Deposition of:

Benjamin Potts

October 12, 2020

In the Matter of:

Mcrae, Steven Vs. Curtis, Kyle

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STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
GUILFORD COUNTY 19 CVS 8163

STEVEN MCRAE,
Plaintiff,
vs.
KYLE RUSSELL CURTIS,
Defendant.
_____/

DEPOSITION OF BENJAMIN POTTS
Taken by the Defendant
Monday, October 12, 2020
At 1175 Revolution Mill Drive, Suite 8
Greensboro, North Carolina 27405
Beginning at 11:03 a.m.

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MS. LEE: I'm Scottie Forbes Lee, and I represent the defendant, Kyle Curtis.

MR. MEYERS: Scott Meyers here representing Mr. Potts.

BENJAMIN DAVID POTTS,

having been duly sworn, testifies as follows:

EXAMINATION

BY MS. LEE:

Q. Good morning, Mr. Potts, we met briefly off the record just a second ago, but my name is Scottie Lee and I represent the defendant in this lawsuit, Kyle Curtis. We're here for your deposition today.

Have you given a deposition before?

A. I have not.

Q. If it's okay with you, I'll give you just a few ground rules. I'm going to ask you questions today and I'll ask that you give me your best answer in response to those questions. Okay?

A. Okay.

Q. As you can see, we have a court reporter here who is taking down everything that you say. So it's important that we don't talk over one another. I'll try to do that, and you do the same. Okay?

A. Okay.
Q. I'll also ask that you give an audible response so we have a clean record. Sometimes in normal conversations we tend to say things like "uh-huh." If that happens, I may ask for a clear yes or no; is that okay?
A. Yes.
Q. You understand that you're under oath here today, right?
A. Yes.
Q. If at any point you don't hear one of my questions, you can ask me to repeat it. Okay?
A. Okay.
Q. If you don't understand a question that I ask you, you can ask me to rephase it. Okay?
A. Okay.
Q. If at any point you need to take a break, just let me know.
Mr. Potts, have you taken any prescription medications today that might affect your ability to answer my questions truthfully?
A. No.
Q. How about recreational drugs?
A. No.
Q. Mr. Potts, can you tell me your full name

for the record and your current address, please?
A. It's Benjamin David Potts. My address is 2543 Anna Garrison Road, Charlotte, North Carolina 28206.
Q. And how long have you lived at that address?
A. It will be two years this month.
Q. Give me one second. My pen is not working. I'm just going to grab --
MR. MEYERS: Right behind you there.
MS. LEE: Thank you.
BY MS. LEE:
Q. Can you briefly summarize your educational background for me?
A. Yes. I was home-schooled all the way through high school. Graduated high school in Tennessee and then went to community college in Georgia for two years. And then I didn't finish my education because I was working full-time for Verizon Wireless at the time.
Q. When did you move to North Carolina?
A. I originally moved to North Carolina in 2010.
Q. And you've been here ever sense?
A. Yes. Not in Charlotte the whole time. I

spent about seven months in Raleigh and a few months at my parents' house.

Q. Where do your parents live?

A. They live in Hamptonville, North Carolina.

Q. What do you do for a living?

A. I work in property management.

Q. What does that entail?

A. Well, it's actually -- I just got a new job, so working for developers. I'm leading up a property management side of his management company, but I'm also closing coordinator for residential home sales for him.

But before that, I've been working in property management and managing apartments for the last six years.

Q. What is the name of your current employer?

A. It's City Beach Harris.

Q. You may have just said this, how long have you been there?

A. I started last month.

Q. Last month.

Are you currently dating anyone, Mr. Potts?

A. I am not.

Q. Who is Kyle Russell Curtis?

A. He was an ex-boyfriend of mine. He is an

ex-boyfriend of mine.

Q. And you know him because you dated.

When did you start dating?

A. We met in June of 2019 and starting dating about a month after that.

Q. How did you meet?

A. We originally met over social dating, Tinder, to be exact, and then we met in person at a restaurant in Charlotte for our first face-to-face date.

Q. Tell me a little about that, how your relationship with Mr. Curtis transpired.

A. Can you, like, clarify the context?

Q. Sure. You met on a dating app. Did you become official right after that? You know, tell me about the events that led up to that.

A. Well, we met for dinner and it was a really good connection. He had a very charming personality and I was very attracted to that.

He said that -- on the first date he said -- I knew going into that that he was coming from Greensboro and staying with a friend, and he told me on the first date that his lease was almost up in his apartment that he was apparently in. And after his lease was up he had been considering moving

to Raleigh, but based on how good the date had went, he was considering Charlotte as an option, too.

And then, after that, we met several other times in person, and then he eventually moved out of that apartment and into his mom's house about two weeks later. And we start dating about two weeks after that.

Q. How did you feel about the fact that Mr. Curtis was considering moving to Charlotte?

A. At first I was like very happy about it, because if I were to proceed with a relationship with someone, you know, having had long distance relationships in the past, it's not the most ideal, for sure.

Q. So once you and Mr. Curtis started dating, describe your relationship. Was it a good relationship?

A. It was actually good at times, but it was very toxic many other times. Overall, it was not a very healthy relationship.

Q. What do you mean by "toxic"?

A. He was -- very early on, I learned or not learned, but I found him to be very untruthful about things and not honest with me, and so that began a very unhealthy system of where we were always

fighting.

Q. So you fought a lot?

A. Yes.

Q. When you would fight, did you ever try to hurt Mr. Curtis emotionally?

A. No, not purposely.

Q. So was he the only one who said things that might have been hurtful?

A. I won't say that.

Q. So is it fair to say that you both contributed to your fights?

A. Yes, at times.

Q. Did you say things out of anger, perhaps, that you didn't always mean, during these fights?

A. No. I'm very methodical in what I say. I didn't say things that I didn't mean. I maybe said things that I meant that I shouldn't have said, but I didn't say things I didn't mean.

Q. Did you ever say things that you regretted saying later?

A. Yeah. Of course, in any relationship.

Q. Did you ever say or do anything to try to get back at Mr. Curtis after you would fight?

A. No. Well, yes, actually, of course.

Q. Is there a specific instance you recall?

A. Well, Mr. Curtis was -- or Kyle was very close to his grandfather, and he idolized him. And so whenever we would fight, I would reference him making his grandfather proud, and I knew that was kind of a very, you know, hurtful thing to say.

Q. Yeah. And I'll refer to him as Kyle. I think that's probably what you say and not Mr. Curtis.

Are there any other specific instances that you can think of where you might have tried to get back at Kyle?

A. Not that I can remember.

Q. So you mentioned that Kyle is now an ex.

When did you break up?

A. I officially ended it in June of this past year, 2020.

Q. Was it a bad breakup?

A. Yes.

Q. Can you tell me a little bit about what led up to the breakup, what caused the breakup?

A. Sorry, it was a -- so I had had a very kind of just transparent conversation with Kyle about how I had trust issues and I felt like I was walking on eggshells, waiting for the next just complete manic episode from him, and that I didn't think he was a

trustworthy person.

It was actually the date -- it was a year to the date of that first date that we had in Charlotte, so he wanted to recreate the experience by going to the same restaurant.

Of course I was working that day, and I came home on lunch break. He was staying at my house, because, of course, he would travel from Greensboro on the train and then stay overnight sometimes.

He was staying at my house and I came home on lunch break and discovered that he had been doing drugs in my house, and he denied it repeatedly several times. And then finally he came out and admitted that he had been doing drugs. And it was a very hostile thing because I felt -- I was upset at the fact that he would lie to my face multiple times.

And so I told him I couldn't do it anymore. He needed to leave my house. There were multiple text exchanges saying he wouldn't be there whenever I got home from work, and then he was.

And then I had friends come over and he left after that, but it was very embarrassing.

