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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

LAUREN REEVES,)	
)	
Plaintiff,)	
)	
vs.)	Case No. BC643099
)	
HOLOGRAM, USA, INC.,)	
ALKI DAVID PRODUCTIONS,)	
INC., ALKIVIADES DAVID, an)	
individual, and DOES 1)	
through 25, inclusive,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF ALKIVIADES DAVID
VOLUME II, PAGES 119 - 334
THURSDAY, SEPTEMBER 20, 2018, 9:49 A.M.
LOS ANGELES, CALIFORNIA

Reported by Sudny Gallardo, CSR No. 14023
CLS Job No. 89212

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LAUREN REEVES,)	
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through 25, inclusive,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF ALKIVIADES DAVID,
taken at 6300 Wilshire Boulevard, Suite 1500, Los
Angeles, California, on Thursday, September 20, 2018, at
9:49 a.m., before Sudny Gallardo, Certified Shorthand
Reporter, in and for the State of California.

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17 Also Present:

18 JOHN AZPILICUETA, VIDEOGRAPHER

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1 THURSDAY, SEPTEMBER 20, 2018, 9:49 A.M.

2 LOS ANGELES, CALIFORNIA

3

09:48:21 4 THE VIDEOGRAPHER: Good morning. Here begins
09:48:23 5 Media Number One of Volume Two to the videotaped
09:48:26 6 deposition of David, Alkiviades in the matter of Lauren
09:48:29 7 Reeves vs. Hologram, USA, Inc., et al. with case file
09:48:34 8 number BC643099 on September 20, 2018 at 9:49 a.m. This
09:48:44 9 deposition is being held at 6300 Wilshire Boulevard,
09:48:50 10 Suite 1500, Los Angeles, California, 90048.

09:48:55 11 The videographer is John Azpilicueta here with
09:48:58 12 our certified court reporter, Sudny Gallardo. We are
09:49:02 13 both with Centext Legal Services located in Sherman
09:49:05 14 Oaks, California.

09:49:06 15 At this time would counsel please introduce
09:49:10 16 yourselves and state whom you represent.

09:49:11 17 MS. YEAL: Dolores Leal with Allred, Maroko &
09:49:11 18 Goldberg representing Lauren Reeves.

09:49:16 19 MS. MOCHKATEL: Renee Mochkatel, Allred, Maroko
09:49:16 20 & Goldberg.

09:49:20 21 MS. GAROFALO: Ellyn Garofalo representing
09:49:22 22 defendant, Alki David.

09:49:25 23 MR. SULENTIC: Ray Sulentic representing
09:49:26 24 defendant, Alki David.

09:49:30 25 THE COURT: And I am Judge Suzanne G. Bruguera,

09:49:30 1 S-u-z-a-n-n-e, B-r-u-g-u-e-r-a, sometimes my middle
09:49:39 2 name, G-a-z-a-n-i is used, and I am with ADR Services
09:49:44 3 retired from the L.A. Superior Court after 27 years, so.

09:49:51 4 THE VIDEOGRAPHER: Thank you. May the court
09:50:00 5 reporter please swear in the witness.

6 ALKIVIADES DAVID,
7 having been first duly sworn, testifies as follows:

09:50:01 8 THE COURT: Before we begin I just wanted to
09:50:04 9 say a few words. First, I want to give my condolences
09:50:09 10 to you on your attorney's death. Mr. Rothman was a -- I
09:50:15 11 knew him well being on the bench in Los Angeles for
09:50:19 12 almost 30 years. He appeared before me many times, and
09:50:23 13 we saw each other at events, and I know that it's
09:50:27 14 difficult to lose an attorney and that death makes us
09:50:34 15 realize what -- the futility of life, so I wanted to
09:50:38 16 first wish you well with that and you have great
09:50:42 17 attorneys now. And I know that you have been
09:50:48 18 experienced. I read the court file, and I read the
09:50:52 19 transcripts, and I know that you are an experienced
09:50:55 20 business person and thus you have a great amount of
09:51:00 21 experience with discovery and depositions as well. And
09:51:03 22 so during the course of this deposition either the
09:51:08 23 lawyers or myself will give you admonitions. I
09:51:13 24 apologize if you know the rules and -- but they are
09:51:18 25 being given to you, again. That -- that's being done so

09:51:22 1 that if it's ever reviewed by another judge then we look
09:51:27 2 like we did our jobs, and so that's why you may hear
09:51:32 3 something over again, something that you already know of
09:51:35 4 and have heard before.

09:51:39 5 One thing I wanted to explain or just emphasize
09:51:47 6 there will -- in court when we have a jury lawyers will
09:51:52 7 sometimes start a question and then they don't like the
09:51:56 8 question they are starting and they will say "strike
09:52:00 9 that," and they will start over again. Well, when that
09:52:02 10 started that was a long time ago and they were supposed
09:52:05 11 to ask the judge. They were supposed to say, "Your
09:52:08 12 Honor, may the court reporter strike that." But that
09:52:11 13 has evolved into lawyers being able to just say that, so
09:52:17 14 that might happen here, but it's just -- it's nothing
09:52:20 15 for us to do, it's just a lawyer rethinking their
09:52:22 16 question. It has nothing to do with striking anything
09:52:24 17 you have said or anything like that. And they -- they
09:52:30 18 might -- a lawyer might also say that about some
09:52:34 19 testimony or say that some testimony is nonresponsive,
09:52:39 20 that is just for later, for later evaluation by a judge.
09:52:44 21 That has nothing to do with here and not even me.

09:52:51 22 So those are some of the things that I kind of
09:52:53 23 picked up and I wanted to let you know. The other thing
09:52:57 24 that I tell witnesses on the bench because you will hear
09:53:02 25 me really talk about how I was on the bench for almost

09:53:06 1 30 years. I really enjoyed it and wish I could do it
09:53:10 2 again because it went so fast and as we all know life
09:53:14 3 goes really fast.

09:53:16 4 So I tell witnesses that they should just
09:53:18 5 answer the question that is asked because -- for their
09:53:24 6 own sake because if -- if you answer a question that --
09:53:30 7 and you give a huge explanation --

09:53:34 8 THE WITNESS: Uh-huh.

09:53:34 9 THE COURT: -- then they are allowed to ask you
09:53:36 10 anything about that answer. But if you had just -- or a
09:53:40 11 witness, not you, but if the witness had just answered
09:53:43 12 that question without going into other things then the
09:53:49 13 lawyer would not have the ability to ask about all those
09:53:53 14 sometimes irrelevant things. So it just -- so I would
09:53:59 15 tell the witnesses that, and when I was a lawyer I would
09:54:01 16 tell my own witnesses that when they went to a
09:54:05 17 deposition. I would say, "For your sake, just listen to
09:54:08 18 the question and just answer that question," and I am
09:54:11 19 sure your lawyers have talked with you about this
09:54:15 20 deposition. But, again, remember I am trying to do -- I
09:54:18 21 want to do my job, and I remembered what I used to tell
09:54:24 22 my witnesses. And if -- and you do not have to have an
09:54:31 23 answer to every question. If you do not remember, you
09:54:34 24 do not have to think of an answer, you know. It is
09:54:38 25 not -- it's your -- it's -- that's not your obligation.

09:54:40 1 Whether -- if something did not happen -- if there is no
09:54:45 2 foundation for it, if it did not happen, you are not
09:54:47 3 supposed to think about how to fit an answer to fit the
09:54:53 4 question. Okay? So you can say that.

09:54:56 5 So you can say whether you do not remember or
09:54:58 6 it did not happen that way or you can also say that was
09:55:03 7 not my answer if you were being asked a question that
09:55:09 8 sort of implies an answer from a different question.
09:55:13 9 Okay? So you are not here to be able to answer every
09:55:17 10 single question. You are here to answer questions
09:55:20 11 truthfully. And as you also know, we are -- this is
09:55:24 12 videotaped and it will be used the same way as if you
09:55:29 13 were in a courtroom answering questions. And the
09:55:33 14 questions and answers are under oath, and they have the
09:55:36 15 same effect as if you are in the courtroom. So one day
09:55:40 16 you may have a jury and the parts of this transcript may
09:55:48 17 be shown to them so, you know, I always want to make
09:55:51 18 sure that I, you know, look my best and I use my words
09:55:56 19 carefully and everything. So remember that the
09:55:58 20 ultimate -- and this is what I would tell my own
09:56:01 21 witnesses this, too, when I was a lawyer, the ultimate
09:56:06 22 goal here is to ask and answer questions for the jurors.
09:56:10 23 And so -- and you are being videotaped and just think
09:56:14 24 about what the jurors would think, because that is the
09:56:16 25 only reason you are really here, that you care about

09:56:20 1 what the jurors are going to think. And thank you for
09:56:27 2 listening. I appreciate that. I know that you have
09:56:29 3 been to many depositions.

09:56:33 4 A couple of other things. Yeah, I think that
09:56:39 5 not having to have an answer for everything is
09:56:42 6 important. And if you do not understand a question say
09:56:48 7 you do not understand it. And -- and try not to think
09:56:53 8 about the legal effect of a question just because we do
09:56:57 9 not know, you know. It is just -- try to answer the
09:57:00 10 question, that question, and as -- in the shortest
09:57:07 11 fashion as possible for your sake, I think, for the
09:57:11 12 witness's sake. So, of course, if your attorneys have
09:57:15 13 told you anything that is inconsistent with what I have
09:57:19 14 told you, you should follow their advice unless it is,
09:57:24 15 you know, it is not standard, but you should follow the
09:57:27 16 rules. Okay?

09:57:30 17 THE WITNESS: Sure.

09:57:32 18 THE COURT: So -- and if you need a break, say
09:57:33 19 you need a break. And I, as I get older, need more
09:57:39 20 frequent breaks so I will say that, too. And at some
09:57:42 21 point, the -- what may happen is we may disagree, the
09:57:46 22 lawyers may disagree on a question. What they are not
09:57:49 23 going to do is make speaking objections like objections
09:57:54 24 in court and here should be just what the objections are
09:57:58 25 in the Evidence Code. It is usually one word or two

09:58:02 1 word -- two words, and when you have a judge here the
09:58:04 2 judge will know what that objection is about, so you --
09:58:09 3 the lawyers cannot make a speech about the objection.

09:58:12 4 And what I found in depositions is lawyers want
09:58:17 5 their -- the clients to know that they are taking care
09:58:20 6 of them and fighting for them, so we end -- they end up
09:58:23 7 fighting over things that they really do not want to
09:58:27 8 fight over. It won't look good to the judge when they
09:58:31 9 are fighting over it like that, so when we have legal
09:58:35 10 arguments what I do in depositions like this is I go
09:58:39 11 outside with the lawyers so that they have the freedom
09:58:42 12 and I have the freedom to talk about the law without the
09:58:49 13 clients feeling as though they are not being taken care
09:58:52 14 of because I could tell you, you have great lawyers and
09:58:58 15 they are taking care of you. Okay?

09:59:01 16 So just to stop -- just for me to, you know,
09:59:03 17 whenever I am involved in a deposition it means
09:59:06 18 something -- there was a problem before. So when I get
09:59:08 19 involved then I try to make it so it goes as smoothly as
09:59:14 20 possible, so I do not want you to get mad at me if I
09:59:17 21 take the lawyers outside and that happens a lot. And
09:59:20 22 when I try -- I do settlement conferences, mediations,
09:59:26 23 and sometimes I take the lawyers out to tell them the
09:59:26 24 number that the other side gave, and I know that the
09:59:30 25 client is going to be so mad because sometimes it is so

09:59:33 1 low or sometimes it is like, you know, \$100,000,000 and
09:59:38 2 people get upset, so I want to just tell the lawyer, but
09:59:41 3 then the client gets upset. And I want you to promise
09:59:45 4 me you won't get mad at me if I take the lawyers away.

09:59:51 5 THE WITNESS: I promise.

09:59:52 6 THE COURT: Good. Thank you. All right. So
09:59:53 7 having done that, if you are comfortable, and -- then we
09:59:56 8 will -- we will begin. And we are going to avoid going
09:59:59 9 into issues that we covered fully during the first
10:00:04 10 session. This is discovery and discovery is supposed to
10:00:12 11 be broader than in court, so they will be able to ask
10:00:16 12 you questions here that they might not be able to ask
10:00:19 13 you in the courtroom. I can guarantee you that because
10:00:23 14 as a judge I know you don't want your trials to last
10:00:27 15 forever.

10:00:28 16 So this is discovery, and it is a little bit
10:00:31 17 freer in the types of questions that they can ask. I
10:00:35 18 want you to know that. And so -- and know that not
10:00:39 19 everything is going to be able to be said in the -- in
10:00:42 20 court, but they are allowed to go into things. In fact,
10:00:47 21 there is a case that says that discovery -- this is a
10:00:51 22 fishing expedition.

10:00:53 23 THE WITNESS: Uhm.

10:00:54 24 THE COURT: So -- so when I get involved, I try
10:00:56 25 to make it so that it goes fast and we only stick to

10:01:00 1 relevant things. But what we do today is going to,
10:01:05 2 hopefully, will not be reviewed by a judge because it is
10:01:08 3 going to go so perfectly, but -- and that is my goal.
10:01:11 4 So anyway you are an experienced business person and
10:01:16 5 experienced business people usually have a lot of
10:01:19 6 experience with lawsuits and depositions, so that is
10:01:22 7 just life. And so here we are and we will do our best,
10:01:27 8 okay? Okay. Thank you.

10:01:30 9 And you will then give admonitions that I did
10:01:33 10 not give that are the normal ones, and the witness knows
10:01:37 11 that that is just your job, so, go ahead.

10:01:40 12 MS. YEAL: Thank you, Judge.

10:01:40 13 THE COURT: Thank you.

10:01:40 14 MS. YEAL: Before I proceed with the deposition
10:01:44 15 I noticed that Ms. Garofalo and Mr. Sulentic when
10:01:49 16 introducing themselves for the record they only
10:01:52 17 identified themselves as counsel for Mr. David, as
10:01:57 18 opposed to the other defendants, as well, who are named.

10:02:01 19 Are you representing the other defendants?

10:02:03 20 MS. GAROFALO: We are. That was merely because
10:02:05 21 today we are here representing the deponent, Mr. David.

10:02:09 22 MS. YEAL: Okay.

10:02:09 23 MS. GAROFALO: And I think you know which
10:02:10 24 defendants we have appeared on behalf of.

10:02:13 25 MS. YEAL: Okay. Thank you. I wanted to make

10:02:15 1 sure that nothing had changed.

10:02:17 2 MS. GAROFALO: You see there's too many people
10:02:19 3 to recite all the defendants at the depositions.

10:02:20 4 MS. YEAL: You could have said defendants.

10:02:23 5 EXAMINATION

10:02:23 6 BY MS. YEAL:

10:02:23 7 Q. Good morning, Mr. David.

10:02:25 8 A. Good morning.

10:02:26 9 Q. We are back here for day two of your
10:02:29 10 deposition. You were last here last last year in
10:02:33 11 October. Do you recall?

10:02:34 12 A. I do. I do.

10:02:36 13 Q. Okay. So Judge Bruguera has given you some
10:02:41 14 admonitions with respect to today's deposition. I will
10:02:45 15 give you a few more. The admonitions, again, are the
10:02:48 16 ground rules for the deposition.

10:02:50 17 One thing that was happening last time was that
10:02:53 18 we were all speaking over each other and it was very,
10:02:58 19 very difficult for the court reporter to write down
10:03:01 20 everything being said. So for that reason I am going to
10:03:05 21 ask you to wait until I completely finish my question
10:03:09 22 before you answer, and I will not start my next question
10:03:15 23 until after you finish answering my question.

10:03:18 24 Is that fair?

10:03:19 25 A. Sure.

10:03:20 1 Q. Okay. I will be asking you many questions, as
10:03:24 2 you recall from last time. If at any point in time any
10:03:30 3 of my question is not clear, let me know. I will
10:03:33 4 attempt to rephrase it. If you do answer the question,
10:03:40 5 I am going to assume that you understood it.

10:03:43 6 Is that fair?

10:03:44 7 A. Yes.

10:03:46 8 Q. Now, you have been given an oath by the court
10:03:51 9 reporter, and the oath you have taken has the same force
10:03:54 10 and effect as if you were testifying in a court of law.

10:03:58 11 Do you understand that?

10:03:59 12 A. I do.

10:04:00 13 Q. So the same penalties of -- criminal penalties
10:04:06 14 for perjury apply. Do you understand that, as well?

10:04:10 15 A. I do.

10:04:10 16 Q. Okay. Have you taken any medication or
10:04:13 17 consumed any alcohol in the last 24 hours which you
10:04:15 18 believe might affect your ability to testify today?

10:04:20 19 A. I have not.

10:04:21 20 Q. Do you have any questions pertaining to today's
10:04:24 21 proceeding?

10:04:24 22 A. I do not.

10:04:37 23 Q. Okay. We were advised by your attorney in July
10:04:40 24 that you had to leave the country because of some
10:04:44 25 federal immigration issues.

10:04:47 1 Did you leave the country?

10:04:49 2 MS. GAROFALO: Objection. Relevance.

10:04:53 3 THE COURT: Well, let's -- I'm sure there is no
10:04:58 4 objection to having this question being asked. Did it
10:05:03 5 have anything to do with the deposition? Was it -- I
10:05:07 6 believe the deposition was put off; right?

10:05:09 7 MS. YEAL: Put off a couple of times. The
10:05:11 8 first time his mother was ill --

10:05:15 9 THE COURT: Okay. Yes, I remember --

10:05:16 10 MS. YEAL: Okay.

10:05:16 11 THE COURT: -- reading it.
10:05:17 12 I am going to overrule it. Remember, okay,
10:05:20 13 that this is a deposition and it's broad, so let's just
10:05:25 14 start off well. And I am sure counsel is going to stick
10:05:29 15 to just the very few facts that are needed and not go
10:05:35 16 into it very much. Okay?

10:05:36 17 So go ahead.

10:05:40 18 MS. YEAL: Can you please repeat the question?

10:05:40 19 THE WITNESS: I don't need the question
10:05:40 20 repeated.

10:05:40 21 THE COURT: It was just did you leave the
10:05:44 22 country? Go ahead.

10:05:44 23 THE WITNESS: The answer is yes, I did.

10:05:45 24 THE COURT: Thank you.

10:05:45 25 THE WITNESS: And I have done a number of times

10:05:46 1 since.

10:05:46 2 THE COURT: Thank you.

10:05:49 3 BY MS. YEAL:

10:05:49 4 Q. And when did you learn that you would have to
10:05:51 5 leave the country in July?

10:05:52 6 MS. GAROFALO: Objection. Lacks foundation.

10:05:56 7 THE WITNESS: I -- I don't know.

10:05:59 8 BY MS. YEAL:

10:05:59 9 Q. How long were you away?

10:06:05 10 A. Over all, altogether, or at different times?

10:06:08 11 Q. No, during this last time.

10:06:10 12 A. Two -- at least two months.

10:06:16 13 Q. During your last session of your deposition,
10:06:18 14 you testified that you were the owner of Hologram USA
10:06:23 15 and that there were, in your words, different companies
10:06:26 16 under that brand.

10:06:28 17 Do you remember that testimony?

10:06:29 18 A. I don't, but I do not, no.

10:06:33 19 Q. Okay. Well, you testified that there was an IP
10:06:36 20 licensing company known as Hologram USA, Inc.

10:06:41 21 Do you remember that?

10:06:41 22 A. Yes.

10:06:41 23 Q. You testified that there was a production
10:06:43 24 company named Hologram USA Entertainment.

10:06:48 25 Do you recall that?

10:06:48 1 A. Yes.

10:06:48 2 Q. And you testified that there was a distribution
10:06:50 3 company named Hologram USA Media.

10:06:56 4 Do you recall that?

10:06:57 5 A. No.

10:06:57 6 Q. So the companies -- is there a Hologram USA
10:07:02 7 Media?

10:07:02 8 A. I don't know.

10:07:02 9 Q. Has there ever been a Hologram USA Media?

10:07:08 10 A. I don't know. I really don't know.

10:07:28 11 Q. Let me read you some parts of your deposition
10:07:31 12 from October of last year and see if this refreshes your
10:07:34 13 recollection. This is at Page 22, counsel, Line 9. He
10:07:51 14 stated: "It depends which part of the company. There
10:07:55 15 are different -- there are different companies under
10:07:57 16 that brand."

10:07:59 17 And then question: "Can you explain that to
10:08:03 18 me?"

10:08:04 19 Answer: "Sure. One is -- one is an IP
10:08:08 20 licensing company, and then another is a production
10:08:12 21 company, and then another is a theater distribution
10:08:18 22 company."

10:08:20 23 A. Uh-huh.

10:08:20 24 Q. And then I ask: "And which is the IP licensing
10:08:24 25 company? And you say: "The IP licensing company would

10:08:30 1 be Hologram USA, Inc. And then I ask: "And which is
10:08:33 2 the production company?" And you say: "Hologram USA
10:08:34 3 Entertainment."

10:08:39 4 A. Uh-huh.

10:08:39 5 Q. And then I ask: "And which is a distribution
10:08:41 6 company?" And you say: "USA" -- I'm sorry, "Hologram
10:08:43 7 USA Media."

10:08:46 8 A. Okay.

10:08:47 9 Q. Was that not correct?

10:08:48 10 A. I -- I -- at the time I suppose it would have
10:08:50 11 been.

10:08:53 12 Q. Okay. So things have changed since October of
10:08:56 13 last year?

10:08:57 14 A. Well, I don't know if the -- we -- I, you know,
10:09:01 15 we don't use the brand Hologram USA Media. So to be --
10:09:07 16 to be exact on the name I don't know.

10:09:09 17 THE COURT: And you are asking about now? Is
10:09:12 18 it the time frame?

10:09:14 19 MS. YEAL: Correct.

10:09:16 20 THE COURT: Okay. Thank you.

10:09:16 21 THE WITNESS: So I don't know if the comp- -- I
10:09:16 22 will assume that the company still exists because one
10:09:20 23 hasn't been closed. So if there was a brand at the time
10:09:24 24 called Hologram USA Media that is the theater
10:09:28 25 distribution company, then that still remains as is.

10:09:33 1 Q. Okay. All right.

10:09:33 2 A. But if it is, it's dormant.

10:09:37 3 Q. Okay. Currently?

10:09:37 4 A. Currently.

10:09:40 5 THE COURT: Thank you.

10:09:51 6 BY MS. YEAL:

10:09:51 7 Q. Approximately how many employees -- or
10:09:54 8 actually, let me strike that and start again.

10:09:56 9 Approximately how many persons worked for all
10:09:58 10 three companies that we mentioned: Hologram USA Inc.,
10:10:05 11 Hologram USA Entertainment, and Hologram USA Media in
10:10:10 12 2015?

10:10:15 13 A. At the time -- full-time or part-time or
10:10:20 14 altogether.

10:10:21 15 Q. Altogether.

10:10:22 16 A. Gosh.

10:10:23 17 Q. Employees, independent contractors?

10:10:26 18 A. Oh, I mean, it would range from anywhere
10:10:29 19 between 20 and 100.

10:10:33 20 Q. In 2015 --

10:10:34 21 A. Correct.

10:10:34 22 Q. -- did you have up to 100 employees then?

10:10:37 23 A. Yes, at times.

10:10:38 24 Q. And what about in 2016? Approximately how many
10:10:43 25 total persons worked for those three companies?

10:10:46 1 A. Probably about the same.

10:10:49 2 Q. And what about in 2017?

10:10:55 3 A. I think that that's when, about that time, I
10:10:57 4 probably started to slim down the operation, so we
10:11:00 5 probably went down to about seven people in-house and
10:11:04 6 then would increase that number when -- when we would go
10:11:08 7 into production, so that could be as many as, you know,
10:11:11 8 as 50 to 100 on a given day.

10:11:20 9 Q. And in October of last year, during your
10:11:23 10 deposition, you testified that all of your Hologram
10:11:28 11 companies including Alki David Productions and FilmOn TV
10:11:34 12 were physically located at 338 North Cannon Drive in
10:11:39 13 Beverly Hills. Are any or all of those companies still
10:11:43 14 located at that address?

10:11:44 15 A. No, they've all relocated to the Hologram
10:11:51 16 theater on Hollywood Boulevard.

10:11:53 17 Q. Is the address 6656 Hollywood?

10:11:57 18 A. Correct.

10:12:11 19 Q. As the president and CEO of your companies,
10:12:18 20 between 2013 and 2016, did you have assistance?

10:12:25 21 A. Between which years?

10:12:27 22 Q. 2013 through 2016.

10:12:29 23 A. Yes.

10:12:30 24 Q. And would you name all of the assistants you
10:12:33 25 can recall?

10:12:37 1 A. It would be assistants -- well, there would
10:12:50 2 be -- oh, my gosh, Maria Net or Marsha Net. There was,
10:13:01 3 here in the U.S., that would be about between, I'm
10:13:06 4 sorry, between 2000 and when and which years?

10:13:10 5 Q. '13 and '16.

10:13:11 6 A. '13 and '16. That's about it, I think.

10:13:21 7 Q. So --

10:13:22 8 A. I can't remember other than that.

10:13:25 9 Q. So was Maria Marsha Net your assistant between
10:13:29 10 2013 and 2016?

10:13:32 11 A. I believe so. I think she -- I cannot remember
10:13:34 12 if she left in '16 or '15, but thereabouts.

10:13:38 13 Q. Was she replaced after she left?

10:13:40 14 A. She was replaced by Nissrine Qrib.

10:13:48 15 Q. How do you spell her name?

10:13:49 16 A. N-i-s-s-r-i-n-e. And then the last name Qrib,
10:13:51 17 Q-r-i-b.

10:13:57 18 Q. And is Ms. Qrib still your assistant?

10:14:01 19 A. Yes.

10:14:06 20 Q. Where is she physically working?

10:14:09 21 A. She works remotely with me and -- and at the
10:14:14 22 theater.

10:14:19 23 Q. Now, at your last deposition you testified that
10:14:23 24 Elena Calendar --

10:14:25 25 A. Yes.

10:14:25 1 Q. -- was the vice-president of human resources in
10:14:29 2 2016, and that as of the date of your deposition in
10:14:32 3 October last year she was no longer with the company.

10:14:36 4 Do you recall that?

10:14:37 5 A. Yes.

10:14:39 6 Q. Okay. How long was Ms. Calendar in the role of
10:14:42 7 VP in HR?

10:14:44 8 A. I -- I can't remember if I said the word VP,
10:14:47 9 but I mean that's neither here nor there, but she was
10:14:52 10 head of HR for approximately, I think, about two years,
10:14:59 11 and prior to that she was doing accounting.

10:15:06 12 Q. So if she was in HR for two years -- and does
10:15:11 13 that mean she was in HR between 2014 and 2016,
10:15:15 14 approximately?

10:15:17 15 A. Probably.

10:15:24 16 Q. Now, as the VP of HR, or responsible for HR,
10:15:28 17 which of your companies was Ms. Calendar responsible for
10:15:33 18 providing human resources support?

10:15:37 19 A. Well, she was responsible for the permanent
10:15:41 20 employees which would have been all of the companies,
10:15:47 21 and that number never went over 50 people.

10:15:56 22 Q. And when you say "permanent employees," so she
10:16:01 23 was not responsible for independent contractors --

10:16:03 24 A. Correct.

10:16:04 25 Q. -- for example?

10:16:04 1 A. Correct.

10:16:04 2 Q. So if independent contractors had an issue, to
10:16:09 3 whom were they responsible for reporting issues to?

10:16:12 4 A. They would have been responsible to her, as
10:16:16 5 well, but she didn't -- she would have handled -- no,
10:16:18 6 she did -- she was responsible for them as well, because
10:16:20 7 she handled their paperwork. So I would say, yes, she
10:16:23 8 was responsible for them ultimately, as well, from a
10:16:26 9 contract -- on a contractual basis and a -- a -- and a
10:16:30 10 compliance basis.

10:16:31 11 Q. So then that means that it would have been more
10:16:34 12 than 50 people for whom she was responsible?

10:16:37 13 A. No, not -- not really because we didn't have
10:16:40 14 many people working at the office. The independent
10:16:45 15 contractors would come in the studio, which would be a
10:16:49 16 rented facility or an -- or an exterior location
10:16:53 17 facility, in which case she wouldn't necessarily be
10:16:55 18 responsible for them, except maybe for some W-9
10:17:01 19 paperwork or something like that.

10:17:05 20 Q. Do you recall if there was a human resources
10:17:09 21 person or a vice-president of human resources in
10:17:13 22 September of 2016 when Lauren Reeves resigned?

10:17:20 23 A. I don't know if Elena was still there. I can't
10:17:24 24 remember. But -- but remember Lauren Reeves resigned
10:17:28 25 three times. She didn't resign. She was -- she was let

10:17:31 1 go of three times.

10:17:38 2 MS. YEAL: Move to strike after "does not know
10:17:41 3 if Elena was still there."

10:17:53 4 THE WITNESS: Yeah. She -- Lauren --

10:17:55 5 THE COURT: Let her ask another question.

10:17:58 6 THE WITNESS: Oh, I see.

10:17:59 7 THE COURT: It's okay. Go ahead.

10:18:02 8 BY MS. YEAL:

10:18:02 9 Q. You also testified last year that there was a
10:18:06 10 male in human resources, but you could not recall his
10:18:11 11 name at the time.

10:18:12 12 Do you remember his name now?

10:18:14 13 A. I do not.

10:18:19 14 Q. Are there any documents that you might be able
10:18:21 15 to look at to identify the name of the individual?

10:18:25 16 A. Yes.

10:18:26 17 Q. What types of documents?

10:18:29 18 A. Employment documents.

10:18:34 19 Q. What do you mean by "employment documents"?

10:18:37 20 A. Employment documents.

10:18:38 21 Q. Like a personnel file?

10:18:41 22 A. Like a W-9 form.

10:18:47 23 Q. Would a W-9 form identify the name and position
10:18:51 24 held by the employee, though?

10:18:56 25 A. I don't know, but there would be some e-mails,

10:18:58 1 I assume. There would be some -- there would be
10:18:59 2 something. I -- I'm -- I see his face and I am terrible
10:19:06 3 with remembering names. Actually, let me look it up.

10:19:15 4 No?

10:19:15 5 Q. Where would you be able to look it up?

10:19:19 6 A. I beg your pardon?

10:19:19 7 Q. You said, "Let me look it up." Where would you
10:19:20 8 be able to look it up? In your phone?

10:19:23 9 A. Yes.

10:19:24 10 Q. Okay. Why don't you go ahead and do that.

10:19:26 11 MS. GAROFALO: I am instructing him not to do
10:19:27 12 that. He is here to answer questions of his current
10:19:30 13 percipient knowledge. And to have him sit here and sift
10:19:34 14 through e-mails or texts or whatever, I don't think is
10:19:38 15 required under the Discovery Act.

10:19:41 16 THE COURT: You know, it is not required, but
10:19:42 17 if it is just going to be this one name and he is going
10:19:46 18 to do it, why not save all the anguish that you guys are
10:19:52 19 going to --

10:19:53 20 THE WITNESS: I may or may not be able to.

10:19:55 21 MS. YEAL: Okay.

10:19:55 22 THE WITNESS: I may or may not be able to.

10:19:55 23 MS. GAROFALO: Okay. If you would like to take
10:19:56 24 the time to --

10:19:58 25 THE COURT: -- something I wanted to tell you.

10:19:58 1 This is important, is that if you feel at any point -- I
10:20:02 2 am going to put some paper and pen in front of you, too.
10:20:05 3 If you feel at any point that there is something that
10:20:07 4 you want -- need to explain but didn't get a chance to,
10:20:12 5 you have a right at the end to have your counsel ask you
10:20:16 6 questions. So you are going to be able to do that if
10:20:20 7 you -- if you need to and if you want to. She said she
10:20:23 8 is not going to, but I am just letting you -- it is my
10:20:25 9 job to let you know that.

10:20:27 10 MS. GAROFALO: Yes, I --

10:20:27 11 THE COURT: I don't know if you want paper or
10:20:29 12 pen?

10:20:29 13 MS. GAROFALO: I -- I do not. I would prefer
10:20:31 14 the witness not. If you would like to take a few
10:20:33 15 minutes, we can sit here while he searches his iPhone.

10:20:38 16 THE COURT: If you can't, you can't, but we
10:20:41 17 will solve a lot of headaches if you just try to find
10:20:45 18 that name now; many hours of legal work.

10:21:29 19 THE COURT: You don't have to call anyone.

10:21:32 20 THE WITNESS: It will be -- it will be the
10:21:33 21 fastest way. Huh?

10:21:35 22 THE COURT: It's okay. You know what? We
10:21:37 23 appreciate -- I appreciate your effort --

10:21:39 24 THE WITNESS: Okay.

10:21:39 25 THE COURT: -- in trying to find the name. You

10:21:40 1 don't have to call anyone. If it was just to look
10:21:44 2 into --

10:21:44 3 THE WITNESS: Okay. I'll just send a quick
10:21:47 4 text and ask.

10:21:49 5 THE COURT: Okay. So we will do it -- let's do
10:21:50 6 it on this one. But if, you know, we can make a list
10:21:53 7 of -- of names or things that we need that you can look
10:21:57 8 up. But -- but I appreciate the fact that you are
10:22:02 9 trying to get the answer.

10:22:10 10 THE WITNESS: Edmond -- I remember now.
10:22:15 11 Edmond -- Edmond, yes. Let me just -- Edmond, that's
10:22:17 12 right. His name was Edmond. Hold on. Yeah, I don't --

10:22:31 13 THE COURT: It's okay.

10:22:32 14 THE WITNESS: Okay.

10:22:32 15 THE COURT: It's okay. Thank you so much. I
10:22:34 16 appreciate that. If --

10:22:35 17 THE WITNESS: It was -- oh, Edmond -- Edmond --
10:22:37 18 Edmond, I have his phone number, actually.

10:22:39 19 THE COURT: No, it's okay.

10:22:41 20 THE WITNESS: Okay.

10:22:42 21 MS. GAROFALO: There's no question pending.

10:22:44 22 THE COURT: There's no question, okay. I can't
10:22:44 23 remember what I said. So you remember Edmond. We are
10:22:46 24 going to move on.

10:22:49 25 THE WITNESS: Okay.

10:22:49 1 MS. GAROFALO: May we take a two-minute break
10:22:51 2 while there is no question pending?

10:22:54 3 THE COURT: Okay. And I'm going --

10:22:55 4 THE VIDEOGRAPHER: Going off the record. The
10:22:56 5 time is 10:22 a.m.

10:26:57 6 (Recess.)

10:26:57 7 THE VIDEOGRAPHER: Going back on the record.
10:26:58 8 The time is 10:27 a.m.

10:27:08 9 BY MS. YEAL:

10:27:08 10 Q. Mr. David, before the break you testified that
10:27:12 11 you let Lauren Reeves go three times?

10:27:17 12 A. Uh-huh.

10:27:18 13 Q. Can you tell me what you are referring to?

