

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. )

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

15 -----  
16 AND RELATED COUNTERCLAIM. )  
\_\_\_\_\_)

17 CONFIDENTIAL TRANSCRIPT  
18 VIDEOTAPED DEPOSITION OF JOHN 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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16 AND RELATED COUNTER CLAIM. )  
\_\_\_\_\_)

17  
18 Videotaped Deposition of JOHN THOMAS,  
19 Volume I, taken on behalf of Plaintiff at 2603 Main  
20 Street, Suite 1300, Irvine, California, beginning at  
21 3:05 p.m., and ending at 4:48 p.m., Thursday,  
22 March 12, 2015, before Gail E. Kennamer, CSR 4583, CCRR.  
23  
24  
25

1 APPEARANCES:

2

3 For Plaintiff:

4

5 HEATH & STEINBECK

6 BY: STEVEN HEATH, ESQ.

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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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23  
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25

INDEX

WITNESS

EXAMINATION

JOHN THOMAS  
Volume I

BY MR. HEATH

8

BY MR. MUSIELSKI

73

1  
2  
3  
4  
5  
6  
7  
8  
9  
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12  
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14  
15  
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25

EXHIBITS

NUMBER		PAGE
Exhibit 59	Compilation of emails ending February 21, 2015 from John Thomas	70

PREVIOUSLY MARKED EXHIBITS (Attached hereto):

NUMBER	IDENTIFIED
23	39

1 Irvine, California; Thursday, March 12, 2015

2 3:05 p.m.

3  
4 VIDEO OPERATOR: This is the start of DVD  
5 labeled Number 1 of the videotaped deposition of John  
6 Thomas, taken in the matter of BTM LLC v William P. Thomas  
7 III, et al. Filed in the United States District Court,  
8 Central District of California, Southern Division. Case  
9 Number SAC CV1400414. This deposition is being taken  
10 place in Irvine, California on March 12th 2015 at  
11 approximately 3:05 p.m.

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

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

17 MR. HEATH: Steve Heath for the plaintiff, BTM  
18 LLC.

19 MR. COLE: Ron Cole for defendant, John Thomas.

20 MR. MUSIELSKI: Peter Musielski for defendants  
21 William P. Thomas, Frank Thomas, and Carolyn Walters.

22 VIDEO OPERATOR: Will the court reporter please  
23 swear in the witness.

24  
25 (Continued on following page.)

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

4  
5                   MR. MUSIELSKI:   As the same with this  
6    deposition, it's designated as confidential and not to be  
7    released except in accordance with the Protective Order in  
8    this case.

9  
10                                   -EXAMINATION-

11  
12           BY MR. HEATH:

13           Q.    Okay.  Mr. Thomas, we met briefly off the  
14    record; but just once again, my name is Steve Heath, and I  
15    represent BTM LLC in this lawsuit.

16           How would you prefer to be addressed today,  
17    Mr. Thomas?

18           A.    John is fine.

19           Q.    John is fine?

20           A.    Yeah.

21           Q.    Okay.  We will go with that.  Appreciate it.

22           You probably heard these admonitions during Nickie  
23    Baze's deposition, but just so the record is clear, I'd  
24    like you to reflect that you understand although we're in  
25    a relatively informal setting today, the oath that you



1 just took is to tell the truth under penalty of perjury  
2 just as though you were testifying in a court of law  
3 today.

4 Do you understand that?

5 A. I do, yeah.

6 Q. Have you been deposed before?

7 A. I have.

8 Q. In what situation?

9 A. Many years ago, a fight broke out in a  
10 nightclub, and a kid got beat up by the cops.

11 Q. Okay. And you testified in a lawsuit that  
12 resulted from that?

13 A. I did.

14 Q. Just to go through the admonitions, like I said,  
15 the court reporter sat to your right is here to take down  
16 my questions and your answers to those questions, and  
17 afterwards, she's going to transcribe that testimony into  
18 a booklet.

19 A. Uh-huh.

20 Q. You'll have an opportunity to review that and  
21 make any changes that you feel are necessary.

22 Do you understand that if you do make changes to the  
23 transcript after today's proceeding, then parties may have  
24 a chance to comment on those changes at trial, and that  
25 may reflect on your credibility?

1 A. Sure.

2 Q. As you are doing, it's important for the clarity  
3 of the record and to make the court reporter's life  
4 bearable, that you let me finish asking a question before  
5 you answer it, and it's also important that you give a  
6 verbal answer as opposed to shaking your head or  
7 gesticulating or anything like that because the court  
8 reporter can't take that down.

9 Do you understand that?

10 A. Yes.

11 Q. If you don't understand a question, please ask  
12 me to clarify.

13 And I'd like you to understand if I ask you a  
14 question, and you don't ask for clarification, I will  
15 assume that you understood the question as phrased, and  
16 you answered it to the best of your ability.

17 Do you understand that?

18 A. Uh-huh.

19 Q. Were you here when I gave my example as to the  
20 difference between a guess and an estimate in Nickie  
21 Baze's deposition?

22 A. I don't believe I was.

23 Q. Okay. So I have no doubt that you understand  
24 the difference between the two; but what I'm entitled to  
25 today is your best estimate. What I don't want is

1 guesses.

2 So the difference between the two is, for example, if  
3 I were to ask you what is the length of the table that  
4 we're sat in front of today, you're here, you see it, you  
5 can perceive it. You can probably give me a pretty good  
6 estimate. Whereas, if I was to ask you, "What is the  
7 length of my kitchen table," you'd be guessing in  
8 answering that question because you have never been to my  
9 apartment. In fact, you probably don't know if I have a  
10 kitchen table, so --

11 A. Understood.

12 Q. Right.

13 Are you on any medication or drugs that would impair  
14 your ability to answer my questions today?

15 A. No, sir.

16 Q. Is there any reason you can't give truthful  
17 answers in response to my questions?

18 A. No, sir.

19 Q. Just for the record, can you confirm you're  
20 represented today by Mr. Cole sat to your left?

21 A. I am.

22 Q. Okay. During the course of the deposition,  
23 Mr. Cole may interpose objections. He may do that by  
24 simply stating "Objection," and then the basis for the  
25 objection after I ask the question. If Mr. Cole does

1 object, I will probably do one of two things. If I think  
2 the objection is valid, I will try to rephrase the  
3 question to make it non-objectionable to Mr. Cole. If  
4 I -- Alternatively, I might just simply ask you to answer  
5 the question. Provided you're not instructed otherwise,  
6 you are to answer the question as long as you understand  
7 it.

8 Do you understand that?

9 A. Yeah.

10 Q. Any questions so far?

11 A. No.

12 Q. I just want to establish some definitions or  
13 references to people involved in this lawsuit.

14 Your father was William P. Thomas II; correct?

15 A. Correct.

16 Q. And he was generally known as Bill Thomas; is  
17 that right?

18 A. Yes.

19 Q. So if I reference Bill Thomas during this  
20 deposition, you will understand that I'm referring to your  
21 father?

22 A. Okay.

23 Q. And you have a brother by the name of William P.  
24 Thomas III; right?

25 A. Uh-huh. Yes.

1 Q. So if I reference Tom Thomas, you'll understand  
2 that I'm referring to your brother?

3 A. Yes.

4 Q. One of your brothers.

5 You understand that Frank Thomas was recently -- I'm  
6 sorry. Strike that.

7 Who are your other siblings beyond Tom Thomas?

8 A. Frank Thomas, Nickie Baze, and Barbara Thomas,  
9 and Carolyn. Almost forgot about Carolyn.

10 Q. Carolyn Walters?

11 A. Carolyn Walters, yes.

12 Q. You understand that Frank Thomas was recently  
13 deposed in this case; right?

14 A. Yes.

15 Q. Did you talk to Frank a couple of days before  
16 his deposition?

17 A. No.

18 Q. Did you have any discussions with Frank after he  
19 was deposed?

20 A. No.

21 Q. How about Carolyn Walters, do you know that she  
22 was recently -- recently deposed in this case?

23 A. I know that, yeah.

24 Q. Did you talk to her after her deposition?

25 A. I did not.

1 Q. Do you know Tom Thomas was recently deposed?

2 A. Yes.

3 Q. Same question, did you talk to him after his  
4 deposition?

5 A. No.

6 Q. Can you give me an overview of your educational  
7 background starting from high school?

8 A. High school. Went to high school in Anaheim,  
9 Canyon High School.

10 And then went to college at Cal Poly Pomona.  
11 Graduated with a degree in electrical engineering. That  
12 was '88 when I graduated.

13 Q. Okay. And can you give me an overview of your  
14 employment history in the last 15 years?

15 A. Fifteen years? Yeah, it's real easy. I worked  
16 at Charles Schwab.

17 Q. How long -- I'm sorry. Go ahead.

18 A. I started at Schwab in '93, in December '93.

19 Q. And what's your current title with Schwab?

20 A. Vice president, branch manager.

21 Q. And just for the record, you're aware of a  
22 company called BTM LLC; right?

23 A. I am.

24 Q. Okay. I'm going to refer to that company as BTM  
25 today, so you understand what I'm referring to.

1 A. That's Bob's company?

2 Q. Yes.

3 A. Okay.

4 Q. So you anticipated my next question, which is --  
5 When you say "Bob," who are you referring to?

6 A. Mr. Auxier.

7 Q. Okay. Bob Auxier; right?

8 A. Bob Auxier.

9 Q. Sat to my right?

10 A. Correct.

11 Q. Okay. How long have you known Bob Auxier?

12 A. I guess when he first got involved with my dad.  
13 I didn't -- I don't know him well, but I know of him, I  
14 met him a couple of times, seen him a couple times at the  
15 house.

16 Q. When do you remember he first got involved with  
17 Bill Thomas?

18 A. I don't recall. It would be early 2000s, I  
19 guess.

20 Q. Okay. Do you think you met him before that or  
21 you think you met him after that?

22 A. I think I met him about that time. When I first  
23 met Bob, I believe he and my dad were already doing  
24 business.

25 Q. Okay. And again, just for the record, you're

1 familiar with the Cheetah car; is that right?