Q. Is that the last time you saw Kyle?

A. No, it wasn't.

Q. When did you see him after that?
A. He convinced me to meet him out for drinks and dinner at Seoul Gastrolounge, a place in Charlotte. That's the last time I saw him.
Q. When was that?
A. I can't remember. It was probably like August, maybe.
Q. When was the last time that you spoke to Kyle?
A. Verbally or through --
Q. Let's start with over the phone or in person.
A. In person, that was the last time, when we met.
Q. How about -- sorry, go ahead.
A. At Seoul.
Q. How about, you know, text messages, e-mails, any sort of other exchange?
A. Last time I believe I responded to any written communication from Kyle was September 6th, the day that I learned about him using my signature for documents.
Q. Okay. Let's talk a little bit about this lawsuit. So you're here today because you submitted a declaration in this lawsuit that Steven McRae filed

against Kyle.

I want to discuss your declaration in just a second, but first just backing up a bit, when did you first find out about this lawsuit?

A. Can you clarify what context of the lawsuit?

Q. Just that it existed, that there was a lawsuit.

A. The initial lawsuit I found about on our first date, actually, or around our first date. Kyle mentioned that he had, in his words, kicked his cohost off the channel and there was a lot of backlash from the fans and stuff and that his cohost, Steve, was suing him for partnership in the channel. That was brought up very early on.

Q. So you found out about the lawsuit through Kyle?

A. Yes.

MS. LEE: I'm handing you what we will mark as Exhibit 1.

(EXHIBIT NO. 1 MARKED FOR IDENTIFICATION.)

BY MS. LEE:

Q. Is this a true and accurate copy of the declaration that you submitted in this lawsuit on September 9th, Mr. Potts?

A. Yes.
Q. Why did you submit this declaration?
A. Why did I submit this declaration?
Q. Yes.
A. Because I was brought into the case unethically by using testimony and signatures of mine against my knowledge.
Q. Okay. Let's back up a little bit.
Who told you -- who approached you about submitting a declaration?
A. Can you rephrase -- reword that question?
Q. Yes. Did anyone approach you about submitting a declaration or an affidavit in this case?
A. Steve McRae asked me if I would be willing to, but he didn't approach me about it. I actually subjected myself to this issue, and I approached Steve McRae to tell him that my -- Kyle's testimony is false. So the word "approach" is kind of confusing to me.
Q. Isn't it true that you submitted this declaration right after learning that Mr. Curtis or Kyle went on a date with another man?
A. I have no idea. I blocked him on all communications, so I didn't know that he -- if he had

a date, I wouldn't know about it.
Q. This is not the first time that you've commented on this lawsuit; is that true?
A. That's -- that is true.
Q. I'm going to play a clip for you that I would like to mark as Exhibit 2.
MS. LEE: And Madam Court Reporter, I will send this to you after the deposition. It's about a minute long.
(EXHIBIT NO. 2 TO BE MARKED FOR IDENTIFICATION.)
(AUDIO RECORDING PLAYING)
BY MS. LEE:
Q. Mr. Potts, who is the person speaking in this video?
MR. MEYERS: Counsel, can we set some -- just set the ground rules for where the clip came from and everything before we question about it?
MS. LEE: Absolutely. This came from, I believe, a Discord video that was publicly available online. I did clip it down because the total Discord video was about 45 minutes long. I have two of these clips.
MR. MEYERS: Are they both from the same one?

MS. LEE: They are.
MR. MEYERS: Maybe just ask him if he remembers doing that so we can get maybe the date of it.
BY MS. LEE:
Q. Are you the person speaking in this video?
A. It is. That's me.
Q. Do you remember making this recording?
A. Yes. I remember going live.
Q. Do you remember the date that this was made?
A. It was the week after learning about Kyle's submissions to the court with my signature on them and actually speaking with Mr. Steven McRae, so probably early September of this year.
Q. Was it after you submitted the declaration?
A. Yes, it was after this.
Q. So just explain, tell me a little bit about how, what made you make this recording.
A. Well, the truth, the reality of the situation is that I officially ended things with Kyle in June of this past year. I did agree to go out and meet him at Seoul, which we've already covered, to kind of get some -- for him, he was begging for closure. I already had closure in the fact that I

had made a decision to move away from a very hostile, toxic relationship.

Ever since then he has been harassing me -- or had been harassing me, prior to September 6th, harassing me on a daily basis with e-mails and communications. He was blocked on everything else. The e-mail was the only way he could communicate with me.

He was nonstop harassing me. He was sending things to my house, flowers, stuff like that. I wanted him to leave me alone. And then whenever I found out about him inserting me into this case, not only verbally but now he has committed perjury with my signature that I did not add to anything, I wanted him to get the message that, like, I -- I need to be free of this.

And then, of course, whenever Steve mentioned the case, he was like, "Can you give your testimony?" I was like, "I want to, because I want other people to understand how toxic Kyle is, how manipulative he is." That was the reason that I did the Discord that you're talking about.

Q. Thank you.

Let's back up a little bit. In this video, in the Discord recording, you talk about a tweet that

you made.

A. Yes.

Q. Can you tell me a little bit about the circumstances surrounding that tweet?

A. Yeah. I went on Twitter and I did make a comment about how Kyle had not lived with me, he was not living with me, on Steve's Twitter account. It wasn't on his channel. It was on his Twitter account. And then Kyle threatens me to take that down, and I did later.

Q. When did you make that tweet?

A. It was back in, like, February or something of 2020.

Q. So when you and Kyle were still dating?

A. Yes.

Q. So was this tweet made during a fight between you and Kyle?

A. Yes, it was.

Q. Did you perhaps act out of anger when you made that tweet?

A. Of course, yeah. Any time there's a fight, there's anger involved.

Q. Was this an instance where you may have done something to get back at Kyle in making that tweet?

A. No, it was stating a true fact.
Q. Did you later delete the tweet?
A. Based on intimidation and threatening, yes.
MS. LEE: Mr. Potts, I will hand you what I'm marking as Exhibit 3.
(EXHIBIT NO. 3 MARKED FOR IDENTIFICATION.)
BY MS. LEE:
Q. Mr. Potts, do you recognize this Twitter post or tweet?
A. Yes, I do.
Q. Is your Twitter handle BPottsboy?
A. It was. I have since deleted it.
Q. Why did you delete it? By "it," do you mean the account?
A. The account, yes.
Q. Why did you delete your account?
A. Because, after the events of September 6th, it was -- I just find the online community to be unhealthy, mentally.
Q. And by "the events of September 6th," what do you mean?
A. Just with everyone who is involved in this case and there's a lot of people in Kyle's YouTube community that would stalk me and try to harass me, and just not wanting to get involved in that at all

or just remove myself from that, basically, for my mental health.

Q. Is this the tweet that you made in February and referred to in the Discord video that you made during your and Kyle's fight?

A. The bottom one is.

Q. The bottom one?

A. Yes.

Q. That says, "Kyle not only swindled Steve McRae, but he's currently squatting in the house that I own and refuses to leave," correct?

A. Yes.

Q. So in your declaration, you testified that Kyle never lived with you, correct?

A. Yes.

Q. But here you're claiming that he squatted in your home.

Doesn't squatted and refusing to leave sort of imply that he was staying there?

MR. MEYERS: Objection to form.

You can answer.

THE WITNESS: Oh, sorry.

Not that he was living. It means that he's an unwelcomed guest, in my mind.

MS. LEE: Mr. Potts, I'm handing you what

I'll mark as Exhibit 4.

(EXHIBIT NO. 4 MARKED FOR IDENTIFICATION.)

BY MS. LEE:

Q. Now, this exhibit shows another tweet from the Twitter account BPottsboy, right?

A. Uh-huh.

Q. Is that you?

A. Yes.

Q. Okay. In this tweet, you say that he was probably staying with me when he was served; hence, why his mom signed.

Are you referring to Kyle when you say "he"?

A. Yes.

Q. And when you say "served," what are you referring to?

A. Whenever the papers for the court -- from the court were delivered to his house.

Q. The summons and complaint, you mean?

A. Yeah. Whatever it was talking about.

Q. And in this tweet you were saying that Mr. Curtis was living with you at the time of the attempted service, right?

MR. MEYERS: Objection to form.

