

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 NICKIE BAZE

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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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 COUNTER CLAIM.)
_____)

17
18 Videotaped Deposition of NICKIE BAZE,
19 Volume I, taken on behalf of Plaintiff at 2603 Main
20 Street, Suite 1300, Irvine, California, beginning at
21 11:37 a.m., and ending at 2:46 p.m., Thursday,
22 March 12, 2015, before Gail E. Kennamer, CSR 4583, CCRR.
23
24
25

1 APPEARANCES:

2

3 For Plaintiff:

4

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11 For Defendants:

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18

19 For Deponent:

20

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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 Sean Williams

8 John Thomas

9 Brent Jordan, Videographer

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EXHIBITS

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PREVIOUSLY MARKED EXHIBITS (Attached hereto):

NUMBER	IDENTIFIED
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1 Irvine, California; Thursday, March 12, 2015

2 11:37 a.m.

3
4
5 VIDEO OPERATOR: This is the start of DVD

6 labeled Number 1 of the videotaped deposition of Nickie
7 Baze taken in the matter of BTM LLC v William Thomas III,
8 et al., filed in the United States District Court, Central
9 District of California, Southern Division. Case Number
10 SAC CV1400414. This deposition is being held in Irvine,
11 California on March 12th, 2015 at approximately 11:37 a.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: Steven Heath for the plaintiff, BTM
18 LLC.

19 MR. COLE: Ron Cole for Nickie Baze.

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

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

24
25 (Continued on following page.)

1 NICKIE BAZE,
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. Mrs. Baze, we met briefly met off the record.
9 My name is Steve Heath, and I represent the plaintiff in
10 this action, which is BTM LLC.

11 How do you want me to call you today? Mrs. Baze?
12 Ms. Baze?

13 A. Nickie.

14 Q. Nickie. Nickie is okay?

15 A. Uh-huh.

16 Q. Okay. Thank you.

17 And just for the record, is your son in the room
18 today as well?

19 A. Yes.

20 Q. Could you state your name just for the record,
21 sir.

22 MR. SEAN WILLIAMS: Sean Williams.

23 MR. HEATH: Thank you.

24 Q. Nickie, do you understand that we're in a pretty
25 informal situation or setting today? We're in a

1 conference room in an office, Mr. Cole's offices. But
2 just for the record, I want you to understand, excuse me,
3 that the oath that you just took is to tell the truth
4 under penalty of perjury, and that means that you're under
5 the same obligation to give truthful answers to my
6 questions as though you were testifying in a courtroom
7 today.

8 A. Sure.

9 Q. You understand that?

10 A. (Witness nods head.)

11 Q. Have you been deposed before?

12 A. No.

13 Q. Okay. I'd just like to go through some
14 preliminaries. The court reporter situated to your right
15 is here to take down my questions and your answers to
16 those questions. And to make her life bearable today, it
17 will be helpful if you let me finish the question before
18 you answer it.

19 Do you understand that?

20 A. Uh-huh. Yes.

21 Q. In everyday conversation, you probably
22 anticipate what I'm going to say, you might cut me off and
23 answer the question; but just so we get a nice clean
24 record today, I'd appreciate if you'd let me finish before
25 you answer.

1 A. Okay.

2 Q. After today's proceedings the court reporter is
3 going to transcribe your testimony basically into a
4 booklet, and you'll be given a chance to read the
5 transcript and review your answers to make sure that the
6 transcript is accurate and it reflects the answers that
7 you wish to give today.

8 I do want you to understand that if you subsequently
9 make changes on the transcript to an answer, that people
10 might have the chance to comment on those changes at
11 trial, and that may or may not reflect on your
12 credibility.

13 Do you understand that?

14 A. Yes.

15 Q. And as you are doing, please continue to let me
16 finish asking the question before you answer. And on a
17 related note, when you give an answer, please ensure it's
18 verbal because the court reporter can't take down nods of
19 the head, gestures, that sort of thing.

20 Do you understand that?

21 A. Yes.

22 Q. If you don't understand the question, please
23 feel free to ask me to clarify. I'm not here to try and
24 confuse you or trick you.

25 But I do want you to understand that if I ask a

1 question, you don't ask for clarification, I'll assume
2 that you understood the question, that you answered it to
3 the best of your ability.

4 Do you understand that?

5 A. Yes.

6 Q. Now, I'm sure that you know the difference
7 between a guess and an estimate; but just to be clear for
8 the record, what I'm entitled to today is your best
9 estimate. And the example that I've given is if I was to
10 ask you today what the length of this table is, you could
11 probably give me a pretty accurate estimate, given that
12 you see it, you sat in front of it, you can perceive it.
13 Whereas, if I was to ask you, Nickie, what's the length of
14 my kitchen table, you'd be guessing because you're never
15 been to my apartment, and you don't even know if I have a
16 kitchen table.

17 So do you understand the difference there?

18 A. Right. Yes.

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

21 A. No reason.

22 Q. Are you on any medication or drugs that would
23 impair your ability to answer my questions or tell the
24 truth?

25 A. No.

1 Q. And just for the record, you're represented
2 today by Mr. Cole sat to your left; correct?

3 A. Correct.

4 MR. MUSIELSKI: Before we start, I will put on
5 the record this is a confidential deposition and is only
6 to be disclosed in accordance with the Protective Order in
7 this action.

8 BY MR. HEATH:

9 Q. Okay. During the course of the deposition,
10 Mr. Cole might have objections to the questions that I
11 ask. If that happens, he'll state the objection on the
12 record; and if he does that, I'll probably do one of two
13 things. I'll either try to rephrase the question in a way
14 that makes it non-objectionable to Mr. Cole.
15 Alternatively, I'll just simply ask you to answer the
16 question as originally phrased. And unless instructed
17 otherwise, you are to answer the question, provided you
18 understand it.

19 Do you understand that?

20 A. Yes.

21 Q. Okay. Do you have any questions so far?

22 A. No.

23 Q. I just want to get some definitions straightened
24 out.

25 When I use -- When refer to Bill Thomas, you

1 understand I'm referring to your father, the late William
2 P. Thomas II?

3 A. Yes.

4 Q. And if I refer to Tom Thomas, you'll understand
5 I'm referring to your brother, William P. Thomas III?

6 A. Yes.

7 Q. And in addition to Tom Thomas, do you have any
8 other siblings?

9 A. Yes.

10 Q. And who are they, if you can just state those
11 for the record?

12 A. Carolyn and Frank and John and Barbara.

13 Is that all of them?

14 Q. And that's Carolyn Walters; right?

15 A. Correct.

16 Q. Okay. Do you have any knowledge as to whether
17 Frank Thomas was recently deposed, had his deposition
18 taken like you in this case?

19 A. I don't know.

20 Q. Okay. You haven't had any discussions with
21 Frank Thomas about his deposition?

22 A. No.

23 Q. How about Carolyn Walters, do you know if she
24 was recently deposed?

25 A. I heard it, but not from her.

1 Q. Okay. You haven't had any conversations with
2 her about her deposition?

3 A. Correct.

4 Q. What about Tom Thomas?

5 A. No.

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

8 A. Like, what do you mean?

9 Q. Did you graduate high school?

10 A. No.

11 Q. Okay. And can -- Where have you worked since
12 2000, if anywhere?

13 A. Home.

14 Q. Okay. And you're a resident of Orange County?

15 A. Yes.

16 Q. How long have you lived in Orange County?

17 A. All my life.

18 Q. Again, just for the record, you're aware of a
19 company called BTM LLC; right?

20 A. Yes.

21 Q. I'm going to refer to that as BTM.

22 A. Okay.

23 Q. And do you know Robert Auxier?

24 A. Yes.

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

1 A. Right there (indicating).

2 Q. Sat to my right?

3 A. Yes.

4 Q. Okay. Do you know if Mr. Auxier has any
5 relationship to BTM?

6 A. Yes.

7 Q. What is that?

8 A. He is BTM.

9 Q. Okay. When did you first meet Bob Auxier?

10 A. I'm thinking, I had my grandson that's 18 years
11 old right now, was a toddler; so it had to have been maybe
12 like 15 or 16 years.

13 Q. Do you remember the event or the circumstances
14 when you first met Bob Auxier?

15 A. He came to my parents' house.

16 Q. That house in Orange County?

17 A. Right.

18 Q. Do you remember anything particular about that
19 occasion?

20 A. He may have brought a car that time.

21 Q. A Cheetah car?

22 A. Yeah. Cheetah.

23 Q. So when I refer -- when you refer to Cheetah,
24 what do you mean by Cheetah?

25 A. I'm not sure about this, if he did or not.

1 But --

2 MR. COLE: He's asking you a different question.
3 He just -- You used the term, the word Cheetah, and he
4 wants to know what your understanding of it is.

5 THE WITNESS: What the Cheetah is? That's the
6 racecar my dad built in the '60s.

7 BY MR. HEATH:

8 Q. If I ask you questions where it seems like the
9 answer is completely obvious to everyone in the room, I
10 apologize. It's because this transcript might be read by
11 people that don't have any knowledge --

12 A. Okay.

13 Q. -- so that's the reason I need to ask what might
14 seem to be stupid questions from time to time. There
15 might be other reasons that I ask stupid questions. I
16 just don't think they are stupid.

17 A. Okay.

18 Q. So the Cheetah is a car that your father
19 designed in the '60s; is that right?

20 A. Right.

21 Q. Okay. And you remember that the first time you
22 met Bob Auxier is when he came to your parents' home with
23 a Cheetah car?

24 A. It was definitely at my parents' house, but I
25 don't know if he had the Cheetah with him that time.

1 Q. Can you describe for me your understanding of
2 any business relationship that BTM had with Bill Thomas?

3 A. Bob revived the dead Cheetah. My dad was happy
4 about it.

5 Q. So just for the record, you're aware that Bill
6 Thomas and Bob Auxier had a business relationship relating
7 to the Cheetah?

8 A. Yes.

9 Q. And you credit that relationship as reviving the
10 Cheetah?

11 A. Yes.

12 Q. Okay. And you said that Bill Thomas was happy
13 about that relationship?

14 A. Yes.

15 There was other people that wanted to do it, and my
16 dad was not interested, just "No, no, no."

17 And then he liked Bob.

18 Q. Was there something in particular about Bob that
19 your father said made him want to get into business with
20 Bob as opposed to other people?

21 A. Not -- Not really, that I can remember.

22 Q. But you recall your father saying to you over
23 the years that he did like Bob Auxier?

24 A. Oh, yes.

25 Q. Okay. And your mother was Violet Thomas;

1 correct?

2 A. Right.

3 Q. Do you have any opinion as to whether Violet
4 Thomas liked Bob Auxier?

5 A. They were both crazy about him. When Bob was
6 coming, it was holiday.

7 Q. Okay. So would you be surprised to know that in
8 the course of their depositions, Carolyn Walters and Tom
9 Thomas, have said that, in fact, Violet Thomas didn't like
10 Bob Auxier?

11 A. They said that?

12 Q. I'll represent to you that they said that. What
13 I'm saying is: Would you be surprised to know if they
14 said that?

