said, Stop harassing  
8 us?  
9 A. Because she said, Stop disrupting our  
10 lives.  
11 Q. And at this point, the -- there was no  
12 further communication -- no further productive  
13 communication about turning the music down, correct?  
14 A. I -- my husband and I made a decision to  
15 not accept her texts any longer.  
16 Q. When did you make that decision?  
17 A. You can see when I stopped, when they  
18 turned to green. Somewhere between January 7 and  
19 January 8.  
20 Q. So after the first of the year in  
21 January 2022 --  
22 A. Yes.  
23 Q. -- you blocked her?  
24 A. I did.

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1 Q. Let me come back to this.  
2 (Whereupon Exhibit 13 was marked  
3 for identification.)  
4 Q. (By Mr. Jacober) I'm going to hand you  
5 what's been marked as Exhibit 13, and ask you to  
6 take a look at that. And if you could go to the  
7 very last page -- I'm sorry -- second to last page.  
8 These weren't verified. Okay. If you could take a  
9 few minutes to look through these and tell me if you  
10 recognize this document.  
11 A. So you told me to go to the second to last  
12 page?  
13 Q. Start at the beginning. I thought they  
14 were verified, but they weren't. So we'll do that  
15 real quick on the record.  
16 A. Okay.  
17 Q. Have you looked at all of the answers that  
18 are provided in response to these interrogatories?  
19 A. Yes.  
20 Q. And can you confirm that these answers are  
21 all accurate to the best of Copper Fire's ability to  
22 answer them?  
23 A. Yes.  
24 Q. And under oath, can you indicate that

Page 81

1 these are true and accurate answers?  
2 A. Yes.  
3 Q. Okay. Normally interrogatory answers  
4 would be sworn to under oath.  
5 A. Okay.  
6 Q. That didn't happen. So I just wanted to  
7 get under oath that these are accurate answers.  
8 A. Okay. Yes.  
9 Q. Not trying to trick you or anything. So  
10 if you want to take more time to look at them, go  
11 right ahead.  
12 A. No.  
13 Q. Okay. What I really want to focus on here  
14 is -- and ask some more questions about, is the  
15 answer to Interrogatory No. 6, if you want to turn  
16 to that. It's on Page 3 or starts on Page 3.  
17 A. Yes.  
18 Q. And Interrogatory No. 6 talks about every  
19 remediable effort Copper Fire has taken to address  
20 concerns, complaints, protests, grievances,  
21 criticisms, warnings and/or charge regarding noise  
22 and/or sound emanating from -- excuse me -- from  
23 Copper Fire from January 2020 to present.  
24 Is that correct?

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1 A. Yes.

2 Q. And the first entry relates to a specific

3 band, Wolfe & Nation?

4 A. Yes.

5 Q. It's referenced that the noise was more

6 than expected when they played there in May of 2021.

7 Was that a conclusion that Copper Fire reached, that

8 the noise was louder than --

9 A. Yes.

10 Q. They were a louder band than you thought

11 they were going to be?

12 A. Yes.

13 Q. While they were playing in May of 2021,

14 did you ask them to turn it down?

15 A. I'm sure we did.

16 Q. Well, what I'm asking you is: Do you

17 recall Copper Fire asking them to turn it down?

18 A. I don't recall specifically.

19 Q. And then they came back about a month

20 later, correct?

21 A. Yes.

22 Q. They were going to play outside initially?

23 A. Yes.

24 Q. But the weather was raining or something?

Page 83

1 A. Right.

2 Q. Was the acoustic set that they did -- I

3 want to understand that first. Because we talked

4 earlier about how everything is amplified, that even

5 when -- so when you're saying they plug everything

6 in, my understanding, we should make sure we're on

7 the same page, is if a band has a singer, they sing

8 into a microphone?

9 A. Yes.

10 Q. They have a guitarist, that guitarist

11 plugs into an amp, whether it's an acoustic guitar

12 with some kind of a pick up inside or an electric

13 guitar?

14 A. I don't know instruments that well, but

15 okay.

16 Q. So you are saying even the acoustic

17 guitars, they plug into something and sound comes

18 out through the speakers?

19 A. They still did that, yes.

20 Q. Okay. So there really is no such thing as

21 an acoustic set, correct?

22 A. Acoustic, I guess, in definition and what

23 you're trying to say is that they have no amplifier,

24 right?

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1 Q. I'm trying to make sure that we -- I

2 understand what you're saying when you reference an

3 acoustic set.

4 A. When the musicians talk to me about

5 acoustics, they still use amplifiers.

6 Q. So what is it --

7 A. I don't know.

8 Q. That's why I'm asking. In your answer

9 here, you say they were asked to play an acoustic

10 set, which they did.

11 What is Copper Fire's understanding

12 of what an acoustic set is from a musician or group

13 who plays at Copper Fire?

14 A. In my opinion, it's less speakers, less --

15 I don't know. I just know it's less than what they

16 would be set up to do for a full band outside. And

17 when I say acoustic, the musicians are using it in

18 the same terms even if it is amplified. So this

19 amplification thing, this is the first time anyone's

20 really raising that and challenging what acoustic is

21 versus not. But when we say acoustic, we say less,

22 in my mind is what we're talking about.

23 Q. And I'm just -- I want to make sure that

24 we have an understanding of what -- in Copper Fire's

Page 85

1 world what acoustic means. And my understanding

2 based on your answer is acoustic means less?

3 A. Less equipment, less speakers, less sound.

4 Q. Then in 6B, the answer indicates that

5 Copper Fire downloaded the NIOSH sound level meter.

6 And it's kept in the same location of the restaurant

7 to monitor the decibel level; is that correct?

8 A. Yes.

9 Q. Where is that kept in the restaurant?

10 A. In the back near the corner service

11 station. That's the easiest way to explain it.

12 Which is before the gaming room and approximately, I

13 would guess, in the corner where the Boyers' bedroom

14 would be.

15 Q. Is -- does someone -- is someone required

16 to monitor that?

17 A. Yeah. It's running and we do monitor it.

18 But we can -- we've been doing this for so long you

19 can almost tell when it needs to be reviewed or

20 discussed with the musician.

21 Q. You go on to say that the level stayed

22 below 95 decibels; is that correct?

