

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 SOUTHERN DIVISION
4

5 -----
6 BTM LLC an Arizona Limited)
Liability Company,)
7 Plaintiff,)

8 vs.)

9 WILLIAM P. THOMAS III, an)
individual; FRANK THOMAS,)
10 individually and as successor)
trustee of the 2009 Violet G.)
11 Thomas Revocable Trust; CAROLYN)
THOMAS WALTERS, an individual;)
12 and JOHN W. THOMAS, individually)
and as successor trustee of the)
13 2009 Violet G. Thomas Revocable)
Trust,)

14 Defendants.)

15 -----
16 AND RELATED COUNTERCLAIM.)
_____)

17 CONFIDENTIAL TRANSCRIPT

18 VIDEOTAPED DEPOSITION OF BARBARA THOMAS

19 Irvine, California

20 Thursday, March 12, 2015

21 Volume I

22
23
24 Reported by: Gail E. Kennamer, CSR 4583, CCRR

25 Job No. 91354

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12 individual; FRANK THOMAS,)
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14 trustee of the 2009 Violet G.)
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16 THOMAS WALTERS, an individual;)
17 and JOHN W. THOMAS, individually)
18 and as successor trustee of the)
19 2009 Violet G. Thomas Revocable)
20 Trust,)
21 Defendants.)

Case No.
SAC CV-14-00414
JVS (RNBx)

22 -----
23 AND RELATED COUNTER CLAIM.)
24)
25)

26 Videotaped Deposition of BARBARA THOMAS,
27 Volume I, taken on behalf of Plaintiff at 2603 Main
28 Street, Suite 1300, Irvine, California, beginning at
29 8:44 a.m., and ending at 11:24 a.m., Thursday,
30 March 12, 2015, before Gail E. Kennamer, CSR 4583, CCRR.
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1 APPEARANCES:

2

3 For Plaintiff:

4

5 HEATH & STEINBECK

6 BY: STEVEN HEATH, ESQ.

7 2500 Broadway

8 Santa Monica, CA 90404

9

10

11 For Defendants:

12

13 LAW OFFICE OF PETER F. MUSIELSKI

14 BY: PETER MUSIELSKI, ESQ.

15 7700 Irvine Center Drive

16 Irvine, CA 92618

17

18

19 For Deponent:

20

21 PALMIERI TYLER WIENER WILHELM & WALDRON

22 BY: RONALD COLE, ESQ.

23 2603 Main Street

24 Irvine, CA 92614

25

1 APPEARANCES (Continued):

2

3 ALSO PRESENT:

4 Robert Auxier

5 Robert Auxier III

6 Charles Auxier

7 Brent Jordan, Videographer

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are located on the following pages:

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EXHIBITS

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Exhibit 54	Email string ending February 3, 2014 from Barbara Thomas	60
Exhibit 55	Email dated February 6, 2014 from Bill Thomas	67
Exhibit 56	Email string ending February 7, 2014 from Barbara Thomas	73

1 PREVIOUSLY MARKED EXHIBITS (Attached hereto):

2

3 NUMBER IDENTIFIED

4 17 28

5 27 77

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1 Irvine, California; Thursday, March 12, 2015

2 8:44 a.m.

3
4
5 VIDEO OPERATOR: This is the start of DVD
6 labeled Number 1 in the videotaped deposition of Barbara
7 Thomas, taken in the matter of BTM LLC v William P. Thomas
8 III, et al., filed in the United States District Court,
9 Central District of California, Southern Division. Case
10 Number SAC CV1400414. This deposition is being held in
11 Irvine, California, on March 12th, 2015 at approximately
12 8:44 a.m.

13 My name is Brent Jordan from TSG Reporting, Inc. I'm
14 the legal video specialist. The court reporter is Gail
15 Kennamer in association with TSG.

16 Will counsel present please identify yourselves for
17 the record.

18 MR. HEATH: Steven Heath for the plaintiff, BTM
19 LLC.

20 MR. COLE: Ron Cole for the deponent, Barbara
21 Thomas.

22 MR. MUSIELSKI: Peter Musielski for Bill Thomas
23 III, Carolyn Walters, and Frank Thomas.

24 VIDEO OPERATOR: Will the court reporter please
25 swear in the witness.

1 BARBARA THOMAS,
2 a witness herein, having been administered an oath, was
3 examined, and testified as follows:

4

5 -EXAMINATION-

6

7 BY MR. HEATH:

8 Q. Ms. Thomas, is it Ms. or Mrs.? I apologize.

9 A. Mrs. but --

10 Q. Mrs. Thomas, we met briefly --

11 A. -- you can tell call me Barbara.

12 Q. Thank you.

13 We met briefly off the record, but just to confirm,
14 I'm Steve Heath. I represent the plaintiff in this
15 lawsuit, BTM LLC.

16 Do you understand that even though we're in a
17 relatively informal setting today, we're sat in front of a
18 conference table at your attorney's offices, that the oath
19 you just took is to tell the truth under penalty of
20 perjury and, therefore, you're under a legal obligation to
21 give truthful answers to my questions just as though we
22 were in a court of law today?

23 A. I do.

24 Q. Have you been deposed before?

25 A. No.

1 Q. The court reporter sat to your right is here to
2 take down my questions and your answers to those
3 questions.

4 And after today's proceedings, she's going to
5 transcribe your testimony into a booklet, and you'll be
6 given the occasion to review that transcript and make sure
7 it accurately reflects the answers that you gave today.

8 Do you understand that if you subsequently make
9 changes to the transcript, I will have the chance to
10 comment on those changes, and that may or may not reflect
11 negatively on your credibility?

12 A. I do now.

13 Q. Okay. As you are doing, it's important for the
14 clarity of the record and to make the court reporter's
15 life bearable today, for you to let me finish asking the
16 question before you answer it.

17 Do you understand that?

18 A. Uh-huh.

19 Q. Okay. And as you are doing, again please give a
20 verbal answer since the court reporter can't take down --

21 A. Okay.

22 Q. -- nods of the head --

23 A. Yes.

24 Q. -- gestures, that sort of thing.

25 A. Okay.

1 Q. And if you don't understand a question, please
2 ask me to clarify; otherwise, I want you to understand
3 if I ask a question, and you don't ask for clarification,
4 I will assume that you understood the question and
5 answered it to the best of your ability.

6 Do you understand that?

7 A. Yes.

8 MR. MUSIELSKI: I'm going to put on the record
9 first, I will designate this deposition as being
10 confidential in accordance with the Protective Order
11 that's been issued by the Court, and there will be no
12 disclosure except in accordance with the Protective Order.

13 BY MR. HEATH:

14 Q. Okay. What I'm entitled to today is your best
15 estimate, and I'm sure you know the difference between a
16 guess, which is what I don't want, and a best estimate,
17 which is what I'm entitled to. But just for the record,
18 we're sat in front of a conference table today; and if I
19 was to ask you what you thought the length was, you could
20 probably give me a pretty good estimate because you're sat
21 in front of it, you can see it, you can perceive it.
22 Whereas, if I were to ask you what the length of my
23 kitchen table, you'd be guessing. To the best of my
24 knowledge, you have never been to my apartment. In fact,
25 you don't even know if I have a kitchen table.

1 Do you understand the difference?

2 A. Yes.

3 Q. Is there any reason you can't give truthful
4 answers in response to my questions today?

5 A. No.

6 Q. Are you on any medication or drugs that would
7 impair your ability to tell the truth?

8 A. No.

9 Q. These are just preliminary questions.

10 A. I understand.

11 Q. Can you confirm for the record that you're
12 represented today by Mr. Cole, who is sat to your left?

13 A. Yes.

14 Q. During the course of the deposition, Mr. Cole
15 may make objections to the form of my questions. He may
16 do so by simply stating "Objection," and then state the
17 basis for the objection.

18 If Mr. Cole does that, I'll do one of two things. If
19 I think the objection is appropriate, I'll try to rephrase
20 the question in such a way as to make it non-objectionable
21 to Mr. Cole. Alternatively, I will simply ask you to
22 answer the question as I originally phrased it, and you
23 are required to answer the question, provided you
24 understand it.

25 Do you understand that?

1 A. Yes.

2 Q. Do you have any questions so far?

3 A. No.

4 Q. Okay. Again, just for the record, I'd like to
5 confirm the names we're using today.

6 How many siblings do you have?

7 A. Five.

8 Q. Can you name them for the record, please?

9 A. Carolyn Thomas Walters.

10 Nickie Baze.

11 I call him Tommy Thomas. Tom Thomas.

12 Q. Sorry. Carry on.

13 A. And Frank Thomas.

14 Q. So if I refer to Tom Thomas today, you'll
15 understand that we're referencing William P. Thomas III?

16 A. Yes.

17 Q. Okay. And if I reference Bill Thomas, you'll
18 understand I'm referring to your father?

19 A. Yes.

20 Q. Okay. Do you understand that Frank Thomas was
21 recently deposed in this lawsuit?

22 A. Yes.

23 Q. Have you had any discussions with Frank after
24 his deposition?

25 A. No.

1 Q. And how about Carolyn, do you know that she was
2 recently deposed?

3 A. Yes.

4 Q. Have you had any discussions with her?

5 A. No.

6 Q. Same question for Tommy, do you know that he was
7 recently deposed?

8 A. Yes.

9 Q. And did you have any discussions with him?

10 A. No.

11 Q. Can you state your educational background for
12 the record, please?

13 A. High school.

14 Q. Okay. Anything after high school?

15 A. No.

16 Q. And can you give me an overview of your
17 employment history since 2000?

18 A. Since 2000, I started working for Smith Barney
19 in '97 to 2006.

20 And then I left for two years and came back in 2008
21 to the present time.

22 Q. What do you do at Smith Barney?

23 A. It's Morgan Stanley now. I'm a registered
24 associate.

25 Q. Which office are you based out of?

1 A. The Irvine office.

2 Q. Okay. I take it you're aware of the plaintiff
3 in this lawsuit BTM LLC?

4 A. Yes.

5 Q. Okay. So if I refer to BTM, you'll understand
6 what I'm talking about?

7 A. Yes.

8 Q. Do you know Robert Auxier?

9 A. Yes.

10 Q. Can you identify him in this room today?

11 A. He's right there (indicating).

12 Q. He's sat to my right; correct?

13 A. Yes.

14 Q. Okay. Do you know if Mr. Auxier has any
15 relationship to BTM?

16 A. Yeah, he's the owner.

17 Q. How long have you known that?

18 A. I mean, I guess I don't remember when I
19 originally met him. Probably early 2000, somewhere around
20 there.

21 Q. Can you tell me what you remember about the
22 first time that you did meet Mr. Auxier?

23 A. I don't remember the first time.

24 Q. Okay. Do you remember when it was?

25 A. No.

1 Q. Were they in the last 15 years?

2 A. Yes.

3 Q. Okay. Within the last ten or between ten and
4 15?

5 A. I don't -- Honestly, I don't really remember
6 what year it was.

7 Q. No problem.

8 Do you remember the occasion when you met, even if
9 you don't remember the year?

10 A. He was at my mom and dad's.

11 Q. And your mother, for the record, is Violet
12 Thomas; correct?

13 A. Yes.

14 Q. Do you remember anything more about the
15 occasion?

16 A. Not really. Just meeting him.

17 Q. Did he have a Cheetah car with him or anything
18 like that?

19 A. No.

20 Q. When I say "Cheetah," you'll understand that I
21 mean the automobile based on the design that your father
22 created in the '60s?

23 A. Yes.

24 Q. Okay. Actually, if I were to ask you, "What is
25 the Cheetah," what would you say?

1 A. It was a car that my father designed.

2 Q. And can you describe for me your understanding
3 of any business relationship that BTM may have had with
4 your father?

5 A. I just knew that he was building continuation
6 cars, continuation Cheetahs.

7 Q. The occasion when you recall seeing Mr. Auxier
8 at your parents' home, do you know if that had anything to
9 do with continuation of Cheetahs?

