

1                   IN THE CIRCUIT COURT OF  
2                   JEFFERSON COUNTY, ALABAMA  
3                   BIRMINGHAM DIVISION

4  
5    CASE NUMBER:   CV 2012 000209  
6

7    WILLIAM B. CASHION, and  
8    WESTERN STEEL, INC.,  
9                   Plaintiffs,

10  
11   vs.

12  
13   STEVEN MARK HAYDEN, et al.,  
14                   Defendants.

15  
16  
17                   VIDEO DEPOSITION TESTIMONY OF:  
18                   WILLIAM B. CASHION  
19                   AUGUST 23, 2012

20  
21                   S T I P U L A T I O N S

22                   IT IS STIPULATED AND AGREED by and  
23    between the parties through their respective

1 counsel that the video deposition of WILLIAM  
2 B. CASHION may be taken before Bridget Stacey  
3 McClain, a Court Reporter and Notary Public  
4 for the State at Large, at the offices of  
5 Scozzaro, Burdick & Smith, 1020 9th Avenue  
6 SW, Bessemer, Alabama, on the 23rd day of  
7 August, 2012, commencing at approximately  
8 8:48 a.m.

9 IT IS FURTHER STIPULATED AND AGREED  
10 that the signature to and the reading of the  
11 deposition by the witness is not waived, the  
12 deposition to have the same force and effect  
13 as if full compliance had been had with all  
14 laws and rules of Court relating to the  
15 taking of the depositions.

16 IT IS FURTHER STIPULATED AND AGREED  
17 that it shall not be necessary for any  
18 objections to be made by counsel to any  
19 questions except as to form or leading  
20 questions and that counsel for the parties  
21 may make objections and assign grounds at the  
22 time of trial or at the time said deposition  
23 is offered in evidence, or prior thereto.

1           In accordance with Rule 5(d) of the  
2   Alabama Rules of Civil Procedure, as amended,  
3   effective May 15, 1998, I, Bridget Stacey  
4   McClain, am hereby delivering to Austin  
5   Burdick, Esq., the original transcript of the  
6   oral testimony taken the 23rd day of August,  
7   2012, along with exhibits.

8           Please be advised that this is the same  
9   and not retained by the Court Reporter, nor  
10   filed with the Court.

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1           I, Bridget Stacey McClain, a Court  
2 Reporter and Notary Public, State of Alabama  
3 at Large, acting as Commissioner, certify  
4 that on this date, pursuant to the Alabama  
5 Rules of Civil Procedure, and the foregoing  
6 stipulation of counsel, there came before me  
7 at the offices of Scozzaro, Burdick & Smith,  
8 1020 9th Avenue SW, Bessemer, Alabama,  
9 commencing at approximately 8:48 a.m., on the  
10 23rd day of August, 2012, WILLIAM B. CASHION,  
11 witness in the above cause, for oral  
12 examination, whereupon the following  
13 proceedings were had:

14  
15           THE VIDEOGRAPHER: This marks the  
16 beginning of videotape number one in the  
17 deposition of William Cashion. Today's date  
18 is August the 23rd of the year 2012. The  
19 time is 8:48 a.m. This is in the matter of  
20 William B. Cashion, et al., plaintiffs,  
21 versus Steven Mark Hayden, et al., the  
22 defendants. Case Number is CV 2012-000209.  
23 It's being held in the Circuit Court of

1 Jefferson County, Alabama, Birmingham  
2 Division. Will counsel please state who you  
3 are and who you represent?

4 MR. BURDICK: My name is Austin  
5 Burdick, and I represent Dr. and Mrs. Hayden  
6 as well as, uh, uh, the trust.

7 MR. GOYER: Jim Goyer representing  
8 William Cashion and Western Steel.

9 MR. COLVIN: Uh, Gerald Colvin  
10 representing William Cashion and Western  
11 Steel.

12 THE VIDEOGRAPHER: Will the court  
13 reporter please swear in the witness?

14  
15 WILLIAM B. CASHION  
16 was sworn (affirmed) testified as follows:

17  
18 THE COURT REPORTER: Usual  
19 stipulations?

20 MR. BURDICK: Yes.

21 MR. GOYER: We'd like to preserve  
22 reading and signing of the deposition,  
23 please.

1                   MR. BURDICK: The rest of the  
2 stipulations are okay or --

3                   MR. GOYER: Sure.

4                   MR. BURDICK: Okay.

5

6 EXAMINATION BY MR. BURDICK:

7           Q. Uh, Mr. Cashion, would you state  
8 your name for the record, your full legal  
9 name?

10           A. William B. Cashion.

11           Q. What's the B stand for?

12           A. Buford, B-U-F-O-R-D.

13           Q. All right. Is that the only name  
14 you're ever had?

15           A. Yes, sir.

16           Q. Okay. So you're used to it now?

17           A. Right.

18           Q. Okay. How old are you,  
19 Mr. Cashion?

20           A. 83.

21           Q. When were you born?

22           A. January the 8th, 1929.

23           Q. All right. Uh, do you have any,

1 uh -- well, let me ask you this. Uh, are you  
2 under the influence of any medication? Are  
3 you taking any medication right now?

4 A. I am. Yes, sir.

5 Q. What are you taking?

6 A. Blood pressure medicine.

7 Q. Okay. Specifically?

8 A. I don't know the name of it.

9 Q. Okay. Any other medication other  
10 than something to treat blood pressure?

11 A. No.

12 Q. You, uh -- is there any reason that  
13 your blood pressure medication would prevent  
14 you from being able to answer questions  
15 honestly today?

16 A. No.

17 Q. Okay. Is there anything that would  
18 prevent you from answering the questions I  
19 ask you today honestly?

20 A. No.

21 Q. Okay. Uh, and you were sworn in.  
22 You understand that you're under oath,  
23 correct?

1           A.    Right.

2           Q.    All right.  And you understand that  
3   that means you're supposed to tell the truth,  
4   the whole truth, and nothing but the truth?

5           A.    That's right.

6           Q.    All right.  Uh, I'm gonna ask you  
7   some questions, some of which may seem  
8   somewhat personal, uh, but they're not  
9   intended to be.  Uh, they're just information  
10  that I may need for other aspects of the  
11  case.

12          A.    (Witness nods head affirmatively.)

13          Q.    Uh, I really personally don't have  
14  any interest in your personal life.  Uh, I'm  
15  going to ask you some questions.  Some of  
16  them may not be very good.  Uh, if you don't  
17  understand my question, will you agree to  
18  tell me, Hey, that's -- I don't understand so  
19  I can restate it in a way you do understand?

20          A.    Yes, sir.

21          Q.    Okay.  Will you agree that if you  
22  answer a question, that that means you  
23  understood the question?

1 A. That's right.

2 Q. Okay. Uh, where were you born?

3 A. Birmingham, Alabama.

4 Q. All right. Born in St. Vincent's  
5 Hospital?

6 A. No, sir. At home.

7 Q. At home? Okay. Well, I -- I've  
8 seen the commercials that say that's where  
9 babies come from so I --

10 A. Yeah.

11 Q. -- just wanted to make sure it's --  
12 it's always been true.

13 A. At home.

14 Q. Uh, now, do you have any siblings?

15 A. I do.

16 Q. And what are their names?

17 A. Larry, Ricky, Teresa Ann, and  
18 Kathy.

19 Q. Do any of your siblings live in  
20 Jefferson County?

21 A. Uh, no.

22 Q. Have they lived in Jefferson  
23 County?

1           A.    Uh, I can't answer that.

2           Q.    You don't know or --

3           A.    Well, they were children in  
4   Jefferson County.

5           Q.    Their children?

6           A.    No.   My --

7           Q.    Your --

8           A.    My children.

9           Q.    -- siblings' children?

10          A.    My children.

11          Q.    You've got children that live in  
12   Jefferson County?

13          A.    No.   Those -- those children lived  
14   in Birmingham at times.

15                   MR. GOYER:  He asked you about  
16   siblings, about brothers and sisters.

17                   THE WITNESS:  Oh.  I'm sorry.

18          A.    I still love my children.  I'm  
19   sorry.

20          Q.    Yeah.

21          A.    Uh, were you talking about siblings  
22   or --

23          Q.    No.   Your siblings, your brothers

1 and sisters.