23 A. In statement A?

24 Q. Yes.

Page 86

1 A. Yes.

2 Q. Now, in -- is that revised now, that it's

3 not above 92?

4 A. We realize there could be times when it

5 goes above that and we want that to be our max. And

6 that's when we will talk to them.

7 Q. And you also go on to tell the musicians

8 that you prefer them not to go above 90 decibels?

9 A. 92, I think it says.

10 Q. I'll show you.

11 A. Oh, yeah. Sorry. This was back in '21.

12 Q. I understand. That's why I wanted to make

13 sure that we update that in accord with the new

14 policy.

15 You also say you watch the LA, in

16 capital letters, and then EQ, in lower case letters,

17 the Lmax and TWA readings. Do you see that?

18 A. Yes.

19 Q. What are those?

20 A. They're readings within the decibel app.

21 I don't understand what they mean.

22 Q. If Copper Fire doesn't understand what

23 they mean, why are you monitoring them?

24 A. Well, they are produced. So I can't

Page 87

1 answer that. I'm not an expert.

2 Q. Well, do they have anything to do with

3 frequency?

4 A. Probably.

5 Q. But you don't understand what they mean?

6 A. I don't.

7 Q. Do you make any adjustments to anything

8 based on the LAeq, Lmax or TWA readings?

9 A. A lot of these bands have their own sound

10 guys that walk around the bar and manage all of that

11 as well. If they are reaching above, at or close to

12 or above those decibels, the sound guys are managing

13 that while they're there.

14 MR. JACOBBER: Could you read my question?

15 Just listen to it.

16 A. Am I doing anything with it, or is my

17 staff doing anything with it, no.

18 Q. (By Mr. Jacober) Okay. Thank you. Who

19 recommended to Copper Fire, if anyone, that the

20 NIOSH sound meter level be installed on a phone and

21 used to monitor the noise?

22 MR. PETRUSKA: I'll object to the extent

23 it calls for attorney-client communications.

24 Otherwise, you may answer.

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1 THE WITNESS: I can't answer that then.

2 Q. (By Mr. Jacober) Okay. If it came from

3 your lawyer, I'm not entitled to know and I don't

4 want to know.

5 You referenced earlier that you have

6 house music. What is the house music?

7 A. TouchTunes.

8 Q. It's like the jukebox thing?

9 A. The machine.

10 Q. That you can buy from your phone?

11 A. And we have overhead speakers throughout

12 the first floor.

13 Q. Okay. Just overhead speakers, or is there

14 like --

15 A. It's a system.

16 Q. But does that include just the overhead

17 speakers, or are there other subwoofers or larger

18 speakers that are hidden behind walls or something?

19 A. No. Just speakers. And they're tied to

20 the TV and over -- the TouchTunes.

21 Q. And then you say that you've reduced the

22 maximum sound level on the TouchTunes machine to

23 75 percent of its maximum?

24 A. We implemented that before we had --

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1 somewhere around or before we had had our test with

2 her and went up to her -- what occurred there is we

3 got the cease and desist letter including house

4 sound. We went with -- it was Paul and I, her and

5 her attorney and started at a level, went up, went

6 up, to see if you could hear it on the other side of

7 her business. She didn't invite us up to the second

8 floor, only her downstairs across the wall, because

9 she said our music, including our house music, was

10 interfering with her employees.

11 We did not hear anything. Even when

12 we cranked it all the way to the very top of the

13 TouchTunes hundred percent volume. We turned it on.

14 We went back into her first floor while she had

15 employees there. Couldn't hear anything. Everybody

16 tried to be quiet. We heard the overhead lights.

17 We heard nothing from our side of the building. We

18 walked back outside. You can hear it coming through

19 the windows.

20 She gets a phone call from her

21 husband. He says, I can hear it. Paul said, Let's

22 hear it. We went upstairs to the second floor where

23 her husband Doug was. We heard nothing. We put our

24 ears to the wall. Heard nothing. We stayed there

Page 90

1 for a while waiting to hear if we could hear the  
 2 song change, maybe it was just the song or whatever.  
 3 And we heard nothing. And then we left and turned  
 4 down our house sound.  
 5           So somewhere in there, we changed it  
 6 to, hey, we're not going to turn it up past  
 7 three-quarters. But that policy really doesn't even  
 8 need to exist in our mind, because we didn't hear  
 9 anything when it was full blast.  
 10 Q. Now, there's a text message or text  
 11 communication that you reference in 6F of your  
 12 answers there, where Ms. Boyer is saying that their  
 13 goal wasn't for it to be loud. Their goal was not  
 14 to hear the music from Copper Fire, correct?  
 15 A. Correct.  
 16 Q. Do you think it's a reasonable request for  
 17 residents of the Writers' Loft including Geri Boyer  
 18 to not want to hear music from Copper Fire in their  
 19 residence?  
 20 MR. PETRUSKA: Objection. It's been asked  
 21 and answered.  
 22 You can answer again.  
 23 A. I've already answered that question.  
 24 Q. (By Mr. Jacober) Go ahead and answer it

Page 91

1 again.  
 2 A. I deal with a similar situation with our  
 3 neighbors now. And I can hear them through our  
 4 walls to our house. Whether they're playing music,  
 5 having lots of friends over from 4:00 p.m. to  
 6 4:00 a.m. And I am reasonable -- I'm fine with it.  
 7 I can hear every word they're saying. So I put in  
 8 the same perspective, it's like apartment living.  
 9 So I do think it's reasonable.  
 10           And like I said, I've never heard it  
 11 on her side of the building to understand from her  
 12 side of it if it's as loud as she says it is.  
 13 Q. Okay.  
 14 A. I can only go from the sound reports. I  
 15 can only go from what she tells me, whether I  
 16 believe it or not. Because I have had many doubts.  
 17 And all I can do is just keep focusing on trying to  
 18 follow the rules and run my business.  
 19 Q. I'm going to go ahead and play a sound  
 20 recording for you. And my computer doesn't have  
 21 great speakers on it.  
 22           (Audio playing.)  
 23 Q. (By Mr. Jacober) You hear that, right?  
 24 A. I think I received that recording. Was it