10 A. Not really. I don't -- I don't know what their
11 business was. I was "Hi," "Bye," and that was about it.

12 Q. Okay. Do you think you've ever seen any
13 documents relating to BTM's business relationship with
14 Bill Thomas?

15 A. I have seen a contract.

16 Q. Okay. Do you remember the name of the contract?

17 A. No.

18 Q. Do you think it might have been Authorization
19 Agreement or something similar to that?

20 A. I don't remember.

21 Q. When do you remember seeing a contract between
22 BTM and Bill Thomas?

23 A. Probably a few months ago.

24 Q. Do you think you had seen it at any point
25 earlier than that or do you think --

1 A. No.

2 Q. -- it was the first time?

3 A. (Witness shakes head.)

4 Q. You think the first time you saw the contract
5 was a few months ago?

6 A. Yeah.

7 Q. How did it arise that you saw the contract a few
8 months ago? Did someone give it to you?

9 A. It was in an email.

10 Q. It was an email from who?

11 A. Not sure. I think it was Gary.

12 Q. When you say "Gary," who are you referring to?

13 A. Nickie's husband.

14 Q. Nickie Baze, your sister?

15 A. Uh-huh.

16 Q. So Gary, for the record, is your brother-in-law;
17 right?

18 A. Uh-huh. Yes.

19 Q. And you think the first time you saw a contract
20 between BTM and your father was a few months ago when you
21 might have received it attached to an email from Gary
22 Baze?

23 A. Yes.

24 Q. Setting aside the first time you might have seen
25 a contract between BTM and your father, did you previously

1 have an understanding of a business relationship between
2 BTM and Bill Thomas?

3 A. Yes.

4 Q. What was your understanding of that
5 relationship?

6 A. My understanding was that Bob was building
7 continuation Cheetahs, and my dad got royalties.

8 Q. When do you think you first understood the
9 relationship in those times?

10 A. I mean, I knew my dad had a business
11 relationship with him early 2000s, I guess.

12 Q. Can you remember anything more specific about
13 what you knew about Bob's right to build continuation
14 Cheetahs?

15 A. No.

16 Q. Anything about a specific number of cars?

17 A. 100.

18 Q. And when you say "royalties," what are you
19 referring to?

20 A. My -- He gave my dad a check, and my dad gave
21 him a letter of authenticity.

22 Q. Do you know how much the check was for?

23 A. 3,000.

24 Q. And that was 3,000 per letter?

25 A. Yes. That was my understanding.

1 Q. And is it fair to say that you've had that
2 understanding since approximately the early 2000s?

3 A. Yes.

4 Q. But to the extent that relationship is based on
5 a written contract, you don't believe you saw that
6 contract until a few months ago?

7 A. Correct.

8 Q. Do you know how Mr. Auxier and your father were
9 introduced to each other?

10 A. No, I don't. I -- I believe I heard -- I'm not
11 sure -- that Bob had originally got ahold of my brother,
12 but I'm absolutely not positive about that.

13 Q. Which brother do you think it might have been?

14 A. Tommy.

15 Q. Okay. Do you remember hearing about the
16 timeframe when Mr. Auxier might have gotten ahold of your
17 brother?

18 A. No.

19 Q. Did your father consult you in any way before he
20 entered into a business relationship with BTM?

21 A. No.

22 Q. Do you have an understanding of how many
23 authentication letters BTM has received to date?

24 A. I don't know. For myself, I've heard 30 or 31.

25 Q. Okay. And do you know if BTM has made a royalty

1 payment for each of those Cheetahs that it's manufactured?

2 A. I don't know that.

3 Q. Do you have any reason to believe that BTM has
4 ever failed to make a royalty payment to your father?

5 A. No.

6 Q. Do you have any reason to believe that BTM
7 failed to make a royalty payment required of it under the
8 contract?

9 A. No. I...

10 Q. Do you have any reason to believe that BTM has
11 ever failed to do anything required of it under the
12 agreement that it had with your father?

13 A. Not that I know of.

14 Q. Do you have any reason to believe that BTM has
15 done something that it shouldn't have done under the
16 relationship it had with your father?

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

18 Q. Is there anything that you remember about the --
19 Strike that.

20 You mentioned authentication letters; correct?

21 A. Yes.

22 Q. And your understanding is that BTM would give
23 your father \$3,000; in exchange, BTM would receive an
24 authentication letter from your father?

25 A. Yes.

1 Q. Did you ever see one of those authentication
2 letters?

3 A. No.

4 Q. Do you believe you've ever seen one?

5 A. I don't recall ever seeing one.

6 Q. Did your father ever tell you about the
7 authentication letters? Did he describe them to you?

8 A. No. I mean, just that they existed.

9 Q. Did he ever say what they looked like or if they
10 had a particular logo, picture on them, or anything like
11 that?

12 A. No. We never discussed them.

13 Q. Did you ever discuss them -- Strike that.

14 Other than in relation to this lawsuit, did you have
15 any discussions with your siblings about the
16 authentication letters?

17 A. I would -- I don't remember specific.

18 Q. Do you have a general recollection?

19 A. My general recollection was just that 100 of
20 them existed.

21 Q. Okay. Do you know if your father had signed the
22 authentication letters?

23 A. My understanding was that he had.

24 Q. Was it your understanding that he signed all
25 100?

1 A. Yes.

2 Q. As you sit here today, do you remember having
3 discussion with any of your siblings about your father
4 signing all 100 authentication letters?

5 MR. COLE: You're asking at any time?

6 BY MR. HEATH:

7 Q. At any time.

8 A. I don't remember a specific conversation, but
9 in -- in my belief, my understanding of the situation was
10 it was just understood that 100 had been signed.

11 Q. Did you ever have any discussions with Violet
12 Thomas about the number of certificates that your father
13 had signed?

14 A. No.

15 Q. Again, just for the record, I'm using
16 authentication letters and certificates interchangeably at
17 times.

18 A. I understand.

19 Q. Were you physically present when your father may
20 have signed any of these certificates?

21 A. No.

22 Q. Do you have any understanding as to who has ever
23 been in possession of the authentication letters in your
24 family?

25 A. Frank.

1 Q. Okay. When do you think -- Just for the record,
2 when you say "Frank," you mean your brother, Frank Thomas?

3 A. I do.

4 Q. Okay. When do you think Frank came into
5 possession of the letters?

6 A. I don't know.

7 Q. Why is it you think that Frank may have come
8 into possession of the letters?

9 A. I've heard that he has them.

10 Q. Did Frank tell you that?

11 A. No. John did.

12 Q. Do you remember when John told you that?

13 A. Not specifically, no.

14 Q. Do you think it would have been before or after
15 your father passed away?

16 A. Oh, after.

17 Q. Just for the record, your father passed away in
18 October of 2009; correct?

19 A. Yeah.

20 Q. Do you think that John Thomas might have told
21 you that before or after your mother passed away?

22 A. After. I think after.

23 Q. For the record, when did Violet Thomas pass
24 away?

25 A. August 2nd, 2013.

1 Q. Okay. Has anyone in your family ever told you
2 that a number of the authentication letters might be
3 missing?

4 A. Yes.

5 Q. Who has told you that?

6 A. Well, I heard from -- that they are missing?
7 Can you be more specific?

8 Q. You said that based on your recollection, the
9 general understanding was that 100 letters had been signed
10 by your father; correct?

11 A. Yes.

12 Q. Okay. Do you have any understanding as to
13 whether any portion of that 100 are missing?

14 A. I'm not -- not missing.

15 Q. Okay.

16 A. I've heard that 92 through 100 aren't signed.

17 Q. Were you surprised to hear that?

18 A. Yes.

19 Q. Because that would go -- That would be counted,
20 to your understanding, that all 100 were signed; correct?

21 A. Yes. Correct.

22 Q. And who did you hear it from in your family that
23 93 to 100 were not signed?

24 A. Again, John and I had a conversation.

25 Q. Anybody else?

1 A. I mean, I -- I've heard it from, I think, Lee,
2 that we had that conversation.

3 Q. Just to be clear, I'm not entitled to
4 discussions between you and your attorneys.

5 A. Sorry.

6 Q. If there is ever a concern that you might be
7 divulging information that's confidential, feel free to
8 ask to take a break or anything like that.

9 MR. MUSIELSKI: Can we have a point of
10 clarification? Was it 92 to 100 not signed or 93 to 100
11 not signed?

12 THE WITNESS: I'm not sure.

13 MR. COLE: Let me just say that since it's come
14 up, he's asking you about information that his -- I think
15 his questions are intended to be asking you about
16 information you know outside of conversations with me.

17 THE WITNESS: Okay.

18 BY MR. HEATH:

19 Q. Do you need to clarify anything based on that?

20 A. No. John and I had a conversation.

21 Q. Okay. When -- When did that conversation take
22 place?

23 A. Within the last few months, maybe to a year.

24 Q. Do you remember your reaction to John telling
25 you that 93 to 100 were not signed?

1 A. Surprise.

2 Q. Did John seem surprised?

3 A. I don't really know what he thought.

4 Q. Do you know anyone that has received an
5 authentication letter from any person or company other
6 than BTM?

7 A. No.

8 Q. Do you know why Frank Thomas came into
9 possession of the authentication letters?

10 A. I don't know.

11 Q. Are you aware of any authentication letters
12 numbered 101 onwards?

13 A. No. I mean, I wasn't personally. Again, I've
14 heard a conversation.

15 Q. Okay. Can you tell me about that conversation?

16 A. It was a conversation, I guess, that John had
17 had with Frank.

18 Q. What did John say about that conversation?

19 A. Just there was 100 letters, but they weren't
20 signed.

21 And then Nickie Baze has mentioned it to me as well.

22 Q. What did Nickie say to you about it?

23 A. That she knew they existed.

24 Q. When Nickie said that she knew they existed, did
25 she -- did you understand that she was referring to an

1 additional 100 unsigned letters or an additional 100
2 letters that might have been signed?

3 A. She said that, I guess, some of them are signed.
4 She thought some of them were signed.

5 Q. Some of the additional 100 letters are signed?

6 A. Yes.

7 Q. At least according to Nickie?

8 A. Yes.

9 Q. You have no independent knowledge of that. It's
10 based -- You are relaying what Nickie told you?

11 A. That's -- That's correct.

12 Q. When did you have that discussion with Nickie?

13 A. Oh, God. Probably the last few months.

14 Q. Do you know the last time your father sold a
15 Cheetah?

16 A. No.

17 Q. Do you think it might have been in the 1960s?

18 A. I have no idea.

19 Q. Okay. Between the mid-1960s and December 2001,
20 are you aware of any efforts by any member of the Thomas
21 family to start any kind of business relating to the
22 Cheetah?

23 A. No.

24 MR. HEATH: This has been previously marked as
25 17.

1 THE REPORTER: You don't need me to remark this,
2 do you?

3 MR. HEATH: No.

4 THE WITNESS: May I have a break for a minute?

5 MR. HEATH: Yes. Absolutely.

6 VIDEO OPERATOR: Off the record at 9:08 a.m.

7 (A recess is taken.)

8 VIDEO OPERATOR: Back on video at 9:14 a.m.

9 BY MR. HEATH:

10 Q. Mrs. Thomas, you have Exhibit 17 in front of
11 you?

12 A. Uh-huh.

13 Q. Is it marked in the lower-right, just so I know
14 we have the same document, BTM 1 through 3?

15 A. Yeah.

16 Q. Okay. Could you turn to the third page, please.

17 A. (Indicating.)

18 Q. Mrs. Thomas, you think you are sufficiently
19 familiar with your father's signature to be able to
20 identify it?

21 A. No.

22 Q. Okay. No problem. You can set that to one
23 side.

24 Do you know the MacDonald family?

25 A. No.

1 Q. Have you ever had any discussions with your
2 siblings about the MacDonald family in relation to Robert
3 Auxier?

4 A. No.

5 I mean, is this about a video or --

6 Q. Has my referencing the MacDonald family sort of
7 triggered in your mind something about a video?

8 A. Yeah.

9 Q. Okay. What can you tell me about that?

10 A. Just that there was something about a video
11 existing.

12 Q. And how did that relate to the MacDonald family?

13 A. I think it was of Davey MacDonald.

14 Q. Who is Dave MacDonald?

15 A. I believe he raced for my father.

16 Q. Is this an individual that passed away in the
17 1960s?

18 A. I don't know that.

19 Q. But you -- Did you say Davey or Dave MacDonald?

20 A. I'm not sure. I thought it was Davey MacDonald.

21 Q. I'm just making sure I hear you correctly.

22 So you understand Davey MacDonald to be someone that
23 raced for your father; correct?

24 A. I believe so.

25 Q. Okay. Have you ever spoken to any of the

1 members of his family?