2 A. Oh, okay. That's fine. No, they

3 --

4 Q. So those names you gave me earlier  
5 were not your brothers and sisters?

6 A. Oh, no. Yeah. No, they were not.

7 Q. Okay. Well, tell me your --

8 A. They -- they were my children.

9 Q. Tell me your brothers and sisters.

10 Sorry.

11 A. Yes, sir.

12 Q. See, I asked --

13 A. I was on the wrong path. I'm  
14 sorry.

15 Q. -- a bad question. I'm -- I'm  
16 rolling. So tell me your brothers and  
17 sisters.

18 A. Okay. My brothers and sisters  
19 still alive is Francis and, uh, uh, Roy,  
20 Phillip, and Phyllis and myself. There's  
21 five. Let's see. Francis, Roy, Phillip,  
22 Phyllis, and me, myself.

23 Q. Okay.

1           A.    I'm not a sibling but a person.

2           Q.    All right.  Of -- of those four  
3 siblings, do any of them live in Jefferson  
4 County, those four brothers and sisters?

5           A.    Uh, no.

6           Q.    Have they ever?

7           A.    Oh, yes.

8           Q.    Okay.  Do they have any children  
9 that live in Jefferson County?

10          A.    Do they have any children?  Uh, do  
11 they have any children that live in Jefferson  
12 County?  Uh, Francis.  Roy, no.  Phillip, no.  
13 And Phyllis, no.  I don't think so.

14          Q.    Okay.  Do they -- does -- do any of  
15 your brothers and sisters have any  
16 grandchildren that live in Jefferson County?  
17 Well, let -- let me back up.  I asked about  
18 their children.  You said you don't think any  
19 of them live in Jefferson County right now;  
20 is that correct?

21          A.    That's right.  I don't think they  
22 do.

23          Q.    Do any of them live in Elmore

1 County?

2 A. No.

3 Q. What about your brother and  
4 sisters, any of them live in Elmore County?

5 A. No.

6 Q. Any of your brothers and sisters'  
7 grandchildren live in Elmore County?

8 A. No.

9 Q. Any of your brothers and sisters'  
10 grandchildren live in Jefferson County?

11 A. Now, ask the question again.

12 Q. Okay. Do any of your brothers and  
13 sisters, any of their grandchildren, live in  
14 Jefferson County?

15 A. Well, you know, uh, I really don't  
16 know them that good. I don't know where they  
17 live, you know.

18 Q. You don't know your brothers and  
19 sisters or you don't know the grandkids real  
20 good?

21 A. Uh, well, you're -- you're talking  
22 about my brother and sisters' grandchildren.

23 Q. Yes, sir.

1           A.    Now, you're talking about my  
2    sisters and brothers and then their children  
3    and then their grandchildren. Now, you're  
4    down on their grandchildren; am I right?

5           Q.    Yes, sir.

6           A.    Okay. Well, you know, I don't know  
7    them that well. Let's say that.

8           Q.    Okay. You're talking about the  
9    grandchildren you don't know very well?

10          A.    Yeah. I -- I'm talking about my  
11    brothers and sisters' children's children.  
12    I -- you know.

13          Q.    Yeah. Of your brothers and  
14    sisters, which ones are still alive?

15          A.    Uh, Francis, Roy, Phillip, and  
16    Phyllis.

17          Q.    Okay. So all of them. All of them  
18    are still -- are those four are still alive?

19          A.    That's right. That's what you  
20    asked.

21          Q.    Yes, sir. Do you have a  
22    relationship with them? Are you on close --  
23    are you on speaking terms with them?

1           A.    Yes, sir.

2           Q.    All four of them?

3           A.    Yes, sir.

4           Q.    Okay.

5           A.    Well, let me say this.  Let me  
6 correct myself.  I speak.  I speak.  I have a  
7 brother that has a problem probably speaking  
8 to me, period.

9           Q.    Who is that?

10          A.    Roy.

11          Q.    Where does he live?

12          A.    In, uh, Maryland.  Somewhere in  
13 Maryland.

14          Q.    Of the state of Maryland?

15          A.    Yes, sir.  The state of Maryland.

16          Q.    Okay.  He doesn't get along with  
17 you?

18          A.    Don't seem to.  Yes, sir.

19          Q.    Okay.  When's the last time you  
20 spoke with him?

21          A.    Oh, a good many years ago.

22          Q.    Okay.  Do you have any deceased  
23 siblings?

1           A.    Yeah.

2           Q.    That's brothers and sisters.

3           A.    Yeah.  Yeah.  I have one sister  
4 that's deceased.  Uh, well, yes, I have, uh,  
5 five of them that's deceased.  I'm sorry.  
6 There's five left.  Five of them are  
7 deceased.

8           Q.    Okay.  The five that are deceased,  
9 did they live in Jefferson County before they  
10 were deceased?

11          A.    They did.  They did live in  
12 Birmingham at one time, yes.

13          Q.    Okay.  And what were their names?

14          A.    Uh, Debra was the youngest that  
15 died.  And, uh -- and then my brother Gene,  
16 the oldest, and then, uh, uh, oldest boy, my  
17 sister Doris, the oldest girl.  Uh, Tony.  
18 Uh, Tony was down the line a ways, and before  
19 him was my sister, Ruth Ellen.

20          Q.    Okay.  Excuse me.  Of those five  
21 deceased brothers and sisters, do they have  
22 any children living in Jefferson County?

23          A.    Yes.

1 Q. Can you tell me their names?

2 A. Uh, Johnny Crook, if he's alive.

3 He -- he's sick with cancer. And, uh, Jerry  
4 Crook and Jimmy Crook. And, uh, that's on my  
5 sister's side, oldest sister. And then, uh,  
6 Ruth Ellen and Tony -- Tony's children.  
7 Tony's boy, uh, Wayne, uh.

8 Q. What's Wayne's last name?

9 A. Cashion.

10 Q. Okay.

11 A. And right now that's all I can  
12 think of right now.

13 Q. All right. Well, if you can think  
14 of any more that live in Jefferson County,  
15 would you let -- would you have your attorney  
16 send that information over to me?

17 A. Oh, yes, sir.

18 Q. Thank you. I appreciate that.

19 A. Yes, sir.

20 Q. Now, of your deceased brothers and  
21 sisters, do any of their children live in  
22 Elmore County?

23 A. No.

1           Q.    All right.  Do any of your deceased  
2   brothers and sisters' grandchildren live in  
3   Jefferson County?

4           A.    Uh, Wayne does I know for sure.

5           Q.    How old is Wayne?

6           A.    Oh, roughly 50.

7           Q.    Do you know of any others?

8           A.    I'm thinking on that.  (Mumbling to  
9   himself.)  I think that's all.

10          Q.    Okay.  Any of your deceased  
11   siblings' grandchildren live in Elmore  
12   County?

13          A.    Siblings?

14          Q.    Grandchildren live in Elmore  
15   County?

16          A.    Not that I know of.

17          Q.    Okay.  Now --

18          A.    Well, let me -- can I correct that?

19          Q.    Yes, sir.

20          A.    Uh, Ruth Ellen's children lives in  
21   Elmore County, uh.

22          Q.    What's -- what's their -- their --  
23   their names?

1           A.    Well, Mark, Mark Hayden, and then  
2 his children.  Yes, sir, they live in Elmore  
3 County.

4           Q.    Okay.

5           A.    Yes, sir.

6           Q.    You don't know of anybody else in  
7 the family, though, that lives down there?

8           A.    No.

9           Q.    Okay.  Was Roy Cashion involved in  
10 any way with Western Steel?

11          A.    Yes.  He was working for Western  
12 Steel at one time.  Yes.

13          Q.    What did he do for Western Steel?

14          A.    Uh, he was, uh, at the pipe  
15 division as a manager.

16          Q.    Did he work for you?  Were you his  
17 boss?

18          A.    Yes, sir.

19          Q.    Uh, what about Phillip Cashion?  
20 Did he --

21          A.    Phillip, yeah.

22          Q.    -- have any involvement with  
23 Western Steel?

1           A.    He worked -- he worked for a short  
2   time with Western Pipe Service division,  
3   Western Pipe -- uh, Western Steel.