2 A. Correct.

3 Q. So what do you think of when you refer to the  
4 Cheetah car?

5 A. What do you mean? What do I think --

6 Q. Like your definition of what the Cheetah is.

7 A. It's a sports car that my dad designed and  
8 built.

9 Q. And when did he design it?

10 A. I believe it was '64. '64, '65, that timeframe.

11 Q. And you mentioned that when you became aware of  
12 Bob Auxier, he already had a business relationship with  
13 your father; is that right?

14 A. I believe so.

15 Q. Okay. What's your understanding of that  
16 business relationship?

17 A. They -- They -- My dad had this car and many --  
18 you know, people had approached him over the years,  
19 writers, other people that wanted to do some kind of  
20 business with him.

21 And my dad always rejected it.

22 For whatever reason, he decided to, you know,  
23 entertain what Bob had to say, and he started doing  
24 business with him.

25 By doing business, Bob would build a continuation



1 Cheetah, not a replica, but a continuation Cheetah, and my  
2 dad would provide him -- for every car that my -- that Bob  
3 built and sold, my dad would provide a Certificate of  
4 Authenticity.

5 Q. Did you have an understanding in the early 2000s  
6 as to how much Bob would pay for the certificate?

7 A. Yeah, I did. My dad was kind of excited about  
8 that.

9 Q. Do you remember having discussions with Bill  
10 Thomas in the early 2000s about the business relationship  
11 with BTM?

12 A. I do not. I -- I think as this thing  
13 progresses, you're going to see that -- you know, I live  
14 up in Pasadena. I'm not as involved with kind of the  
15 family things as some of my other siblings. I know of  
16 Bob. I know generally about the agreement.

17 I'm sorry. What was the question?

18 Q. Sure. No problem.

19 You said that you remember your father was excited  
20 about the prospect of receiving \$3,000 for each  
21 certificate; right?

22 A. Yes.

23 Q. Did you have a discussion with him where he said  
24 he was excited about it?

25 A. Yeah, I mean, he would just smile when he talked

1 about Bob's visits. He looked forward to Bob's visits.

2 Q. So sort of between the early 2000s and 2009, do  
3 you have an independent recollection of your father  
4 talking about visits from Bob and that kind of thing?

5 A. Yeah, I do. I mean, both on the part of my mom  
6 and my dad. They -- They looked forward to -- And not  
7 just about the money. They looked forward to seeing Bob.  
8 He -- As I recall, he wouldn't just come out and drop off  
9 a check and leave. He'd hang out for a couple of days.

10 Q. So it's fair to say that during that time  
11 period, Bill Thomas, per your understanding, always looked  
12 forward to Bob Auxier's visits?

13 A. Yeah, definitely.

14 Q. The same applied to your mother, Violet Thomas?

15 A. Correct.

16 Q. So if I were to tell you that Tom Thomas and  
17 Carolyn Walters testified that Violet Thomas disapproved  
18 of Bob Auxier, that would be counter to your opinion; is  
19 that right?

20 A. Yes. That's not true.

21 Q. Have you ever seen any documents relating to  
22 BTM's business relationship with Bill Thomas?

23 A. I have seen the original agreement recently.

24 Q. That would be the Authorization Agreement; is  
25 that right?

1 A. Correct.

2 Q. Okay. When -- So do you believe you saw it for  
3 the first time recently?

4 A. Yeah. I mean, within the last 18 months,  
5 probably the first time. It is not probably. It's  
6 absolutely the first time I ever saw it.

7 Q. Okay.

8 A. I had assumed one existed, knowing my dad, but I  
9 never saw it.

10 Q. Got it.

11 I think it might be before. It's Exhibit 17. One  
12 second.

13 Just to confirm, John, do you have a document that's  
14 numbered in the lower right BTM 1 through 3? Do you see  
15 the lower right of the document --

16 A. Oh, yes, yes. I do. Yes, the page numbers.

17 Q. Sorry. Page numbers.

18 A. Yeah.

19 Q. And do you believe that this is the document  
20 that you saw for the first time in about the last 18  
21 months or so?

22 A. Give me just a minute to review it.

23 Q. Please.

24 A. (Indicating.)

25 This does appear to be that document.

1 Q. Could you turn to the last page?

2 A. Yes, sir.

3 Q. Are you sufficiently familiar with your father's  
4 signature to be able to identify it, do you think?

5 A. I don't think so.

6 Q. Okay. Did you have any discussions with your  
7 father before he entered into a formal agreement with BTM  
8 in the early 2000s?

9 A. I don't believe so.

10 Q. And do you have an understanding as to how many  
11 authentication letters BTM has received to date?

12 A. I think it's 30.

13 Q. So again, just for the record, when I say  
14 "authentication letters" or "certificates," I'm referring  
15 to the certificates that your father would provide to Bob  
16 Auxier --

17 A. Right.

18 Q. -- for which he paid \$3,000.

19 A. Right.

20 Q. I will use "certificate" and "authentication  
21 letters" interchangeably.

22 A. Okay.

23 Q. Do you know if BTM has made a \$3,000 payment for  
24 each certificate that it's received from your father?

25 A. As far as I know, yes.

1 Q. Do you have any reason to believe that BTM has  
2 ever failed to make a payment required of it?

3 A. I do not.

4 Q. Do you have any reason to believe that BTM has  
5 done anything that it shouldn't have done under the  
6 relationship -- Strike that.

7 Do you have any reason to believe that BTM has ever  
8 failed to do something required of it under the agreement  
9 it reached with your father?

10 A. No. No. I've heard things, but no.

11 Q. No personal knowledge?

12 A. No personal knowledge.

13 Q. What have you heard in terms of BTM doing  
14 something that it shouldn't relative to the agreement with  
15 your father?

16 A. Well, I -- I've heard -- I don't know if this  
17 pertains specifically to the agreement -- I just heard  
18 things about Bob's business dealings and some troubles  
19 with other people.

20 I've heard Bob was manufacturing and selling Cheetahs  
21 without the certificate.

22 When I asked for evidence or proof, I -- It was  
23 hearsay.

24 Q. Okay. Who told you that Bob was manufacturing  
25 and selling Cheetahs without the certificate?

1 A. I believe I heard this from my brother, Frank.

2 Q. And did you ask Frank for proof of that?

3 A. I asked how -- "How do you know that?" So, yes.

4 Q. And he didn't -- Did he give you anything that  
5 you considered to support what he was saying?

6 A. No.

7 Q. Did Frank describe that as back dooring under  
8 the contract or anything like that?

9 A. Are you asking did he use that term?

10 Q. Yeah, did he use that term?

11 A. I don't recall.

12 Q. Okay. Did Bill Thomas during his lifetime ever  
13 express any concern to you that Bob Auxier was  
14 manufacturing and selling Cheetahs without -- without a  
15 certificate?

16 A. No.

17 Q. Given your background in business, does it make  
18 sense that Bob Auxier would want to sell a Cheetah that  
19 was unaccompanied by a letter signed by the guy who  
20 designed the original car in the '60s?

21 A. Not to me, no.

22 Q. Again, based on your business background, it  
23 would make sense that a car accompanied by Bill Thomas --  
24 a Cheetah accompanied by Bill Thomas, would -- Strike  
25 that.

1           It would make sense to you, given your background in  
2 business, that a Cheetah accompanied by a letter signed by  
3 Bill Thomas would increase the car's value; right?

4           MR. MUSIELSKI: Objection. Speculation.

5           BY MR. HEATH:

6           Q.    You can answer if you understand.

7           A.    I would think that's one of the things that  
8 differentiates his product from other products.

9           Q.    All right. Because you mentioned earlier that  
10 the Cheetah that Bob Auxier was designing was a  
11 continuation as opposed to a replica; right?

12          A.    Correct.

13          Q.    And one of the reasons that you would feel  
14 comfortable characterizing the Cheetah as a continuation  
15 rather than a replica is because it's accompanied -- at  
16 least supposed to be accompanied by a certificate signed  
17 by your father?

18          A.    Among other things, I guess he was more true to  
19 the original specs than some of the people doing kit cars.

20          But again, I'm by no means an expert in this topic.

21          Q.    Sure.

22          A.    Yeah, but that's my understanding.

23          Q.    Have you ever seen one of the letters of  
24 authentication?

25          A.    Never.

1 Q. Never seen one?

2 A. I think one is right there; right?

3 Q. I can't represent to you if it is or not but --

4 A. No, I have not.

5 Q. Okay. So you never saw your father sign one or  
6 anything like that?

7 A. No. No, sir.

8 Q. Do you remember any conversations with your  
9 father between 2001 and 2009 where he said anything like,  
10 "I just signed some of the letters" or anything like that?

11 A. Yeah. Yeah. I mean, there were times where he  
12 talked about -- I think they were -- that was always  
13 the -- one of the reasons for Bob's visits. There was  
14 going to be an exchange of certificates for money.

15 Q. Do you have any understanding as to whether Bill  
16 Thomas signed 100 certificates in the early 2000s?

17 A. That -- That was my understanding. I never saw  
18 them. I don't know for sure, but that was the general  
19 understanding with the family.

20 Q. Did Bill Thomas ever tell you that he actually  
21 had signed 100 or completed the signatures of 100  
22 certificates?

23 A. Did he tell me personally?

24 Q. Yes.

25 A. I don't recall.



1 Q. Okay. Did he ever tell you that he hadn't  
2 completed signatures on 100 certificates?

3 A. No.

4 Q. Again, just to be clear, it's your opinion that  
5 the general shared understanding amongst the Thomas family  
6 was that Bill Thomas had actually signed 100 certificates?

7 A. Yeah, that -- that was my understanding up until  
8 recently.

9 Q. Okay.

10 A. And then Frank -- Frank told me kind of prior --  
11 you know, before all this kind of blew up, that for  
12 whatever reason, dad didn't sign the last seven.