10:27:24 14 A. Lauren Reeves worked on a number of different
10:27:28 15 projects that -- she was -- she really never worked for
10:27:34 16 the Hologram company. She worked for FilmOn and for
10:27:40 17 Battlecam. The -- her -- the quality of her work was
10:27:45 18 not the greatest, but she was very good friends with my
10:27:49 19 head of sales, so for -- really for the most part, I was
10:27:53 20 doing him a favor by -- by employing her. And she was
10:27:58 21 not -- she was, you know, we attempted a number of times
10:28:04 22 to have her do some -- some -- some work for us and it
10:28:10 23 never really panned out.

10:28:19 24 Q. So you said you let her go three times?

10:28:22 25 A. Correct. Twice and then, obviously, a third

10:28:23 1 time when she wasn't rehired.

10:28:25 2 Q. So you let her go two times and then she
10:28:29 3 applied and then you didn't rehire? Is that what you
10:28:29 4 are saying?

10:28:31 5 A. No.

10:28:32 6 Q. I am trying to understand.

10:28:32 7 A. No, she was once, twice, so she would have been
10:28:35 8 hired three times over a period -- over a period of
10:28:40 9 maybe a year, a year-and-a-half. And each time she came
10:28:48 10 back with zest and desire and she never really seemed
10:28:54 11 to -- but, you know, the quality of her work never
10:28:57 12 really -- you know, she made promises that she never
10:29:00 13 really delivered on.

10:29:02 14 Q. So did you terminate her three different times?
10:29:05 15 Is that what you are saying?

10:29:06 16 A. She was terminated, yes, I -- yes, I suppose.
10:29:09 17 Yes. And terminate is probably a strong word. She was
10:29:12 18 just not -- her hiring was not continued.

10:29:16 19 Q. Well, let's break them down, then. The very
10:29:19 20 first time, do you recall when she was reportedly
10:29:26 21 terminated?

10:29:27 22 A. When the project was over.

10:29:29 23 Q. What project are you referring to?

10:29:31 24 A. It was a -- it was a Tommy Chong TV show from
10:29:37 25 Cheech & Chong.

10:29:39 1 Q. And do you recall approximately when that
10:29:41 2 occurred?

10:29:41 3 A. I do not.

10:29:42 4 Q. Do you recall when that project took place?

10:29:47 5 A. I'd like -- I think about three years ago.

10:29:50 6 Q. So then that would be in 2015?

10:29:53 7 A. I -- I suppose.

10:29:54 8 Q. Do you recall any names of individuals with
10:29:58 9 whom Ms. Reeves worked on that project?

10:30:01 10 A. Yes, Carl Dawson. She would have worked with
10:30:10 11 David Nussbaum, I think. And I am trying to remember
10:30:17 12 the name of -- we have an in-house producer. I can't
10:30:21 13 remember his name. She worked closely with him and --
10:30:27 14 and -- and myself, somewhat.

10:30:31 15 Q. Anyone else?

10:30:31 16 A. Not -- not -- I mean, nobody comes to mind,
10:30:36 17 no.

10:30:37 18 Q. Okay. How long was that project?

10:30:40 19 A. It was a few months.

10:30:45 20 Q. So a few months in 2015?

10:30:49 21 A. 2015, probably, or '16. I -- I can't remember
10:30:53 22 specifically, but in that time, in that period.

10:30:56 23 Q. Do you recall who actually paid her for the
10:30:59 24 services she performed on this Tommy Chong project?

10:31:03 25 A. That would have been -- I -- I -- and I am just

10:31:08 1 guessing now, and I don't know if that -- but I am
10:31:11 2 guessing Alki David Productions would have paid her.

10:31:17 3 Q. You said you are guessing. We do not want you
10:31:19 4 to guess. Why do you guess that it might be Alki David
10:31:24 5 Productions?

10:31:25 6 A. Because that would have been the -- that would
10:31:28 7 have been the entity being used for production at that
10:31:34 8 time.

10:31:53 9 Q. And once that project finished, did Mr. Dawson
10:32:00 10 also stop working on that project?

10:32:03 11 A. No, he was a permanent.

10:32:05 12 Q. He was a permanent employee?

10:32:06 13 A. Yeah.

10:32:07 14 Q. Was Ms. Reeves hired just for that Tommy Chong
10:32:10 15 project?

10:32:10 16 A. Yes.

10:32:12 17 Q. So once that Tommy Chong project finished, she
10:32:16 18 stopped working for any of your companies?

10:32:20 19 A. Yes.

10:32:20 20 Q. Okay. She was then rehired you said?

10:32:25 21 A. Yes.

10:32:25 22 Q. Okay. And do you recall when she was
10:32:27 23 rehired?

10:32:30 24 A. It would have been a gap of about half a year,
10:32:34 25 I suppose.

10:32:35 1 Q. So about six months later?

10:32:38 2 A. Probably.

10:32:39 3 Q. When individuals are hired for your
10:32:42 4 productions, do you have the ultimate say as to whether
10:32:46 5 or not someone is hired?

10:32:48 6 A. The ultimate -- yes, obviously, the ultimate
10:32:51 7 say, but not necessarily -- I mean, the people have been
10:32:55 8 hired that I didn't even know were hired at times, so
10:32:59 9 sometimes yes, sometimes no.

10:33:00 10 Q. Okay. So she was hired six months after the
10:33:04 11 Tommy Chong project finished, you said?

10:33:07 12 A. Yeah.

10:33:07 13 Q. And was there a name of the second project for
10:33:11 14 which she was hired?

10:33:14 15 A. It was Battlecam, and that was very, sort of,
10:33:20 16 very adult theme content, not pornographic, but 18-rated
10:33:27 17 content.

10:33:30 18 Q. You said 18?

10:33:31 19 A. 18, yes. Yes.

10:33:34 20 Q. The number 1-8?

10:33:36 21 A. 18 plus, yes.

10:33:41 22 Q. So she was hired six months after the Tommy
10:33:45 23 Chong project finished for Battlecam and for another
10:33:49 24 project, as well?

10:33:50 25 A. I'm sorry?

10:33:50 1 Q. Was she hired for another project, as well, in
10:33:53 2 addition to Battlecam?

10:33:56 3 A. Well, Battlecam covered a broad range of -- of
10:34:00 4 projects that were all related.

10:34:03 5 Q. And what was that broad range of projects that
10:34:06 6 were all related?

10:34:08 7 MS. GAROFALO: Okay. I am just going to object
10:34:10 8 that this is ground that was covered in the prior
10:34:12 9 deposition.

10:34:14 10 THE COURT: I remember the deposition. I
10:34:16 11 reread it last night, so let's go on until we get
10:34:20 12 there.

10:34:24 13 MS. YEAL: We didn't cover this, so --

10:34:26 14 THE COURT: Okay. Just go onto the next
10:34:27 15 question.

10:34:28 16 MS. YEAL: Okay.

10:34:28 17 THE COURT: But let me ask you one more thing:
10:34:31 18 Remember, just answer her question. You are
10:34:33 19 volunteering -- you are volunteering a lot more that you
10:34:36 20 don't need to. Okay?

10:34:37 21 THE WITNESS: Right.

10:34:39 22 THE COURT: Okay. So go ahead.

10:34:40 23 BY MS. YEAL:

10:34:40 24 Q. So you just testified that Battlecam included a
10:34:43 25 broad range of projects that were related. And my

10:34:46 1 question was: Can you describe that broad range of
10:34:50 2 projects?

10:34:50 3 A. Yes, they were all very adult-themed, racy,
10:34:59 4 crazy, irreverent types of shows that were of comedic
10:35:05 5 nature.

10:35:13 6 Q. And who worked on Battlecam at that time that
10:35:17 7 you believed Ms. Reeves worked on Battlecam?

10:35:22 8 A. I'm sorry?

10:35:22 9 Q. Yes.

10:35:24 10 A. I don't understand the question.

10:35:24 11 Q. Who else worked on Battlecam during the time
10:35:27 12 that you believe Ms. Reeves also worked on Battlecam?

10:35:31 13 A. Well, I did for sure. I, Carl Dawson would
10:35:39 14 have worked on it. Then there were a number of sales
10:35:43 15 people whose names I forget right now. And then she
10:35:48 16 brought in a number of on-screen comedians, men and
10:35:55 17 women, who were performing for the different Battlecam
10:36:01 18 shows.

10:36:08 19 Q. Other than you, Carl Dawson, and Lauren Reeves,
10:36:14 20 do you recall anyone else working on Battlecam at that
10:36:17 21 time?

10:36:17 22 A. I do. I am trying to remember the names of --
10:36:21 23 there was Jeff Richards. There was -- can I look at my
10:36:31 24 phone to try and remember the name of --

10:36:33 25 THE COURT: You know what?

10:36:34 1 THE WITNESS: Huh?

10:36:34 2 THE COURT: If you don't remember --

10:36:35 3 THE WITNESS: Okay.

10:36:35 4 THE COURT: -- you don't remember. That is all

10:36:36 5 you are here to do.

10:36:38 6 THE WITNESS: Okay.

10:36:38 7 THE COURT: You are not here to -- remember

10:36:40 8 what I said. If you don't remember, you don't

10:36:41 9 remember.

10:36:42 10 THE WITNESS: But he was a -- a tattooed guy

10:36:46 11 with Donald Trump -- famous for having Donald Trump and

10:36:50 12 a penis in his mouth, tattoo, that -- which Lauren

10:36:54 13 brought to the table thinking it was a very appropriate

10:36:58 14 type of character. And that was the general -- that was

10:37:06 15 the general nature of her -- of her role was to bring

10:37:14 16 comedians and jokes of that nature, all sort of, you

10:37:18 17 know, pretty, sort of, tasteless, adult-themed types of

10:37:24 18 content.

10:37:25 19 BY MS. YEAL:

10:37:25 20 Q. When you say "adult-themed," what do you mean

10:37:27 21 by that?

10:37:28 22 A. Well, like making a meal out of a guy famous

10:37:33 23 for having a tattoo of Donald Trump with a penis in his

10:37:40 24 mouth. And she would -- she was renowned for making

10:37:43 25 sexist, sexy jokes in the office and writing that kind

10:37:47 1 of content.

10:37:49 2 Q. She was renown for making --

10:37:52 3 A. Sexist --

10:37:52 4 Q. Sexist.

10:37:53 5 A. -- and sexy jokes --

10:37:56 6 Q. Uh-huh.

10:37:57 7 A. -- in the office, which is somewhat ironic

10:37:59 8 because she chooses to sue people for the same thing.

10:38:02 9 Q. Can you identify for me all the persons whom
10:38:05 10 you believe heard Lauren Reeves make sexist, sexy jokes
10:38:11 11 in the office?

10:38:13 12 A. Not at this time, but I -- going back I could
10:38:18 13 probably come back with a list, yes.

10:38:21 14 Q. As you sit here today, you do not remember a
10:38:24 15 single person who may have heard Lauren Reeves --

10:38:25 16 A. Oh, yes. Yes. Okay. Yes.

10:38:26 17 Q. -- make a sexist or sexy joke in the office?

10:38:26 18 A. Yes, I can.

10:38:27 19 Q. Okay.

10:38:30 20 A. I can.

10:38:30 21 Q. Who?

10:38:30 22 A. I can tell you. So Carl Dawson would have
10:38:32 23 been. Elena Calendar would have been. There would have
10:38:38 24 been David Nussbaum. There would have been -- let me
10:38:41 25 see, I am trying to remember the names of people that

10:38:47 1 she would have worked -- there were other writers that
10:38:49 2 she worked with whose names I can't remember, but I am
10:38:54 3 sure I could get those names. There was the sales staff
10:38:59 4 of maybe 20 people that would have also have heard her
10:39:03 5 regularly make these kinds of jokes.

10:39:05 6 Q. Okay. I do not want to know who might have
10:39:06 7 heard her. I want to know whom you specifically know
10:39:10 8 because you were in -- you were present when she, Lauren
10:39:13 9 Reeves, made a sexist or sexy joke in the office. Was
10:39:18 10 anyone else present when you heard her make those
10:39:22 11 alleged sexy, sexist jokes?

10:39:25 12 A. Well, I -- I think, actually, she did them
10:39:27 13 on-air a few times, as well. In fact, I am sure she
10:39:30 14 made them on-air a number of times, as well, so it would
10:39:32 15 have been very public. So, you know, in -- in -- in --
10:39:36 16 I can tell you that hundreds of thousands of people
10:39:40 17 would have seen her make those sexist and, you know,
10:39:43 18 sometimes racist jokes.

10:39:46 19 Q. Do you have those on-air tapes where she
10:39:51 20 purportedly made these sexist and/or racist jokes?

10:39:56 21 A. I am sure they can be found.

10:39:57 22 Q. Do you maintain them?

10:39:58 23 A. They are somewhere.

10:39:59 24 Q. Do you maintain them?

10:40:01 25 A. They are somewhere. I do not personally

10:40:03 1 maintain them, no.

10:40:04 2 Q. Is there someone at your company responsible
10:40:07 3 for keeping old on-air tapes?

10:40:11 4 A. Yes, there is. There is --

10:40:12 5 Q. Who is that?

10:40:14 6 A. There is Brian Nelson and Mark Riley. They --
10:40:24 7 they would probably be able to access the archives
10:40:28 8 somewhere. And also Nick Kutovoy, as well,
10:40:30 9 K-u-t-o-v-o-y.

10:40:35 10 Q. And who is Nick Kutovoy?

10:40:39 11 A. He is the CTO of the group of companies.

10:40:43 12 Q. Of all your companies?

10:40:45 13 A. Uh-huh, yes.

10:40:52 14 Q. So other than Carl Dawson, Elena Calendar,
10:40:58 15 David Nussbaum, and you, are you able -- oh, and Brian
10:41:02 16 Nelson, are you able to identify any other persons who
10:41:05 17 you believe heard Ms. Reeves make sexist, sexy, racist
10:41:13 18 jokes in the office and/or on-air?

10:41:17 19 A. Yes, Ally Botto, for sure, because she
10:41:20 20 performed with her.

10:41:23 21 Q. Ally Botto was a host?

10:41:25 22 A. Yes, she was a host. Then there would -- then
10:41:29 23 there were the hosts that were -- that were on-air with
10:41:31 24 her whose names I can't remember, but there were those
10:41:35 25 hosts, as well, and obviously the audiences, as well.

10:41:38 1 Q. Now, during that time -- strike that.

10:41:42 2 In 2016, wasn't Flor Campillo the producer for
10:41:49 3 Battlecam?

10:41:49 4 A. One of the producers, yes. So Flor -- Flor,
10:41:52 5 yes, Flor would also have heard her say the same things,
10:41:54 6 as well, yeah. Oh, and Peter Lebow -- Peter Lebow.
10:42:14 7 Definitely Peter Lebow would have heard her, as well.

10:42:18 8 Q. Is Peter Lebow still working for you?

10:42:22 9 A. No, no, but we have a -- a good working
10:42:25 10 relationship when -- when we need to.

10:42:28 11 Q. So he works for you from time to time?

10:42:31 12 A. Not now, not for awhile, but sometimes we
10:42:35 13 collaborate on projects.

10:42:43 14 Q. What about Ally Botto? Do you still
10:42:48 15 collaborate with her on projects?

10:42:50 16 A. I suppose. We are friendly, but we haven't --
10:42:53 17 we haven't worked together in a while. But, yes, we
10:42:56 18 could do.

10:43:08 19 Q. And what was Peter's last name?

10:43:11 20 A. Lebow, L-e-b-o-w.

10:43:14 21 THE COURT: Thank you for the spelling.

10:43:22 22 BY MS. YEAL:

10:43:22 23 Q. Now, list for me all of the sexist, sexy,
10:43:26 24 racist comments that you remember Lauren Reeves making
10:43:31 25 in your presence?

10:43:33 1 A. Yes.

10:43:34 2 Q. Go ahead.

10:43:35 3 A. What? You want to -- you want to know what
10:43:37 4 they were?

10:43:38 5 Q. Yes.

10:43:43 6 A. Well, there were a lot of them and it was a
10:43:46 7 while ago, but I can tell you specifically that there
10:43:50 8 was regular -- a regular tirade of anti-Trump,
10:43:56 9 anti-Donald Trump commentary that she would refer to, as
10:44:05 10 much as possible. In fact, she wants to create a show
10:44:09 11 around it. She wants to start a hate campaign around
10:44:15 12 him, around him as a presidential candidate at the time.

10:44:23 13 There was on-air -- she made references at
10:44:30 14 times to being anti -- anti-male oriented. In fact, she
10:44:38 15 is -- she is quite -- she is quite well-known for doing
10:44:40 16 that. She has done that on other shows, as well, where
10:44:44 17 she has talked about -- where she's talked about the
10:44:45 18 workplace being better off without men, just women, but
10:44:56 19 always in jest, right? Never with real, sort of, venom
10:45:03 20 or -- or real sort of a negative attitude.

10:45:11 21 She was always very pro the gay/lesbian
10:45:16 22 community, so she was always very anti-heterosexual in
10:45:20 23 a -- in a, sort of, in a very, sort of, underhanded way,
10:45:23 24 but in a -- in a -- quite a funny way, you know. And
10:45:31 25 she often talked to me about her father collecting

10:45:39 1 elephant tusks, frozen elephant tusks, and made -- and
10:45:44 2 sometimes made lewd jokes to that effect, to me
10:45:49 3 personally. And she would often talk about -- oh, yes,
10:45:59 4 yes. Very publicly she would collect fruit that were
10:46:05 5 shaped like penises and she would post them, and still
10:46:07 6 does, I believe, post them on social media. And she
10:46:09 7 would talk about her boyfriend's, at the time, who were
10:46:14 8 comedians, being -- being ugly and having penises that
10:46:22 9 look like fruit. She would talk about and make jokes
10:46:25 10 about that regularly. These are -- that's what comes to
10:46:28 11 mind, now. But I am sure if I, sort of, rattle my brain
10:46:32 12 a bit more, I could probably come up with more stuff.

10:46:34 13 Q. Okay. So who -- you said that she would make
10:46:43 14 anti-male oriented comments?

10:46:48 15 A. Uh-huh.

10:46:48 16 Q. What comments did she make?

10:46:50 17 A. Well, on one famous podcast she would say that
10:46:54 18 the workplace would be better without men. God, she
10:46:57 19 wished that the workplace was only women. She made
10:47:00 20 that -- she made that on a well-known podcast.

10:47:03 21 Q. Okay.

10:47:04 22 A. And she -- and she would gravitate towards
10:47:18 23 bringing gay male comedian guests to the shows.

10:47:23 24 Q. Okay.

10:47:24 25 A. And that so --

10:47:24 1 Q. Is there anything wrong with that?

10:47:26 2 A. No, of course not.

10:47:26 3 Q. Oh.

10:47:26 4 A. I mean, of course not.

10:47:27 5 Q. Okay. Okay.

10:47:28 6 A. I didn't say there was.

10:47:30 7 Q. I am just asking if -- if there was something
10:47:32 8 wrong with that in your mind?

10:47:34 9 A. No, no, but the point is -- is that that is the
10:47:38 10 direction, the creative direction, that she -- she went
10:47:41 11 down.

10:47:41 12 Q. Okay.

10:47:42 13 A. And I think -- and I think that that's
10:47:43 14 important because, you know, her accusing me of -- of
10:47:54 15 inappropriate behavior, of making jokes and -- and of --
10:47:59 16 and of that ilk, is exactly what she would do and, I
10:48:04 17 think, continues to do that today; probably not so --
10:48:08 18 not as public, but she certainly did at the time.

10:48:10 19 Q. Okay. And you said that -- or you testified a
10:48:13 20 few minutes ago that she had fruit made to look like
10:48:19 21 penises?

10:48:20 22 A. No, I didn't say that she had fruit.

10:48:22 23 Q. No?

10:48:22 24 A. I said she took -- she took photographs.

10:48:23 25 Q. Took photographs?

10:48:25 1 A. Of fruit --

10:48:25 2 Q. Uh-huh.

10:48:25 3 A. That looked like penises and would --

10:48:27 4 Q. And how do you know -- did she tell you, "Look,
10:48:29 5 this fruit looks like a penis," or did you just believe
10:48:33 6 that the picture she took of the fruit looked like a
10:48:35 7 penis?

10:48:36 8 A. No, she would take pictures and underneath she
10:48:39 9 would have captions that would say, "What does this look
10:48:42 10 like? Ha, ha, ha. It looks like a little dick."

10:48:46 11 Q. Do you have copies of those pictures?

10:48:48 12 A. Actually, I do.

10:48:49 13 Q. Okay.

10:48:50 14 MS. YEAL: Counsel, I would ask that you
10:48:52 15 produce those.

10:48:53 16 BY MS. YEAL:

10:48:53 17 Q. Is there a reason why you did not produce them
10:48:58 18 to Mr. Rothman, your prior counsel, to produce to us?

10:49:02 19 MS. GAROFALO: Objection to the extent that it
10:49:04 20 entails attorney-client communications, and I am going
10:49:07 21 to instruct him not to answer with any information
10:49:10 22 obtained via those communications. You can otherwise
10:49:13 23 answer.

10:49:15 24 THE WITNESS: Well, at the time -- at the time
10:49:17 25 I didn't even think it was really -- I suppose I --

10:49:25 1 actually, you know what? I did. I did give it to
10:49:28 2 Barry. Now that I remember, I did give it to Barry,
10:49:38 3 yes.

10:49:39 4 BY MS. YEAL:

10:49:39 5 Q. You also testified that she talked about her
10:49:41 6 father collecting elephant tusks?

10:49:46 7 A. Correct.

10:49:46 8 Q. And that she made lewd jokes to you. What lewd
10:49:50 9 jokes did she make to you?

10:49:51 10 A. Well, between us we would -- we would joke
10:49:53 11 about the reason why her father would collect those --
10:49:58 12 those -- those, sort of, mammoth tusks. Actually,
10:50:01 13 specifically mammoth tusks, not elephant tusks, but
10:50:05 14 mammoth tusks, from somewhere up north like Alaska, I
10:50:09 15 think, which is where she may be from. She would talk
10:50:11 16 about them and she would talk -- and we would joke
10:50:13 17 between us as to, you know, in a -- in a, sort of, a
10:50:16 18 veiled way why her dad would collect those things.

10:50:20 19 Q. Okay.

10:50:21 20 A. But yeah, but she -- but she -- but, you know,
10:50:22 21 she -- she brought that to my attention in discussion
10:50:26 22 and we would joke about it.

10:50:28 23 Q. Okay. So what was lewd about the discussion?

10:50:31 24 A. Well, it's -- it's a phallic symbol, and she
10:50:34 25 would -- and she would symbolize that in a conversation

10:50:38 1 with me.

10:50:40 2 Q. Did she say anything lewd in the conversation?

10:50:43 3 A. Well, you know --

10:50:43 4 Q. That you believed to be lewd?

10:50:46 5 A. Well, you know, you know I think that the kind
10:50:47 6 of -- the kind of comedy that she would create would be
10:50:54 7 more of veiled and suggestive, so she wouldn't -- but --
10:50:59 8 except when she brought in the guy with the penis
10:51:04 9 tattoo. She, sort of, raved about that. But when it
10:51:07 10 came to her father, it was much more subtle than that.
10:51:12 11 So for her to say specifically this is a giant penis,
10:51:16 12 isn't something that she would say -- or maybe she did.
10:51:20 13 I, you know, I'm trying to -- I'm trying to remember,
10:51:20 14 but she would certainly allude to that.

10:51:22 15 Q. So you believe she would allude to a penis in
10:51:26 16 discussing these mammoth tusks?

10:51:28 17 A. Correct.

10:51:28 18 Q. But you do not have a specific recollection of
10:51:30 19 her having done that?

10:51:31 20 A. Oh, I do have a specific recollection of her
10:51:33 21 talking about them and suggesting, making suggestions.

10:51:37 22 Q. How did she suggest?

10:51:39 23 A. You know, it's more of a, sort of, a wink wink
10:51:44 24 kind of delivery, you know. And when it's one-on-one,
10:51:48 25 you know, it's -- it's, you know, it's, you know, it's

10:51:56 1 subtle and unsubtle at the same time. So in, you know,
10:52:01 2 I am trying to explain -- I'm trying to, sort of, make
10:52:04 3 you understand something that you, I'm sure, understand,
10:52:07 4 but are belaboring the question is that when somebody
10:52:11 5 makes a suggestive joke it's more underhanded than it is
10:52:18 6 overt. Is that clear enough for you?

10:52:21 7 Q. Somewhat.

10:52:22 8 A. Okay.

10:52:22 9 Q. Let's move on.

10:52:23 10 So you said that she brought in a guy with a
10:52:27 11 penis tattoo?

10:52:28 12 A. A penis of Donald Trump -- a Donald Trump
10:52:33 13 penis -- excuse me, a tattoo of Donald Trump with a
10:52:36 14 penis in his mouth.

10:52:38 15 Q. And where was this tattoo?

10:52:40 16 A. On his -- I think on his leg.

10:52:45 17 Q. So on a male's leg?

10:52:47 18 A. Yes.

10:52:48 19 Q. And who is this male?

10:52:49 20 A. I'm trying to -- he is a quite well -- is a
10:52:51 21 quite well-known social media guy. I'm trying to
10:52:54 22 remember his name. He is known as -- his performing
10:52:58 23 name is Lil Phag, L-i-l, and then P-h-a-g.

10:53:07 24 Q. And you said she brought him to the show?

10:53:12 25 A. Several times.

10:53:14 1 Q. To the Battlecam show?

10:53:15 2 A. Yes.

10:53:15 3 Q. Now, you are absolutely, 100 percent, certain

10:53:17 4 that Lauren Reeves worked on Battlecam?

10:53:21 5 A. I'm 1,000 percent sure, on-air.

10:53:43 6 Q. When did Battlecam first start airing?

10:53:48 7 A. Seven -- seven, eight -- seven years ago.

10:53:51 8 Q. So --

10:53:52 9 A. There was -- there were two different. There

10:53:53 10 was online and then there was broadcast television, as

10:53:56 11 well.

10:53:58 12 Q. And when did the broadcast TV start?

10:54:04 13 A. About six years ago. Yeah, six years ago.

10:54:07 14 Q. 2012?

10:54:09 15 A. Maybe even 2011.

10:54:22 16 Q. So we kind of got sidetracked. You were

10:54:26 17 telling me about the three times that Lauren Reeves was

10:54:30 18 hired and terminated. So are you saying that she was

10:54:34 19 terminated from Battlecam, as well? Is that the second

10:54:36 20 time?

10:54:39 21 A. Yes, I suppose. Yes.

10:54:42 22 Q. What do you mean "you suppose"? I do not want

10:54:44 23 you to guess.

10:54:45 24 A. Well, I can't remember -- you know, there

10:54:47 25 were -- very often I was -- I would ask myself, "I don't

10:54:53 1 even know what she is doing here," because she, you
10:54:55 2 know, she never really delivered anything more than a
10:54:59 3 few badly written shows and performing not very well on
10:55:06 4 screen. And when I say, "performing not very well,"
10:55:10 5 rather -- rather bland non-exist -- you know, relying on
10:55:15 6 other hosts that she would bring in to perform with her,
10:55:19 7 like Lil Phag.

10:55:21 8 Q. Wasn't that her job to bring in comedians?

10:55:25 9 A. It was -- her -- no, her job was to write,
10:55:28 10 direct, wrangle talent and perform, as well. So it
10:55:36 11 wasn't just a talent -- she wasn't a talent scout. We
10:55:41 12 would -- there would be other avenues to do that with.

10:55:46 13 Q. So you said that you terminated her three
10:55:49 14 times, so this would have been the second time when she
10:55:52 15 worked on Battlecam reportedly?

10:55:55 16 A. I didn't terminate her.

10:55:56 17 Q. Okay.

10:55:57 18 A. Her job -- her job responsibility, whatever
10:56:00 19 that would have been, which was, kind of, nondescript at
10:56:04 20 the time, would have ended.

10:56:05 21 Q. I see, okay. So it wasn't as if the company
10:56:09 22 terminated her for a cause?

10:56:11 23 A. No, well --

10:56:13 24 Q. That's correct?

10:56:15 25 A. I think -- look, it's -- no. I mean there was

10:56:24 1 no great negativity around her. There was no positivity
10:56:28 2 around her. She was, kind of, like, kind of, bland, and
10:56:31 3 so she was never really -- she never really -- her --
10:56:36 4 her status as a -- as a -- as a comedian or as a writer
10:56:40 5 or as a director never really took -- never really took
10:56:43 6 any great effect, so it never really evolved into
10:56:47 7 anything. You know, in the creative process it is, kind
10:56:48 8 of, sort of a developmental thing; right? And her
10:56:51 9 develop -- her development never really evolved.

10:56:54 10 Q. Okay. My question -- let me repeat my
10:56:56 11 question, again.

10:56:57 12 A. Uh-huh.

10:56:57 13 Q. Did -- after Battlecam -- strike that.

10:57:00 14 Was she asked to leave after her second stint
10:57:05 15 ended?

10:57:07 16 A. I don't know. I don't know. She, kind of,
10:57:11 17 just -- I don't know. I don't know to tell you the
10:57:17 18 truth. I did -- she just stopped -- you know, there
10:57:19 19 were a lot of people and there was a lot -- and I was
10:57:20 20 like in and out of the country, so I don't really
10:57:22 21 know.

10:57:22 22 Q. Did she start working for your companies a
10:57:25 23 third time, you are saying?

10:57:27 24 A. Yes, yes.

10:57:28 25 Q. She did?

10:57:30 1 A. Yes, she would have done.

10:57:30 2 Q. Okay. And when she started working for your
10:57:32 3 companies a third time, what was her position or job
10:57:36 4 duties?

10:57:38 5 A. She said that she wants to do a comedic Trump
10:57:45 6 show, which -- and she was supposed to deliver a bunch
10:57:51 7 of famous comedians which she didn't, and, sort of, and
10:57:56 8 so it, kind of, fizzled out, which is kind of in keeping
10:58:05 9 with how her performance or role was, which would be
10:58:08 10 promise, promise and fizzle out and never really
10:58:13 11 deliver, whilst maintaining this air of, sort of, lewd
10:58:25 12 comedy.

10:58:39 13 Q. Have looked at your company's payroll records
10:58:43 14 with respect to Lauren Reeves?

10:58:45 15 A. No.

10:58:49 16 Q. So you have not verified what you are telling
10:58:52 17 me that she worked for your companies on three different
10:58:56 18 occasions?

10:58:57 19 A. I have -- I have because I remember her coming
10:58:59 20 in and going out. Or I remember her coming in,
10:59:02 21 actually, more than I remember her going out. And I
10:59:08 22 mean, specifically, reading a W-9 form to say this date
10:59:13 23 to this date and this amount and this amount. I
10:59:18 24 don't -- I don't recall. I think a lot of it -- I think
10:59:20 25 a lot of it was also based on performance that she never

10:59:24 1 really performed on. I do remember specifically --
10:59:27 2 okay.

10:59:45 3 Q. Did you ever invite Lauren Reeves to fly with
10:59:51 4 you on your private jet to Mexico?

10:59:54 5 MS. GAROFALO: Objection. Asked and answered
10:59:56 6 in the prior deposition.

10:59:57 7 MS. YEAL: Did not.

10:59:59 8 THE COURT: All right. It's -- let me overrule
10:59:59 9 it. Let's -- let's go on and I will stop it when it
11:00:03 10 gets there. Go ahead.

11:00:03 11 And it is just a very short answer, remember?
11:00:07 12 It's a very short question.

11:00:09 13 THE WITNESS: I don't have a private jet.

11:00:12 14 THE COURT: Okay. So the answer is "no"?

11:00:14 15 THE WITNESS: The answer is that I don't
11:00:16 16 remember.

11:00:16 17 THE COURT: Thank you. Next question.

11:00:17 18 BY MS. YEAL:

11:00:17 19 Q. Did you have a private jet in 2016?

11:00:21 20 A. No.

11:00:23 21 THE COURT: Thank you.

11:00:25 22 BY MS. YEAL:

11:00:25 23 Q. Did you ever fly on a private jet to Mexico in
11:00:30 24 2016?

11:00:30 25 A. No.

11:00:33 1 Q. Did you ever tell Lauren Reeves that she would
11:00:35 2 have to have sex with you if she went to Mexico with
11:00:40 3 you?

11:00:41 4 A. In -- in joking, probably.

11:00:47 5 THE COURT: Now, we did discuss some of that at
11:00:50 6 the prior deposition, so we need to be careful where we
11:00:54 7 go.

11:00:58 8 BY MS. YEAL:

11:00:58 9 Q. Did you ask Lauren Reeves if she wanted to have
11:01:00 10 a threesome with you and a woman whom you saw at The
11:01:05 11 Voice?

11:01:07 12 MS. GAROFALO: Objection, this was covered.

11:01:08 13 THE COURT: We did -- you did. You may answer
11:01:10 14 that, just very short, and then we can move on because
11:01:13 15 it's been discussed already.

11:01:16 16 THE WITNESS: I'm sorry. Can you repeat the
11:01:17 17 question?

11:01:19 18 MS. YEAL: Yeah.

11:01:19 19 THE COURT: Okay. Go ahead.

11:01:20 20 MS. YEAL: Should I have the court reporter
11:01:21 21 read it? I can.

11:01:24 22 THE COURT: You know, he answered the question
11:01:26 23 last time. I don't know --

11:01:27 24 MS. YEAL: I don't think I asked it, Judge.

11:01:29 25 I --

11:01:30 1 THE COURT: Okay. All right. All right. It's
11:01:30 2 discovered.

11:01:30 3 Do you mind reading the deposition -- the
11:01:34 4 question?

11:01:34 5 MS. YEAL: The question.

11:01:34 6 THE COURT: And I really want you to remember
11:01:36 7 to answer just the question, okay?

11:01:50 8 THE WITNESS: Uh-huh.

11:01:50 9 THE COURT: All right. Go ahead.

11:01:50 10 THE COURT REPORTER: Yes, one second.

11:01:50 11 (Record read as follows:

11:00:58 12 "QUESTION: Did you ask Lauren Reeves if she
11:01:00 13 wanted to have a threesome with you and a woman whom you
11:01:04 14 saw at The Voice?")

11:01:51 15 THE WITNESS: I do remember that occasion and
11:01:53 16 it was -- it was obviously a joke.

11:01:57 17 THE COURT: Okay. Thank you. Next question.

11:01:59 18 BY MS. YEAL:

11:01:59 19 Q. When you asked her that, do you recall if
11:02:02 20 Lauren Reeves responded?

11:02:05 21 A. She left.

11:02:08 22 MS. GAROFALO: And a belated objection. Asked
11:02:12 23 and answered. This is covered in the prior
11:02:13 24 deposition.

11:02:14 25 THE COURT: Thank you.

11:02:15 1 MS. YEAL: Do you have the page?

11:02:18 2 MS. GAROFALO: 62 and 63.

11:02:21 3 BY MS. YEAL:

11:02:21 4 Q. At your last deposition, Mr. David, you
11:02:24 5 testified that you had coined the phrase "mangina," so I
11:02:28 6 am going to ask you a couple of follow-up questions with
11:02:31 7 respect to that.

11:02:32 8 MS. GAROFALO: Objection. This was covered
11:02:33 9 fairly comprehensively in the last deposition.

11:02:37 10 MS. YEAL: The question I am going to ask is
11:02:37 11 not covered.