15 A. It's not true, but I wouldn't be surprised that
16 they would say something like that, but it's not true.

17 Q. So I'd just like to talk a little bit about what
18 your father might have said to you after he went into
19 business with Bob Auxier.

20 Do you -- Do you know when the business relationship
21 between BTM and your father started?

22 A. Maybe like 16, 15 years ago.

23 Q. Okay. Early 2000s?

24 A. Yeah. Oh, for when they signed the contract and
25 all that was 2001. I think they knew each other before

1 that.

2 Q. Okay. When you say "contract," again just for
3 the record, what are you referring to?

4 A. Where Bob, my dad gave everything to Bob to --
5 trademarks and the rights to build the cars.

6 Q. Do you remember the title of the document, the
7 contract?

8 A. No.

9 Q. Do you think you have seen the contract
10 previously?

11 A. No.

12 Q. And what did -- So from the early 2000s, up
13 until his passing in October 2009, what was your -- what,
14 if anything, did your father say to you about Bob Auxier?

15 A. He said we were going to be getting -- Even
16 after my dad was gone, we'd be getting money from these
17 letters, the authentication letters, and he was pleased
18 about that, you know.

19 Q. Did you think he was pleased about that because
20 your father felt that he was leaving something for his
21 family after he was gone?

22 A. Sure.

23 Q. And do you specifically remember a conversation
24 with Bill Thomas where he said that --

25 A. Absolutely, yeah.

1 Q. Just I think you --

2 A. Smile.

3 Q. You are anticipating.

4 MR. COLE: Let him ask the questions.

5 BY MR. HEATH:

6 Q. It's easily done. It's easily done.

7 Do you specifically remember conversations with Bill
8 Thomas where he said to you words to the effect of, "After
9 I'm gone, you'll still be getting money from the
10 relationship I have with Bob Auxier"?

11 A. Yes.

12 Q. Okay. And you said he seemed pleased about
13 that, your father?

14 A. Yes.

15 Q. Do you think your father generally had a high
16 opinion of Bob Auxier from the early 2000s when they
17 entered into the contract until he passed away in
18 October 2009?

19 A. Yes.

20 Q. Do you have any reason to believe that Bill
21 Thomas was ever unhappy with Bob Auxier during that same
22 timeframe?

23 A. No.

24 Q. How about Violet Thomas, do you think she was --
25 she had a good opinion of Bob Auxier during that

1 timeframe?

2 A. Yes.

3 Q. And can you talk in a little bit more detail
4 about your understanding of the rights that your father
5 gave to BTM in terms of the cars that they could
6 manufacture? Do you remember anything about the number of
7 cars?

8 A. I remember -- I didn't know if it was ever going
9 to end. I know that the first 100 were supposed to go
10 down this way, and then I -- there was another 200 that
11 was supposed to; so it was going to go on way after dad
12 was gone.

13 Q. Okay. So when you say the first 100, does that
14 mean that you remember that BTM had the right to make 100
15 continuation Cheetahs?

16 A. Right.

17 Q. Okay. When I say "continuation Cheetah," I mean
18 a car that's based on your father's original design from
19 the 1960s.

20 A. Right.

21 Q. Okay. Do you know if BTM had the right to get
22 any kind of documentation from your father under -- under
23 the agreement that they had?

24 A. Documentation?

25 Q. Like certificates or letters or anything?

1 A. Yes.

2 Q. Okay. What do you know about that?

3 A. Well, that there were certificates for every
4 time Bob would sell one, then he was supposed to get a
5 certificate, and we were supposed to get \$3,000.

6 Q. So just so I understand, Bob would -- would get
7 a customer for a continuation Cheetah; right?

8 A. Right.

9 Q. And then he would ask your father for a -- for a
10 letter?

11 A. Right.

12 Q. And then he would pay 3,000 for that letter?

13 A. Right.

14 Q. And your father would give Bob the letter?

15 A. Right.

16 Q. Okay. Have you ever seen any of the -- the
17 letters?

18 A. Yes.

19 Q. Okay. If I use "letter" or "authentication
20 letter" or "certificate," we can agree I'm referring to
21 the same thing?

22 A. Okay.

23 Q. Okay. And that that is the letters that your
24 father provided to Bob; you understand that?

25 A. Right.

1 Q. Okay. When did you first see one of the
2 letters?

3 A. Early 2000.

4 Q. Did you see your father physically sign them?

5 A. Not that batch; but yes, I saw my dad physically
6 sign them.

7 Q. When you say "batch" -- "not that batch," are
8 you referring to the first 100?

9 A. Right. I didn't see any of that.

10 Q. Did your father tell you that he had signed one
11 to 100 from the first batch?

12 A. Yes.

13 Q. He didn't say "I've signed 75," but I haven't
14 signed 25 from the first 100?

15 A. No. "First 100 are done."

16 Q. Do you specifically remember your father saying
17 words like that?

18 A. Yes.

19 Q. "The first 100 are done"?

20 A. Right.

21 Q. Okay. Do you think it was generally understood
22 amongst the Thomas family that Bill Thomas had signed 100
23 letters?

24 A. I think so.

25 Q. Okay. Now, you mentioned first batch.

1 So is -- is there a second batch of letters that
2 you're aware of?

3 A. Yes. The second 200, but he didn't sign all of
4 those at once. You know, it -- that's when I say batches
5 because he would do a few and then, you know, I don't know
6 exact how many.

7 Q. Okay. Do you remember the first 100 being
8 numbered actually 1 through 100?

9 A. I can't swear that I know that for a fact.

10 Q. Okay. That's fine.

11 A. I heard it, that they were all numbered.

12 Q. Did your father tell you that the first 100 were
13 all numbered?

14 A. I'm not sure that he said that --

15 Q. Who did you --

16 A. -- they were all signed.

17 Q. Who did you hear it from?

18 A. My mom and dad.

19 Q. Who told you that the first 100 might have all
20 been numbered?

21 A. I hear everything from my mom and dad.

22 Q. Okay. What do you remember about the second
23 batch? Were you there when your father signed some of the
24 second batch?

25 A. Yes.

1 Q. Okay.

2 A. Yes.

3 Q. Where did that take place?

4 A. In my mom and dad's house at the kitchen table.

5 Q. Do you remember when that took place?

6 A. It was either -- I know because that's when my
7 husband went blind. It was 2008 and 2009.

8 Q. And your husband is Gary Baze; is that right?

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

10 Q. And that's the first I heard about his
11 condition. I'm sorry to hear that.

12 A. Thank you.

13 Q. Did you physically see -- Strike that.

14 In 2008 or 2009, did you physically see your father
15 sign some --

16 A. Yes.

17 Q. -- some certificates?

18 A. Yes.

19 Q. Do you remember seeing numbers on the
20 certificates that he was signing?

21 A. No. Huh-uh.

22 Q. Did your father say anything to you about these
23 additional certificates being the second batch or anything
24 like that?

25 A. Yeah, I'm sure.

1 Q. Did he say what he wanted to do with those after
2 he signed them?

3 A. Put them in the strongbox with the other ones.

4 Q. So it was your understanding that the
5 authentication letters were kept in some kind of
6 strongbox?

7 A. Right.

8 Q. Was that located at your father's home?

9 A. It was.

10 Q. Okay. Did he say whether he wanted to sell
11 those certificates to BTM as he had done with certain of
12 the other certificates?

13 A. He didn't say anything. No, I just assumed that
14 was going to go the way it had been going.

15 Q. All right. Before your father entered into the
16 contract with BTM, did he -- did he have any discussions
17 with you, sort of, during any negotiations he was having
18 with Bob Auxier or anything like that?

19 A. I'm not understanding.

20 Q. Do you know if -- You remember the contract
21 was -- Strike that. Excuse me.

22 You remember that BTM and your father entered into a
23 business relationship in the early 2000s; right?

24 A. Right.

25 Q. Before they entered into that agreement, did

1 Bill Thomas have any discussions with you about Robert
2 Auxier?

3 A. Yeah. Just that Bob would was interested in
4 building the Cheetahs and, yes.

5 Q. And you said your father seemed enthusiastic
6 about the prospect of going into business with Bob?

7 A. Yes.

8 Q. Do you know how many authentication letters BTM
9 received to date?

10 A. I think about 30, but I maybe just heard that.
11 I'm not sure.

12 Q. Were you present when Bill Thomas ever gave Bob
13 Auxier one of the certificates?

14 A. No.

15 Q. Okay. Do you know if BTM has made a \$3,000
16 payment for each letter it's received from your father?

17 A. From my father, yes.

18 Q. Do you have any reason to believe that BTM has
19 ever failed to make a \$3,000 payment for a letter?

20 A. No.

21 Q. Did your father ever say that he had concerns
22 about Bob Auxier's trustworthiness or anything like that?

23 A. No.

24 Q. Would you say that your father's opinion of Bob
25 Auxier was the complete opposite, and that he thought that

1 Bob Auxier was a trustworthy guy?

2 A. Yes.

3 Q. Do you have any reason to believe that BTM or
4 Bob Auxier did something under the agreement with your
5 father that they shouldn't have?

6 A. I don't believe that.

7 MR. HEATH: This is Exhibit 57, please.

8 (Deposition Exhibit 57 was marked for identification
9 by the court reporter.)

10 BY MR. HEATH:

11 Q. You're going to get a copy of this.

12 A. (Indicating.)

13 Q. Nickie, do you believe you've seen a document
14 like this before?

15 A. Yes.

16 Q. And you said that you saw your father in 2008 or
17 2009 signing some certificates at the kitchen table of his
18 home; right?

19 A. Right.

20 Q. Does this look like one of the documents he was
21 signing?

22 A. That's when I would have seen it, so yes.

23 Q. Okay. I'm not saying this particular document,
24 which is numbered 29, but was it a document like this that
25 you --

1 A. Yes.

2 Q. Okay. Who else was present in 2008 or 2009 when
3 your father was signing additional certificates?

4 A. My mom.

5 Q. Anybody else?

6 A. Bob and me.

7 Q. And you said that at least for your parents when
8 Robert Auxier came over, it was like a party or something
9 like that; is that right?

10 A. Uh-huh.

11 Q. So they were -- In your opinion, they were
12 always happy to see Bob when he came?

13 A. Always.

14 Q. Just to recap on your testimony, you said that
15 your understanding was that the letters would be kept in a
16 strongbox or something similar?

17 A. Right.

18 Q. And that strongbox was kept in your father's
19 house?

20 A. Right.

21 Q. Was there -- At some point, did that change?
22 Did the letters get provided to -- or did the strongbox
23 get given to somebody else?

24 A. Well, the house went down; so they went over to
25 Frank's.

1 Q. When you say the house went down, was the house
2 subject to some kind of repossession order?

3 A. Oh, no. Caltrans. The hill was undermined
4 and --

5 Q. Okay.

6 A. -- Caltrans had to take down that hill.

7 Q. Got it.

8 Do you remember when that was? Was it before or
9 after your father passed away?

10 A. It was after, I guess. So -- But 2009? '10,
11 maybe.

12 Q. After that situation with the house, Violet
13 Thomas went to live with Frank Thomas; is that right?

14 A. Right.

15 MR. COLE: Can we take a short break?

16 MR. HEATH: Sure.

17 VIDEO OPERATOR: Off video at 12:01 p.m.

18 (A recess is taken.)