THE WITNESS: I didn't say he was living.

It wasn't living. I said staying. Staying is not living.

BY MS. LEE:

Q. What led you to post this tweet?

A. Again, going back to the unhealthy toxicity of the online community and everyone weighing in on things. It was a defensiveness in myself that I felt like later is not necessary.

Q. Do you remember what you tweeted this in response to?

A. I can't remember. There's a lot of people weighing in on this case. I think it was the presumption of service issue, which really has nothing to do with me.

Q. Okay. As we discussed earlier, during fights with Kyle, you would sometimes say things to get back at him or say things, you know, that you maybe didn't mean, right?

MR. MEYERS: Objection to form.

THE WITNESS: I didn't say things I didn't mean. I'll repeat, I say things that are true that I should probably not have said.

BY MS. LEE:

Q. You said things during fights that you probably shouldn't have said, right?

A. Yes. Yes.
Q. Did you ever try to kick Kyle out of your house during those fights?
A. I asked him to leave and he would not, at certain points.
Q. During those fights, did Kyle sometimes go back to his mother's house in Pleasant Garden?
A. He would always go back to his mother's house in Pleasant Garden.
Q. Is that because he had nowhere else to go?
A. That's where he lived.
MS LEE: I'm handing you what I'll mark as Exhibit 5.
(EXHIBIT NO. 5 MARKED FOR IDENTIFICATION.)
BY MS. LEE:
Q. Please take a moment to review this, Mr. Potts.
MR. MEYERS: Counsel, this doesn't show the date on it anywhere. Do you know what date these messages are from?
MS. LEE: I do not. I can check that after the deposition. The full chain was 1,400 pages.
MR. MEYERS: It is difficult to work with, I understand. I might be able to help you out.
BY MS. LEE:

Q. Mr. Potts, I'm only going to be asking you about the first page here.

A. Okay.

Q. Is this a chain of text messages between you and Kyle?

A. It is.

Q. Would you agree that you and Kyle were arguing in this chain?

A. Yes. Yes.

Q. Is that a typical conversation between you and Kyle?

A. Sadly, it was, all too often.

Q. About halfway down on the fist page, beginning at 12:12 p.m., looking just at Kyle's texts here, so the ones that are in gray color, Kyle says, "You want to know maybe why I may not consider this my home, because every time you get into one of your rages, you tell me to leave. How the F can it be my home if you're always telling me to leave?"

Would it be accurate to say here that, according to Kyle's text messages, you often tried to kick him out during fights?

A. Yes. I mean, relatively.

Q. And because of that, Kyle was having a hard time feeling at home in the very house that he lived

in?

MR. MEYERS: Objection to form.

THE WITNESS: I think Kyle was a manipulative person, so I think he was using this as a tactic for manipulation, to make me feel like I was the bad person. And that was always his expert game.

He was the one who would start fights and then make it seem like I was the one starting fights.

And yes, I told him on multiple occasions that I felt uncomfortable with the fact that he, like in normal relationships, whenever someone needs space, you cannot leave and go to your house because your house is in Greensboro and you have to rely on the train; hence, I am stuck in the presence of somebody that I am uncomfortable being around, which is a very unhealthy situation when you're dating someone.

BY MS. LEE:

Q. According to Kyle, he was having a hard time feeling at home?

A. Of course, whenever you're dating someone, you want to feel at home whenever you're with them. Home does not connotate where he actually lives. His

permanent residence was never at my house.

MS. LEE: Mr. Potts, I'll hand you what we are marking as Exhibit 6.

(EXHIBIT NO. 6 MARKED FOR IDENTIFICATION.)

BY MS. LEE:

Q. Just let me know when you've had a chance to review that.

Is this another chain of text messages between you and Kyle?

A. It is.

Q. So in the top line, you say, "Just promise me you'll help me figure out how to make our home feel like home to you," right?

A. Uh-huh. Yes. Sorry.

Q. Is this another example where you were trying to convince Kyle to feel at home in the place where he was staying?

A. In the home, yes. I was wanting him to feel like he was home, in a familial sense.

Q. What do you mean by that, in a familial sense?

A. When you go to your parents' house, you want to feel like it's home, even though you don't always necessarily live there. You go to friends' houses, you say, "Oh, this is a homey feel. I feel

at home here."
Q. And that's what you meant here?
A. Yes.
MS. LEE: Mr. Potts, I'm handing you what we'll mark as Exhibit 7.
(EXHIBIT NO. 7 MARKED FOR IDENTIFICATION.)
BY MS. LEE:
Q. Mr. Potts, is this another chain of text messages between you and Kyle?
A. Yes.
Q. On page 841, which is the first page of Exhibit 7, Kyle is saying that you should go to the ReStore soon; is that right?
A. Kyle was saying what? Oh, yeah, that I should check it out.
Q. And on the next page, it looks like Kyle is sending you pictures of furniture; is that right?
A. Yeah, where he was at.
Q. So on the last page of this exhibit, Kyle sends you another picture of furniture, and you say, "Find anything for us?"
A. Yes.
Q. What did you mean by "Find anything for us?"
A. It was just a -- it was a general

conversation. So I knew he didn't, like, find any furniture. There was no way to transport it or anything. Kind of like, "find anything good?"

Q. Would someone ordinarily be looking for furniture in a house they did not live in?

A. Kyle always was going to thrift stores and finding various things. He usually would find clothes. That was mostly the thing he would purchase.

MS. LEE: I'm handing you what we'll mark as Exhibit 8, and we'll only be looking at the first page here.

(EXHIBIT NO. 8 MARKED FOR IDENTIFICATION.)

BY MS. LEE:

Q. If you can just read those highlighted rows.

So I'll represent to you that this spreadsheet has been produced to me and represented as a printout of Twitter messages between you and the plaintiff in this lawsuit, Steven McRae.

A. Uh-huh.

Q. Do you have any reason to dispute that?

A. No.

Q. So at the bottom of the first page, in the three rows that I have highlighted in pink, it looks

like you say, "He only changed his address with the bank."

Do you see that?

A. Yes.

Q. Mr. McRae said, "And a Discover card, yeah?" And you say, "That's the only mail he ever received there," correct?

A. Yes.

Q. When you say, "He only changed his address with the bank," are you referring to Kyle changing his address to the Anna Garrison Road residence in Charlotte?

A. Well, he -- can you repeat the question?

Q. Yeah. You said, "He only changed his address with the bank." So let me break that down a little bit.

When you say "he," are you referring to Kyle?

A. I am referring to Kyle.

Q. When you say "only changed his address," are you referring to changing an address to the Anna Garrison Road address in Charlotte?

A. I was referring to the fact that his Discover card had been changed to my address. That was the only form of mail that had been changed to my

address.

Q. But you don't know for certain that he didn't --

A. I was saying, I never received anything else there, from any other source.

Q. So you don't know for certain that he did not change any of his other bank statements or anything else to reflect the Anna Garrison Road address?

A. Not that I was aware of.

Q. Would you agree that someone would only change their bank statement address to a place in which they actually lived?

A. Not in the context of Kyle.

Q. What do you mean by that?

A. Kyle verbally told me, on several occasions, that his out, so to speak, for his case, was to prove that he lived with me. And that's whenever he went and changed his bank statements.

I did not give him authorization to do that.

Q. When do you believe that he changed the address on his bank statements?

A. After he lost the original court case.

Q. The original court case, what do you mean

by that?
A. The failure to appear. I don't keep up with that.
Q. Do you know for a fact the exact date that he changed his address on his Discover statement?
A. I don't. I know he started receiving them around the February time frame, at that address.
Q. Give me one second.
MS. LEE: I'm handing you what I will mark as Exhibit 9.
(EXHIBIT NO. 9 MARKED FOR IDENTIFICATION.)
BY MS. LEE:
Q. Is this an e-mail exchange, from September 6th, between you and Kyle?
A. It is.
Q. So the first sentence, you say, "You never once paid me the full amount for rent. And thankfully, the one time I got any money from you, it was cash," correct?
A. Yes.
Q. So here, it sounds like you're admitting that Kyle, at some point, did pay you rent; is that right?
A. He did not pay me rent.
Q. You say "the full amount," so that implies

that he paid you something, right?