13 Q. Do you remember when Frank told you that?

14 A. It would have to be sometime in '13, 2013, but I  
15 don't recall when.

16 Q. You think the first quarter of 2013 or --

17 A. No. I would say probably mid- to later in the  
18 year, I would think.

19 Q. Okay. And Frank told you that -- that Bill  
20 Thomas hadn't actually signed, I'm sorry, how many?

21 A. I -- I believe he said up to 92 or 93 was  
22 signed, and he didn't sign the last six or seven.

23 Q. Okay.

24 A. But again, I don't have any firsthand  
25 information. That's just what I have been told.

1 Q. And when Frank told you that up to 92 had been  
2 signed, did you know where the letters were kept at that  
3 point?

4 A. At -- Yeah, they were at Frank's house.

5 Q. Okay. Do you know why it was that -- prior  
6 to -- Strike that. I'm sorry.

7 Prior to the letters being at Frank's house, do you  
8 know where they were before that?

9 A. My understanding, they were -- they were at the  
10 house, my parents' house, up until my mom moved out.

11 Q. And is it the case that when Violet Thomas left  
12 the family home, if you will, she moved in with Frank, and  
13 she took possessions with her, including the letters of  
14 authentication?

15 A. That's my understanding.

16 Q. Do you know where the letters are located today,  
17 as we sit here today?

18 A. I'm assuming they are still at Frank's house.

19 Q. So Frank never described any of the letters as  
20 missing or lost or anything like that --

21 A. No.

22 Q. -- to you?

23 Okay. Other than BTM, do you know of any person that  
24 has received a letter signed by your father unauthentic?

25 A. No.

1 Q. Do you know when the last time your father sold  
2 a Cheetah was?

3 A. You are talking about Bob selling the Cheetah?

4 Q. No. I'm sorry. When was the last time your  
5 father sold a Cheetah, one of the original Cheetahs, that  
6 he made?

7 A. Oh, I would have to say mid-'60s.

8 Q. Between that date, the mid-'60s, and  
9 December 2001 are you aware of any efforts by any member  
10 of the Thomas family to start any kind of business  
11 relating to the Cheetah?

12 A. Before Bob showed up?

13 Q. Yes.

14 A. No.

15 Q. Do you think -- You said your father was excited  
16 about the relationship he had with BTM; right?

17 A. Yeah.

18 Q. Do you think -- Did he ever -- Did Bill Thomas  
19 ever say to you he was excited because, in part, the --  
20 the Cheetah business had been inactive, if you will, for  
21 the best part of 40 years?

22 A. He -- He didn't say it, but you could just tell.  
23 I mean, this was, you know, a -- I don't know if the right  
24 term is pet project, but this was a project that my dad  
25 took a lot of pride in.

1           It didn't -- Ultimately didn't go the direction he  
2 had hoped, and, you know, here's a guy that shows up in my  
3 dad is declining years and revives it. You know, for  
4 that, I'm actually thankful to Bob. I mean, that's kind  
5 of a neat thing for an elderly guy, you know, to have  
6 somebody show up and take interest in something like that  
7 and breathing new life in him.

8           Even though I wasn't all that involved, I don't have  
9 a lot of details, it was -- it was a pretty cool thing for  
10 my folks.

11           Q.    Right.

12           Did Bill Thomas ever say anything to you about  
13 whether he hoped that the relationship he had with BTM and  
14 Bob Auxier will continue after he passed away?

15           A.    Did he ever say that to me? No.

16           Q.    Did he ever express any opinion about whether  
17 the agreement he had with BTM would survive his death?

18           A.    I don't know that he and I ever talked about  
19 that.

20           MR. COLE: And you're referring to, in asking  
21 that question, any expression other than what expression  
22 there may be in the agreement itself?

23           MR. HEATH: Yeah. I appreciate that. Yeah.  
24 Absolutely.

25           THE WITNESS: Now, in my read of the agreement,

1 it seems clear that he was expecting this to live on.

2 BY MR. HEATH:

3 Q. Right. What are you basing that on in  
4 Exhibit 17?

5 A. (Indicating.)

6 There was that -- He talks about -- I believe he  
7 talks about -- Where is that? Here, hold harmless -- Oh,  
8 he's talking about the heirs in Paragraph 11.

9 (Indicating.)

10 Q. Do you see anything in Paragraph 9 similar to  
11 that?

12 A. Maybe that's what I'm looking for here.

13 Paragraph 9. There we go (indicating). Respective  
14 heirs. Binding upon, yeah.

15 Is Paragraph 9 just -- just those two sentences or  
16 that one sentence? Or am I missing something?

17 Q. It appears to be. It appears to be just that,  
18 but I can't -- I can't provide you --

19 A. Okay.

20 Q. -- with my viewpoint on it.

21 A. To the benefit of the parties, yeah, and the  
22 respective heirs. Yeah.

23 Q. Did you have any discussions -- I think you  
24 covered this, but just to be absolutely clear -- Did you  
25 have any discussions with your father between 2001 and

1 October 2009 about whether the agreement would in some way  
2 involve his heirs after he died?

3 A. I don't think we discussed it, no.

4 Q. How about Violet Thomas, did you ever have any  
5 discussions with her about whether the agreement with BTM  
6 would survive either Bill Thomas's death or her death?

7 A. Yes.

8 Q. Can you describe those for me?

9 A. You know, she talked about it. She just talked  
10 about, you know, even after she's gone, that we should  
11 benefit from this arrangement.

12 Q. And by "benefit from the arrangement," did you  
13 understand that she was referring, at least in part, to  
14 the ability to receive \$3,000 for each certificate?

15 A. Split six ways.

16 Q. Split six ways?

17 A. Yeah.

18 Which for the record, would have been nice.

19 Q. Sure.

20 So Violet Thomas never told you that if Bob Auxier  
21 requested a certificate from the family, that that request  
22 should be denied?

23 A. No.

24 Q. Do you know when the last time Bob Auxier  
25 requested certificates from the family?

1           A.    I guess this would be a guess.  It -- It was  
2 fairly recently.  I think probably towards the end of '13,  
3 there was an email where he had requested it --

4           Q.    Okay.

5           A.    -- that I saw somehow made its way to me, yeah.

6           Q.    So that wasn't an email that Bob Auxier sent  
7 directly to you?

8           A.    No.  No.

9           Q.    What's your understanding as to why the Thomas  
10 family hasn't provided a certificate in response to that  
11 request?

12          A.    So I've asked Frank that.

13                And Frank's concern is, you know, how could my dad  
14 authenticate something after his death?  That seems to be  
15 the hang up with Frank.  That's his concern.

16          Q.    Did you ever see an email from Frank to Bob  
17 Auxier where Frank said something along those lines?

18          A.    I believe I did.  Yes, I did, for sure.

19          Q.    Did Frank Thomas ever tell you that the reason  
20 the family wasn't going to give Bob Auxier an  
21 authentication letter was because Bob Auxier was refusing  
22 to give certain videotapes to the MacDonald family?

23          A.    Never heard that.

24          Q.    Are you aware of the MacDonald family?

25          A.    Vaguely, yeah.

1 Q. Do you have any idea what I'm talking about when  
2 I use videotapes in connection with it?

3 A. Yeah, yeah. I've heard. I mean, I know who  
4 Davey MacDonald was. I believe he was -- I think he was  
5 killed before I was even born, but I heard my folks talk  
6 about him over the years, and I know that there was some  
7 tapes that he apparently placed with my father that I  
8 guess -- I guess Bob has them now.

9 Q. Do you have any understanding as to how the  
10 MacDonald tapes came to be in Bob Auxier's possession?

11 A. Nothing firsthand. Just -- Just things I've  
12 heard.

13 Q. Did Violet Thomas ever tell you that Bob Auxier  
14 had bought the tapes from your father?

15 A. I don't recall.

16 Q. Did your father ever tell you that he sold the  
17 tapes, the MacDonald tapes, to Bob Auxier?

18 A. I don't believe so.

19 Q. Has anyone told you that Bob Auxier stole the  
20 tapes from the family residence?

21 A. That -- That was one of the things I heard.

22 Q. And who told you that?

23 A. I think that might have been Tommy.

24 Q. Do you know when he told you that?

25 A. I don't. I don't. This -- I guess -- I came to



1 kind of a full awareness of what was going on in  
2 January/February '14.

3 Prior to that, it was a lot of noise, just chatter  
4 back and forth, which I wasn't especially tuned into.

5 Q. Other than a conversation with an attorney, what  
6 was it in January or February of 2014 that put you in a  
7 position of full awareness?

8 A. There was a day -- I don't speak with Tommy a  
9 lot. In fact, I haven't spoken to Tommy in a couple of  
10 years, don't speak with Carolyn hardly at all, but there  
11 was one day where they both called me within minutes of  
12 one another. So than kind of piqued my attention.

13 And I called Frank at that point like, "Hey, what's  
14 going on?"

15 As I recall, he wasn't real helpful, but then I think  
16 there were some emails kind of getting passed back and  
17 forth.

18 And that may have been -- That may have been when I  
19 first heard about them terminating the agreement or  
20 someone terminating the agreement.

21 Q. So you think the first time you heard about  
22 someone terminating the agreement with BTM was in January  
23 or February of 2014?

24 A. I think so.

25 Q. At any point in 2013 -- Let me strike that.

1 Back up a little bit.

2 Are you familiar with the phrase, cease and desist  
3 letter?

4 A. Yes.

5 Q. At any point in 2013, were you provided with a  
6 copy of a cease and desist letter that you understood was  
7 going to be sent to Bob Auxier?

8 A. Not -- Not that I can recall.

9 Q. Did anyone ask your permission to send a cease  
10 and desist letter to Bob Auxier?

11 A. No.

12 Q. Do you remember the phrase cease and desist  
13 letter coming up in January or February of 2014 when you  
14 became fully aware of what was going on?

15 A. I think so. That's about the timeframe I heard  
16 that.

17 Again, you know, I wasn't fully tuned in, didn't  
18 exactly know what that meant or how it was going to be  
19 used.

20 Q. But it became clear to you in January or  
21 February of 2014, that someone had purported to terminate  
22 the relationship with --

23 A. Yes.

24 Q. -- Bob Auxier and BTM; right?

25 A. Yes.

1 Q. And what was your reaction? Did you agree with  
2 it or?

3 A. No. No, I didn't agree it.

4 Q. Did you tell Tom Thomas that you disagreed?

5 A. There -- There was a exchange of emails where I  
6 think, you know, Tommy kind of laid out his case.

7 And then Barbara and I responded by saying, "Hey, you  
8 know, slow down. You know, if there are some issues,  
9 let's have a conversation with Bob. Let's work through  
10 it."