4           Q.    Were you his boss too?

5           A.    Yes, sir.

6           Q.    Did either of them own any, uh,  
7   interest in Western Steel?

8           A.    No, sir.

9           Q.    Did any of your family other than  
10   yourself ever own any interest in Western  
11   Steel?

12          A.    Oh, yes, sir.  Eugene Cashion and,  
13   uh, uh, Paul Tony Cashion.  Both of them are  
14   deceased.

15          Q.    All right.  How is it they came to  
16   be not involved with Western Steel anymore?

17          A.    Well, Roy voluntarily quit,  
18   resigned, and went back to Maryland.  And --  
19   and, uh, Gene sold out to me.

20          Q.    So Gene sold what ownership  
21   interest he had?

22          A.    Yes, sir.  That's right.  And then  
23   Tony --

1 Q. Was that his idea or your idea?

2 A. Uh, well, it had to be his idea if  
3 he sold. Uh, you know, it wasn't my idea.

4 Q. Well, did he make an offer to sell  
5 or --

6 A. No. I -- I made --

7 Q. -- did you make an offer to buy?

8 A. I made an offer to buy.

9 Q. Okay. How did y'all come up with a  
10 price when you bought him out?

11 A. Well, it had -- the company had  
12 already, uh, made him a price and he was  
13 gonna take it for his, uh -- slightly less  
14 than one half.

15 Q. One half what?

16 A. Of the stock.

17 Q. So what was the stock valued? I --  
18 how did you value the stock? I'm -- I'm sure  
19 you bought the stock; is that right?

20 A. No. Uh --

21 Q. No, you didn't buy the stock?

22 A. I put up -- I put up, uh, uh,  
23 capital --

1 Q. Okay.

2 A. -- for the stock.

3 Q. All right. What capital did you  
4 put up for the stock?

5 A. Well, a long time ago. I'd say  
6 very little.

7 Q. Very little?

8 A. Yes, sir. Probably a thousand  
9 dollars.

10 Q. A thousand dollars? What was the  
11 company worth at that time?

12 A. When I -- when I bought my brother  
13 out?

14 Q. Yeah.

15 A. Oh, a couple of million.

16 Q. And you bought it out for a  
17 thousand?

18 A. No. I didn't buy it out for a  
19 thousand. I said I put -- you asked the  
20 question what did I put in the company. I'm  
21 sorry. But you asked the question. You  
22 asked the question.

23 THE WITNESS: Read the question

1 back to me, would you, please, ma'am?

2 (Record read.)

3 THE WITNESS: That's it, what I  
4 answered. Thank you.

5 MR. GOYER: I think he's asking you  
6 how much did you pay your brother for the --  
7 for his interest in the company.

8 THE WITNESS: I don't remember.

9 Q. Okay. So -- but did you actually  
10 pay him some cash for his interest in the  
11 company?

12 A. If you want to call a check cash,  
13 yes.

14 Q. Okay. You paid him money?

15 A. Money.

16 Q. You didn't pay him in stock or --

17 A. No, no.

18 Q. -- give him a piece of land?

19 A. No, no.

20 Q. But you paid him money?

21 A. Money and other things.

22 Q. What other things?

23 A. Uh, a new Cadillac and a new, uh,

1 tractor, a farm tractor.

2 Q. Okay. And, again -- how much did  
3 you say, again, that -- that property was  
4 worth, the -- the Western Steel company was  
5 worth at that time?

6 A. I -- I -- I -- I believe I said a  
7 couple of million.

8 Q. A couple. So two million?

9 A. Roughly. You know, between one and  
10 two, somewhere. You know, that's --

11 Q. Okay.

12 A. That's a while ago, you know.

13 Q. So you gave him a car and a  
14 tractor --

15 A. Right.

16 Q. -- and some money?

17 A. Right-O.

18 Q. And about how much money?

19 A. Oh --

20 Q. I'm not gonna hold you to the exact  
21 picking.

22 A. No. I -- no.

23 Q. Just give me a ballpark number.

1           A.    No.  I won't give you a ballpark  
2   number because I don't remember.

3           Q.    And if you're wrong, I'm not gonna  
4   hold you to it.  I'm just trying to figure  
5   out an idea.  I'm just trying to figure --

6           MR. GOYER:  Austin, he's answered  
7   it twice.  I think that's enough.

8           THE WITNESS:  Yeah.

9           Q.    Well, here's -- here's what I want  
10   to figure out.  Let me ask you this question.  
11   Maybe this will put it to bed.  All right.  
12   You gave him a car and a tractor and some  
13   money?

14          A.    Right.

15          Q.    Did he own half of the company at  
16   that time before --

17          MR. GOYER:  Object to the form.

18          Q.    -- you bought him out?

19          MR. GOYER:  Object to the form.

20   Asked and answered.  You can answer.

21          THE WITNESS:  I can answer?

22          A.    Yes.  He owned roughly half and  
23   I own -- owned roughly half.

1           Q.    Okay.  If -- did you -- the cash  
2 plus the car plus the tractor, was that all  
3 worth about a million dollars?

4           A.    Like I said while ago, it was a  
5 long time ago and I don't remember the exact  
6 figures.

7           Q.    Well, I -- I'm not gonna hold you  
8 to exact figures, I mean, but you can tell me  
9 was it -- was it closer to worth a million  
10 dollars or closer to worth 50,000 dollars?

11          A.    Closer to a million.

12          Q.    Was it a closer to worth a million  
13 dollars or closer to worth a half a million  
14 dollars?

15          A.    I said it before and I'll say it  
16 again.  I don't remember.

17          Q.    Was there any argument between you  
18 and your brother with regard to the value of  
19 the company at that time?

20          A.    No, sir.  It was on paper.

21          Q.    It was on paper?  What do you mean?

22          A.    I made a statement before and I'll  
23 say it again.  The company made him an offer

1 for his part.

2 Q. Let me ask you this. What you  
3 offered him was the cash plus the Cadillac or  
4 the car plus the tractor. Was that worth  
5 less than a million dollars or more than a  
6 million dollars?

7 A. As I stated before, it was a long  
8 time ago and I don't remember.

9 MR. GOYER: Can we move on?

10 MR. BURDICK: We can. We can.  
11 He -- he doesn't want to answer. He  
12 doesn't -- that's fine.

13 MR. GOYER: No. He's given the  
14 best answer he can.

15 A. I'm giving you the best answer that  
16 I know.

17 Q. Well, let me ask you this, then.

18 A. Okay.

19 Q. Are there any other business  
20 transactions that you've -- that you've been,  
21 uh, a part of similar to this one where you  
22 just have no idea what the value of, uh -- of  
23 what you transferred is?

1 MR. GOYER: Object to the form.

2 A. Yes.

3 MR. GOYER: Argumentative. You can  
4 answer.

5 MR. BURDICK: He answered.

6 Q. Okay. What other transactions have  
7 you participated in that you transferred  
8 something that you had no idea what the value  
9 of it was?

10 MR. GOYER: Object to the form.

11 Argumentative.

12 A. I -- I object because you are, uh  
13 --

14 Q. You don't get to object. That's  
15 his job.

16 THE WITNESS: Object, please.

17 MR. GOYER: I did.

18 Q. He did, but you still can answer.

19 A. What was the question?

20 Q. What -- what other items or things  
21 have you transferred through a business  
22 transaction where you had no idea what the  
23 value of those items were?

1                   MR. GOYER: Object to the form.  
2   Misstates his testimony. He said he didn't  
3   remember. It was a long time ago. That's  
4   not the same and you mischaracterized his  
5   testimony.

6           Q. You may answer.

7                   MR. GOYER: You can answer.

8                   THE WITNESS: What was the  
9   question?

10                   (Record read.)