A. It is taken out of context. He was arguing with me about paying me for rent. The reality of the situation is he would offer to compensate me for the lack of income that I was receiving, but he was implying that he had paid me for rent.

And I was making the observation that the money that he paid me was not even equal to what I would charge someone for rent. And fortunately it was in cash, and that was a sarcastic comment about how you have no way to prove that anyway.

But he never paid me for rent. He paid me as a way of supplementing a loss of income, and that was discussed on multiple occasions.

Q. What do you mean, supplementing for a loss of income? What do you mean by that?

A. I had a roommate move out in the December time frame, and there was a discussion between us about Kyle did not want me to get another roommate, because he wanted the privacy of us being able to be there alone.

So there was a discussion about him offsetting the loss of income from losing my roommate and supplementing that for me. It was never in the context of him moving in permanently. There was a

brief discussion about that, but it quickly was shut down by me.

But he never once paid me rent for solely the context of paying me for rent. It was just basically livings expenses. He would pay me for groceries, or whenever we would go out to eat and his card was declined and I would pick up the tab, things like that.

Since we're getting into this relationship, that's basically what we're talking about. It's not me saying that you never paid me for rent, it's that you didn't pay me the full amount. Of course, I didn't word it that way because I didn't know this was going to be later subject to scrutiny.

Q. Did Kyle ever pay for utilities at the --

A. No. Well, he did --

Q. Just let me finish my question just so the record is clean for the court reporter. It's hard for her to get down what we're both saying at the same time.

A. Sorry. Yeah.

Q. Did Kyle ever pay for utilities at the Anna Garrison Road address?

A. He never paid a utility company. He did pay me a -- he was doing his online stuff, so he did

have me upgrade my Spectrum to a higher speed, and he offered to pay me for the additional price of service, for him to have that comfort of being able to have the higher speed when he was at my house.

Q. And you said he paid for some living expenses?

A. Sometimes he would pay me back for things whenever we went out and stuff, or help me with grocery money and stuff. It wasn't very often, that's for sure.

Q. In the third paragraph in Exhibit 9, you say, "Good thing you got that notarized while I was apparently drunk off my ass, because that would have been bad for you if I didn't get taken advantage of to the max."

A. Yes.

Q. What are you referring to that you got notarized?

A. I didn't get anything notarized. I was referring to the previous e-mail from Kyle where he was saying that we went and got something notarized when I was drunk, and I do have a very sarcastic personality, so sarcastically referring to the fact that, like, oh, good for you, good thing I was drunk when that happened, but it was basically me saying

that did not happen and making fun of him.

Q. What were you referring to, though? What was the thing that seriously or not seriously got notarized?

A. You would have to show the previous message from Kyle, what I was responding to.

Q. Was it the lease agreement?

A. No. It was whatever -- I don't have the e-mail. I can't tell you what I was responding to, because this is only my response.

Q. Okay. Turning back to your declaration for a minute, which is Exhibit 1, the bottom of your stack, probably. Just keep that in front of you. I might refer back to it in a moment.

So, you know, I think we can agree that during certain periods of time during your relationship, Kyle did live at your house?

A. No, he stayed at my house. He never lived at my house.

Q. Don't you think that's just parsing words a little bit?

MR. MEYERS: Objection to form.

THE WITNESS: It's according to what you're trying to prove.

BY MS. LEE:

Q. And you agree that you and Kyle got in fights often during your relationship?
A. Yes.
Q. During those fights, you would say things that you shouldn't have said, out of anger?
A. Yes.
Q. And some of those things may have been hurtful to Kyle, right?
A. Of course.
Q. Now, in your declaration, you say that Kyle never lived at your address on Anna Garrison Road in Charlotte; is that right?
A. I believe it says I never authorized it like as a permanent address.
Q. So you're making a distinction there. What do you mean by that?
A. Well, in context of me and Kyle, there was multiple discussions about how uncomfortable I was in the fact that he was long distance without a form of transportation. So whenever he would come to visit me, it was overstaying his welcome.
And that's what would usually lead to these arguments -- well, there was multiple things that would lead to arguments, but it was uncomfortable for me to have to tell someone, "I want you to leave."

It's like, if you're -- you know, your in-laws come over and it's that awkward conversation of, like, "Can you leave my house? I'm tired of your company right now."

And so whenever I refer to living, it wasn't living, he was staying, and it was well past his welcome on multiple occasions.

Q. So is it the permanent address phrase that you take issue with?

A. I think it's just the picture that you're trying to paint that he lived there. He didn't. He was a guest in my home. He was staying. Whenever I say he was staying, he was a guest, sometimes an unwelcome guest, but he was a guest nonetheless. He did not live there.

Q. What would Kyle have had to have done to make Anna Garrison Road his permanent address, in your mind?

A. He never paid me rent. We never had an agreement to permanently make that his address. In my mind, that's two of the main things.

Q. I guess, hypothetically, what would Kyle have had to have done to make Anna Garrison Road his permanent address, to you?

MR. MEYERS: Objection to form.

BY MS. LEE:

Q. I'm just trying to figure out what the term "permanent residence" means to you. That's all.

A. He would have had to have my authorization to make it his permanent address, my agreement on that. And that, in my mind, would be basically what I would consider his permanent address.

Q. But you agree, you know, that at some point, as shown in the text messages we've reviewed today, that you and Kyle discussed furniture shopping for the Anna Garrison Road address?

MR. MEYERS: Objection.

THE WITNESS: I feel like any relationship discusses like, you know, HGTV and home design and stuff like that. We did not discuss furniture in the context of my home because I have furniture already.

BY MS. LEE:

Q. And you agree that at some point Kyle changed his address on his Discover bank statement to Anna Garrison Road, in Charlotte, right?

A. Based on the observation that I started receiving mail there, yes.

Q. And you agree that you, you know, usually during fights, tried to kick Kyle out on numerous

occasions, correct?

A. I would ask him to leave, yes, and he would refuse.

Q. Mr. Potts, do you stand by the statements that you made in your September 9th declaration?

A. Yes, I do.

Q. All of them? If you want to review it, please.

A. Well, the only thing is, I did -- going through the declaration, of course, you see your address and you're kind of like, oh, that's good, so you stop. So that is not my correct ZIP code. I think it was copied from his declaration.

Q. I've actually seen this ZIP code in a couple of different ways.

A. Yeah.

Q. Other than that?

A. Yes, I stand by it.

Q. Is it your testimony that everything you say in your declaration from September 9th is 100 percent true?

A. To my knowledge.

Q. Including that Kyle committed forgery?

A. Yes. Absolutely.

Q. Do you have any proof of that?

A. Only the knowledge that I didn't sign what he submitted to the court.

Q. So and Mr. Curtis's -- Kyle's testimony, of course, will be that he did and you did, in fact, sign those.

So is it just your word against his?

A. Unless there's some form of research that can prove that it wasn't my signature. It's not my signature. A handwriting expert, perhaps, but that's not my signature.

MS. LEE: I want to show you one more clip that we'll mark as Exhibit 10. This is from that same Discord recording.

(EXHIBIT NO. 10 TO BE MARKED FOR IDENTIFICATION.)

(AUDIO RECORDING PLAYING.)

BY MS. LEE:

Q. Mr. Potts, do you dispute that this is you in this recording?

A. No.

Q. And this is from the same Discord video that we've watched earlier in this deposition?

A. Yes.

Q. So the person interviewing you asked if there were any text messages that he, meaning Kyle, could bring up that pretty much takes everything you

say and toss into a shredder, correct?

A. Yes.

Q. And your immediate response is, "I don't know. That's kind of a loaded question."

A. Yes.

Q. Do you agree that you're admitting that there may be something out there that could call something in your declaration into question?

MR. MEYERS: Objection to form.