11 Q. Did Tom Thomas say that the reason he terminated  
12 the relationship with Bob Auxier and BTM was because of  
13 the concerns about your father being unable to  
14 authenticate a continuation of Cheetah after his death?

15 A. I don't know that I heard that from Tommy, but  
16 in all the kind of noise and chatter, that was one of the  
17 things I heard.

18 Q. Okay. In January or February of 2014, again,  
19 this same time period when you became more fully aware of  
20 what was going on, did Tom Thomas say anything about a  
21 relationship he had with a company called Ruth  
22 Engineering?

23 A. He -- He did not.

24 I think Barbara made me aware of that. She -- She  
25 had seen it on a website --

1 Q. Okay.

2 A. -- yeah.

3 Q. Since that time, has Tom Thomas ever told you  
4 that he's received money from Ruth Engineering?

5 A. No.

6 Q. Has anyone else ever told you since that time  
7 that Tom Thomas has received money from Ruth Engineering?

8 A. No.

9 Q. Are you familiar with a project that goes by the  
10 name of Cheetah Evolution or Evolution Cheetah?

11 A. That -- I heard of it, yeah.

12 Q. Okay.

13 A. That's Ruth Engineering; correct?

14 Q. I can't -- I'm sorry. I can't -- I'm not trying  
15 to be difficult. I can't answer for you.

16 But do you believe -- Does Cheetah Evolution --

17 A. I believe those two are related.

18 Q. Okay. So it's fair to say that at no point in  
19 2013, did you agree that the Thomas family's relationship  
20 with BTM should be terminated because of this issue  
21 involving the MacDonald tapes; is that right?

22 A. Yeah. I mean, did I authorize that?

23 Q. Right.

24 A. No. Absolutely not. I never authorized or  
25 agreed with any termination of relationship with BTM.

1 That was done without my knowledge.

2 I came to, like I said, an awareness in January,  
3 February.

4 Q. Of 2014?

5 A. Of 2014.

6 But I was not consulted and again, wasn't even aware.  
7 I knew there was some issue with trademarks.

8 As a matter of fact I asked Frank probably before --  
9 before we stopped talking -- I asked Frank on a couple of  
10 occasions, you know, "What what's going on with this?"

11 And his response was, "I'm not sure. I think, you  
12 know, Carolyn and Tommy just want to make some T-shirts  
13 and bumper stickers."

14 Q. Okay. At that time when you spoke to Frank, he  
15 certainly didn't mention any kind of relationship with  
16 Ruth Engineering?

17 A. No.

18 Q. Did Frank say to you around that time that Bob  
19 Auxier had been in touch trying to get further copies of  
20 the certificates?

21 A. I don't know if I heard that from Frank.

22 I just remember seeing that email.

23 Maybe Barbara -- Maybe Barbara made me aware of that.  
24 I don't think I heard that from Frank.

25 Q. Do you remember the timeframe when Barbara

1 Thomas made you aware of that?

2 A. Again, I think it's probably late 2013. I  
3 think.

4 I don't mean to be vague about things, but, you know,  
5 my -- my mindset is somewhere else. I'm thinking about my  
6 life, my job, things of that nature. I don't -- I don't  
7 have the same emotional connection with the Cheetah that  
8 some of my siblings do.

9 Q. I totally understand.

10 And I think you made clear that you weren't consulted  
11 about any decision to terminate the relationship with BTM?

12 A. Yeah, absolutely not.

13 Q. And if you had been consulted, would you have  
14 agreed with it?

15 A. No. No. I think that email that Barbara and I  
16 sent is good proof of that. It's like, wait a second.  
17 Let's have a conversation. Let's not go to the nuclear  
18 option.

19 And if they had legitimate beef, legitimate gripe,  
20 let's talk to the guy, but that fell on deaf ears.

21 Q. This has been previously marked as Exhibit 23.

22 A. (Indicating.)

23 Q. John, do you believe you've seen this document  
24 before?

25 A. I do not believe I have.

1 Q. I'd like to just read from the third paragraph  
2 from the second page. I'm going to read it into the  
3 record if you can follow along.

4 A. Uh-huh.

5 Q. Actually, before I do that, I'll back up for  
6 a second.

7 Are you familiar with an attorney by the name of  
8 Jeffrey Van Hoosear?

9 A. No.

10 Q. So it's fair to say this isn't someone that has  
11 ever represented you?

12 A. No. Absolutely not.

13 Q. Again, turning to page 2 of the exhibit, the  
14 third paragraph reads as follows: "Finally, you entered  
15 into an Authorization Agreement with Bill Thomas on  
16 December 28, 2001 in connection with the manufacture of a  
17 continuation model ('Continuation Product') of the  
18 original automobile bearing the name Cheetah ('Original  
19 Product'). Such distribution was to be made with a  
20 letter. ('Authentication Letter') from Bill Thomas  
21 affirming that each unit of the Continuation Product is an  
22 authentic reproduction of the Original Product. In  
23 exchange, you are required, among other things, to provide  
24 a royalty payment as specified in Section 3 of the  
25 Authorization Agreement. Although we believe that you

1 have been actively manufacturing and distributing the  
2 Continuation Product, you have not provided a royalty  
3 payment, despite several written requests for the same.  
4 We note that Bill Thomas III, acting on behalf of William  
5 P. Thomas has contacted you on several occasions to  
6 resolve this matter. Accordingly, the Authorization  
7 Agreement signed on December 28, 2001 between BTM-LLC  
8 Manufacturer and Bill Thomas is terminated due to your  
9 material breach of the Authorization Agreement."

10 Did I read that correctly?

11 A. You did a great job.

12 Q. Okay. We can all go home now.

13 I'd like to focus on the line that says, "Although we  
14 believe that you have been actively manufacturing and  
15 distributing the Continuation Product, you have not  
16 provided a royalty payment, despite several requests for  
17 the same," do you see that?

18 A. I do.

19 Q. So this relates to -- this appears to relate to  
20 what you discussed earlier inasmuch as Frank Thomas told  
21 you that he believed that Bob Auxier had been selling  
22 Cheetahs, but not paying for the authentication letters;  
23 right?

24 A. Right.

25 Q. Okay. And it's fair to say that you asked for



1 proof of this, but you weren't given any information that  
2 sort of satisfied you that that had actually happened?

3 A. It was -- It was hearsay. Things -- They --  
4 Things Tommy heard from somebody.

5 And you are right, I mean, it didn't satisfy me.

6 Q. And similarly, you see the reference to Bob  
7 Auxier "...not provided a royalty payment, despite several  
8 written requests for the same," do you see that?

9 A. I do.

10 Q. Would it surprise you that during his  
11 deposition, Tom Thomas admitted that there was no evidence  
12 that anyone from the Thomas family had ever submitted  
13 several written requests for payment to BTM before this  
14 letter was sent?

15 A. Would it surprise me to hear that?

16 Q. Right.

17 A. No.

18 Q. And it's fair to say that you are unaware of Bob  
19 Auxier receiving and ignoring several written requests for  
20 payment?

21 A. Yeah. I -- No, I have never -- I guess I heard  
22 that recently, you know, just kind of in connection with  
23 everything that's going on, but it doesn't -- doesn't seem  
24 to pass the test because he's offered us money --

25 Q. Right.

1           A.    -- you know, in exchange for certificates; so it  
2 just doesn't add up.

3           Q.    Again, this letter is dated on the first page  
4 May 31st, 2013.

5           A.    Right.

6           Q.    Do you see that?

7           A.    Yeah.

8           Q.    Prior to that timeframe, no one had asked your  
9 permission to terminate any agreement between Bill Thomas  
10 or the Thomas family and BTM; right?

11          A.    No one had ever asked my permission to terminate  
12 that agreement at any time.

13          Q.    And you certainly weren't provided with a draft  
14 of this letter?

15          A.    No.

16          Q.    And, in fact, you believe that the first time  
17 you saw this letter is today?

18          A.    I believe so, yes.

19          Q.    Could you look at Exhibit 51, please.  It's been  
20 previously marked.

21          Ron, do you have a copy?

22                MR. COLE:  I believe I do.  Let me find it  
23 really quickly.

24                THE WITNESS:  (Indicating.)

25           Yeah.

1 BY MR. HEATH:

2 Q. It's easier if you don't read out loud;  
3 otherwise, the court reporter has to try to write it down.

4 MR. COLE: Yes, I have it.

5 MR. HEATH: Great.

6 MR. COLE: I'm sorry. What was this marked as?

7 MR. HEATH: 51.

8 MR. COLE: Thank you.

9 BY MR. HEATH:

10 Q. Do you know if you provided this document to  
11 your attorney so he can provide it to me?

12 A. Yes, I believe I did.

13 Q. Okay. Is this something that -- This document  
14 is something you retrieved from your email files?

15 A. Correct.

16 Q. Do you know -- and correct me if I'm wrong on  
17 this -- but it doesn't appear to show that -- to show when  
18 something has been sent to you. I don't see your email  
19 address in the "To" line or anything like that?

20 A. Right.

21 Q. Do you know why that might be?

22 A. I -- I have no idea. These -- These emails --  
23 You can see this was in September of '13. I would get  
24 these emails periodically from my sister, Barbara, and,  
25 you know, sometimes I would read them. Other times I

1 wouldn't. I'm kind of a busy guy. I got a demanding  
2 life. I would just slide them over to my Cheetah file.

3 But I can't answer your question. I don't know  
4 why -- why it doesn't have me in there.

5 Q. Understood.

6 But you do -- Obviously, this is something you  
7 retrieved from your files, and it appears you did receive  
8 it from Barbara Thomas in late 2013?

9 A. Right.

10 Q. Regardless of whether you read it or not?

11 A. Right.

12 Q. Do you have any understanding as to why Barbara  
13 Thomas sent this to you?

14 A. This -- This was -- I don't recall exactly.  
15 This was just part of the noise. You know, we knew --

16 Look, Tommy and Carolyn do a lot of talking. Right.  
17 This was just kind of part of the noise. She forwarded it  
18 to me probably just, you know, for my information.