2 A. No.

3 Q. And what is it about the video that relates to
4 the MacDonald family? I'm sorry. Could you...

5 A. I heard that my dad had a video that he was in.

6 Q. Your father had a video that Dave MacDonald was
7 in?

8 A. Yes. I believe it was a racing video. I'm not
9 sure.

10 Q. Have you ever seen the video?

11 A. No.

12 Q. What's your knowledge about the video based on?

13 A. Just that it existed.

14 Q. So based on discussions with your siblings?

15 A. Yeah.

16 Q. And who's told you about the MacDonald tape?

17 A. I think that it was originally -- I mean, it's
18 been discussed on and off over the years.

19 I think at some point, probably Tommy.

20 Q. Okay. Do you know if the MacDonald family was
21 in a dispute at any point with Robert Auxier over the
22 tape?

23 A. I don't know that.

24 Q. Has any -- Did Tom Thomas ever tell you that he
25 felt that Robert Auxier had treated the MacDonald family

1 unfairly?

2 A. I don't -- I heard that. I don't know if I had
3 that conversation with him or not. I don't recall.

4 Q. Who have you heard that from other than your
5 attorney?

6 A. Again, Nickie.

7 I believe John and I had a conversation.

8 Q. When do you think you had a conversation with
9 Nickie?

10 A. Last few months.

11 Q. What did she say about this issue involving the
12 MacDonald family?

13 A. Again, that there was a video exist -- that
14 existed, and that I believe my brother Tom had accused Bob
15 of stealing it.

16 Q. Did Nickie say whether she thought that Bob
17 had -- By "Bob," I assume you mean Robert Auxier; correct?

18 A. Yes.

19 Q. Did Nickie say whether she thought that
20 Mr. Auxier had actually stolen the MacDonald tape?

21 A. She said she did not think that he stole it.

22 Q. And you understand the MacDonald tape to be
23 something that once belonged to Bill Thomas; correct?

24 A. As far as I know. I really don't know a lot of
25 details about it.

1 Q. Understood.

2 But at least the implication would be that if Robert
3 Auxier had stolen the MacDonald tape, he would have stolen
4 it from Bill Thomas; right?

5 A. Yes.

6 Q. Okay. Did Nickie say anything else about
7 anything that Tom Thomas had told her in relation to this
8 dispute between the MacDonald family and BTM?

9 A. Not really. Just that there was a dispute
10 between them.

11 Q. And you never had any discussions with Tom
12 Thomas directly about the MacDonald tape; correct?

13 A. I don't recall.

14 Q. Sure.

15 Did Nickie Baze tell you when Robert Auxier was
16 accused of stealing the MacDonald tape?

17 MR. COLE: Just for clarification --

18 MR. HEATH: I think --

19 MR. COLE: -- are you asking when he was accused
20 or --

21 MR. HEATH: Yeah. I appreciate it. Let me
22 withdraw the question.

23 MR. COLE: -- or he was accused when he stole?

24 BY MR. HEATH:

25 Q. Did Nickie Baze tell you the date on which --

1 Strike that.

2 Did Nickie Baze tell you when Robert Auxier was
3 accused of actually having stolen, as in the act of
4 alleged theft, as to when that took place?

5 A. I -- I don't remember. I --

6 Q. Do you think it might have been before or after
7 your father passed away?

8 A. I -- You know what, I don't know.

9 Q. You know, I understand we're going back several
10 years. So if you don't remember, you don't know. That's
11 fine. I just need to know what you do or do not remember.
12 That's it.

13 A. Yeah.

14 Q. Do you have any knowledge as to whether Robert
15 Auxier might have purchased the MacDonald tape from your
16 father?

17 A. I don't know.

18 Q. Did you -- Did Nickie Baze ever tell you that
19 she thought Robert Auxier had bought the tape from your
20 father?

21 A. She might have. I'm not sure.

22 Q. You mentioned you also had a discussion with
23 John Thomas about the MacDonald tape; correct?

24 A. Yeah.

25 Q. When did that discussion take place?

1 A. Within the last few months.

2 Q. What can you tell me about that discussion that
3 you remember?

4 A. Just the same thing, that he had heard that they
5 were accusing Bob of stealing it.

6 Q. When John Thomas said "they," who did you
7 understand he was referring to?

8 A. The other three.

9 Q. So Frank Thomas, Carolyn Walters, and Tom
10 Thomas?

11 A. Uh-huh.

12 Q. Did John Thomas say whether he thought that
13 Robert Auxier had stolen the tape?

14 A. I believe that he didn't think he did, but he --
15 you know, he has no knowledge of it actually any more than
16 I do.

17 Q. Do you know if this issue involving the
18 MacDonald tapes had any influence on Tom Thomas's
19 willingness to deal with BTM?

20 A. I don't know.

21 Q. Are you aware that in March of 2013, Tom Thomas
22 told Robert Auxier that there would be no more dealings
23 with BTM until the MacDonald tape was -- was returned to
24 the MacDonald family?

25 A. I didn't know it was that specific. I knew I

1 had heard that he had said there was no more dealings.

2 Q. When did you hear that Tom Thomas said there
3 would be no more dealings?

4 A. I -- Probably sometime in 2013.

5 Q. Do you think it might have been around
6 March 2013?

7 A. It was after that.

8 Q. Did Tom Thomas consult you in any way before
9 telling Robert Auxier there would be no further dealings
10 until the MacDonald tape was returned to the MacDonald
11 family?

12 A. Absolutely not.

13 Q. As of early 2013, was there any kind of
14 agreement, whether informal or formal, that Tom Thomas
15 would be the Thomas family's representative --

16 A. No.

17 Q. -- for Bill Thomas-related matters?

18 A. No.

19 Q. Has there ever been any kind of agreement,
20 whether formal or informal, between your siblings that Tom
21 Thomas is the family's representative for Cheetah-related
22 business?

23 A. No.

24 Q. How about for Carolyn Walters, has there ever
25 been an agreement that she can be a representative for

1 Cheetah-related business?

2 A. No.

3 Q. How about Frank Thomas?

4 A. No.

5 Q. Would you be surprised to know that Tom Thomas
6 claimed at his deposition he was, in fact, the family's
7 representative for Cheetah-related business?

8 A. That's hard to answer.

9 Q. Okay.

10 A. Knowing him, not surprised, but it's not true.

11 Q. You testified earlier that you understood that
12 BTM would pay for authentication letters; right?

13 A. Yes.

14 Q. Pay \$3,000 per letter?

15 A. Yes.

16 Q. Do you know when the last time was that BTM
17 tried to pay for a letter?

18 A. I don't know particularly.

19 Q. Have you had any discussions with your siblings
20 about when BTM might have last tried to pay for a letter?

21 A. Yes.

22 MR. COLE: I was just going to ask, any
23 siblings?

24 BY MR. HEATH:

25 Q. Any siblings.

1 A. Yes.

2 Q. Okay. Have you had any discussions with Tom
3 Thomas about the last time BTM tried to pay for a letter?

4 A. No.

5 Q. Who have you had discussions with?

6 A. Again, John and Nickie.

7 Q. So no discussions with Carolyn or Frank?

8 A. No.

9 Q. You mentioned just a couple moments ago that
10 knowing him in relation to Tom Thomas, it would not
11 surprise you that Tom Thomas had been claiming that he was
12 the family's representative for the Cheetah; right?

13 A. Uh-huh. Yes.

14 Q. What do you mean by that, by knowing him, it
15 wouldn't surprise you?

16 A. I don't know how to say it exactly. Delusions.
17 I mean, just I don't really know how to say it other than
18 that. Convincing himself of something that isn't true.

19 Q. Let me preface any further questions by saying,
20 you know, I apologize if I ask you questions today that I
21 would never ask outside of this room, but I need to get to
22 the bottom of things for my client. I'm not trying to
23 poke around any family's affairs. There are some
24 questions I need to ask.

25 When you say "delusions," how was -- how do you feel

1 Tom Thomas had delusions in relation to the Cheetah?

2 A. Well, just that, if he -- if he said he
3 represented the family.

4 Q. Do you personally think that Tom Thomas would
5 have been a suitable representative for the family in
6 relation to Cheetah business?

7 A. No.

8 Q. Why do you not think he would be?

9 A. His track record.

10 Q. You are referring to a track record in business?

11 A. Yes. He has none.

12 Q. You don't feel that Tom Thomas has any suitable
13 prior business experience?

14 A. Correct.

15 Q. Anything else as to why you don't think he'd be
16 a suitable representative?

17 A. I -- I just don't think that he's followed
18 through with things in life, or he's had problems keeping
19 jobs.

20 Q. Have you ever had any discussions with Tom
21 Thomas about Robert Auxier?

22 A. Yes.

23 Q. Do you think Tom Thomas likes Robert Auxier?

24 A. I think he did originally.

25 Q. What can you tell me about how you think Tom

1 Thomas's feelings towards Mr. Auxier have changed?

2 A. I guess my understanding is that he felt that
3 Bob had done some illegal things.

4 When you said have I had any discussions with him
5 about Bob Auxier, you're talking about as far back --
6 you're talking about ever?

7 Q. Yeah, ever.

8 A. Okay.

9 Q. I know it's a broad question, but...

10 What about discussions with Tom Thomas after your
11 father passed away?

12 MR. COLE: Discussions about Bob Auxier?

13 BY MR. HEATH:

14 Q. Yeah.

15 Do you remember any discussions with Tom Thomas about
16 Robert Auxier after your father passed away in
17 October 2009?

18 A. I'm trying to think.

19 I think we -- I mean, I think that he was talking
20 about Thanksgiving one time.

21 Or, I mean, when I talked to him in the past, he
22 always liked Bob.

23 Q. Okay. When did you notice that that changed, if
24 at any point?

25 A. I don't really talk to Tommy that much. I don't

1 talk to him at all, actually.

2 Q. Okay.

3 A. Maybe in 2013.

4 Q. What do you remember about the conversation at
5 Thanksgiving?

6 A. To be honest with you, I don't pay attention to
7 him.

8 Q. Just for the record, you recall that
9 conversation took place after your father passed away?

10 A. Yes.

11 Q. Was your mother still alive when that
12 conversation took place?

13 A. Yes.

14 Q. Okay. Do you think that Tom Thomas might be
15 jealous in any way of Robert Auxier?

16 A. He could be.

17 MR. COLE: Calls -- Calls for speculation.

18 BY MR. HEATH:

19 Q. You can answer if you understand.

20 MR. COLE: I'll let you answer.

21 THE WITNESS: He could be.

22 BY MR. HEATH:

23 Q. Have you ever heard Tom Thomas say anything or
24 see him do anything that might indicate that he's jealous
25 of Robert Auxier?

1 A. No, not really.

2 Q. Why do you think Tom Thomas might be jealous of
3 Robert Auxier?

4 A. He could possibly be. This is only speculation
5 because as far as I knew, nothing was going on with the
6 Cheetah until Bob Auxier showed up, and maybe he wishes
7 that he had done something with it, but I don't know.

8 Q. When you say "nothing was going on with the
9 Cheetah until Bob Auxier showed up," what do you mean by
10 that just, for the record?

11 A. I just -- I don't remember ever even hearing
12 virtually anything about it for decades.

13 Q. Do you think that based on Mr. Auxier's efforts,
14 the Cheetah was somewhat revived?

15 A. Yes.

16 MR. HEATH: Okay. Exhibit 51, please.

17 (Deposition Exhibit 51 was marked for identification
18 by the court reporter.)

19 BY MR. HEATH:

20 Q. Mrs. Thomas, can you review Exhibit 51 and let
21 me know when you've had a chance to do so.

22 A. (Indicating.)

23 Okay.

24 Q. Have you seen Exhibit 51 before?

25 A. I think, yeah, it was -- it looks kind of

1 familiar, yeah.

2 Q. I have a couple of questions.

3 Did you physically print this email?

4 A. No.

5 Q. Okay. Do you see at the top it says, "From:
6 Barbara Thomas," and then an email address?

7 A. Yeah.

8 Q. Do you recognize that email address?

9 A. That's mine.

10 Q. That's your email address?

11 A. Yeah.

12 Q. What I don't see below where it says, "From:
13 Barbara Thomas," is anything indicating who this email
14 might have been sent to.

15 A. I sent emails to John --

16 Q. Okay.

17 A. -- and I believe John must have printed this
18 out.

19 Q. So you believe that John might have printed this
20 email, but you didn't?

21 A. I did not.

22 Q. Okay. Do you see sort of midway on the first
23 page, there appears to be an email from an email address
24 caretw@att.net?