Page 92

1 during the Olympics?  
 2 Q. This is during February 2022.  
 3 A. It was during the Olympics. You can hear  
 4 the TV. I recall that recording.  
 5 Q. Right. You can hear the TV, and you can  
 6 hear music in the background as well?  
 7 A. Well, I can't -- I don't remember. But I  
 8 heard that recording. And I heard that TV as much  
 9 as I heard anything else.  
 10 Q. Okay. We'll listen to another one. This  
 11 is from April 2 of 2021.  
 12 A. After three years of complaints.  
 13 Q. Is that an answer or --  
 14 A. My point is that was the first time we  
 15 received anything in three years.  
 16           (Audio playing.)  
 17 A. I hear it.  
 18 Q. (By Mr. Jacober) Do you hear that?  
 19 A. Yes.  
 20 Q. And you think it's -- it's reasonable for  
 21 someone to hear that level of noise from Copper Fire  
 22 in their private residence?  
 23 MR. PETRUSKA: I'm going to object. It  
 24 misstates evidence. There's no evidence that

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1 was not taken outside, inside, where it was  
 2 taken. We have no knowledge of any of that.  
 3 And this is asked and answered.  
 4           But you can answer.  
 5 A. There's also a bar across the street that  
 6 has outdoor music. I know it's February, but there  
 7 are times where she's getting outside music, Big  
 8 Daddy's music, Space's music. But I'm the only one  
 9 that is getting the complaints.  
 10 Q. (By Mr. Jacober) How do you know that  
 11 she's getting music from other locations that she's  
 12 hearing?  
 13 A. I believe our sound guy heard it when he  
 14 was leaving her residence during the sound testing.  
 15 He heard music after ours had even ended.  
 16 Q. Is Geri Boyer the only person who's  
 17 complained about the noise at Copper Fire?  
 18 MR. PETRUSKA: Objection. To her or just  
 19 in general?  
 20 MR. JACOBBER: In general.  
 21 MR. PETRUSKA: I'll object. This calls  
 22 for speculation.  
 23 If you know.  
 24 A. You mean directly to Copper Fire and --

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1 complaint as in what? Complaint of their living  
 2 conditions or their -- that we're just too loud  
 3 inside? I don't understand your question.  
 4 Q. (By Mr. Jacober) That's fair. My  
 5 question, I think, is very clear. Has Copper Fire  
 6 received any noise complaints from anyone else?  
 7 A. Like in a review?  
 8 Q. Yeah.  
 9 A. Yes.  
 10 Q. Okay.  
 11 (Whereupon Exhibit 14 was marked  
 12 for identification.)  
 13 Q. (By Mr. Jacober) I'll hand you what's been  
 14 marked --  
 15 A. And I'd like to say we get more reviews  
 16 about how much they love the live music than they  
 17 don't.  
 18 Q. I'll show you what's Exhibit 14. Is  
 19 this -- are these Yelp reviews?  
 20 A. Yep.  
 21 Q. For Copper Fire?  
 22 A. Yes.  
 23 Q. Over 133 reviews, the aggregate is three  
 24 stars.

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1 A. Yes. Okay.  
 2 Q. There's a review from November -- sorry --  
 3 December 16, 2022 on the third page.  
 4 A. Yes.  
 5 Q. And the person specifically says that --  
 6 that it was too loud?  
 7 A. Yes. She also said, He was great, but we  
 8 were there to talk and catch up and couldn't hear  
 9 ourselves think.  
 10 Q. And so not a great review?  
 11 A. No. But everybody's sense of sound is  
 12 different. I have a friend that is going through  
 13 cancer treatment and she can't tolerate sound. So  
 14 we have to go with reasonableness. And that's what  
 15 we feel we do.  
 16 Q. On the next page, there's reviews from  
 17 August 6 of 2022, July 31 of 2020, May 25 of 2018,  
 18 August 8 of 2019, where customers all said it was  
 19 impossible to hear because the music was so loud.  
 20 MR. PETRUSKA: That's a  
 21 mischaracterization of what it says.  
 22 A. That's not what it says.  
 23 Q. (By Mr. Jacober) Well, do you agree that  
 24 these customers all reference the -- the volume of

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1 the -- of the music?  
 2 A. Yes. Okay.  
 3 Q. So there's been other complaints that have  
 4 been made to Copper Fire about the level of noise at  
 5 the -- at the location, correct?  
 6 A. Yes.  
 7 (Whereupon Exhibit 15 was marked  
 8 for identification.)  
 9 Q. (By Mr. Jacober) I'll show you what's been  
 10 marked as Exhibit 15, a Facebook posting. Have you  
 11 seen this before?  
 12 A. Yes.  
 13 Q. And tell me what is going on here.  
 14 A. This person is a friend of somebody we  
 15 didn't hire from Tavern.  
 16 Q. Okay.  
 17 A. They are on all social media platforms. I  
 18 think Yelp removed one of theirs and Trip Adviser  
 19 might have as well. But, yes, I remember this one.  
 20 Q. Okay. So this -- are you testifying that  
 21 this complaint or this -- I don't even know if it's  
 22 a complaint. This review is based on a personal  
 23 issue between Copper Fire and Becca Reed?  
 24 A. Yeah. You can find it on the other

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1 platforms.  
 2 Q. Okay. Context is sometimes very  
 3 important.  
 4 (Whereupon Exhibit 16 was marked  
 5 for identification.)  
 6 Q. (By Mr. Jacober) I'll show you what's been  
 7 marked as Exhibit 16. Is this another issue where  
 8 there's just a personal issue with you -- or with  
 9 Copper Fire and Ms. Kress?  
 10 A. No.  
 11 Q. Okay. And -- well, never mind.  
 12 A. We have thousands of reviews. So, yes,  
 13 there are reviews out there that mention music.  
 14 (Whereupon Exhibit 19 was marked  
 15 for identification.)  
 16 MR. JACOBER: Exhibit 19, if you would  
 17 look at that. And I actually want to take a  
 18 quick break.  
 19 (Whereupon there was a short  
 20 break.)  
 21 Q. (By Mr. Jacober) We're back on the record.  
 22 I meant to do this before, remind you  
 23 that you remain under oath. During the break, you  
 24 didn't talk to anyone other than your counsel about