THE WITNESS: No, I don't. My declaration is true. I said in the video, out of context, it could be taken to mean something different. The context is outside of the truth.

BY MS. LEE:

Q. Are there any text messages that you specifically recall that might call into question what you say in your declaration?

A. It's true that we discuss, on some occasions, him moving in, but as I said in the clip, we never agreed upon it.

The discussions about him moving in are way beyond the date that he submitted a lease document between us.

Q. I want to turn back just for a minute to sort of how you got involved in this stage of this

lawsuit.

So you mentioned that you spoke with the plaintiff, Steven McRae, on Twitter.

A. Yes.

Q. Is that sort of how you got brought in at this phase?

A. I don't know if I said this before, but the reality is that Kyle was nonstop harassing me, and I found myself on Twitter, which I never am, and saw that this case was still going on. And that's whenever I reached out and was like, this is not true.

I reached out to Steve McRae again, not the first time -- never got a response in February. Reached out again, and Steve McRae started talking to me and made me aware of legal documents that had my name on them that were false.

That's how I became involved in the case. It was basically because I wanted Kyle to leave me alone, and then it led to my becoming aware that my name was used unethically in the court system.

Q. So what was your original intent in contacting Steven McRae?

A. It was more just like, just wanting Kyle to leave me alone and just being annoyed, annoyance to

Kyle.

Q. Explain to me how contacting Steven McRae would accomplish that.

A. I would maybe if, you know -- I thought maybe if I contacted Steve and he felt like I was helping his -- you know, his other partner learn the truth about him, that maybe he would leave me alone.

I don't understand the mind of Kyle. I beg and plead for him to leave me alone. I would ask him politely. I would yell at him. He wouldn't. I don't know what the final straw is that would get somebody to move on.

Q. And you said earlier, by harassing you, he was sending you flowers and things like that?

A. Yes. He was sending me flowers. He was sending e-mails every day, every other day.

Q. So, in your mind, you know, by contacting Steve McRae, did you think that would hurt Kyle or get back at him?

A. I think I was thinking in my mind maybe it would kind of make him mad and make him leave me alone or something. I don't know.

MS. LEE: I'm going to hand you what we will mark as Exhibit 11.

(EXHIBIT NO. 11 MARKED FOR IDENTIFICATION.)

BY MS. LEE:

Q. So Mr. Potts, this appears to be an e-mail between you and someone named Glen Williamson, dated September 17, 2020. Agree?

A. Yes.

Q. Who is Glen Williamson?

A. Glen Williamson, to my knowledge, is a personal friend of the plaintiff, Steven McRae.

Q. If I told you that he was the person funding Steve McRae's lawsuit, would you have any reason to dispute that statement?

A. I don't have any knowledge.

Q. In this e-mail, Mr. Williamson is offering to pay your legal fees associated with this deposition, right?

A. Yes.

Q. Just to be clear, the same person offering to pay your legal fees is paying Steve McRae's legal fees in this lawsuit, right?

MR. MEYERS: Objection to form.

BY MS. LEE:

Q. You can answer.

A. I guess, yes.

Q. Did you accept Mr. Williamson's offer?

A. Of course. Because I didn't want to be

part of this case.

Q. And you're using the same lawyer that represents Mr. McRae, correct?

A. To my knowledge, yes.

Q. Do you feel at all compelled to take a certain position since the same person representing the plaintiff is also representing you and paying for your legal bills?

A. No.

Q. Do you regret getting involved with this lawsuit?

A. Yes.

Q. Why is that?

A. Because the hassle of it all.

Q. Are you still angry at Kyle?

A. No, I just am -- I want it to be done. I want him to be out of my life.

Q. Do you still want to get back at him?

A. No.

Q. As you sit here today, do you wish to retract anything from your September 9th declaration?

A. No.

Q. And this is my final question for you for now, Mr. Potts: Do you have any knowledge of whether or how Kyle was physically served with the complaint

in this lawsuit, with the physical papers?

A. I don't. He just referenced that his mom was the one to receive them and how embarrassing it was that she -- because it was in reference to his YouTube channel, and his conversation to me was, "My mom had no idea about my YouTube channel, and it's embarrassing that she found out about this through receiving papers when I wasn't at home."

MS. LEE: I have no further questions right now. I may have some follow-up questions if Mr. Meyers asks you a few.

MR. MEYERS: We've been going about an hour and I want to get the dates for those, so let's take a break.

(RECESS TAKEN.)

EXAMINATION

BY MR. MEYERS:

Q. Mr. Curtis -- I'm sorry, Mr. Potts, I'm going to start, if we could pull out Exhibits 5 -- pull out Exhibits 5, 6 and 7 for me real fast.

So Exhibit 5 is the one --

A. I got them.

Q. You see Exhibit 5 has page 900 at the bottom?

A. Yes.

(EXHIBIT NO. 12 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:
Q. Mr. Potts, I'm showing you what we just marked as Exhibit 12.
You see at the bottom is says page 892?
A. Uh-huh.
Q. And if you look slightly above there, it's got a date in the middle?
A. Uh-huh.
Q. What is that date?
A. January 14, 2020.
Q. And I'll represent to you that that's the first date that appears -- first of all, you produced these text messages, correct?
A. Yes.
Q. Are they in chronological order?
A. Yes.
Q. So I'll represent to you that that's the first date I found prior to Exhibit 5, that starts on page 900.
A. Okay.
Q. If you'll just page through the bottom of it there, you'll see that the last page of Exhibit 12 is page 900.
A. Yes.

Q. So can you tell me again what that date was on the first page?
A. It was January 14, 2020.
Q. And so the text messages that you were asked about from Exhibit 5, they were from January 14th of 2020?
A. Yes.
Q. That's all the questions I have on that one.
If you look at Exhibit 6 real quick, you see that one does have a date on it about two-thirds of the way down? You see that?
A. Yes.
Q. What is that date?
A. January 20, 2020.
Q. So those were texts that happened on January 20th of 2020?
A. Yes.
Q. And then if you'll pull out Exhibit No. 7.
(EXHIBIT NO. 13 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:
Q. And then Mr. Potts, you've been handed what's marked as Exhibit 13. If you'll notice, at the bottom of Exhibit 13, it's page 838.
Do you see that?

A. Uh-huh.
Q. And the bottom of Exhibit 7 is 841.
Do you see that?
A. Yes.
Q. And I'll rep -- can you tell me what date appears on Exhibit 13?
A. January 3, 2020.
Q. So are the text messages that you were asked about from Exhibit 7, did they take place on January 3, 2020?
And you can look. If you look at Exhibit 13, it starts on page 838.
A. Yes. They're from the same date.
Q. And the last page is the first page of Exhibit 7?
A. Yes.
Q. So all of those text messages in those exhibits, those were all from January of this year?
A. Yes.
Q. Mr. Potts, when you first met Mr. Curtis, where did he live?
A. He said that he lived in Greensboro, at an apartment in Greensboro, North Carolina.
Q. And did he tell you anything about that apartment?

A. We had a discussion about how his lease was coming up for an end, and that I think on the first date he referenced talking about how he was -- prior to the date, considering moving to Raleigh after his lease ended, and then referenced, like, but now -- he put it as between Charlotte and Raleigh, but now I have more ties to Charlotte because the date was going well.

And then he -- you know, after that, he, about two weeks later, is when his lease was ending and he said he was moving back into his mom's house before he figured out where he was going to go next.