25 A. Uh-huh.

1 Q. And the subject is "licensing agreement."

2 A. Uh-huh.

3 Q. And the date is "Thursday, 26 Sep 2013"?

4 A. Yes.

5 Q. Do you remember if you received that email from
6 the email address I referenced?

7 A. I -- Yeah, probably if John printed it out.

8 I received multiple emails from Carolyn.

9 MR. COLE: Can we take a quick break?

10 MR. HEATH: Sure.

11 VIDEO OPERATOR: Off video at 9:37 a.m.

12 (A recess is taken.)

13 VIDEO OPERATOR: Back on video at 9:41 a.m.

14 BY MR. HEATH:

15 Q. Mrs. Thomas, can you identify Carolyn Walters'
16 email address on Exhibit 51?

17 A. Uh-huh. That's it.

18 Q. Can you read it into the record, please?

19 A. Caretw@att.net.

20 Q. Do you believe that you received a copy of the
21 Licensing Agreement from Carolyn Walters via email on or
22 around September 26, 20--

23 A. Looks like I did.

24 THE REPORTER: I'm sorry. I didn't hear the
25 last part of your question.

1 BY MR. HEATH:

2 Q. On or around September 26, 2013.

3 I'll read into the record what Mrs. Walters writes,
4 "Thank God Tom had it. We need to get a more readable
5 copy. I got the second page bigger but I don't know how I
6 did it. It is a start."

7 Did I read that correctly?

8 A. Yes.

9 Q. Do you have any understanding as to why
10 Mrs. Walters was saying that?

11 Let me strike that. I'm sorry.

12 Do you have any understanding as to why Carolyn
13 Walters sent you a copy of the file that's attached to
14 this email in September 2013?

15 A. I don't remember specifically. She sends a lot
16 of emails.

17 Q. Do you remember why she said quote, "Thank God
18 Tom had it"?

19 A. I mean, it looks from the email, that it's
20 readable.

21 Q. Do you remember any discussions with Carolyn
22 Walters around this timeframe relating to BTM?

23 A. She -- I think that we did have a couple
24 conversations.

25 Q. What do you remember about those conversations?

1 A. Not much. I, again, don't really pay attention
2 because it's just wah-wah-wah.

3 Q. I'm not sure how the court reporter can take
4 that down.

5 MR. COLE: It is being videotaped.

6 BY MR. HEATH:

7 Q. Can you explain for me what you mean -- Strike
8 that.

9 Do you feel that you get a lot of communication from
10 Carolyn Walters?

11 A. Not anymore.

12 Q. Okay. Were you getting a lot of communication,
13 in terms of emails from Carolyn Walters, in
14 September 2013?

15 A. I -- I don't -- I honestly don't know how many I
16 got. It was a lot. I don't know.

17 Q. Why -- Why weren't you paying attention to the
18 emails you were getting from her in this timeframe?

19 A. Oh, God. It's just all noise to me. It -- It's
20 just I have no desire or interest in their communications,
21 conversations.

22 Q. When you say "they," you mean Tom Thomas, Frank
23 Thomas, and Carolyn Walters?

24 A. Uh-huh.

25 Q. "Yes"?

1 A. Yes. I'm sorry.

2 Q. That's okay.

3 You see that the file attached to this email is
4 entitled, "Authorization Agreement"; correct?

5 A. (Indicating.)

6 Yes.

7 Q. And you are referring to the second page of
8 Exhibit 51; right?

9 A. Yes.

10 Q. Okay. Do you believe you had seen this document
11 prior to Carolyn Walters sending it to you on
12 September 26, 2013?

13 A. I don't -- I don't know. I don't remember.

14 Q. To the best of your knowledge, is -- do you
15 believe that the first time you saw the agreement was
16 actually on September 26th, 2013?

17 A. Again, I don't know. I thought Gary had sent it
18 to me. I don't know.

19 Q. When do you think Gary might have sent it to
20 you?

21 A. Probably somewhere around this period.

22 Q. And you see that it appears at least from the
23 email that you might have sent -- you might have forwarded
24 this email on to someone on Saturday, September 28th,
25 2013; correct?

1 A. I can't tell by looking at that.

2 Q. Right.

3 Do you have any independent recollection as to
4 whether you might have forwarded the email on to someone
5 on September 28th?

6 A. Do I remember specifically doing it?

7 Q. Right.

8 A. No.

9 Q. Okay. Do you believe that you forwarded this
10 email to John Thomas at any point?

11 A. That's a possibility.

12 Q. Okay. You understand that I recently deposed
13 Carolyn Walters; correct?

14 A. Yes.

15 Q. Would you be surprised that at her deposition
16 Mrs. Walters said that the first time she saw the
17 Authorization Agreement was after BTM filed its lawsuit in
18 March 2014?

19 A. I have no idea when she saw it.

20 Q. Okay. But it doesn't appear to be the case from
21 this email, right, which is dated September 2013?

22 A. She -- What was her date again? I'm sorry.

23 Q. She testified at her deposition the first time
24 she saw the authorization agreement was after BTM filed
25 its lawsuit in March 2014.

1 A. Okay. Well, clearly that doesn't work out.

2 Q. It doesn't appear to be the case from
3 Exhibit 51; right?

4 A. Right.

5 Q. Do you believe you know Mrs. Walters well enough
6 to have developed an opinion as to whether she's a
7 truthful person?

8 A. I have known her for 57 years.

9 Q. So that's a "Yes"?

10 A. Yes.

11 Q. Do you think she's a truthful person?

12 A. No.

13 Q. Are you aware of anything she said or done that
14 makes you think she might be trying to harm Robert Auxier
15 or BTM?

16 A. What do you mean? What do you mean?

17 Q. Are you -- Has she said anything to you that
18 makes you think that she disapproves of Robert Auxier?

19 A. She has said that she didn't like him.

20 Q. Has she said anything to you about her
21 intentions towards BTM?

22 MR. COLE: Vague and ambiguous as to
23 "intentions."

24 You can answer if you understand the question.

25 THE WITNESS: Can you repeat it?

1 BY MR. HEATH:

2 Q. Sure.

3 Has Mrs. Walters ever said anything to you about her
4 intentions towards BTM?

5 A. I guess specifically, I don't understand what
6 you're asking.

7 Q. Okay. No problem.

8 Do you think Mrs. Walters has been untruthful towards
9 BTM?

10 MR. MUSIELSKI: I'm going to object. It's
11 vague.

12 And what's the subject of the untruthfulness?

13 MR. HEATH: I'm going to wait for the answer and
14 try to narrow it down.

15 MR. COLE: I'm going to object; lacks
16 foundation.

17 BY MR. HEATH:

18 Q. You said that you don't think Mrs. Walters is a
19 truthful person; right?

20 A. Yes.

21 Q. Okay. Is there anything that she's done in
22 relation to BTM that makes you think that she's acted
23 untruthfully towards BTM?

24 A. Not that I know of specifically.

25 Q. Okay. How about Tom Thomas, do you believe that

1 you've known -- Strike that.

2 Do you believe you know Tom Thomas well enough to
3 have developed an opinion as to whether he's a truthful
4 person?

5 A. Yes.

6 Q. And do you think he's a truthful person?

7 A. No.

8 Q. Is there anything that Tom Thomas has done
9 towards BTM that you perceived to be dishonest?

10 A. I guess when you ask that, I would say this
11 whole situation to me is dishonest.

12 Q. Okay. Can you explain what you mean by that?

13 A. I believe that we should have honored my
14 father's contract.

15 Q. When you say "contract," are you referring to
16 the Authorization Agreement?

17 A. Yes.

18 Q. Okay. The file that's attached to Exhibit 51?

19 A. The agreement that they had.

20 Q. The agreement that your father --

21 A. That Bob Auxier and my father had.

22 Q. Have you ever said that to Tom Thomas, that you
23 believe that the Authorization Agreement should have been
24 honored?

25 A. Yes. Not specifically like that; but yes, John

1 and I composed an email.

2 MR. HEATH: Okay. Exhibit 52, please.

3 (Deposition Exhibit 52 was marked for identification
4 by the court reporter.)

5 THE WITNESS: Thank you.

6 BY MR. HEATH:

7 Q. Mrs. Thomas, do you believe you've seen
8 Exhibit 52 previously?

9 A. Yes.

10 Q. Can you turn to the fifth page of Exhibit 52.

11 A. Yes.

12 Q. Do you see your signature on this document?

13 A. I do.

14 Q. Okay. Can you describe where you see your
15 signature?

16 A. At the bottom.

17 Q. Is it above where it reads quote, "Signature of
18 Claimant"?

19 A. Yes.

20 Q. Okay. And it appears to be dated November 13th,
21 2013; correct?

22 A. Correct.

23 Q. Did you have any understanding of what this
24 document represents?

25 MR. COLE: At what time?

1 BY MR. HEATH:

2 Q. Let me clarify.

3 When you signed this document in November 2013, did
4 you have an understanding of what it represents?

5 A. Not completely.

6 Q. What was your understanding in November 2013?

7 A. Just that it was anything having to do with my
8 dad, we would all get a sixth.

9 Q. Do you mean Bill Thomas's six children would
10 each get one-sixth of what?

11 A. I'm not even sure. I --

12 Q. Okay.

13 A. -- I wasn't even comfortable signing it.

14 Q. Whose idea was it for you to sign this?

15 A. Carolyn and Tommy, I believe.

16 Q. Did they tell you why they wanted these
17 documents signed?

18 A. I believe it had something to do with trademarks
19 or something like that.

20 Q. As of November 2013, did you consider whether
21 this document would impact the Authorization Agreement in
22 any fashion?

23 A. No.

24 Q. As of November 2013, did you still consider the
25 Authorization Agreement to be valid?

1 A. I don't know that I thought about it, but I feel
2 it's valid, in my opinion, today.

3 Q. Okay. You see on the document that you signed
4 within Exhibit 52, it says, "Deceased Personality's Name"
5 and then "William P. Thomas"; right?

6 A. Yes.

7 Q. Okay. So is it your understanding that you
8 would be entitled to one-sixth of any kind of business
9 income generated through the use of William P. Thomas's
10 name?

11 MR. COLE: Are you asking if she had that
12 specific understanding?

13 MR. HEATH: Yes. Sure.

14 THE WITNESS: To be honest with you, I -- I
15 didn't really have a complete understanding of it, and I
16 was sick for days after I signed it.

17 BY MR. HEATH:

18 Q. Why were you sick for days after you signed it?

19 A. I didn't really understand it and because of who
20 it was presented by.

21 MR. HEATH: Exhibit 53, please.

22 (Deposition Exhibit 53 was marked for identification
23 by the court reporter.)

24 THE WITNESS: (Indicating.)

25 BY MR. HEATH:

1 Q. Mrs. Thomas, please have a look at Exhibit 53,
2 and let me know when you've had a chance to do so.

3 A. (Indicating.)

4 Okay.

5 Q. Would you agree that Exhibit 53 appears to be an
6 email that you sent on January 29th, 2014?

7 A. Yes.

8 Q. Do you have any understanding as to why this
9 document doesn't really seem to indicate who you sent the
10 email to?

11 A. Correct.

12 Q. Do you have any understanding as to why that
13 might be?

14 A. No, I have no idea.

15 Q. As you sit here today, do you have any
16 understanding as to who you might have sent this email to?

17 A. I don't remember. The only person I could think
18 of is John.

19 Q. John Thomas?

20 A. Yeah.

21 Q. Do you see where it says, "Read all the way to
22 the bottom"?

23 A. Yes.

24 Q. Is that text that you wrote in the email?

25 A. Honestly, I don't remember doing it.

1 Q. I'm sorry. You don't remember?

2 A. I don't remember.

3 Q. Okay.

4 A. It appears to be, yes.

5 Q. And if you actually read the final portion of
6 this document on the second page, which I'm going to read
7 into the record --

8 A. Okay. I remember this.

9 Q. Okay. Please go ahead. Withdraw my question.
10 You do remember sending this email?

11 A. (Indicating.)

12 Q. Strike that.

13 A. I'm sorry?

14 Q. You do remember sending this email?

15 A. Yes.

16 Q. Do you believe you sent it to John Thomas?

17 A. I do.

18 Q. And do you believe that you, in fact, did type
19 in, "Read all the way to the bottom"?

20 A. Yes.

21 Q. Why did you send that to John?

22 A. Because at the bottom it says something, Bill
23 Thomas III.

24 Q. I'd like to read into the record. On the second
25 page it reads, "About Bill Thomas III.

1 "Bill Thomas III is the son of the original designer
2 and builder of the famous Cheetah. He has begun working
3 with Ruth Engineering to build and sell the Cheetah
4 Evolution - an updated version of the Cheetah utilizing
5 current technologies and components."