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1 your testimony, did you?  
 2 A. I did not.  
 3 Q. And Exhibit 19 is a compilation -- I'm  
 4 sorry -- is a public records request, a Freedom of  
 5 Information Act request, that was submitted to the  
 6 department of police for the City of Belleville. Do  
 7 you see that?  
 8 A. I see it.  
 9 Q. And it is a request for reports related to  
 10 complaints about noise from Copper Fire, correct?  
 11 A. Yes.  
 12 Q. From January 1 of 2020 to the present,  
 13 correct?  
 14 A. Yes.  
 15 Q. And it looks like there are 16 different  
 16 incidents?  
 17 A. Yes.  
 18 Q. Have you seen these reports before today?  
 19 A. You put them in for discovery, I thought.  
 20 So, yes, I did see these.  
 21 Q. And is it your approximation that every  
 22 one of these reports is from either Becca Boyer or  
 23 Geri Boyer?  
 24 A. Or an alderman that they called. But I

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1 don't know. I've never received the entire list of  
 2 files that are out there.  
 3 Q. Well, do you think there's something other  
 4 than what's been produced here?  
 5 A. I believe there's more.  
 6 Q. You believe there's more records than this  
 7 that the City of Belleville Police Department has?  
 8 A. Yes.  
 9 Q. So you think they didn't produce  
 10 everything related to Freedom of Information Act  
 11 request?  
 12 A. Well, it looks like a pretty specific  
 13 request. I didn't see the original FOIA. But it's  
 14 my understanding only talking to the police that  
 15 there's more complaints than this.  
 16 Q. I'm sorry. Say that again.  
 17 A. I believe there's more complaints than  
 18 this. I had a meeting with the chief of police and  
 19 the City. And there was way more than this, the  
 20 first meeting we had.  
 21 Q. You think those are from before January 1  
 22 of 2020?  
 23 A. Yeah, could be.  
 24 Q. And it looks like on March 6 of 2021, that

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1 the music was going past midnight. Is that -- is  
 2 midnight the end time? Is that part of your liquor  
 3 license or your business license with the City of  
 4 Belleville?  
 5 A. It's 2:00 a.m., is my liquor license.  
 6 Q. Okay. Are you -- are you restricted from  
 7 having music going after midnight?  
 8 A. No.  
 9 Q. So you could have a band until 2:00 in the  
 10 morning?  
 11 A. We could, or until 1:00 or 1:30. Everyone  
 12 has to be out by 2:00.  
 13 Q. So you can serve liquor until 2:00 and  
 14 people can stay there after?  
 15 A. No. They have to be --  
 16 Q. You have to have the doors locked at  
 17 2:00 a.m.?  
 18 A. Correct.  
 19 Q. So I want to go back to -- and I don't  
 20 know that you have it in front of you. I want to go  
 21 back to the current decibel. For Wednesday,  
 22 Thursday, and Friday evenings, and Saturday  
 23 afternoons, it's 85 decibels to 88 decibels,  
 24 correct?

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1 A. Yes.  
 2 Q. And then Friday and Saturday evenings,  
 3 it's 88 to 92?  
 4 A. Yes.  
 5 Q. And I think we established earlier that  
 6 the 85 to 88 would include Sundays all day?  
 7 A. Yes. I need to update that.  
 8 Q. Okay. Has Copper Fire -- I want to ask a  
 9 very specific question. Would Copper Fire be  
 10 willing to attempt a lower decibel to see if that  
 11 would resolve this issue, a lower maximum decibel?  
 12 A. We would not consider that for two  
 13 reasons. One, that our customers wouldn't be able  
 14 to hear the music in some cases. And there have  
 15 already been times, there's a text in there that  
 16 says it's in the 80s, and she wasn't satisfied.  
 17 Q. So the lowest decibel that you think --  
 18 when I say you, I mean Copper Fire -- that Copper  
 19 Fire believes that your customers could hear the  
 20 music is 85 decibels?  
 21 A. No. I'm saying for it to be pleasant live  
 22 music where they can hear and enjoy the band, it has  
 23 to be at a decibel level that they can hear it and  
 24 clearly. And I feel like if it goes -- I don't even

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1 think we can accomplish 82 or 80 in our place  
2 effectively a hundred percent of the time depending  
3 on the volume of people in there.  
4 She has made comments of hearing  
5 people cheering. They could be cheering for a  
6 birthday party. They could be singing happy  
7 birthday to somebody that walks in. We  
8 basically kind of -- we stopped talking to her,  
9 because we came to the conclusion that we were never  
10 going to satisfy whatever she demanded we do.  
11 And she makes a lot of demands. And  
12 she changes what she wants. It's in the texts. No  
13 noise, lower the noise, I don't want to hear it. I  
14 don't want to hear the words. So we felt -- I had  
15 felt personally like a yo-yo in some cases. So I  
16 feel like we've done a lot to try to accommodate it.  
17 I don't think we're being  
18 unreasonable. We don't play the music until 2:00 in  
19 the morning. And we rarely go to midnight. This  
20 started the day we opened. It started before we  
21 opened. And she literally sent an e-mail the very  
22 first day we opened. So we've been dealing with  
23 this a very long time.  
24 And I was excited about the sound

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1 reports, because -- and I didn't attend it. And I  
2 didn't go to the band and say, be more quiet  
3 tonight. I wasn't there and it was a rock band.  
4 And I wanted to know what it is on her side of the  
5 wall when I have a rock band playing with these  
6 decibel limits in it.  
7 And -- and I felt like we have done a  
8 lot to try to stay within certain decibels so that  
9 we stay in abidance of the rulings that we know we  
10 have to operate under. And that's how -- that's  
11 been our position. Instead of her telling us all  
12 the things we need to do, what she wants us to do,  
13 and it keeps changing, we realized we will never  
14 satisfy her.  
15 Even if we say our max is  
16 82 decibels. If we have a 55-decibel difference  
17 between our building and her's, that still isn't  
18 going to satisfy her, because she doesn't want to  
19 hear anything.  
20 Q. Well, is Copper Fire willing to attempt an  
21 82-decibel maximum to see if that resolves the  
22 problem?  
23 A. I have been there many, many nights when I  
24 have my solo acoustic guys with their amplifier, and