Q. Mr. Potts, in July of 2019, did Mr. Curtis move in with you at your address in Charlotte?

A. He did not.

Q. And Mr. Potts, in August of 2019, did Mr. Curtis move in with you at your address in Charlotte?

A. He did not.

Q. In September of 2019, did Mr. Curtis move in with you at your address in Charlotte?

A. He did not.

Q. Has Mr. Curtis ever lived with you at your address in Charlotte?

A. No.

Q. Does he live with you at your address in Charlotte today?
A. No.
Q. Did he ever show up to your house with a moving truck and move permanent goods into your house?
A. No, he didn't.
Q. Did he ever take out a utility bill in his name for your address in Charlotte?
A. No, he did not.
Q. Now, Mr. Curtis -- sorry, Mr. Potts, you produced -- we've referenced it a couple of times, but all of your text messages between you and Mr. Curtis that you had on your phone; is that correct?
A. Yes.
Q. That became a PDF document that is over 1,400 pages; does that sound right?
A. Yes, unfortunately.
Q. And were you able to construct a timeline of the times when Mr. Curtis was visiting at your house, from those text messages you produced?
A. Yes.
(EXHIBIT NO. 14 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:

Q. Mr. Potts, you've just been handed what's been marked as Exhibit 14.

And is that a timeline that's been prepared from the text messages you produced?

A. Yes.

Q. And it notes at the top that the first text message between you and Mr. Curtis was on June 4th, 2019?

A. Yes.

Q. And then the next thing says, "Days Mr. Curtis spent at Mr. Potts' house in Charlotte July through September 2019."

Do you see those?

A. Yes.

Q. Based on the text messages, do those accurately represent the dates that Mr. Curtis was staying with you in Charlotte?

A. Yes. Roughly, yes.

Q. And so if we just read that, starting with the first date, July 4th through July 5th, does that mean Mr. Curtis arrived at your house on July 4th and left on July 5th?

A. Yes.

Q. And I think previously you testified that Mr. Curtis lived with his mother, correct?

A. Yes.
Q. And so when he was not staying at your house, where was your understanding that he was staying?
A. He was going back to his -- him and his mother's house in Pleasant Garden, North Carolina.
Q. How did -- most of the time when he came to your house, how did he come?
A. He most of the time came through the train.
Q. And did you ever drive him back to Pleasant Garden?
A. Yes, on several occasions.
Q. Did you drop him at his mother's house when you took him to Pleasant Garden?
A. I did. Either his mom's house or he would visit his grandmother's on Sundays and go back to his mom's from there.
Q. Going down here, it does say, on the bullet points from Exhibit 14, it does say that Mr. Curtis was staying at your house on August 30th through the 31st?
A. Yes.
Q. And then on the 31st he left?
A. Yes.
Q. And then he came back to your house on

September 5th through September 8th?
A. Yes.
Q. And the text messages support all of that?
A. Yes.
(EXHIBIT NO. 15 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:
Q. Mr. Potts, you've just been handed what's been marked as Exhibit 15. It's a document that says "Affidavit of Residence" at the top.
Do you see that?
A. Uh-huh.
Q. Have you seen this document before?
A. Yes.
Q. When was the first time you saw this document?
A. I was made aware of it on September 6th of this year.
Q. Who made you aware of this document?
A. Steven McRae.
Q. And why did Mr. McRae make you aware of this document?
A. Because after we started messaging, because of my tweet, he became aware of the lack of knowledge I had about this continuing case and he asked me the question, "Are you aware that there's documents that

Kyle submitted to the court with your name on them?" And I said, "No," and he showed me these documents.

Q. And did you -- prior to Mr. McRae making you aware of this, had you ever seen this document before?

A. No.

Q. And it purports to have a signature on there.

Is that your signature, Mr. Potts?

A. It is not.

Q. And the address that's listed there marks the -- as the -- it says, in the text of it, it says, "I, Benjamin Potts, formally acknowledge Kyle Curtis as living at the street address of 2543 Anna Garrison Road, city of Charlotte, state of North Carolina 28263."

Is that the correct ZIP code?

A. It is not.

Q. We've -- we said that before. Actually, you've got the wrong ZIP code in your declaration as well.

A. Yes. Apparently I stop halfway.

Q. At some point, Mr. Potts, did Mr. Curtis ask you to sign an affidavit?

A. He did ask me to sign or go get

notarized -- he didn't use the word affidavit, but he asked me in June, I believe, of this past year, to go get something notarized, saying that he lived with me during the date of, like, December through February of this year.

Q. And did you respond to that?

A. I refused.

Q. Why did you refuse?

A. I, in a sarcastic manner like I tend to speak in, said, "Isn't that perjury?"

(EXHIBIT NO. 16 MARKED FOR IDENTIFICATION.)

BY MR. MEYERS:

Q. Mr. Potts, you've just been handed what's been marked as Exhibit 16, and it's a document that says at the top of it, "Rental agreement month to month."

Do you see that?

A. Yes.

Q. And when was -- have you ever seen this document before?

A. Yes.

Q. And when was the first time you saw this document?

A. The beginning of September.

Q. And how did you -- how did you come to know

about this document?
A. Like the affidavit, it was part of the information that Steve McRae related to me in regards to the case.
Q. Prior to Mr. McRae making you aware of this document, had you ever seen it before?
A. No.
Q. Is this a -- do you occasionally have renters at your house at Charlotte?
A. I do.
Q. Do you have them sign a lease?
A. I do.
Q. Is this the lease you have them sign?
A. No, it's not.
Q. And if you look at page two of Exhibit No. 16, you see there's a signature at the bottom --
A. Yes.
Q. -- dated July 15, 2019, that purports to be your signature.
Do you see that?
A. Yes.
Q. Is that your signature?
A. It is not.
Q. Did you ever send a lease agreement to Mr. Curtis and ask him to sign it?

A. No, I did not.
Q. Did Mr. Curtis ever deliver to you a lease agreement, signed?
A. No, he did not.
Q. What was your reaction when you saw your signature on these documents that had been submitted to the court?
A. Disbelief. Stunned, honestly.
(EXHIBIT NO. 17 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:
Q. Mr. Potts, you've just been handed what's been marked as Exhibit 17.
And this is another excerpt from the text message document. Do you see that?
A. Yes.
Q. And at the bottom it starts with page 89, and then there's a highlighted date there of July 9, 2019.
Do you see that?
A. Yes.
Q. Mr. Potts, are these text messages between you and Mr. Curtis, starting on July 9th, 2019?
A. Yes.
Q. If you look at the next page, page 90 --
A. Yes.

Q. -- there's a highlighted -- there's some light lighted language there.

Do you see that?

A. Yes.

Q. It's from Kyle, Mr. Curtis, at 7:15 p.m.?

A. Right. Yes.

Q. And it says, "So here's my plan. I don't want you to think I'm trying to come across as being too presumptive or anything. Originally, I was looking at moving to Raleigh, and then I met you, and I've thought about it, and I have decided that Charlotte may be the place for me.

"I'm putting my stuff in storage and will be staying at home until I find a place here in the coming weeks. I can't sign a year lease in the city even further away from you. And I know that may sound bizarre since we just recently met, but I feel differently about you and if I have to move, I want to be closer, not further away than where you are. I hope that's coming across right. LOL."

Did I read that correctly?

A. Yes.

Q. And you responded, "Haha. I think it's adorable that you're worried about how I feel or what I think about that. Of course I don't relish the

idea of you moving further away and can give you a million reasons why Charlotte is a better city, from my own point of view, but at the end of the day, you have to do what's right for you and make a decision based on what you think will make you happy.

"You're not presuming anything. I think you're just hoping that what we have going is something worth taking into consideration before making a big decision."

Do you see that?

A. Yes.

Q. Did I read that correctly?

A. Yes.

Q. On July 9, 2019, did you invite Mr. Curtis to move in with you?

A. No.

Q. And did you understand that Mr. Curtis was considering moving to Charlotte?

A. Yes.

Q. And did you understand that he was planning to move in with you at that point?

A. No.

Q. Had that been discussed between the two of you?

A. No, it was not discussed.

(EXHIBIT NO. 18 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:
Q. Mr. Potts, you've just been handed what's been marked as Exhibit 18.
Do you see that?
A. Yes.
Q. And in this -- in response to the subpoena in this case served by counsel for defendant, you also produced some text messages between you and somebody named Chelsea Riley; is that correct?
A. Yes.
Q. Who is Chelsea Riley?
A. She's my best friend.
Q. What does Ms. Riley do for a living?
A. She is a real estate agent.
Q. And these -- this is -- do you recognize these text messages as being part of that exchange you provided?
A. Yes.
Q. And if you look there just past the middle of the page, there's a date August 1, 2019.
Do you see that?
A. Yes.
Q. And it says, "Are you and Kyle going to look at the place?"