6 Did I read that correctly?

7 A. Yes.

8 Q. Is that what you wanted to draw John Thomas's
9 attention to?

10 A. I thought that was interesting.

11 Q. Why did you think it was interesting?

12 A. I -- I didn't know who Ruth Engineering was.

13 Q. Did it seem to you that Tom Thomas had entered
14 into -- Strike that.

15 Based on your review of this email, did it seem to
16 you in January 2014 that Tom Thomas had entered into an
17 agreement with a company relating to your father's name?

18 A. It looked like that could be possible.

19 Q. Did you feel that, based on the document that we
20 just looked at, Exhibit 52, that you would have been
21 entitled to one-sixth of any proceeds from that
22 relationship?

23 MR. MUSIELSKI: I'm going to object. I believe
24 we just looked at 53. This one, Exhibit 53?

25 MR. HEATH: Yeah. I was actually referring to

1 Exhibit 52, but I'll -- I'll make it clear.

2 Q. Did you think in January 2014, having read about
3 Tom Thomas's apparent relationship with Ruth Engineering,
4 that you were entitled to one-sixth of any income that Tom
5 Thomas made from that relationship?

6 A. I would think that anything having to do with
7 the Cheetah would be/should be split six ways.

8 Q. Should be shared equally between the six
9 siblings; right?

10 A. I would think so, yeah.

11 Q. Prior to learning about Tom Thomas's apparent
12 relationship with Ruth Engineering in January 2014, had
13 you had any discussions with Tom Thomas about Ruth
14 Engineering?

15 A. Not that I recall.

16 Q. So was it a surprise to you to learn that Tom
17 Thomas had apparently, "Begun working with Ruth
18 Engineering to build and sell the Cheetah Evolution"?

19 A. I'm sorry. What was the beginning of that
20 question?

21 Q. Was it a surprise to you to learn in
22 January 2014 that Tom Thomas had apparently, "Begun
23 working with Ruth Engineering to build and sell the
24 Cheetah Evolution"?

25 A. Yes.

1 Q. Did you even have an understanding as to what
2 the Cheetah Evolution was?

3 A. No.

4 Q. And you certainly hadn't been consulted prior to
5 January 2014 about any negotiations or discussions with
6 Ruth Engineering; correct?

7 A. No.

8 Q. Were you even aware of Ruth Engineering's
9 existence prior to January 2014?

10 A. I don't know whether I heard the name anywhere
11 or anything, but I wasn't aware of that.

12 Q. And it's fair to say that as of January 2014,
13 you didn't consider that Tom Thomas had your permission to
14 negotiate any kind of Cheetah-related contract on your
15 behalf?

16 A. No, not at all.

17 Q. Are you familiar with the phrase in the
18 automobile industry of, "A back dooring under a contract"?

19 A. No.

20 Q. Okay. After sending this email, Exhibit 53, to
21 John Thomas, did you have any discussions with Tom Thomas
22 about his apparent relationship with Ruth Engineering?

23 A. No.

24 Q. Do you have any knowledge as to whether Tom
25 Thomas has ever received any money from Ruth Engineering?

1 A. No.

2 Q. Do you have any opinion on Tom Thomas's skills
3 as an engineer?

4 A. Is he an engineer?

5 Q. Okay. Let me rephrase.

6 Do you think he's capable of building a Cheetah car?

7 A. I -- I don't know. I don't -- I have no idea
8 what his capabilities are in that area.

9 MR. HEATH: Exhibit 54, please.

10 (Deposition Exhibit 54 was marked for identification
11 by the court reporter.)

12 THE WITNESS: Thank you.

13 (Indicating.)

14 BY MR. HEATH:

15 Q. Mrs. Thomas, as you have done, please review
16 Exhibit 54, as you have with the previous exhibits. Let
17 me know when you've had a chance to do so.

18 A. (Indicating.)

19 Okay.

20 Q. Okay. Just focusing on the first page of the
21 exhibit for now. Can you see towards the bottom, there
22 appears be an email sent from Betty, B-e-t-t-y, dot
23 DeLaTorre, D-e-L-a-T-o-r-r-e, at k-n-o-b-b-e.com, to
24 btmcheetah@gmail.com dated May 31st, 2013?

25 A. Yes.

1 Q. Okay. And then above that it appears that that
2 May 31st email is sent by bt58cheetah@aol.com to
3 exodis1081@sbcglobal.net dated January 28th, 2014.

4 Do you see that?

5 A. I do.

6 Q. Okay. And the text that appears below that is,
7 "Hi Gary: This was the original cease & desist order."

8 Do you see that?

9 A. I do.

10 Q. Do you recognize the email address
11 bt58cheetah@aol.com?

12 A. I believe that's Tommy's.

13 Q. Tom Thomas's email address?

14 A. Yes.

15 Q. And do you recognize the email address
16 exodus1081@sbcglobal.net?

17 A. Yes, I do.

18 Q. Who uses that email address?

19 A. Gary Baze.

20 Q. He's your brother-in-law; right?

21 A. Yes.

22 Q. It appears, again, looking above that email,
23 that Gary Baze forwarded Tom Thomas's email to you on
24 February the 1st, 2014; right?

25 A. It does.

1 Q. And do you see the attachment to that email is a
2 three-page letter dated May 31st, 2013?

3 A. I do.

4 Q. Prior to receiving Mr. Baze's email on
5 February 1st, 2014, had you seen that May 31st, 2013
6 letter before?

7 A. Honestly, I don't know. I got emails that I
8 didn't read. I just -- I'm just not interested in any of
9 this.

10 Q. Okay. Do you remember if you saw -- I'm going
11 to call the attachment the May 2013 letter. Okay?

12 A. This one (indicating)?

13 Q. The attachment to Exhibit 54 that --

14 A. Okay.

15 Q. -- I'm going to call that the May 2013 letter.

16 A. Okay.

17 Q. Do you understand that?

18 A. I do.

19 Q. Do you believe that you had seen the May 2013
20 letter before February 2014?

21 A. I don't know.

22 Q. Do you remember when the first time might have
23 been that you saw the May 2013 letter?

24 A. I don't remember.

25 Q. Do you believe that you saw a draft of the

1 May 2013 letter before it was sent?

2 A. A draft, no. A draft from that attorney to me?

3 Q. Sure.

4 A. No.

5 Q. Okay. How about a draft of the letter from
6 anyone, not including the -- the attorney?

7 A. I don't believe so. But again, people send me
8 emails, and I don't read them.

9 MR. COLE: When you say "people," who are you
10 referring to in this context?

11 THE WITNESS: In this context, well, it's
12 everybody, but I just -- I read emails all day long. I'm
13 on the phone. I'm reading emails.

14 When I got home, I don't want to read anything. So
15 it can be family, of course, or, you know, advertisements
16 or stuff like that. I just -- This is what I do all day.

17 BY MR. HEATH:

18 Q. Sure.

19 And you'll see the May 2013 letter appears to be from
20 Jeffrey L. Van Hoosear, spelled V-a-n-H-o-o-s-e-a-r;
21 right?

22 A. Yes.

23 Q. Do you know who Mr. Van Hoosear is?

24 A. No. I'm going to assume that he's an attorney.

25 Q. Has he ever represented you?

1 A. No.

2 Q. Do you know if he's ever represented Tom Thomas
3 or Carolyn Walters?

4 A. I think that he originally did.

5 Q. Okay.

6 A. I don't recognize his name, but the Knobbe --

7 Q. The name of his firm rings a bell, so to speak?

8 A. I think so.

9 Q. Do you have any understanding of what the
10 May 2013 letter was sent to do?

11 A. No.

12 Q. Okay. Do you believe you reviewed this letter
13 before it was sent to BTM?

14 A. No.

15 Q. Do you even know if the letter was sent to BTM?

16 A. No.

17 Q. Are you familiar with the phrase, cease and
18 desist letter?

19 A. I've heard that before.

20 Q. Okay. Do you remember having any discussions
21 with either Tom Thomas or Carolyn Walters in May 2013
22 about sending a cease and desist letter to BTM?

23 A. I do not remember having a conversation with
24 either one of them.

25 Q. Do you remember having a conversation with

1 either one of them in May 2013 about sending a cease and
2 desist letter to Robert Auxier?

3 A. No.

4 Q. And just to jog your memory a little bit, do you
5 have any recollection as to when the first time you saw
6 the May 2013 letter might have been?

7 A. I -- I honestly don't remember it.

8 Q. Now, it appears that Gary Baze sent a copy of
9 the letter to you on February 1st, 2014; right?

10 A. Uh-huh.

11 Q. Did you have any discussions with Gary Baze
12 after receiving that email?

13 A. I don't think so.

14 Q. Did you have any discussions with John Thomas
15 after Gary Baze sent you that email?

16 A. I don't remember.

17 Q. Okay. How about Nickie Baze?

18 A. I don't think so.

19 Q. Do you see above the portion of the email where
20 it appears that Gary Baze sends the email to you, it
21 appears that you might have sent the email on to someone
22 on February 3rd at 5:25 p.m.

23 Do you see that?

24 A. I see that date.

25 Q. Do you have any understanding as to who you

1 might have sent the email on to?

2 A. I don't know for sure, but most likely John.

3 Q. Okay. Do you consider the May 2013 letter to be
4 something that was sent on your behalf?

5 A. No.

6 Q. So to the extent the May 2013 letter purports to
7 terminate the Authorization Agreement, you don't agree
8 with what the May 2013 letter is trying to do?

9 A. To be honestly --

10 (Interruption in proceedings.)

11 MR. COLE: Off the record for just a moment.

12 MR. HEATH: Sure. Off the record.

13 VIDEO OPERATOR: Off the record at 10:14 a.m.

14 (A discussion is held off the record.)

15 (A recess is taken.)

16 VIDEO OPERATOR: Back on video at 10:22 a.m.

17 This marks the beginning of DVD Number 2.

18 BY MR. HEATH:

19 Q. Mrs. Thomas, just to confirm, with regard to the
20 May 2013 letter, Tom Thomas didn't seek your approval
21 before sending this to BTM; correct?

22 A. That's correct.

23 Q. Okay. And Carolyn Thomas didn't seek your
24 approval before sending this to BTM?

25 A. That's correct.

1 Q. And Frank Thomas didn't seek your approval
2 before sending this to BTM?

3 A. That's correct.

4 MR. HEATH: This is 55, please.

5 (Deposition Exhibit 55 was marked for identification
6 by the court reporter.)

7 BY MR. HEATH:

8 Q. Before we get to -- Before we get to Exhibit 55,
9 I'm sorry, Mrs. Thomas after your father --

10 A. Can you call me Barbara? That makes me feel
11 like my mom here.

12 Q. I apologize.

13 A. No, no. That's okay.

14 Q. Barbara, when -- when your -- Strike that.
15 After your father passed away in October 2009, you
16 held a memorial service for him; right?

17 A. Yes.

18 Q. Do you remember Mr. Auxier attending that?

19 A. I do.

20 Q. Do you remember any of the members of his family
21 attending that?

22 A. I believe his boys were there.

23 Q. Okay. When you says say "his boys," who are you
24 referring to?

25 A. (Indicating.)

1 Sorry. Sitting next to him at the end of the table.

2 Q. And do you remember at that time whether Violet
3 Thomas invited Mr. Auxier to remove any automotive-related
4 items from the family residence?

5 A. Can -- That she asked him to remove?

6 Q. Not that she asked him, but do you remember
7 Violet Thomas told Mr. Auxier that he had permission to
8 remove Cheetah memorabilia, for want of a better phrase,
9 from the family residence?

10 A. Yes.

11 Q. Do you remember Violet Thomas specifically
12 saying that?

13 A. Yes.

14 Q. Were you present when she said that?

15 A. I believe -- I don't remember when she -- I
16 don't -- I don't think I heard it any particular. I think
17 she told me on the phone that she had told him to, you
18 know, look and see if there was anything that he wanted.