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1 they are over 82. And she can't hear them.  
2 Q. How -- well --  
3 A. According to her. We don't get a  
4 complaint. But my point is, 82 is very, very hard  
5 to reach a hundred percent of the time. And then on  
6 a Friday and Saturday night when we are at our  
7 busiest, for them to actually hear the music.  
8 Q. Are you aware that when the sound study  
9 was done, that the sound engineer and your counsel  
10 did sit in Copper Fire while the sound study was on  
11 going?  
12 A. I did know that. I wasn't there.  
13 Q. And the sound engineer testified -- and  
14 again, I don't have the transcript in front of me --  
15 but to the effect that they weren't able to speak in  
16 the restaurant to one another?  
17 MR. PETRUSKA: Object. That's contrary to  
18 the testimony.  
19 But you can answer.  
20 A. No. Where would I have heard that?  
21 Q. (By Mr. Jacober) Well, it was testified,  
22 something along those lines. That it was loud and  
23 it was difficult to speak to one another while  
24 sitting there.

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1 A. Okay.  
2 Q. So what I'm trying to understand is you  
3 say the music has to be loud enough for people to  
4 hear. Where is the line between it has to be loud  
5 enough for your patrons to hear, versus so loud that  
6 people who are sitting at a table can't talk to one  
7 another?  
8 A. Every single band and musician is  
9 different. We have Klose Quarters from KSHE 95 that  
10 comes that's amazing. Some people can walk in and  
11 say it's too loud. Some people can sit there and  
12 say turn it up. We can have some people that can  
13 say -- all in the same setting. It happens a lot in  
14 terms of everybody has a different perspective on  
15 what's too loud and what's not.  
16 So we had -- we decided this is the  
17 reasonable way to handle Geri, our musicians, our  
18 customers and our staff. And I feel that it's very  
19 reasonable. Some people may still come in and say  
20 it's just too loud, I can't talk. Other people are  
21 going to say turn it up.  
22 So we're just trying to do something  
23 that's reasonable and follow what we are trying to  
24 do, which are the laws.



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1 Q. And again, my question that I'm trying to  
 2 get an answer to is: Where is the line between --  
 3 because you saw there are a number of comments of  
 4 people saying you can't talk to one another at the  
 5 table. Where is the line between the music's loud  
 6 enough for everyone to hear, but it's too loud for  
 7 people to sit at a table and talk together?  
 8 MR. PETRUSKA: I'm going to object. I  
 9 think she answered that.  
 10 A. We get thousands of reviews. And you only  
 11 pointed out the ones that say it's too loud. We can  
 12 produce all those that say they love it. So it  
 13 comes down to a decision of reasonableness. And  
 14 that's what we feel like we've done.  
 15 Q. (By Mr. Jacober) And you believe that  
 16 decibel limits of 85 to 88 on Wednesday, Thursday,  
 17 Friday evening, Saturday afternoon and all day on  
 18 Sunday and a decibel limit of 88 to 92 on Friday and  
 19 Saturday evenings -- I'm a little confused by that.  
 20 A. Friday night and Saturday nights.  
 21 Q. Well, it says Friday evenings twice. So  
 22 I'm not sure which one applies to it.  
 23 A. I need to update that. Yeah, it was a  
 24 mistake. My intent was Wednesday, Thursday,

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1 Saturday afternoon, Sunday afternoon, be at the  
 2 lower level.  
 3 Q. At 85 to 88 decibels?  
 4 A. Yes. And that the Friday and Saturday  
 5 nights, because it's a downtown entertainment  
 6 district, that it could be at that amount and still  
 7 be within our limits even after 10:00 p.m. but well  
 8 below the daytime limits.  
 9 Q. And you believe that's reasonable?  
 10 A. I do.  
 11 Q. That's your interpretation?  
 12 A. I do.  
 13 Q. You just said it's a downtown  
 14 entertainment district. I've never heard of that  
 15 before.  
 16 A. Okay.  
 17 Q. Is that a designation by the City of  
 18 Belleville?  
 19 A. Well, when we met with the City the first  
 20 time when we were building it, they loved our  
 21 concept because they felt like it was a destination.  
 22 I've been downtown for 30 years. I grew up in the  
 23 downtown. I grew up when it was bustling. The only  
 24 place to go shop, eat. That was where everybody

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1 went as a child. When I turned 26 and started my  
 2 own business, I put my office downtown and it was  
 3 desolate. And I watched it come back to where it's  
 4 now a thriving -- compared to what it was 30 years  
 5 ago, it's thriving in terms of people coming from  
 6 other areas to enjoy live music, food and  
 7 entertainment.  
 8 Q. Okay. But my question was, you referenced  
 9 it as an entertainment district.  
 10 A. Yeah, I do.  
 11 Q. Is that a designation from the City of  
 12 Belleville, or is that your own designation?  
 13 A. I would say there are several businesses  
 14 downtown that would consider it that and have  
 15 discussed it. I'm just saying it's -- her reviews  
 16 and her publicity, it's a downtown, yes, social  
 17 district, entertainment district, food district,  
 18 whatever. It's downtown.  
 19 Q. And what I'm asking you, is that a  
 20 designation that has been applied to the downtown  
 21 area by the City of Belleville, or is that something  
 22 that is your own estimation of what the downtown is  
 23 as we sit here today?  
 24 A. I would say it is a community perception.