19 Q. But you didn't really give it any much attention  
20 at the time?

21 A. No, I didn't.

22 You know, you have to understand my mindset at the  
23 time. I -- I moved away from my family, you know, in  
24 1990. Right. I didn't go too far. I went to Pasadena.  
25 I'm focused on my life, my career, my family.

1 I would see them at the holidays. You know, I talked  
2 to Frank a little more frequently. He's my -- He's my  
3 twin. But I wasn't actively engaged with the family.

4 I reengaged with the family, you know, just before my  
5 dad died. Right. And then after my dad dies, then we're  
6 dealing with this house situation where, you know, my  
7 mom's house is going to be taken by Caltrans. Right. We  
8 got a deal with the estate, getting my mom's affairs in  
9 order.

10 Then -- Then my mom is getting sick, and so we have  
11 to deal with her housing and her care. There was a pretty  
12 good, like, four or five years where it was nonstop.

13 And so after my mom's death, I -- I was pulling back.  
14 I needed to focus on me.

15 Q. Understood.

16 Did your father ever express any views to you about  
17 Tom Thomas's trustworthiness or character or anything like  
18 that?

19 A. It's a hard thing, right, he's still my brother.

20 Q. Before you answer, I apologize if -- As I said  
21 to, I believe Barbara Thomas this morning, I apologize if  
22 I ask you questions today that I'd never ask outside of  
23 this room.

24 A. Right.

25 Q. But with that in mind, did your father ever

1 express any opinions about Tom Thomas's trustworthiness or  
2 character?

3 A. Yes, he did. Yeah, I mean he's --

4 Q. What did he say?

5 A. He would say things, like, "My brother Tommy had  
6 a light touch on reality. That Tommy can convince himself  
7 of almost anything."

8 Q. Did your father ever say that he thought that  
9 Tom Thomas was someone that people should be hesitant  
10 about going into business with?

11 A. I don't know if it was that specific.

12 You know he -- he -- you know, he loved Tommy. Tommy  
13 was his son, but he understood Tommy's limitations.

14 Q. Did he ever say he thought -- Did Bill Thomas  
15 ever say he thought Tom Thomas was untrustworthy?

16 A. I don't know if he used that term.

17 Q. Did he use anything similar to that term?

18 A. He -- He did. You know, quite -- Now that I  
19 think about it, I'm -- not as it relates to the Cheetah,  
20 my dad and I rarely talked about the Cheetah. That was my  
21 dad's car. Right. My interests lie elsewhere. He did --  
22 You know, when he was dying, he asked me to take care of  
23 my mom and to keep -- to keep Carolyn and Tommy away from  
24 the money.

25 Q. Thank you.

1           Could you see in that stack there is a document  
2 marked 52. I believe it might be this one.

3           A.    (Indicating.)

4           Yes, 52.

5           Q.    Please.

6           A.    (Indicating.)

7           Yes.

8           Q.    Could you turn to the last page of Exhibit 52.

9           A.    Right.

10          Q.    Do you have that in front of you?

11          A.    Yeah, the page with my signature.

12          Q.    Yes. I was going to ask you: Do you see your  
13 signature on this page?

14          A.    I do.

15          Q.    Do you remember signing this document?

16          A.    I do.

17          Q.    And did you have an understanding of what this  
18 document represents?

19          A.    I -- I was hesitant to sign it initially only  
20 because from where it was coming. But I read through  
21 it -- I mean, there is really not much here right. I read  
22 through it a few times. It appeared to be a generic claim  
23 form with the State of California stating that I am one of  
24 my father's six kids, and claiming an interest to things  
25 that are not, you know, part of the trust or being claimed

1 otherwise.

2 Q. Did you understand when you signed this --  
3 Strike that.

4 Did -- Did you think of entitlements to payments from  
5 BTM when you signed this and how this document might  
6 influence those payments?

7 A. No. I mean, I guess when I signed it, what I  
8 was thinking of, there was some other things out there,  
9 property that belonged to my dad.

10 And, you know, I should put a claim saying my --  
11 I'm -- I should have a one-sixth interest in it. I don't  
12 know that my thoughts were specific as to what it might  
13 deal with. I was careful that it wasn't aggressive  
14 towards Bob.

15 Q. Well, I agree with you, this -- this document is  
16 intended to reflect that you're one of six heirs --

17 A. Right.

18 Q. -- to Bill Thomas; right?

19 A. Correct.

20 Q. In fact, that is a correct statement?

21 A. Yes, it is.

22 So that -- that was -- There were things within the  
23 trust; but, you know, my dad had been involved in some  
24 other things, and I thought there might be some other  
25 property that weren't included as part of the trust, and



1 so this form here would put me in a position where if  
2 those things were uncovered, I am claiming a one-sixth  
3 stake.

4 Q. In signing this, you didn't intend to interfere  
5 with any relationship that might have existed with Bob  
6 Auxier or BTM?

7 A. No. As I said, I was hesitant because I thought  
8 they might be up to no good.

9 But I read through this a few times. There is  
10 nothing aggressive towards Bob here.

11 Q. And you said you had some concerns about signing  
12 this document solely because of where it came from.

13 A. Yeah.

14 Q. Where did it come from specifically?

15 A. Well, it came from -- I think Frank may have  
16 forwarded it to me, but I believe it originated with  
17 Carolyn.

18 Q. Because it originated with Carolyn, that's why  
19 you had some concerns about the document?

20 A. I had some reservations as to how she was going  
21 to use it.

22 Q. Is that signature dated November 13th or 18th?

23 A. Looks like 18th.

24 Q. Did you ever, either orally or in writing, give  
25 Tom Thomas permission to handle the Cheetah family

1 business on your behalf?

2 A. No.

3 Q. Did you ever give Carolyn permission, orally or  
4 in writing, to handle Cheetah business on your behalf?

5 A. No.

6 Q. Did you ever give Frank Thomas permission,  
7 orally or in writing, to handle Cheetah business on your  
8 behalf?

9 A. No.

10 Q. Are you aware that Tom Thomas is holding himself  
11 out to the public as sort of a designated family  
12 representative for the Cheetah business?

13 A. I -- I became aware.

14 Q. Did you become aware of that in January or  
15 February of 2014?

16 A. In that timeframe, yes.

17 Q. Do you have an exhibit marked 25 in that stack?  
18 Should be entitled, "A letter from the Thomas Family."

19 A. Is that it?

20 Q. It's here.

21 A. (Indicating.)

22 Q. I believe, as you are doing, let me know when  
23 you had a chance to do so.

24 A. Right.

25 (Indicating.)

1           Yeah. I've seen this before.

2           Q.    When do you believe you first saw this letter  
3 from the Thomas family?

4           A.    I believe it was in that same timeframe,  
5 January, February, and I saw it on a website.

6           Q.    Do you remember which website you saw it on? Do  
7 you see on the lower left, it states -- looks like a  
8 website address.

9           A.    Yeah, yeah, yeah. Okay.

10          So this -- this must have been the website that Jerry  
11 created for Tommy and Carolyn.

12          Q.    Did you have any involvement in the creation of  
13 that website?

14          A.    No, sir.

15          Q.    Did you first become aware of that website in or  
16 around January or February of 2014?

17          A.    I think so, yeah.

18          Q.    I'd like to read in the third paragraph, if you  
19 could follow along as you did before.

20          A.    Uh-huh.

21          Q.    "With the excitement from this event, the Bill  
22 Thomas family is taking over the reigns of the Bill Thomas  
23 Motors company to bring the community a legitimate and  
24 strongly backed relationship. It will be headed by me,  
25 Bill Thomas's son, Bill Thomas. As we announced on

1 September 12, 2013, the Bill Thomas Family has ended any  
2 and all connection with Robert Auxier and BTM LLC of  
3 Arizona."

4 Again, did I read that correctly?

5 A. You did.

6 Q. Okay. Do you agree with the statement that the  
7 Bill Thomas family is taking over the reigns of the Bill  
8 Thomas Motors company?

9 A. No.

10 Q. Is it clear to you whether the reference to Bill  
11 Thomas Motors company is a reference to BTM or another  
12 company?

13 A. It's -- So BTM is Bob's company, and I don't  
14 know what they are calling their company.

15 Q. Okay.

16 A. But it seems clear that they are trying to take  
17 control of my dad's legacy and, you know, anything that  
18 arise out of his business or his former business.

19 Q. Is that a conclusion that you formed in January  
20 or February of 2014 when you saw this?

21 A. Yeah. This -- That's -- That's when I was  
22 cluing in to what was going on.

23 Q. You will see the reference to the Bill Thomas  
24 company being "...headed by me, Bill Thomas's son, Bill  
25 Thomas"; right?

1 A. Yeah.

2 Q. Did Tom Thomas ever come to you and say, "I want  
3 your approval to head up the Bill Thomas Motors company"?

4 A. No.

5 Q. Do you agree that Tom Thomas heading up the Bill  
6 Thomas Motors company will constitute, "legitimate and  
7 strongly backed leadership"?

8 A. No. No. My dad would not be happy.

9 Q. And do you agree with the statement that, "The  
10 Bill Thomas Family has ended any and all connection with  
11 Robert Auxier and BTM LLC of Arizona"?

12 A. No. Maybe half the family.

13 Q. Right. But certainly not you?

14 A. Certainly not me.

15 Q. Could you turn to -- I'm sorry. One second.  
16 Exhibit 53, please.

17 A. (Indicating.)

18 Exhibit 53.

19 Q. This one (indicating.)

20 A. Okay. Yes.

21 Q. Do you recall earlier, you might have mentioned,  
22 that you became aware of Ruth Engineering when Barbara  
23 Thomas sent you an email?

24 A. Right.

25 Q. Do you think this might be the email that you

1 were discussing?

2 A. (Indicating.)

3 Hard to say. There seemed like there was a flurry of  
4 emails about that time.

5 Q. Do you have an independent recollection of  
6 receiving this email from Barbara Thomas?

7 A. This one, I do not.

8 Q. Okay. Do you remember any discussions with  
9 Barbara Thomas around this timeframe about Tom Thomas  
10 entering into some kind of relationship with Ruth  
11 Engineering?