19 VIDEO OPERATOR: Back on video at 12:04 p.m.

20 BY MR. HEATH:

21 Q. Nickie, I just would like to back up a little
22 bit.

23 You talked a little bit earlier about the procedure
24 where -- procedure is what I'll call it -- where Bob
25 Auxier would pay \$3,000 for a letter, and your father

1 would give him a letter. You remember that; right?

2 A. Yes.

3 Q. Do you ever remember Bob Auxier bringing a
4 Cheetah car that he made, and then your father personally
5 inspecting it before your father gave him a certificate?

6 A. Before?

7 Q. Let me rephrase.

8 Did your father ever tell you that Bob had to bring
9 him a car for inspection before your father would give Bob
10 a certificate?

11 A. I don't remember him ever saying that. But yes,
12 Bob did bring a Cheetah, and I don't -- I don't remember
13 dad saying anything that he had to see the Cheetah before,
14 but makes sense.

15 Q. But you don't remember your father saying that
16 he had to physically inspect the Cheetah before he would
17 give Bob a certificate; right?

18 A. Yes. I remember that being said, but I don't
19 know if -- I get confused. I don't know whether that was
20 the same day that the Cheetah came or -- he didn't really
21 discuss stuff with me. I would just hear it, you know --

22 Q. Okay.

23 A. -- so I don't know how to answer that exactly.

24 Q. Okay. Do you know where the -- other than
25 authentication letters that have been given to Bob, do you

1 know where the remaining authentication letters are today?

2 A. No.

3 Q. Where do you believe they might be?

4 A. Should be at Frank's house in the strongbox.

5 Q. Do you know if any of them are missing?

6 A. That's what I hear, but --

7 Q. What have you heard?

8 A. My brother Tom told me there was a handful
9 missing.

10 Q. Did Tom say why they might -- a handful might be
11 missing?

12 A. Yeah, he thought Bob got them.

13 Q. Did he say if the handful that were missing had
14 a number on them?

15 A. Yeah, I guess that's the 93 through 100 or -- I
16 don't know how many. Because if there is more than that
17 missing, depends on how big your hand is, I guess.

18 Q. But you -- But your discussion with Tom --
19 During your discussion with Tom, he said that he thought
20 that Bob Auxier had taken 93 to 100?

21 A. A handful.

22 Q. A handful. Sorry.

23 Was -- Did you feel like Tom was insinuating that Bob
24 Auxier had stolen them?

25 A. That's what he was insinuating, but it couldn't

1 be. If Frank was in charge, how could Bob got near them?

2 Q. Right. It didn't make sense to you?

3 A. So it didn't makes sense, and I told Tom this
4 doesn't make a bit of sense. Why would Bob steal his own
5 stuff?

6 Q. Did your father ever say to you that 93 to 100
7 were not signed?

8 A. No.

9 Q. Did he ever say --

10 A. The first 100 were signed.

11 Q. Okay. Sorry. I didn't mean to interrupt you.

12 You touched on this earlier, but I'd just like to ask
13 you a few follow-up questions.

14 Do you remember the last time that your father sold a
15 Cheetah that he manufactured?

16 A. Like in the '60s?

17 Q. You think it would have been in the '60s?

18 A. Yeah.

19 Q. Between that date, the '60s 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 Q. For all intents and purposes, say, between 1975
25 and 2001, do you believe the Cheetah business was

1 effectively dead?

2 A. Correct.

3 MR. HEATH: Given where I'm at, this might be a
4 good place to break.

5 MR. COLE: Okay.

6 VIDEO OPERATOR: Off video at 12:08 p.m.

7 (A lunch recess is taken.)

8 VIDEO OPERATOR: On video at 1:17 p.m.

9 MR. COLE: If I could, when we broke for lunch,
10 Nickie explained to me that she thinks she needs to
11 correct some prior testimony she gave with regard to the
12 Certificate of Authenticity and the issue of inspection of
13 the automobiles because she apparently misunderstood the
14 question. So she would like to clarify or correct her
15 answer.

16 BY MR. HEATH:

17 Q. Please.

18 A. I thought we were talking about that one car,
19 the first car in the driveway when you were asking me if
20 dad inspected it or whatever. I just didn't understand it
21 because, no, dad didn't inspect every car.

22 Q. Thank you.

23 And when you referenced the one car in the driveway,
24 do you -- do you believe that's the car that Bob Auxier
25 made before Bill Thomas and BTM entered into any kind of

1 business relationship?

2 A. Yes.

3 Q. Okay. As to the cars that BTM made under the
4 business relationship with your father, you don't know if
5 your father inspected any of those cars?

6 A. I don't know about any. I know my dad went over
7 there, but he wasn't -- he was trusting Bob to do it just
8 how they were all supposed to be done; but no, he didn't
9 go and inspect every one of them, no.

10 Q. Okay. Great. Thank you.

11 I wanted to ask: Towards the end of your father's
12 life, would you say a particular family member was more
13 responsible than others for caring for your father and
14 your mother in terms of their daily needs?

15 A. Me.

16 Q. Okay. What would you say your contact with --
17 Strike that. Sorry.

18 What would you say your contact was with your mother
19 and father during that period? Was it daily?

20 A. Yes.

21 Q. Okay.

22 A. Yes, I was with them three days a week and
23 talked with them probably three times a day on the
24 telephone.

25 Q. What sort of timeframe does that apply where you

1 had that kind of involvement?

2 A. Jeez. For probably last 25 years.

3 Q. Okay.

4 A. Probably all my life. But once they stopped
5 driving and everything, then it got, you know, they needed
6 me.

7 Q. When did they stop driving?

8 A. Probably 60 and 65.

9 MR. COLE: You are talking about their age?

10 THE WITNESS: Their age, yeah.

11 BY MR. HEATH:

12 Q. Do you remember, roughly, what year that would
13 have been?

14 A. No.

15 Q. You have a document in front of you that should
16 be marked 17 in the lower right.

17 Do you see that?

18 A. Uh-huh.

19 Q. Okay. So Exhibit 17 everyone, please, I think
20 you should --

21 MR. MUSIELSKI: You are going to use the same
22 exhibits as before?

23 MR. HEATH: Yes. It's the Authorization
24 Agreement. It's entitled, "Authorization Agreement."

25 THE WITNESS: (Indicating.)

1 BY MR. HEATH:

2 Q. Thank you.

3 I think as you are doing, please have a look at
4 Exhibit 17. Let me know when you've had a chance to do
5 so.

6 A. (Indicating.)

7 Q. Nickie, do you believe you've seen Exhibit 17
8 previously?

9 A. I'm not sure.

10 Q. Okay. Could you turn to the third page.

11 A. Uh-huh.

12 Q. Let me know if you recognize the signature.

13 A. Yes.

14 Q. Okay. Which signature do you recognize?

15 A. My dad's scribble.

16 Q. Okay. And is that located to the right of where
17 it states, "Bill Thomas member BTM LLC of Arizona"?

18 A. Right.

19 Q. Okay. To the right of that, you recognize your
20 father's signature?

21 A. Yes.

22 Q. With regard to this document itself, Exhibit 17,
23 you're not sure when the first time you saw this document
24 was?

25 A. I'm not sure.

1 Q. That's fine.

2 MR. HEATH: Exhibit 58, please.

3 (Deposition Exhibit 58 was marked for identification
4 by the court reporter.)

5 THE WITNESS: (Indicating.)

6 BY MR. HEATH:

7 Q. Do you have Exhibit 58 in front of you?

8 A. Yes.

9 Q. Okay. Do you believe you've seen this document
10 before?

11 A. Yes, I believe I was there and witnessed it,
12 the -- on '09, yep. This was in Gordon Lane, in the
13 hospital.

14 Q. I'm sorry. What did you say the name of the
15 hospital was?

16 A. Gordon Lane.

17 Q. Okay. And it's your recollection that you were
18 personally present when your father signed this document?

19 A. Correct.

20 Q. Okay. And you believe that happened around the
21 same time the document appears to be dated?

22 A. Correct.

23 Q. So in July 2009, is it correct that your father
24 no longer resided at home, but resided in the hospital?

25 A. Correct.

1 Q. Okay. Based on your recollection, what was your
2 father's health condition like in terms of his mental
3 capability when -- in July of 2009?

4 A. He was absolutely fine in the mind. He was good
5 in the mind until the day he died.

6 Q. Okay. Did you have any discussions with your
7 father at the time he signed this document about what this
8 document reflected or anything like that?

9 A. Yes.

10 Q. Okay.

11 A. I walked in, and it was dad and Bob, and dad was
12 sitting up, signing it.

13 And I said, you know, "What's this?"

14 And -- And he said, "This is about the book deal."

15 And I said, "Oh, cool, cool," you know.

16 Q. When you say he said, "This is about the book
17 deal," you mean your father?

18 A. My father, yeah.

19 Q. Did he seem happy that he signed this document?

20 A. Yes.

21 Q. And are you aware that there has been a claim
22 made in this lawsuit -- Strike that.

23 Are you aware that a claim has been made by other
24 members of your family that this document is a forgery?

25 A. They are wrong.

1 Q. Okay. And you are confident about that because
2 you -- you personally witnessed your father sign this
3 document?

4 A. Yes.

5 Q. And you had discussions with him at the same
6 time he signed it?

7 A. Yes.

8 Q. You can set that to one side. Thanks.
9 Are you familiar with the MacDonald family?

10 A. When I was a kid, yeah, I knew them.

11 Q. Did you know Dave MacDonald?

12 A. Yes.

13 Q. Who was Dave MacDonald?

14 A. He was a racecar driver for my dad.

15 Q. Okay. And I understand he passed away in the
16 1960s; is that right?

17 A. Right.

18 Q. Do you have any understanding as to whether your
19 father came into possession of any tapes relating to the
20 MacDonald family or Dave MacDonald?

21 A. I knew dad had them, but I don't know how he got
22 them or when or why.

23 Q. Did your father ever mention the MacDonald tapes
24 to you?

25 A. No.

1 Q. Do you have any knowledge as to whether your
2 father sold the MacDonald tapes to Ronald Auxier?

3 A. I didn't see it, but my mom told me.

4 Q. What did Violet Thomas tell you about that?

5 A. That there was \$1,100 that Bob gave him.

6 Q. So your mother told you that Bob Auxier gave
7 your father \$1,100 for the MacDonald tapes?

8 A. Yes.

9 Q. Okay. Did she say when that happened?

10 A. No. Well, no. I mean, she probably did, but I
11 can't remember when it was.

12 Q. Okay. Are you aware of a dispute between the
13 MacDonald family and Robert Auxier as to the ownership of
14 those tapes?

15 A. I don't know anything about it.

16 Q. Okay. Are you aware that in early 2013, Tom
17 Thomas told Robert Auxier that there would be no further
18 dealings between the Thomas family and BTM until the
19 MacDonald tapes were returned to the MacDonald family?