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1 Q. Okay. Has the City of Belleville called  
 2 it an entertainment district?  
 3 A. Maybe not exactly an entertainment --  
 4 yeah. I mean, I don't know. I don't know as a fact  
 5 have they published it and said that. But they know  
 6 it's a festival, full of entertainment type  
 7 downtown.  
 8 Q. How do you know that they know that it's a  
 9 festival of entertainment?  
 10 A. We are sponsoring several of the  
 11 festivals.  
 12 Q. Are the festivals different than the bars  
 13 and restaurants that are there?  
 14 A. We all are part of those festivals.  
 15 Q. Are other businesses part of those  
 16 festivals as well?  
 17 A. Yes.  
 18 Q. From outside of the downtown area?  
 19 A. No.  
 20 Q. What festivals are those?  
 21 A. The biggest one that they just took over,  
 22 Belleville Main Street, who is taking over the  
 23 Oktoberfest committee, is taking over the  
 24 St. Patrick's Day party. Belleville is involved in,

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1 of course, Art on the Square, October festivals,  
 2 chili cook-off. I think those are all the  
 3 Belleville events. And then we all have events.  
 4 And sometimes Belleville Main Street hops on those  
 5 as well.  
 6 Q. When you say we have other events?  
 7 A. Other bar and restaurant owners.  
 8 Q. Do you talk to other bars and restaurants  
 9 in the Belleville area?  
 10 A. Yes.  
 11 Q. Do any of the other bars and restaurants  
 12 have issues with neighbors?  
 13 A. You'd have to ask them.  
 14 Q. Do you --  
 15 A. I'm not aware of, no.  
 16 Q. Okay.  
 17 A. Yes, there are. Other people have other  
 18 issues with other neighbors.  
 19 Q. Which -- which other bars?  
 20 A. Tavern with Big Daddy's. And a lot of  
 21 people with Big Daddy's.  
 22 Q. What's Big Daddy's?  
 23 A. A bar.  
 24 Q. Do any of those issues involve complaints

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1 relating to noise?  
 2 A. Yes.  
 3 Q. Have you talked to any other bar owner  
 4 whether it's in Belleville or anywhere else about  
 5 different sound mitigation efforts?  
 6 A. Have I talked to other bar owners about  
 7 sound mitigations? No. They came to me and told me  
 8 that they were concerned about the issues between  
 9 Geri and I and how it was going to affect them.  
 10 They did not come to me and I did not go to them  
 11 about what do I need to do to mitigate sound issues.  
 12 Q. And have you -- I know we talked about it  
 13 a little bit, but I want to make sure I have a clear  
 14 answer here.  
 15 Have you received any proposals for  
 16 sound mitigation that you can produce in this matter  
 17 from any company?  
 18 A. Quotes?  
 19 Q. Yes. Quotes, proposals, bids, whatever  
 20 you want to call them.  
 21 A. No.  
 22 Q. You haven't attempted to get anything that  
 23 can be produced?  
 24 A. No. Because we felt no matter what we

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1 did, we were never going to satisfy Geri Boyer.  
 2 Q. Is Copper Fire willing to do any sound  
 3 mitigation?  
 4 A. Our position is if we're breaking a law,  
 5 we will deal with it. But we do not feel we're  
 6 breaking any laws. And Geri can do whatever she  
 7 needs to do on her side of the building to make  
 8 herself more comfortable. I feel like we've done  
 9 everything in our power to be reasonable and address  
 10 the situation.  
 11 Q. Let me look at my outline real quick.  
 12 (Pause in proceedings.)  
 13 Q. (By Mr. Jacober) You testified at several  
 14 different points that you didn't trust Geri's  
 15 complaints because you thought -- and I'm  
 16 paraphrasing -- that somebody was providing her with  
 17 information about the song that was being played for  
 18 her to make a complaint at that point in time; is  
 19 that correct?  
 20 MR. PETRUSKA: I'll object. It's vague.  
 21 You can answer, if you recall.  
 22 A. It's impossible to answer.  
 23 Q. (By Mr. Jacober) Well, no. What I'm  
 24 asking, you testified to that today, right?

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1 A. I testified that I have been dealing with  
 2 Geri for much longer than this sound issue. We have  
 3 had a lot of complaints from her on other things.  
 4 I've had her and Becca -- and I don't want to get  
 5 into all the things that she's done to us. But my  
 6 point is, we don't do anything -- we don't file  
 7 complaints on her. We try to follow the rules. If  
 8 there's a problem, we try to fix it. We don't yell  
 9 and scream. We don't like confrontation. But we  
 10 don't like being harassed and we don't like being  
 11 bullied. And that's what has occurred with us.  
 12 My relationship particularly with the  
 13 mayor went from good to bad because of her  
 14 relationship. And you're not from Belleville, and  
 15 it's very political. I always try to be politically  
 16 neutral. I don't like to pick sides. But it was  
 17 very clear there are sides. And I just tried to do  
 18 my thing under the radar the best that I can in the  
 19 right way. And I feel like we've done that.  
 20 So Geri's a very difficult person,  
 21 sometimes vile. And there came a point where I  
 22 just -- I needed to focus on the business. And I  
 23 did not need to talk to her any longer.  
 24 Q. Okay. I appreciate that. And I do want

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1 to come back to one of your comments. But what I'm  
2 asking is actually very different than what you just  
3 said or different than the answer you -- you didn't  
4 answer my question.

5 My question is: During your  
6 deposition today, you indicated that you believe  
7 that Geri was receiving information from someone  
8 regarding music that was being played to include in  
9 her complaints to you about what she was hearing in  
10 her loft. Do you recall -- do you recall stating  
11 that at some --

12 A. I stated that oftentimes the complaints  
13 would come after they had just walked their dogs, is  
14 what I think I said.

15 Q. Well, you said that one complaint in  
16 particular from Becca came after she walked her dog.  
17 But you had said you believed she was receiving  
18 information from Becca or someone else who was  
19 outside, heard the music, relayed it to Geri, and  
20 then Geri said I can hear this right now.

21 A. Because many times Geri's complaint would  
22 be about the noise coming out of our glass windows.  
23 When my husband went into -- we heard that many  
24 times. That the outside noise was too loud. That

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1 the inside noise was too loud. We got complaints  
2 about outside, inside her loft, right? And when my  
3 husband went inside her first floor business and  
4 said, Really, this is it? And then they walk back  
5 outside. And she's like, See, that's entirely too  
6 loud of what's coming out of the front window.

7 Over time when you heard that about  
8 the outside window, you wonder where is the  
9 complaint really coming from. Is it coming from her  
10 apartment? Is it coming from Becca? Is it coming  
11 from -- because they crossed the street? I think  
12 there was a text where they walked by and it was too  
13 loud.

14 This is the kind -- we keep  
15 getting -- kept getting, conflicting complaints.  
16 And we didn't know what else to do with it. So that  
17 is why I don't trust every time she says it. I  
18 don't take it for what it's worth.

19 Q. And what I'm -- I understand you testified  
20 to all of that. I have a different question.

21 Do you have any evidence, do you have  
22 anything you can point to that supports that  
23 conclusion, or is it just your conclusion based on  
24 everything you saw?