19 Q. When you say "him," you mean Robert Auxier?

20 A. Bob.

21 Q. Bob.

22 Did you have an impression, based on that
23 conversation, as to whether Robert Auxier was being loaned
24 or given the items?

25 A. Given.

1 Q. As a gift?

2 A. Yes.

3 Q. Do you know why Violet Thomas would want Robert
4 Auxier to have Cheetah memorabilia?

5 A. Because he was building the Cheetah.

6 Q. Did Violet Thomas ever express an opinion about
7 Robert Auxier to you? Do you think --

8 A. Yes.

9 Q. -- she liked him?

10 A. Yes.

11 Q. She told you she liked him?

12 A. Yes.

13 Q. So would you be surprised if I told you that
14 Carolyn Walters and Tom Thomas had testified at their
15 depositions that Violet Thomas didn't actually like Robert
16 Auxier?

17 A. I would be stunned.

18 Q. Okay. And you would be stunned because you
19 would disagree with that?

20 A. Correct.

21 Q. Yeah. Okay. So moving on to Exhibit 55,
22 please.

23 A. (Indicating.)

24 Q. Do you see on the first page of Exhibit 55 there
25 appears to be an email from Bill Thomas dated

1 February 6th, 2014?

2 A. I do.

3 Q. And it reads as follows, "Hi John

4 "I have attached a document with an update on our
5 family's intellectual property. Can you forward this
6 email to Barbara?

7 "Thanks,

8 "Bill."

9 Did I read that correctly?

10 A. Yes, you did.

11 Q. Do you remember if you actually received a copy
12 of this email?

13 A. He did forward it to me.

14 Q. When you say, "he"?

15 A. John.

16 Q. John Thomas forwarded this email to you?

17 A. He did.

18 Q. Okay. Is -- Do you know there is any reason why
19 Tom Thomas wouldn't send that email to you directly?

20 A. I don't know whether he had my email address.

21 I -- I am not in communication, even before this,
22 that much; so I just believe that he didn't have my email
23 address.

24 Q. Got it.

25 When would you say you've -- From what date have you

1 quote, "not been in communication with Tom Thomas"?

2 A. I mean, that's kind of hard to say. How do I
3 say this? I just never really hung around with him or had
4 that much to do with him. I saw him at my parents when we
5 would have get-togethers.

6 Q. Okay. And you testified earlier that on certain
7 occasions you had received emails from Carolyn Walters,
8 and you would disregard them?

9 A. Yeah.

10 Q. Is there any particular reason that you would
11 specifically disregard emails from Carolyn?

12 A. I just -- I just have no interest in her -- what
13 she sends, and just the -- the stuff that she does and
14 gets involved in, and people she fights with, and...

15 Q. Would you say that Carolyn's dispute with BTM,
16 in terms of it being a dispute, is not really an isolated
17 incident?

18 A. Meaning?

19 Q. Is she prone to getting into fights with people?

20 A. Yes.

21 Q. Do you remember reviewing this email in or
22 around February 2014?

23 A. Yes.

24 Q. Okay. I'd like to turn to the second page of
25 Exhibit 55 and read in what's referenced as Fact 3.

1 "Letters of authenticity (L.A.) cannot and will not
2 ever be issued after our father went to be with the Lord!
3 It is well known in the automotive world that Dad passed
4 away on October 10, 2009. If we ever issued another
5 (L.A.)" in brackets, "it would start legal action against
6 us that would definitely be civil law suits and possibly
7 criminal action for fraud. Our lawyer, who is an officer
8 of the court, has let us know in no uncertain terms that
9 issuing any more letters would be a legal disaster. It
10 seems to me that this is a simple thing to understand.
11 How is Dad going to authenticate anything after his
12 passing? Our letter of cease and desist notified the
13 other side, but" brackets "(ax) continues to harass our
14 family for these letters."

15 Did I read that correctly?

16 A. Yes, you did.

17 Q. Do you see the reference to a lawyer letting "us
18 know in no uncertain terms that issuing any more letters
19 would be a legal disaster"?

20 A. I do see that.

21 Q. Had you ever had any discussions with any of
22 your siblings about -- Strike that.

23 In 2013 had you ever had any discussions with your
24 siblings about whether issuing any more letters of
25 authentication would cause legal problems for the Thomas

1 family?

2 A. I believe that probably -- I mean, probably John
3 and I discussed it.

4 Q. In 2013?

5 A. When is this dated?

6 (Indicating.)

7 So this is, okay, February 6, 2014. So I think John
8 had discussed that with Frank. I think that Frank had
9 said that to him about -- that they couldn't be used after
10 my dad's passing.

11 Q. But as to you personally, you didn't have any
12 discussions with Frank as of that nature?

13 A. No.

14 Q. Okay. And in 2013 you didn't have any
15 discussions with Tom Thomas of that nature?

16 A. No, not that I remember.

17 Q. And the same question for Carolyn.

18 A. Not that I remember.

19 MR. HEATH: Exhibit 56, please.

20 (Deposition Exhibit 56 was marked for identification
21 by the court reporter.)

22 BY MR. HEATH:

23 Q. Barbara, would you read Exhibit 56. Let me know
24 when you've had a chance to do so.

25 A. (Indicating.)

1 Yes, I remember this.

2 Q. You believe you have seen this series of emails
3 before?

4 A. Yes.

5 Q. Okay. It appears there is an email from you
6 sent on February 7th, 2014 at 11:47 a.m.; right?

7 A. Yes.

8 Q. Do you remember who you sent that email to?

9 A. Tommy.

10 Q. Okay. What prompted you to send that email to
11 Tom Thomas?

12 A. This (indicating).

13 Q. Exhibit 55?

14 A. Yes.

15 Q. Okay. So your email to Tom within Exhibit 56 is
16 your response to Exhibit 55; right?

17 A. Yes.

18 Q. Okay. What is the message you are trying to
19 convey to Tom Thomas?

20 A. Just so you know, John and I are on the phone
21 and wrote this together.

22 Q. Okay. That is why it appears to be -- it
23 closes, "John and Barbara"?

24 A. Yes. I typed it on my email, but John was on
25 the phone with me.

1 Q. What message are you trying to convey to Tom
2 Thomas through this email?

3 A. Well, we wanted to honor our father's contract,
4 and that we felt -- and I had no idea what Bob had done or
5 had not done -- but as you can see, we said that, even if
6 there were missteps steps on Bob's part, you know, is
7 there no room for forgiveness or discussion?

8 We wanted to honor our father's contract.

9 Q. You want BTM to be able to continue making
10 continuation Cheetahs?

11 A. I want to do what my father wanted, and that's
12 what he wanted.

13 Q. Okay. And just to read in the final sentence
14 from your email. It reads as follows, "We do believe
15 there could have been missteps on Bob's part but is there
16 no room for forgiveness or discussion?"

17 Did I read that correctly?

18 A. Yes.

19 Q. So when you say "could have been missteps on
20 Bob's part," are you aware of anything that you perceived
21 to be a misstep by Robert Auxier or BTM or are you saying
22 there just could have been?

23 A. No. I'm not aware of anything. That was just
24 simply to say even if he had done something, could we not
25 sit down and discuss it and forgive it and move on?

1 Q. Okay. It appears that Tom Thomas responded by
2 email to you on February 7th, 2014; right?

3 A. Maybe it was Tom.

4 Q. Do you recognize the email address
5 bt58cheetah@aol.com?

6 A. Yes.

7 I will just say when we got it back, neither John nor
8 I thought that he wrote that.

9 Q. What makes you think that he had not written
10 that email?

11 A. At the time...

12 (Indicating.)

13 It just doesn't sound like him.

14 Q. Okay. Do you have any idea -- Strike that.

15 Did you and job talk about who you thought might have
16 written that email?

17 A. We thought perhaps his attorney, his wife, or
18 her father is an attorney.

19 What we felt about this was basically, "I'm going to
20 do what I want to do, and I don't care what you think."

21 Q. Do you see the sentence in Tom's email to you
22 where it reads, "Dad's instructions were only in the
23 confines of the authorization agreement"?

24 A. Yeah.

25 Q. Okay. Do you have any understanding as to

1 whether the Authorization Agreement says that it binds
2 Bill Thomas's heirs or anything like that?

3 A. I -- I believe there was a paragraph that said
4 something about us, yes. I know there was. Not being an
5 attorney, I don't know the scope of it.

6 Q. Sure. Just for the record, I'm not asking for
7 any statement as to which legal effect.

8 But you are aware of a statement being in there that
9 at least --

10 A. Yes.

11 Q. -- referenced heirs?

12 Okay. How old was your father when he signed --
13 Strike that.

14 How old would your father have been in December 2001,
15 approximately?

16 A. Eighty, I think. He was born in '21. Yeah, 80.

17 Q. Did you have any discussions with him about the
18 agreement with BTM, and how it might relate to his heirs?

19 A. No.

20 Q. Okay. All right. This has been previously
21 marked as Exhibit 27.

22 A. (Indicating.)

23 Q. Barbara, do you believe you've seen these
24 documents before?

25 A. (Indicating.)

1 I don't remember seeing it. I really don't.

2 Q. Okay. Have you ever heard of Bill Thomas
3 Motors, LLC company?

4 A. I believe it was referred to in an email from my
5 nephew.

6 Q. An email from Jarrod Walters?

7 A. Correct.

8 Q. Do you know when that email was sent?

9 A. January something of this year.

10 Q. Okay. Prior to January 2015, do you believe you
11 ever previously been aware of the existence of Bill Thomas
12 Motors, LLC?

13 A. No, I don't -- I don't think so.

14 Q. Okay. Can you turn to the second page of the
15 exhibit.

16 A. (Indicating.)

17 Q. So it's fair to say that prior to January 2015,
18 you had no idea as to why Bill Thomas Motors, LLC was
19 formed?

20 A. That's correct.

21 Q. In fact, you didn't even know if it was formed
22 or not?

23 A. That's correct.

24 Q. Do you see towards the bottom of the second page
25 of Exhibit 27, it says, "Type of business," and below that

1 it reads, "Describe the type of business of the limited
2 liability company"?

3 A. Yes.

4 Q. And then below that it reads, "Control and Use
5 of Bill Thomas's IP and Rights" concerning -- Strike that.

6 It reads, "Control and Use of Bill Thomas's IP and
7 Rights regarding the Bill Thomas Cheetah."

8 Do you see that?

9 A. I do.

10 (Interruption in Proceedings.)

11 THE WITNESS: I'm sorry.

12 MR. HEATH: No problem.

13 THE WITNESS: You know she's here; right?

14 MR. COLE: No, I didn't.

15 THE WITNESS: She's upstairs.

16 Okay. I'm sorry.

17 BY MR. HEATH:

18 Q. No problem.

19 So it's fair to say you were never told by Tom Thomas
20 or Carolyn Walters that you would be entitled to one-sixth
21 of any income that this company, Bill Thomas Motors, LLC
22 generated?

23 A. That's correct.

24 Q. And you were never given documentation that made
25 you an owner of this company, to the best of your

1 knowledge?

2 A. No, I was not.

3 Q. And you never requested of anybody to become an
4 owner of this company?

5 A. No, I did not.

6 Q. You said earlier that you -- your take from
7 Exhibit 56 was that Tom Thomas was going to go ahead and
8 do whatever he wanted; right?

9 A. Yes.

10 Q. And that email was sent February 2014; right?

11 A. February 7th, 2014 --

12 Q. It appears that, at least from Exhibit 27, that
13 Bill Thomas Motors, LLC was formed in April 2014; right?

14 A. Yes.

15 Q. Okay. Again, Barbara, I apologize if I ask
16 questions today that I would never ask outside this room.

17 But do you have an opinion as to Bill Thomas's
18 feelings towards Tom Thomas?

19 A. How my dad felt about Tommy?

20 Q. Yeah.

21 A. He didn't trust him.

22 Q. So is it fair to say that you don't consider
23 that Bill Thomas would have wanted Tom Thomas to assume
24 responsibility for Cheetah-related business?

25 A. I personally do not think he would, no.

1 Q. Did Bill Thomas ever tell you that he didn't
2 trust Tom Thomas?

3 A. Yes.

4 Q. Okay. Did he say why he didn't trust him?

5 A. He said that he was a liar.

6 Q. Did you ever hear Bill Thomas say that people
7 should be careful about entering into business
8 relationships with Tom Thomas?