12 A. Yes. I mean, I think it was about this time  
13 where Barbara found something on the internet where Tom  
14 was mentioned.

15 Q. Could you turn to the second page of the  
16 exhibit. I will read in the final paragraph as follows:

17 "About Bill Thomas III

18 "Bill Thomas III is the son of the original designer  
19 and builder of the famous Cheetah. He has begun working  
20 with Ruth Engineering to build and sell the Cheetah  
21 Evolution - an updated version of the Cheetah utilizing  
22 current technologies and components."

23 Again, did I read that correctly?

24 A. You did.

25 Q. Does this refresh your recollection as to

1 whether you discussed this email with Barbara Thomas in  
2 January 2014?

3 A. You know, again, I -- the email I don't  
4 remember, but I remember the website. I think we may have  
5 been on the phone and, you know, she pointed me to it.

6 Q. Do you remember that being a website associated  
7 with Ruth Engineering?

8 A. Yeah, I believe so.

9 Q. Do you remember seeing a quote from a Bill  
10 Thomas on that website?

11 A. A quote?

12 Q. A quote attributed to Bill Thomas.

13 A. For my dad?

14 Q. Just the only question I can really ask is: Do  
15 you remember seeing a quote attributed to Bill Thomas on  
16 your website?

17 A. I don't remember seeing a quote.

18 Q. When you found out about Tom Thomas's apparent  
19 relationship with Ruth Engineering, did you ask Tom Thomas  
20 about whether you were going to get one-sixth of any  
21 proceeds he derived from that relationship?

22 A. No.

23 We weren't -- I mean, I hadn't spoken to Tommy in,  
24 you know, a year and a half at that point.

25 That was about the time there was an email exchange,

1 and then Barbara and I responded to him.

2 MR. COLE: Do you mind if I ask a question?

3 MR. HEATH: Please.

4 MR. COLE: You have been referring to your  
5 brother as Tommy Thomas, and I think you have been asked  
6 questions about Tom Thomas.

7 Did Tommy Thomas, was he known, as you were growing  
8 up and more recently, was he known as Bill Thomas or by  
9 another name?

10 THE WITNESS: Within the family, he was known as  
11 Tommy.

12 I think there were people outside of the family that  
13 would call him Bill.

14 MR. COLE: Okay. Thank you.

15 BY MR. HEATH:

16 Q. Could you see Exhibit 55 is in this stack,  
17 please.

18 A. 55.

19 Okay. Yeah.

20 Q. John, do you believe you received this email  
21 from this -- Strike that.

22 Do you recognize Exhibit 55 as an email that you  
23 previously received from Tom Thomas in February 6, 2014?

24 A. Yes, I do.

25 Q. Do you remember if you read it at that time?



1           A.    I am sure I read it in part.  Yeah, this is that  
2 same timeframe, kind of that January/February timeframe.

3           Q.    If you'd turn to the second page, you will see  
4 where it says, "Fact 2."

5           A.    Uh-huh.

6           Q.    Reads in relevant part, "The only agreement that  
7 was done with (ax) was the continuation program that was  
8 done with Dad.  Now this agreement has been terminated for  
9 just cause and numerous breaches of contract."

10          Do you remember reading that in or around February 6,  
11 2014?

12          A.    I do.

13          Q.    And was that -- Do you recall whether that was  
14 the first time you realized that Tom Thomas had actually  
15 purported to terminate the agreement with BTM?

16          A.    I may have heard it briefly before that, but  
17 this is the first time I saw it.  I believe the first time  
18 I saw it in writing.

19          Q.    Okay.  If we turn to Fact 3 it says, "Letters of  
20 authenticity (L.A.) cannot and will not ever be issued  
21 after our father went to be with the Lord!  It is well  
22 known in the automotive world that Dad passed away on  
23 October 10, 2009.  If we ever issued another (L.A.) it  
24 would start legal action against us that would definitely  
25 be civil lawsuits and possibly criminal action for fraud.

1 Our lawyer, who is an officer of the court, has let us  
2 know in no uncertain terms that issuing any more letters  
3 would be a legal disaster. It seems to me that this is a  
4 simple thing to understand. How is Dad going to  
5 authenticate anything after his passing? Our letter of  
6 cease and desist notified the other side, but (ax) still  
7 continues to harass our family for these letters."

8 Do you see that?

9 A. Yes, sir.

10 Q. Prior to receiving this email, had Tom Thomas  
11 ever mentioned to you that he thought that issuing another  
12 certificate to BTM would result in legal action?

13 A. You know, again, I wasn't talking to Tommy, but  
14 I would talk to Frank periodically, and that was Frank's  
15 concern. He expressed that to me.

16 Q. Okay. Did you ever do anything to confirm  
17 independently as to whether that was a legitimate concern?

18 A. No, I did not. I -- Yeah, that seems to me a  
19 legal matter. I do remember the comment I made to Frank.

20 Q. What was that?

21 A. I told him -- Obviously, well after dad passed.  
22 I said, "Dad is doing the same amount of authenticating  
23 today as he did at this time."

24 My dad was not authenticating every car as it rolled  
25 out of there.

1 Q. Okay. So it's not your belief that your father  
2 physically inspected each and every continuation Cheetah  
3 that BTM made?

4 A. No, it's not my belief. I don't see how that  
5 would have been possible.

6 Q. Okay. Could you take a look at 56, please.

7 A. (Indicating.)

8 Yes. This is the -- I already referenced this email  
9 a couple of times.

10 Q. You remember being on the phone with Barbara  
11 Thomas, right, when you were jointly writing an email to  
12 Tom; is that correct?

13 A. Yes. She wrote it, and we were on the phone  
14 together.

15 Q. And the email that you wrote on the phone  
16 together, does that begin, "Tom, we think..." and end,  
17 "...forgiveness or discussion?"

18 A. Yeah. Yes.

19 So we're -- I think we may have been responding to  
20 this (indicating).

21 Q. Okay. You are responding to Exhibit 55?

22 A. Yes.

23 Q. Yeah.

24 A. I believe, yeah, okay, the dates line up.

25 Q. And what was your purpose in jointly sending

1 this email to Tom Thomas?

2 A. Well, I mean, just -- it just felt like things  
3 were going off the rails, and, you know, let's -- let's  
4 take a break. Let's have a conversation. You know, if  
5 you feel there is some legitimate grievances, let's talk  
6 to Bob. You know, let's -- let's not, you know, terminate  
7 the agreement. Let's not, you know, get lawyers involved.  
8 You know how painful they can be?

9 Q. You mentioned that Frank had told you at some  
10 point in 2013 that there was -- Strike that. Strike that.

11 Frank had told you at some point there was a concern  
12 that Bob Auxier was making and selling Cheetahs and not  
13 paying for certificates; right?

14 A. That -- That was one of their issues with Bob.

15 Q. Do you know if Bob was ever given an opportunity  
16 to explain himself in response to that accusation?

17 A. To them --

18 Q. Yes.

19 A. -- or -- I don't know. I don't know.

20 Q. Did Frank Thomas ever tell you that they asked  
21 Bob for an explanation and not received one?

22 A. No.

23 Q. And you see where you say towards the end of  
24 this email, "We do believe that there could have been  
25 missteps on Bob's part...?"

1 A. Uh-huh.

2 Q. When you wrote this, were you actually aware  
3 of -- of missteps on Bob's Auxier's part --

4 A. No.

5 Q. -- or were you saying there just might have  
6 been?

7 A. We -- We were not aware. It's -- You know, this  
8 group is -- you know, I mean, this other -- the other  
9 exhibit kind of outlined a number of these things that Bob  
10 supposedly did.

11 Q. Exhibit 55, you mean?

12 A. Right. And so we thought the best -- best --  
13 If they felt that way, the best course of action is let's  
14 talk to them. Let's have a conversation, but that request  
15 fell on deaf ears.

16 Q. Okay. Tom Thomas didn't comply with that  
17 request, to the best of your knowledge?

18 A. He -- Yeah, he responded in -- in very -- I  
19 don't think it was him responding. It was just very kind  
20 of generic. "Thanks, appreciate the scripture" type of  
21 thing.

22 Q. Are you referring to the text that appears  
23 towards the top of Exhibit 56?

24 A. Yes, I am.

25 Q. What is it that makes you think that that

1 actually isn't Tom Thomas responding?

2 A. Well, I -- It's not how -- It's not how Tommy  
3 talks. This feels like he's being coached by an attorney  
4 or maybe his wife is doing it. His wife, her father and  
5 her brother are attorneys.

6 Q. Do you think Tom Thomas was jealous of Bob  
7 Auxier, under your impression?

8 A. So now you asking me to speculate; right?

9 MR. MUSIELSKI: I'm going to object if you are  
10 speculating.

11 BY MR. HEATH:

12 Q. I don't want you to speculate.

13 Did Tom Thomas ever say anything to you about Bob  
14 Auxier or behave in a way to Bob Auxier that made you  
15 think that he was jealous?

16 A. Everything I heard about Bob for years was  
17 nothing but positive, both from my dad, my mom, and even  
18 Tommy.

19 But about the time of my mom's death, then you  
20 started hearing these, "Bob's crazy. He's doing us ugly.  
21 He's in the Ukraine doing this, that."

22 And it was just kind of noise.

23 But that's when it turned. It turned right about the  
24 time, you know, when my mom's health was -- was degrading.

25 Q. Okay. Did anyone say specifically what the

1 potential problem might have been with Bob being in the  
2 Ukraine?

3 A. It's -- It's just noise. I mean, you don't know  
4 my siblings. I mean, there is a lot of -- there is a lot  
5 of talking. I mean, excuse the language, but there is  
6 always kind of low-level bullshit.