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1 A. Hang on.

2 Q. And you're turning to what, the City of  
3 Belleville incident reports?

4 A. Yes.

5 Q. Okay.

6 A. There's one. Becca was always making the  
7 complaints. Not always. Making a lot of the  
8 complaints. And I never understood why they weren't  
9 coming directly from Geri when it's her apartment.

10 This one says Geri -- I'm sorry. This one says  
11 Becca. A lot of them are redacted. But I know this  
12 one says anonymous.

13 Q. Which one are you referring to?

14 A. Which one, the Becca one?

15 Q. So I thought you were talking about  
16 something specific.

17 A. My point is, I always -- we think that a  
18 hundred percent of the complaints came from --  
19 here's another Becca -- came from Geri. But if they  
20 didn't come from Geri, they came from Becca or  
21 through one of them, like through an alderman or  
22 whatever. And I never understood why they didn't  
23 come directly from Geri and why they'd be coming  
24 from somebody else in a different part of the

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1 building or an alderman who didn't even hear it for  
2 himself. So I just didn't trust it.

3 Q. So my --

4 A. I have no proof.

5 Q. We're going to go to a hearing and part of  
6 what I need to do is make sure I don't get  
7 surprised. That's all I'm looking for.

8 Do you have proof for your conclusion  
9 that -- that Ms. Boyer is receiving information from  
10 someone else to make these complaints, and that she  
11 isn't actually hearing the music inside of her  
12 space?

13 A. I never said -- I said I don't -- I never  
14 knew, because I never got to hear it for myself.  
15 Even after years of asking to hear it for myself,  
16 so we could make a determination of reasonableness  
17 for ourselves. We never got that opportunity. So  
18 we've only had to make our decisions based on texts  
19 and e-mails and hearsay and everybody else talking  
20 about us. And the demands that Geri's putting on  
21 us.

22 We never got to hear anything for  
23 ourselves. So it's hard to take something as a fact  
24 when you can't -- when she didn't answer me or ever

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1 respond to me on those requests to hear it for  
 2 ourselves so we could make a decision and try to  
 3 work together. So I didn't believe her.  
 4 Q. You also said when you were talking about  
 5 Geri, that she's vile.  
 6 A. Yes.  
 7 Q. What do you mean by that?  
 8 A. Foul mouth, calls people names.  
 9 Q. Such as?  
 10 A. She's called me an unspeakable word before  
 11 in front of people. She and Becca have stood off  
 12 the back of their decks screaming at our employees,  
 13 obscenities.  
 14 Q. Such as?  
 15 A. Use the F word a lot. Like I said, I'm  
 16 not a yeller and a screamer. And I don't like  
 17 conflict. But I certainly don't like anybody  
 18 yelling at my staff. And that happened several  
 19 times. She installed video cameras, pointed them  
 20 right at our doors. Was monitoring things. At one  
 21 point, printed a picture, put it on the back door  
 22 and told one of our employees that his friend had to  
 23 return something that was laying by the trash. Just  
 24 stuff like that. And to me, that's vile.

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1 MR. JACOB: I have no further questions.  
 2 MR. PETRUSKA: I have just a few.  
 3 [EXAMINATION]  
 4 QUESTIONS BY MR. PETRUSKA:  
 5 Q. You were asked about frequencies and  
 6 whether you had any evidence of frequencies inside  
 7 Geri's apartment. So I want to ask you, do you have  
 8 any idea who Mike Biffignani is?  
 9 A. The sound guy.  
 10 (Reporter clarification.)  
 11 MR. PETRUSKA: I'll spell it for you.  
 12 B-I-F-F-I-G-N-A-N-I.  
 13 Q (By Mr. Petruska) You said, yeah, the  
 14 sound guy. Sound guy for who?  
 15 Let me put this document in front of  
 16 you. This is Bates labeled Boyer 149 through --  
 17 A. Yeah, we made a lot of decisions based on  
 18 his report.  
 19 Q. -- through Boyer 154. I'll just put that  
 20 there.  
 21 A. Yes.  
 22 Q. Who is he writing that report to?  
 23 A. Geri.  
 24 Q. And Geri is Geri Boyer, correct?

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1 A. Yes.  
 2 Q. And he had a prior report. You're aware  
 3 of that, right?  
 4 A. Yes.  
 5 Q. And in both of those reports, he told  
 6 Geri Boyer that you were in compliance with the EPA  
 7 standards on frequency, correct?  
 8 A. Yes.  
 9 Q. With respect to daytime noise?  
 10 A. Correct.  
 11 Q. And in one of those reports he suggested  
 12 that you were not in compliance with nighttime  
 13 noise, right?  
 14 A. Yes.  
 15 Q. So Geri Boyer's known since this has begun  
 16 that you're in compliance with daytime standards?  
 17 A. Yes.  
 18 Q. Let's talk about her harassment. On that  
 19 text message that you have, Exhibit 7 --  
 20 A. Yes.  
 21 Q. -- Friday, June 11, what time is she  
 22 sending it?  
 23 A. 9:41.  
 24 Q. Okay. Saturday, June 12, what time is she


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1 sending it?  
 2 A. 7:26 p.m.  
 3 Q. Sunday, June 13, what time is she sending  
 4 it?  
 5 A. 3:35 p.m.  
 6 Q. I want to jump, because this is going over  
 7 and over again. But let's go to right about the  
 8 time when you start blocking her. Saturday,  
 9 December 18, what time is it?  
 10 A. 4:03 p.m.  
 11 Q. December 22, what time is it?  
 12 A. 6:11.  
 13 Q. December 22, what time is it?  
 14 A. 9:34.  
 15 Q. Thursday, December 23, what time is it?  
 16 A. 9:07.  
 17 Q. Wednesday, December 29, what time is it?  
 18 A. 7:13.  
 19 Q. So Geri Boyer knows that you are in full  
 20 compliance with the EPA guidance and she's still  
 21 harassing you; is that fair?  
 22 A. Yes.  
 23 Q. And has that been emotionally difficult to  
 24 deal with?