20 A. I knew about that, but not until January of '14.

21 Q. How did you become aware of that in
22 January 2014?

23 A. My brother told me.

24 Q. Which brother?

25 A. Tom.

1 Q. And when Tom told you that in January of 2014,
2 did you say to Tom words to the effect of, "Hey, Tom,
3 Violet Thomas told me that" --

4 A. Yes, I did.

5 Q. -- "that Robert Auxier bought them for \$1,100?"

6 A. Yes, I did.

7 Q. And what did Tom say when you said that?

8 A. He said, "It wasn't right," that they -- "The
9 MacDonald family needed their tapes. It belonged to them"
10 and...

11 Q. And did Tom Thomas indicate whether he disagreed
12 with you as to what you thought Violet Thomas had told
13 you?

14 A. Yes.

15 Q. Okay.

16 A. Well, he disagreed with we got to give 'em back
17 to the MacDonald family.

18 And my thing was, "Well, it's already done. I mean,
19 dad had them in the attic for all these years. They were
20 dad's property, and he sold them to Bob."

21 Q. Do you know if the MacDonald family ever claimed
22 that your father had stolen the tapes from the MacDonald
23 family?

24 A. I never have.

25 Q. Okay. Do you know an attorney by the name of

1 Jeffrey Van Hoosear? Is that familiar to you?

2 A. No.

3 Q. Do you believe -- I think it's fair to say he's
4 never represented you; right?

5 A. No.

6 Q. Okay. Are you aware of the phrase, cease and
7 desist letter? Have you heard that phrase?

8 A. Yes.

9 Q. Have you ever heard a member of your family
10 mention a cease and desist letter sent to Robert Auxier?

11 A. I'm not understanding that again.

12 Q. Okay. Do you have any knowledge as to whether
13 Tom Thomas tried to terminate --

14 A. Oh, yes.

15 Q. -- any relationship between the Thomas family
16 and BTM?

17 A. Yes.

18 Q. Okay. What do you know about that?

19 A. Actually, Tom came to my house wanting my
20 husband to do some screen printing about the Cheetah.

21 And my husband is the one that said, "We can't do
22 that. You know, that's -- Your dad gave all that to Bob,
23 and it's trademarked and, you know, I can't do it."

24 And Tom said, "Well, how can you do it for us? I
25 just want a little bit for family and friends."

1 And my husband said, "I can't do it unless you gave
2 Bob a cease and desist letter, I couldn't do anything."

3 And then Tom said that Carolyn was on it, but we
4 didn't do any screen printing because we didn't -- we
5 didn't want to get involved.

6 Q. When did that conversation with Tom Thomas take
7 place?

8 A. Oh, I'm not sure.

9 Q. Early 2013 maybe?

10 A. Yeah, it would be before I knew about it. Yeah,
11 early '13.

12 Q. Do you think it might have been before May 2013?

13 A. Yeah, I think so.

14 Q. So your best recollection is the early part of
15 2013?

16 A. Right.

17 Q. Okay. And just for the record, why did Tom
18 Thomas come to your husband to ask him to do screen
19 printing? Is that the --

20 A. Because that's what my dad had said that -- to
21 Bob, that he wanted Gary to be the screen printer.

22 So my brother Tom said, "Carolyn does not want Gary
23 involved in this, but I want to follow what dad said, and
24 Gary should be our screen printer."

25 And Gary said, "No, no, no. I'm Bob's screen

1 printer."

2 Q. So did you understand at the time of that
3 conversation, that your father had given Robert Auxier the
4 right to make certain merchandise relating to the Cheetah?

5 A. Yes.

6 Q. And that merchandise included items of clothing
7 and that sort of thing?

8 A. Yes.

9 Q. And your husband Gary was the guy that Bob
10 Auxier went to, to have that stuff made?

11 A. Yes.

12 Q. Okay. And were you physically present for this
13 conversation between Tom Thomas and Gary?

14 A. Yes.

15 Q. And effectively, Tom Thomas was told, "No, we
16 can't make" -- "We can't do the screen printing for you
17 because we feel we're obligated to do it just for Bob
18 Auxier"?

19 A. Right.

20 Q. Okay. Under the agreement that Bill Thomas
21 reached with Bob Auxier?

22 A. It's trademark. Yeah, we couldn't do it.

23 Q. Okay. And you said that your husband said to
24 Tom Thomas that he couldn't do anything unless Bob
25 received a cease and desist letter; is that right?

1 A. Right.

2 Q. And then Tom Thomas said, "Carolyn is on it" or
3 something?

4 A. Yeah, "Carolyn is on it."

5 Q. Did you have any more discussions with Tom
6 Thomas about what Carolyn was going to do to be on it?

7 A. No.

8 Q. Did Tom Thomas ever show you a draft of a cease
9 and desist letter that was going to be sent to Robert
10 Auxier?

11 A. No.

12 Q. Did he ever ask if he had your permission to
13 send a cease and desist letter?

14 A. No.

15 Q. Did you ever consider Tom Thomas to be sort of a
16 designated representative among the siblings when it came
17 to Cheetah-related business?

18 A. No.

19 Q. Okay. You're smiling in response to that.

20 A. No. Absolutely not.

21 Q. Do you think that Tom Thomas would have been a
22 suitable representative?

23 A. No.

24 Q. Why do you not believe that he would have been
25 suitable?

1 A. Well, I don't know how to say that. Because he
2 doesn't work very hard. He just talks a lot.

3 Q. Okay. So it's fair to say that you never gave
4 Tom Thomas permission to act on your behalf when it came
5 to Cheetah business?

6 A. No.

7 Q. Would you be surprised to learn that Tom Thomas
8 claims that he had the permission of all the siblings to
9 act on their behalf when it came to Cheetah business?

10 A. He's a liar.

11 Q. Okay. I take it, you've known Tom Thomas well
12 enough to form an opinion as to his ability to tell the
13 truth; right?

14 A. Right.

15 Q. And what's your opinion? Do you think he's a
16 truthful person?

17 A. No.

18 Q. Do you feel that you are able -- Do you have any
19 knowledge as to your father, Bill Thomas's opinion of Tom
20 Thomas?

21 A. Just about the same.

22 Q. So you think that Tom Thomas also thought that
23 Tom Thomas was not a truthful person? Strike that. I'm
24 sorry.

25 Do you think that Bill Thomas thought that Tom Thomas

1 was not a truthful person?

2 A. I believe that.

3 Q. Did Bill Thomas ever say anything to you about
4 Tom Thomas?

5 A. Yes. Throughout my life, yes.

6 Q. And what did he say about Tom's ability to tell
7 the truth?

8 A. I don't know. Probably something like "If his
9 lips are moving, he's lying" or something.

10 MR. MUSIELSKI: I'm going to move to strike.
11 The witness is guessing. We don't want any guesses. Only
12 if you know.

13 BY MR. HEATH:

14 Q. Let's clarify. Is that -- Do you recall Bill
15 Thomas saying something specifically to you about Tom
16 Thomas's character in terms of his ability to tell the
17 truth?

18 A. Yes.

19 Q. And what do you recall him specifically saying?

20 A. "Tom is a liar."

21 Q. Did Bill Thomas ever tell you that he felt that
22 Tom Thomas couldn't be trusted?

23 A. Yes.

24 Q. Did Violet Thomas ever say anything like that,
25 about Tom Thomas to you?

1 A. Yes.

2 Q. Now, we have established that you understand
3 that Robert Auxier and your father reached an agreement in
4 the early 2000s relating to the Cheetah?

5 A. Yes.

6 Q. Do you know how -- Did Tom Thomas ever express
7 any viewpoints about Robert Auxier to you during that
8 period, the early 2000s?

9 A. No. He was pretty excited that dad saw Bob.
10 That -- I guess Tom introduced the two of them, and Tom
11 was happy that, you know, dad entertained speaking with
12 Bob.

13 Q. Why is it do you think now that as of
14 apparently, early 2013, Tom Thomas no longer wants to do
15 any kind of business with Robert Auxier or BTM?

16 A. Because Tom wants to be the boss.

17 Q. Do you think Tom Thomas is envious of Robert
18 Auxier?

19 A. Yes.

20 Q. Do you think he's jealous of the relationship
21 that your father had with Bob Auxier?

22 A. Yes.

23 Q. Did Tom Thomas ever do or say anything that made
24 you think he was jealous of Robert Auxier?

25 A. Yes. But I can't remember exact things.

1 Q. Okay. Do you think that jealousy might be a
2 factor that's motivating him not to want to deal with BTM
3 anymore?

4 MR. MUSIELSKI: Objection. Speculation.

5 BY MR. HEATH:

6 Q. You can answer if you understand.

7 A. Yes.

8 Q. Do you agree with Tom Thomas's refusal to do
9 business with BTM?

10 A. No.

11 Q. Why do you not agree with that?

12 A. Because that -- My dad said it's Bob's, and he
13 specifically told -- He told me he wanted me to get
14 involved in this.

15 And I told him, "I don't have time. I don't want to.
16 As long as Carolyn and Tom are not involved, I'm good."

17 And he said, "Carolyn and Tom will never be
18 involved."

19 Q. You remember your father specifically saying
20 that he didn't want Tom Thomas and Carolyn Walters to be
21 involved in Cheetah business?

22 A. Yes.

23 Q. I might have touched on this. Just to recap,
24 it's fair to say that Tom Thomas never sought your
25 permission to terminate any relationship that the Thomas

1 family might have had with BTM?

2 A. Correct.

3 Q. In fact, if he had come to you and asked for
4 your permission, you wouldn't have given him permission;
5 right?

6 A. I would not have.

7 Q. Do you think that BTM should be allowed to
8 receive letters of authentication today?

9 A. Yes.

10 Q. Do you think -- Do you know of anything that BTM
11 did wrong --

12 A. No.

13 Q. -- towards the Thomas family?

14 A. No.

15 Q. In fact, isn't it fair to say that you think
16 that BTM has benefited the Thomas family in their dealings
17 with Bill Thomas?

18 A. Yes.

19 MR. HEATH: This has been previously marked as
20 Exhibit 25.

21 THE WITNESS: (Indicating.)

22 BY MR. HEATH:

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

24 A. Never seen this before.

25 Q. Okay. Are you familiar -- Do you use the

1 internet that much or --

2 A. Not at all.

3 Q. Okay. You see that this document is entitled,
4 "A letter from the Bill Thomas Family"; right?

5 A. I see it.

6 Q. Yeah. And it's fair to say you consider
7 yourself part of the Bill Thomas family?

8 A. Uh-huh.

9 Q. Did anybody show you a draft of this letter at
10 any point?

11 A. No.

12 Q. Did anybody seek your approval to create this
13 document?

14 A. No.

15 Q. I'd like to read into the record the third
16 paragraph; so if you could just follow along with me.

17 It reads as follows:

18 "With the excitement from this event, the Bill Thomas
19 family is taking over the reigns of the Bill Thomas Motors
20 company to bring the community a legitimate and strongly
21 backed leadership. It will be headed by me, Bill Thomas's
22 son, Bill Thomas. As we announced on September 12th,
23 2013, the Bill Thomas Family has ended any and all
24 connection with Robert Auxier and BTM LLC of Arizona."