A. Yes.
Q. And she responds, "Oh, I need to send him a list. I forgot."
A. Yes.
Q. What place were you referring to in your text to Ms. Riley?
A. Since she's a Realtor, she had offered -- she doesn't normally assist with rentals, but knowing -- I mean, me being friends with her and knowing Kyle through me, she offered to set him up on an MLS search for rental places in the Charlotte area, and she pinpointed one nice loft apartment in Charlotte, in the downtown area, which he showed to me when we were together. So I was texting to ask if they had looked at that yet or were going to.
Q. And the next date there is August 2, 2019?
A. Yes.
Q. And if you turn to the next page, at the top, it says, "What's up with that loft you showed Kyle off Graham Street?"
A. Yes.
Q. Is that the loft apartment you were just talking about?
A. Yes.
Q. And then if we turn to page -- turn to the

next page, we see towards the top, it says, August 5, 2019?

A. Yes.

Q. Kyle talked about coming -- your text -- first of all, it shows up as Ben Camden here --

A. I was laughing at that. Camden is the original company we worked for. My best friend doesn't have my last name in there. I think that's funny.

Q. Ms. Riley put you in as Ben Camden because that's where you worked?

A. When we first met, yes.

Q. So you, Mr. Camden -- Mr. Potts, told -- texted to Chelsea, "Kyle talked about coming back towards the end of the week."

Do you see that?

A. Yes.

Q. And then if you go to the next page, starts at August 8th -- I'm sorry, starting with August 9th, 2019.

Do you see that?

A. Yes.

Q. And you texted, "Are you busy tomorrow?"

A. Yes.

Q. And Ms. Riley says, "I don't think so."

And you respond, "I think Kyle is hoping he can look at a couple of places tomorrow."

A. Yes.

Q. Why would Mr. -- why would Mr. Curtis be looking for places with Ms. Riley if he had a lease agreement signed with you?

A. I can't answer that question.

Q. Did you understand that Mr. Curtis was looking for a place to live in Charlotte and using Ms. Riley as his agent?

A. Yes.

(EXHIBIT NO. 19 MARKED FOR IDENTIFICATION.)

BY MR. MEYERS:

Q. Mr. Potts, you've just been shown what's been marked as Exhibit 19.

And first of all, have you ever seen this document before?

A. Yes, I have.

Q. And I'll represent to you, this is a part of an exhibit that was attached to an affidavit signed and entered in this case by Mr. Curtis.

A. Yes.

Q. And these purport to show Zelle payments to -- if you look at the first page, July 29, 2019, Zelle payment to Benjamin Potts, $300.

Do you see that?
A. Yes.
Q. Did you ever receive a Zelle payment from Mr. Curtis on or around July 29, 2019?
A. No, I did not.
Q. If you look at the next page, under July 30th, 2019, it shows Zelle payment to Benjamin Potts, $300.
Do you see that?
A. Yes.
Q. Did you ever receive a Zelle payment from Mr. Curtis on or around July 30, 2019?
A. I have not.
Q. Have you ever received any Zelle payments from Mr. Curtis?
A. I did receive a Zelle payment from him in February of this year, I believe.
Q. And other than February of 2020, had you ever received any Zelle payments from Mr. Curtis?
A. No.
Q. And, Mr. Potts, did you go and look at your bank records in this case to verify whether you had ever received any payments from Mr. Curtis?
A. I did.
(EXHIBIT NOS. 20-22 MARKED FOR IDENTIFICATION.)

BY MR. MEYERS:

Q. Mr. Potts, do you have a bank account?

A. I do.

Q. Where do you keep your bank account?

A. North Carolina State Employees Credit Union.

Q. Is that the only bank account you have?

A. It is.

Q. Is that the only bank account you had at the time of -- in July through December of 2019?

A. It is.

Q. You've just been handed three exhibits, Exhibit 20, 21, and 22.

Have you seen those documents before?

A. Yes, I have.

Q. Are those your bank statements?

A. Unfortunately.

Q. And you produced those to me in this case?

A. Yes.

Q. And those -- there's some redactions on there.

Were those redactions from you or did I do those redactions?

A. Those are redactions from myself.

Q. If you look at the first one, it's Exhibit

20, it says, right in the middle of the page, statement period 6/14/19 through 7/14/19?

A. Yes.

Q. And you've gone through and highlighted deposits, correct?

A. Yes.

Q. Are there any deposits into the account, during that time frame, from Mr. Curtis?

A. No.

Q. And if we look at Exhibit 21, you see the statement period there, it says July 17, 2019, through August 14, 2019?

A. Uh-huh.

Q. And, again, you've gone through and highlighted deposits?

A. Yes.

Q. Are there any deposits from Mr. Curtis?

A. No, there is not.

Q. And, finally, Exhibit No. 22, statement period August 15th, 2019, through September 16, 2019.

Do you see that?

A. Yes.

Q. And are there -- does that statement reflect any deposits from Mr. Curtis?

A. No.

(EXHIBIT NO. 23 MARKED FOR IDENTIFICATION.)
BY MR. MEYERS:
Q. Mr. Potts, I've showed you what's been marked as Exhibit 23. And I will represent to you that this is actually -- was actually produced in one of Mr. Curtis's affidavits. It's ECF44.1, Exhibit C.
Have you seen this exchange before?
A. Yes.
Q. Do you recall this -- it purports to be an e-mail from Mr. Curtis to you?
A. Yes.
Q. And do you recall receiving this e-mail from Mr. Curtis?
A. I do.
Q. And had you accused him of forging your signature?
A. Yes.
Q. And he responds to that?
A. Yes.
Q. And then if you look on the back page, I think this was what we saw before. That was a response from you to him?
A. Yes.
Q. And that response says, "Good thing you got that notarized while I was apparently drunk off my

ass, because that would have been bad for you if I didn't get taken advantage of to the max."

A. Yes.

Q. In your response there, are you admitting that you signed the affidavit?

A. No. It was a horrible case of sarcasm.

Q. Did you ever go somewhere drunk with Mr. Curtis, that he would have you sign an affidavit?

A. No.

Q. And if you notice on the front page there of Exhibit 23, the bottom part is redacted.

Do you see the big, black box there?

A. Yes.

Q. You've produced that full e-mail to me?

A. Yes.

(EXHIBIT NO. 24 MARKED FOR IDENTIFICATION.)

BY MR. MEYERS:

Q. So you've just been handed what's marked as Exhibit 24.

Is that the whole e-mail, without that redaction?

A. Yes.

Q. At the bottom, the part that was redacted says, "Do whatever you want, Ben, but I promise that you will -- I will make sure you lose your job and

everyone knows about you. You know what I mean. If that's worth it to you, do your thing."

Did Mr. Curtis write those words to you?

A. Yes.

Q. What did you understand the purpose of that communication to be?

A. Just threats by him of contacting my job, spreading lies or something.

Q. Is this similar to the harassment you've discussed earlier in the case, in your deposition?

A. Yes.

(EXHIBIT NO. 25 MARKED FOR IDENTIFICATION.)

BY MR. MEYERS:

Q. And, Mr. Potts, you've just been handed what's been marked as Exhibit 25, and there's two different e-mails there.

Have you seen these e-mails before?

A. Yes.

Q. Did you produce those in this case?

A. Yes.

Q. And it says from Kyle Curtis, and it's thatsmokinggun@gmail.com.

Is that an e-mail address that you know Mr. Curtis uses?