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1 A. Yes. That is why I blocked her.  
 2 Q. You also, with respect to frequencies --  
 3 well, we, I guess, as a team hired an expert,  
 4 correct?  
 5 A. Yes.  
 6 Q. Okay. And the -- do you remember his  
 7 name?  
 8 A. No.  
 9 Q. Gary Brown?  
 10 A. Okay.  
 11 Q. You saw his report, though, correct?  
 12 A. I did.  
 13 Q. And he talked about frequencies?  
 14 A. Yes.  
 15 Q. And in the end, he said you were in full  
 16 compliance with both daytime and nighttime for  
 17 frequencies?  
 18 A. Yes.  
 19 Q. So you have some evidence?  
 20 A. Yes.  
 21 Q. That's all I wanted to make sure. You  
 22 have some evidence of frequencies in Geri Boyer's  
 23 apartment, right?  
 24 A. Yes.

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1 CERTIFICATE OF REPORTER  
 2 I, Sheryl A. Pautler, RPR, Certified Court  
 3 Reporter (MO), Certified Shorthand Reporter  
 4 (IL), do hereby certify that the witness whose  
 5 testimony appears in the foregoing deposition  
 6 was duly sworn by me; the testimony of said  
 7 witness was taken by me to the best of my  
 8 ability and thereafter reduced to typewriting  
 9 under my direction; that I am neither counsel  
 10 for, related to, nor employed by any of the  
 11 parties to the action in which this deposition  
 12 was taken, and further that I am not a relative  
 13 or employee of any attorney or counsel employed  
 14 by the parties thereto, nor financially or  
 15 otherwise interested in the outcome of the  
 16 action.  
 17  
 18  
 19   
 20 Certified Court Reporter (MO)  
 21 Certified Shorthand Reporter (IL)  
 22  
 23  
 24

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1 MR. PETRUSKA: That's all I have.  
 2 MR. JACOBBER: No follow-ups.  
 3 MR. PETRUSKA: You have a right to read.  
 4 And I think I know you well enough that you'll  
 5 want to read this. But generally speaking, you  
 6 can read or waive signature, meaning you want  
 7 to see the transcript, go through it or waive  
 8 signature.  
 9 THE WITNESS: I can waive it.  
 10 MR. PETRUSKA: She'll waive.  
 11 MR. JACOBBER: I would prefer the exhibits  
 12 to be attached.  
 13 THE COURT REPORTER: Mr. Petruska, copy?  
 14 MR. PETRUSKA: Yes. I would like the  
 15 original.  
 16 THE COURT REPORTER: E-tran?  
 17 MR. PETRUSKA: Yeah, e-tran.  
 18 (Whereupon signature was  
 19 waived.)  
 20 (Off the record at 12:16 p.m.)  
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Illinois Code of Civil Procedure

Article II, Part E

Rule 207, Signing and Filing Depositions

**Signing and Filing Depositions**

(a) Submission to Deponent; Changes; Signing.

Unless signature is waived by the deponent, the officer shall instruct the deponent that if the testimony is transcribed the deponent will be afforded an opportunity to examine the deposition at the office of the officer or reporter, or elsewhere, by reasonable arrangement at the deponent's expense, and that corrections based on errors in reporting or transcription which the deponent desires to make will be entered upon the deposition with a statement by the deponent that the reporter erred in reporting or transcribing the answer or answers involved. The deponent may not otherwise change either the form or substance of his or her answers. The deponent shall provide the officer with an electronic or physical address to which notice is to be sent when the transcript is available for examination and signing. When the deposition is fully transcribed, the officer shall deliver to the deponent, at the address supplied,

notice that it is available and may be examined at a stated place at stated times, or pursuant to arrangement. After the deponent has examined the deposition, the officer shall enter upon it any changes the deponent desires to make, with the reasons the deponent gives for making them. If the deponent does not appear at the place specified in the notice within 28 days after the mailing of the notice, or within the same 28 days make other arrangements for examination of the deposition, or after examining the deposition refuses to sign it, or after it has been made available to the deponent by arrangement it remains unsigned for 28 days, the officer's certificate shall state the reason for the omission of the signature, including any reason given by the deponent for a refusal to sign. The deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 211(d) the court holds that the reasons given by the deponent for a refusal to sign require rejection of the deposition in whole or in part.

(b) Certification, Filing, and Notice of Filing.

(1) If the testimony is transcribed, the officer

shall certify within the deposition transcript that the deponent was duly sworn by the officer and that the deposition is a true record of the testimony given by the deponent. A deposition so certified requires no further proof of authenticity

(2) Deposition transcripts shall not be filed with the clerk of the court as a matter of course. The party filing a deposition shall promptly serve notice thereof on the other parties and shall file the transcript and any exhibits in the form and manner specified by local rule.

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



VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).

# **EXHIBIT 5**

**From:** Julie Orlet <julieorlet@gmail.com>  
**Sent:** Friday, January 7, 2022 11:32 PM  
**To:** Jacober, Matthew A. <matthew.jacober@lathrogpm.com>  
**Subject:** Copper Fire Noise

Dear Mr. Jacober,

I asked my landlady, Geri Boyer for your email address so that I could voice my concern and total dismay at the noise level of the bands playing at Copper Fire Bar. I live on the third floor of 208 E Main St, Belleville, IL 62220. I share a wall with Copper Fire and the noise is intolerable.

My adult children were home for the holidays and found it impossible to sleep in my living room until after the bands stopped on any given night.

I was compelled to write this evening, as I was attempting to settle in front of my fireplace to enjoy a movie, but found it impossible to hear the television over the noise emanating through the walls from Copper Fire.

Furthermore, historically, when I travel, I rent out my loft as an Air BNB. I am no longer able to do so, as I am obligated to disclose the fact that it's noisy in my loft several nights a week and sometimes in the afternoons.

This noise has negatively affected so many aspects of my life. If I can't enjoy peace in my own home, I have little recourse other than moving. I have lived here, among all of my downtown neighbors for nine years and it is a huge burden that now, I may be forced from my home due to a noise level which is absolutely unbearable.

If you have any suggestions of how I might address this concern with the owner of Copper Fire, I would certainly appreciate your thoughts.

Thank you for your consideration of this matter.

Sincerely,  
Julie Orlet  
208 East Main Street  
Suite 330  
Belleville, IL 62220  
618-971-5060