25 Did I read that correctly?

1 A. Yeah.

2 Q. Okay. Do you agree with what I just read?

3 A. No.

4 Q. Okay. So you disagree that as of
5 September 2013, that you, being part of the Bill Thomas
6 family, you would agree to end any connection to Robert
7 Auxier or BTM?

8 A. Would not agree to end any relationship with
9 BTM.

10 Q. Do you agree that Tom Thomas will be able to
11 provide strongly backed leadership to any business
12 relating to the Cheetah?

13 A. No.

14 Q. Okay. Exhibit 52, please. That should be --
15 There you go.

16 A. (Indicating.)

17 Q. Nickie, do you think you have seen this document
18 before?

19 A. Not yet.

20 Q. Could you turn to the third page of the
21 document.

22 A. (Indicating.)

23 No, I haven't seen this.

24 Q. Okay. Are you on the third page of Exhibit 52?

25 A. Yes.

1 Q. Do you see -- Do you see your signature on this?

2 A. I do.

3 Q. Okay. Do you remember signing this document?

4 A. I never signed this. I never signed this.

5 I told you, I never signed this.

6 MR. COLE: That's okay.

7 THE WITNESS: That's my signature. That's my
8 handwriting. That's exactly my handwriting, and I never
9 saw this. I never signed this, John.

10 BY MR. HEATH:

11 Q. Other than to the extent that your attorney --
12 Strike that.

13 Do you believe you saw this document in
14 November 2013?

15 A. No.

16 Q. Okay.

17 A. What -- What they did -- Now I know what they
18 did. On this date Tom came to my house with a piece of
19 paper, had two letters on it -- two lines, and it said, "I
20 am one of six children." That was it. Nothing like this
21 (indicating).

22 Q. Okay.

23 A. They took my -- They probably -- That's the date
24 that Tom was at my house. That's my signature. I never
25 saw this paper before.

1 Q. Do you remember specifically Tom Thomas coming
2 to your house --

3 A. Yes.

4 Q. -- in November 11, 2013?

5 A. Yes.

6 Q. How did that meeting go? Did it go well? Or
7 not well? Or do you remember anything specific about it?

8 A. It was -- It was fine that day.

9 Q. When was the last time that Tom Thomas came to
10 your house?

11 A. I have to think about that for a minute. I
12 threw him out as soon as I found out all this was
13 happening.

14 Q. Within the last six months of the last year?

15 A. No. Like the year, about -- Oh, it was
16 January '13.

17 Q. January 2013 or 2014, do you think?

18 A. Oh, '14. Sorry. This is '15. Okay. '14.

19 Q. I forget as well.

20 So you think the last time that Tom Thomas came to
21 your house was in January 2014?

22 A. Right.

23 Q. And you said you threw him out?

24 A. Yes.

25 Q. Why did you do that?

1 A. Because of all this. Because he told me what --
2 that they already done this, they already started it, they
3 didn't ask our permission.

4 I called the other three -- or the other two -- to
5 ask if they knew anything about it.

6 They didn't know anything about it. Our siblings
7 were crooking us, and I knew what was going on.

8 First of all, if they didn't like us, they
9 disrespected my father. This is not how my father wanted
10 it. He never wanted Tom or Carolyn to have anything to do
11 with the business, and I never signed this. I never saw
12 this paper. I would have never signed anything like this.

13 Q. Understood.

14 When you say "the other two," are you referring to
15 John Thomas and Barbara Thomas --

16 A. Right.

17 Q. -- you call it the other two? Okay.

18 A. And Tom told me I'm not allowed to speak to the
19 other two. Tom said, "He's going to handle me, and Frank
20 is going to handle John, and Carolyn is going to handle
21 Barbara, and we're not to speak."

22 So immediately I got on the phone and called them.

23 Q. And that was -- You got on the phone to call
24 them after you asked Tom Thomas to leave?

25 A. Right. That was in January. Yep. That's the

1 first I heard about any of this.

2 Q. And so was it during that conversation that Tom
3 Thomas explained to you that he had already terminated any
4 relationship the Thomas family had with BTM?

5 A. I don't know if that -- I don't know if we
6 discussed that at that time. I don't know.

7 Q. Okay. But you told him -- Is it true that you
8 made it clear to him in January 2014 that he did not have
9 your permission to -- to the extent it was required, to
10 terminate the relationship with BTM?

11 A. Right. I told him I'm not -- No, I'm not in
12 agreement with -- with those guys at all.

13 MR. COLE: Could I ask a couple questions?

14 MR. HEATH: Please.

15

16 -EXAMINATION-

17 BY MR. COLE:

18 Q. Regarding the third page of Exhibit --

19 MR. HEATH: 52.

20 BY MR. COLE:

21 Q. -- 52 that you have been shown, you indicated
22 that was your signature.

23 When -- You indicated that there was a document that
24 you did sign.

25 A. Right.

1 Q. Could you describe your understanding of what
2 that document was?

3 A. It was stupid. There was no heading up here.
4 It was just two printed lines, and it said, "I am
5 one-sixth heir to Bill Thomas."

6 That was it. That was it. You saw it too.

7 Did you sign anything like this?

8 MR. COLE: You can't have a conversation with
9 him.

10 THE WITNESS: Sorry.

11 BY MR. COLE:

12 Q. And that document you did sign?

13 A. That one I signed because all it said I was one
14 of dad's kids. That was it. Had nothing to do with
15 crooken [sic] Bob or nothing to do with -- I was weary of
16 it. I called John right away and said, "What is this
17 thing? What are those -- my other siblings up to?"

18 You know, what are they -- This is what they are
19 going to do with it.

20

21 -EXAMINATION-

22

23 BY MR. HEATH:

24 Q. What did John say when you --

25 A. John said, "It was generic. It was no big deal.

1 We're in no trouble."

2 Q. And the document that you recall signing that
3 just had two printed lines, do you have a copy of that
4 today?

5 A. No. They never gave me a copy of it. Huh-uh.

6 Q. So you gave it back to Tom after you signed it?

7 A. Right.

8 Q. And you've never seen it since?

9 A. Never seen it since.

10 But they got my signature.

11 MR. COLE: Could we take a short break?

12 MR. HEATH: Sure.

13 VIDEO OPERATOR: Off the video 1:49 p.m.

14 (A recess is taken.)

15 VIDEO OPERATOR: Back on video at 1:57 p.m.

16 BY MR. HEATH:

17 Q. Nickie, you should have a document in front of
18 you that's Exhibit 27. It should say on the upper-left
19 "LLC-1."

20 A. Right.

21 Q. It's a two-page document?

22 A. Yes.

23 Q. Okay. Great.

24 Do you believe you've seen Exhibit 27 before, either
25 of the pages?

1 A. No.

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

4 A. No.

5 Q. Have you ever -- Is today the first time you --
6 you heard that name, Bill Thomas Motors, LLC?

7 A. No. No. I've heard about it recently, you
8 know.

9 Q. When was the first time you heard about it?

10 A. Oh, I think I read it in some papers or some
11 email or something.

12 Q. Could that have been an email from --
13 (Simultaneous speaking.)

14 THE REPORTER: I'm sorry. I didn't hear the
15 question.

16 BY MR. HEATH:

17 Q. Could that have been an email from Jarrod,
18 J-a-r-r-o-d, Walters?

19 A. That was it.

20 Q. Okay. Do you remember if that email was dated
21 January 2015?

22 A. I think so.

23 Q. Okay. So prior to January 2015, you don't
24 believe you were aware of Bill Thomas Motors, LLC?

25 A. No.

1 Q. Did Tom Thomas ever tell you that he wanted to
2 start a company relating to the Cheetah business?

3 A. Yeah. He thought he should have got the whole
4 thing. He thought dad should have gave it to him all his
5 life. But for him to say he is starting something on his
6 own, he didn't discuss that with me, but we may not have
7 been talking by then.

8 Q. Okay. So it's fair to say no one -- no one has
9 ever told you -- Strike that.

10 No one asked you to be an owner of Bill Thomas
11 Motors, LLC?

12 A. No.

13 Q. No one told you that they formed Bill Thomas
14 Motors, LLC with a view to giving you a one-sixth share of
15 the company or anything like that?

16 A. No.

17 Q. Can you turn to the second page of Exhibit 27,
18 please.

19 A. (Indicating.)

20 Q. If you see towards the bottom, it says, "Type of
21 Business," do you see that?

22 A. Yes.

23 Q. And then underneath that it says, "Describe the
24 type of business of the limited liability company."

25 Do you see that?

1 A. Yes.

2 Q. And below that it says, "Control and Use of Bill
3 Thomas's IP and Rights regarding the Bill Thomas Cheetah."
4 Do you see that?

5 A. Yes.

6 Q. Do you have any knowledge as to who owned Bill
7 Thomas Motors, LLC?

8 A. It says here Tom and Carolyn and my nephew
9 Jarrod.

10 Q. But other than what you are reading in this
11 document, you didn't have any independent knowledge?

12 A. No.

13 Q. And you didn't give Jarrod Walters, Tom Thomas,
14 or Carolyn Walters permission to form a company that would
15 ostensibly own intellectual property and rights relating
16 to the Cheetah?

17 A. No.

18 Q. Your father passed away in October of 2009; is
19 that right?

20 A. Right.

21 Q. And do you remember Robert Auxier attending a
22 memorial service --

23 A. Yes.

24 Q. -- after that?

25 Was that held and parted at the family residence?

1 A. It was -- No. It was at the cemetery.

2 Q. And after the memorial at the cemetery, did
3 people go to Violet Thomas's house after that?

4 A. People did.

5 Q. Do you remember Robert Auxier going?

6 A. I -- I did not go, so I don't know who all went.

7 Q. Okay. Did Violet Thomas ever tell you at any
8 point after your father's death, that she allowed Robert
9 Auxier to take possessions from the -- from the family
10 home as memorabilia or anything like that?

11 A. Yes. She was begging him to get it out of
12 there. The house was coming down. They had to get rid of
13 everything.

14 She asked my brother Tom repeatedly and repeatedly,
15 but he's lazy, and then she started asking Bob.

16 Q. And did she tell you that she allowed Bob Auxier
17 to take Cheetah memorabilia from the house?

18 A. She didn't tell me specifically this or that or
19 that; but yes, she wanted it all out of there.

20 In fact, she told me to get up in my own attic and
21 find all the memorabilia and stuff that I had collected as
22 a kid, and give it to Bob because he's going to make a
23 museum and write a book and all that.

24 And I told her, "No."

25 Q. Okay. You wanted to keep --

1 A. I kept it.

2 Q. Sure.

3 But it certainly seemed, based on that conversation,
4 that Violet Thomas was fine with the idea of memorabilia
5 being given to Bob Auxier?

6 A. Yes.

7 Q. Do you think your brother -- Excuse me.

8 Do you think your father would be proud of the way
9 that Tom Thomas, Carolyn Walters, and Frank Thomas have
10 dealt with BTM since his death?

11 MR. MUSIELSKI: Objection. Speculation.

12 BY MR. HEATH:

13 Q. You can answer.

14 A. Absolutely not.

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

17 A. That he may what?

18 Q. Do you have any knowledge about a child support
19 obligation relating to Tom Thomas?

20 A. Yes.

21 Q. Okay. What do you know about that? Does Tom
22 Thomas owe someone a lot of money based on child support?

23 A. Yeah, I guess. He didn't pay for his
24 daughter --

25 MR. MUSIELSKI: I will object and move to strike

1 as speculation.