11:02:38 12 THE COURT: Let's see what the question is.
11:02:39 13 Thank you. Go ahead.

11:02:40 14 BY MS. YEAL:

11:02:40 15 Q. Did you ever post a video of you doing a
11:02:43 16 mangina on Instagram?

11:02:47 17 A. Many.

11:02:47 18 MS. GAROFALO: Objection.

11:02:48 19 THE COURT: It's been -- it was asked in -- and
11:02:51 20 with a different posting, so it was discussed, but this
11:02:56 21 question was not asked. The answer remains "many."

11:03:01 22 Next question.

11:03:03 23 BY MS. YEAL:

11:03:03 24 Q. Was your Instagram blocked because you posted
11:03:06 25 your mangina?

11:03:10 1 A. Yes. Yes, it was. But it has been since re --
11:03:13 2 reinstated.

11:03:22 3 THE COURT: My recollection was that it was
11:03:25 4 Snapchat that you were discussing on the last one. Was
11:03:28 5 I correct? If not --

11:03:29 6 MS. GAROFALO: That appears to be correct.

11:03:31 7 THE COURT: Okay. Thank you.

11:03:34 8 MS. YEAL: Good memory, Judge.

11:03:34 9 THE COURT: I was correct. I want to make -- I
11:03:34 10 want to do the right thing, so --

11:03:37 11 THE WITNESS: But thank you for making the
11:03:39 12 distinction, though.

11:03:41 13 THE COURT: And thank you very much for just
11:03:42 14 answering the question, and you may ask the next
11:03:44 15 question.

11:03:45 16 BY MS. YEAL:

11:03:45 17 Q. Between 2013 and 2016, did any of your
11:03:50 18 companies have a policy regarding sexual harassment in
11:03:54 19 the workplace?

11:03:54 20 A. Yes.

11:03:57 21 Q. And was that policy in writing?

11:03:59 22 A. Yes.

11:04:01 23 Q. Do you know how long that policy had been in
11:04:04 24 existence?

11:04:06 25 A. I don't know specifically how long, but it

11:04:08 1 was -- I believe for the majority of the time that
11:04:14 2 the -- the companies existed in the Beverly Hills
11:04:19 3 location.

11:04:19 4 Q. So is it true, also, then that David Alki
11:04:24 5 Productions or Alki David Productions, Inc. also had a
11:04:28 6 written sexual harassment policy?

11:04:30 7 A. It would have been a blanket.

11:04:32 8 Q. It would have been one policy for all of your
11:04:35 9 companies?

11:04:35 10 A. Exactly.

11:04:36 11 Q. Who actually wrote the policy for your
11:04:39 12 companies?

11:04:39 13 A. It was a legal firm respon- -- that was
11:04:42 14 specialized in doing that type of work, and I do not
11:04:45 15 remember the name of the firm.

11:04:57 16 Q. Did you ever read the policy with respect to
11:05:02 17 sexual harassment?

11:05:03 18 A. Yes, I mean I -- I would have -- I would have
11:05:05 19 looked at it. I didn't read the whole handbook word for
11:05:10 20 word, but certainly I had a curs- -- I had a cursory
11:05:12 21 glance to all the important bits.

11:05:14 22 Q. So are you saying there was an employee
11:05:16 23 handbook and within the employee handbook there was a
11:05:18 24 section with respect --

11:05:18 25 A. Correct.

11:05:18 1 Q. -- to sexual harassment in the workplace?

11:05:23 2 A. That's correct.

11:05:23 3 Q. I see. And when do you recall was the last
11:05:26 4 time that you read that portion of the employee handbook
11:05:30 5 dealing with sexual harassment?

11:05:32 6 A. When we had -- I think -- I think it was a
11:05:35 7 couple of occasions we had a -- an all-staff meeting to
11:05:41 8 discuss the -- the handbook.

11:05:44 9 Q. And when was that all --

11:05:46 10 A. Specifically the sexual harassment.

11:05:48 11 Q. Okay. When was that all-staff meeting to
11:05:51 12 discuss specifically the sexual harassment?

11:05:53 13 A. I cannot remember the specific date, but I
11:05:56 14 remember where it took place and -- and what, you know,
11:06:01 15 the -- you know, what happened.

11:06:02 16 Q. Where did it take place?

11:06:03 17 A. It took place in the board room and on the main
11:06:07 18 floor of the office on 338 North Cannon Drive.

11:06:10 19 Q. Okay. And do you recall if this all-staff
11:06:16 20 meeting that you are recalling to discuss the sexual
11:06:22 21 harassment policy, if that occurred before or after you
11:06:25 22 were sued by Lauren Reeves?

11:06:27 23 A. No, that was before.

11:06:29 24 Q. Do you recall if that all-staff meeting to
11:06:32 25 discuss the sexual harassment policy occurred before or

11:06:36 1 after you were sued by Elizabeth Taylor and/or Chasity
11:06:38 2 Jones?

11:06:43 3 A. It would have been before. I am not sure about
11:06:46 4 Elizabeth Taylor because Elizabeth Taylor, who you may
11:06:52 5 have met, is a lunatic, and she --

11:06:58 6 THE COURT: Remember just to answer the
11:06:59 7 question. So --

11:07:01 8 THE WITNESS: Right.

11:07:02 9 THE COURT: -- you know, I am just going to
11:07:03 10 ask: Did you remember the question or would you like to
11:07:08 11 ask that particular --

11:07:10 12 THE WITNESS: It was before or after, right.

11:07:12 13 THE COURT: Thank you.

11:07:13 14 THE WITNESS: Elizabeth Taylor or Chasity Jones
11:07:13 15 were let go. I believe it may have -- and it may -- it
11:07:17 16 would have been either about the time or before
11:07:23 17 Elizabeth Taylor was let go, certainly before Chasity
11:07:27 18 Jones was let go.

11:07:28 19 THE COURT: Thank you.

11:07:28 20 BY MS. YEAL:

11:07:28 21 Q. Okay. My question actually wasn't before or
11:07:29 22 after they were let go. My question was whether that
11:07:33 23 all-staff meeting to discuss the sexual harassment
11:07:37 24 policy occurred before or after they filed a lawsuit
11:07:40 25 alleging sexual harassment?

11:07:43 1 A. Well, they only filed a lawsuit after they were
11:07:45 2 let go as any of these people would.

11:07:47 3 THE COURT: It's okay. Just -- just the
11:07:48 4 question.

11:07:48 5 THE WITNESS: Right.

11:07:48 6 THE COURT: So the answer?

11:07:50 7 THE WITNESS: The answer is before they filed
11:07:53 8 the lawsuit.

11:07:55 9 THE COURT: Thank you. Next question.

11:07:56 10 BY MS. YEAL:

11:07:56 11 Q. Was there a -- an attendance sheet made for
11:07:59 12 that all-staff meeting held to discuss the sex
11:08:03 13 harassment policy?

11:08:04 14 A. Yes, everyone. Everyone who was available was
11:08:07 15 there.

11:08:08 16 Q. Okay.

11:08:08 17 A. Which was the majority, if not everybody.

11:08:12 18 Q. So there was an attendance sheet prepared?

11:08:15 19 A. I don't know.

11:08:17 20 Q. Would there be any documents, to your
11:08:19 21 knowledge, that would verify who was in attendance
11:08:24 22 during that meeting?

11:08:26 23 A. Not -- not to my knowledge.

11:08:28 24 Q. Are there any documents that you can think of
11:08:30 25 that would identify the date that that meeting took

11:08:33 1 place?

11:08:35 2 A. There may be a video of it. Whether that still
11:08:43 3 exists, I don't know, but there was certainly 50 plus
11:08:50 4 witnesses.

11:08:51 5 Q. And who actually conducted the meeting?

11:08:58 6 A. It would have been Elena Calendar, who is HR,
11:09:03 7 and myself, in part, at the beginning, and I can't
11:09:08 8 remember who else, but Elena really was the one who was
11:09:13 9 responsible for calling the meeting and organizing it.

11:09:17 10 Q. Was Lauren Reeves present to your
11:09:18 11 recollection?

11:09:19 12 A. I cannot remember. I don't know.

11:09:26 13 Q. Do you remember if this meeting was held before
11:09:28 14 or after the last time Lauren Reeves worked for you?

11:09:32 15 A. I don't know.

11:09:37 16 Q. Were there any documents distributed during
11:09:40 17 this meeting that you are referring to?

11:09:41 18 A. Yes, there was a handbook.

11:09:49 19 MS. YEAL: Counsel, we have requested the
11:09:50 20 handbook from Mr. Rothman's firm, prior to you
11:09:55 21 representing the defendants. I would ask that it be
11:09:59 22 produced.

11:10:01 23 MS. GAROFALO: We will look into it.

11:10:01 24 THE COURT: All right.

11:10:19 25 BY MS. YEAL:

11:10:19 1 Q. So what do you remember being discussed with
11:10:22 2 respect to the portion of the employee handbook dealing
11:10:25 3 with sexual harassment in the workplace?

11:10:27 4 A. What do I remember? That sexual harassment
11:10:37 5 will not be tolerated. That it's -- that it is -- that
11:10:45 6 it is the company policy that there is zero tolerance of
11:10:51 7 that.

11:10:53 8 Q. Anything else that you remember being discussed
11:10:56 9 at that meeting?

11:10:59 10 A. No. As I said, I came in at the beginning, was
11:11:03 11 there for the opening of the meeting and then I left.

11:11:06 12 Q. Okay. How long were you at the meeting?

11:11:09 13 A. Probably about 15 minutes.

11:11:12 14 Q. So during those 15 minutes that you were in
11:11:16 15 attendance, was the policy regarding sexual harassment
11:11:20 16 discussed?

11:11:21 17 A. Yes, that meeting was specifically for that
11:11:23 18 part of the company policy, which was specifically for
11:11:28 19 sexual harassment.

11:11:29 20 Q. So when you left they had already stopped
11:11:32 21 discussing that topic?

11:11:34 22 A. I cannot remember.

11:11:35 23 Q. Do you recall if when you left, if it appeared
11:11:39 24 to you that that topic had already been covered during
11:11:42 25 that meeting?

11:11:43 1 A. It had been talked about, but whether it was
11:11:45 2 the beginning or end I don't know because I wasn't
11:11:48 3 there.

11:11:50 4 Q. During that meeting, did they discuss what
11:11:54 5 constitutes sexual harassment, at least according to the
11:11:58 6 employee handbook?

11:12:00 7 A. Well, whatever is in there is what was
11:12:03 8 discussed.

11:12:03 9 Q. Okay. So what do you remember being discussed
11:12:05 10 that was in there?

11:12:06 11 A. I cannot remember. I mean I know -- I mean, if
11:12:10 12 you want me to be very specific to the -- to the
11:12:13 13 verbiage in the document, I cannot remember
11:12:16 14 specifically, but sexual harassment is sexual
11:12:19 15 harassment; it is unwanted sexual advances and a -- and
11:12:24 16 unwanted pressure.

11:12:33 17 Q. So you recall that what was discussed, sexual
11:12:35 18 harassment was unwanted sexual advances and pressure?

11:12:40 19 A. As I recall, yes.

11:12:41 20 Q. Okay. Is there anything else that you can
11:12:42 21 recall being discussed with respect to what constitutes
11:12:47 22 sexual harassment in the workplace?

11:12:48 23 A. I do not remember, no.

11:12:51 24 Q. Now, you said that you made a presentation
11:12:54 25 during that meeting before you left or you had spoke?

11:13:02 1 A. Yes.

11:13:03 2 Q. Okay. Tell me what you said before you left.

11:13:04 3 A. I can't remember specifically what I said, but
11:13:07 4 it would have been somewhere in the -- somewhere along
11:13:11 5 the lines of we are here to discuss sexual harassment.
11:13:15 6 Everybody please pay attention.

11:13:29 7 Q. And you said there were about 50 people
11:13:31 8 there?

11:13:32 9 A. About that, yes. In fact -- in fact, I think,
11:13:35 10 if I am correct in remembering, there were 55 people
11:13:38 11 there.

11:13:42 12 Q. Did you go around counting? Is that how you
11:13:45 13 knew there were 55?

11:13:46 14 A. No, because I remember -- I remember Elena
11:13:50 15 saying there were 55 -- there were 55 people. Now, I
11:13:53 16 don't remember whether it was specifically for that
11:13:55 17 meeting or whether it was a head count in or around that
11:13:58 18 day.

11:14:02 19 Q. So you are saying you don't know if there were
11:14:04 20 55 people in the meeting where sexual harassment was
11:14:07 21 discussed or if you had a conversation with Elena
11:14:09 22 Calendar later on where she told you the head count was
11:14:13 23 55?

11:14:14 24 A. There were definitely about that number.

11:14:16 25 Q. Okay. Did you ever receive any, sort of,

11:14:26 1 training with respect to what constitutes sexual
11:14:30 2 harassment in the workplace?

11:14:32 3 A. Me specifically?

11:14:33 4 Q. Yes.

11:14:33 5 A. Did I ever receive any training? No.

11:14:40 6 Q. Were you aware that there is a law in
11:14:41 7 California requiring companies to train its supervisors,
11:14:47 8 managers, persons in management?

11:14:51 9 A. I -- I think our understanding of training
11:14:54 10 might be different to -- I certainly was aware of the
11:15:00 11 handbook, what was in the handbook, and what it was
11:15:04 12 about, so if that constitutes as training then yes.
11:15:07 13 Other than being, you know, having any other kind of
11:15:12 14 instruction, I was not given any other kind of
11:15:15 15 instruction.

11:15:15 16 Q. Okay. So you were never given any sort of
11:15:18 17 interactive type training with respect to what
11:15:20 18 constitutes sexual harassment --

11:15:22 19 A. No.

11:15:22 20 Q. -- in the workplace?

11:15:23 21 A. No.

11:15:23 22 Q. No, you were not?

11:15:24 23 A. No, I was not. And no, I was not aware that
11:15:29 24 this law exists, either.

11:15:32 25 Q. Do you know if between 2013 and 2016 if any of

11:15:37 1 your supervisors, managers, VPs, if any of them were
11:15:43 2 trained -- were provided interactive type training with
11:15:49 3 respect to what constitutes sexual harassment in the
11:15:51 4 workplace?

11:15:53 5 A. I do not know.

11:15:54 6 Q. Who would know that?

11:15:55 7 A. Elena may know. That's Elena Calendar.

11:16:02 8 Q. Why is Elena Calendar no longer working for
11:16:06 9 your company?

11:16:07 10 A. She wanted to -- she's been trying to come back
11:16:11 11 to work with me. We are still -- we talk. I, you know,
11:16:18 12 I downsized the companies, and she wants to move on and
11:16:21 13 try something else.

11:16:23 14 Q. When was the last time you spoke with her?

11:16:28 15 A. Probably three weeks ago.

11:16:31 16 Q. What did you talk about?

11:16:33 17 A. Well, she just texted me. "I have something
11:16:36 18 interesting I want to talk to you about." I said,
11:16:39 19 "Sure, we'll get together." And that was it.

11:16:40 20 Q. And so you haven't spoken with her since the
11:16:44 21 text?

11:16:44 22 A. No, I met with her about three months ago. She
11:16:48 23 came to an opening of one of my businesses and we
11:16:52 24 talked, and she had another idea for a business. And
11:16:56 25 we -- and -- and, you know, we are friendly. She is

11:17:01 1 very supportive of me about these, you know, these
11:17:07 2 ambulance chasing, sort of, lawsuits.

11:17:11 3 THE COURT: You are going to just answer the
11:17:12 4 question.

11:17:13 5 THE WITNESS: Sure.

11:17:14 6 THE COURT: I think we're --

11:17:16 7 THE WITNESS: Well, she asked me what we
11:17:16 8 discussed.

11:17:17 9 THE COURT: Next question.

11:17:24 10 THE WITNESS: She asked me what we discussed.

11:17:24 11 THE COURT: You answered it. You answered it.

11:17:24 12 THE WITNESS: Okay.

11:17:24 13 THE COURT: Next question.

11:17:24 14 BY MS. YEAL:

11:17:24 15 Q. Now, you told me in response to my question
11:17:28 16 about what you understood sexual harassment to be with
11:17:31 17 respect to what was contained in the employee handbook.

11:17:35 18 A. Uh-huh.

11:17:35 19 Q. And you said that it was "unwanted sexual
11:17:40 20 advances and pressure." What did you mean by "unwanted
11:17:46 21 sexual advances"

11:17:50 22 A. What did I mean by "unwanted sexual advances"?

11:17:54 23 Q. What was your understanding of what constitutes
11:17:59 24 "unwanted sexual advances"?

11:18:01 25 A. Well, my understanding is that just like you

11:18:06 1 may or may not experience here at your own office, there
11:18:09 2 is a chemistry between human beings; that human beings
11:18:17 3 give each other signals as to whether they like each
11:18:21 4 other, whether they find each other attractive. And if
11:18:25 5 those signals are negative, often that would constitute,
11:18:30 6 in human terms, as unwanted. But, again, as I am sure
11:18:36 7 you are aware in your own workplace, when somebody hits
11:18:39 8 on you and you give them the okay signal or you make a
11:18:42 9 joke to that effect that might be a positive signal,
11:18:47 10 then that would be a wanted advance.

11:18:51 11 Q. Okay. And you learned this as a result of
11:18:56 12 what? Reading the employee handbook and also attending
11:19:00 13 that meeting?

11:19:01 14 A. No, I learned this being a human being.

11:19:03 15 Q. Okay. So what do you recall hearing within
11:19:06 16 that meeting that you were at for 15 minutes or so, with
11:19:12 17 respect to what constitutes sexual harassment in the
11:19:16 18 workplace? Anything other than what you have told me,
11:19:17 19 unwanted sexual advances and pressure?

11:19:20 20 A. I don't -- I am not quite sure I understand
11:19:22 21 your question.

11:19:23 22 Q. Okay. So other than -- strike that.

11:19:26 23 You testified earlier when I asked you if you
11:19:29 24 learned what constitutes sexual harassment during that
11:19:34 25 meeting.

11:19:34 1 A. Uh-huh.

11:19:34 2 Q. And you said, "Yes," that it meant unwanted
11:19:37 3 sexual advances and pressure.

11:19:42 4 A. Right.

11:19:43 5 Q. So my question now is --

11:19:43 6 A. Forgive me. I -- I -- excuse me.
11:19:43 7 (Reporter admonition.)

11:19:43 8 THE COURT: Wait. Wait. Only one at a time.

11:19:44 9 BY MS. YEAL:

11:19:44 10 Q. So my question is: Do you recall if you
11:19:47 11 learned anything other than that, during that meeting?

11:19:50 12 A. Right. So I don't think that I learned
11:19:53 13 anything new to what I -- what common sense would
11:19:58 14 already tell you. I don't think I learned anything new
11:20:02 15 at that meeting, specifically. I have heard of things,
11:20:10 16 such as I have heard of things such as touching on the
11:20:16 17 shoulder or the elbow is appropriate touching.

11:20:21 18 THE COURT: Okay. Now remember the question is
11:20:22 19 what you have learned, so --

11:20:24 20 THE WITNESS: Yeah.

11:20:24 21 THE COURT: -- just answer that.

11:20:25 22 THE WITNESS: Right.

11:20:26 23 THE COURT: Is it finished?

11:20:27 24 THE WITNESS: I suppose, yes.

11:20:29 25 THE COURT: Okay. Next question.

11:20:34 1 BY MS. YEAL:

11:20:34 2 Q. Mr. David, do you believe that you have
11:20:39 3 violated the company policy when you put Lauren Reeves
11:20:44 4 finger in your mouth and sucked on it?

11:20:46 5 MS. GAROFALO: Objection. Lacks foundation.
11:20:53 6 Assumes facts.

11:20:53 7 You can answer.

11:20:55 8 THE WITNESS: Absolutely not.

11:20:58 9 THE COURT: Thank you. Next question.

11:21:02 10 BY MS. YEAL:

11:21:02 11 Q. Do you believe that you violated the sexual
11:21:04 12 harassment policy when you told Lauren Reeves that her
11:21:07 13 finger tastes like celebrity balls?

11:21:12 14 MS. GAROFALO: Same objection. You can
11:21:13 15 answer.

11:21:15 16 THE WITNESS: Absolutely not.

11:21:16 17 BY MS. YEAL:

11:21:16 18 Q. Do you believe you violated the sexual
11:21:18 19 harassment policy when you lifted up your shirt, pressed
11:21:21 20 your chest and nipples against Ms. Reeves's office
11:21:25 21 window for her to see?

11:21:27 22 A. I didn't do that to her office window. She
11:21:29 23 didn't have an office.

11:21:31 24 Q. Do you believe you violated the sexual
11:21:33 25 harassment policy when you lifted up your shirt, pressed

11:21:37 1 your chest and nipples against a window for Ms. Reeves
11:21:45 2 to see?

11:21:46 3 A. No.

11:21:49 4 Q. Do you believe you violated the sexual
11:21:51 5 harassment policy when you questioned Ms. Reeves about
11:21:55 6 her sex life?

11:21:57 7 MS. GAROFALO: Objection. Lacks foundation --

11:21:59 8 THE WITNESS: Yeah, I -- I don't understand. I
11:22:01 9 don't understand that.

11:22:01 10 THE COURT: One second. Wait until counsel is
11:22:03 11 finished. Go ahead, counsel. You were objecting?

11:22:05 12 MS. GAROFALO: Yes. Objection. Lacks
11:22:07 13 foundation. You can answer.

11:22:10 14 THE WITNESS: We discussed sex all of the time.
11:22:14 15 She discussed sex all of the time. She made comedy
11:22:19 16 about sex all of the time. So to give -- to ask for any
11:22:24 17 specific date or time, other than these moments that
11:22:28 18 you've -- that you've, you know, decided were sort of
11:22:32 19 like grievous enough to -- to bring to discussion, I,
11:22:40 20 you know -- sex -- sex was discussed overtly all of the
11:22:48 21 time in the content it was being created, that it is
11:22:54 22 impossible to ascertain any specific moment.

11:22:59 23 MS. YEAL: Move to strike as nonresponsive.

11:23:01 24 BY MS. YEAL:

11:23:01 25 Q. Do you believe that you violated the sexual

11:23:03 1 harassment policy when you asked Ms. Reeves questions
11:23:06 2 about her sex life?

11:23:08 3 A. No.

11:23:10 4 Q. Do you believe you violated the company sexual
11:23:14 5 harassment policy when you asked Ms. Reeves if she had
11:23:17 6 ever been with a woman?

11:23:19 7 A. No.

11:23:20 8 Q. Do you believe you violated the sexual
11:23:22 9 harassment policy when you asked Ms. Reeves if she
11:23:26 10 wanted to have sex with you?

11:23:28 11 A. That was a joke, so no.

11:23:30 12 Q. Do you believe you violated the sexual
11:23:33 13 harassment policy when you showed Ms. Reeves your
11:23:36 14 mangina?

11:23:37 15 A. I showed many people my mangina. It wasn't
11:23:41 16 just exclusive to Ms. Reeves.

11:23:43 17 Q. Do you believe --

11:23:43 18 A. And at that time, specifically.

11:23:47 19 Q. Do you believe you violated the sex harassment
11:23:49 20 policy when you showed your mangina to several people?

11:23:53 21 A. Did -- no. Have you ever seen a mangina?

11:23:59 22 THE COURT: We are going to wait for the next
11:24:02 23 question. Thank you.

11:24:03 24 BY MS. YEAL:

11:24:03 25 Q. You described it last time, sir.

11:24:05 1 THE COURT: That's -- next question.

11:24:06 2 BY MS. YEAL:

11:24:06 3 Q. Do you believe you violated the sexual
11:24:09 4 harassment policy when you told Ms. Reeves that you
11:24:11 5 needed to stop by the zip tie store to buy supplies for
11:24:16 6 your rape room?

11:24:19 7 A. That is obviously comedy. That's obviously
11:24:22 8 said in -- in jest.

11:24:25 9 THE COURT: You just -- just answer the
11:24:25 10 question.

11:24:27 11 THE WITNESS: Do I believe? Absolutely not.

11:24:30 12 THE COURT: Thank you. Next question.

11:24:31 13 BY MS. YEAL:

11:24:31 14 Q. Do you believe you violated the sexual
11:24:34 15 harassment policy when Ms. Reeves was sitting on a chair
11:24:37 16 and you came in to her office, pulled your pants down
11:24:41 17 and began to feign fellatio?

11:24:45 18 A. That was my office that she was in.

11:24:50 19 Q. Can you answer the question?

11:24:52 20 A. Well, I can't answer your question because --

11:24:53 21 Q. Do you believe you violated the sex harassment
11:24:55 22 policy when Ms. Reeves was sitting in a chair and you
11:24:58 23 came in and pulled your pants down and began to feign
11:25:08 24 fellatio?

11:25:09 25 A. No. May I make a -- may I make a point?

11:25:13 1 THE COURT: No, no, no. Wait.

11:25:13 2 THE WITNESS: I think -- I think --

11:25:14 3 THE COURT: Talk to your lawyer, okay?

11:25:14 4 THE WITNESS: Okay. Okay.

11:25:14 5 THE COURT: Just wait a second.

11:25:15 6 THE WITNESS: Okay.

11:25:15 7 THE COURT: Just take a breath --

11:25:17 8 THE WITNESS: Okay.

11:25:17 9 THE COURT: -- for a second. Thank you. Next

11:25:18 10 question.

11:25:19 11 BY MS. YEAL:

11:25:19 12 Q. At any point in time, Mr. David, between 2013

11:25:22 13 and 2016, have you put anything in writing to any

11:25:28 14 persons who worked with you with any of your companies

11:25:34 15 concerning sexual harassment in the workplace?

11:25:37 16 A. Have I put anything in writing?

11:25:39 17 Q. Yes.

11:25:40 18 A. I don't know.

11:25:40 19 Q. Have you ever issued any memos, for example, to

11:25:43 20 employees between 2013 and the present, saying, "You

11:25:47 21 know, sexual harassment, it is not tolerated at this

11:25:52 22 company"?

11:25:52 23 A. Yes, I -- I have.

11:25:54 24 Q. And -- you have?

11:25:54 25 THE COURT: Wait until she finishes.

11:25:55 1 THE WITNESS: Uh-huh.

11:25:55 2 THE COURT: Okay. Are you finished with the
11:25:57 3 question?

11:25:57 4 MS. YEAL: Well, I kind of finished now.

11:26:00 5 THE COURT: All right.

11:26:01 6 BY MS. YEAL:

11:26:01 7 Q. When did you do that?

11:26:02 8 A. It was at the time that Carl Jordan, not
11:26:09 9 Dawson, Carl Jordan, who was head of Television Playout
11:26:16 10 was accused by one of his team members, a -- a lady
11:26:24 11 whose name I can't remember, accused him of sexual
11:26:28 12 harassment. And -- and I told him at the time that it
11:26:33 13 wasn't tolerated, and I told her at the time, as well,
11:26:37 14 that it wasn't tolerated. And I can't remember if I put
11:26:41 15 that in writing or not, but it certainly -- certainly
11:26:46 16 there were people there that were aware of it at the
11:26:50 17 time that it happened.

11:26:50 18 Q. You --

11:26:50 19 A. So -- so I would actively -- if it was brought
11:26:55 20 to my attention I -- I would, you know, I would -- I,
11:26:59 21 you know, I was quite, you know, I was concerned of that
11:27:04 22 not happening.

11:27:05 23 Q. When did this occur?

11:27:09 24 A. That would have happened -- well, it happened
11:27:12 25 during, obviously, during Television Playout, so that

11:27:19 1 would have been a couple of years ago.

11:27:22 2 Q. Like in 2016?

11:27:24 3 A. Probably. I -- I can't remember specifically
11:27:25 4 when.

11:27:26 5 Q. Do you remember what projects they were working
11:27:28 6 on?

11:27:29 7 A. They're -- they were -- they were engineers
11:27:32 8 playing out television programming, so it would have
11:27:35 9 been, you know, whatever was on the playlist.

11:27:38 10 Q. Is Carl Jordan still employed by any of your
11:27:42 11 companies?

11:27:42 12 A. No.

11:27:43 13 Q. Is the woman who alleged that Carl Jordan was
11:27:47 14 sexually harassing her still employed with one -- any
11:27:50 15 company?

11:27:50 16 A. No. The company doesn't exist anymore.

11:27:53 17 Q. What was the company?

11:27:54 18 A. It was the Broadcast Channel. It was the
11:27:57 19 television -- it was the FilmOn TV broadcast channel
11:28:01 20 broadcasting Battlecam content, of which Lauren Reeves
11:28:05 21 was a part of.

11:28:11 22 Q. Do you recall if Carl Jordan and this woman who
11:28:15 23 were engineers, if they were working at the same time
11:28:19 24 that Lauren Reeves was working at your company?

11:28:22 25 A. I believe they -- I believe they -- they were,

11:28:24 1 yes. Carl Jordan would have been. I don't know if the
11:28:27 2 lady was. I really don't know if she -- she was or not
11:28:31 3 because it was quite a big team of engineers that --
11:28:34 4 because it was 24/7 there were different shifts.

11:28:39 5 THE COURT: Okay.

11:28:39 6 THE WITNESS: So I don't know.

11:28:39 7 THE COURT: Thank you.

11:28:40 8 BY MS. YEAL:

11:28:40 9 Q. So you -- I asked you if you put anything in
11:28:42 10 writing between 2013 and the present, with respect to
11:28:46 11 sexual harassment at the workplace. And you said -- you
11:28:50 12 told me about this incident with Carl Jordan and the
11:28:54 13 woman.

11:28:56 14 Do you remember having actually put something
11:28:57 15 in writing with respect to that incident?

11:28:59 16 A. You know, I do remember. I can't remember who,
11:29:07 17 but I do remember asking, I think, Carl Jordan to write
11:29:13 18 an apology letter if anything was misconstrued, I think.
11:29:19 19 And I can't remember whether I wrote that as an e-mail
11:29:22 20 or I said it to him verbally. But I cannot remember,
11:29:28 21 specifically, any specific document, no.

11:29:40 22 Q. Other than perhaps an e-mail sent to Mr. Jordan
11:29:45 23 and this woman, or a memo or something in writing, do
11:29:50 24 you have a recollection of having sent any other e-mail
11:29:53 25 or memo to all of the staff members, be they employees,

11:29:58 1 independent contractors, anyone who worked with you,
11:30:01 2 advising them that sexual harassment in the workplace is
11:30:05 3 illegal?

11:30:06 4 A. I cannot remember.

11:30:18 5 Q. Okay.

11:30:18 6 THE COURT: So it's 11:30. We need to decide
11:30:22 7 when you would like to have lunch and whether we need a
11:30:26 8 short break right now if we are going to have lunch
11:30:30 9 later. You know the -- I mean, I know the area, too,
11:30:33 10 but you all know the area whether there are places --
11:30:36 11 let's go off the record.

11:30:38 12 THE VIDEOGRAPHER: Going off the record. The
11:30:39 13 time is 11:31 a.m.

11:45:00 14 (Recess.)

11:45:08 15 THE VIDEOGRAPHER: This marks the beginning of
11:45:10 16 Video Media Number Two to the videotaped deposition of
11:45:12 17 David Alkiviades. We are going back on the record. The
11:45:15 18 time is 11:46 a.m.

11:45:20 19 THE COURT: Okay. Thank you. Before we start
11:45:21 20 the questioning again, I will tell you when it's 12:15
11:45:24 21 and when it's comfortable for you in your questioning we
11:45:29 22 can take a break for lunch for 45 minutes.

11:45:33 23 MS. YEAL: Okay.

11:45:34 24 THE COURT: So you may proceed.

11:45:35 25 MS. GAROFALO: Thank you.

11:45:35 1 MS. YEAL: Thank you.

11:45:36 2 BY MS. YEAL:

11:45:36 3 Q. Mr. David --

11:45:38 4 A. Yes.

11:45:38 5 Q. -- you mentioned the incident between Carl
11:45:41 6 Jordan and this female person who accused him of some
11:45:47 7 inappropriate behavior.

11:45:51 8 Do you recall what she alleged?

11:45:52 9 A. I -- I do not. But it wasn't anything grave in
11:45:58 10 the sense that there wasn't any physical -- physical
11:46:02 11 contact, I don't believe.

11:46:06 12 Q. Okay. You consider physical contact to be
11:46:10 13 grave then?

11:46:11 14 A. No, I consider aggressive physical contact to
11:46:16 15 be grave. I consider unwanted physical contact to be
11:46:20 16 grave, yes. Unwanted, yes.

11:46:24 17 Q. Unwanted physical contact, you consider that to
11:46:26 18 be grave?

11:46:26 19 A. I mean it depends, really. It depends on the
11:46:29 20 circumstances. But if the person -- if the person, I
11:46:35 21 suppose, if the person doesn't -- doesn't, you know,
11:46:39 22 isn't open or suggestive to it, it would be yes, but I
11:46:43 23 think that's common sense.

11:46:46 24 Q. So -- but that wasn't the case with respect to
11:46:48 25 the woman who was making claims against Mr. Jordan; is

11:46:51 1 that correct?

11:46:52 2 A. I don't know.

11:46:52 3 Q. You don't have that recollection, though? You
11:46:54 4 don't have a recollection that the woman was making
11:46:56 5 claims of physical contact by Mr. Jordan?

11:47:01 6 A. I do not recall, no.

11:47:04 7 Q. Okay. Did you take any disciplinary steps
11:47:11 8 against Mr. Jordan as a result of this woman's complaint
11:47:16 9 about him?

11:47:17 10 A. Well, I certainly did threaten him, but you
11:47:21 11 know when you have his --

11:47:23 12 THE COURT: Just answer the question, remember?
11:47:24 13 So the question is: Did you take any steps? Go
11:47:28 14 ahead.

11:47:28 15 THE WITNESS: Yes.

11:47:29 16 BY MS. YEAL:

11:47:29 17 Q. Yes, okay. And what did you do?

11:47:30 18 A. I made -- I made threats of firing him.

11:47:33 19 Q. How did you threaten to fire him?

11:47:36 20 A. By saying to him, "I will fire you if this
11:47:40 21 turns out to be true."

11:47:42 22 Q. Okay. But as of today, you don't remember what
11:47:45 23 "this" is?

11:47:46 24 A. Correct.

11:47:46 25 Q. Okay. Did you -- do you recall having given

11:47:54 1 him anything in writing with respect to the incident?

11:47:57 2 A. I cannot remember.

11:47:58 3 Q. Did you terminate him because of the
11:48:00 4 incident?

11:48:04 5 A. I don't think so because you see the lady in
11:48:09 6 question -- I was told by other -- as I -- as I
11:48:14 7 remember, I was told by other members of staff was that
11:48:19 8 she may have been lying. So I don't know. It was his
11:48:24 9 word against hers.

11:48:25 10 Q. Do you recall having asked Ms. Calendar, HR
11:48:32 11 person, to do any sort of investigation into the
11:48:35 12 allegations made by this woman against Mr. Jordan?

11:48:38 13 A. Yes, I did.

11:48:38 14 Q. And do you know if Ms. Calendar made an
11:48:41 15 investigation?

11:48:42 16 A. She did, yes.

11:48:43 17 Q. Do you know what she did as part of her
11:48:45 18 investigation?

11:48:46 19 A. I -- I do not know, specifically.