A. Yes.

Q. And to you, at your e-mail address, correct?
A. Yes.
Q. And Mr. Curtis writes, "All right. Have it your way. Good luck tomorrow going into work. I'm sending over that recording so they know what a racist you really are. Check out my Facebook at 8:30. I think you'll find what is there just for you as well. You might want to warn Christina, Mikey is about to find out who knew what and when."
Who are Christina and Mikey?
A. They're friends of mine.
Q. What did you understand that e-mail from Mr. Curtis to be?
A. Once again, threats against me.
Q. What did he want you to do in response to those threats?
A. I never knew what Kyle wanted. I guess he wanted me to take myself -- take down the tweet and take myself out of the case. I wasn't actually in the case at this point, but redact what I had said.
Q. Because, on September 6th, you had already --
A. Been in contact with Steve McRae, yes.
Q. And we saw those text messages before?

A. Yes.
Q. And then the next page, it's an e-mail shortly later that day, page two.
A. Yeah. Sorry.
Q. And, again, from Mr. Curtis to you, and he says, "Oh, and thankfully I wrote a note on the bulletin for your parents' church that I put in the box. You might want to warn your mom that the pastor is going to be getting an e-mail about the truth of their son and I hope you think I'm not serious. You want to F with me, I'm about to teach you what a mistake that is."
What did you understand that to be?
A. Another threat of exposing my sexual orientation to the pastor.
Q. Had Mr. Curtis conveyed to you that he wanted you to remove yourself from this case?
A. Yes.
Q. If you could pull out Exhibit No. 8 again for me.
And this was the direct messages between you and Mr. McRae. Do you remember that?
A. Yes.
Q. And you produced this in this case, right?
A. I believe these were produced by Steve,

because I had deleted my Twitter account.

Q. So you no longer had access to your direct messages in Twitter; is that right?

A. Yes.

Q. So Mr. McRae was able to find those?

A. Yes.

Q. And so he produced this and you have reviewed this to make sure it is accurate?

A. Yes.

Q. And the very first -- as we talked about this before, the very first date at the top of that is September 6, 2020, and the first communication is -- it says, from McRae to Potts, "Is this actually Ben, Kyle's ex?"

A. Yes.

Q. Is that the first time you heard from Mr. McRae?

A. Yes.

Q. Later that same day, the parts that were highlighted by defendant's counsel at the bottom, Potts -- it says, Potts to McRae, "He only changed his address with the bank." Mr. McRae responded, "And a Discover card, yeah?" You responded, "That's the only mail he received there."

Can you explain exactly what you're

discussing there?

A. I think McRae or Steve McRae had brought up the fact that he was using his mail as a defense in the case, and I was just commenting that the only thing he had received at my house was Discover statements.

Q. And when did those Discover statements first appear at your house?

A. In February of this year.

Q. Did any Discover statements appear at your house in July?

A. No.

Q. Of 2019?

A. No.

Q. And did any statements appear at your house in August of 2019?

A. No.

Q. What about September of 2019?

A. I don't believe so.

Q. Did you -- did any statements show up at your house in November of 2019?

A. I don't believe so.

Q. During -- if we pull out Exhibit 14 real fast, in this Exhibit 14 the timeline of the dates that Mr. Curtis was staying with you in Charlotte?

A. Yes, roughly.
Q. And did -- during this time, was Mr. -- was Mr. Curtis leaving your house because you were kicking him out and you were fighting?
A. Not always.
Q. And was -- and during this time, would you have described Mr. Curtis as squatting at your house?
A. On a few occasions.
Q. And when you say "squatting," what do you mean?
A. That I had asked him to leave and he wouldn't leave.
Q. Why -- and did he ever tell you that he was not going to leave because he signed a lease?
A. No.
MR. MEYERS: I have no further questions.

FURTHER EXAMINATION

BY MS. LEE:
Q. I have just a couple and then you can be done.
A. Okay.
Q. Mr. Potts, if you'll flip with me to Exhibit 25 for just a moment.
You testified earlier that Mr. Curtis, Kyle, had conveyed to you that he wanted you to

remove yourself from this case?

A. Yes.

Q. How did he convey that?

A. He had sent me a -- an e-mail on September 6th, apparently after he had seen the tweet that I had made about him lying to the court and to all of his followers, and he sent me a very threatening e-mail, telling me to take it down and remove it.

Q. Did you produce that e-mail?

A. Did I produce it to my attorney?

Q. Yes.

A. Yes, I did.

Q. You know, just to follow up on -- that's all for Exhibit 25.

Just to follow up on the bank statements, you testified that Mr. Curtis didn't change his address on bank statements until later, maybe February 2020; is that right?

A. Yes.

Q. Isn't it true that banks now often send electronic statements and even encourage paperless billing?

A. Yes.

Q. So you wouldn't necessarily see all of Kyle's mail if that were sent electronically?

A. Hypothetically, no.

MS. LEE: No further questions from me.

FURTHER EXAMINATION

BY MR. MEYERS:

Q. But you did -- just real quickly, you did see paper statements from Discover, addressed to Mr. Curtis, in February of 2020?

A. Yes, they started in about the February time frame.

MR. MEYERS: No further questions.

FURTHER EXAMINATION

BY MS. LEE:

Q. Just one follow-up. Did you check the mail at your house every day?

A. Yes.

Q. Did anyone else ever check the mail?

A. No, not to my knowledge. I did have a roommate who moved out in December, but he would never check the mail. So maybe once he would check it.

MS. LEE: No further questions. Thank you for your time today.

COURT REPORTER: Do you both want to order a copy of the transcript?

MS. LEE: Yes, and we need that expedited.

MR. MEYERS: Yes.

(SIGNATURE RESERVED.)

(DEPOSITION CONCLUDED AT 12:44 P.M.)

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

CERTIFICATE OF REPORTER

I, APRIL H. MARSH, Notary Public, do hereby certify that the witness whose testimony appears in the foregoing transcript was duly sworn or affirmed by me prior to the taking of the foregoing proceeding; that said proceeding was taken by me to the best of my ability and transcribed under my supervision and direction; that the parties were present as stated; and that I am not of counsel for, related to, in the employment of any of the parties to this action, nor am I financially or otherwise interested in the outcome of this action.

I do further certify that the foregoing pages constitute a true and accurate transcript of the proceedings.

This the 19th day of October 2020.

April H. Marsh

_____

April H. Marsh

Notary Public Number 201119500253

To: BENJAMIN POTTS
Re: Signature of BENJAMIN POTTS
Date Errata due back at our offices: 11/25/2020

Greetings:
The deponent has reserved the right to read and sign. Please have the deponent review the deposition transcript, noting any changes or corrections on the attached Errata.
Once the Errata is signed by the deponent and notarized, please mail it to the address below. When the signed Errata is returned to us, we will seal and forward to the hiring attorney for filing with the court.
We will also send copies of the Errata to all ordering parties.
If the signed Errata is not returned by the date above, the original transcript may be filed with the court without the signature of the deponent.

Please send completed Errata to:
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ERRATA

I, the undersigned, do hereby certify that I have read the transcript of my testimony, and that

___There are no changes

___The following changes are noted:

Pursuant to the governing rules of Civil Procedure, any changes in form or substance which you desire to make to your testimony shall be entered upon the deposition with a statement of the reasons given for making them. To assist you in making any such corrections, please use the form below. If additional pages are necessary, please furnish same and attach.

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DEPONENT'S SIGNATURE

Sworn to and subscribed before me this ____ day of _____, _____.

_____
NOTARY PUBLIC
My commission expires:_____

&

& 2:9

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North Carolina General Statutes

Article V. Depositions and Discovery

Rule 30

(e) Submission to deponent; changes; signing. The sound-and-visual recording, or the transcript of it, if any, the transcript of the sound recording, or the transcript of a deposition taken by stenographic means, shall be submitted to the deponent for examination and shall be reviewed by the deponent, unless such examination and review are waived by the deponent and by the parties. If there are changes in form or substance, the deponent shall sign a statement reciting such changes and the reasons given by the deponent for making them. The person administering the oath shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent. The certificate shall then be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is ill or cannot be found or refuses to sign. If the certificate is not signed by the deponent within 30 days of its submission to him, the person before whom the

deposition was taken shall sign the certificate and state on the certificate the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though the certificate were signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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

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