2 BY MR. HEATH:

3 Q. Is that based on something Tom Thomas told you
4 or have you seen a document or --

5 A. I don't think Tom said it, but everybody else
6 knew it. My mom and dad knew it and were ashamed of it,
7 and Frank knew it and --

8 MR. MUSIELSKI: Going to object. Move to strike
9 as nonresponsive and speculation.

10 BY MR. HEATH:

11 Q. I don't want to get into specific amounts here,
12 but I understand that after your mother passed away, the
13 six siblings each received funds from her estate; is that
14 right?

15 A. Right.

16 Q. And are you aware that -- Strike that.

17 Did you receive your funds through a single check?
18 Do you recall?

19 A. No.

20 Q. You don't -- Are you saying "No," you didn't
21 receive it through a single check or you just don't
22 remember how you received any funds?

23 A. Ask me the question and again, please.

24 Q. When Violet Thomas passed away --

25 A. Okay. When Violet Thomas passed away. Okay.

1 Then, yes, I got it.

2 Q. Did -- And did you receive your share of her
3 estate through a single check or multiple checks? Do you
4 remember?

5 A. It was multiple checks. It was -- Kept coming.

6 Q. Okay. Do you understand that Robert Auxier
7 claims that in November 2014, he received a threatening
8 phone call in Arizona?

9 A. Yes, I heard.

10 Q. Do you have any independent knowledge about that
11 in terms of has any family member spoken to you about
12 that?

13 A. No. I don't talk to them and -- No.

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

15 A. I know now.

16 Q. Okay. Do you understand whether Tom Thomas ever
17 received any money from Carrera?

18 A. If he did, he didn't give me one-sixth.

19 Q. You second-guessed my next question.

20 So you never received any money from Tom Thomas --

21 A. No.

22 Q. -- that he -- Okay.

23 Just to be clear, you never received any money from
24 Tom Thomas that you understand represents a portion of any
25 funds he received from Carrera?

1 A. Not a dime.

2 Q. When did you first become aware that Tom Thomas
3 might have received money from Carrera?

4 A. When he brought me -- might have been this
5 November date where they say I signed this paper I didn't.
6 He brought me over some models. He brought me over the
7 slot cars.

8 Q. And around November 2013, you think?

9 A. Yes.

10 Q. And did he -- Did you understand at that time
11 that Tom Thomas had a business relationship with Carrera?

12 A. Something like that, yeah, that he was starting
13 it, and this is -- giving us this and that, and same time
14 I think that paper was signed and all that, but I didn't
15 know it had anything to do with -- with, you know, what
16 dad already put down for Bob. I thought Tom was doing
17 this on his own.

18 Q. Did you think that Tom's dealings with Carrera
19 had anything to do with the Cheetah?

20 A. Did I think Tom had anything to do with the --
21 Carrera for the Cheetah? Of course.

22 Q. Do you think Tom's relationship with Carrera had
23 anything to do with the Cheetah?

24 A. Yes.

25 Q. Okay. And did Tom tell you in November or

1 December of 2013 that he received money from Carrera?

2 A. No. Never told me he received any money.

3 Q. Did he ever tell you that at any point in time?

4 A. Never.

5 Q. Okay. Are you familiar with an individual
6 called Mack Lee?

7 A. No.

8 Q. Or a company called Ixzibit Motors?

9 A. No.

10 Q. At any point in 2013, did -- Strike that.

11 In 2013, did Tom Thomas ever tell you that he was
12 working on a Cheetah car or finishing a Cheetah car for
13 someone?

14 A. I don't think so. I think he -- He asked me if
15 I wanted to build a Cheetah, we're going to build it in my
16 room -- my garage, and I just had to come up with 30,000,
17 and he's got a car that he can buy, and then we can
18 restore it.

19 Q. When did you have that discussion with Tom
20 Thomas about that?

21 A. It was in January '14; right? '14. Because I
22 only talked with Tom two days. I don't know which day it
23 happened but, you know, of course I told him, "No." I
24 think my exact words were, "There has only been one car in
25 that driveway in 44 years" -- or in that garage. I don't

1 use my garage as a garage.

2 Q. Okay. But he approached you in January 2014 and
3 asked you if you were interested in building a Cheetah
4 with him?

5 A. Right. Right.

6 Q. And the work would take place in your garage?

7 A. Yes.

8 Q. And he asked for \$30,000 --

9 A. Right.

10 Q. -- towards that project?

11 A. Right.

12 Q. And Tom Thomas asked you if you were interested
13 in contributing \$30,000 towards that?

14 A. Yes.

15 Q. Okay. Did he say where he was getting the
16 Cheetah from?

17 A. Yes, he probably did, but I didn't listen.

18 Q. Okay. Have you heard of a company called Ruth
19 Engineering?

20 A. I've heard of them now.

21 Q. Were you aware of them, do you think, in 2013?

22 A. No. That's when I wasn't aware of everything.

23 Q. Did Tom Thomas ever tell you he had a business
24 relationship of any kind --

25 A. Yes.

1 Q. -- with Ruth?

2 A. Yes. That he was having a business relationship
3 with Ruth.

4 Q. When did he tell you that?

5 A. It had to have been in January because that's
6 the only time he was there.

7 Q. January 2014?

8 A. Yes.

9 Q. Did he tell you that he ever received money from
10 Ruth Engineering?

11 A. No.

12 Q. What did he say -- What kind of business
13 relationship did he say he had with Ruth Engineering?

14 A. Building Cheetahs. I think that's when he said
15 that he's going to take it away from Bob and -- and deal
16 with Ruth Engineering, and he was taking over and...

17 Q. So you understood -- Strike that.

18 Tom Thomas told you that he wanted to take away the
19 Cheetah business from Bob; and instead, Tom Thomas was
20 going to work with Ruth Engineering?

21 A. Yes.

22 Q. What did you say in response to that?

23 A. That's the day I threw him out of my house.

24 Q. So you weren't happy with him when he said that?

25 A. No.

1 This is undermining everything my father put down,
2 you know, and we knew that dad didn't want Tom and Carolyn
3 to have anything to do with the business.

4 Q. Do you have any knowledge about a picture of a
5 red Cheetah in front of a Chevrolet dealership?

6 A. Yes.

7 Q. That was something that your father owned during
8 his lifetime?

9 A. Yes.

10 Q. Was that something he kept at his residence?

11 A. Yes.

12 Q. Do you know if Bill Thomas said prior to his
13 death, who that -- to whom the picture of the Cheetah
14 should be given?

15 A. Yes.

16 Q. Who -- What did he say about that?

17 A. Bob.

18 Q. He said that to you personally?

19 A. No. My mom told me personally.

20 Q. Violet Thomas told you that Bill Thomas had said
21 the picture of the Super Cheetah should be given to Bob
22 Auxier?

23 A. Right.

24 She said, "Your dad gave this picture to Bob."

25 And I said, "Why? Because I thought dad's getting

1 rid of stuff. I'll take it."

2 And she said, "Yeah, and Tom and Carolyn are
3 furious."

4 And then I said, "Okay. Then it's fine."

5 Q. Do you know whether -- Do you know if there was
6 one copy of that?

7 A. I think there is two. I think there is one at
8 Carolyn's and one at Frank's.

9 Q. Okay. And it's your understanding that your
10 father -- Based on a conversation you had with Violet
11 Thomas, it's your understanding that your father wanted
12 Bob Auxier to have at least one of those?

13 A. Yes.

14 Q. Did Bill Thomas ever claim to you that he was an
15 owner in BTM?

16 A. My father?

17 Q. Uh-huh.

18 A. No. He didn't say that he was an owner, but I
19 knew he had something to do with it because one day he was
20 signing a letter saying that no more, that he wasn't
21 involved in Bob's business anymore.

22 Q. Do you remember when you saw him sign that
23 letter?

24 A. He was at home, and he was still alive, but I
25 don't remember what year.

1 Q. Do you remember that Bill Thomas and BTM signed
2 an agreement in December 2001; right?

3 A. Yes.

4 Q. Do you think it was within a couple years of
5 that?

6 A. Oh, maybe. I'm not sure.

7 Q. That's all right.

8 Did Violet Thomas ever claim to you, after your
9 father passed away, that she had any kind of ownership
10 interest in BTM?

11 A. No.

12 Q. Do you believe that you hold an ownership
13 interest in BTM today?

14 A. No.

15 MR. HEATH: Okay. Can we take just a break for
16 a couple minutes?

17 MR. COLE: You bet.

18 VIDEO OPERATOR: Off video at 2:13 p.m.

19 (A recess is taken.)

20 VIDEO OPERATOR: Back on video 2:18 p.m.

21 MR. HEATH: Just for the record, Nickie, thanks
22 ever so much for your time. I don't have any further
23 questions.

24

25 (Continued on following page.)

1 -EXAMINATION-

2

3 BY MR. MUSIELSKI:

4 Q. I have some questions.

5 A. Cool.

6 Q. Hi. I'm many Peter Musielski. I have some
7 questions for you.

8 When your mom asked you to go up in the attic and get
9 some of the, I guess, keepsakes from the Cheetah period
10 that your dad was working on --

11 A. Right.

12 Q. -- and she wanted you to give those to Bob, you
13 kept those?

14 A. Right.

15 Q. Do you feel that they are owed to Bob
16 now that --

17 A. Absolutely not.

18 MR. COLE: Let him finish.

19 THE WITNESS: Okay.

20 BY MR. MUSIELSKI:

21 Q. Do you think when your mom said to give one of
22 the pictures of the red Super Cheetah to Bob, and because
23 your brother and sister kept those, that they did
24 something wrong?

25 A. Yes.

1 Q. Okay. And what is the difference between your
2 mom telling you to give the items in the attic to Bob and
3 you keeping those, and then your brother and sister
4 keeping the red Cheetah picture?

5 A. Because Bob told me I didn't have to get up in
6 the attic and get 'em. He said he has enough.

7 Q. Okay. So it wasn't your mom doing that; you had
8 to get authority -- authorization from Bob not to give him
9 those items? Is that what happened?

10 A. My dad gave the picture to Bob, and those two
11 siblings came in and changed it.

12 The conversation between my mom and me and Bob was,
13 "You got stuff in the attic that I collected as a kid."

14 And she said, "Why don't you give all that to Bob
15 because he's going to make a museum. He's going to write
16 a book. You know, it would benefit Bob."