11           A. A long time ago. I don't remember.

12           Q. Well, how far back does your memory  
13   go?

14           A. Well, uh, you know, I can remember  
15   some things when I was a child, period.

16           Q. What age?

17           A. Five, six.

18           Q. Okay. Well, what were you doing  
19   when you were five or six?

20           A. What most children do, play mostly.

21           Q. Okay. What were you doing when you  
22   were 13?

23           A. Going to school and working.

1 Q. Okay. Who raised you?

2 A. My mother and dad.

3 Q. Okay. Are they still alive today?

4 A. No.

5 Q. Okay. Uh, did they raise you  
6 your -- what -- what ages did they raise you,  
7 from birth till when?

8 A. Roughly, uh, 16 years old.

9 Q. 16 years old?

10 A. Yes, sir.

11 Q. You moved out when you were 16?

12 A. No, sir. I believe I moved out  
13 when I was probably 19.

14 Q. Moved out when you were 19?

15 A. Yes, sir.

16 Q. Well, who did you live with between  
17 age 16 and 19?

18 A. My father and my mother in their  
19 home.

20 Q. Okay. But they weren't raising you  
21 anymore?

22 A. Well, no, sir. I was grown at 16.

23 Q. Why do you say you were grown at

1 16?

2 A. I was working for U.S. Steel.

3 Q. Okay. You had a full-time job?

4 A. Yes, sir.

5 Q. You weren't in school anymore?

6 A. No, sir.

7 Q. How much education do you have?

8 A. High school education.

9 Q. So you graduated high school before  
10 you started at Western Steel -- or sorry.

11 Where were you working again, which --

12 A. U.S. Steel.

13 Q. U.S. Steel. You graduated before  
14 you started working at U.S. Steel?

15 A. Uh, probably a couple of weeks  
16 after I went to work.

17 Q. Okay. Were you ever cared for by  
18 any of your aunts?

19 A. Partially my, uh, old maid aunt,  
20 yes, sir.

21 Q. Okay. Please explain that to me,  
22 partially. What -- what do you mean by that?

23 A. Well, she was in the home.

1 Q. She was in what home?

2 A. In our home.

3 Q. Okay. So she helped care for you  
4 because she lived with y'all?

5 A. She lived with us, yes.

6 Q. Okay. And what was her name?

7 A. Uh, Ruth Jackson.

8 Q. Is she deceased?

9 A. Yes.

10 Q. Does she have any children in  
11 Jefferson County that you're aware of?

12 A. No.

13 Q. What about Elmore County?

14 A. No.

15 Q. Did you ever hit her with a chair?

16 A. I think so.

17 Q. Okay. Why did you hit her with a  
18 chair?

19 A. Because she hit me in the head with  
20 a high heel shoe.

21 Q. Why did she hit you in the head  
22 with a high heel shoe?

23 A. I don't know the answer to that.

1 I'm not her.

2 Q. Okay. She didn't give you a  
3 reason?

4 A. No, sir.

5 Q. Did you break the chair when you  
6 hit her with it?

7 A. I think I did.

8 Q. How old were you at the time?

9 A. I don't remember.

10 Q. Were you older than five?

11 A. I was an adolescent.

12 Q. So 12 or 13?

13 A. Around that age.

14 Q. Was she hurt by that chair?

15 A. Not enough to go to the doctor.

16 Q. How did that altercation end?

17 A. My dad -- uh, my mother objected  
18 and my dad told my mother to be quiet; she  
19 had it coming.

20 Q. Had you always lived at home prior  
21 to that?

22 A. Yes.

23 Q. You never rode the rails or

1 anything like that?

2 A. Well, I did, yes.

3 Q. How long did you ride the rails?

4 A. Maybe a couple of weeks.

5 Q. Where did you go?

6 A. West.

7 Q. How far?

8 A. Uh, probably Oklahoma.

9 Q. Did you ride in a passenger car?

10 Did you have tickets?

11 A. No. On a freight train.

12 Q. Freight train. Were you

13 accompanied by anyone else?

14 A. Yes, sir.

15 Q. Who?

16 A. Pete Gray.

17 Q. Who's Pete Gray?

18 A. He was a neighbor and a friend.

19 Q. Was he about your age or --

20 A. He was the same age as I was.

21 Q. Okay. So y'all just decided to go

22 ride the rails together?

23 A. That's right.

1 Q. Did you tell your folks?

2 A. No.

3 Q. What made you decide to come home?

4 A. The best answer I can tell you is  
5 hungry.

6 Q. Anybody else on those boxcars with  
7 you other than you -- you and your buddy?

8 A. Not in boxcars, no.

9 Q. Who else did you travel with?

10 A. Nobody. Just us two.

11 Q. Just -- just you two. There  
12 weren't any other hobos or adults or anything  
13 on those cars?

14 A. We didn't see any in the car, no.

15 Q. Well, where did you see them?

16 A. What I would say was hobo camps.

17 Q. Did you stay in hobo camps?

18 A. Occasionally.

19 Q. Was any violence -- did you  
20 experience any violence in any of those hobo  
21 camps?

22 A. No, sir.

23 Q. You weren't a victim or a

1 perpetrator?

2 A. No, sir.

3 Q. You said your mother and father  
4 passed away, correct?

5 A. Right.

6 Q. Did your parents have a will?

7 A. Yes.

8 Q. Did they have separate wills or  
9 just one?

10 A. I think it was one will.

11 Q. Who passed away first, your mother  
12 or your father?

13 A. My dad.

14 Q. Who was the executor of your  
15 father's will?

16 A. My oldest brother.

17 Q. Who was the executor of your  
18 mother's will?

19 A. Uh, uh, my brother. Uh, I  
20 misstated, uh, what you asked while ago. I  
21 think my mother was probably the -- the  
22 executor of my father's will.

23 Q. Okay.

1           A.    I'm thinking.  I don't know for  
2    sure.

3           Q.    All right.  But your brother was  
4    the executor of your mother's will?

5           A.    That's correct.

6           Q.    Have you ever served as the  
7    executor of -- of a will?

8           A.    Yes, sir.

9           Q.    For who?

10          A.    My Aunt Ruth Ellen and another  
11    aunt.

12          Q.    Okay.  What happened to your  
13    mother's estate?

14          A.    Uh, it was, uh, in cash and divided  
15    equally among the children and the siblings  
16    of the children that wasn't alive.

17          Q.    Okay.  How much money did you get  
18    from that?

19          A.    Uh, best I can remember -- I can't  
20    remember the exact amount.  I'm sorry.

21          Q.    I'm sorry.  How long ago was that?

22          A.    Uh, '90, '93.  I would -- I would  
23    guesstimate it would be back in 1994.

1 MR. GOYER: You're talking about  
2 when your mother passed away?

3 THE WITNESS: Yeah.

4 A. Well, passed away in '93, I  
5 believe. In '94. And I could be wrong about  
6 the years.

7 Q. But somewhere around in there?

8 A. Yeah. Somewhere that -- in the  
9 late '80s or '90s.

10 Q. This -- this isn't a quiz show.  
11 I'm just trying to get an idea of --

12 A. I -- yeah. I realize that.

13 Q. Yeah. There won't be a score card  
14 at the end of the day. So your mother left  
15 her entire estate to her children?

16 A. That's correct. And her -- and  
17 deceased children's siblings.

18 Q. Okay. Did your mother ever discuss  
19 her will with you before she passed?

20 A. I can't remember.

21 Q. Let me ask you this. Are you a  
22 member of a church in Jefferson County?

23 A. No.

1 Q. Are you a member of a church at  
2 all?

3 A. Yes, sir.

4 Q. What church are you a member of?

5 A. Church of Christ in Bibb County.

6 Q. Bibb County?

7 A. West -- West Brockton, Alabama.

8 Q. Okay. Do any of the members of  
9 that church live or work in Jefferson County?

10 A. I'm sure they do.

11 Q. Okay. Do any of the members of  
12 that church live or work in Elmore County?

13 A. I wouldn't think so.

14 Q. Little too far?

15 A. Too far, I would think.

16 Q. Okay. How long have you been a  
17 member of that church?

18 A. Since about 1989.

19 Q. Okay. Do you serve in any position  
20 of responsibility at that church?

21 A. No.

22 Q. Have you ever been a deacon or an  
23 elder or anything like that?

1 A. Yes.

2 Q. How long ago?

3 A. Uh, back in the, uh, '70s and '80s.

4 Q. What -- what was your

5 responsibility?