7 MR. COLE: Let's just clarify when you say  
8 "siblings," who you are referring to?

9 THE WITNESS: Thank you for that.

10 I'm -- I'm referring to Tommy and Carolyn. I mean,  
11 there is always trouble. There is always drama.

12 And so I think, you know, as a self-defense  
13 mechanism, at least with me, I tune it out.

14 BY MR. HEATH:

15 Q. You try to distance yourself from it?

16 A. Yeah. You move Pasadena, which, by the way,  
17 wasn't far enough.

18 Q. Okay. Can we have a look at Exhibit 27, please.

19 A. (Indicating.)

20 Uh-huh.

21 Q. Do you believe you've seen this document before?

22 A. No, sir.

23 Q. Were you aware that a company by the name of  
24 Bill Thomas Motors, LLC was formed in April of 2014?

25 A. I had heard some rumblings about them kind of

1 starting their own firm, but I didn't know they actually  
2 went through it or went through with it, rather.

3 Q. Okay. Did anyone ever ask you if you wanted to  
4 be an owner in Bill Thomas Motors, LLC?

5 A. No, sir.

6 Q. Did anyone tell you that Bill Thomas Motors, LLC  
7 was formed with a view to giving you one-sixth of any  
8 income that it generated?

9 A. No.

10 Q. If you'd turn to the second page of Exhibit 27.  
11 Do you see where it says, "Type of Business" towards  
12 the bottom?

13 A. Yes.

14 Q. Below that it says, "Describe the type of  
15 business of the limited liability company"; right?

16 A. Uh-huh.

17 Q. And below that it says, "Control and Use of Bill  
18 Thomas's IP and Rights regarding the Bill Thomas Cheetah."

19 Do you see that?

20 A. I do.

21 Q. To the extent the family received any income  
22 from those activities, would you consider yourself  
23 entitled to receive one-sixth?

24 A. I do, yeah.

25 Q. But again, you were never asked to be an owner



1 in this company; is that right?

2 A. No.

3 This is June of 2004 -- I'm sorry. 2014.

4 Q. Correct.

5 A. Okay.

6 Q. The second page is dated June of 2014. The  
7 first page is actually April of 2014.

8 A. Okay.

9 Q. Did Tom Thomas ever tell you that the reason he  
10 terminated -- or tried to terminate the Authorization  
11 Agreement was because he thought he could make more money  
12 than the \$3,000 that BTM was required to pay for the  
13 certificates?

14 A. Again, I wasn't talking to Tommy. That was my  
15 assumption, that he might get a better deal elsewhere.

16 Q. Okay. But you have no personal knowledge as to  
17 whether any agreement he had with Ruth Engineering would  
18 constitute a better deal or not?

19 A. I do not know.

20 Yeah, I don't -- I don't really know their  
21 motivations for what they did. I mean, I could certainly  
22 speculate, but I don't know why they did it.

23 Q. Do you think that Carolyn Walters had any  
24 particular animosity towards Bob Auxier?

25 A. I had heard -- now, this isn't firsthand, but I

1 heard through my sister, that she made a comment that, you  
2 know, "I never liked Bob. Couldn't do anything about it  
3 while mom and dad are alive."

4 Q. Okay.

5 MR. MUSIELSKI: Going to object as vague and  
6 ambiguous as who you are identifying as your sister.

7 THE WITNESS: I'm trying to remember. Was that  
8 Barbara or was that Nickie? I don't recall offhand.

9 MR. MUSIELSKI: But it was not Carolyn; correct?

10 THE WITNESS: No, it wasn't Carolyn. No.

11 BY MR. HEATH:

12 Q. Just to clarify, you recall that Carolyn -- You  
13 recall that one of your sisters said -- either Barbara  
14 Thomas or Nickie Baze said to you that Carolyn Walters had  
15 said to them that she never liked Bob Auxier, but couldn't  
16 do anything about it during your mom and dad's lifetime?

17 A. The more I think about it, it was definitely  
18 Barbara.

19 And Barbara told me that Carolyn made that statement,  
20 "Never cared for him. Couldn't do anything about it while  
21 mom and dad were alive."

22 Q. I presume that statement was made after Violet  
23 Thomas had passed away; is that right?

24 A. I -- Yeah, it would have to be. Yeah.

25 Q. You are aware that Violet Thomas created a trust

1 during her lifetime; right?

2 A. I am.

3 Q. And did -- Were you given any kind of a role in  
4 that document?

5 A. I was. I was there during the formation of it.  
6 She worked with an attorney, and -- and she -- You know,  
7 he drafted the trust for her.

8 And then I, along with my twin brother Frank, were  
9 appointed successor trustees.

10 Q. And at the time of Violet Tom's passing, did you  
11 and Frank engage in any effort as to sort of doing an  
12 inventory of her assets or realize any assets for the  
13 estate or anything like that?

14 A. It -- It was pretty simple, or so we thought, at  
15 that time. There were the sale proceeds from the home and  
16 then there were some savings accounts.

17 Q. Did you give any consideration to the signed  
18 authentication letters?

19 A. We -- We did, but it was -- It was very --  
20 Again, at this time, there were a lot of problems, you  
21 know.

22 We didn't view Bob or BTM as one of the problems.  
23 And -- And building out this -- this trust or drafting the  
24 trust, the attorney, he sent us a copy of it.

25 And because my mom couldn't see at that point, I was

1 reading it to her. And at some point in that process --  
2 process I asked her, I said, "Do you want to include" --  
3 you know, "What about Bob? What about the Cheetah? Do  
4 you want to include that?"

5 And her response -- Again, this is -- this is ten  
6 seconds. Her response is, "No. I want to keep that  
7 separate," something along those lines. Maybe not  
8 verbatim, but it was, "That's a separate matter" or "No, I  
9 want to keep that separate."

10 And then we moved on.

11 Q. Did you have any further discussions with Violet  
12 Thomas about what she wanted to do relative to BTM after  
13 she made that statement?

14 A. You know, again, it wasn't -- it wasn't a  
15 problem. I think she looked at Bob as a good guy, and  
16 there was an agreement in place, and we'll just carry on  
17 as we always have.

18 Q. When Violet Thomas passed away, did you -- did  
19 you consider the value that the letters might have for  
20 purposes of the estate?

21 A. I did not. It just -- It just wasn't top of  
22 mind at that time.

23 Q. Did you consider them at all and declare them of  
24 any kind of valuation or did you just not consider them?

25 A. Well, again, it was my mom's trust, and I

1 broached the topic with her.

2 She -- She decided to keep it separate. I didn't  
3 really think about anything other than just executing her  
4 instructions.

5 Q. Do you consider the Authorization Agreement to  
6 be a valid contract today?

7 A. Yes. Absolutely, I do.

8 And apparently, those certificates have values.

9 MR. MUSIELSKI: Could we identify the exhibit  
10 that we're talking about?

11 MR. HEATH: I actually --

12 MR. MUSIELSKI: 17?

13 MR. HEATH: We're actually not on an exhibit. I  
14 pulled one out, but I haven't been asking questions, but I  
15 will get to 59 right now.

16 MR. MUSIELSKI: Okay. No, I meant when he  
17 stated and confirmed the Authorization Agreement is a  
18 valid agreement, I'm confused as to what agreement he's  
19 talking about.

20 MR. HEATH: Okay.

21 MR. MUSIELSKI: Exhibit 17 --

22 MR. HEATH: I apologize.

23 MR. COLE: -- or is it Exhibit 57?

24 THE WITNESS: The way I understood it, in  
25 answering the question, was the original agreement between

1 my dad and Bob.

2 BY MR. HEATH:

3 Q. Which is Exhibit 17. Can we just confirm for  
4 the record that when --

5 A. It's back here. This one here (indicating).  
6 It's Exhibit 17.

7 Q. So when I asked you if you considered the  
8 Authorization Agreement to be valid, to this day, you're  
9 answering with regard to Exhibit 17?

10 A. Yes.

11 And I believe it's valid.

12 MR. HEATH: Exhibit 59, please.

13 (Deposition Exhibit 59 was marked for identification  
14 by the court reporter.)

15 THE WITNESS: (Indicating.)

16 BY MR. HEATH:

17 Q. John, is this one of the emails that you printed  
18 and provided to Ron so you could provide it to me?

19 A. Yes, sir.

20 Q. Okay. I'd just like to turn your attention to  
21 what appears to be an email from you on page 1, carrying  
22 over to page 2.

23 A. Uh-huh.

24 Q. And is that -- do you recognize your email  
25 address here as j\_thom02@yahoo.com?

1 A. It is, yes.

2 Q. And I will read in what you appear to write.

3 I'm sorry. Let me back up.

4 At the bottom of the first page does it appear that  
5 that there is an email from you to Carolyn Walters dated  
6 February 21st, 2015?

7 A. Uh-huh.

8 Q. Okay. And you write as follows:

9 "Hello

10 "I'm not sure what to say. I find the whole thing  
11 highly troubling. As you know, I've been very reluctant  
12 to involve myself or side with one group or the other.  
13 That said, whether anyone likes it or not, Dad chose to  
14 work with Bob. To me, that's meaningful."

15 Did I read that correctly?

16 A. You did.

17 Q. Okay. Is that consistent with what you were  
18 talking about earlier in terms of your viewpoint as to the  
19 validity of the Authorization Agreement?

20 A. Yeah. Yes.

21 This is my dad's car. It's not Carolyn's car. It's  
22 not Tommy's car. It's not my car.

23 And his intention -- We don't really have to guess  
24 what his intentions are because he put it in writing. So  
25 whether people like Bob or don't like Bob, to me it

1 doesn't matter. Dad made that choice.

2 Q. And you want to respect your father's wishes?

3 A. Absolutely.

4 MR. HEATH: Can we go off the record just for a  
5 moment.

6 VIDEO OPERATOR: Off video at 4:29 p.m.

7 (A recess is taken.)

8 VIDEO OPERATOR: Back on video at 4:36 p.m.

9 BY MR. HEATH:

10 Q. John, did you have any conversations  
11 following -- Strike that. I'm sorry.

12 John, did you have any conversations with Violet  
13 Thomas following your father's passing where she said that  
14 she would allow Bob Auxier to remove items from the house  
15 to add to a collection that he had relating to the  
16 Cheetah?