11:48:59 20 Q. Okay. Did you find out what Ms. Calendar
11:49:01 21 learned as a result of the investigation?

11:49:05 22 MS. GAROFALO: I am going to object on privacy
11:49:08 23 grounds with respect to Mr. Jordan and the female
11:49:13 24 complainant. He can -- you can answer that yes or no.

11:49:18 25 THE WITNESS: Okay. Did I find out -- could

11:49:20 1 you repeat the question?

11:49:21 2 BY MS. YEAL:

11:49:21 3 Q. Yes. Did Ms. Calendar report to you her
11:49:25 4 findings of the investigation?

11:49:27 5 A. Yes.

11:49:28 6 Q. Okay. And as a result of her findings with
11:49:32 7 respect to the investigation, did she take any
11:49:35 8 disciplinary action against either of the individuals?

11:49:39 9 MS. GAROFALO: Objection. I believe that is
11:49:41 10 privileged in California law. It is part of the
11:49:45 11 personnel file and confidential employee information.
11:49:48 12 These are third parties to this litigation.

11:49:51 13 THE COURT: That kind of stuff we should -- we
11:49:54 14 should argue out there, but he can answer yes or no.

11:49:57 15 THE WITNESS: No.

11:49:59 16 THE COURT: Thank you. Next question.

11:50:00 17 BY MS. YEAL:

11:50:00 18 Q. Okay. Other than the employee handbook, which
11:50:02 19 you testified contains a section with respect to sexual
11:50:07 20 harassment in the workplace.

11:50:10 21 A. Uh-huh.

11:50:11 22 Q. Between 2013 and 2016, did you ask anyone to
11:50:17 23 put anything in writing to remind them that sexual
11:50:22 24 harassment in the workplace is illegal?

11:50:27 25 A. Did I ask anyone to put in writing to remind

11:50:32 1 that anything -- yes. Everybody who was at that
11:50:37 2 meeting, I believe, signed the -- signed the employment
11:50:41 3 handbook or they -- or people signed the employee
11:50:43 4 handbook in general.

11:50:44 5 Q. Okay. So your recollection is that during that
11:50:50 6 meeting all employees were asked to sign an
11:50:53 7 acknowledgement in essence of the employee handbook?

11:50:56 8 A. At that time, yes.

11:50:58 9 Q. Okay.

11:50:58 10 A. At that time, yes.

11:50:58 11 Q. When, to your knowledge, are employees given
11:51:01 12 the employee handbook?

11:51:02 13 A. I do not know.

11:51:02 14 Q. Or contract?

11:51:04 15 A. I do not know.

11:51:06 16 Q. Is that something that Ms. Calendar would
11:51:09 17 know?

11:51:09 18 A. I suppose, yes.

11:51:10 19 Q. And that Mr. Edmond, whose last name you don't
11:51:15 20 remember?

11:51:17 21 A. Yes.

11:51:17 22 Q. Who do you believe is the person most
11:51:19 23 knowledgeable about your company's personnel practices
11:51:23 24 and policies between 2013 and 2017?

11:51:29 25 A. Elena Calendar.

11:51:30 1 Q. And Edmond?

11:51:31 2 A. Well, Edmond was at the tail end of -- of the
11:51:38 3 employment of or at the tail end of the company's
11:51:44 4 residence at the Beverly Hills location, so it would
11:51:47 5 have -- he would only have picked up her files, so to
11:51:51 6 speak, for a relatively short amount of time.

11:51:55 7 Q. I believe that last time you were here you said
11:51:57 8 that she left -- your recollection was that she left
11:51:59 9 your company -- companies, in the middle part of 2016?

11:52:04 10 A. Okay.

11:52:06 11 Q. Was that when Mr. Edmond or when Edmond began
11:52:10 12 performing the human resources functions?

11:52:13 13 A. Yes.

11:52:13 14 Q. And how long did he continue performing the
11:52:17 15 human resources functions?

11:52:19 16 A. It would have been a few months.

11:52:21 17 Q. Ending when? 2016? 2017?

11:52:24 18 A. I don't know. I don't know.

11:52:25 19 Q. When you were here last in October of 2017 for
11:52:29 20 your deposition, was Edmond still responsible for human
11:52:32 21 resources?

11:52:36 22 A. I cannot remember.

11:52:38 23 Q. When was the last time you spoke with Edmond?

11:52:42 24 A. Well, the first time I texted him, just now,
11:52:45 25 this morning, to ask him a question related to -- but I

11:52:49 1 haven't spoken to him in -- since then.

11:52:51 2 Q. Since he left?

11:52:53 3 A. Since -- since he left, yes.

11:52:54 4 Q. Did he actually -- I'm sorry, I assumed some --
11:52:58 5 a fact. Did he leave on his own -- from his own
11:53:01 6 volition or was he terminated from your companies?

11:53:05 7 A. Well, everybody was -- the office was shut down
11:53:06 8 and people were let go.

11:53:09 9 Q. When was the office shut down?

11:53:18 10 A. A year ago.

11:53:21 11 Q. When I took your deposition in October of 2017,
11:53:24 12 you said that your companies were located on Cannon
11:53:29 13 Drive in Beverly Hills?

11:53:31 14 A. At that time? Okay. Well then, how long ago
11:53:33 15 was that?

11:53:34 16 Q. That was in October of 2017?

11:53:36 17 A. So how long ago would that be? That would be a
11:53:37 18 year ago.

11:53:40 19 MS. GAROFALO: 11 months ago.

11:53:41 20 THE WITNESS: That's a year ago.

11:53:43 21 BY MS. YEAL:

11:53:43 22 Q. 11 months ago.

11:53:43 23 A. Okay, so a year ago.

11:53:43 24 Q. Okay. So after your deposition, your offices
11:53:45 25 shut down and people were let go?

11:53:51 1 A. Look, if I may digress a little bit?

11:53:56 2 THE COURT: No. No, don't digress.

11:53:58 3 THE WITNESS: Okay. All right. Okay. All

11:53:58 4 right. So okay. Okay.

11:53:58 5 MS. GAROFALO: If you don't know, you don't

11:54:00 6 know.

11:54:01 7 THE WITNESS: Okay. All right. I don't know.

11:54:04 8 I don't know.

11:54:04 9 BY MS. YEAL:

11:54:04 10 Q. How many people were let go?

11:54:14 11 A. I would say about 40, 45, somewhere there, plus

11:54:20 12 contractors, but contractors have been hired.

11:54:31 13 Q. Okay.

11:54:38 14 THE COURT: That was the answer to the

11:54:39 15 question, so we can go onto the next question.

11:54:42 16 BY MS. YEAL:

11:54:42 17 Q. Mr. David --

11:54:43 18 A. Yeah.

11:54:43 19 Q. -- did you ever walk around the workplace with

11:54:46 20 a banana hanging out of your pants?

11:54:49 21 A. Many times.

11:54:50 22 Q. And do you believe that walking around the

11:54:54 23 workplace with a banana hanging out of your pants would

11:54:57 24 violate the company's sexual harassment policy?

11:55:02 25 A. It depends if you are a fruit lover or not.

11:55:05 1 Look --

11:55:07 2 THE COURT: Answer -- answer the question.

11:55:07 3 Answer yes or no.

11:55:09 4 THE WITNESS: The answer is no.

11:55:10 5 THE COURT: Thank you. Next question.

11:55:10 6 BY MS. YEAL:

11:55:10 7 Q. Did you ever walk at the workplace with a
11:55:13 8 banana hanging out of your pants and shake it at a
11:55:18 9 female employee's face?

11:55:21 10 A. Men and women, but I don't remember a face, no.
11:55:26 11 No.

11:55:26 12 Q. Okay. So your testimony then is that you
11:55:28 13 remember walking around the workplace with a banana
11:55:30 14 hanging out of your pants and shaking it at both men and
11:55:35 15 women, and not necessarily their faces.

11:55:39 16 Is that what you are saying?

11:55:40 17 A. I -- I don't know what "shake" means, exactly.
11:55:42 18 Would you -- I don't know. Would you -- I don't know if
11:55:43 19 you could demonstrate?

11:55:44 20 Q. Getting the banana and moving it.

11:55:48 21 A. I don't understand.

11:55:51 22 Q. Did you walk around the workplace with a banana
11:55:56 23 hanging out of your pants and moving it with your hand
11:56:00 24 in front of females?

11:56:04 25 A. Females specifically? No. If it -- if I did

11:56:08 1 shake it, shake the banana, it would have been to
11:56:12 2 everybody. I am an equal opportunity employer.

11:56:16 3 Q. And doing that, in your opinion, also did not
11:56:20 4 violate the company sexual harassment policy; is that
11:56:24 5 correct?

11:56:25 6 A. Well, look --

11:56:27 7 THE COURT: Just answer the question.

11:56:30 8 THE WITNESS: Unless you are a gorilla, no.

11:56:35 9 THE COURT: Thank you. Next question.

11:56:37 10 BY MS. YEAL:

11:56:37 11 Q. Did you ever thrust your pelvic area into Mahim
11:56:42 12 Kahn's face?

11:56:45 13 A. No.

11:56:45 14 Q. Did you thrust your pelvic area into -- strike
11:56:54 15 that.

11:56:55 16 Did you tilt your head backwards and begin
11:57:00 17 making moaning sounds to Mahim Kahn?

11:57:05 18 A. No, that's a lie.

11:57:09 19 Q. Did you ever feign an orgasm in front of Mahim
11:57:12 20 Kahn?

11:57:14 21 A. I don't know. No, I don't know if her
11:57:16 22 specifically, but maybe, probably, but not to her
11:57:21 23 specifically, no.

11:57:22 24 Q. So who do you remember having feigned an orgasm
11:57:27 25 to?

11:57:32 1 A. My wife.

11:57:34 2 Q. Anyone at the workplace?

11:57:38 3 A. Look -- the workplace --

11:57:41 4 MS. GAROFALO: Yes or no?

11:57:42 5 THE COURT: The one thing is, it's not what you
11:57:43 6 would have done. Your answer should be what you
11:57:46 7 absolutely remember doing. It is your recollection. It
11:57:49 8 is not what you would have --

11:57:50 9 THE WITNESS: Right.

11:57:51 10 THE COURT: -- what you think you would have
11:57:52 11 done, so it is just yes or no.

11:57:55 12 THE WITNESS: Okay.

11:57:56 13 THE COURT: Or -- or who or whatever, so I --

11:57:56 14 THE WITNESS: I don't know. I don't know,
11:57:57 15 but -- but --

11:57:58 16 THE COURT: All right. Next question. And she
11:58:01 17 is only entitled -- she is entitled to your best
11:58:02 18 estimate, not a guess. So -- and if you don't know, you
11:58:06 19 don't know, but just leave it at that.

11:58:09 20 THE WITNESS: Okay.

11:58:10 21 THE COURT: I don't remember the question, so
11:58:13 22 would you repeat it or madam reporter would you mind
11:58:15 23 reading it back?

11:57:22 24 THE COURT REPORTER: One second, please.

11:57:22 25 THE COURT: Thank you.

11:57:22 1 (Record read as follows:
11:57:22 2 "QUESTION: So who do you remember having
11:57:24 3 feigned an orgasm to?
11:58:39 4 ANSWER: My wife.")
11:58:39 5 THE WITNESS: That was a joke.
11:58:39 6 (Record read as follows:
11:58:39 7 "QUESTION: Anyone at the workplace?")
11:58:39 8 THE COURT: Okay. And the answer to anyone at
11:58:40 9 the workplace. Do you remember?
11:58:43 10 THE WITNESS: Do I remember, specifically,
11:58:45 11 feigning -- feigning an orgasm to anyone at the
11:58:49 12 workplace.
11:58:50 13 THE COURT: Yes, that's question.
11:58:51 14 THE WITNESS: I do not remember, specifically,
11:58:52 15 any one -- any one person, no.
11:58:55 16 THE COURT: Okay.
11:58:55 17 BY MS. YEAL:
11:58:55 18 Q. Do you remember feigning an orgasm at the
11:58:58 19 workplace?
11:58:59 20 A. I do.
11:59:02 21 Q. Do you remember where you were at when you
11:59:03 22 feigned an orgasm at the workplace?
11:59:14 23 A. On-air. On-air.
11:59:18 24 Q. Okay. When you say "on-air" what do you
11:59:20 25 mean?

11:59:20 1 A. On-air, in the studio -- in the studio. The
11:59:23 2 whole office was a studio for the most part. So on-air,
11:59:29 3 yeah. And it would have been broadcast online or on
11:59:32 4 television.

11:59:33 5 Q. Do you remember the name of the show that was
11:59:36 6 on-air when you feigned an orgasm?

11:59:38 7 A. Battlecam.

11:59:38 8 Q. Other than feigning an orgasm on-air during the
11:59:44 9 Battlecam show, do you remember feigning an orgasm at
11:59:48 10 any other time?

11:59:49 11 A. I do not -- I do not remember.

11:59:51 12 Q. And I meant in the workplace?

11:59:53 13 A. The workplace was the production studio. The
11:59:57 14 whole place was that environment.

11:59:59 15 Q. Yes.

12:00:00 16 A. So.

12:00:02 17 Q. That is what I meant, the whole environment.

12:00:04 18 A. If I -- if I am unable to guess, then I don't
12:00:07 19 remember.

12:00:07 20 Q. That's fine.

12:00:11 21 Did you ever rub Mahim Kahn's inner thigh?

12:00:15 22 A. No, that's a lie. She is a disgusting liar.

12:00:19 23 THE COURT: Okay, stop. Stop.

12:00:19 24 THE WITNESS: That's a disgusting lie.

12:00:19 25 THE COURT: Thank you. The answer is no.

12:00:20 1 THE WITNESS: No.

12:00:20 2 THE COURT: Next question.

12:00:21 3 THE WITNESS: No.

12:00:22 4 THE COURT: Thank you.

12:00:22 5 THE WITNESS: No.

12:00:22 6 BY MS. YEAL:

12:00:22 7 Q. Did you ever push Mahim Kahn onto a chair?

12:00:27 8 THE COURT: Just a yes or no, okay? Please.

12:00:28 9 THE WITNESS: I don't remember.

12:00:30 10 THE COURT: Thank you.

12:00:33 11 BY MS. YEAL:

12:00:33 12 Q. Did you ever put your hand on Mahim Kahn's

12:00:41 13 head?

12:00:41 14 A. Her head? I don't know.

12:00:44 15 Q. Did you ever perform a lap dance on Mahim

12:00:50 16 Kahn?

12:00:52 17 A. I don't know.

12:00:58 18 Q. Did you ever pull Ms. Kahn's head back and

12:01:01 19 forth while making thrusting gestures on her?

12:01:06 20 A. No.

12:01:07 21 Q. Did you ever place your hand on Ms. Kahn's

12:01:10 22 thigh to move her closer to you?

12:01:13 23 A. No.

12:01:14 24 Q. Did you ever rub Ms. Kahn's crotch?

12:01:19 25 A. No.

12:01:19 1 Q. Did you ever rub Ms. Kahn's private area?

12:01:23 2 A. What is the difference between that and a

12:01:26 3 crotch, private area and crotch?

12:01:28 4 Q. Perhaps in the back?

12:01:30 5 A. Oh, I see. No.

12:01:33 6 Q. Did you ever come up behind Ms. Kahn and put

12:01:37 7 both of your hands on her breasts?

12:01:39 8 A. No.

12:01:40 9 Q. Did you ever squeeze Ms. Kahn's breasts?

12:01:43 10 A. No.

12:01:45 11 Q. Did you grab Ms. Kahn tightly against your

12:01:47 12 body?

12:01:48 13 A. No.

12:01:49 14 Q. Did you try to kiss Ms. Kahn without her

12:01:53 15 consent?

12:01:53 16 A. No.

12:01:59 17 Q. Did you put your hand on Ms. Kahn's pelvic area

12:02:03 18 and pull her towards you saying, "Mmmmm, this is nice.

12:02:07 19 I like this," as you rubbed her body?

12:02:10 20 A. Excuse me?

12:02:11 21 THE COURT: Just say yes or no or I don't

12:02:13 22 remember.

12:02:13 23 THE WITNESS: Your Honor, I find these really

12:02:15 24 inflammatory, no.

12:02:18 25 THE COURT: Please. Please.

12:02:18 1 THE WITNESS: Absolutely not.

12:02:18 2 THE COURT: Okay. Thank you.

12:02:19 3 THE WITNESS: No.

12:02:19 4 THE COURT: Thank you. Just follow my
12:02:19 5 instructions.

12:02:21 6 THE WITNESS: Yes, ma'am.

12:02:23 7 THE COURT: Thank you. The answer was?

12:02:25 8 THE WITNESS: No.

12:02:27 9 THE COURT: Thank you. Next question.

12:02:27 10 BY MS. YEAL:

12:02:27 11 Q. Did you grab Ms. Kahn's buttocks without her
12:02:31 12 consent?

12:02:31 13 A. No.

12:02:32 14 Q. Did you grab Ms. Taylor's buttocks without her
12:02:37 15 consent?

12:02:37 16 A. No.

12:02:38 17 Q. Did you rub Chasity Jones's neck and shoulders
12:02:42 18 without her consent?

12:02:43 19 A. No.

12:02:44 20 Q. Did you rub your crotch against Ms. Jones's
12:02:50 21 buttocks?

12:02:51 22 A. Who? Ms. Jones?

12:02:55 23 Q. Jones, Chasity Jones?

12:02:56 24 A. No. Well, one time she reversed into me.
12:02:59 25 And -- and by the testimony -- the answer is no.

12:03:05 1 THE COURT: Thank you. Next question.

12:03:06 2 THE WITNESS: The answer is no. The answer is

12:03:07 3 no.

12:03:08 4 BY MS. YEAL:

12:03:08 5 Q. Did you rub your hand over Ms. Jone's crotch?

12:03:12 6 A. No.

12:03:13 7 Q. Did you stroke your hand up and down

12:03:16 8 Ms. Jones's leg?

12:03:19 9 A. No.

12:03:20 10 Q. Did you push open Ms. Jone's legs while she was

12:03:23 11 on a chair?

12:03:24 12 A. No.

12:03:29 13 Q. Did you push open Ms. Jone's legs while she was

12:03:32 14 sitting on a chair and rub your hand under her skirt and

12:03:36 15 over her underwear?

12:03:38 16 A. No.

12:03:42 17 Q. Did you ever enter the women's restroom while

12:03:47 18 female employees were in there?

12:03:48 19 A. Yes.

12:03:50 20 Q. How many occasions?

12:03:54 21 A. I can only remember one time.

12:03:57 22 Q. And why did you do that?

12:03:59 23 A. Because I was looking for somebody.

12:04:02 24 Q. Who were you looking for?

12:04:03 25 A. I was looking for Mary Rizzo.

12:04:09 1 Q. So You just walked into the women's restroom?

12:04:12 2 A. Yes.

12:04:12 3 Q. Looking for Mary Rizzo?

12:04:14 4 A. Well, it was unisex.

12:04:15 5 Q. I see. Was there no women's restroom?

12:04:19 6 A. Well, there was -- look, I mean it was a

12:04:22 7 policy. It was, kind of, like an open policy.

12:04:25 8 Q. Was there a restroom used only by women?

12:04:28 9 A. No, no.

12:04:31 10 Q. At any time?

12:04:34 11 A. Well, I don't know.

12:04:35 12 Q. At any time between 2013 and 2016?

12:04:38 13 A. I don't know.

12:04:38 14 Q. Did you ever use gay slurs to Carl Zurple?

12:04:52 15 A. Depends. A slur? No.

12:04:54 16 Q. Did you ever call him a fag?

12:04:58 17 A. Well, he would send me text messages which --

12:05:02 18 saying that he was in the toilet with three men and he

12:05:06 19 was thinking about me. Often he would send me messages

12:05:10 20 like that. I don't think I -- maybe, maybe. I don't

12:05:13 21 know, but I mean it would -- it would have been --

12:05:15 22 THE COURT: So remember --

12:05:16 23 THE WITNESS: Yeah.

12:05:16 24 THE COURT: -- this is only what you

12:05:18 25 recollect.

12:05:20 1 THE WITNESS: Right. I don't remember.

12:05:21 2 THE COURT: Thank you.

12:05:21 3 THE WITNESS: I don't remember.

12:05:21 4 THE COURT: Right. Thank you.

12:05:21 5 MS. YEAL: So move to strike other than I don't

12:05:23 6 remember.

12:05:24 7 THE COURT: He doesn't remember. Thank you.

12:05:26 8 BY MS. YEAL:

12:05:26 9 Q. Did you ever grab the genitals of Peter

12:05:29 10 Lebow?

12:05:32 11 A. Peter? Maybe.

12:05:35 12 Q. Did you ever grab the genitals of Carl

12:05:39 13 Zurple?

12:05:40 14 THE COURT: Only what you remember.

12:05:42 15 THE WITNESS: No, I do not remember. No, I do

12:05:43 16 not remember.

12:05:43 17 BY MS. YEAL:

12:05:43 18 Q. Did you ever grab the genitals of Corey

12:05:46 19 Wiseman?

12:05:47 20 A. I do not remember, no.

12:05:49 21 Q. Did you ever grab the genitals of Carl

12:05:52 22 Dawson?

12:05:52 23 A. I do not remember.

12:06:03 24 Q. Are you familiar with the video Two Girls One

12:06:08 25 Cup?

12:06:09 1 A. I am.

12:06:09 2 Q. And what is that video about?

12:06:13 3 A. The video is about two girls defecating on each
12:06:18 4 other. It's very famous.

12:06:23 5 Q. Did you --

12:06:24 6 THE COURT: I just want you to answer the
12:06:26 7 questions. Thank you. Go ahead.

12:06:28 8 BY MS. YEAL:

12:06:28 9 Q. Did you produce this video?

12:06:30 10 A. No.

12:06:34 11 Q. Did you require any of your employees to watch
12:06:36 12 Two Girls One Cup?

12:06:38 13 A. It was not a requirement, no.

12:06:40 14 Q. Did you tell any of your employees to watch Two
12:06:44 15 Girls One Cup?

12:06:45 16 A. It was not a requirement, no.

12:06:48 17 Q. That was not my question. My question was:
12:06:52 18 Did you tell any of your employees to watch the video
12:06:55 19 Two Girls One Cup?

12:06:57 20 A. Yes.

12:07:00 21 Q. Do you remember which employees you told to
12:07:02 22 watch Two Girls and One Cup?

12:07:08 23 A. No, but it would have been men.

12:07:13 24 Q. Do you recall having told Chasity Taylor to
12:07:17 25 watch Two Girls One Cup?

12:07:19 1 A. No.

12:07:20 2 Q. Do you recall telling --

12:07:23 3 A. No, my answer is I did not. Not yes or no I

12:07:26 4 did not.

12:07:26 5 THE COURT: Thank you.

12:07:27 6 MS. YEAL: Okay.

12:07:27 7 THE WITNESS: Isn't that question a little

12:07:33 8 loaded?

12:07:34 9 THE COURT: Thank you. Thank you.

12:07:34 10 THE WITNESS: Excuse me. Excuse me.

12:07:34 11 THE COURT: Let me take care of my job.

12:07:37 12 THE WITNESS: Yes, ma'am.

12:07:37 13 THE COURT: Thank you. Next question.

12:07:38 14 BY MS. YEAL:

12:07:38 15 Q. Did you tell Ms. Jones to watch Two Girls One

12:07:42 16 Cup video?

12:07:42 17 A. No.

12:07:47 18 Q. In your opinion, is the video Two Girls One Cup

12:07:51 19 a pornographic video?

12:07:55 20 A. Is it pornographic?

12:07:56 21 Q. In your opinion?

12:08:04 22 A. I would say not.

12:08:06 23 Q. Does the video portray two women in intimate

12:08:11 24 sexual relations?

12:08:13 25 A. No.

12:08:15 1 Q. So the video shows women defecating into a cup?
12:08:22 2 Is that what you said?

12:08:22 3 A. You know, I have never watched all of it, so
12:08:25 4 I -- they are not having sex, put it that way.

12:08:33 5 Q. Okay. Does the video have women taking turns
12:08:36 6 consuming the excrement?

12:08:44 7 A. Well, yes.

12:08:45 8 Q. And does the video also have the women vomiting
12:08:49 9 into each other's mouths?

12:08:51 10 A. Yes.

12:08:56 11 Q. Did you have that Two Girls One Cup video
12:09:00 12 accessible there at the workplace?

12:09:02 13 A. No. Well, it's on the internet. It's publicly
12:09:07 14 available on the internet and the internet was public,
12:09:09 15 so if somebody wants to look it up, yes, they could. So
12:09:15 16 accessible is a loaded question, is a loaded --

12:09:20 17 THE COURT: Okay. Thank you.

12:09:21 18 MS. YEAL: Okay. All right. Judge, this might
12:09:23 19 be a good time to break. It is 12:10 and --

12:09:27 20 THE COURT: All right. It is a good time to
12:09:30 21 have lunch, in your questioning --

12:09:32 22 MS. YEAL: Yes.

12:09:32 23 THE COURT: -- so let's -- I -- let's take
12:09:34 24 45 minutes and so -- and come back in 45 minutes, so...

12:09:42 25 THE VIDEOGRAPHER: Going off the record. The

12:09:44 1 time is 12:10 p.m.

12:10:06 2 (Lunch Recess.)

12:57:39 3 THE VIDEOGRAPHER: Going back on the record.

12:57:40 4 The time is 12:58 p.m.

12:57:45 5 THE COURT: Thank you. At any time you are
12:57:46 6 ready you may begin.

12:57:48 7 MS. YEAL: Thank you.

12:57:49 8 BY MS. YEAL:

12:57:49 9 Q. Mr. David, you mentioned a Mary Rizzo earlier
12:57:57 10 today, a person whom you said you went to locate in a
12:58:01 11 restroom?

12:58:02 12 A. Yes.

12:58:03 13 Q. Okay. She worked for you?

12:58:05 14 A. Yes.

12:58:05 15 Q. And what was her position?

12:58:07 16 A. She was a sales executive.

12:58:10 17 Q. And how long did she work for you?

12:58:13 18 A. I -- two years, a year-and-a-half, somewhere
12:58:17 19 there.

12:58:20 20 Q. And was she also at the Beverly Hills
12:58:23 21 location?

12:58:24 22 A. Yes.

12:58:26 23 Q. And you were her supervisor?

12:58:29 24 A. Yes.

12:58:40 25 Q. Did you ever place your hand on Ms. Rizzo's leg

12:58:43 1 while you were speaking to her about business?

12:58:46 2 A. Yes.

12:58:47 3 Q. Why did you do that?

12:58:48 4 A. Because we were having a relationship.

12:58:52 5 Q. What do you mean "having a relationship"?

12:58:54 6 A. We had a relationship.

12:58:56 7 Q. A personal, sexual relationship?

12:58:59 8 A. Correct.

12:59:02 9 Q. Did Ms. Rizzo ever sue you for sexual

12:59:06 10 harassment?

12:59:06 11 A. Yes.

12:59:06 12 Q. And did she assert in that lawsuit that it was

12:59:10 13 not a consensual relationship?

12:59:13 14 A. You know what, there's a -- there's a

12:59:15 15 privacy --

12:59:17 16 MS. GAROFALO: Just yes or no. That you can

12:59:18 17 answer.

12:59:19 18 THE COURT: Yes or no?

12:59:20 19 THE WITNESS: Okay. Could you repeat the

12:59:20 20 question? Did she assert that?

12:59:23 21 BY MS. YEAL:

12:59:23 22 Q. That you and she -- strike that.

12:59:25 23 Did she assert --

12:59:25 24 MS. GAROFALO: You know what? I -- I do need

12:59:29 25 to speak. I need to find something out before we go

12:59:30 1 forward.

12:59:30 2 MS. YEAL: Sure.

12:59:30 3 MS. GAROFALO: I do need to speak with my
12:59:30 4 client.

12:59:32 5 MS. YEAL: Okay. Okay. All right.

12:59:32 6 MS. GAROFALO: Can we take a very short break?

12:59:32 7 THE COURT: Sure. Go ahead.

12:59:37 8 THE VIDEOGRAPHER: Going off the record. The
12:59:38 9 time is 1:00 p.m.

01:00:06 10 THE VIDEOGRAPHER: Going back on the record the
01:00:08 11 time is 1:01 p.m.

01:00:11 12 THE COURT: Thank you. And I know you know
01:00:12 13 this, but it is my job to remind you, you did a great
01:00:16 14 job at staying with just answering the question. I want
01:00:19 15 you to do the same thing. It's helpful for everyone.
01:00:23 16 Okay? Thank you. Go ahead.

01:00:24 17 MS. YEAL: May I have the court reporter read
01:00:25 18 the last question, please?

01:00:25 19 (Record read as follows:
12:59:06 20 "QUESTION: And did she assert in that lawsuit
12:59:09 21 that it was not a consensual relationship?")

01:00:44 22 THE WITNESS: I don't know. I would assume,
01:00:46 23 yes, but -- because she sued me for that, so one would
01:00:52 24 assume that that's the case.

01:00:55 25 THE COURT: Thank you.

01:00:57 1 THE WITNESS: But I don't -- I don't know,
01:00:57 2 specifically.

01:00:58 3 THE COURT: If you don't know, you don't know.
01:00:58 4 Thank you.

01:00:58 5 BY MS. YEAL:

01:00:58 6 Q. Did you ever take a banana and two oranges and
01:01:01 7 place them in front of your groin area in front of
01:01:05 8 Ms. Rizzo --

01:01:06 9 A. Yes.

01:01:06 10 Q. At the workplace?

01:01:08 11 A. Yes.

01:01:28 12 Q. Did you tell Ms. Rizzo that she should install
01:01:32 13 What'sApp on her phone so that you could send her
01:01:36 14 sexually suggestive texts while you were out of the
01:01:42 15 country?

01:01:42 16 A. Yes. Not me, for her to send to me.

01:01:47 17 Q. And you asked her to send you sexually
01:01:51 18 suggestive pictures; correct?

01:01:52 19 A. No, she volunteered them.

01:01:55 20 Q. And isn't it true that you asked her to send
01:01:58 21 you sexually suggestive pictures?

01:02:01 22 A. Say that again?

01:02:02 23 Q. Isn't it true that you asked her to send you
01:02:07 24 sexually suggestive pictures?

01:02:09 25 A. I can't remember how it went down, but she

01:02:14 1 volunteered.

01:02:15 2 Q. Your recollection is that she voluntarily sent
01:02:18 3 you some sexually suggestive pictures? Is that what you
01:02:21 4 are saying?

01:02:22 5 A. I didn't --

01:02:22 6 THE COURT: I want you to listen to the
01:02:23 7 question, please. Okay? So the question is -- I would
01:02:26 8 like you to repeat the question, so -- okay? Just
01:02:30 9 answer that one, okay? Because if counsel wants you to
01:02:34 10 go into it more, she will ask you.

01:02:37 11 THE WITNESS: Okay.

01:02:37 12 THE COURT: All right? So, do you want the
01:02:37 13 reporter to read it? Okay.

01:02:37 14 Madam Reporter, would you kindly do that?

01:02:02 15 (Record read as follows:

01:02:02 16 "QUESTION: Isn't it true that you asked her to
01:02:05 17 send you sexually suggestive pictures?")

01:02:54 18 THE WITNESS: Isn't it true that I asked her to
01:02:55 19 send me sexually suggestive pictures? Yes.

01:02:58 20 THE COURT: Thank you. Next question.

01:03:00 21 BY MS. YEAL:

01:03:00 22 Q. And Ms. Rizzo sent you a picture of her posing
01:03:06 23 in stockings; is that correct? Do you have that
01:03:09 24 recollection?

01:03:09 25 A. One of many.

01:03:11 1 Q. Did you send her a picture of a pair of glasses
01:03:17 2 perched on your genitals?

01:03:22 3 A. Yes.

01:03:27 4 Q. Did you have sexual intercourse with her?

01:03:32 5 A. Many --

01:03:33 6 Q. At the workplace?

01:03:34 7 A. Many times.

01:03:34 8 Q. And you are saying that it was consensual?

01:03:37 9 A. It was many times.

01:03:39 10 Q. You are saying --

01:03:40 11 A. So the answer is absolutely, unequivocally
01:03:44 12 yes.

01:03:45 13 THE COURT: Thank you. Next question.

01:03:46 14 BY MS. YEAL:

01:03:46 15 Q. Do you assert that Ms. Rizzo lied when she
01:03:50 16 filed a lawsuit against you in the Los Angeles Superior
01:03:53 17 Court --

01:03:53 18 A. Absolute --

01:03:54 19 Q. -- alleging that --

01:03:54 20 A. Absolutely.

01:03:54 21 MS. GAROFALO: Let her finish the question.

01:03:56 22 THE WITNESS: I don't -- listen. Your Honor --

01:03:56 23 THE COURT: I want you to stop.

01:03:58 24 MS. GAROFALO: Hold on. Let her finish the
01:03:59 25 question.

01:03:59 1 (Simultaneous crosstalk.)

01:04:00 2 THE COURT: I get that. Yeah. And you know

01:04:00 3 what -- what else? I know that it's -- it feels real

01:04:04 4 aggravating when the same question is asked and the same

01:04:08 5 background is put in. She says that because she has to.

01:04:12 6 That's how it is in the court.

01:04:14 7 THE WITNESS: Uh-huh.

01:04:14 8 THE COURT: And so you have got to put in the

01:04:16 9 same facts in each question, and it gets -- it feels

01:04:21 10 frustrating, but that -- she has to do that, okay? So

01:04:23 11 if your lawyer wants you to volunteer information about

01:04:28 12 anything --

01:04:30 13 THE WITNESS: Well, Your Honor --

01:04:31 14 THE COURT: Wait. Wait. Wait. Wait. That is

01:04:32 15 good for your case, she will ask you. Okay?

01:04:35 16 THE WITNESS: Okay.

01:04:36 17 THE COURT: And that is why you have a lawyer.

01:04:38 18 THE WITNESS: Okay.

01:04:38 19 THE COURT: So please -- I want you to listen

01:04:39 20 to the question and just answer it.

01:04:42 21 THE WITNESS: Okay.

01:04:43 22 THE COURT: Okay? So you -- and the last

01:04:45 23 question is just a yes or no or I don't remember or I

01:04:49 24 don't know. Did you want the reporter to read it back?

01:04:52 25 THE WITNESS: Yes, she lied. Yes, she lied.

01:04:56 1 THE COURT: Okay. You knew the answer. Thank
01:04:56 2 you. Go ahead. I mean you knew the question. Thank
01:04:59 3 you very much. Next question.

01:05:04 4 BY MS. YEAL:

01:05:04 5 Q. Did you demand oral sex from Ms. Rizzo?

01:05:08 6 A. No. She never gave me a blow job.

01:05:16 7 THE COURT: Thank you. Next question. Just
01:05:17 8 the question that is asked.

01:05:19 9 BY MS. YEAL:

01:05:19 10 Q. Did you demand that Ms. Rizzo have sexual
01:05:23 11 intercourse with you?

01:05:24 12 A. No.

01:05:25 13 THE COURT: Thank you.

01:05:30 14 BY MS. YEAL:

01:05:30 15 Q. Did you demand that Ms. Rizzo masturbate you?