6 A. Missionary, uh, in charge of

7 missionary works.

8 Q. Okay.

9 A. Deacon in charge of missionary

10 work.

11 Q. Okay. You -- you -- did you say

12 you're still active in that church?

13 A. No, sir. That was the Church of

14 Christ at, uh, Shades Mountain.

15 Q. Okay. Well, this Church of Christ

16 in Bibb County, I think you were active in

17 that church?

18 A. Yes, sir. I'm an active member.

19 Yes, sir.

20 Q. Okay. Uh, when did you buy your

21 first gun?

22 A. Uh, probably when I was 16 years

23 old.

1 Q. Do you have a gun with you today?

2 A. No, sir.

3 Q. Okay.

4 MR. GOYER: Have you got one?

5 MR. BURDICK: No, I don't.

6 MR. GOYER: Okay. How about

7 Dr. Hayden?

8 MR. BURDICK: No, he doesn't.

9 MR. HAYDEN: I didn't bring one.

10 MR. GOYER: Okay.

11 MR. BURDICK: We're not really here  
12 to answer questions, but I'll answer those.

13 MR. GOYER: Well, I just wanted to  
14 make sure before we get started who's got  
15 guns.

16 MR. HAYDEN: I have one at my  
17 house --

18 MR. BURDICK: Which is, you know, a  
19 few counties away.

20 Q. Do -- did --

21 MR. HAYDEN: But not here. Not  
22 with me.

23 Q. Did you drive yourself here today,

1 Mr. Cashion?

2 A. Yes, sir.

3 Q. All right. Do you have a gun in  
4 your car?

5 A. What was the question?

6 Q. Do you have a gun in your car?

7 A. No, sir.

8 Q. Do you have a permit to carry a  
9 gun?

10 A. Yes, sir.

11 Q. How frequently do you carry a gun?

12 A. Uh, infrequently.

13 Q. Once a week?

14 A. No.

15 Q. More frequently or less frequently?

16 A. Less frequently.

17 Q. Once a month?

18 A. No.

19 Q. More frequently or less frequently?

20 A. Once a month. (Mumbling to  
21 himself.) Less frequently.

22 Q. Okay. How many guns do you own  
23 right now?

1 A. I'm not sure.

2 Q. More than one?

3 A. Yes.

4 Q. Less than a hundred?

5 A. Yes.

6 Q. More than 10?

7 A. Yes.

8 Q. More than 20?

9 A. Don't know.

10 Q. So around 10 to 20 probably?

11 A. Probably.

12 Q. Are they all at your residence?

13 A. Yes. Let me correct that, please.

14 That was too quick of an answer. My office  
15 and my home.

16 Q. Your office and your home?

17 A. Yes.

18 Q. Where is your office at?

19 A. Uh, 3360 Davey Allison Boulevard,  
20 Hueytown, Alabama 35023.

21 Q. Okay. So that's in the Bessemer  
22 Division of Jefferson County?

23 A. That's correct.

1 Q. Uh, remind me again how old you  
2 were when you bought your first gun.

3 A. 16.

4 Q. And how did you acquire the funds  
5 to buy that gun?

6 A. Working at U.S. Steel.

7 Q. Working at U.S. Steel?

8 A. Yes, sir.

9 Q. Did you ever run a Ponzi scheme or  
10 a chain letter or anything like that?

11 MR. GOYER: Object to the form.  
12 Can you define what you mean by a Ponzi  
13 scheme or a chain letter?

14 THE WITNESS: Right. Right.

15 Q. Did you ever send out a chain  
16 letter where folks are supposed to send you  
17 money and it builds and that kind of stuff?

18 A. As a -- as a boy, yes, sir.

19 Q. How old were you?

20 A. I don't remember.

21 Q. How much money did you get?

22 A. I don't remember.

23 Q. Did you buy a gun with the money

1 you got?

2 A. I think I did. Yes, sir. That's  
3 contrary to what I said a while ago. Yes,  
4 sir. I had forgotten what I said while ago.

5 Q. Did you ever shoot a dog with that  
6 gun?

7 A. Yes, sir.

8 Q. Why did you shoot that dog?

9 A. Uh, I'd say showing off. Show off.

10 Q. So you weren't being attacked or  
11 anything?

12 A. Sir?

13 Q. You were not being attacked?

14 A. No, sir.

15 Q. Was that dog owned by somebody or  
16 was it a stray?

17 A. Uh, I don't know.

18 Q. Do you usually keep a shotgun under  
19 your desk at your office?

20 A. Yes, sir.

21 Q. Why?

22 A. Protection.

23 Q. From?

1           A.     Wherever it's needed.

2           Q.     From employees?

3           A.     No.   Not especially.

4           Q.     Have you ever pulled a gun on any  
5 of your employees?

6           A.     No.

7           Q.     You ever pull a gun on any family  
8 members?

9           A.     No.

10          Q.     Ever?   Not just at the office but  
11 ever.

12          A.     Not that I can remember.

13          Q.     Did you ever pull a gun on anybody?

14          A.     Yes.

15          Q.     Who?

16          A.     Uh, a lady.

17          Q.     Tell me about that, please.

18          A.     Well, I was traveling in my pickup  
19 truck and one car was stopped talking to  
20 people in the other car and the road was  
21 blocked.   And I blew my horn for a lot of  
22 times and this lady came out the backseat  
23 with a galvanized pipe approximately two feet

1 long, come towards me, was raising air, and  
2 she was gonna hit me, so I put my gun between  
3 her eyes.

4 Q. So she was like right in front of  
5 you and you actually --

6 A. Yes.

7 Q. -- touched her with the gun?

8 A. Back about, say, eight or ten  
9 inches.

10 Q. Eight or ten inches?

11 A. Yes, sir.

12 Q. Did she hit your car with that pipe  
13 or anything?

14 A. No, sir.

15 Q. What was her reaction to you  
16 pulling a gun on her?

17 A. Well, she went -- she went down and  
18 threw the pipe down.

19 Q. What do you mean "she went down?"

20 A. Well --

21 Q. Did she lay on the ground or --

22 A. Well, no, sir. She didn't lay on  
23 the ground. Best I can remember, her knees

1 touched the ground and her hands.

2 Q. Did she say or do anything else?

3 A. Well, yeah. She done something  
4 else. She went like a rabbit and went --  
5 left there.

6 Q. So she ran away?

7 A. Well, she left. Ran away from me,  
8 yes.

9 Q. Did she, uh, wet herself?

10 A. Best I remember, yes, sir.

11 Q. Did you ever tell that story to  
12 anybody?

13 A. Oh, yes, sir.

14 Q. Did you think it was funny?

15 A. Yes, sir. I think it's funny.

16 Q. When you shot the dog, was it to  
17 prove you were a good shot?

18 A. Well, I really didn't mean to hit  
19 the dog. It was an accident he was hit.

20 Q. So you weren't even aiming for the  
21 dog?

22 A. No, sir.

23 Q. What were you aiming for?

1           A.     In the direction of the dog.

2           Q.     So you were just randomly shooting  
3     a gun?

4           A.     What was the question?

5           Q.     You were just randomly shooting a  
6     gun?

7           A.     Oh, no, sir.  No, sir.

8           Q.     Well, what were you aiming at?

9           A.     The dog.

10          Q.     Well, you aimed at the dog and you  
11     shot the dog, but you didn't mean to hit the  
12     dog?

13          A.     That's right.

14          Q.     You didn't think you were that good  
15     a shot or what?

16          A.     No, sir.  No, sir.  The dog was  
17     approximate -- approximately a block away and  
18     I didn't think no way in the world I'd hit  
19     the dog.