9 A. He said he's not to be trusted.

10 Q. Do you think Bill Thomas would approve of Tom
11 Thomas's refusal to give BTM any more authentication
12 letters?

13 A. Do I think he would approve?

14 Q. Yes.

15 A. No.

16 Q. Do you have any knowledge about a child support
17 obligation that Tom Thomas may have?

18 A. Yes.

19 Q. At his deposition Tom Thomas admitted that when
20 Violet Thomas's estate proceeds were disbursed, five of
21 the six heirs received one check, but he received several
22 smaller checks as opposed to one check.

23 Do you have any knowledge as to why Tom Thomas might
24 have wanted to receive smaller checks?

25 A. I believe it was to stay under the radar of his

1 obligation.

2 Q. Did you have any discussions with anyone in the
3 family about that around the time that the funds were
4 disbursed to the heirs?

5 A. John.

6 Q. When you say "stay under the radar," you mean --
7 is it your understanding that Tom Thomas wanted to avoid
8 receiving a check for a larger sum of money because that
9 might draw attention to his financial dealings?

10 A. That was my understanding.

11 Q. Was it your understanding that Tom Thomas wanted
12 to receive that money in smaller checks so as to possibly
13 avoid obligations that he owed under this child support
14 judgment?

15 A. That was my understanding.

16 Q. Okay. Do you understand that in -- Strike that.
17 Do you understand that Robert Auxier claims that in
18 November 2014 he received a threatening phone call in
19 Arizona?

20 A. I have heard that, yes.

21 Q. Do you have any knowledge about that?

22 A. I do not.

23 Q. Are you aware of any of the situations in which
24 any of your siblings have been in a dispute, and there has
25 been a claim that the person they are in a dispute with

1 has received a threatening phone call?

2 A. I don't know of any, no.

3 Q. Are you familiar with a company called Carrera?

4 A. Yes.

5 Q. Do you have any knowledge as to whether Tom
6 Thomas has any kind of business relationship with Carrera?

7 A. I don't know personally, but I heard.

8 Q. What have you heard?

9 A. That he had a contract with them. I know that
10 he brought us all slot cars on Christmas. One Christmas
11 we all got, I believe, six slot cars.

12 Q. Do you remember which Christmas that was?

13 A. I believe it was 2012.

14 Q. Were these slot cars based on the Cheetah
15 design?

16 A. Yes.

17 Q. Do you know if Tom Thomas received any money
18 from Carrera?

19 A. I do not have any personal knowledge of that.

20 Q. Have you heard from anyone in your family as to
21 whether Tom Thomas has received money from Carrera?

22 A. Yes.

23 Q. What have you heard?

24 A. I've heard he received \$1,000.

25 Q. Did you ever see a receipt for that?

1 A. I did not.

2 Q. Do you understand what the \$1,000 was for?

3 A. No.

4 Q. Do you think -- Do you have any experience in
5 License Agreements or anything like that --

6 A. No.

7 Q. -- in any way?

8 Okay. If Tom Thomas had received \$1,000 to enter
9 into a three-year agreement with Carrera for the
10 manufacture of slot cars, and that was the only sum that
11 Tom Thomas was provided with, would you consider that a
12 fair arrangement?

13 A. No.

14 Q. Do you think that a License Agreement for the
15 manufacture of Cheetah slot cars would be worth more than
16 \$1,000 over three years?

17 A. I would think so.

18 Q. And would you consider that it would be
19 reasonable for a royalty payable under any such License
20 Agreement to be tied to the actual number of cars it sold?

21 A. You know, not being involved in that business, I
22 mean, that sounds reasonable.

23 Q. Have you ever heard of an individual called Mack
24 Lee? M-a-c-k, Lee, L-e-e.

25 A. I've heard the name, yes.

1 Q. Okay. In what context did you hear the name?

2 A. I believe that he was someone that was suing Bob
3 Auxier.

4 Q. Who told you that, if you remember?

5 A. Probably John. I don't know.

6 Q. Did John tell you anything more about these
7 circumstances that led Mack Lee to sue Robert Auxier?

8 A. I think what we heard was he wasn't able to
9 provide the certificate of authenticity.

10 Q. And do you know why Robert Auxier couldn't
11 provide the Certificate of Authenticity to Mack Lee?

12 A. I don't know. I'm assuming that he -- that
13 Frank wouldn't give it to him, but that's my assumption.

14 Q. Okay. And was it your understanding from your
15 discussion with John Thomas that Mack Lee had ordered a
16 continuation Cheetah from BTM, and BTM wasn't able to
17 provide a letter of authenticity with that car?

18 A. I mean, we didn't -- We didn't -- John doesn't
19 know the details any more than I do. It was just more
20 noise.

21 Q. But to the extent you got any information about
22 BTM's dealings with Mack Lee, it came from John Thomas?

23 A. And I believe he got it from Frank, not -- I'm
24 not positive though. You'll have to ask him on that.

25 Q. You've never had any direct discussions with Tom

1 Thomas, Frank Thomas, or Carolyn Walters regarding Mack
2 Lee?

3 A. I know at some point they said that Bob was
4 getting sued by someone. I don't know if they used his
5 name.

6 Q. Okay.

7 A. Or he -- I think they said he was getting sued
8 by several people.

9 Q. Do you remember when you -- when that -- when
10 you were told that?

11 A. That was probably way back in 2013.

12 Q. Okay. Have you ever seen a contract between BTM
13 and Mack Lee?

14 A. No.

15 Q. Just to be absolutely clear, do you believe the
16 Thomas family should release more authentication letter
17 goes to BTM?

18 A. I do.

19 Q. Do you have any knowledge about whether your
20 father prior to his passing said that Robert Auxier could
21 have a picture of a Super Cheetah or anything like that?

22 A. I never discussed that with my dad.

23 Q. Okay.

24 A. But again, I've heard that.

25 Q. Did Violet Thomas ever say anything about that

1 to you?

2 A. I don't remember a discussion with her.

3 Q. Did Bill Thomas ever claim to you that he was an
4 owner of BTM LLC?

5 A. I never had a discussion about that with him.

6 Q. How about Violet Thomas, did she ever say that
7 she thought she was an owner of BTM LLC?

8 A. No.

9 Q. Did Violet Thomas ever tell you that Bill Thomas
10 told her that he thought he was an owner of BTM LLC?

11 A. No, I never had that discussion.

12 Q. Have you had any discussions with any of your
13 siblings about whether you have an ownership interest in
14 BTM LLC?

15 A. No.

16 Q. Do you consider, as you sit here today, that you
17 have an ownership interest in BTM LLC?

18 A. No.

19 MR. HEATH: Okay. Can we take a just two-minute
20 break? I think I'm done.

21 MR. COLE: Okay.

22 VIDEO OPERATOR: Off video at 10:51 a.m.

23 (A recess is taken.)

24 VIDEO OPERATOR: Back on video at 10:57 a.m.

25 BY MR. HEATH:

1 Q. Barbara, thanks for your patience, but just a
2 couple quick follow-up questions about the authentication
3 letters.

4 Can you give me your overview of your understanding
5 as to the extent of letters that exist, those that are
6 signed and where they are today?

7 A. My understanding was that 100 were signed, and
8 that they are in a -- like a safe box -- what do I want to
9 say -- with Frank.

10 Q. And to the extent that you heard that more than
11 100 were signed, that would solely be based on discussions
12 you had with Nickie Baze; right?

13 A. No. I'm saying of 100 -- From what I know, 100
14 were signed, and that was just understood all these years.

15 Q. But has Nickie Baze ever told you she thought
16 that more than 100 were signed?

17 A. Oh, yes.

18 Q. But you have -- Beyond Nickie Baze telling you
19 that, you have no personal knowledge as to whether that's
20 true?

21 A. That's correct.

22 MR. HEATH: Okay. No further questions. Thank
23 you.

24 THE WITNESS: Okay.

25 MR. MUSIELSKI: No questions?

1 MR. COLE: No questions.

2 MR. MUSIELSKI: I have a few questions.

3

4 -EXAMINATION-

5

6 BY MR. MUSIELSKI:

7 Q. Good morning. I'm Peter Musielski. I represent
8 your siblings, William P. Thomas III, also known as Tommy
9 Thomas or Tom Thomas --

10 A. Uh-huh.

11 Q. -- Carolyn Walters, and Frank Thomas.

12 Let me ask you this about Frank Thomas: Do you think
13 he's a liar?

14 A. That's such an ambiguous question. Are you
15 asking me has he ever lied?

16 Q. No. I'm not asking you if he ever lied. You
17 know, do you have an opinion of his truth and veracity?

18 A. I think that's too broad. I mean, I guess...

19 Q. Now, you stated that you thought Tom Thomas was
20 not truthful; correct?

21 A. Yeah.

22 Q. Okay. Do you have the same opinion of Frank
23 Thomas?

24 A. I think Frank is more truthful, but he has lied
25 about things, yes.

1 Q. Okay. Has he lied about things in regards to
2 the Cheetah vehicle?

3 A. That I don't know.

4 Q. Has he lied about things in regards to Bill
5 Thomas's relationship with BTM LLC?

6 A. I don't know.

7 Q. Has he lied about anything pertaining to the
8 dealings between your father, Bill Thomas, and Mr. Auxier?

9 A. I don't know. I don't know what he said about
10 it.

11 Q. And when you say it's your understanding that
12 your father signed 100 certificates, that's secondhand
13 knowledge to you; is that correct?

14 A. No. I cannot tell you of a specific
15 conversation. I can't say we were standing in the garage
16 or the kitchen.

17 But it was understood, through conversations with my
18 dad and the rest of the family, that 100 had been signed.

19 Q. Okay. Did your dad tell you that?

20 A. At some point, but I -- I couldn't tell you the
21 year or -- He had said that he had signed 100 letters.

22 Q. Okay. Did he say that he signed more than 100
23 letters?

24 A. No.

25 Q. Did he say that he intended to sign more than

1 100 letters?

2 A. I don't remember anything about that.

3 Q. Did -- Were you surprised that your sister,
4 Nickie Baze, informed you that there is more than 100
5 letters signed?

6 A. Not -- No. Not really surprised. Not
7 surprised. I just don't -- I didn't know about it. But
8 she was there during the day a lot more. I work 12-hour
9 days.

10 Q. Do you think your dad was not truthful when he
11 told you that he signed 100 letters?

12 A. No. My dad was very truthful.

13 Q. And do you think there was any reason why he
14 told you he did not sign more than 100 letters?

15 MR. COLE: I think it misstates the testimony.
16 I think her testimony is that that conversation didn't
17 occur.

18 BY MR. MUSIELSKI:

19 Q. Do you think it was unusual for your dad not to
20 also advise you that there is more than 100 letters
21 signed?

22 A. No. I believe they were signed at different
23 times, weren't they?

24 Q. I'm speaking of not the 100 letters, but more
25 than 100 letters.

1 A. I don't understand what you're saying.

2 Q. Okay. In regards to Exhibit 17, there --

3 A. I don't know what Exhibit 17 is.

4 MR. COLE: Is Exhibit 17 an email?

5 MR. HEATH: It's the Authorization Agreement. I
6 think it's the very next one there.

7 THE WITNESS: Okay.

8 BY MR. MUSIELSKI:

9 Q. If you would take a look at page 1, Paragraph
10 Number 2.

11 A. (Indicating.)

12 Q. And just read it to yourself.

13 MR. COLE: Numbered Paragraph 2?

14 THE WITNESS: Yes.

15 (Indicating.)

16 Uh-huh. Okay.

17 BY MR. MUSIELSKI:

18 Q. Now, in regards to all the discussions you had
19 with your father and all the information that you've
20 received, either before or after this litigation has
21 commenced, is it your understanding that BTM LLC was going
22 to receive more than 100 authentication letters?

23 A. I never had that discussion.

24 Q. No, I'm just asking if that was your
25 understanding.

1 A. No.

2 Q. And in regards to the authentication letters and
3 the sale of the vehicle to Mack Lee, do you have any
4 understanding as to what date Mack Lee was purchasing a
5 Cheetah vehicle from BTM LLC?

6 A. No.

7 Q. Would it be a surprise to you that Mack Lee's
8 purchase was initiated after your father had passed away?

9 A. A surprise in what way?

10 Q. That the purchase that's at issue with Mack Lee
11 was not a purchase that was being made prior to your
12 father passing away.