17 A. I don't remember the -- Yes, but it wasn't  
18 specific to the collection.

19 But she -- Definitely she told me that she gave Bob  
20 permission to go through my dad's office and to remove  
21 whatever he thought would be useful.

22 Q. Was it your impression that whatever Bob removed  
23 from the office was given to him as a gift as opposed to  
24 on loan or --

25 A. Oh, it was -- To give you a little bit of



1 context, after my dad passed, my mom, you know, for  
2 whatever reason, wanted to get that office cleaned up in a  
3 hurry, and she called Tom and she called Tommy. Tommy is  
4 not coming up. And I don't know if she called Bob or Bob  
5 just happened to be out that way. She asked Bob to do  
6 what Tommy wasn't doing.

7 Q. Okay.

8 A. So it was definitely a gift.

9 MR. HEATH: Okay. John, thank you ever so much  
10 for your time.

11 Ron, I don't have any further questions.

12 MR. COLE: Okay.

13

14 -EXAMINATION-

15

16 BY MR. MUSIELSKI:

17 Q. I have a few questions.

18 A. I thought you might.

19 Q. Do you believe somebody can gift a item that  
20 they don't own?

21 A. Generally, no.

22 Q. Okay. Do you have any familiarity with the  
23 ownership rights of the MacDonald films?

24 A. As I said earlier, I don't know a whole lot  
25 about the MacDonald films.

1 Q. Did you ever speak to your dad about the  
2 MacDonald films?

3 A. Never.

4 Q. Did your mom ever tell you anything about the  
5 MacDonald films?

6 A. No. I found out -- What I know about the  
7 MacDonald films, I found out from Tommy, and then just  
8 kind of the scuttlebutt after the fact.

9 Q. In regards to signing Exhibit 52, the last  
10 page --

11 A. Uh-huh.

12 Q. -- did you ever have a discussion of this  
13 document with your sister Nickie?

14 A. Yeah, I believe so.

15 Q. And when did you have that discussion with her?

16 A. I would say about the time I signed it, yeah.

17 Q. And was it by telephone or in person?

18 A. It would have to be by telephone, yeah.

19 Q. And did you place a call or did she place the  
20 call to you?

21 A. I don't remember.

22 Q. How long was the conversation for?

23 A. I don't remember.

24 I know for sure I talked to Barbara about it. I  
25 think I talked to Nickie about it.

1 Q. What do you think you talked to Nickie about?

2 A. Well, her -- her concern about what she just  
3 signed. Because she signed it before I did. So she was  
4 concerned about it.

5 And, you know, after my reading it two or three  
6 times, which didn't take too long, I told her, "Don't  
7 worry. It just appears to be a -- a kind of generic  
8 government claim form."

9 Q. Okay. And this is Nickie you're telling?

10 A. Yes.

11 Q. Okay. And did Nickie tell you anything else  
12 when you spoke with her?

13 A. Not that I can recall.

14 Q. Now, in regards to the letters of authenticity,  
15 you never saw those before?

16 A. No, I never -- I never have.

17 Q. And did you ever have a discussion with Nickie  
18 in regards to her seeing your father sign those letters of  
19 authenticity?

20 A. Only recently.

21 Q. Okay. When did you have that conversation with  
22 her?

23 A. Just -- Just within the last several -- last few  
24 months.

25 Q. Okay. Was that by telephone again?

1 A. Yes.

2 Q. Okay. And what was said in that conversation?

3 A. Well, she -- I wasn't there. I didn't see it.  
4 She -- She believed she did see it.

5 Q. When?

6 A. I wasn't there, so I couldn't refute it.

7 Q. Okay. Did she say she believed she saw it or  
8 did she say she saw it?

9 A. She said she saw it.

10 Q. And did she say anything else in regards to the  
11 letters of authenticity that she saw your father sign?

12 A. Just to be clear, we're talking about the extra  
13 20 beyond the 100?

14 Q. Correct.

15 A. Okay. Question again. I'm sorry.

16 Q. Did she say anything else in regards to those  
17 letters of authenticity?

18 A. What she told me is she saw dad sign 20.

19 Q. And did she say anything else? Like she saw a  
20 number on those certificates?

21 A. I don't recall.

22 Q. And was it your understanding that Mr. Auxier is  
23 the one that had the certificates printed and brought them  
24 to your father?

25 A. That -- That was my understanding, yeah.

1 Q. It's not your understanding that your father  
2 would print the certificates. Mr. Auxier would bring  
3 those?

4 A. Correct.

5 Q. And so it would be your understanding that  
6 Mr. Auxier would know how many certificates he actually  
7 brought to your father to sign?

8 A. I would think so, yeah.

9 Q. Okay.

10 A. My dad wasn't -- To the best of my knowledge, he  
11 wasn't producing these certificates. He was signing  
12 things that were given to him.

13 Q. Okay. And even though you stated in regard to  
14 Exhibit 17, that you believe that this Authorization  
15 Agreement is still in full force and effect --

16 A. Right.

17 Q. -- you're not giving any interpretation to the  
18 agreement in regards to its -- whether or not it's legally  
19 valid or not at this time after your father and mom passed  
20 away, are you?

21 A. You know, I guess that's -- I guess that's a  
22 matter for the attorneys to figure out.

23 I guess what I see I believe it's in force is, you  
24 know, I -- You know, I know what my dad intended. You  
25 know, he intended this to live on.

1           And I don't know what Bob's done to, you know,  
2 nullify the contract. So that's what I meant.

3           Q.    Okay. And do you have any knowledge as to the  
4 Cheetahs that were to be built pursuant to the  
5 Authorization Agreement were supposed to be used for only  
6 off-road or on-road also?

7           A.    I think that might be in here somewhere. But  
8 prior to reading this, no.

9           Q.    Okay. And do you know the physical difference  
10 between a continuation Cheetah and a Evolution Cheetah?

11          A.    I do not. I just -- From what I understand, a  
12 continuation Cheetah is more true to the original  
13 specifications.

14          But as far as, you know, where that line is and what  
15 differentiates one from the other, I don't exactly know  
16 what that would be.

17          Q.    Okay. And as to any assets that comes into your  
18 dad's estate from any type of intellectual property sales,  
19 you would claim one-sixth ownership in -- in the  
20 compensation received for -- for the use of that  
21 particular intellectual property right?

22          A.    Yeah. If it's something that still belonged to  
23 my father.

24          Q.    Yes.

25          A.    Yes.

1 Q. And you don't know whether or not the  
2 intellectual property rights that had been licensed to  
3 Mr. Auxier is still in full force and effect legally  
4 speaking?

5 A. I -- Yeah, I don't -- I don't know that.

6 Q. And you don't know the extent of the rights that  
7 were granted to him, do you?

8 MR. HEATH: Objection. Vague and ambiguous.

9 THE WITNESS: As far as what's detailed in the  
10 contract?

11 BY MR. MUSIELSKI:

12 Q. Correct.

13 A. Well, again, I'm not an attorney --

14 Q. Okay.

15 A. -- so I'm not an expert on this matter.

16 Q. And it's your understanding that your brother  
17 Tommy sought the advice of counsel before he advised  
18 Mr. Auxier to cease and desist all use of your father's  
19 name; is that correct?

20 A. I would assume he did. Again, I kind of clued  
21 into this late.

22 Q. If you look at Exhibit Number 23.

23 MR. COLE: The last one.

24 THE WITNESS: 23, did I miss it?

25 This one here (indicating).

1 BY MR. MUSIELSKI:

2 Q. Yes.

3 A. Okay.

4 (Indicating.)

5 Q. Now, even though you didn't seek any legal  
6 advice, is it your understanding that Tommy did seek legal  
7 advice in regards to the standing of the authorization and  
8 the intellectual property rights that your dad granted to  
9 BTM?

10 A. Yeah. It would be my -- that he was working  
11 with an attorney at this time? Is that what you're  
12 asking?

13 Q. Correct.

14 A. Yeah. Yes. I believe that's so.

15 Q. And was it your understanding that he did not  
16 reject any of the agreements with BTM until after he had  
17 sought the advice of counsel?

18 A. That I don't know. I don't know when he decided  
19 to reject.

20 Q. Now, you never signed any agreement to grant any  
21 rights to BTM, did you?

22 A. I've tried to stay so far clear of this thing.  
23 So no, I have not.

24 Q. And you are not a signer on Exhibit 17, are you,  
25 the Authorization Agreement?



1 A. No. No. It's my --

2 Q. You're not a signer on the Exhibit 57, the  
3 Certificates of Authenticity, are you?

4 A. No, sir.

5 MR. MUSIELSKI: I have no further questions.

6 MR. HEATH: Can we agree that we reach the same  
7 stipulation as for the other two depositions?

8 MR. COLE: Yes.

9 MR. MUSIELSKI: Yes.

10 VIDEO OPERATOR: This concludes today's  
11 deposition.

12 Off video at 4:48.

13

14 (By instruction of counsel the reporter has redacted  
15 the following stipulation as reproduced below:

16

17 MR. HEATH: I'd like to propose a stipulation  
18 that the court reporter be relieved of any duty to  
19 maintain custody of the original transcript for this  
20 deposition;

21 And that the original be sent to Mr. Cole as the  
22 witness's attorney;

23 And that the witness can have 30 days from Mr. Cole  
24 receiving the transcript to review it, make any necessary  
25 changes, and to sign it under penalty of perjury;

1           And that if for any reason the transcript is not  
2 signed within that time period, then a certified copy can  
3 be used in lieu of the original for any purposes up to and  
4 including trial in this action.

5           So stipulated?

6           MR. COLE: I would add that I would provide the  
7 original signed transcript for any purpose in the  
8 proceeding upon reasonable request.

9           So stipulated.

10          MR. MUSIELSKI: So stipulated.

11          MR. HEATH: Thank you.)

12

13          (TIME NOTED: 4:48 P.M.)

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I, JOHN 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)

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JOHN 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: John Thomas

5

6 CORRECTIONS:

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Signature of Deponent

20 SUBSCRIBED AND SWORN BEFORE ME

21 THIS \_\_\_ DAY OF \_\_\_\_\_, 201\_\_.

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24 (Notary Public) MY COMMISSION EXPIRES: \_\_\_\_\_

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