20          Q.     But that's what you were trying to  
21     do.

22          A.     Well, that's where I was aiming,  
23     yes, sir.

1 Q. Did you ever point a gun at your  
2 son, Larry?

3 A. Son Larry. Son Larry. No.

4 Q. Never?

5 A. Son Larry, no, sir. That --

6 Q. So -- so if he tells me otherwise,  
7 he's a liar?

8 A. Well, one of us is gonna be a liar,  
9 yes, sir, if he tells you otherwise. Yes,  
10 sir.

11 Q. Well, which one of you is it?

12 A. Well, I don't think it's gonna be  
13 me.

14 Q. You don't think?

15 A. No, sir.

16 Q. Are you just not sure?

17 A. Well, no, I am sure I have not  
18 aimed a gun at my son, Larry.

19 Q. Okay. Never pointed a gun at him?

20 A. Not that I remember.

21 Q. Okay. All right. How are you  
22 doing? Do you want to take a break or  
23 anything?

1 MR. HAYDEN: Want to take a break?

2 Q. Get a drink?

3 A. No, no. Let's go.

4 Q. I just -- this is --

5 A. Let's go.

6 Q. Yeah. This --

7 A. Let's go.

8 Q. I just want to make it clear before  
9 we go any further that this is not an  
10 endurance contest on you. I'm not trying to  
11 keep you in front of the camera for 600 hours  
12 at a time or anything like that.

13 A. Well, just like I say, I don't need  
14 to stop, young man.

15 Q. Okay.

16 A. Yes, sir.

17 Q. But if you do, you're free at any  
18 time.

19 A. All right.

20 Q. Okay?

21 MR. GOYER: We'll probably take one  
22 on a -- every hour. I'll be needing one. I  
23 don't know about him.

1                   MR. BURDICK: Well, we -- can we --  
2 we can probably just take one when we change  
3 the tapes.

4                   THE VIDEOGRAPHER: Yeah. We'll  
5 change in about an hour, if that's fine, Jim.

6                   MR. GOYER: Thank you.

7                   MR. BURDICK: Okay.

8                   Q. And we'll just rely on the  
9 videographer to let us know when we're close  
10 on that. Uh, let's see.

11                  MR. BURDICK: Let me see the power  
12 of attorney.

13                  Q. Take a look at that and tell me  
14 what that document is, if you recognize it.

15                  MR. GOYER: You gonna mark this,  
16 Austin?

17                  MR. BURDICK: Well, what I may do  
18 is mark a copy -- this is already -- this is  
19 a copy of what you guys have already attached  
20 to your complaint. This is just the original  
21 so we may not want to put a sticker on it.

22                  MR. GOYER: Why don't we do this?  
23 When somebody else gets in here we'll make a

1 copy and we'll substitute it and give it to  
2 the court reporter.

3 MR. BURDICK: Yeah. That's what I  
4 was gonna do.

5 MR. GOYER: Is yours a little  
6 bit leg- -- more legible? Is this -- is it  
7 signed?

8 THE WITNESS: Yes, sir.

9 MR. GOYER: Okay. I don't want to  
10 take the original away from him, but I would  
11 like to have a copy. If you're not gonna  
12 mark it, I'll mark it.

13 MR. BURDICK: Yeah. We'll -- like  
14 I said, I'll represent to you it's the same  
15 thing that's attached to your complaint  
16 already. It just happens to be the original  
17 that we've got.

18 MR. GOYER: Okay. Why don't we  
19 mark it as, uh, Defendant's Exhibit 1 and  
20 then we'll let you keep it and we ask that --

21 MR. BURDICK: And I'll give her a  
22 copy to --

23 MR. GOYER: Yeah.

1 MR. BURDICK: -- put the sticker  
2 on.

3 MR. GOYER: Do we need a sticker?

4 MR. BURDICK: Well, she'll put one  
5 on the copy.

6 THE COURT REPORTER: If you want to  
7 make a copy.

8 MR. BURDICK: She --

9 MR. GOYER: Okay. All right.

10 MR. BURDICK: But go ahead. Yeah.  
11 Y'all take a second to look at that if you  
12 need to.

13 MR. GOYER: It's dated. This looks  
14 like it's signed the 29th day of January --

15 A. August of '07 [sic].

16 MR. GOYER: -- of 2007.

17 THE WITNESS: Yes, sir. That's  
18 right.

19 (Discussion off the record.)

20 Q. (BY MR. BURDICK) All right. Now  
21 that your attorney has had a chance to look  
22 at it, like I said, I represent to you it's  
23 the same document that -- it's just the

1 original of the document that's attached to  
2 the, uh -- uh, to the complaint --

3 A. That's correct.

4 Q. -- in this case. Uh, you've seen  
5 that document before?

6 A. Yes, sir.

7 Q. Who prepared that document?

8 A. Uh, Maynard, Cooper and Gale, my  
9 attorney.

10 Q. And who did they do that for?

11 A. Ask me that question again.

12 Q. Yeah. Who'd they do that for? Did  
13 they do that for Mr. Hayden or did they do  
14 that for you? Who hired them?

15 A. I hired them, William B. Cashion.

16 Q. Okay. So you asked them to prepare  
17 this document?

18 A. No, sir. They -- they -- they --

19 MR. GOYER: Uh, hang on a second.

20 Don't be talking about discussions you had  
21 with Maynard Cooper. Those are privileged.

22 THE WITNESS: All right. Uh, thank  
23 you.

1 Q. Well, let me ask you this. You  
2 hired Maynard Cooper, right?

3 A. That's correct.

4 Q. Okay. And they prepared that  
5 document on your behalf?

6 A. That's correct.

7 Q. Okay. Have you ever read that  
8 document before?

9 A. I have.

10 Q. All right. Did you -- if you look  
11 at the back of it, did you sign that  
12 document? Is that your signature?

13 A. It is.

14 Q. All right.

15 MR. GOYER: Can you just read the  
16 date that it was signed for me into the  
17 record?

18 THE WITNESS: It's the 29th of  
19 January 2007.

20 MR. GOYER: Thank you.

21 Q. All right. Anybody else sign that  
22 document?

23 A. On the next page there's people who

1 signed it as a, uh, notary public.

2 Q. Okay. Well, when you signed that  
3 document, was it a binding document?

4 MR. GOYER: Object to the form.  
5 Asks for a legal conclusion. You can answer  
6 if you know.

7 A. I'm gonna answer by saying it was a  
8 legal document. If -- if -- I wasn't able to  
9 do my own thing, period.

10 Q. Okay. Is there anywhere in that  
11 document that says that that document does  
12 not go into effect if you're unable to do  
13 your own things?

14 A. (Witness reviewing document.)

15 MR. BURDICK: How much time?

16 THE VIDEOGRAPHER: 18 minutes.

17 A. It talks about, uh, health,  
18 abilities, and, uh, capacities and that sort  
19 of thing.

20 Q. Where is that at?

21 A. I'm on, uh --

22 Q. Are the pages numbered or anything?

23 A. No, sir, they're not.

1 Q. Well, there you go.

2 A. Oh, yeah. I'm sorry. There's a --  
3 there's a three at the top.

4 Q. Can you read what -- the part that  
5 you're talking about to me, please?

6 A. Yes, sir, I will. Thank you.

7 Q. Okay.

8 A. Regardless of my capacity or  
9 ability to make my own healthcare decision,  
10 of the time of comment -- commencement of the  
11 other powers granted my agent by this  
12 document, I authorize and request any  
13 physician, healthcare professional,  
14 healthcare provider, medical care facility to  
15 provide to any designated agent in the -- in  
16 this document information relating to my  
17 physical and mental condition and the  
18 diagnosis, prognosis, care, and treatment  
19 thereof upon the request of any agent I have  
20 designated in this document. And it goes on  
21 and goes on and goes on.

22 Q. Well, but that doesn't limit in any  
23 way -- that doesn't say that this document is

1 of no effect unless you're incapacitated,  
2 does it? It says the opposite, doesn't it?