01:05:36 16 A. No.

01:05:41 17 Q. Did you place your hand or your face between
01:05:45 18 Ms. Rizzo's legs?

01:05:47 19 A. No.

01:05:52 20 Q. Did you send Ms. Rizzo a video showing you
01:05:57 21 engaged in masturbation?

01:06:03 22 A. Can't remember.

01:06:04 23 THE COURT: Thank you. Next question.

01:06:12 24 BY MS. YEAL:

01:06:12 25 Q. Did you insist on becoming Ms. Rizzo's, quote

01:06:18 1 unquote, "sugar daddy"?

01:06:20 2 A. No.

01:06:21 3 Q. Did you offer to pay her rent and she

01:06:24 4 refused?

01:06:25 5 MS. GAROFALO: Objection; compound.

01:06:26 6 MS. YEAL: Right.

01:06:28 7 THE COURT: It is compound.

01:06:30 8 MS. YEAL: It is compound. Let me break it

01:06:31 9 up.

01:06:32 10 THE COURT: Yeah. All right. Listen

01:06:32 11 carefully, please.

01:06:33 12 BY MS. YEAL:

01:06:33 13 Q. Did you offer to pay Ms. Rizzo's rent?

01:06:39 14 A. I can't remember.

01:06:40 15 THE COURT: Thank you.

01:06:40 16 THE WITNESS: I can't remember.

01:06:40 17 THE COURT: Next question.

01:06:46 18 BY MS. YEAL:

01:06:46 19 Q. Did you tell Ms. Rizzo that you were in love

01:06:49 20 with her?

01:06:53 21 A. Not in so many words, no.

01:06:58 22 THE COURT: Thank you. Next question.

01:06:58 23 BY MS. YEAL:

01:06:58 24 Q. Did you tell her in any words that you were in

01:07:01 25 love with her?

01:07:04 1 A. I had strong feelings for her, but I don't
01:07:07 2 think I -- I don't think I ever told her that, no.

01:07:12 3 THE COURT: Thank you.

01:07:13 4 BY MS. YEAL:

01:07:13 5 Q. Did you insist that Ms. Rizzo sign a prepared
01:07:17 6 declaration stating that she had never witnessed any
01:07:22 7 sexual harassment in the office?

01:07:27 8 A. Did I what?

01:07:28 9 Q. Did you insist that she sign a declaration
01:07:33 10 stating that she had never been a witness to sexual
01:07:37 11 harassment at the office?

01:07:38 12 A. No. I didn't insist, no.

01:07:41 13 THE COURT: Thank you. Next question.

01:07:43 14 BY MS. YEAL:

01:07:43 15 Q. Did you request that she sign a prepared
01:07:46 16 declaration stating that she had not been witnessed to
01:07:51 17 sexual harassment?

01:07:55 18 A. I don't think I did ever, no. Well, hold on a
01:07:59 19 second. I am trying to remember. I asked her to sign a
01:08:01 20 document that Barry prepared, but I don't remember -- I
01:08:03 21 don't know what the document was. I know that it
01:08:06 22 related to -- I relate -- I know that it related to
01:08:15 23 Elizabeth Taylor.

01:08:18 24 Q. Elizabeth Taylor's lawsuit?

01:08:20 25 A. Elizabeth -- no, no. Not Elizabeth Taylor's

01:08:25 1 lawsuit. Elizabeth Taylor's -- Elizabeth Taylor
01:08:26 2 being -- it relates to Elizabeth Taylor. I am trying --
01:08:33 3 I can't -- I am trying to remember the word because we
01:08:35 4 filed a police complaint about what Mahim Kahn and
01:08:41 5 Elizabeth Taylor were doing, and I -- she -- she
01:08:44 6 volunteered by showing text messages, and so on, how
01:08:47 7 Elizabeth Taylor was trying to, you know, trying to
01:08:51 8 create -- create something -- something that there was
01:08:55 9 no -- creates, you know, essentially target me.

01:09:00 10 MS. YEAL: Okay. Move to strike as
01:09:02 11 nonresponsive.

01:09:02 12 BY MS. YEAL:

01:09:02 13 Q. Let me ask you the question again: Did you
01:09:05 14 request that Ms. Rizzo sign a prepared declaration
01:09:08 15 stating that she had never witnessed sexual
01:09:11 16 harassment?

01:09:13 17 THE WITNESS: I don't know.

01:09:14 18 THE COURT: Thank you.

01:09:15 19 BY MS. YEAL:

01:09:15 20 Q. Did you ever insist that Ms. Rizzo sign a
01:09:18 21 document prepared by your attorney pertaining to sexual
01:09:21 22 harassment at the workplace?

01:09:23 23 A. I did not insist. She volunteered.

01:09:26 24 Q. My question was: Did you request?

01:09:27 25 A. No, you said did I insist.

01:09:29 1 THE COURT: Okay. Thank you. So now that the
01:09:31 2 answer to the question "insist" is no?

01:09:35 3 THE WITNESS: Uh-huh.

01:09:36 4 THE COURT: And the question -- the answer to
01:09:37 5 the question "request" is that right? Request? The
01:09:41 6 answer is?

01:09:43 7 THE WITNESS: I -- I -- I assume so, yes.

01:09:45 8 THE COURT: Thank you. Next question. Thank
01:09:48 9 you.

01:09:49 10 BY MS. YEAL:

01:09:49 11 Q. Isn't it true that when you wanted Ms. Rizzo to
01:09:54 12 sign that document, she then went to the restroom to get
01:09:58 13 away from you?

01:09:59 14 A. No, that's --

01:10:00 15 MS. GAROFALO: Objection. Hold on.

01:10:00 16 THE WITNESS: No.

01:10:00 17 MS. GAROFALO: Hold on. Objection. Calls for
01:10:03 18 speculation.

01:10:03 19 THE COURT: Okay.

01:10:03 20 MS. GAROFALO: You can answer.

01:10:05 21 THE COURT: Thank you. Go ahead.

01:10:06 22 THE WITNESS: No, no, no.

01:10:07 23 THE COURT: Thank you. Next question.

01:10:07 24 BY MS. YEAL:

01:10:07 25 Q. Isn't it true that the reason you went into the

01:10:10 1 restroom to look for Mary Rizzo was because she was in
01:10:14 2 the restroom when you were trying to get her to sign
01:10:18 3 that document?

01:10:21 4 A. You are pathetic.

01:10:23 5 THE COURT: You know what? I want you to stop
01:10:25 6 that.

01:10:25 7 THE WITNESS: Your Honor --

01:10:25 8 THE COURT: Stop. Stop. Stop. Stop. Stop.
01:10:25 9 Stop. Stop. I want you to stop, right now!

01:10:29 10 MS. GAROFALO: Do you need to take a break?

01:10:32 11 THE WITNESS: Yeah, I do need to take a break.

01:10:32 12 THE COURT: Sure. Thank you.

01:10:32 13 MS. GAROFALO: Okay. Let's take a few minutes.

01:10:32 14 THE COURT: All you have to do is say you need
01:10:33 15 to take a break. All right? So we did well this
01:10:36 16 morning and I want to -- when we come back --

01:10:39 17 THE WITNESS: Your Honor, these questions are
01:10:40 18 ridiculous.

01:10:41 19 THE COURT: When we come back, we are going to
01:10:43 20 do the same thing. Okay?

01:10:45 21 THE WITNESS: Yeah.

01:10:45 22 THE COURT: Counsel, thank you. We are going
01:10:46 23 to take just three minutes and we are not going to talk.
01:10:48 24 We are not going off the record, so three minutes.
01:10:50 25 Okay? Go ahead, counsel.

01:15:03 1 Thank you, counsel.

01:15:15 2 So thank you. And would you kindly read back

01:15:20 3 the last question?

01:10:07 4 (Record read as follows:

01:10:07 5 "QUESTION: Isn't it true that the reason you

01:10:09 6 went into the restroom to look for Mary Rizzo was

01:10:13 7 because she was in the restroom when you were trying to

01:10:17 8 get her to sign that document?")

01:15:37 9 THE WITNESS: No.

01:15:41 10 BY MS. YEAL:

01:15:41 11 Q. Did Ms. Rizzo ever sign that document?

01:15:46 12 A. Yes.

01:15:46 13 Q. So you finally convinced her to sign the

01:15:48 14 document?

01:15:49 15 MS. GAROFALO: Objection. Argumentative and --

01:15:51 16 THE COURT: You can answer -- thank you. You

01:15:51 17 can answer yes or no.

01:15:52 18 THE WITNESS: Can I answer with -- can I answer

01:15:54 19 with something else?

01:15:55 20 THE COURT: No.

01:15:57 21 THE WITNESS: All right. All right. Okay.

01:15:57 22 No.

01:15:58 23 THE COURT: Thank you. Next question.

01:16:01 24 BY MS. YEAL:

01:16:01 25 Q. You also requested Chasity Jones to sign a

01:16:06 1 declaration purportedly stating that she didn't witness
01:16:11 2 any sexual harassment at the office either; is that
01:16:15 3 correct?

01:16:15 4 A. I don't know.

01:16:17 5 Q. Did you ask Elizabeth Taylor to sign a
01:16:21 6 declaration or a document --

01:16:22 7 A. No.

01:16:23 8 Q. -- saying --

01:16:24 9 A. I don't think so.

01:16:26 10 MS. GAROFALO: Let her finish.

01:16:26 11 THE COURT: Wait until she finishes.

01:16:27 12 BY MS. YEAL:

01:16:27 13 Q. Did you ask Elizabeth Taylor to sign a document
01:16:30 14 saying that she had not witnessed sexual harassment at
01:16:33 15 work?

01:16:34 16 A. I don't think so.

01:16:36 17 THE COURT: Thank you.

01:16:36 18 BY MS. YEAL:

01:16:36 19 Q. Do you know if Ms. Rothman asked either
01:16:38 20 Ms. Taylor or Ms. Jones to sign a declaration saying
01:16:43 21 that they had not witnessed sexual harassment at work?

01:16:47 22 A. No --

01:16:47 23 MS. GAROFALO: Objection to the extent that
01:16:48 24 calls for attorney-client communications and as phrased
01:16:51 25 I am going to instruct him not to answer.

01:16:56 1 BY MS. YEAL:

01:16:56 2 Q. Were you aware if --

01:16:55 3 THE COURT: Thank you.

01:16:57 4 BY MS. YEAL:

01:16:57 5 Q. Were you aware if your attorney requested
01:16:59 6 Ms. Jones and/or Ms. Taylor to sign a declaration saying
01:17:03 7 that they were not witness to sexual harassment?

01:17:06 8 MS. GAROFALO: Same instruction. Hold on.

01:17:08 9 THE COURT: Excuse me. So -- all right. Go
01:17:10 10 ahead.

01:17:10 11 THE WITNESS: I think you mean -- I think you
01:17:10 12 mean Rizzo.

01:17:12 13 THE COURT: Sir --

01:17:13 14 THE WITNESS: Yeah.

01:17:13 15 THE COURT: Okay.

01:17:14 16 MS. GAROFALO: Same objection. Same
01:17:16 17 instruction because we didn't --

01:17:21 18 THE COURT REPORTER: I'm sorry. I can't hear
01:17:21 19 you.

01:17:21 20 THE COURT: It's okay. Go ahead. Complete
01:17:22 21 your objection.

01:17:25 22 MS. GAROFALO: Okay. The objection is
01:17:26 23 attorney-client privilege. He is instructed not to
01:17:28 24 answer with any information he obtained through
01:17:31 25 communications with his counsel, Mr. Rothman.

01:17:34 1 THE COURT: Thank you. So don't answer
01:17:36 2 anything that has to do with communication with your
01:17:38 3 attorney.

01:17:40 4 THE WITNESS: Sure.

01:17:42 5 THE COURT: Okay. Otherwise you may answer
01:17:44 6 yes, no, or other -- or I don't know, but it needs to be
01:17:47 7 without communication with your attorney, okay?

01:17:51 8 THE WITNESS: Uh-huh.

01:17:53 9 THE COURT: All right. Thank you. So next
01:17:53 10 question.

01:17:55 11 BY MS. YEAL:

01:17:55 12 Q. Do you recall an incident on February 19, 2016,
01:17:59 13 when you called Ms. Rizzo into your office, closed and
01:18:03 14 locked the door, and then pushed Ms. Rizzo over a chair
01:18:06 15 and attempted to have sex with her? She struggled with
01:18:11 16 you and ran out of the office?

01:18:12 17 A. No.

01:18:13 18 THE COURT: Thank you. Next question.

01:18:17 19 BY MS. YEAL:

01:18:17 20 Q. Did you invite Ms. Rizzo to go to London with
01:18:23 21 you?

01:18:23 22 A. Yes.

01:18:26 23 Q. Did she refuse to go to London with you?

01:18:30 24 A. No.

01:18:30 25 Q. Isn't it true that she canceled her Visa so as

01:18:35 1 not to go to London with you?

01:18:39 2 MS. GAROFALO: Objection. Calls for
01:18:40 3 speculation. You can answer.

01:18:40 4 THE WITNESS: She didn't have a passport.

01:18:43 5 THE COURT: Thank you. Next question.

01:18:53 6 BY MS. YEAL:

01:18:53 7 Q. Do you recall calling Ms. Rizzo into your
01:18:55 8 office and presenting her with a gold Cartier
01:19:01 9 bracelet?

01:19:01 10 A. I do.

01:19:02 11 Q. And when you gave her this bracelet, you
01:19:04 12 apologized for the incident on February 19th where you
01:19:08 13 attempted to have sex with her?

01:19:09 14 A. No.

01:19:12 15 Q. Do you recall telling Ms. Rizzo that you were a
01:19:16 16 pig?

01:19:17 17 A. Excuse me?

01:19:17 18 Q. Do you recall telling Ms. Rizzo that you were a
01:19:20 19 pig for having trying to have sex with her when she
01:19:25 20 didn't want to have sex with you?

01:19:31 21 THE WITNESS: No.

01:19:31 22 THE COURT: It's just a -- thank you. Next
01:19:31 23 question.

01:19:32 24 BY MS. YEAL:

01:19:32 25 Q. Did you tell her, "I want to say I'm sorry and

01:19:35 1 what I did was unacceptable"?

01:19:37 2 A. No.

01:19:37 3 THE COURT: Thank you.

01:19:41 4 BY MS. YEAL:

01:19:41 5 Q. Did you tell Ms. Rizzo that on the 19th of
01:19:44 6 February that you wanted to rape her?

01:19:47 7 A. Excuse me?

01:19:49 8 THE COURT: It's just a question and you can
01:19:51 9 answer.

01:19:51 10 THE WITNESS: I -- I didn't -- I don't think I
01:19:53 11 heard that correctly. What did you say?

01:19:56 12 MS. YEAL: Okay. I'll repeat it.

01:19:56 13 THE COURT: Thank you.

01:19:56 14 BY MS. YEAL:

01:19:56 15 Q. Did you tell Ms. Rizzo that on February 19 that
01:20:00 16 you wanted to rape her?

01:20:01 17 A. No.

01:20:03 18 THE COURT: Thank you. Next question.

01:20:04 19 BY MS. YEAL:

01:20:04 20 Q. Isn't it true that Ms. Rizzo refused your gold
01:20:08 21 Cartier bracelet gift?

01:20:10 22 A. It's true.

01:20:13 23 Q. And Ms. Rizzo resigned her employment the
01:20:17 24 following month, in March of 2016?

01:20:21 25 A. I don't know.

01:20:22 1 Q. You don't know the date?

01:20:23 2 A. I don't know the date, no.

01:20:25 3 Q. Do you know if she resigned her employment?

01:20:29 4 A. Yes, she did.

01:20:31 5 Q. Do you know that she was a single mother?

01:20:33 6 A. I do. Well, actually no. That's not true.

01:20:40 7 THE COURT: Do you not know or --

01:20:43 8 THE WITNESS: No.

01:20:43 9 THE COURT: So the question is: Do you know?

01:20:43 10 And so your answer will be yes, I do know; no, I don't

01:20:48 11 know, or I don't know.

01:20:49 12 THE WITNESS: I -- at the time I did I have

01:20:50 13 since found out that she was, in fact, in a relationship

01:20:54 14 with Grant Zimmerman.

01:20:57 15 THE COURT: Okay. Thank you. Next question.

01:20:57 16 BY MS. YEAL:

01:20:57 17 Q. At the time that all of this was happening,

01:21:00 18 when she was working with you --

01:21:03 19 A. Uh-huh.

01:21:03 20 Q. Strike that. Let me start again.

01:21:04 21 At the time Ms. Rizzo was working with you,

01:21:07 22 were you aware that she was a single mother?

01:21:10 23 A. Yes.

01:21:41 24 Q. And you've posted pictures and videos on

01:21:44 25 Instagram between 2015, '16, up through the present?

01:21:50 1 A. Sure.

01:21:50 2 Q. I am going to show you some Instagram photos
01:21:54 3 and ask you if you posted these. And we will start with
01:22:01 4 Exhibit Number 6? I think we ended up with 5.

01:22:11 5 THE COURT REPORTER: Yes.

01:22:11 6 THE COURT: If you don't have one for me --

01:22:13 7 MS. YEAL: I do. I do.

01:22:14 8 THE COURT: Thank you.

01:22:14 9 MS. MOCHKATEL: I have apparently lost the
01:22:17 10 little rubber thing. I don't see it. Do you want me to
01:22:27 11 mark it or how do you want to do it?

01:22:28 12 THE COURT: So reporter?

01:22:28 13 THE COURT REPORTER: Yes.

01:22:28 14 THE COURT: Counsel believes that she is
01:22:28 15 missing something on her microphone.

01:22:31 16 (Discussion off the record.)

01:22:37 17 THE COURT: Thank you for checking into that.

01:22:46 18 MS. GAROFALO: You don't have copies for --
01:22:49 19 thank you.

01:22:55 20 BY MS. YEAL:

01:22:55 21 Q. Before you, Mr. David, is a document which has
01:22:57 22 been marked as Exhibit Number 6.

01:23:01 23 (Exhibit 6 marked.)

01:23:01 24 BY MS. YEAL:

01:23:01 25 Q. And at the top it says, "Alki David underscore

01:23:08 1 Beverly Hills on Instagram." Quotation, "Okay haters,
01:23:14 2 hashtag hate, exclamation point. Rip that raw." End of
01:23:18 3 quote.

01:23:19 4 Did you post this on Instagram?

01:23:23 5 A. I did.

01:23:23 6 Q. And who is that woman next to you?

01:23:26 7 A. It's my wife.

01:23:27 8 Q. What is your wife's name?

01:23:29 9 A. Jennifer.

01:23:30 10 Q. Do you recall approximately when you posted
01:23:31 11 this?

01:23:34 12 A. I do not, but I mean I remember it.

01:23:37 13 THE COURT: If you don't, you do not. Thank
01:23:38 14 you. Next question.

01:23:39 15 BY MS. YEAL:

01:23:39 16 Q. When were you married to Jennifer? During what
01:23:42 17 period of time?

01:23:44 18 A. We were married -- we were together for eight
01:23:45 19 years.

01:23:45 20 Q. And when were you last with Jennifer?

01:23:49 21 A. 2010 through -- 2009 through til -- two and a
01:23:58 22 half years ago.

01:23:59 23 Q. So about 2016?

01:24:00 24 A. Uh-huh.

01:24:03 25 Q. So do you believe this was posted in or about

01:24:06 1 2016?

01:24:07 2 A. Yes. I mean, it was -- it was before we
01:24:10 3 separated.

01:24:41 4 MS. YEAL: I apologize for just throwing it. I
01:24:44 5 am just sliding it across for you, Mr. David.

01:24:47 6 THE WITNESS: Uh-huh.

01:24:47 7 MS. YEAL: Before you is a document now marked
01:24:49 8 as plaintiff's Exhibit Number 7.

01:24:52 9 (Exhibit 7 marked.)

01:24:53 10 THE WITNESS: Uh-huh.

01:24:53 11 BY MS. YEAL:

01:24:53 12 Q. It's another photo. At the top it says, "Alki
01:24:56 13 David under score Beverly Hills on Instagram." Quotes,
01:25:00 14 "Enough said, hashtag vagina."

01:25:05 15 A. Uh-huh.

01:25:05 16 Q. End of quotes.

01:25:06 17 A. Uh-huh.

01:25:06 18 Q. And then it is a picture. Did you post this?

01:25:08 19 A. I did.

01:25:09 20 Q. And who is this person supposed to be?

01:25:11 21 A. That is -- he's now called -- what's she
01:25:20 22 called?

01:25:20 23 Q. Is it Caitlyn Jenner?

01:25:22 24 A. Yes, yes.

01:25:25 25 Q. Do you recall when you posted this on

01:25:26 1 Instagram?

01:25:27 2 A. Well, it was a repost. Obviously I didn't take

01:25:30 3 the picture, although I have met the man -- woman.

01:25:36 4 Yeah.

01:25:37 5 Q. When? The question was when did you post

01:25:38 6 this?

01:25:38 7 A. I -- I can't remember.

01:25:40 8 Q. Do you recall that it was in 2016?

01:25:43 9 A. I said I can't remember.

01:25:44 10 Q. Okay. I was trying to refresh your memory.

01:26:18 11 MS. YEAL: Before you, Mr. David, is another --

01:26:21 12 what appears to be an Instagram post. We will mark it

01:26:26 13 Exhibit Number 8.

01:26:28 14 (Exhibit 8 marked.)

01:26:28 15 BY MS. YEAL:

01:26:28 16 Q. At the top it says, "Alki David underscore

01:26:30 17 Beverly Hills on Instagram." Quotes, "Boom. There you

01:26:33 18 go. My shorts again --

01:26:36 19 A. Uh-huh.

01:26:37 20 Q. -- at Jennifer." Did you post this on

01:26:39 21 Instagram?

01:26:40 22 A. I did.

01:26:40 23 Q. And who is this woman pictured here?

01:26:46 24 A. That is also my wife, Jennifer.

01:26:50 25 Q. Was this posted in 2016?

01:26:52 1 A. I don't know.

01:26:54 2 Q. On the bottom right-hand corner it says 1-4,
01:26:58 3 2016. Do you have reason to believe that it wasn't
01:27:01 4 posted in 2016?

01:27:03 5 A. I don't know. I posted a lot of pictures.

01:27:11 6 THE COURT: Just for accuracy it says, "There
01:27:13 7 go my shorts, not there you go."

01:27:16 8 MS. YEAL: Okay. Thank you.

01:27:18 9 THE COURT: "There go my shorts, again." Thank
01:27:34 10 you. Thank you.

01:27:36 11 MS. YEAL: It's another document in front of
01:27:37 12 you marked as Exhibit Number 9. At the top it, again,
01:27:42 13 says, "Alki David underscore Beverly Hills at Alki
01:27:47 14 David. Instagram photo and videos." Did you post this
01:27:52 15 photo on Instagram?

01:27:55 16 (Exhibit 9 marked.)

01:27:55 17 THE WITNESS: Yes, I am wearing my wife's
01:27:57 18 shorts.

01:28:00 19 THE COURT: Thank you.

01:28:04 20 BY MS. YEAL:

01:28:04 21 Q. And did you post this in 2015?

01:28:07 22 A. I don't know.

01:28:08 23 Q. I am saying 2015 only because on the bottom it
01:28:12 24 has a date.

01:28:13 25 A. I told you, I don't know.

01:28:14 1 Q. Okay.

01:28:29 2 A. Is this relevant to anything? Is it?

01:28:32 3 THE COURT: Just -- we are just going to ask
01:28:34 4 and answer questions. You have great attorneys that are
01:28:39 5 representing you.

01:28:40 6 MS. YEAL: Before you is Exhibit Number 10.
01:28:44 7 (Exhibit 10 marked.)

01:28:47 8 BY MS. YEAL:

01:28:47 9 Q. This is a photo of --

01:28:50 10 A. It's actually not a photo.

01:28:52 11 Q. Okay. A video, perhaps?

01:28:54 12 A. It's a still from a video, yeah.

01:28:57 13 Q. A still from a video.

01:28:57 14 A. From a famous video.

01:28:59 15 Q. Okay.

01:28:59 16 THE COURT: Let's wait. The reporter will get
01:29:01 17 mad at me if we keep interrupting each other.

01:29:03 18 THE WITNESS: Sorry.

01:29:04 19 THE COURT: So we will wait for the question.

01:29:06 20 BY MS. YEAL:

01:29:06 21 Q. Did you post this photo on Instagram?

01:29:10 22 A. No, I reposted it.

01:29:13 23 Q. So you reposted this photo on Instagram then?

01:29:15 24 A. No, I reposted the video.

01:29:19 25 Q. Reposted a video on Instagram?

01:29:22 1 A. Correct.

01:29:22 2 Q. And do you believe you did this in or about

01:29:23 3 2015 --

01:29:24 4 A. I don't know.

01:29:24 5 Q. -- since that is the date that is on the bottom

01:29:26 6 of this document?

01:29:27 7 A. I don't know.

01:29:39 8 THE COURT: Thank you. So we are now on 11.

01:29:46 9 MS. YEAL: Before you is Exhibit Number 11.

01:29:50 10 (Exhibit 11 marked.)

01:29:52 11 THE WITNESS: Uh-huh.

01:29:52 12 BY MS. YEAL:

01:29:52 13 Q. Is this you in the photo?

01:29:54 14 A. What do you think? What do you think? Really?

01:29:58 15 What do you think.

01:29:59 16 THE COURT: You know what?

01:30:00 17 THE WITNESS: It's very frustrating.

01:30:01 18 THE COURT: Excuse me. Excuse me. You are not

01:30:01 19 going to say anything except the answer.

01:30:03 20 THE WITNESS: Okay.

01:30:03 21 THE COURT: Is that you, is the question.

01:30:06 22 THE WITNESS: Of course it is.

01:30:08 23 THE COURT: Yes or no?

01:30:09 24 THE WITNESS: Yes. Yes, it is.

01:30:09 25 THE COURT: Thank you.

01:30:10 1 MS. YEAL: And did you --

01:30:10 2 THE COURT: Go ahead.

01:30:10 3 BY MS. YEAL:

01:30:10 4 Q. Did you post this photo on Instagram?

01:30:13 5 A. I did.

01:30:14 6 THE COURT: Thank you.

01:30:15 7 BY MS. YEAL:

01:30:15 8 Q. And is this you in front of a mirror, then,

01:30:18 9 with an erect penis under your pants?

01:30:23 10 A. No.

01:30:25 11 THE COURT: Thank you. Next question.

01:30:25 12 BY MS. YEAL:

01:30:25 13 Q. Why did you post this?

01:30:25 14 A. It's a towel in my pants and it's a joke.

01:30:29 15 THE COURT: Thank you. Next question.

01:30:29 16 BY MS. YEAL:

01:30:29 17 Q. So you put a towel inside your pants and then

01:30:32 18 took a photo?

01:30:33 19 A. Correct.

01:30:33 20 Q. I see.

01:30:38 21 THE COURT: Thank you. And we are on

01:30:39 22 Number 12.

01:30:43 23 (Exhibit 12 marked.)

01:30:52 24 BY MS. YEAL:

01:30:52 25 Q. In front of you is Exhibit Number 12. Is this

01:30:55 1 a picture that you also posted on Instagram?

01:31:00 2 A. It is.

01:31:09 3 Q. And do you recall when you posted it?

01:31:11 4 A. I do not.

01:31:20 5 MS. YEAL: The next document before you is
01:31:22 6 Exhibit Number 13.

01:31:25 7 (Exhibit 13 marked.)

01:31:25 8 THE WITNESS: Uh-huh.

01:31:25 9 MS. YEAL: Did I -- I'm sorry. Did I identify
01:31:28 10 Exhibit Number 12, the last one? I did? Thank you.

01:31:31 11 BY MS. YEAL:

01:31:31 12 Q. So the document before you now, Mr. David, is
01:31:34 13 Exhibit Number 13. It appears to be two naked men
01:31:41 14 having sex. Did you post this on Instagram?

01:31:43 15 A. Well, these two naked men happen to be Justin
01:31:46 16 Bieber and the world -- world boxing champion, the
01:31:51 17 middleweight.

01:31:51 18 Q. Okay.

01:31:51 19 A. So the answer -- the point being, I did not
01:31:52 20 post it. I reposted another famous picture on the
01:31:56 21 internet.

01:31:56 22 Q. So you reposted it? Okay.

01:31:57 23 A. Correct.

01:32:00 24 THE COURT: Thank you. Next question.

01:32:14 25 MS. YEAL: Before you, Mr. David, is Exhibit

01:32:17 1 Number 14.

01:32:17 2 (Exhibit 14 marked.)

01:32:19 3 BY MS. YEAL:

01:32:19 4 Q. Again, at the top "Alki David underscore

01:32:23 5 Beverly Hills at Alki David." There's a picture.

01:32:27 6 A. Uh-huh.

01:32:27 7 Q. It says, "Tag a mate that loves cupcakes."

01:32:32 8 A. Uh-huh.

01:32:32 9 Q. Did you post this on Instagram?

01:32:34 10 A. I don't remember, but probably.

01:32:38 11 Q. And are these pictures, these cupcakes,

01:32:41 12 supposed to be penises on top of cupcakes?

01:32:46 13 A. Well, now that you point it out, it could well

01:32:49 14 be.

01:32:49 15 Q. What did you think they were when you posted

01:32:52 16 them?

01:32:53 17 A. I thought they were -- your -- your -- it

01:32:54 18 doesn't matter. Come on for goodness sake.

01:32:59 19 THE COURT: Just -- I heard you say that you

01:33:00 20 didn't remember whether you posted this.

01:33:03 21 THE WITNESS: I don't remember if I -- I really

01:33:04 22 don't remember if I posted it.

01:33:06 23 THE COURT: All right. Then the next

01:33:08 24 question.

01:33:25 25 MS. YEAL: We need more stickers.

01:33:25 1 THE COURT: We are now on Number 15.

01:33:31 2 MS. YEAL: Exhibit Number 15 before you,

01:33:32 3 Mr. David, is another picture and/or video. I don't

01:33:32 4 know. You tell me.

01:33:33 5 (Exhibit 15 marked.)

01:33:33 6 BY MS. YEAL:

01:33:33 7 Q. Is this something you posted on Instagram?

01:33:41 8 A. Yes.

01:33:43 9 Q. And is this a pig with large testicles? Is

01:33:50 10 that what this picture depicts?

01:33:55 11 A. Oh, yeah.

01:33:58 12 THE COURT: All right. Thank you. Next

01:33:59 13 question.

01:34:00 14 BY MS. YEAL:

01:34:00 15 Q. You did not know what it was when you first

01:34:02 16 posted it?

01:34:03 17 A. Of course I knew what it was.

01:34:05 18 Q. Okay.

01:34:20 19 MS. YEAL: Before you is Exhibit Number 16,

01:34:21 20 Mr. David.

01:34:23 21 (Exhibit 16 marked.)

01:34:24 22 THE WITNESS: Uh-huh.

01:34:24 23 BY MS. YEAL:

01:34:24 24 Q. Is this a picture you posted on Instagram?

01:34:26 25 A. It's myself and my wife, again, yes.

01:34:54 1 MS. YEAL: Before you is Exhibit Number 17.
01:34:58 2 (Exhibit 17 marked.)
01:34:58 3 BY MS. YEAL:
01:34:58 4 Q. Mr. David, again at the top, "Alki David
01:35:01 5 underscore Beverly Hills at Alki David."
01:35:05 6 Did you post this on Instagram?
01:35:08 7 A. Yes.
01:35:10 8 Q. And is this a picture of you?
01:35:12 9 A. Yes.
01:35:13 10 Q. And what are you doing here?
01:35:15 11 A. I am in the bath.
01:35:19 12 Q. I'm sorry?
01:35:19 13 A. I'm in the bath.
01:35:21 14 Q. In the bath?
01:35:22 15 A. Yeah. And one hand is up in the air and the
01:35:25 16 other is taking a phone -- is holding a phone.
01:35:26 17 Q. To take the picture?
01:35:28 18 A. In the mirror.
01:35:30 19 THE COURT: Thank you.
01:35:35 20 THE WITNESS: One, two, three.
01:35:43 21 MS. GAROFALO: The court reporter will put them
01:35:45 22 in order.
01:35:46 23 THE WITNESS: Yeah, I was just going to say
01:35:46 24 that --
01:35:46 25 THE COURT: You know what? There's no question

01:35:47 1 pending, yet. Okay?

01:35:47 2 THE WITNESS: Yeah.

01:35:47 3 THE COURT: So I am on number -- the last
01:35:53 4 picture was Number 17?

01:35:57 5 MS. YEAL: Correct.

01:35:58 6 THE COURT: The one with Mr. David in the bath.
01:36:01 7 The next one is Number 18?

01:36:03 8 MS. YEAL: Yes, I will hand that to the
01:36:05 9 witness.

01:36:06 10 THE COURT: With the -- with a kitten, it looks
01:36:08 11 like.

01:36:11 12 THE WITNESS: Uh-huh.

01:36:12 13 MS. YEAL: So Exhibit Number 18.
01:36:19 14 (Exhibit 18 marked.)

01:36:19 15 THE WITNESS: Uh-huh.

01:36:19 16 BY MS. YEAL:

01:36:19 17 Q. Is this your picture?

01:36:21 18 A. I don't know.

01:36:21 19 Q. Did you post?

01:36:22 20 A. No, it's not -- it's not my picture,
01:36:25 21 actually.

01:36:25 22 Q. Did you post this picture on Instagram?

01:36:29 23 A. I don't think I posted it, no. I think -- I
01:36:31 24 think somebody else posted it.

01:36:33 25 THE COURT: Okay. Thank you.

01:36:37 1 BY MS. YEAL:

01:36:37 2 Q. Did you repost it? I am referring to -- you

01:36:39 3 will see on the bottom left side of the picture it says,

01:36:43 4 "At Alki David"?

01:36:44 5 A. Uh-huh.

01:36:46 6 Q. And then on the right side it says, "Repost"?

01:36:49 7 Did you repost this picture on Instagram?

01:36:52 8 A. Maybe. I don't know.

01:36:55 9 Q. Okay.

01:36:56 10 THE COURT: Thank you.

01:37:10 11 MS. YEAL: Before you is Exhibit Number 19.

01:16:55 12 (Exhibit 19 marked.)

01:16:55 13 BY MS. YEAL:

01:16:55 14 Q. Have you seen this picture before?

01:37:18 15 A. No.

01:37:20 16 Q. Do you recall that you hired a stripper for a

01:37:24 17 birthday party at work?

01:37:26 18 A. I remember that. No, I didn't hire -- I didn't

01:37:28 19 hire the stripper. Yes, I remember that.

01:37:30 20 Q. Well, do you remember there was a stripper,

01:37:32 21 though, at work?

01:37:33 22 A. I do. I do.

01:37:34 23 Q. Okay.

01:37:34 24 A. I do.

01:37:34 25 Q. Do you recall that this was the stripper hired

01:37:37 1 for that birthday party?

01:37:38 2 A. I don't.

01:37:40 3 Q. Is that -- the picture, I know, it is not very
01:37:43 4 clear, but does that appear to be you on the left side?

01:37:47 5 A. No.

01:37:47 6 Q. Or the right side?