17 And I said, "No. Those are mine and no."

18 And Bob said, "I don't need them." He said, "You
19 keep your stuff, Nickie. I don't need them."

20 Q. So Bob was present at the time --

21 A. Yes.

22 Q. -- your mom was telling you that?

23 A. Yes.

24 Q. Was anybody else present?

25 A. I don't know.

1 Q. Okay. Was that before or after the funeral for
2 your mom?

3 A. Mom would talk to me after she's dead?

4 Q. I'm sorry. I withdraw that. That's a really
5 idiotic question for me.

6 I meant after the funeral of your dad.

7 A. No. No. My dad was there too. My dad was
8 there too.

9 Q. Okay. Did he say anything about the pictures
10 going to Bob?

11 A. The picture that he sent to Bob? Or are we
12 talking about the stuff in my attic?

13 Q. I'm speaking of the red Super Cheetah picture
14 that's hanging on the wall.

15 A. No. Dad was in the hospital. Mom told me that
16 at their house.

17 Q. Okay. How long was your dad in the hospital
18 for?

19 A. Three-and-a-half months. Or three months and 11
20 days.

21 Q. What was he in the hospital for?

22 A. He had three strokes, and he was 88 years old.

23 Q. Okay. And when your dad signed the Exhibit 58,
24 the Book Agreement --

25 A. Right.

1 Q. -- was that before or after his strokes?

2 A. It would be after. He was in the hospital.

3 Q. Okay. And you said he was alert at the time
4 that he signed this?

5 A. Yes.

6 Q. Did you read this before he signed it?

7 A. No, I didn't.

8 Q. Were you present before he signed it?

9 A. I was present, but I wasn't -- I didn't read it.

10 Q. Who was --

11 A. My dad was not -- My dad's brain was good until
12 the day he died.

13 Q. Okay. Who was present when you're in the room
14 with him, and he signed the Book Agreement?

15 A. Bob and me and my dad.

16 Q. Okay. Did you arrive at your dad's hospital
17 room before or after Bob arrived at your dad's?

18 A. Bob was there first.

19 Q. Okay. Do you know how long he was there first?

20 A. No.

21 Q. Okay. Do you know how long after you arrived
22 that he signed exhibit -- your dad signed Exhibit 58?

23 A. As I was walking in the door, he was signing.
24 He wasn't waiting for me. I just happened to walk in.

25 Q. Did you have a discussion with your dad after

1 you signed Exhibit 58?

2 A. My dad was pleased that, you know, Bob was doing
3 this. Not that my dad thought he needed the recognition,
4 but he thought it was nice for -- for us kids.

5 Q. Did you take a look at Exhibit 58 after he
6 signed it?

7 A. I don't think I did.

8 Q. Okay. Did you have any conversation with your
9 dad what was going to be his compensation for the book?

10 A. No, I didn't have any conversation with him.

11 Q. Did you have any conversation with your dad as
12 to how long he gave Bob to publish the book?

13 A. No.

14 Q. Okay. And do you know if you were supposed to
15 receive compensation if Mr. Auxier publishes a book
16 pertaining to the Bill Thomas Cheetah or the Bill Thomas
17 racecars?

18 A. I don't know any of that either.

19 Q. Do you know if Mr. Auxier has any book rights
20 for the publication of Bill Thomas's relationship with
21 Chevrolet?

22 A. I don't know.

23 Q. Or any other subject that may be related to Bill
24 Thomas's name?

25 A. Don't know.

1 Q. And in regard to the Book Agreement, has a book
2 been published?

3 A. I don't know.

4 Q. So this was entered into on July 10th, 2009?

5 A. Yes.

6 Q. Okay. And as far as you know, there has been no
7 book published pursuant to Exhibit 58?

8 A. No, I don't know.

9 Q. Prior to coming here today to give your
10 testimony, were you ever told that you're going to be sued
11 by Mr. Auxier or BTM LLC?

12 A. No.

13 Q. Okay. Were you sued by them?

14 A. No.

15 Q. Were you contacted by Mr. Auxier or BTM in
16 regards to giving testimony on their behalf in regards to
17 the litigation against your brothers and sister?

18 A. I don't know if he called me or I called him.

19 Q. Okay. And when would that be?

20 A. Ever since I found out about this.

21 Q. Okay. And when was that?

22 A. January of '14.

23 Q. And was -- The initial contact was by telephone?

24 A. It was by email. Bob sent my husband an email
25 saying, "What's wrong with the Thomas family? I have been

1 trying to talk to your mom. Frank and Tom won't let me
2 talk with her. I'm trying to -- Five certificates I want
3 to buy. I want to know where to send the money or if I
4 should drive it over."

5 And that's when I called Bob and said, "What are you
6 talking about?"

7 Q. Okay. And --

8 A. And that's when I found out all this.

9 Q. And did you tell him to come on over and get the
10 certificates?

11 A. How could I? I didn't have them. Frank did.

12 Q. Okay. Did you tell him that Frank had them?

13 A. Probably. Told you that Frank had them.

14 Q. And did you tell him that you'll talk to Frank
15 to get the certificates?

16 A. No. Frank is a crook on the other side.

17 Q. Okay.

18 A. I could talk until I'm blue in the face, I'm not
19 going to change them.

20 Q. Okay. Did Frank do any work on behalf of your
21 mom and dad?

22 A. Did he -- My mom --

23 MR. COLE: Vague and ambiguous.

24 BY MR. MUSIELSKI:

25 Q. Did Frank maintain any financial accounting for

1 your mom or dad?

2 A. I think so, but I don't know.

3 Q. Did you ever advise your dad not to have Frank
4 do any accounting for him because he was a crook?

5 A. No.

6 Q. Was there any reason --

7 A. He -- Frank wasn't a crook at that time.

8 Q. Okay. When did he become a crook?

9 A. When Tom and Carolyn conned him into withholding
10 certificates.

11 Q. And that would be in 2014?

12 A. Or May '13, whatever.

13 Q. Okay. So prior to that time, did you believe
14 and understand that Frank was an honest person?

15 A. Yes.

16 Q. Okay.

17 A. Frank worked for me for 20 years. Frank was an
18 honest person.

19 Q. Okay. And you trusted him when he worked for
20 you?

21 A. Yes.

22 Q. And in regards to Frank, if he had testified
23 that he never made a deposit for \$1,100 for the sale of
24 the MacDonald films on behalf of your dad, would you
25 believe that would be an honest statement by him?

1 A. I think they didn't -- wouldn't put it in the
2 bank, and I think Frank gave it right to mom. No,
3 actually, Bob, you handed it to mom is what I think I
4 heard from mom.

5 Q. Okay. But you were not present?

6 A. I was not present, but I heard it later but --

7 Q. Did you hear if there is any written agreement
8 in regards to the transfer of the MacDonald films to
9 Mr. Auxier?

10 A. Could you say that again?

11 Q. Do you know if there was any written
12 agreement --

13 A. No.

14 Q. -- in regard to the transfer of the -- the
15 MacDonald films to Auxier?

16 A. I wouldn't think there would be anything
17 written.

18 Q. Okay. There is -- You didn't hear about any
19 type of a License Agreement being transferred with the
20 films to Mr. Auxier?

21 MR. COLE: Going to object. Calls for a legal
22 conclusion.

23 But I'll allow you to answer if you understand the
24 question.

25 THE WITNESS: I didn't understand it.

1 BY MR. MUSIELSKI:

2 Q. Okay. Let me put it this way: If somebody buys
3 a movie, say the movie "Frozen," do you understand that
4 that person who buys the movie "Frozen" to watch it on
5 their TV, can put it on a website and sell it for money
6 themselves? Or would it be a type of situation where
7 they'd have to get authority by the owner of the -- the
8 rights to the movie "Frozen"?

9 MR. COLE: I'm going to object. Incomplete
10 hypothetical. Calls for a legal conclusion.

11 If you understand the question, you think you can
12 answer it, you can go ahead.

13 THE WITNESS: I didn't understand the question.

14 BY MR. MUSIELSKI:

15 Q. Okay. But as far as you know, there has been no
16 agreement for Mr. Auxier to republish any of the MacDonald
17 films for profit; is that correct?

18 A. I don't know anything like that, no.

19 Q. Okay. Now, you said your dad did inspect some
20 Cheetahs from time to time; correct?

21 A. I don't know what he did when he went over there
22 at Bob's. That's just, I guess, I'm assuming.

23 Q. Okay.

24 A. I didn't see it, and he didn't -- didn't
25 specifically tell me, so...

1 Q. And when you say he went over there, your dad
2 went to Arizona --

3 A. Right.

4 Q. -- to Bob's place?

5 A. Right.

6 Q. Do you know on how many occasions he did that?

7 A. I know for sure one, maybe two. I'm not sure.

8 Q. Did you ever witness your father giving a
9 certificate to Bob, and Bob giving your father a check?

10 A. No.

11 Q. So you were never present at any time there was
12 an exchange of the certificates or compensation for those
13 certificates to your dad?

14 A. Correct.

15 Q. Now, I believe you stated that your dad said you
16 were even going to be getting money even after he passed
17 away.

18 A. Right.

19 Q. When did he make that statement?

20 A. Sitting at the kitchen table. Maybe it was one
21 of the times that Bob had just left. Maybe it was after
22 the signing. I don't know exactly what day it was.

23 But dad thought that was pretty cool, that even after
24 he was gone, we'd be getting money.

25 Q. And did he tell you how you'd be getting money?

1 A. No. Because immediately I stopped and told him,
2 "I don't care anything about your money, dad. I just love
3 you," so I didn't get into that.

4 Q. How long before he died did he make that
5 statement to you?

6 A. I don't know.

7 Q. And in regards to sitting at the kitchen table,
8 you said he was signing certificates?

9 A. Yeah. Not that same day maybe or maybe later.

10 Q. Okay. Was it within a few days?

11 A. I don't know. This was years ago.

12 Q. Okay.

13 A. Don't know exactly.

14 Q. You're not sure he signed any certificates while
15 at the kitchen table?

16 MR. HEATH: Objection. Foundation. Misstates
17 testimony.

18 THE WITNESS: I said I saw him signing
19 certificates at the kitchen table.

20 BY MR. MUSIELSKI:

21 Q. Okay.

22 A. Okay.

23 Q. And -- Well, you're just not sure when that
24 occurred?

25 A. I told you -- I told him -- it was between the

1 end of 2008 and the beginning of 2009.

2 Q. Okay. Was it before or after he had any of his
3 strokes?

4 A. When he was signing them at home?

5 Q. Correct.

6 A. It was before.

7 Q. Okay. And I believe you identified the
8 certificate of -- likeness of the certificate as
9 Exhibit 57?

10 A. Yes.

11 Q. Okay. When your dad was signing those
12 certificates, did you read the certificates?

13 A. No.

14 Q. Did you observe any of the printing on the
15 certificates?

16 A. No.

17 The printing on the certificates...

18 Q. Correct. Any of the printing or the hand
19 printing on the certificates, such as the numbers or
20 specifically your dad's signature?

21 A. I don't exactly know what you're trying to get.

22 Q. I'm just wondering when you saw your dad signing
23 the certificates, did you --

24 A. Did I go look at the number? No.

25 Q. Yeah, or actually look at the certificate.

1 A. Yeah.

2 Q. Okay. Now you saw --

3 A. They were sitting at a table like this, and they
4 were signing it. I saw the certificate, but I didn't come
5 over there, and say, "Let me see that, dad."