3 MR. GOYER: Object to the form. It  
4 calls for a legal conclusion. You can answer  
5 it --

6 MR. BURDICK: Well, he can tell me  
7 what it says.

8 A. I'm gonna leave that up to a -- to  
9 the legal -- legal people, not me.

10 Q. Well, make sure I'm reading this  
11 right. It says, Regardless of my capacity or  
12 ability to make my own healthcare decisions;  
13 is that -- is that what it says?

14 A. That's exactly what it says right  
15 there.

16 Q. Okay. So your capacity or ability  
17 to make decisions is not an issue there?

18 MR. GOYER: Object to the form.

19 Q. Can you show me anywhere in this  
20 contract where it says that this contract or  
21 this document does not go into effect until  
22 you are unable to make your own decisions?

23 MR. GOYER: Object to the form.

1           A.    I'm gonna leave that up to --

2           MR. GOYER:  Hang on a second.

3           THE WITNESS:  Oh.

4           MR. GOYER:  Object to the form.  It  
5   calls for a legal conclusion.  You can answer  
6   if you know.

7           A.    I don't know.

8           Q.    Please read this document and tell  
9   me --

10          A.    I'm not gonna read this document.

11          MR. GOYER:  You want him to read  
12   this three and a half page document?

13          MR. BURDICK:  Yes, I do.

14          A.    Oh, sure.  Sure.

15          Q.    Now, listen.  Listen to my question  
16   because I want you to look for something  
17   while you're reading, okay?  Tell me anywhere  
18   in there where it says that this document  
19   does not go in effect unless you're unable to  
20   make your own decisions.

21          MR. GOYER:  I'm gonna object again.  
22   It asks for a legal conclusion.  He's not a  
23   lawyer.  He'll do the best he can as a

1 layman, if that's what you want him to do.

2 MR. BURDICK: That's what I want  
3 him to do.

4 MR. GOYER: Okay.

5 A. I will proceed to read it, durable  
6 power of attorney, State of Alabama,  
7 Tuscaloosa, Alabama.

8 Q. If you could, uh -- you don't have  
9 to read it out loud. I trust you're able to  
10 read. I'm not -- I'm -- I'm not putting you  
11 on test here. I just -- I don't want to  
12 re-read the whole thing in the transcript  
13 again, if that's okay. So go ahead and read  
14 it to yourself. Thanks.

15 A. (Witness reviewing document.)

16 MR. GOYER: William, do you  
17 understand the question?

18 THE WITNESS: Not exactly. No,  
19 sir.

20 MR. GOYER: He wants to know if  
21 this power of attorney goes into effect only  
22 when you become incapacitated or not. And  
23 that's a legal question. You can answer it

1 if you know.

2 A. Uh, my -- my opinion and my  
3 thoughts at that time was only when I'm  
4 incapacitated, period.

5 Q. What's the basis for that opinion?

6 A. Me as an individual?

7 Q. Yes, sir.

8 MR. GOYER: And don't tell any  
9 discussions you had with your lawyers in  
10 answering that question.

11 Q. Yeah.

12 THE WITNESS: Right.

13 Q. Yeah. I don't care what those guys  
14 think. You're saying you thought that  
15 wouldn't go in effect until you were  
16 incapacitated.

17 A. That's correct.

18 Q. Why do you think that or did you  
19 think that?

20 A. Well, I thought it then and I still  
21 think it.

22 Q. And why?

23 A. Because that's my thought. My

1 thoughts are my thoughts. Your thoughts are  
2 your thoughts.

3 Q. Well, it's not based on any  
4 document or wording or anything like that;  
5 it's just what you think?

6 A. That's what I think, period.

7 Q. So you can't point to anything  
8 other than just the inner imaginations of  
9 your mind for that principle to back up what  
10 you're saying?

11 A. My mind says only when I'm  
12 incapacitated.

13 Q. Okay. But the document doesn't say  
14 that?

15 A. Well, again, I am --

16 MR. GOYER: Object to the form.

17 A. -- not a legal person.

18 Q. Okay. Tell the --

19 MR. GOYER: William, pause before  
20 you answer so I can object, okay?

21 Q. I want you to go ahead and look  
22 through the document and tell me in your  
23 opinion if there's anything in there, just

1 your lay opinion, not your legal opinion --  
2 well, I'm sorry. Do you have a law degree?

3 A. Uh, no, sir.

4 Q. Okay. I think we covered that  
5 earlier. I just want to make sure it's clear  
6 for the record. Tell me if there's anything  
7 in that document that you feel like backs up  
8 what you just said, that it doesn't go into  
9 effect until you're incapacitated or unable  
10 to make decisions on your own.

11 A. My feeling is the whole document  
12 says that, indicates that.

13 Q. The whole document, every word?

14 A. The whole -- the whole document  
15 indicates that. Yes, sir.

16 Q. Okay. Explain that to me.

17 A. Well, my thought and my thoughts  
18 then and my thoughts now, this is a -- this  
19 is a -- a incapacitated mind thing right  
20 here. That's what it was about then and what  
21 it -- to me it's what it's about right now.

22 Q. Okay. Did you execute any other  
23 documents on that same day?

1 A. Yes.

2 Q. You did?

3 A. I did.

4 Q. What else did you execute?

5 A. I think a -- a will, I'm thinking,  
6 and -- and -- and another document of some  
7 kind about health.

8 Q. Have you ever signed any other  
9 contracts in your life other than those --  
10 other than this contract?

11 A. Oh, yes.

12 MR. GOYER: Object to the form.

13 Q. You -- you've signed other  
14 contracts?

15 A. Yes, sir.

16 Q. Okay. You have to do that for  
17 business, right?

18 A. That's correct.

19 Q. Is it typically your, uh, policy to  
20 read things before you sign them?

21 A. It is.

22 Q. Okay. Did you read this?

23 A. I did.

1 Q. Did you understand it?

2 A. Yes, sir.

3 Q. Okay. Is there any part of this  
4 you didn't understand?

5 A. No, sir.

6 Q. Now, this document, it's labeled  
7 durable power of attorney, right?

8 A. Right.

9 Q. And through this durable power of  
10 attorney, who became your attorney in fact or  
11 agent?

12 A. Steven Mark Hayden.

13 Q. Okay. Okay. On the will that you  
14 executed the same day, who was your executor?

15 A. Steven Mark Hayden.

16 Q. Same guy?

17 A. Yes, sir.

18 Q. Okay. Did you speak with Steven  
19 Mark Hayden before these documents were  
20 executed by you?

21 A. I can't remember.

22 Q. Okay.

23 MR. GOYER: You mean did he speak

1 with him that he was gonna designate him as  
2 his agent --

3 MR. BURDICK: Yeah.

4 Q. Did you --

5 MR. GOYER: -- or did he just talk  
6 to him in general?

7 MR. BURDICK: Well, I'm sure they  
8 talked to each other in general.

9 Q. Did you ever talk to him about  
10 these documents, let him know that you were  
11 going to execute a power of attorney and a  
12 will with him as the executor and the  
13 attorney in fact?

14 A. In all probability, yes.

15 Q. Okay. So you didn't just spring  
16 that on him?

17 A. No, sir.

18 Q. Surprise, you're my executor.

19 A. I don't think so.

20 Q. Okay. All right. Well, uh, I need  
21 to take a break. I guess you're holding up  
22 better than me.

23 A. Yes, I'm holding up better than

1 you. Yes, sir. Let that go on the record,  
2 please.

3 Q. I admitted to it. We'll stipulate.

4 THE VIDEOGRAPHER: This marks the  
5 end of videotape one. Going off the record,  
6 9:38 a.m.

7 (Break taken.)

8 THE VIDEOGRAPHER: This marks the  
9 beginning of videotape two. Going back on  
10 the record, 9:44 a.m.

11 Q. (BY MR. BURDICK) Mr. Cashion, I'm  
12 gonna invite you to take a look at this  
13 document. If you want to show it to your  
14 attorney first, that's fine. Again, it's  
15 another original document and we'll stick a  
16 sticker on the copy.