01:37:50 7 A. It's not. Sorry.

01:37:52 8 THE COURT: Thank you.

01:37:53 9 BY MS. YEAL:

01:37:53 10 Q. Do you remember during that birthday party when
01:37:53 11 the stripper came to the office, did she dance nude?

01:38:01 12 A. It wasn't a woman. It was a male stripper.

01:38:06 13 Q. Okay. How many times have there been
01:38:08 14 strippers --

01:38:09 15 A. Once.

01:38:09 16 Q. -- called to your offices?

01:38:11 17 A. Well, on camera? I -- I don't know. Quite a
01:38:15 18 few, probably, on camera as part of Andy Dick's Chat
01:38:20 19 Show. There was one time a male dancer -- it wasn't a
01:38:23 20 stripper, a male dancer came. It was -- I don't know if
01:38:27 21 that was him or not, and I'm sorry to tell you that's --
01:38:30 22 that's not me.

01:38:31 23 Q. Okay.

01:38:35 24 A. And it was one time and I didn't do it.

01:38:38 25 Somebody -- somebody organized it and I actually got

01:38:41 1 quite annoyed because Kim, who was the person that came
01:38:45 2 to -- got upset and I got upset at the time, as well.

01:38:51 3 Q. Did the male stripper who attended the party,
01:38:56 4 did he do a lap dance on you?

01:38:58 5 A. On me?

01:38:59 6 Q. Yes, on you.

01:39:01 7 A. No, no.

01:39:02 8 Q. So you said that Kim got upset because there
01:39:05 9 was a stripper for her birthday?

01:39:09 10 A. Yes.

01:39:10 11 Q. Okay. Did you try to find out who actually
01:39:14 12 hired the stripper?

01:39:15 13 A. I can't remember. I really can't remember. It
01:39:17 14 was awhile ago. I can't remember.

01:39:18 15 Q. Okay. What do you mean by "awhile ago"? How
01:39:22 16 long was it?

01:39:22 17 A. I don't know. I mean, years.

01:39:51 18 MS. YEAL: Exhibit Number 20 before you,
01:39:52 19 Mr. David, is a picture of some candy.

01:40:01 20 (Exhibit 20 marked.)

01:40:01 21 THE WITNESS: Uh-huh.

01:40:01 22 BY MS. YEAL:

01:40:01 23 Q. Do you recall having arranged a party in the
01:40:04 24 office where you placed boxes of condoms and candy,
01:40:11 25 super fun penis candy, as reflected on this exhibit?

01:40:15 1 A. No. No, I -- it's not that I -- no, I -- it's
01:40:19 2 not that do I remember? I didn't. And on top of that I
01:40:22 3 actually think that that was Elizabeth Taylor who did
01:40:25 4 that, I think. I may be wrong, but I think Elizabeth
01:40:28 5 Taylor did that. And I actually got quite annoyed about
01:40:31 6 this because that is not my style at all.

01:40:34 7 THE COURT: Thank you.

01:40:35 8 BY MS. YEAL:

01:40:35 9 Q. What is not your style?

01:40:37 10 A. To -- to be putting that sort of stuff out in
01:40:39 11 the office. That -- that particular thing is not my --
01:40:42 12 it's just not my style.

01:40:44 13 Q. Okay.

01:40:54 14 MS. YEAL: Before you is now Exhibit 21.

01:40:58 15 (Exhibit 21 marked.)

01:40:59 16 THE WITNESS: Uh-huh.

01:41:00 17 THE COURT: Madam Reporter, do you want
01:41:01 18 Mr. David to stop saying "uh-huh?" Yes. So, Mr. David,
01:41:04 19 wait until the question is finished, okay?

01:41:07 20 THE WITNESS: Yes.

01:41:09 21 THE COURT: Thank you. All right. We have
01:41:10 22 Number 21 before us and the question is?

01:41:12 23 MS. YEAL: Thank you, Judge, for that reminder
01:41:15 24 about the uh-huh.

01:41:15 25 THE COURT: Thank you.

01:41:16 1 BY MS. YEAL:

01:41:16 2 Q. Before you, Mr. David, is Exhibit Number 21.

01:41:18 3 A. Uh-huh.

01:41:18 4 Q. Have you seen this document before?

01:41:22 5 A. I have.

01:41:23 6 Q. And what is this document?

01:41:25 7 A. That is a joke picture that was posted in the

01:41:30 8 studio downstairs, outside of the office.

01:41:36 9 Q. Do you know who posted it?

01:41:37 10 A. Yeah, the two people that are named at the

01:41:39 11 bottom here, the two ladies who worked downstairs in the

01:41:40 12 studio which was Ally Botto and Janelle Bower.

01:41:45 13 Q. Do you know how long this picture was hanging

01:41:48 14 in the studio?

01:41:50 15 A. I don't know. I really don't know.

01:41:56 16 Q. But you saw it hanging there in the studio?

01:41:58 17 A. I saw it. I -- I did see it one time, yeah. I

01:42:01 18 did see it one time. And this is in the production

01:42:06 19 studio of the racy content that was being produced, so

01:42:13 20 it was well in -- well in keeping with the style of the

01:42:18 21 content that was being produced.

01:42:21 22 Q. What was being produced?

01:42:22 23 A. You know, there was the Andy Dick Show. There

01:42:27 24 was the -- the -- what's his name -- oh, my gosh. A

01:42:32 25 bunch of -- a bunch of, sort of, dealer celebrities were

01:42:39 1 creating shows in the studio and they were going on
01:42:39 2 there and online.

01:42:45 3 Q. Lauren Reeves didn't work on the Andy Dick
01:42:48 4 Show; correct?

01:42:50 5 A. I don't know. I don't know. I don't think so.
01:42:56 6 But she certainly worked on far more salacious shows
01:43:01 7 than that.

01:43:03 8 THE COURT: Thank you. Wait for the question.
01:43:04 9 Next question.

01:43:04 10 MS. YEAL: Move to strike as nonresponsive.

01:43:07 11 THE COURT: All right. Next question.

01:43:09 12 BY MS. YEAL:

01:43:09 13 Q. Ally Botto, is she still working for you?

01:43:11 14 A. No.

01:43:11 15 Q. Is Janelle?

01:43:12 16 A. Bower.

01:43:13 17 Q. Bower still working for you?

01:43:14 18 A. No.

01:43:15 19 Q. When was the last time they worked for you?

01:43:18 20 A. Well, when I closed the studio Janelle left.
01:43:23 21 So Ally stopped working probably both -- about a year
01:43:30 22 and a bit ago, a year-and-a-half ago.

01:43:34 23 THE COURT: Thank you. Next question.

01:43:43 24 BY MS. YEAL:

01:43:44 25 Q. Do you know an Owen Phillips?

01:43:46 1 A. I do.

01:43:47 2 Q. Who is Owen Phillips?

01:43:51 3 A. Owen is the ex-executive editor of the
01:43:53 4 Hollywood Reporter of Men's Vogue of Wall Street
01:43:57 5 Journal, and he was a reporter at the New Yorker for
01:44:02 6 20 years.

01:44:04 7 THE COURT: Thank you.

01:44:05 8 BY MS. YEAL:

01:44:05 9 Q. Did he also do work for one of your
01:44:08 10 companies?

01:44:08 11 A. For a number of them, yes.

01:44:10 12 Q. Which companies?

01:44:11 13 A. All of them.

01:44:12 14 Q. What did he do?

01:44:14 15 A. Mainly PR.

01:44:20 16 Q. How did he do PR?

01:44:22 17 A. As any other PR person.

01:44:24 18 Q. Did he write articles for you?

01:44:27 19 A. Not so much articles. He wrote -- wrote press
01:44:33 20 releases.

01:44:37 21 Q. Did he write under his own name or did he you
01:44:41 22 use a pseudonym, if you know?

01:44:45 23 A. I don't know.

01:44:48 24 Q. Do you know a Jeff Stevens?

01:44:50 25 A. I do not.

01:44:51 1 Q. Do you know if Owen Phillips used the name Jeff
01:44:54 2 Stevens as a pseudonym?

01:44:55 3 A. I do not know.

01:44:58 4 Q. Is Shock Ya an online publication owned by
01:45:03 5 you?

01:45:03 6 A. No.

01:45:05 7 Q. Have you ever owned Shock Ya?

01:45:10 8 A. No.

01:45:10 9 Q. If David Nussbaum testified in his deposition
01:45:15 10 that you own Shock Ya, you believe he is mistaken?

01:45:19 11 A. David Nussbaum said a lot of things that
01:45:21 12 were --

01:45:22 13 THE COURT: Just answer the question.

01:45:23 14 THE WITNESS: Yeah, he was definitely
01:45:25 15 mistaken.

01:45:26 16 THE COURT: Thank you. Next question. Thank
01:45:27 17 you.

01:45:29 18 BY MS. YEAL:

01:45:29 19 Q. Have you ever written any articles for
01:45:32 20 Shock Ya?

01:45:33 21 A. No.

01:45:34 22 Q. Have you ever asked anyone to write any
01:45:36 23 articles for Shock Ya?

01:45:39 24 A. Probably, yes.

01:45:39 25 Q. Who have you asked to write articles for

01:45:44 1 Shock Ya?

01:45:44 2 A. A lady called -- whose name I forget, she works
01:45:48 3 for Brian Corder who owns Shock Ya.

01:45:52 4 Q. Do you remember the lady's name?

01:45:54 5 A. I do not. Maggy -- Maggy is her pen name.

01:45:58 6 Q. And Brian Corder, you said, is the owner of
01:46:02 7 Shock Ya?

01:46:03 8 A. Yes.

01:46:48 9 MS. YEAL: Ms. Reporter, what number are we on?

01:46:48 10 THE WITNESS: You know what's -- what's
01:46:49 11 hilarious?

01:46:50 12 THE COURT: No, no I want you to stop.

01:46:53 13 THE COURT: Number 21 is the last picture. We
01:46:56 14 are on 22.

01:46:57 15 THE WITNESS: They are all colluding.

01:46:58 16 THE COURT: I'm -- you know what I want you to
01:46:59 17 do, Mr. David? Please, I don't want to ask you again.
01:47:03 18 Thank you.

01:47:15 19 Okay, we are on Number 22.

01:47:34 20 THE WITNESS: Yeah. Yeah, I remember this.

01:47:37 21 THE COURT: Let's wait for the question.

01:47:39 22 MS. YEAL: So before you is Exhibit Number 22,
01:47:40 23 Mr. David.

01:47:44 24 (Exhibit 22 marked.)

01:47:45 25 BY MS. YEAL:

01:47:45 1 Q. And as you saw it you smirked and said, "I
01:47:48 2 remember this."

01:47:49 3 A. I didn't smirk. I laughed.

01:47:51 4 THE COURT: Excuse me. Excuse me, one second.

01:47:52 5 MS. YEAL: Let me start that.

01:47:52 6 THE COURT: Let's identify it, as how many
01:47:54 7 pages. Let's identify it. I believe it's five pages.

01:48:01 8 MS. YEAL: Five.

01:48:03 9 THE COURT: Five pages. Thank you.

01:48:03 10 BY MS. YEAL:

01:48:03 11 Q. So Exhibit Number 22 before you, Mr. David --

01:48:06 12 A. Uh-huh.

01:48:07 13 Q. -- has five pages.

01:48:08 14 A. Uh-huh.

01:48:08 15 Q. I will ask you to look at it and see if you
01:48:11 16 have seen it before?

01:48:12 17 A. I have seen it before, yes.

01:48:18 18 Q. Did you ask Shock Ya -- anyone within Shock Ya
01:48:23 19 to write this article?

01:48:25 20 A. I didn't ask for it, but I said it was okay to
01:48:28 21 when I was asked. Yeah.

01:48:29 22 Q. Who asked you?

01:48:31 23 A. I think Brian did.

01:48:43 24 Q. Did Brian send you a draft of the article
01:48:46 25 before it was printed, if you know?

01:48:48 1 A. I can't remember.

01:48:50 2 Q. Did you ever see this article before it was
01:48:52 3 actually printed?

01:48:54 4 A. I think so, yes.

01:48:56 5 Q. So you gave your okay?

01:48:59 6 A. I did.

01:49:13 7 Q. Where is Shock Ya located?

01:49:16 8 A. On the internet.

01:49:18 9 Q. Do they have an office?

01:49:19 10 A. No.

01:49:22 11 Q. Do you know where Mr. Brian Corder lives?

01:49:27 12 A. He's abroad somewhere, I believe.

01:49:29 13 Q. Do you know what country he lives in?

01:49:31 14 A. I have no idea.

01:49:33 15 Q. Do you have his phone number?

01:49:35 16 A. I do not.

01:49:37 17 Q. Do you have an address for him?

01:49:40 18 A. I told you I don't know where he lives. Is
01:50:07 19 that it?

01:50:10 20 THE COURT: We will wait for the next question.
01:50:39 21 We are on 23. All right. Thank you.

01:50:52 22 THE WITNESS: Come on.

01:51:03 23 MS. YEAL: Before you, Mr. David, is Exhibit
01:51:06 24 Number 23.
01:51:07 25 (Exhibit 23 marked.)

01:51:08 1 THE WITNESS: Yeah.

01:51:09 2 BY MS. YEAL:

01:51:09 3 Q. Is this a photo of yourself that you posted on
01:51:12 4 Instagram?

01:51:13 5 A. Yeah. Actually, I didn't post it. I mean,
01:51:18 6 I -- it's a picture that was taken by somebody else,
01:51:21 7 yes, and then I reposted it.

01:51:26 8 Q. Okay. Was this picture taken by Layla?

01:51:34 9 A. Yes.

01:51:59 10 THE COURT: Thank you. We are on 24.

01:52:09 11 MS. YEAL: Before you, Mr. David, is another
01:52:11 12 document marked Exhibit Number 24.

01:52:15 13 (Exhibit 24 marked.)

01:52:15 14 THE WITNESS: Uh-huh.

01:52:15 15 BY MS. YEAL:

01:52:15 16 Q. Is this a picture of you?

01:52:17 17 A. Uh-huh.

01:52:19 18 THE COURT: Is that a yes?

01:52:20 19 THE WITNESS: Yes, it is. Yes, it is. Yes, it
01:52:21 20 is.

01:52:21 21 THE COURT: Thank you.

01:52:21 22 BY MS. YEAL:

01:52:21 23 Q. And did you post this picture of yourself on
01:52:24 24 Instagram?

01:52:27 25 A. I did -- I didn't take the picture. Somebody

01:52:29 1 else took the picture.

01:52:31 2 Q. Right.

01:52:32 3 A. Obviously, because both my hands are holding
01:52:34 4 something.

01:52:34 5 Q. No, my question is: Did you post it on
01:52:36 6 Instagram?

01:52:37 7 A. Yes.

01:52:39 8 Q. Did you take this picture at work?

01:52:44 9 A. No.

01:52:45 10 THE COURT: He said he did not take the
01:52:47 11 picture.

01:52:48 12 BY MS. YEAL:

01:52:48 13 Q. Did someone take this picture of you at work?

01:52:50 14 A. I don't know. I can't remember.

01:53:07 15 MS. YEAL: I am going to move onto the video
01:53:09 16 Exhibit Number 5 where we left off at the last
01:53:13 17 deposition that we didn't finish, so I would like to
01:53:15 18 take a break so we can set up the computers.

01:53:19 19 THE COURT: Okay. All right. Do you need more
01:53:20 20 than five minutes? All right. So let's just then take
01:53:26 21 five minutes.

01:53:28 22 THE VIDEOGRAPHER: Going off the record. The
01:53:29 23 time is 1:54 p.m.

02:03:37 24 (Recess.)

02:03:40 25 THE VIDEOGRAPHER: This marks the beginning of

02:03:43 1 Video Media Number Three to the videotaped deposition of
02:03:47 2 David, Alkiviades. We are going back on the record.

02:03:50 3 The time is 2:04 p.m.

02:03:53 4 BY MS. YEAL:

02:03:53 5 Q. Mr. David, at the last deposition I asked you
02:03:55 6 about a video that you posted on Snapchat with a banana
02:04:00 7 and two apples.

02:04:03 8 Do you recall that testimony?

02:04:04 9 A. No.

02:04:04 10 Q. Well, do you remember seeing a video at your
02:04:07 11 last deposition with a banana and two apples that you
02:04:12 12 were showing to employees?

02:04:14 13 A. I do not remember the video, no.

02:04:16 14 Q. Okay. Well, it was Exhibit Number 5 to your
02:04:18 15 deposition. I am going to play it on this laptop here.
02:04:23 16 I am going to turn it around so we can watch it.

02:04:27 17 A. Okay.

02:04:27 18 Q. And then I will ask you some questions because
02:04:30 19 I didn't finish asking you questions pertaining to this
02:04:34 20 video.

02:04:45 21 A. Uh-huh.

02:04:45 22 Q. Can you see if I put it here?

02:04:48 23 A. I can see that.

02:04:49 24 Q. Closer to you?

02:04:50 25 A. No, I can see that.

02:04:50 1 Q. Are you fine?

02:04:50 2 A. Yeah.

02:04:50 3 THE COURT: Thank you.

02:04:51 4 MS. YEAL: I am going to turn around. Are you
02:05:05 5 all ready?

02:05:06 6 THE COURT: Yes.

02:05:08 7 MS. YEAL: Start playing it.

02:05:11 8 (Video played.)

02:08:14 9 THE WITNESS: Okay.

02:08:16 10 MS. YEAL: I think the video was stopped.

02:08:18 11 THE WITNESS: It stopped.

02:08:21 12 THE COURT: So I want you to just wait until
02:08:23 13 she finishes the question, please.

02:08:29 14 BY MS. YEAL:

02:08:29 15 Q. Did you make the video with the banana and the
02:08:32 16 apples?

02:08:35 17 A. Probably. Yes, yes, yes, yes, yes.

02:08:43 18 THE COURT: Thank you. Next question.

02:08:48 19 BY MS. YEAL:

02:08:48 20 Q. There was a woman in the video who said,
02:08:50 21 "You're disgusting." Who is that person?

02:08:56 22 A. She said it jokingly.

02:09:00 23 Q. I didn't ask if she said it serious or --

02:09:01 24 THE COURT: Stop. Stop.

02:09:01 25 THE WITNESS: It was -- I -- I believe that was

02:09:02 1 Flor Campillo.

02:09:05 2 BY MS. YEAL:

02:09:05 3 Q. Was there a Heather?

02:09:06 4 A. Yes.

02:09:07 5 Q. Did Heather say, "This is disgusting"?

02:09:12 6 A. I don't know. I can't remember.

02:09:13 7 Q. Did you see Heather in the video?

02:09:16 8 A. I -- I heard Heather, but I don't think I saw

02:09:19 9 her.

02:09:19 10 Q. And you saw Flor Campillo in the video?

02:09:22 11 A. Yes.

02:09:23 12 Q. So one of the women, whether it was Flor or

02:09:26 13 Heather, one of them said, "You are disgusting"?

02:09:30 14 A. Jokingly.

02:09:32 15 THE COURT: Thank you. Next question.

02:09:34 16 BY MS. YEAL:

02:09:34 17 Q. Did they tell you, "I am joking," when they

02:09:36 18 said you are disgusting?

02:09:39 19 A. It is obvious that they were joking.

02:09:42 20 Q. Did they say to you --

02:09:43 21 A. It is obvious that they were joking.

02:09:45 22 THE COURT: Stop. The video --

02:09:45 23 THE WITNESS: The video --

02:09:46 24 THE COURT: -- is there and will be played for

02:09:48 25 the jurors if it needs to be or if the judge determines.

02:09:55 1 You may answer the question did you hear any -- did you
02:09:59 2 hear what counsel says? Is it just yes, no, and that's
02:10:04 3 it?

02:10:05 4 THE WITNESS: I don't know.

02:10:06 5 THE COURT: Thank you. Next question. But the
02:10:10 6 video speaks for itself.

02:10:12 7 BY MS. YEAL:

02:10:12 8 Q. Was David Nussbaum in the video, as well?

02:10:16 9 A. Yes, he was.

02:10:17 10 Q. And in the video you said to him, "Dave, I know
02:10:20 11 you want it as you were showing him the banana and two
02:10:26 12 apples?

02:10:27 13 A. God, you guys are good.

02:10:31 14 THE COURT: I didn't hear that and I don't want
02:10:31 15 to hear it. And you know what? I have shown you
02:10:33 16 respect.

02:10:34 17 THE WITNESS: Yes ma'am. I apologize.

02:10:35 18 THE COURT: I want -- thank you. I don't want
02:10:36 19 to have the interruption again.

02:10:40 20 THE WITNESS: Yes.

02:10:41 21 THE COURT: Thank you.

02:10:42 22 THE WITNESS: Yes.

02:10:42 23 THE COURT: Next question.

02:10:44 24 BY MS. YEAL:

02:10:44 25 Q. What did you mean when you said, "Dave, I know

02:10:47 1 you want it"?

02:10:51 2 A. I was joking with David in saying that I know,
02:10:55 3 in a suggestive way, holding the fruit in a phallic kind
02:10:59 4 of symbol, jokingly saying, "I know you want this
02:11:05 5 fruit."

02:11:07 6 THE COURT: Thank you. Next question.

02:11:08 7 BY MS. YEAL:

02:11:08 8 Q. And Mr. Nussbaum's response to you was, "You're
02:11:10 9 a jerk"?

02:11:11 10 A. Jokingly, yes.

02:11:13 11 THE COURT: Thank you.

02:11:14 12 BY MS. YEAL:

02:11:14 13 Q. Did he say to you, "I am joking," when he is
02:11:15 14 telling you you are a jerk?

02:11:16 15 A. I know David.

02:11:19 16 THE COURT: And the answer?

02:11:20 17 THE WITNESS: And the answer is, is that he is
02:11:22 18 very neurotic and that is his way.

02:11:26 19 THE COURT: Thank you.

02:11:28 20 BY MS. YEAL:

02:11:28 21 Q. Have you read his deposition transcript?

02:11:33 22 MS. GAROFALO: Yes or no?

02:11:33 23 THE WITNESS: Yes.

02:11:34 24 BY MS. YEAL:

02:11:34 25 Q. And do you recall that in his deposition

02:11:37 1 transcript he confirmed that he told you and believed
02:11:41 2 that you were a jerk and he was not joking?

02:11:44 3 A. Yes.

02:11:45 4 Q. So why do you believe that he was joking when
02:11:48 5 he told you that you were a jerk after you showed him
02:11:52 6 this phallic symbol of the banana and two apples?

02:11:57 7 MS. GAROFALO: Objection. Argumentative. You
02:12:00 8 can answer.

02:12:01 9 THE WITNESS: There are things that you clearly
02:12:04 10 don't know and don't understand. And also, there's some
02:12:11 11 information for you about his deposition that you don't
02:12:14 12 know yet because --

02:12:15 13 THE COURT: Okay. I'm -- I'm going to stop.

02:12:19 14 THE WITNESS: -- Barry died.

02:12:21 15 THE COURT: So we need to -- we need to move
02:12:22 16 on. If you really want to go into the jerk issue you
02:12:26 17 may, but I really want you to just answer the question.
02:12:33 18 So if you need to ask the question regarding this jerk
02:12:37 19 issue you may, but it's a -- it's a long question.

02:12:41 20 BY MS. YEAL:

02:12:41 21 Q. Let me ask you this, Mr. David: Did
02:12:45 22 Mr. Nussbaum tell you that he was feigning disgust?

02:12:51 23 A. Yes.

02:12:52 24 Q. He told you that?

02:12:53 25 A. Yeah.

02:12:53 1 Q. When did he tell you that?

02:12:57 2 A. Can I speak to counsel?

02:13:00 3 THE COURT: Counsel?

02:13:01 4 MS. GAROFALO: Hold on. It may be an
02:13:04 5 attorney-client issue.

02:13:07 6 THE COURT: Okay. All right. I mean, if it is
02:13:08 7 an attorney-client issue go ahead, but stay right there.
02:13:13 8 Okay? I mean, we are not -- we are not going listen.
02:13:14 9 Let's not go off. You know, is it -- I am sure it's not
02:13:17 10 a big issue.

02:13:20 11 All right. Thank you. So the question was:
02:13:22 12 When did he tell you that?

02:13:26 13 THE WITNESS: When I asked him about that
02:13:28 14 video.

02:13:29 15 THE COURT: Okay. Thank you. Next question.

02:13:31 16 BY MS. YEAL:

02:13:31 17 Q. When did you ask him about the video?

02:13:33 18 A. I can't remember. At the time. At the time.
02:13:37 19 I said, "Do you really think so?" And he goes -- and he
02:13:40 20 goes, "Come on." And we have that kind of
02:13:42 21 relationship.

02:13:43 22 Q. So after -- the same day that you made the
02:13:47 23 video?

02:13:48 24 A. Yes.

02:13:49 25 Q. I see.

02:13:50 1 THE COURT: Thank you.

02:13:50 2 BY MS. YEAL:

02:13:50 3 Q. But you read his deposition that occurred last
02:13:52 4 year?

02:13:53 5 MS. GAROFALO: Objection. Asked and
02:13:55 6 answered.

02:13:55 7 THE COURT: Thank you. He said yes --

02:13:57 8 MS. YEAL: Okay.

02:13:57 9 THE COURT: -- and we can move on.

02:13:58 10 MS. YEAL: All right.

02:14:00 11 THE COURT: Thank you.

02:14:00 12 BY MS. YEAL:

02:14:00 13 Q. In the video there was a woman who was kind of
02:14:06 14 prancing, and on the bottom it said "fired bitch."

02:14:11 15 Do you remember that?

02:14:11 16 A. Yes.

02:14:12 17 Q. Who was that person?

02:14:13 18 A. That was Flor Campillo.

02:14:16 19 Q. Who typed "fired bitch" on there?

02:14:19 20 A. I did.

02:14:21 21 Q. And was Flor Campillo still working there at
02:14:24 22 the time?

02:14:24 23 A. Yes.

02:14:24 24 Q. Did you believe that writing "fired bitch"
02:14:30 25 under her -- under her picture or video that that would

02:14:31 1 violate the company's policy against sexual
02:14:34 2 harassment?

02:14:34 3 A. No.

02:14:35 4 Q. Yes or no?

02:14:37 5 THE COURT: Thank you.

02:14:38 6 BY MS. YEAL:

02:14:38 7 Q. Do you believe that going around videotaping
02:14:47 8 you prancing around the workplace with a banana and two
02:14:51 9 apples symbolizing some phallic symbol --

02:15:00 10 A. Uh-huh.

02:15:00 11 Q. -- that that violated the company's sexual
02:15:02 12 harassment policy?

02:15:04 13 A. Absolutely not.

02:15:06 14 THE COURT: Thank you. Next question.

02:15:14 15 BY MS. YEAL:

02:15:14 16 Q. In the video you said, "Would you like" --
02:15:18 17 sorry, "Would you want to join my long line of sexual
02:15:23 18 harassment lawsuits."

02:15:24 19 A. Uh-huh.

02:15:24 20 Q. Do you remember saying that?

02:15:25 21 A. I do.

02:15:27 22 Q. What do you mean by "long line of sexual
02:15:32 23 harassment lawsuits"?

02:15:33 24 A. Are you sure you want the answer to this?

02:15:35 25 Q. I said, what do you mean?

02:15:36 1 A. Well, what I meant was -- was why didn't you go
02:15:39 2 find yourself a douchebag lawyer who will take you on
02:15:43 3 credit and file a targeted lawsuit that is completely
02:15:47 4 frivolous to try and extract money that doesn't belong
02:15:51 5 to you in the first place, is what I meant.

02:15:53 6 THE COURT: Thank you. Next question.

02:15:54 7 BY MS. YEAL:

02:15:54 8 Q. Are you referring to Allred, Maroko & Goldberg
02:15:57 9 as douchebag lawyers?

02:15:57 10 A. Yes.

02:15:58 11 MS. GAROFALO: Object -- objection.

02:16:00 12 THE COURT: Thank you.

02:16:01 13 MS. GAROFALO: Relevance. Let's move on.

02:16:01 14 BY MS. YEAL:

02:16:01 15 Q. You created this video after you learned that
02:16:05 16 Lauren Reeves was suing you for sexual harassment;
02:16:08 17 correct?

02:16:08 18 A. I didn't just mean you, I meant all of these
02:16:12 19 people who colluded, have colluded and continue to
02:16:18 20 collude.

02:16:19 21 THE COURT: Thank you. And the question that
02:16:20 22 is pending is: You created this video --

02:16:23 23 MS. YEAL: After you learned that Ms. Reeves
02:16:26 24 was taking legal action against you for sexual
02:16:29 25 harassment?

02:16:29 1 THE WITNESS: I don't know.

02:16:30 2 THE COURT: Thank you. Next question. And I
02:16:33 3 know my saying "thank you, next question" is
02:16:34 4 aggravating, but it is helpful. So please, I am glad
02:16:40 5 that I needed to occur.

02:16:41 6 Next question. Thank you.

02:16:43 7 BY MS. YEAL:

02:16:43 8 Q. By saying, "You want to join my long list of
02:16:49 9 sexual harassment lawsuits," were you mocking the fact
02:16:52 10 that women were suing you for sexual harassment?

02:16:56 11 A. It's not just women, it's also gay men,
02:16:59 12 straight men, round men, flat men, long women, every
02:17:05 13 type of person who thinks that they can get money for
02:17:08 14 nothing by just filing a malicious lawsuit will try,
02:17:12 15 yes. So --

02:17:12 16 Q. Did any straight men sue you for sexual
02:17:16 17 harassment?

02:17:17 18 A. Not for sexual harassment --

02:17:18 19 Q. Okay.

02:17:18 20 A. -- but for employment harassment.

02:17:19 21 Q. All right. Well, I am talking about sexual
02:17:21 22 harassment. So you were saying in the video, "You want
02:17:24 23 to join my long line --

02:17:25 24 A. Actually, yes, yes, yes --

02:17:28 25 (Simultaneous crosstalk.)

02:17:28 1 THE COURT: Excuse me. Wait one second.

02:17:28 2 THE WITNESS: Sorry. The answer is yes.

02:17:30 3 THE COURT: All right.

02:17:30 4 THE WITNESS: Yes, they are.

02:17:31 5 THE COURT: So you -- excuse me. The reporter
02:17:31 6 can only take one down.

02:17:34 7 THE WITNESS: Sorry, apologize.

02:17:36 8 THE COURT: You have remembered your answer and
02:17:38 9 you may go ahead and complete your answer.

02:17:40 10 THE WITNESS: Yes, yes. Straight men are suing
02:17:44 11 me for sexual harassment.

02:17:45 12 BY MS. YEAL:

02:17:45 13 Q. Who has sued you for sexual harassment?

02:17:46 14 A. Grant Zimmerman.

02:17:48 15 THE COURT: Thank you.

02:17:49 16 THE WITNESS: Grant Zimmerman, Mary Rizzo's
02:17:52 17 boyfriend.

02:17:52 18 BY MS. YEAL:

02:17:52 19 Q. And he is alleging that you sexually harassed
02:17:55 20 him, as well?

02:17:56 21 A. Something along those lines by showing him --
02:18:00 22 by showing this ex-con with -- who has been shot twice,
02:18:05 23 a video that he found offensive.

02:18:08 24 Q. So the answer is yes, he is suing you for
02:18:11 25 sexual harassment?

02:18:13 1 A. I believe so. I hope so.

02:18:19 2 Q. So if I understand you correctly, Mr. David,
02:18:21 3 you believe that walking around the workplace holding
02:18:25 4 the banana and two apples symbolizing, I guess, a penis
02:18:31 5 and two -- two testicles, that that is appropriate
02:18:35 6 conduct for the workplace?

02:18:37 7 MS. GAROFALO: Objection. Misstates his
02:18:38 8 testimony and lacks foundation.

02:18:38 9 You can answer it.

02:18:39 10 THE WITNESS: I was walking around holding an
02:18:42 11 apple and -- a banana and two apples, insinuating that
02:18:48 12 by holding two apples and a banana, which is an
02:18:53 13 absurdity, might constitute as harassment in the eyes of
02:18:58 14 some twisted manipulator.

02:19:03 15 BY MS. YEAL:

02:19:03 16 Q. Well, did you care how your actions might
02:19:07 17 affect some of your employees?

02:19:11 18 A. It is --

02:19:13 19 Q. Yes or no?

02:19:14 20 THE COURT: The question is: Did you care how
02:19:15 21 your actions might affect some employees?

02:19:19 22 THE WITNESS: Yes.

02:19:21 23 THE COURT: Thank you. Next question.

02:19:22 24 BY MS. YEAL:

02:19:22 25 Q. Did you care that some employees might be

02:19:25 1 offended by your behavior when you are walking around
02:19:29 2 with a banana and two apples symbolizing or insinuating
02:19:33 3 a penis and two testicles?

02:19:37 4 THE COURT: Did you care is the question.

02:19:40 5 THE WITNESS: No.

02:19:41 6 THE COURT: Thank you. Next question.

02:19:43 7 BY MS. YEAL:

02:19:43 8 Q. And you posted that video on Snapchat?

02:19:48 9 A. I don't know. You should know.

02:19:55 10 THE COURT: Thank you.

02:19:58 11 BY MS. YEAL:

02:19:58 12 Q. Now, in the video you say the voices -- the
02:20:01 13 voices in the head telling you bind, torture, kill.

02:20:10 14 What prompted you to say that?

02:20:13 15 A. Like most people who watch the HLN channel and
02:20:18 16 all of these serial killer channels, I was making
02:20:21 17 reference to that serial killer called BTK. And -- and
02:20:26 18 it was parody. It was a joke that could -- could be so
02:20:37 19 easily misconstrued by some sort of desperate lawyer.

02:20:42 20 Q. Well, were you trying to scare Lauren Reeves
02:20:45 21 because she was making legal claims against you for
02:20:49 22 sexual harassment?

02:20:50 23 MS. GAROFALO: Just yes or no.

02:20:50 24 THE WITNESS: No, of course not.

02:20:52 25 THE COURT: Thank you. Thank you.

02:20:52 1 BY MS. YEAL:

02:20:52 2 Q. Isn't it true, Mr. David, that you retaliate
02:20:54 3 against people who sue you?

02:20:56 4 A. No.

02:20:57 5 MS. GAROFALO: Objection. Argumentative. Hold
02:20:58 6 on. It lacks foundation. If you can answer.

02:21:00 7 THE WITNESS: I defend myself. I don't
02:21:03 8 retaliate.

02:21:05 9 THE COURT: Thank you. Next question.

02:21:05 10 BY MS. YEAL:

02:21:05 11 Q. Elizabeth Taylor, she filed a lawsuit against
02:21:08 12 you; right?

02:21:08 13 A. Yes, yes.

02:21:09 14 Q. And isn't it true that after she filed a
02:21:12 15 lawsuit against you that you filed a complaint with the
02:21:16 16 police department against her?

02:21:17 17 A. That's correct.

02:21:18 18 Q. And isn't it true that you also filed a
02:21:21 19 cross-complaint against her? You sued her?

02:21:25 20 THE COURT: I want you to wait and give your
02:21:27 21 attorney a chance to defend you. Okay? So give her a
02:21:31 22 chance to object. You will get a chance to answer the
02:21:34 23 question. Thank you.