6 No, I didn't do that.

7 Q. Okay. Do you know how many certificates were
8 there on the table?

9 A. I think that day he said he signed 20.

10 Q. Twenty.

11 Was it his practice never to sign 100 at one time?

12 A. He did sign 100 the first time.

13 Q. Okay.

14 A. All 100.

15 Q. Now, you're taking that because your dad told
16 you; correct?

17 A. Correct.

18 Q. Okay. And he told you how long before you saw
19 him sitting at the table signing these other certificates?

20 A. Years. Probably, six years. Five years, six
21 years. I don't know.

22 Q. Okay. And do you know how your dad got these
23 certificates?

24 A. I think Bob brought them to him.

25 Q. Okay. Your dad didn't have them printed up, did

1 he?

2 A. No. They were Bob's, and I think it was even
3 Bob's safe. Bob brought it all.

4 Q. Okay. And after your dad signed those
5 certificates while sitting at the kitchen table, you said
6 your dad took those, and put them in a safe?

7 A. I didn't see that part.

8 Q. Okay. Did you see what happened to the
9 certificates that were on the kitchen table after your dad
10 signed those 20?

11 A. I think we sat them up on the ledge, and we had
12 lunch.

13 Q. And did you -- Do you know what happened to the
14 certificates after they were set on the ledge and after
15 lunch?

16 A. No. I left.

17 But they would go back in the strongbox or the safe.

18 Q. Okay. And is it your understanding that
19 Mr. Auxier has rights to build more than 100 Cheetahs?

20 A. Yes.

21 Q. And where do you get that understanding from?

22 A. Why else would they have more certificates?

23 Q. Do you know if there is another Authorization
24 Agreement prepared for your dad to sign to authorize
25 Mr. Auxier or BTM to build more than 100 Cheetahs?

1 A. I don't know about that.

2 Q. As far as you know, he was only authorized to
3 build 100 Cheetahs; correct?

4 A. No. I thought that the second 100 would just be
5 continued with the agreement they had with the first 100.

6 Q. That was just your assumption?

7 A. That's just my assumption.

8 Q. Okay. Do you know when the last Cheetah was
9 built by BTM LLC?

10 A. No.

11 Q. When your dad received any of the moneys paid by
12 BTM LLC for the certificates, I believe the 30
13 certificates, did you receive any of those funds?

14 A. You mean the first 30 that were sold?

15 Q. Correct.

16 A. I imagine I did at the end, but they didn't hand
17 me money while they were still alive.

18 Q. Okay. Did you think it's strange that your dad
19 was signing another 20 certificates at the kitchen table
20 when he had already told you he had 100 signed?

21 A. No.

22 Q. And in regards to signing the intellectual
23 property rights statement -- Have you look at Exhibit
24 Number 52 on page 3.

25 A. (Indicating.)

1 Q. I was a little confused in your response because
2 you said you never signed it, but you said that's your
3 signature.

4 A. That's my signature.

5 Q. Okay. Do you think this signature was somehow
6 reproduced or forged?

7 A. Have to be.

8 Q. And do you know if you had any contact with
9 anybody who has the ability to forge your signature?

10 MR. COLE: I'm going to object that it lacks
11 foundation.

12 I think to some extent, that calls for expert
13 opinion.

14 You can answer if you --

15 MR. HEATH: Join.

16 MR. COLE: -- can.

17 THE WITNESS: Answer if I can?

18 That's my signature. I never signed that paper.

19 BY MR. MUSIELSKI:

20 Q. Okay. Do you believe you do not have a
21 one-sixth right to any of the intellectual property rights
22 of your dad?

23 A. I believe I do.

24 Q. Okay. And is it your understanding that this
25 gives you a one-sixth?

1 A. This says exactly that --

2 MR. COLE: Let him finish his question.

3 THE WITNESS: I understand that.

4 But what I'm saying is I didn't sign this. This is
5 the same thing as what I did sign, but the paper I signed
6 only had two lines on it, had none of this, had nothing to
7 do with an attorney, and it just simply said that I'm
8 one-sixth of my dad's heirs.

9 BY MR. MUSIELSKI:

10 Q. Okay. And you only signed one paper one time?

11 A. One paper one time. That's my signature.
12 That's the date that I signed the other paper.

13 So somehow somebody transferred it to this paper
14 because I never saw this paper before in my life.

15 Q. Do you have an understanding that your dad has
16 other intellectual property rights other than what he had
17 granted to Mr. Auxier?

18 A. I don't know anything about that.

19 Q. If you'd look at Exhibit Number 17.

20 A. (Indicating.)

21 Q. I believe you testified you saw a document like
22 this signed by your dad.

23 What did you mean, "like this"?

24 MR. COLE: Misstates the testimony. I believe
25 the witness testified that the signature on Exhibit 17 was

1 her father's signature.

2 THE WITNESS: Right.

3 BY MR. MUSIELSKI:

4 Q. Okay. Did you see at any time an authorization,
5 other than what's reflected in Exhibit 17, with your dad's
6 signature on it?

7 MR. COLE: Vague and ambiguous as to "any
8 authorization."

9 You can answer if you understand.

10 THE WITNESS: I didn't understand.

11 BY MR. MUSIELSKI:

12 Q. My question is: This Exhibit 17 states on
13 page 2, Paragraph 5a, "Manufacturer has completed the 100
14 Cheetahs and received 100 authenticity letters."

15 And on page 1, Paragraph 2, "Manufacturer will
16 provide one hundred...Authentication letters to Bill
17 Thomas" to provide "him to execute."

18 At any time, do you believe that Mr. Auxier presented
19 more than 100 letters to your father?

20 A. Yes, I do.

21 Q. Okay. Do you believe this agreement,
22 Exhibit 17, is incorrect then?

23 MR. COLE: Calls for a legal conclusion.

24 THE WITNESS: Exactly.

25 BY MR. MUSIELSKI:

1 Q. Okay. But you don't know of anything that would
2 give Mr. Auxier other rights to more than 100 letters, do
3 you?

4 A. I don't know.

5 Q. Okay. When your dad signed the Book Agreement
6 letter on July 10th, 2009, was he under any medication?

7 A. I'm sure they have medication for an 88 year
8 old.

9 Q. How long after he signed the Book Agreement, did
10 he pass away?

11 A. Three months.

12 Q. Okay. So he died in October?

13 A. October 10th.

14 Q. And when he signed the Book Agreement in July,
15 was he attached to any type of machines, you know, in the
16 hospital --

17 A. No.

18 Q. -- any type of IV or anything like that?

19 A. No.

20 Q. Did your brother Tom ever work with your dad?

21 A. Not that I know of.

22 Q. So you never became aware that your brother Tom
23 worked with your dad on the Cheetahs?

24 A. We were little kids. Tom was ten years old. I
25 was 11. We were down there, so I guess I worked on it

1 too.

2 Q. Correct.

3 Okay. And did you ever see your brother down
4 there --

5 A. Sure.

6 Q. -- with your dad?

7 A. Sure.

8 Q. Now, your dad said that he did not want Tom or
9 Carolyn to be involved with the Cheetah business; correct?

10 A. Any business.

11 Q. What about Frank, did he say the same of Frank?

12 A. No.

13 Q. So --

14 A. No.

15 Q. -- he had no objection to Frank being involved
16 with the Cheetah business, did he?

17 A. He knew Frank had no desire to be involved in
18 the Cheetah business.

19 Q. But he didn't have any objections --

20 A. No.

21 Q. -- if Frank wanted to?

22 A. He would have no objections about Frank.

23 Q. And you don't have any personal knowledge of the
24 child support owed by Tom, do you?

25 A. Like how much?

1 Q. Correct.

2 A. No. I don't know how much.

3 Q. And you haven't had any contact in regards to an
4 individual looking to collect the child support, have you?

5 A. No.

6 Q. And the only thing pertaining to Tom's child
7 support that he owes, you received secondhand through
8 somebody else telling you some --

9 A. The whole family.

10 Q. Right.

11 But you don't have any personal knowledge of it.
12 It's just talk between the family members; correct?

13 A. Yes.

14 Q. Okay. Tom never discussed it with you, did he?

15 A. Yes.

16 Q. Oh, he did?

17 A. Yes.

18 Q. Okay. What did he discuss with you in regards
19 to the child support that he owes?

20 A. That he wasn't doing it, and that's why he
21 couldn't have a checking account.

22 And I told him, "I think he should. Because the
23 father of my kids never paid child support either."

24 And I kind of thought that they should. You know,
25 the kid wants to eat every day.

1 Q. When did he have that conversation with you?

2 A. Thirty years ago.

3 Q. What about in the last five years, has he had
4 that --

5 A. No.

6 Q. -- conversation with you?

7 A. No. It's all old news. She's grown.

8 Q. So when we talk about child support that he
9 owes, that was 30 years ago?

10 A. Right.

11 Q. Okay. You don't know if he still owes the child
12 support, do you?

13 A. Don't know.

14 Q. You don't know if he's paid the child support,
15 do you?

16 A. I don't know.

17 But Frank said that he had to handle Tom's money
18 because it's not paid.

19 Q. Okay. And when --

20 A. Frank said that.

21 Q. When did Frank tell you that?

22 A. I could tell you if I had my cell phone.

23 Q. Approximation.

24 A. It was July 17th. It was when the Cheetah show
25 in Ohio -- When Tom and Carolyn went to the Cheetah thing,

1 Frank called me.

2 Q. The 50th anniversary show?

3 A. Right.

4 And Frank called me.

5 VIDEO OPERATOR: We need to pause in five
6 minutes to change the tapes.

7 MR. MUSIELSKI: I'm just about done.

8 Q. And when you received those slot cars from Tom,
9 did you have any discussion with him as to what the deal
10 was with Carrera?

11 A. No. He said he's working on it.

12 Yeah, I'm sure I asked, "What's up with this? You
13 know, you got a deal. I didn't know that was Bob's. I
14 thought Tom was venturing out, you know, doing something.
15 I was proud of him for getting off his butt."

16 And -- But no money or anything. We didn't talk
17 about that.

18 Q. And the same with Ruth Engineering, you don't
19 know what Ruth Engineering was building, do you?

20 A. I don't.

21 MR. MUSIELSKI: Okay. I have no further
22 questions.

23 MR. HEATH: Can we just have the same
24 stipulation as with the previous deposition?

25 MR. COLE: Agreed.

1 VIDEO OPERATOR: This concludes today's
2 deposition.

3 Off video at 2:46 p.m.

4

5 (By instruction of counsel the reporter has redacted
6 the following stipulation as reproduced below:

7

8 MR. HEATH: I'd like to propose a stipulation
9 that the court reporter be relieved of any duty to
10 maintain custody of the original transcript for this
11 deposition;

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

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

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

21 So stipulated?

22 MR. COLE: I would add that I would provide the
23 original signed transcript for any purpose in the
24 proceeding upon reasonable request.

25 So stipulated.

1 MR. MUSIELSKI: So stipulated.

2 MR. HEATH: Thank you.)

3

4 (TIME NOTED: 2:46 P.M.)

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I, NICKIE BAZE, 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)

NICKIE BAZE
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: Nickie Baze

5

6 CORRECTIONS:

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Signature of Deponent

20 SUBSCRIBED AND SWORN BEFORE ME

21 THIS ___ DAY OF _____, 201__.

22

23

24 (Notary Public) MY COMMISSION EXPIRES: _____

25