13 MR. COLE: You're asking if that was surprising
14 to her?

15 MR. MUSIELSKI: Correct.

16 MR. COLE: Do you understand the question?

17 THE WITNESS: Not really. I don't understand
18 why it would be surprising.

19 BY MR. MUSIELSKI:

20 Q. Let me ask another question.

21 You indicated that the authentication letters should
22 still be issued to purchasers of vehicles, authentication
23 letters signed by your father.

24 A. Uh-huh.

25 Q. Is it your understanding and belief that your

1 father was authenticating vehicles for buyers of the
2 Cheetah, the original Cheetah vehicles?

3 MR. COLE: Vague and ambiguous.

4 If you understand it, you can answer. I don't
5 understand it.

6 THE WITNESS: Uh-huh.

7 BY MR. MUSIELSKI:

8 Q. Well, do you understand what the interpretation
9 of the authentication letter is?

10 A. Not being an attorney, no, I don't.

11 Q. Okay. So you don't know what the -- the
12 statements are made in that particular authentication
13 letter that you state that should still be given to -- to
14 BTM LLC for the sale of Cheetahs?

15 MR. HEATH: Objection. Best evidence rule.

16 THE WITNESS: I'm sorry?

17 MR. HEATH: Please go ahead and answer.

18 MR. COLE: He's just making an objection to the
19 question.

20 THE WITNESS: Oh. I'm saying that the agreement
21 should be continued per my father's desire, and he clearly
22 desired it to go on, or he wouldn't have mentioned heirs.

23 BY MR. MUSIELSKI:

24 Q. Do you have any knowledge of the contents of the
25 authentication letters that your father had signed?

1 A. No.

2 Q. Okay. And you're not familiar with any of the
3 representations made in those authentication letters?

4 A. No.

5 Q. And when you gave your understanding that the
6 authentication letters should still be distributed to BTM,
7 then that's just your -- your personal opinion and not an
8 analysis as to the -- the legal content of the letter
9 itself; is that correct?

10 A. I'm not an attorney, so I don't understand the
11 legal content, but it's not my opinion. It was my dad's
12 wishes, and that's in writing. It's not hearsay. It's
13 not a conversation. It's right here (indicating).

14 Q. Let me ask you this: If you bought a new
15 vehicle, and it was represented to you that it was
16 authenticated by the designer, say Bill Thomas in this
17 case, and he had already passed away four or five years
18 ago, would you believe that when you received a
19 certificate authenticating the designer's authentication
20 of the vehicle, that that would be a misrepresentation?

21 MR. COLE: Lacks foundation. Calls for
22 speculation.

23 THE REPORTER: I'm sorry. Repeat, please. I
24 didn't hear you.

25 MR. HEATH: Objection. Incomplete hypothetical.

1 MR. COLE: I'll join with that as well.

2 BY MR. MUSIELSKI:

3 Q. But you can answer that.

4 MR. COLE: If you can.

5 THE WITNESS: Again, I am not an attorney, I
6 don't know how all that works. I want to go along with
7 what my father's intent was.

8 BY MR. MUSIELSKI:

9 Q. Okay. I'm not asking you for a legal opinion or
10 a legal representation. I'm asking you as a consumer in
11 the marketplace buying a vehicle.

12 A. I wouldn't --

13 Q. If somebody --

14 A. I wouldn't know how the -- maybe it was the
15 plans. I -- I don't know.

16 Q. But if you received a document that was signed
17 by somebody saying, "This vehicle is authenticated by me,"
18 and you find out that that person never authenticated the
19 vehicle --

20 A. I need a break.

21 MR. COLE: Well, okay. Can we take a break?

22 MR. MUSIELSKI: Sure.

23 VIDEO OPERATOR: Off video 11:09.

24 (A recess is taken.)

25 VIDEO OPERATOR: Back on video at 11:13 a.m.

1 THE REPORTER: Do you want the last question
2 read back?

3 MR. MUSIELSKI: Yes, please.

4 (The record is read by the reporter.)

5 BY MR. MUSIELSKI:

6 Q. Would you be upset that that person did not
7 authenticate the vehicle?

8 MR. COLE: I'm going to object. Lacks
9 foundation. Incomplete hypothetical. Calls for
10 speculation.

11 MR. HEATH: Join.

12 BY MR. MUSIELSKI:

13 Q. You can answer that.

14 A. I -- I -- How could I possibly answer it? I
15 don't know what the letter says. I don't know the
16 circumstances.

17 Q. I'm not asking about the letter. I'm just
18 asking --

19 A. You did ask about the letter.

20 Q. I'm asking -- This question is you personally
21 purchasing a vehicle, that it's represented to you has
22 been authenticated by an individual, and they give you a
23 letter saying that this person authenticated it, and then
24 you find out the person did not authenticate it, would
25 that make you upset?

1 MR. COLE: Same objections. But I'm going to
2 add vague and ambiguous as to "authenticated."

3 BY MR. MUSIELSKI:

4 Q. You can go ahead and answer.

5 A. I think it's confusing. I would have to see the
6 letter. I don't know the extent of what an authenticity
7 or the authent- -- How do you say that? I can't -- I'm so
8 tired. It just -- I think you are asking me to be an
9 attorney here.

10 Q. Let me show you Exhibit B that's attached to the
11 Complaint; and if you can take a look at this letter of
12 authenticity, Certificate of Authenticity, and just read
13 it to yourself.

14 A. (Indicating.)

15 Okay.

16 Q. Okay. Do you believe that those Certificates of
17 Authenticity that are signed by your father should be
18 given to buyers of vehicles after he had passed away?

19 A. I don't see anywhere in here where it says he
20 personally looked at the car or slid under the car. It's
21 saying that it has been manufactured in accordance with
22 the specification of the original Cheetah.

23 Q. My question is: Do you believe that those
24 letters, Certificates of Authenticity, should be given to
25 buyers of vehicles that are being purchased after your

1 father passed away?

2 A. As long as they have been manufactured in
3 accordance with the specification of the original Cheetah.

4 Q. And the signature of your father should be on
5 that letter?

6 A. I believe so. I don't think anyone --

7 Q. Okay.

8 A. -- has ever tried to pretend that he didn't die
9 when he died.

10 Q. What about someone who didn't know that your
11 father passed away, do you think there should be a
12 disclosure that your father passed away, and that he did
13 not inspect the vehicle?

14 MR. COLE: I'm going to object that that calls
15 for a legal conclusion, and instruct the witness not to
16 answer.

17 BY MR. MUSIELSKI:

18 Q. Okay. You stated that your dad did not own an
19 interest in BTM LLC Arizona?

20 A. I said I don't know anything about that.

21 Q. You don't know.

22 Would you be surprised that your father received K-1s
23 as an owner of BTM LLC?

24 A. I -- I wasn't involved in what was going on with
25 their agreement.

1 Q. And you're not familiar with intellectual
2 property rights, are you?

3 A. I don't actually -- I heard the phrase, but I
4 don't know exactly what it means.

5 Q. Are you under the belief, in regards to
6 Exhibit 17, the Authorization Agreement, that your father
7 signed away all of the intellectual property rights to use
8 his name or the family's name, Bill Thomas?

9 MR. COLE: I'm going to object that it calls for
10 a legal conclusion.

11 I'll allow her to answer if she can.

12 THE WITNESS: I agree, I'm not an attorney.

13 BY MR. MUSIELSKI:

14 Q. Do you believe that you still have some
15 intellectual property rights in your father's name?

16 A. I don't know. I would have to have an attorney
17 tell me that.

18 Q. Is that what your brother, Tom Thomas, did, go
19 to an attorney to determine his intellectual property
20 rights as far as you know?

21 A. I don't know what Tommy does.

22 Q. Well, you saw a letter from Jeff Van Hoosear.
23 That's attached to Exhibit 54.

24 A. He did go to an attorney, but now I think you're
25 asking me to be a judge. Obviously --

1 Q. I'm not.

2 A. -- you guys interpret it differently or none of
3 us would be sitting here.

4 Q. I'm not asking you to be a judge.

5 I said: Are you aware that Tom Thomas or Tommy
6 Thomas went to an attorney in regards to the intellectual
7 property rights?

8 A. It appears that he did, yes.

9 Q. Okay. Do you have any information that disputes
10 that he went to an attorney --

11 A. No, I don't.

12 Q. -- to determine the intellectual property
13 rights?

14 A. I don't, no.

15 Q. Do you have any knowledge in regards to the
16 MacDonald films being in your father's possession?

17 A. As far as did I ever see them or what?

18 Q. Correct. Did you ever see them?

19 A. No.

20 Q. Did you ever speak to your father about them?

21 A. My dad, I don't know. I mean, I don't remember.
22 I heard about them in family discussions. I don't
23 know exactly when or whose.

24 Q. Do you believe that those films are part of the
25 McDonald family assets?

1 MR. COLE: Calls for a --

2 THE WITNESS: I don't know.

3 MR. COLE: Calls for a legal conclusion.

4 BY MR. MUSIELSKI:

5 Q. Do you know if any of those MacDonald films were
6 ever transferred to Mr. Auxier?

7 A. I don't have personal knowledge of that.

8 Q. Do you have any information that Mr. Auxier
9 purchased any of those films?

10 A. I have heard that they are in his possession.

11 Q. And other than hearing that, you have no
12 personal knowledge of that; correct?

13 A. No, I wasn't -- No.

14 Q. Isn't that true in regards to Tom Thomas
15 receiving small checks from the distribution of the
16 estate, you have no personal knowledge that he was trying
17 to go under the radar; is that correct?

18 A. As far as having the discussion with him, no.

19 Q. Correct.

20 And you had no information in regard that he was
21 trying to avoid paying his child support payments, do you?

22 A. No.

23 Q. Did you ever speak to Mack Lee?

24 A. No.

25 Q. Did you ever speak to anybody from Ruth

1 Engineering?

2 A. No.

3 Q. Was it your understanding from the Authorization
4 Agreement, Exhibit 17, that BTM LLC was authorized to
5 build 100 continuation Cheetahs?

6 A. Yes.

7 Q. Okay. Did you get any understanding if BTM had
8 the rights to build revolution Cheetahs -- or excuse me --
9 Evolution Cheetahs?

10 A. I don't believe anything about that is in there.

11 Q. All right. And you never saw any of the
12 certificates that your father signed prior to the
13 litigation in this case; is that correct?

14 A. No, I don't recall ever seeing one.

15 MR. MUSIELSKI: I have no further questions.

16 MR. HEATH: Okay.

17 MR. MUSIELSKI: I'm sorry. You gave it back to
18 me.

19 MR. HEATH: Do you want to propose a
20 stipulation?

21 MR. COLE: Sure.

22 MR. HEATH: I'd like to propose a stipulation
23 that the court reporter be relieved of any duty to
24 maintain custody of the original transcript for this
25 deposition;

1 And that the original be sent to Mr. Cole as Barbara
2 Thomas's attorney;

3 And that Barbara Thomas can have 30 days from
4 Mr. Cole receiving the transcript to review it, make any
5 necessary changes, and to sign it under penalty of
6 perjury;

7 And that if for any reason the transcript is not
8 signed within that time period, then a certified copy can
9 be used in lieu of the original for any purposes up to and
10 including trial in this action.

11 So stipulated?

12 MR. COLE: I would add that I would provide the
13 original signed transcript for any purpose in the
14 proceeding upon reasonable request.

15 So stipulated.

16 MR. MUSIELSKI: So stipulated.

17 MR. HEATH: Thank you.

18 VIDEO OPERATOR: This concludes today's
19 deposition.

20 Off video at 11:24 a.m.

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22 (TIME NOTED: 11:24 A.M.)

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I, BARBARA THOMAS, hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this _____ day of _____, 201____,
at _____, _____.
(City) (State)

BARBARA THOMAS
VOLUME I

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney or any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: March 24, 2015.

GAIL E. KENNAMER, CSR 4583, CCRR

1 ERRATA SHEET FOR THE TRANSCRIPT OF:
 2 Case Name: BTM LLC vs. William P. Thomas III, et al.
 3 Deposition Date: March 12, 2015
 4 Deponent: Barbara Thomas

5

6 CORRECTIONS:

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Signature of Deponent

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SUBSCRIBED AND SWORN BEFORE ME

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THIS ___ DAY OF _____, 201__.

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(Notary Public) MY COMMISSION EXPIRES: _____

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