02:21:35 24 MS. GAROFALO: Objection. It is argumentative.
02:21:36 25 It lacks foundation and it lacks relevance. Those are

02:21:44 1 perfectly legal actions, not retaliations.

02:21:48 2 THE COURT: Thank you. Just remember, we were
02:21:48 3 not going to go on.

02:21:51 4 MS. GAROFALO: Yes.

02:21:52 5 THE COURT: So go ahead. You may answer yes or
02:21:54 6 no or you don't remember or whatever, but it just
02:21:57 7 requires a very simple answer.

02:21:59 8 THE WITNESS: Yes, yes.

02:22:00 9 THE COURT: Thank you. All right. So did
02:22:03 10 you -- I don't think -- did you remember the question?
02:22:06 11 Did you want to ask the question again?

02:22:08 12 BY MS. YEAL:

02:22:08 13 Q. The question was: Wasn't it true that
02:22:11 14 Ms. Taylor filed -- strike that.

02:22:16 15 Wasn't it true that you filed a cross-complaint
02:22:18 16 against Ms. Taylor after she sued you?

02:22:23 17 THE COURT: And the answer is yes; correct?

02:22:24 18 THE WITNESS: Yes.

02:22:25 19 THE COURT: You said yes?

02:22:25 20 THE WITNESS: I am allowed to.

02:22:26 21 THE COURT: Thank you. Next question.

02:22:26 22 BY MS. YEAL:

02:22:26 23 Q. And you also sued Chasity Jones after she sued
02:22:32 24 you?

02:22:32 25 MS. GAROFALO: Same object --

02:22:33 1 MS. YEAL: -- the cross-complaint.

02:22:33 2 THE WITNESS: I don't -- I don't know.

02:22:34 3 MS. GAROFALO: Same objections. If you know.

02:22:37 4 THE WITNESS: I don't know, but it would be
02:22:39 5 within my rights to.

02:22:40 6 THE COURT: Thank you. So just -- we all know
02:22:43 7 what the rights are. You have counsel here, so just
02:22:46 8 answer the question.

02:22:47 9 THE WITNESS: Yes.

02:22:49 10 THE COURT: Thank you. Next question.

02:22:51 11 BY MS. YEAL:

02:22:51 12 Q. Were you aware that the court awarded fees and
02:22:54 13 costs to both Ms. Taylor and Ms. Jones after they
02:22:59 14 challenged the cross-complaint that you filed against
02:23:01 15 them?

02:23:02 16 A. Yes.

02:23:02 17 MS. GAROFALO: Objection. Hold on. I am going
02:23:04 18 to object to this line of questioning. It is
02:23:06 19 irrelevant. It is public record. It is litigation and
02:23:12 20 I am going to let him answer a few questions and then we
02:23:16 21 are going to -- more questions in this line --

02:23:17 22 MS. YEAL: Okay.

02:23:17 23 MS. GAROFALO: -- and then we will have to have
02:23:17 24 an off the record chat.

02:23:19 25 THE COURT: Thank you. All right. Go ahead.

02:23:20 1 You may answer the question.

02:23:22 2 THE WITNESS: Yes.

02:23:23 3 THE COURT: Thank you. Next question.

02:23:27 4 BY MS. YEAL:

02:23:27 5 Q. Ms. Kahn also filed a law -- a lawsuit against
02:23:31 6 you alleging sexual harassment; correct?

02:23:35 7 A. I -- I assume so, yes.

02:23:37 8 Q. And you are aware that Ms. Kahn was represented
02:23:40 9 by another law firm before ours? Alexander, Krakow &
02:23:45 10 Glick?

02:23:48 11 A. I don't know.

02:23:48 12 Q. Okay.

02:23:49 13 THE COURT: Thank you. Next question.

02:23:50 14 BY MS. YEAL:

02:23:50 15 Q. And isn't it true that you and/or your attorney
02:23:55 16 filed a criminal complaint with the Beverly Hills Police
02:24:00 17 Department --

02:24:00 18 A. That's true.

02:24:00 19 Q. -- against Ms. Kahn claiming that she was
02:24:04 20 extorting you?

02:24:06 21 A. It's true.

02:24:08 22 Q. And you were exclaiming that she was extorting
02:24:10 23 you because her lawyer, Alexander, Craig, Allen, Glick
02:24:12 24 had sent a settlement demand letter to you?

02:24:17 25 A. It's true.

02:24:17 1 Q. The Beverly Hills Police Department took no
02:24:20 2 action --

02:24:20 3 MS. GAROFALO: Okay. I am going to object.
02:24:22 4 Let's go off the record and have a discussion. This
02:24:22 5 line of question is not appropriate.

02:24:26 6 THE COURT: It's -- it's -- you know --

02:24:27 7 MS. GAROFALO: We have litigation privileges.
02:24:28 8 We have all kinds of issues.

02:24:30 9 THE COURT: She has not asked anything with
02:24:34 10 privilege yet. But your -- what's the next question?
02:24:35 11 Is it -- are you going to pursue this much further?
02:24:39 12 More litigation stuff?

02:24:41 13 MS. YEAL: Yes, because this is all in the vein
02:24:43 14 of retaliation.

02:24:45 15 THE COURT: Okay. All right.

02:24:45 16 MS. GAROFALO: It is legal --

02:24:46 17 THE COURT: All right. So let's do this.
02:24:46 18 Let's do this. You now what I would like you to do? It
02:24:46 19 would be easier for us if you took a little break. Do
02:24:53 20 you mind taking a little break?

02:24:57 21 THE WITNESS: Sure.

02:24:59 22 THE COURT: Okay. Thank you. Don't go very
02:25:00 23 far though because I want to do it on the record. So
02:25:01 24 don't leave, okay?

02:25:05 25 THE WITNESS: So I'm off the record now?

02:25:06 1 THE COURT: Yes.

02:25:06 2 THE WITNESS: Okay. You should --

02:25:06 3 MS. MOCHKATEL: Go out.

02:25:10 4 (Discussion off the record.)

02:25:32 5 THE VIDEOGRAPHER: Your Honor, I am sorry to
02:25:32 6 interrupt. We are still on the record; correct?

02:25:32 7 THE COURT: Right now we are, yes. All right.
02:25:32 8 Thank you.

02:25:32 9 Now, tell me what you are going to pursue?
02:25:35 10 What -- what is your next line of questioning and so
02:25:38 11 that counsel has a chance to object to --

02:25:41 12 MS. YEAL: They are all -- they are all
02:25:41 13 questions pertaining to Mr. David, how he retaliates
02:25:46 14 against persons who file complaints against -- file sex
02:25:49 15 harassment complaints against him.

02:25:52 16 THE COURT: Okay. So -- but I need to know
02:25:53 17 what the questions are.

02:25:54 18 MS. YEAL: Yeah.

02:25:54 19 THE COURT: Okay? Just in all fairness, I
02:25:56 20 prepared as much as possible, but I need more
02:25:59 21 information.

02:26:00 22 MS. YEAL: So I just covered Taylor and
02:26:02 23 Jones.

02:26:03 24 THE COURT: I -- okay.

02:26:04 25 MS. YEAL: Now I am covering Kahn.

02:26:06 1 THE COURT: Uh-huh.

02:26:06 2 MS. YEAL: And then I am going to cover
02:26:07 3 Reeves.

02:26:08 4 THE COURT: All right. Now, particular -- the
02:26:08 5 next particular exact question is: Isn't it true
02:26:13 6 that --

02:26:16 7 MS. YEAL: Where did I leave off?

02:26:16 8 THE COURT: What did -- what did Mr. David do
02:26:17 9 that is going to be alleged to be retaliation because,
02:26:21 10 you know, the dates are important and all that.

02:26:25 11 MS. YEAL: So I asked him about the Beverly
02:26:28 12 Hills Police Department complaint they filed. The next
02:26:30 13 thing I was going to ask him is about the lawsuit, the
02:26:33 14 cross-complaint he filed against Ms. Kahn.

02:26:37 15 THE COURT: Okay.

02:26:38 16 MS. YEAL: And it was dismissed. So the same
02:26:41 17 questions I asked with respect to Elizabeth Taylor. And
02:26:42 18 then I was moving on to Lauren Reeves.

02:26:46 19 THE COURT: Okay. And then when -- and you
02:26:48 20 were going to ask what did Mr. David do that you are
02:26:53 21 going to ask about regarding Ms. Reeves for retaliation?

02:27:03 22 I mean, what is the question?

02:27:04 23 MS. YEAL: Okay. He filed, or his attorney
02:27:06 24 filed, a complaint with the California State Bar --

02:27:10 25 THE COURT: Okay. So you --

02:27:11 1 MS. YEAL: -- against us.

02:27:11 2 THE COURT: -- were going to ask him about
02:27:12 3 that?

02:27:12 4 MS. YEAL: Yes.

02:27:13 5 THE COURT: Okay. And so -- and, okay. So
02:27:20 6 tell me what your objection is.

02:27:23 7 MS. GAROFALO: My objection is none of those
02:27:25 8 acts, which all fall under the right to petition and the
02:27:26 9 First Amendment, can possibly, legally be tantamount or
02:27:30 10 equate to retaliation under the law. Mr. David, like
02:27:35 11 anyone else, has the write to file a cross-complaint.
02:27:38 12 Just as he believes your client has made claims that
02:27:42 13 have no merit, your client may believe his cross-claims
02:27:46 14 have no merit. It is not retaliation. It is protected
02:27:49 15 by multitudes of privileges including litigation
02:27:52 16 privilege, the privilege, the Anti-SLAPP, not so much a
02:27:56 17 privilege, but the right to petition. This is
02:27:58 18 irrelevant. It is a waste of time. And I believe it is
02:28:01 19 improper to be suggesting that by exercising his
02:28:10 20 absolute protected rights he has retaliated not only
02:28:13 21 against your client, but others.

02:28:15 22 THE COURT: Okay. Well, so you can respond to
02:28:18 23 that. I'm sorry. I need to have some discussion here.
02:28:22 24 What do you think?

02:28:23 25 MS. YEAL: Well, I think it has to be taken

02:28:25 1 into context, Your Honor. The first deposition,
02:28:32 2 Mr. David made all sorts of threats. He pointed to me,
02:28:36 3 pointed to Ms. Mochkatel, pointed to our client who was
02:28:39 4 here at the time, and said, "I am going to sue you, you,
02:28:42 5 you. You are all frauds. I am going to take you to the
02:28:45 6 cleaners. I am going to sue Gloria, and I am going to
02:28:48 7 sue Lisa Bloom and any other attorneys who have ever
02:28:51 8 represented any of these women."

02:28:55 9 THE COURT: I recall that.

02:28:56 10 MS. YEAL: So that's what I am following up
02:28:58 11 on.

02:28:59 12 MS. GAROFALO: But those are protected rights.
02:29:01 13 And if Mr. David believes that you all, and I am not
02:29:07 14 suggesting I agree with Mr. David, have brought
02:29:11 15 frivolous claims or, in a sense, harassing him through
02:29:14 16 the litigation process, that all of these people have
02:29:18 17 colluded, he has a right to petition a First Amendment
02:29:23 18 right. He can make those allegations. He can answer
02:29:26 19 those questions in a deposition, and he is protected by
02:29:29 20 the litigation privilege.

02:29:31 21 So I don't know where this line of questioning
02:29:33 22 gets you. I believe it is to some extent harassing, and
02:29:39 23 I think it ought to be stopped.

02:29:43 24 THE COURT: Okay. Well, the litigation
02:29:46 25 privilege is there and he -- and one does have the right

02:29:49 1 to make complaints and -- to the bar or anyone else, but
02:29:56 2 the question is: Can it be explored in a deposition?
02:30:02 3 And I think that it -- I am having a hard time saying
02:30:08 4 that she cannot ask those questions.

02:30:14 5 MS. GAROFALO: But the fact is that --

02:30:16 6 THE COURT: It might even be, you know, it
02:30:17 7 might even be asked in trial because -- and he brought
02:30:23 8 it up himself, so he has those privileges, but the
02:30:28 9 question is can she ask him about it?

02:30:30 10 MS. GAROFALO: You don't have to ask whether
02:30:32 11 those actions were taken because it is a matter of
02:30:35 12 public record. There is no dispute. To ask him what
02:30:39 13 his motive is and whether he was motivated by
02:30:44 14 retaliation, even if he is, it is absolutely 100 percent
02:30:48 15 protected under the litigation privilege. We all know
02:30:51 16 that.

02:30:52 17 We are not -- you have no defamation claim.
02:30:55 18 You have no claim of any sort whatsoever -- whatsoever,
02:30:58 19 either the law firm or the client. Turning the tables
02:31:03 20 around, if your client were sitting here and I started
02:31:06 21 to address, in detail, accusing her of having a motive
02:31:11 22 merely to harass the client -- harass my client and so
02:31:15 23 forth, you would be up in arms about it. It is just --
02:31:21 24 it's futile questioning. It has no purpose, other than
02:31:24 25 to point a finger at Mr. David and try to get him even

02:31:29 1 more frustrated and upset than he is. I think it is an
02:31:32 2 improper line of questioning. But, of course, you know,
02:31:36 3 whatever your decision is --

02:31:37 4 THE COURT: Yeah.

02:31:37 5 MS. GAROFALO: -- that's fine.

02:31:38 6 THE COURT: I think that -- well one, I like --
02:31:44 7 it is important to go question by question and it is
02:31:47 8 important to go witness by witness, but as far as motive
02:31:53 9 I think that that's what, you know, what she has a right
02:31:57 10 to try to figure out.

02:31:58 11 MS. GAROFALO: Well, we are also dancing really
02:32:01 12 close -- I don't know where you are going with this --
02:32:04 13 dancing really close to work-product protection.

02:32:07 14 THE COURT: Okay. Well, let's not do that.

02:32:09 15 MS. GAROFALO: Because there are decisions
02:32:09 16 made, you know, by counsel, and I, of course, have not
02:32:12 17 had the opportunity to speak to Mr. Rothman so I do not
02:32:14 18 know who made the decisions to do what based on what --
02:32:20 19 we are getting pretty close to work product; why
02:32:23 20 decisions were made to file complaints. Why decisions
02:32:26 21 were made --

02:32:26 22 MS. YEAL: And I am not asking why.

02:32:28 23 MS. GAROFALO: Well --

02:32:29 24 THE COURT: I am going to -- I am going to tell
02:32:30 25 him about being careful about discussing issues that

02:32:35 1 deal with lawyer decisions. And you -- and I would like
02:32:40 2 you to take a -- and let me tell you, from the bottom of
02:32:43 3 my heart, I sincerely appreciate the fact that you have
02:32:49 4 taken the initiative to talk with him. That's extremely
02:32:54 5 important. It didn't happen in the other case and you
02:32:57 6 are -- you are doing what you should do and it -- it
02:33:02 7 makes a difference and it will make a difference in a
02:33:07 8 reviewing court, I'll tell you that. It makes a
02:33:08 9 difference to the trial judge. It makes a difference to
02:33:12 10 anyone who is reading these transcripts how the lawyers
02:33:14 11 act, as well.

02:33:16 12 So I think that she has -- she has the right to
02:33:20 13 go into it somewhat. And I would like you, in the same
02:33:26 14 way you have been doing before, to try to talk to him
02:33:29 15 and tell him not to discuss any attorney-client issues
02:33:33 16 and to, kind of, warn him not to lose his temper. And
02:33:38 17 when he comes back, I am going to also say to him -- I
02:33:44 18 hope it is all right with you, that he should not be,
02:33:47 19 you know, fooled into losing his temper, because that's
02:33:51 20 what wouldn't be in his best interests.

02:33:53 21 MS. GAROFALO: I appreciate that.

02:33:55 22 THE COURT: Thank you. So if you can just take
02:33:56 23 a few minutes and we'll wait for you. Okay? Thank you,
02:34:00 24 very much.

02:34:01 25 MS. YEAL: Can we go off the record?

02:34:05 1 THE COURT: Off or on?

02:34:07 2 MS. YEAL: Off.

02:34:07 3 THE COURT: Yes, go ahead.

02:34:07 4 THE VIDEOGRAPHER: Going off the record. The

02:34:11 5 time is 2:34 p.m.

02:38:07 6 (Recess.)

02:38:08 7 THE VIDEOGRAPHER: Going back on the record.

02:38:09 8 The time is 2:39 p.m.

02:38:13 9 THE COURT: Okay. Thank you. Okay so,

02:38:16 10 Mr. David, I want you to please wait until counsel

02:38:22 11 finishes the question. I want you to allow your lawyer

02:38:27 12 the opportunity to object. Okay?

02:38:29 13 THE WITNESS: Yes.

02:38:31 14 THE COURT: And she will say whether she

02:38:33 15 should -- you should answer the question or not. And do

02:38:39 16 not give any information that deals with your attorneys,

02:38:42 17 if it comes from your attorneys; any advice, any

02:38:47 18 discussions you have had with your attorneys. So that

02:38:51 19 is really important. And, you know, it is better for

02:38:55 20 you -- this is what I would tell my clients, it is

02:38:58 21 better for you if you just give the answer to the

02:39:01 22 question in the shortest form possible.

02:39:05 23 THE WITNESS: I'll do my very best, Your Honor.

02:39:08 24 THE COURT: Okay. Thank you. I will accept

02:39:10 25 that. Thank you. All right, counsel, any time you are

02:39:13 1 ready.

02:39:14 2 MS. YEAL: Thank you.

02:39:14 3 BY MS. YEAL:

02:39:14 4 Q. Mr. David, I believe the last question that I
02:39:18 5 posed that I didn't get an answer was with respect to
02:39:24 6 Mahim Kahn.

02:39:25 7 A. Uh-huh.

02:39:25 8 Q. And so she sued you for sexual harassment;
02:39:29 9 correct?

02:39:29 10 A. I -- I think so.

02:39:31 11 Q. Okay. And you filed a cross-complaint against
02:39:34 12 her?

02:39:35 13 A. I didn't.

02:39:36 14 Q. Your attorneys did?

02:39:39 15 A. Yes.

02:39:39 16 Q. Okay. And you are aware that the court has
02:39:43 17 dismissed your complaint, your lawsuit, against Ms. Kahn
02:39:46 18 and her former lawyers and awarded them fees and
02:39:50 19 costs?

02:39:51 20 A. I did -- I didn't know that.

02:39:59 21 Q. Okay. Were you aware that Barry Rothman, your
02:40:03 22 former lawyer, filed a complaint with the California
02:40:05 23 State Bar alleging that Gloria Allred had hired an
02:40:11 24 investigator who offered to pay an individual named
02:40:15 25 Malik Spellman money in exchange for favorable

02:40:20 1 testimony?

02:40:21 2 MS. GAROFALO: Objection to the extent it calls
02:40:22 3 for information you learned through communications with
02:40:26 4 Mr. Rothman or another lawyer. And to that extent, you
02:40:29 5 are instructed not to answer. If you have independent
02:40:33 6 knowledge you can answer the question.

02:40:34 7 THE WITNESS: If I have independent knowledge
02:40:36 8 to?

02:40:37 9 MS. GAROFALO: Whether or not the -- this
02:40:38 10 complaint was filed, the contents of the complaint and
02:40:41 11 so forth, everything --

02:40:42 12 THE WITNESS: Yes.

02:40:43 13 MS. GAROFALO: -- encompassed in her --

02:40:45 14 THE WITNESS: Yes. Yes. Yes, I am aware of
02:40:46 15 that.

02:40:47 16 BY MS. YEAL:

02:40:47 17 Q. And that State Bar complaint was filed about a
02:40:50 18 month or less after your deposition; correct?

02:40:52 19 A. I don't know.

02:40:58 20 Q. And were you aware that Mr. Rothman included,
02:41:02 21 along with the State Bar complaint, a declaration from
02:41:07 22 Malik Spellman?

02:41:09 23 A. Uh-huh. I am aware of that.

02:41:11 24 Q. Okay. And were you aware that in the
02:41:14 25 declaration signed by Mr. Spellman he said that he met

02:41:18 1 you in 2010?

02:41:20 2 MS. GAROFALO: Objection to the extent that
02:41:22 3 calls for attorney-client communications. I think you
02:41:25 4 can ask the same question in another way that does not
02:41:29 5 implicate the privilege.

02:41:31 6 THE WITNESS: Uh-huh.

02:41:32 7 THE COURT: Thank you.

02:41:32 8 MS. YEAL: That's fine.

02:41:34 9 THE COURT: Thank you.

02:41:35 10 BY MS. YEAL:

02:41:35 11 Q. Were you -- did you meet Mr. Spellman in
02:41:37 12 2010?

02:41:39 13 A. Probably.

02:41:43 14 Q. And Mr. Spellman stated in his declaration that
02:41:48 15 he was an independent contractor of FilmOn TV.

02:41:55 16 A. Uh-huh.

02:41:55 17 Q. Was that correct?

02:41:56 18 A. I don't know.

02:41:56 19 Q. Did Mr. Spellman work for FilmOn TV?

02:42:00 20 A. He did.

02:42:01 21 Q. Okay. In his declaration, Mr. Spellman said
02:42:04 22 that he worked with you --

02:42:05 23 A. Uh-huh.

02:42:06 24 Q. -- on FilmOn TV for four months, ending in
02:42:10 25 early 2011.

02:42:13 1 A. Okay.

02:42:13 2 Q. Is that correct?

02:42:15 3 A. I don't -- I don't --

02:42:18 4 THE COURT: Which part is the -- is the
02:42:20 5 correct?

02:42:20 6 MS. YEAL: The statement.

02:42:22 7 THE COURT: Okay. Thank you.

02:42:22 8 THE WITNESS: I -- I don't know.

02:42:23 9 BY MS. YEAL:

02:42:23 10 Q. Did Mr. Spellman work for you for about four
02:42:26 11 months?

02:42:27 12 A. I think he worked longer than that, but okay.
02:42:30 13 Yeah. Maybe on a fixed time, yes, on a continuous time,
02:42:37 14 yes.

02:42:37 15 Q. Okay. And he test -- he tested -- he declared
02:42:40 16 in the declaration that he stopped working for you in
02:42:43 17 early 2011. Does that sound about right?

02:42:46 18 A. Sounds about right.

02:42:48 19 Q. Isn't it true that neither Ms. Reeves or
02:42:52 20 Ms. Kahn ever worked with Mr. Spellman?

02:42:56 21 MS. GAROFALO: Objection. Calls for
02:42:58 22 speculation. Compound. You can answer.

02:43:00 23 THE WITNESS: I don't know.

02:43:01 24 THE COURT: Thank you.

02:43:02 25 BY MS. YEAL:

02:43:02 1 Q. I will break it up. Isn't it true that Lauren
02:43:05 2 Reeves never worked with Malik Spellman at any of your
02:43:09 3 companies?

02:43:09 4 A. Yes.

02:43:10 5 Q. That is true?

02:43:11 6 A. I am pretty sure.

02:43:12 7 Q. Okay. And isn't it true that Mahim Kahn also
02:43:16 8 never worked with Malik Spellman at any of your
02:43:20 9 companies?

02:43:20 10 A. That sounds about right.

02:43:26 11 Q. Are you and Malik Spellman friends?

02:43:29 12 A. We are friendly.

02:43:31 13 Q. Did you tell Mr. Spellman to make up a story
02:43:36 14 that he was contacted by an investigator for Gloria
02:43:37 15 Allred and offered him money to provide testimony?

02:43:39 16 A. That's a lie.

02:43:42 17 THE COURT: So it's no.

02:43:43 18 THE WITNESS: No, that's a lie.

02:43:44 19 THE COURT: Okay. I just -- it's hard to
02:43:47 20 understand what your answer is to the question.

02:43:51 21 THE WITNESS: Yes, ma'am. I understand. Okay.
02:43:51 22 So the answer would be no, that's a lie.

02:43:56 23 THE COURT: Thank you. Next question.

02:43:58 24 BY MS. YEAL:

02:43:58 25 Q. Where does Malik Spellman live?

02:44:00 1 A. In Los Angeles.

02:44:01 2 Q. Do you have his address?

02:44:02 3 A. I do not.

02:44:03 4 Q. Do you have his phone number?

02:44:05 5 A. I think so.

02:44:06 6 Q. Do you have it on your phone?

02:44:10 7 A. I don't know.

02:44:11 8 Q. Can you check?

02:44:11 9 A. I don't know if it's current. Am I supposed to

02:44:22 10 give this to you if you asked for it?

02:44:24 11 MS. GAROFALO: I would say no, but that's --

02:44:26 12 THE WITNESS: So --

02:44:26 13 THE COURT: Do you have an objection? I mean,

02:44:27 14 what could happen is she would make a formal demand

02:44:32 15 through the court and all of that, so if it doesn't take

02:44:38 16 that much time you certainly may. If you -- if it's not

02:44:43 17 on there we can just pursue --

02:44:44 18 THE WITNESS: I have a number. You can try it.

02:44:46 19 I think it will work. Is it all right if I give it to

02:44:49 20 her? Yeah.

02:44:51 21 THE COURT: Thank you, counsel.

02:44:52 22 MS. YEAL: (310) 594-2907.

02:44:57 23 THE COURT: Thank you, counsel.

02:44:59 24 MS. GAROFALO: You are welcome.

02:44:59 25 THE COURT: Thank you, sir. And we can move

02:44:59 1 on. Thank you very much. I appreciate the courtesy.

02:45:02 2 Go ahead.

02:45:02 3 BY MS. YEAL:

02:45:02 4 Q. Thank you. When did you last speak with
02:45:05 5 Mr. Spellman?

02:45:07 6 A. He called me about a project in Watts not too
02:45:11 7 long ago, but maybe a month ago.

02:45:15 8 Q. And prior to that conversation about a month or
02:45:18 9 so ago, when did you last speak with him?

02:45:22 10 THE COURT: Just when, okay? Not about what,
02:45:24 11 just when.

02:45:25 12 THE WITNESS: About six months ago.

02:45:29 13 THE COURT: Thank you.

02:45:29 14 BY MS. YEAL:

02:45:29 15 Q. And in that conversation six months ago, what
02:45:31 16 did you discuss?

02:45:35 17 A. Trying to get evidence from his -- Barry -- can
02:45:43 18 I --

02:45:45 19 MS. GAROFALO: No.

02:45:45 20 THE WITNESS: Yeah, yeah, I can't go into that
02:45:47 21 can I?

02:45:48 22 THE COURT: That's right.

02:45:48 23 MS. GAROFALO: Okay. Objection. It's
02:45:49 24 attorney-client privilege and potentially work
02:45:51 25 product.

02:45:52 1 THE COURT: Thank you.

02:45:53 2 BY MS. YEAL:

02:45:53 3 Q. When you spoke with Mr. Spellman about six
02:45:56 4 months or so ago, was Barry Rothman also in that
02:46:00 5 conversation or was is it just you and Malik?

02:46:02 6 A. Yeah, Barry -- Barry was in that
02:46:03 7 conversation.

02:46:03 8 Q. The three of you?

02:46:05 9 A. Yeah. Well, we weren't on the phone together,
02:46:06 10 but it was relating to -- to a conversation.

02:46:09 11 MS. GAROFALO: My objection and instruction are
02:46:11 12 going to stand.

02:46:12 13 THE COURT: Thank you.

02:46:12 14 BY MS. YEAL:

02:46:12 15 Q. Well, you and Malik Spellman were speaking,
02:46:16 16 what, over the phone?

02:46:17 17 A. Yes, yes.

02:46:18 18 Q. Okay. And during that telephone conversation
02:46:20 19 was Barry Spellman present or in --

02:46:25 20 MS. MOCHKATEL: Rothman.

02:46:25 21 THE WITNESS: Barry Rothman.

02:46:25 22 MS. YEAL: Rothman.

02:46:25 23 THE WITNESS: He was not on the phone at the
02:46:27 24 time, no.

02:46:28 25 MS. YEAL: Okay. I don't see, Judge, how there

02:46:30 1 is any attorney-client privilege.

02:46:33 2 THE WITNESS: It was -- it was --

02:46:33 3 MS. GAROFALO: Excuse me.

02:46:36 4 THE COURT: What's the -- what's the next
02:46:37 5 question?

02:46:37 6 MS. YEAL: I want to find out what they
02:46:40 7 discussed.

02:46:40 8 THE COURT: What he discussed --

02:46:40 9 MS. YEAL: With Mr. Spellman.

02:46:43 10 THE COURT: With Mr. Spellman. And so the
02:46:43 11 question is: What did you discuss with Mr. Spellman at
02:46:47 12 that period of time? Okay. So would you kindly make
02:46:51 13 your objection, instruct, and then -- and then he can
02:46:55 14 answer to the -- to the extent that it doesn't deal
02:46:59 15 with --

02:47:00 16 MS. GAROFALO: I don't think you can. I think
02:47:01 17 I have to answer your question --

02:47:03 18 THE COURT: Thank you.

02:47:03 19 MS. GAROFALO: -- as to how that could possibly
02:47:04 20 be attorney-client privilege. And the attorney-client
02:47:06 21 privilege is broader than communications just between
02:47:09 22 attorney and client. It extends to communications with
02:47:13 23 third parties that are intended to and do advance the
02:47:18 24 purpose or the advice provided by counsel. And from the
02:47:22 25 little I understood from the short answer Mr. David

02:47:26 1 gave, that's precisely what happened in this instance.

02:47:30 2 THE WITNESS: Uh-huh.

02:47:30 3 MS. GAROFALO: So my instruction stands based
02:47:33 4 on the attorney-client privilege.

02:47:41 5 THE WITNESS: It's very simple.

02:47:42 6 MS. GAROFALO: I believe --

02:47:42 7 THE COURT: One second.

02:47:44 8 MS. GAROFALO: I believe it's the Costco case.

02:47:46 9 THE COURT: Yeah. You need to wait. You know
02:47:49 10 what? I -- can you move on and let me think about this
02:47:54 11 because it's important. And the question I would ask
02:48:00 12 is: Are you able to answer this question without having
02:48:09 13 any information or having any information from
02:48:15 14 Mr. Rothman?

02:48:17 15 THE WITNESS: Yes.

02:48:18 16 THE COURT: So you are able to answer this
02:48:20 17 question without having to deal with --

02:48:23 18 THE WITNESS: In part.

02:48:26 19 THE COURT: -- attorney-client privilege?

02:48:27 20 THE WITNESS: In parts. In part. And as I
02:48:27 21 said, I'll figure out whether that's what I am saying or
02:48:30 22 if that's --

02:48:30 23 THE COURT: Okay. Well, your attorney has
02:48:31 24 instructed you not to answer anything that has to do
02:48:34 25 with your attorney-client --

02:48:36 1 THE WITNESS: Well, then in which case I can't.

02:48:36 2 THE COURT: -- communication.

02:48:36 3 THE WITNESS: In then which --

02:48:38 4 THE COURT: Communication, okay? So if it's

02:48:39 5 not your communication, then answer to that extent.

02:48:45 6 THE WITNESS: Well, what I can say, right, is

02:48:46 7 that what we discussed directly relates to -- to

02:48:53 8 discussions that Malik and Barry had.

02:48:56 9 THE COURT: Okay. All right. So if you can

02:48:57 10 move on and then we can -- we can go back to this

02:49:01 11 because it is important and I need to make a ruling, but

02:49:05 12 I need to do it after --

02:49:08 13 MS. GAROFALO: And if --

02:49:08 14 THE COURT: -- you give me some authority and

02:49:11 15 we -- we will go back to it. Can you -- can we do that?

02:49:15 16 Can we come go back to that?

02:49:15 17 MS. YEAL: That's fine, Your Honor.

02:49:17 18 THE COURT: Thank you.

02:49:18 19 MS. YEAL: But what I was going to do is I was

02:49:19 20 going to actually ask for a couple of minutes to look

02:49:21 21 through my notes because I think I might just be

02:49:22 22 finished. This might be the last area.

02:49:26 23 THE COURT: Okay. All right. We -- then go

02:49:27 24 ahead and look through your notes. And then we will

02:49:32 25 deal with this issue and take a short break. And I am

02:49:35 1 going to look some stuff up.

02:49:40 2 THE VIDEOGRAPHER: Going off the record. The
02:49:41 3 time is 2:50 p.m.

03:24:32 4 (Recess.)

03:24:32 5 THE VIDEOGRAPHER: Going back on the record.
03:24:34 6 The time is 3:25 p.m.

03:24:53 7 THE COURT: So we are -- okay. All right. So
03:24:53 8 let me tell you, the -- in addition to the Evidence Code
03:24:59 9 section that deals with, you know, it talks -- is the
03:25:03 10 main privilege, attorney-client privilege section, which
03:25:06 11 is 954 and 912D. I also read the case that was just
03:25:19 12 cited. The McDermott case which is -- was at
03:25:32 13 10 Cal. App.5th 1083.

03:25:32 14 It's funny. I know the lawyers in that case.
03:25:40 15 And so I've read those sections and that case. Is there
03:25:45 16 something else that you want me to read or review or
03:25:48 17 anything like that, anybody? No?

03:25:54 18 Okay. So then I would ask that the question
03:26:05 19 then that we are dealing with, so that we are clear, is:
03:26:10 20 What was the -- what were -- what was Mr. David talking
03:26:15 21 about? And could you be clear as to which date and who
03:26:21 22 it was that he was talking to, and so we know exactly
03:26:24 23 what the question is.

03:26:26 24 MS. YEAL: Okay.

03:26:28 25 THE COURT: And so let's -- and then you can

03:26:31 1 tell me your objection clearly. And then I can tell you
03:26:34 2 what I have learned and we can proceed from there.

03:26:39 3 MS. YEAL: Okay.

03:26:40 4 BY MS. YEAL:

03:26:40 5 Q. Mr. David, you testified earlier that you spoke
03:26:42 6 with Malik Spellman about six months or so ago;
03:26:48 7 correct?

03:26:48 8 A. Correct.

03:26:49 9 Q. And what did you and Mr. Spellman discuss
03:26:54 10 during that conversation?

03:26:56 11 THE COURT: Okay. So this is what we are
03:26:57 12 talking about. A conversation with Mr. David and
03:27:00 13 Mr. Malik Spellman. And then go ahead. Would you
03:27:09 14 articulate the objection, please?

03:27:11 15 MS. GAROFALO: Objection to the extent that it
03:27:13 16 calls for attorney-client privileged communications or
03:27:17 17 the disclosure of attorney work product.

03:27:21 18 THE COURT: Okay. And that is relevant here
03:27:23 19 because you anticipate that this conversation began --
03:27:32 20 has something -- is related to or comes from a
03:27:39 21 conversation with Mr. David's counsel?

03:27:40 22 MS. GAROFALO: Part of ongoing discussions
03:27:42 23 between Mr. David, his counsel, and Mr. Malik on
03:27:47 24 furthering or advancing the goal or purpose of the legal
03:27:51 25 advice sought and given by Mr. Rothman in the context of

03:27:58 1 a question that was posed, and the context of the
03:28:02 2 pending litigations.

03:28:05 3 THE COURT: Right. And so I will tell
03:28:05 4 you what -- did you want to respond to that?

03:28:08 5 MS. YEAL: Well, Your Honor, I mean if, for
03:28:09 6 example, let's say I have a client coming into my
03:28:13 7 office, and I tell my client, Anything you and I discuss
03:28:16 8 is protected by the attorney-client relationship, but
03:28:20 9 then she turns around and speaks with her best friend
03:28:24 10 and tells her best friend exactly what I told her. She
03:28:27 11 has waived the attorney-client privilege. In which case
03:28:31 12 Ellyn, for example, would be able to depose this friend
03:28:34 13 and would be able to find out what I told my client.

03:28:37 14 MS. GAROFALO: That's --

03:28:38 15 MS. YEAL: So same here.

03:28:40 16 THE COURT: Wait one second.

03:28:41 17 MS. YEAL: So same -- same situation here.

03:28:44 18 Mr. David has an attorney-client relationship with
03:28:48 19 Mr. Rothman. Mr. David goes and speaks to his friend or
03:28:53 20 to his colleague or whomever he is, Malik Spellman. And
03:28:57 21 during that course of the conversation is disclosing
03:29:00 22 what he and Mr. Rothman had discussed. Same situation
03:29:05 23 with the scenario I gave you with my client.

03:29:07 24 THE WITNESS: No, that's --

03:29:09 25 THE COURT: Okay. Wait. Please, Mr. David.

03:29:13 1 MS. GAROFALO: Don't worry.

03:29:16 2 THE COURT: Really. I mean, we are doing so
03:29:16 3 well here. And so -- and then I get distracted. And
03:29:21 4 would you respond to that?

03:29:23 5 MS. GAROFALO: Absolutely.

03:29:23 6 THE COURT: And I will tell you what I think
03:29:26 7 and it will go very well. Go ahead.

03:29:29 8 MS. GAROFALO: Okay. I absolutely
03:29:29 9 100 percent agree with that description.

03:29:32 10 THE COURT: I do, too.

03:29:32 11 MS. GAROFALO: That, however, is not the case
03:29:34 12 as I understand it. The case here is this: There is an
03:29:40 13 individual assisting in a litigation; the individual who
03:29:43 14 is necessary to advance the purpose of the legal advice
03:29:47 15 being given, who is included in attorney-client
03:29:51 16 communications for that purpose, not merely the
03:29:55 17 disclosure. The mere disclosure does, in fact, waive
03:30:00 18 the privilege. We are talking about something different
03:30:04 19 in this situation.

03:30:05 20 THE COURT: Okay. Well, so if we are and I am
03:30:09 21 sure you have spoken to your client, and -- so this case
03:30:16 22 at 10 Cal. App 5th 1083 makes it clear that when
03:30:26 23 disclosure is reasonably necessary for the
03:30:34 24 accomplishment of the purpose for which the lawyer was
03:30:37 25 consulted, then that disclosure is not a waiver. And so

03:30:46 1 you have communicated to your client that -- that you
03:30:49 2 object to any disclosure that was reasonably necessary
03:30:58 3 for Mr. David to accomplish the purposes for which he
03:31:05 4 consulted with Mr. Rothman. And so that privilege
03:31:15 5 stands, and any disclosure that was made in any kind of
03:31:20 6 communication that Mr. David had in that context is
03:31:25 7 privileged, but the conversations that's not privileged
03:31:32 8 he should testify about. So I think you have discussed
03:31:38 9 this with your client, and so to the extent that you can
03:31:42 10 answer, you should answer, but if you can't, then you
03:31:46 11 shouldn't.

03:31:47 12 MS. GAROFALO: Do you understand? I am just
03:31:49 13 going to give you a hypothetical.

03:31:51 14 THE WITNESS: All right.

03:31:52 15 MS. GAROFALO: I tell you we need a
03:31:54 16 declaration, we need the information to go into the
03:31:57 17 declaration and the third party who is crafting the
03:32:01 18 declaration for you is involved in communications,
03:32:03 19 perhaps with your lawyer, but others, just with you,
03:32:06 20 based on information and advice communicated by the
03:32:11 21 lawyer. Those conversations are privileged. If you
03:32:13 22 pick up the phone and call Mr. Spellman and just say,
03:32:16 23 Gee, I would like to chat with you about my case. That
03:32:20 24 is not privileged.

03:32:21 25 THE WITNESS: Right.

03:32:22 1 MS. GAROFALO: Do you understand --

03:32:23 2 THE WITNESS: Yeah.

03:32:25 3 MS. GAROFALO: -- the distinction?

03:32:26 4 THE WITNESS: Yeah.

03:32:28 5 MS. GAROFALO: So with that distinction in

03:32:28 6 mind, let -- why don't we have the question read back.

03:32:53 7 THE WITNESS: Okay.

03:32:53 8 (Record read as follows:

03:26:49 9 "QUESTION: And what did you and Mr. Spellman

03:26:53 10 discuss during that conversation?")

03:32:56 11 THE WITNESS: Well, discussed --

03:33:04 12 MS. GAROFALO: If I may. Maybe the predicate

03:33:08 13 question is: Did or did not the conversation involve

03:33:13 14 legal advice provided by Mr. Rothman?

03:33:17 15 THE COURT: Yeah. Okay.

03:33:19 16 THE WITNESS: Right. There -- there was some

03:33:24 17 legal advice in there, but primarily what we discussed

03:33:29 18 was the following: Was that Malik Spellman came to me.

03:33:34 19 I hadn't spoken to him in a year. We are friends, but

03:33:41 20 we are not close friends. He came to me and he said

03:33:47 21 that he had been approached by -- I can't remember if it

03:33:54 22 was one man or two men who claimed that they were from

03:33:58 23 Gloria Allred's office and that they wanted to find out

03:34:04 24 information about me, and -- and that they -- that they

03:34:11 25 were willing to do him a financial favor. This is what

03:34:17 1 Malik Spellman told me and not as you suggested, which
03:34:22 2 was that I put him up to it.

03:34:29 3 Am I doing okay?

03:34:31 4 THE COURT: So just don't --

03:34:31 5 MS. GAROFALO: So far, fine.

03:34:32 6 THE COURT: Yeah. So far, but do not talk
03:34:33 7 about any legal advice that you got --

03:34:35 8 THE WITNESS: Right.

03:34:36 9 THE COURT: -- from Mr. Rothman --

03:34:38 10 THE WITNESS: Okay.

03:34:38 11 THE COURT: -- or any other lawyer.

03:34:40 12 THE WITNESS: Okay. And the second
03:34:42 13 conversation that I had --

03:34:44 14 MS. YEAL: Can we stop there before --

03:34:46 15 THE WITNESS: Sure.

03:34:46 16 MS. YEAL: -- you proceed to the second
03:34:47 17 conversation, and let me ask you some follow-up
03:34:49 18 questions.

03:34:50 19 THE WITNESS: Sure.

03:34:50 20 BY MS. YEAL:

03:34:50 21 Q. So do you remember when, what month
03:34:57 22 Mr. Spellman came to you?

03:34:59 23 A. I don't.

03:34:59 24 Q. You said he came to me.

03:35:01 25 A. But I --

03:35:01 1 Q. Did he physically come to you?

03:35:02 2 A. No, no.

03:35:03 3 Q. Or did he call you?

03:35:04 4 A. He called me on the phone.

03:35:08 5 Q. Okay. Was there anyone else on the phone when

03:35:10 6 he called you?

03:35:11 7 A. On his end or my end?

03:35:14 8 Q. Either.

03:35:18 9 A. I don't know about his end. On my end, I can't

03:35:21 10 remember if -- if Layla was with me. The second time we

03:35:25 11 spoke Layla was with me, and that's when I recorded the

03:35:30 12 conversation with him.

03:35:31 13 Q. Okay. So before we talk about the second

03:35:32 14 conversation.

03:35:38 15 A. Uh-huh.

03:35:38 16 Q. So you testified that Mr. Spellman told you

03:35:41 17 that he had been approached by one or two men --

03:35:48 18 A. Uh-huh.

03:35:48 19 Q. -- on behalf of Gloria Allred's office;

03:35:52 20 correct?

03:35:53 21 A. Correct.

03:35:53 22 Q. Did he tell you who these two men were?

03:35:57 23 A. No.

03:35:57 24 Q. Did he give you any names?

03:35:59 25 A. No.

03:35:59 1 Q. Did he describe them?

03:36:02 2 A. I don't -- no, he didn't describe them.

03:36:05 3 Q. Did you ask him --

03:36:06 4 A. He described the car.

03:36:07 5 Q. Okay. What did he say?

03:36:09 6 A. I can't remember.

03:36:11 7 Q. Okay. Do you remember anything about the

03:36:15 8 description of the car that he said?

03:36:17 9 A. That's what I'm saying. I can't remember --

03:36:19 10 Q. Nothing at all?

03:36:19 11 A. -- the description of the car.

03:36:20 12 Q. Okay.

03:36:21 13 A. And that -- and that there had been some

03:36:24 14 robo calls to his phone; right? And -- and that's where

03:36:27 15 we get into the stuff with -- with Barry.

03:36:30 16 Q. Okay. So let's stay on track and still stay on

03:36:35 17 the first conversation that occurred about six months or

03:36:38 18 so ago.

03:36:40 19 So you did not ask him if he had any names of

03:36:43 20 these one or two men who had approached him?

03:36:46 21 A. I would assume that he didn't have names.

03:36:50 22 Q. No, did you ask him?

03:36:50 23 A. No.

03:36:51 24 Q. Okay. And he did not volunteer?

03:36:55 25 A. No, no.

03:36:58 1 Q. What do you remember Malik Spellman telling
03:37:02 2 you, specifically, with respect to what these one or two
03:37:05 3 men told him?

03:37:06 4 A. I told you. I said that they said to him that
03:37:11 5 they wanted to give him a financial benefit to not --
03:37:14 6 to -- to discuss -- to -- for him -- for him to give
03:37:17 7 them information about why I am bad guy.

03:37:23 8 Q. Okay. And did Malik Spellman tell you what he
03:37:30 9 responded when he was told this by these two men, one or
03:37:34 10 two men?

03:37:35 11 A. Yeah. He told them where to get off.

03:37:38 12 Q. Where to get off?

03:37:39 13 A. Yes.

03:37:40 14 Q. Like take a hike?

03:37:42 15 A. Yes.

03:37:43 16 Q. Okay. And then Malik Spellman called you to
03:37:48 17 tell you about this conversation with the one or two
03:37:50 18 men?

03:37:51 19 A. Correct.

03:37:51 20 Q. Did Malik Spellman tell you when that
03:37:53 21 conversation with the one or two men had occurred in
03:37:57 22 relation to the call that he made to you? In other
03:37:58 23 words, was it the same day? Later?

03:38:00 24 A. Oh, no, I think it was in -- almost the next
03:38:04 25 day or it was in the almost immediate -- it was almost

03:38:08 1 in -- in that time period, whatever that, you know,
03:38:10 2 whatever that was. I don't know whether it was the same
03:38:12 3 day, the night before, the week before, but it was in
03:38:15 4 that -- in that time.

03:38:16 5 Q. Okay. All right. And then you had a second
03:38:19 6 conversation with Mr. Spellman about the same topic?

03:38:23 7 A. Correct. Yes, he called me again.

03:38:25 8 Q. Okay.

03:38:26 9 A. Actually, I don't know if I called him or he
03:38:28 10 called me, actually, the second time. I can't
03:38:31 11 remember.

03:38:31 12 Q. Okay. And how much time had elapsed between
03:38:34 13 the first telephone call with him and this one?

03:38:37 14 A. I don't remember, but it was -- it was a
03:38:40 15 handful of days, so a week or so maybe.

03:38:45 16 Q. Okay. So a few days later, a week or so, he
03:38:49 17 calls you or you call him, but you speak?

03:38:51 18 A. Yes.

03:38:52 19 Q. Is anyone else part of the conversation between
03:38:54 20 the two of you?

03:38:55 21 A. I -- I recorded the conversation, and knowingly
03:38:59 22 to Malik Spellman, as well, I recorded on video.

03:39:05 23 Q. And did you tell Mr. Spellman that you were
03:39:08 24 recording the conversation?

03:39:09 25 A. Yes, he guessed and I said yes.

03:39:12 1 Q. He guessed?

03:39:12 2 A. He guessed that I was recording it and he said
03:39:16 3 yes.

03:39:16 4 Q. Okay. And why did you record the conversation
03:39:20 5 on video?

03:39:21 6 A. Because look, when you are targeted like I have
03:39:25 7 been, and I have been targeted, and my relationships
03:39:31 8 with men and women are so affected in not being able to
03:39:37 9 have honest, open relationships with people at the fear
03:39:40 10 of being attacked. I am very careful now as to what I
03:39:47 11 do and what kind of relationships I have with people,
03:39:50 12 which is not the way I would like to live, and it's not
03:39:53 13 the way that people should be living, which is an
03:39:56 14 overly -- overly careful, overly guarded, suspicious
03:40:00 15 way. But because of the attacks by you guys, by other
03:40:05 16 lawyers, by ex-employees who have seen the end of the
03:40:11 17 gravy train and now think that they can extort money
03:40:15 18 from me, I have become extremely paranoid. So to answer
03:40:20 19 your question, I give you some color and I tell you that
03:40:21 20 because I want to be able to keep track of everything
03:40:24 21 that happens to me pertaining to these cases.

03:40:28 22 THE COURT: Thank you. Next question.

03:40:29 23 BY MS. YEAL:

03:40:29 24 Q. Did you -- did you keep that video? Do you
03:40:31 25 still have it?

03:40:32 1 A. I do.

03:40:34 2 MS. YEAL: Counsel, I would request that that
03:40:35 3 video be produced, as well.

03:40:44 4 A. It's publicly available.

03:40:47 5 THE COURT: Thank you.

03:40:48 6 BY MS. YEAL:

03:40:48 7 Q. You posted it on social media?

03:40:51 8 A. I did, of course.

03:40:53 9 Q. Instagram?

03:40:54 10 A. No, YouTube. It's very long.

03:40:57 11 Q. We will obtain it from YouTube, then. What did
03:41:01 12 you call it?

03:41:02 13 A. I don't know. I'll send you the link.

03:41:04 14 Q. Okay.

03:41:05 15 MS. GAROFALO: No, you'll send me the link.

03:41:07 16 THE COURT: Thank you.

03:41:13 17 MS. GAROFALO: And I will send her the link.

03:41:13 18 BY MS. YEAL:

03:41:13 19 Q. During that conversation that you had with
03:41:15 20 Mr. --

03:41:17 21 A. Spellman.

03:41:18 22 Q. -- Spellman the second time around, did you
03:41:21 23 and -- did you disclose to him any information or any
03:41:25 24 conversations that you had had with your attorney,
03:41:28 25 Rothman?

03:41:29 1 A. At that point, I don't know. I can't remember.
03:41:33 2 I may have done. I may have done something along the
03:41:35 3 line of "I would like you to speak with Barry" or
03:41:39 4 something like that.

03:41:40 5 Q. Okay. And did you have any further
03:41:42 6 conversation with Mr. Spellman afterwards, pertaining to
03:41:47 7 this visit that he had received from one or two men?

03:41:50 8 A. Yes, yeah. I -- this now borders on the stuff
03:41:59 9 that I discussed with Barry.

03:42:01 10 MS. GAROFALO: Okay. I am sorry. Can I hear
03:42:02 11 the question again?

03:42:16 12 (Record read as follows:

03:41:40 13 "QUESTION: And did you have any further
03:41:42 14 conversation with Mr. Spellman afterwards, pertaining to
03:41:47 15 this visit that he had received from one or two men?")

03:42:17 16 MS. GAROFALO: Okay. I am going to object on
03:42:19 17 attorney-client privilege and work product grounds, and
03:42:23 18 instruct that you not answer with any information
03:42:27 19 conveyed from Mr. Rothman, advice given to Mr. Rothman
03:42:31 20 which would or may have been conveyed to Mr. Spellman --

03:42:38 21 THE WITNESS: Right.

03:42:39 22 MS. GAROFALO: -- in effort to advance the
03:42:41 23 advice given by Mr. Rothman.

03:42:44 24 THE WITNESS: Which is exactly what this --
03:42:47 25 this is.

03:42:47 1 MS. GAROFALO: Okay. Then you are instructed
03:42:48 2 not to answer.

03:42:50 3 THE COURT: Thank you. Okay.

03:42:51 4 BY MS. YEAL:

03:42:51 5 Q. So other than this third conversation where you
03:42:53 6 may have discussed information you learned from
03:42:56 7 Mr. Rothman with Mr. Spellman, did you have any further
03:43:00 8 conversations with him?

03:43:00 9 A. No. After that it was Mr. Spellman had
03:43:06 10 conversations with Mr. Rothman, and Mr. Spellman had
03:43:10 11 conversations with the -- with the State Bar.

03:43:13 12 Q. Okay. How do you know that Spellman had a
03:43:15 13 conversation with the State Bar?

03:43:18 14 MS. GAROFALO: Objection to the extent it is
03:43:20 15 information you learned from an attorney.

03:43:22 16 THE WITNESS: That's true.

03:43:22 17 MS. GAROFALO: And you are instructed not to
03:43:23 18 answer on that ground.

03:43:26 19 THE WITNESS: Yeah.

03:43:28 20 THE COURT: Okay. Thank you.

03:43:55 21 BY MS. YEAL:

03:43:55 22 Q. Exhibit Number 22, which is the Shock Ya
03:44:03 23 article, which you said you reviewed?

03:44:05 24 A. Yeah.

03:44:05 25 Q. And approved? At Page 3, the one that has the

03:44:09 1 peacemaker picture?

03:44:12 2 A. Uh-huh.

03:44:12 3 Q. The third line from the top talks about

03:44:18 4 "Allred's law office called him in October."

03:44:22 5 A. Uh-huh.

03:44:22 6 Q. Does that refresh your recollection as to
03:44:26 7 whether you spoke with Mr. Spellman in October of last
03:44:30 8 year?

03:44:32 9 A. It doesn't refresh it. I just don't know. I
03:44:35 10 don't remember dates.

03:44:41 11 Q. Okay. By the way, you couldn't remember the
03:44:49 12 last name of Edmond. Is it --

03:44:51 13 A. Yes, I -- I found --

03:44:54 14 Q. Is it Rashaba?

03:44:54 15 A. Who?

03:44:56 16 Q. Rashaba? Edmond Rashaba?

03:44:56 17 A. I'll tell you. I actually -- I texted him and
03:44:59 18 asked him for it and it is -- hold on. That's close,
03:45:06 19 but I don't think that that's correct. Hold on. It's
03:45:06 20 Araba Schmeto.

03:45:06 21 Q. How do you spell that?

03:45:06 22 A. Sorry. Rubashamuheto. So it's -- let me --
03:45:06 23 let me just look at his text messages just to make sure.
03:45:23 24 Hold on. It's Edmond, so it's Edmond, m-o-n-d. And
03:45:30 25 it's R-u-b-a-s-h-a-m-u-h-e-t-o.

03:45:38 1 Q. Thank you.

03:45:39 2 A. And I asked him if he had done any -- any
03:45:45 3 refreshes. So you will be happy to know that we broke
03:45:48 4 the law and he didn't do refreshers, so now you can go
03:45:53 5 out and try and fuck me that way.

03:45:59 6 THE COURT: Oh --

03:45:59 7 THE WITNESS: Excuse my french. Excuse my
03:45:59 8 french.

03:45:59 9 THE COURT: Please, please, please.

03:46:00 10 THE WITNESS: Excuse my french.

03:46:00 11 THE COURT: Let's -- let's just stay on track
03:46:02 12 here.

03:46:14 13 BY MS. YEAL:

03:46:14 14 Q. Is David Nussbaum still employed by you?

03:46:17 15 A. He is.

03:46:18 16 Q. And what is his current position?

03:46:21 17 A. He is the Exec VP of Sales.

03:46:26 18 MS. MOCHKATEL: I'm sorry?

03:46:31 19 THE WITNESS: Exec VP of Sales.

03:46:42 20 MS. MOCHKATEL: Thank you.

03:46:42 21 BY MS. YEAL:

03:46:42 22 Q. When I said I was almost finished I was
03:46:46 23 mistaken. I found some more documents that I had not
03:46:49 24 covered yet.

03:46:50 25 Do you know what happened to the State Bar

03:46:52 1 complaint?

03:46:54 2 MS. GAROFALO: Hold on. Objection to the
03:46:56 3 extent it calls for information you learned from an
03:46:59 4 attorney. You can otherwise answer.

03:47:03 5 THE COURT: Yes or no or I don't know are the
03:47:05 6 best answers.

03:47:06 7 THE WITNESS: As far as I know, it was put on
03:47:10 8 hold, subject to some additional evidence.

03:47:13 9 BY MS. YEAL:

03:47:13 10 Q. Okay. When did you hear that?

03:47:16 11 MS. GAROFALO: Objection to the extent --

03:47:17 12 MS. YEAL: And when did you learn that?

03:47:19 13 MS. GAROFALO: Okay. You can tell "when."
03:47:21 14 That's all.

03:47:24 15 THE WITNESS: Well, it was while Barry was
03:47:26 16 alive, so it was just shortly before Barry's death so
03:47:31 17 then.

03:47:32 18 MS. YEAL: Before March?

03:47:34 19 THE WITNESS: Okay.

03:47:38 20 MS. YEAL: Okay. Where are we on the exhibits?

03:47:42 21 MS. MOCHKATEL: We are on 25.

03:48:02 22 THE COURT: Thank you. This will be 25. It is
03:48:11 23 a 10-page document.

03:48:17 24 (Exhibit 25 marked.)

03:48:17 25 THE WITNESS: It's all the same document.

03:48:21 1 MS. MOCHKATEL: You are absolutely right.

03:48:23 2 MS. GAROFALO: It is 10 copies of the same.

03:48:23 3 MS. MOCHKATEL: They stapled it together and

03:48:24 4 they shouldn't have.

03:48:27 5 MS. YEAL: It's not the same document. It's

03:48:28 6 because it continues. The --

03:48:30 7 THE WITNESS: The chat.

03:48:30 8 MS. YEAL: The chat continues for 10 pages.

03:48:32 9 THE COURT: Okay. Let's -- it is a 10-page

03:48:34 10 document and we will begin with the first question.

03:48:40 11 BY MS. YEAL:

03:48:40 12 Q. Have you seen this document before,

03:48:43 13 Mr. David?

03:48:45 14 A. This document?

03:48:48 15 Q. Or actually, you know what, let me rephrase the

03:48:49 16 question.

03:48:50 17 THE COURT: Thank you.

03:48:50 18 BY MS. YEAL:

03:48:50 19 Q. Did you post what is posted -- what is

03:48:52 20 reflected on this document on Instagram?

03:48:55 21 THE COURT: If there -- if there's 10 different

03:48:57 22 pages did you want to --

03:48:58 23 MS. YEAL: First page?

03:49:00 24 THE COURT: Okay. Thank you.

03:49:01 25 THE WITNESS: I posted the first post, but then

03:49:03 1 all the other posts are not me. They are other
03:49:06 2 people.

03:49:07 3 MS. YEAL: Right. Okay.

03:49:09 4 THE COURT: So the first page is 10-1, and it
03:49:12 5 will go from 10-1 to 10-10.

03:50:04 6 THE COURT: Thank you. And this is 20 --

03:50:06 7 MS. YEAL: Six.

03:50:08 8 THE COURT: We have now 26. Thank you.

03:50:23 9 (Exhibit 26 marked.)

03:50:23 10 BY MS. YEAL:

03:50:23 11 Q. Before you, Mr. David, is a one-page document,
03:50:26 12 Exhibit Number 26?

03:50:28 13 A. Uh-huh.

03:50:28 14 Q. Is that a picture of you?

03:50:32 15 A. Apparently, yes.

03:50:33 16 Q. And is that you wearing this T-shirt that says,
03:50:37 17 "Hashtag, fuck me, too, Gloria Allred, Lisa Bloom?"

03:50:43 18 A. That's correct.

03:50:44 19 Q. Do you recall who took this picture of you?

03:50:47 20 A. I do not remember who took the picture of me.

03:50:50 21 Q. Were you selling these T-shirts?

03:50:53 22 A. Not really, no. It was a joke that I was
03:50:56 23 selling them.

03:51:01 24 MS. MOCHKATEL: What's the joke?

03:51:01 25 BY MS. YEAL:

03:51:01 1 Q. Yeah. What's the joke?

03:51:03 2 A. I beg your pardon?

03:51:05 3 Q. What's the joke?

03:51:05 4 A. Listen. What I find offensive and what you

03:51:07 5 find offense -- for example, if I was a devote Catholic

03:51:10 6 or -- and I had stupid stickers of planned parenthood on

03:51:13 7 my computer, I, if I were a Catholic, I might find that

03:51:16 8 incredibly offensive. And sitting in a professional

03:51:18 9 environment I find that really offensive, but do I make

03:51:21 10 a case of it and come after you and try and extort money

03:51:24 11 for you for on behalf of the client? No. All right.

03:51:28 12 THE COURT: Okay. Thank you. That was the

03:51:30 13 answer to --

03:51:30 14 MS. YEAL: Okay.

03:51:30 15 THE COURT: -- what was funny about this.

03:51:32 16 MS. YEAL: Okay.

03:51:32 17 THE COURT: Next question.

03:51:41 18 THE WITNESS: The irony --

03:51:43 19 THE COURT: Thank you. You finished.

03:51:44 20 MS. GAROFALO: No question.

03:51:45 21 THE COURT: Thank you. Next question. Thank

03:51:54 22 you, counsel. I appreciate your efforts.

03:52:03 23 THE COURT: The next question is -- picture is

03:52:05 24 Number 27. The next exhibit is also a one-page

03:52:09 25 document, Number 27.

03:52:11 1 (Exhibit 27 marked.)

03:52:12 2 BY MS. YEAL:

03:52:12 3 Q. Yes, and this 27 at the top it says, "Alki
03:52:15 4 David on Instagram. Hashtag, fuck me, too." And a
03:52:20 5 picture. Is that your picture?

03:52:22 6 A. It is indeed.

03:52:22 7 Q. And did you post this on Instagram?

03:52:24 8 A. I did.

03:52:27 9 Q. And the comments on the bottom of Exhibit
03:52:30 10 Number 27?

03:52:30 11 A. Uh-huh.

03:52:30 12 Q. Were those written by you?

03:52:34 13 A. Yes.

03:53:00 14 THE COURT: Thank you. Number 28, also one
03:53:02 15 page.

03:53:18 16 (Exhibit 28 marked.)

03:53:18 17 MS. YEAL: Do you need to take a break since
03:53:20 18 you are using your phone?

03:53:22 19 THE WITNESS: No, I am not. No, I am fine.

03:53:24 20 THE COURT: Thank you, counsel. Go ahead.

03:53:26 21 BY MS. YEAL:

03:53:26 22 Q. Before you, Mr. David, is another document,
03:53:28 23 Exhibit Number 28.

03:53:30 24 A. Uh-huh.

03:53:32 25 Q. At the top it says, "Photo" and then it has a

03:53:36 1 "Alki David"?

03:53:37 2 A. Uh-huh.

03:53:38 3 THE COURT: I want you to stop saying,

03:53:41 4 "Uh-huh."

03:53:43 5 THE WITNESS: Yes, yes. Absolutely.

03:53:45 6 THE COURT: Thank you.

03:53:45 7 BY MS. YEAL:

03:53:45 8 Q. Then is says, "Hash tag, why me?" and it has
03:53:47 9 some photos here.

03:53:48 10 A. Uh-huh.

03:53:48 11 Q. Did you also post this on Instagram?

03:53:50 12 A. I did.

03:53:54 13 Q. Why did you post this on Instagram?

03:53:57 14 A. Because when the office of -- when this office
03:54:03 15 has a conversation with people at TMZ they write very,
03:54:07 16 very damming articles based on -- based on nothing other
03:54:12 17 than conjecture; right? And makes my life difficult for
03:54:18 18 something that I am innocent of. I have every right to
03:54:23 19 defend myself and try and portray a message that is
03:54:29 20 important to me, i.e., I am being persecuted, I would
03:54:36 21 say, immorally and illegally by an office of people who
03:54:42 22 have nothing better to do with their lives other than to
03:54:45 23 extract money from people who are not at fault, who have
03:54:50 24 not damaged other people's life. I am a good employer.
03:54:53 25 I am a good person. I am a good father. I am a decent

03:54:56 1 man. I give -- I have given plenty to these people. I
03:54:59 2 have employed them.

03:55:02 3 Q. Let me ask you --

03:55:04 4 A. When the gravy train -- no, no, no --

03:55:06 5 THE COURT: Thank you. Next --

03:55:06 6 THE WITNESS: -- excuse me. When the gravy
03:55:06 7 train stops and I sit there and I let these people take
03:55:08 8 advantage of me, no, it's not going to happen.

03:55:12 9 THE COURT: Okay. Thank you.

03:55:12 10 THE WITNESS: I am going to come back and I'm
03:55:13 11 going to fight back.

03:55:14 12 THE COURT: Thank you. And that is why,
03:55:16 13 Mr. David, posted the picture. Next question.

03:55:19 14 MS. YEAL: Okay. I think I am finished.

03:55:28 15 MS. MOCHKATEL: May we have five minutes?

03:55:32 16 THE WITNESS: Sure.

03:55:32 17 MS. MOCHKATEL: We'll just look over our notes.

03:55:32 18 THE COURT: Sure. Sure. Let's just -- okay.
03:55:33 19 All right. Thank you.

03:55:34 20 THE VIDEOGRAPHER: Going off the record. Time
03:55:38 21 is --

03:55:41 22 THE COURT: Yeah. Let's go off the record.

03:55:41 23 THE VIDEOGRAPHER: Going off the record. The
03:55:41 24 time is 3:56 p.m.

04:05:59 25 (Recess.)

04:05:59 1 THE VIDEOGRAPHER: Going back on the record the
04:06:00 2 time is 4:06 p.m.

04:06:04 3 THE COURT: We are on then?

04:06:06 4 THE VIDEOGRAPHER: Yes.

04:06:07 5 THE COURT: Okay. So then do you have any
04:06:08 6 further questions?

04:06:10 7 MS. YEAL: No, Your Honor.

04:06:11 8 THE COURT: All right. And so what would you
04:06:12 9 like to do with this deposition and -- are there going
04:06:18 10 to be any issues as far as anything you have asked for
04:06:21 11 or anything like that because if there will be in the
04:06:25 12 future, know that I will be available by e-mail through
04:06:32 13 ADR Services, and as long as everyone has -- is served,
04:06:39 14 communication is open and any time I can help. Judge
04:06:44 15 Green is a good friend. And I spent 27 years at Stanley
04:06:49 16 Mosk. Every single day of my judicial career was at
04:06:54 17 Stanley Mosk, so I love that courthouse.

04:06:58 18 So tell me how you would like to complete
04:07:00 19 today?

04:07:02 20 MS. YEAL: Is counsel going to be asking
04:07:03 21 Mr. David any questions?

04:07:06 22 MS. GAROFALO: No.

04:07:07 23 MS. YEAL: Okay. So given that we have a trial
04:07:09 24 date right around the corner -- what is the turnaround?

04:07:17 25 THE COURT REPORTER: Regular turnaround time is

04:07:17 1 two weeks.

04:07:22 2 MS. YEAL: Two weeks.

04:07:22 3 MS. MOCHKATEL: That's the 4th, I think, of
04:07:25 4 October.

04:07:26 5 MS. GAROFALO: Well, we have to talk about
04:07:27 6 getting a deposition date for your client.

04:07:31 7 MS. YEAL: Well, we can do that after we do the
04:07:33 8 stipulation regarding the handling of this particular
04:07:36 9 transcript. So on or about the 4th of October is two
04:07:40 10 weeks. So could he review it within two weeks after the
04:07:45 11 4th? By let's say the 19th?

04:07:48 12 MS. GAROFALO: Can you read it in two weeks?

04:07:50 13 MS. YEAL: Would you be able to read the
04:07:51 14 deposition transcript in two weeks?

04:07:55 15 THE WITNESS: In two weeks?

04:07:56 16 MS. YEAL: Yes, once you get it.

04:07:56 17 THE WITNESS: Within two weeks?

04:07:56 18 MS. GAROFALO: Within two weeks. Once you get
04:07:57 19 it. Is that enough time to review it?

04:07:57 20 THE WITNESS: And when will I get the
04:07:57 21 transcript?

04:08:02 22 MS. YEAL: Around the 4th of October.

04:08:03 23 THE WITNESS: My deposition?

04:08:04 24 MS. YEAL: Yes.

04:08:04 25 THE WITNESS: Sure. Sure.

04:08:05 1 MS. YEAL: Okay. So then why don't we enter
04:08:08 2 into a stipulation that the court reporter will send
04:08:10 3 Mr. David's deposition transcript to defense counsel;
04:08:14 4 that Mr. David will then have two weeks from
04:08:20 5 Ms. Garofalo's receipt of the deposition transcript to
04:08:25 6 read, review and make whatever changes he believes are
04:08:29 7 necessary. He can sign under penalty of perjury. The
04:08:32 8 court reporter is relieved of her duties under the Code.
04:08:36 9 That Ms. Garofalo will then return the transcript to
04:08:40 10 plaintiff's counsel within three days of the 18th, and
04:08:48 11 if we do not receive the original transcript, signed,
04:08:53 12 that we can use a copy as though, a certified copy as
04:08:59 13 though, no changes were made to the transcript.

04:09:03 14 MS. GAROFALO: So stipulated.

04:09:06 15 MS. YEAL: Okay.

04:09:06 16 THE COURT: Thank you.

04:09:08 17 THE VIDEOGRAPHER: This concludes today's
04:09:09 18 deposition of David Alkiviades. The total of three
04:09:12 19 media used. We are going off the record. The time is
04:09:14 20 4:10 p.m. Thank you.

04:09:14 21 THE COURT: Thank you. Thank you, counsel.
04:09:14 22 Thank you, everyone.

04:09:14 23 THE WITNESS: Thank you, Your Honor, very
04:09:14 24 much.

25 THE COURT REPORTER: Counsel, you're getting

1 the original. Do you need a certified copy, as well or
2 electronic copy?

3 MS. GAROFALO: Yes.

4 (Whereupon at 4:10 p.m., the deposition of
5 ALKIVIADES DAVID, Volume II, was adjourned.)
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DECLARATION UNDER PENALTY OF PERJURY

I, ALKIVIADES DAVID, do here by certify under penalty of perjury that I have reviewed the foregoing transcript of my deposition taken on September 20, 2018; that I have made such corrections as appear noted herein in ink; that my testimony as contained herein, as corrected, is true and correct.

DATED this _____ day of _____,
20____, _____, California.

ALKIVIADES DAVID
VOLUME II

1 ERRATA SHEET

2 Printed Name _____

3 Signature _____

4 Page/Line	Correction	Reason
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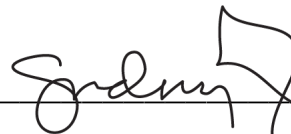
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REPORTER'S CERTIFICATION

I, Sudny Gallardo, Certified Shorthand Reporter in
and for the State of California, do hereby certify:

That the foregoing witness was by me duly sworn;
that the deposition was then taken before me at the time
and place herein set forth; that the testimony and
proceedings were reported stenographically by me and
later transcribed into typewriting under my direction;
that the foregoing is a true record of the testimony and
proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name on
this date: October 4, 2018.



Sudny Gallardo, CSR No. 14023