17 MR. GOYER: Uh, Austin?

18 MR. BURDICK: Yeah.

19 MR. GOYER: If you can bring this  
20 testimony in about his will --

21 MR. BURDICK: Uh-huh.

22 MR. GOYER: -- I'm gonna ask that  
23 we have, uh -- this be subject to a

1 protective order and not a matter of public  
2 record. It hasn't been filed yet. It's  
3 obviously -- it deals with personal,  
4 confidential family information and, uh, if  
5 you're gonna ask him questions about it and  
6 put it into the record, we're gonna have to,  
7 uh, insist that that be subject to a  
8 protective order.

9 MR. BURDICK: Specifically what  
10 part of it do you feel like is subject to  
11 confidentiality or is particularly  
12 confidential?

13 MR. GOYER: Well, the disposition  
14 of property to his relatives could be, uh,  
15 and is likely to be a sensitive family  
16 matter. We don't want to create issues, uh,  
17 among his family about that. Why do you  
18 want -- what's the relevance of his will to  
19 this case?

20 MR. BURDICK: Well, it was executed  
21 the same day.

22 MR. GOYER: Okay.

23 MR. BURDICK: And there's, uh --

1 uh, I just wanted to ask him some questions  
2 about their relationship to each other --

3 MR. GOYER: Well, I --

4 MR. BURDICK: -- that document and  
5 that document.

6 MR. GOYER: You're -- I'm -- I'm  
7 saying --

8 MR. BURDICK: I could care less who  
9 the specific bequeaths are or anything like  
10 that. I won't ask any questions about those.

11 MR. GOYER: All I'm saying is that  
12 we're gonna -- this is a confidential family  
13 matter. We're gonna ask that it be subject  
14 to a protective order. You're -- you can ask  
15 him questions about it. Do you have any  
16 problem making it subject to a protective  
17 order?

18 MR. COLVIN: We might just --

19 MR. BURDICK: Uh, you can file for  
20 that motion, uh, and then I'll see if there's  
21 any reason for me to think otherwise. But,  
22 uh, you may find that the questions I ask may  
23 not elicit any of the issues that you

1 perceive --

2 MR. GOYER: Are you gonna put this  
3 in evidence? Are you gonna make it an  
4 exhibit?

5 MR. BURDICK: In the deposition?

6 MR. GOYER: Yes, sir.

7 MR. BURDICK: Yeah.

8 MR. GOYER: All right.

9 MR. BURDICK: But the deposition is  
10 not --

11 MR. GOYER: Let me talk to William  
12 and Jerry just a second about this.

13 THE VIDEOGRAPHER: Hold on,  
14 Mr. Cashion. Off the record at 9:46 a.m.

15 (Break taken.)

16 THE VIDEOGRAPHER: Back on the  
17 record, 9:49 a.m.

18 MR. GOYER: Austin, we'll let you  
19 ask a certain limited amount of questions  
20 about this, uh, will. We object to it being  
21 made, uh, an exhibit to the deposition  
22 you're -- unless you're willing to stipulate  
23 that it's subject to a protective order. Uh,

1 we would agree -- we'll stipulate that it was  
2 signed on the same day as, uh, the durable  
3 power of attorney and that Dr. Hayden was  
4 designated as the executor. That's what --

5 MR. BURDICK: Uh-huh.

6 MR. GOYER: I haven't read this  
7 document, but that's what Mr., uh, Cashion  
8 has said. Beyond that, I don't see how it's  
9 relevant, but you can ask a few questions.  
10 I'm gonna --

11 MR. BURDICK: Yeah.

12 MR. GOYER: -- stop you if --

13 MR. BURDICK: I was gonna say  
14 before we go any further, is this his hand --  
15 is this your client's handwriting? Can he  
16 answer that?

17 THE WITNESS: Yes, sir. It's my  
18 writing.

19 MR. GOYER: There's some  
20 handwriting on the top left-hand corner of  
21 the first page that he's asking about. This  
22 purports to be a conformed copy of a will  
23 dated on or about January 2007, effectively.

1                   MR. BURDICK: Well, go ahead and  
2 read the date because I think it's the exact  
3 same date. If I'm correct, I think that was  
4 your testimony.

5                   MR. GOYER: The 29th day of January  
6 2007.

7                   MR. BURDICK: All right.

8                   Q. Well, can you just read for me what  
9 it says there that you wrote?

10                  A. The original is in First American  
11 Bank Trust Department. WBC, my initials.  
12 Copy of power of attorney at M -- MC and  
13 Gale. That would be, uh, Maynard, Cooper and  
14 Gale. One copy to Mark.

15                  Q. Okay. So you provided a copy of  
16 this document to -- to Mr. Hayden?

17                  A. I did.

18                  Q. Or Dr. Hayden.

19                  MR. GOYER: When we say -- when you  
20 say "this document," are you talking about  
21 the power of attorney or the will?

22                  MR. BURDICK: The one he's  
23 touching, the -- the will.

1 MR. GOYER: Okay.

2 MR. BURDICK: The one we're talking  
3 about.

4 Q. Did you provide a copy of the  
5 durable power of attorney as well that's in  
6 there?

7 A. I did.

8 Q. Okay. The one that we're gonna  
9 mark a copy of as 1.

10 (Whereupon, Defendants' Exhibit  
11 No. 1 was marked for  
12 identification.)

13 Q. All right. Was that will -- was  
14 that will a valid will, as you understand it?

15 MR. GOYER: Object to the form.  
16 Asks for a legal conclusion. You can answer  
17 it if you know.

18 A. It's not valid today.

19 Q. It's not valid today?

20 A. No, sir.

21 Q. What about on that date back in  
22 January when you signed it?

23 A. It was on that day. Yes, sir.

1 Q. Okay. And that's your will or it  
2 was your will?

3 A. It was my will.

4 Q. Okay. And it has the bequeaths and  
5 items in it that you requested, includes  
6 that?

7 A. Yes.

8 Q. Okay. You hired the attorneys that  
9 drafted that?

10 A. Yes.

11 Q. Okay. And they did it at your  
12 direction?

13 A. Yes.

14 Q. Earlier we talked about -- uh, I  
15 think you testified that you signed a few  
16 contracts in your life.

17 A. I have.

18 Q. Fair to say you signed a lot of  
19 contracts?

20 A. In business you sign a lot of  
21 contracts.

22 Q. Yeah. And you've been in business  
23 for quite a while, haven't you?

1           A.    Yes, sir.  Since, uh, August the  
2    28th, 1954.

3           Q.    Okay.  So that's more than a  
4    minute.

5           A.    Yeah.

6           Q.    Uh, so there's no telling how many  
7    contracts you've signed over that time  
8    period?

9           A.    That's correct.

10          Q.    So you're not a stranger to  
11   contracts, I guess, is the point I'm trying  
12   to make.

13          A.    Right.

14          Q.    Well, as somebody -- not as an  
15   attorney but as somebody who signs contracts,  
16   how do you know that you've got a contract?

17                   MR. GOYER:  Object to the form.  
18   You can answer.

19          A.    Common sense.

20          Q.    Okay.  Well, explain that to me.  I  
21   may be lacking in common sense.  A lot of  
22   attorneys are guilty of that, and I may be in  
23   that crowd.

1           A.    I -- I signed some contracts from  
2 my own common sense. I signed con- -- some  
3 contracts with an attorney present.

4           Q.    To have an attorney to look at it?

5           A.    Yes, sir.

6           Q.    Uh-huh. Let me ask you this. If I  
7 put down a document in front of you and ask  
8 you to sign it, would you know whether it was  
9 a contract or not?

10          A.    After I read through it, I would  
11 know, I think.

12          Q.    You would?

13          A.    I would think. Yes, sir.

14          Q.    Okay. Would you know whether or  
15 not that's a contract based on your  
16 experience, not on legal advice or anything  
17 like that? And I'm talking about the power  
18 of attorney.

19                   MR. GOYER: Let me object to the  
20 form.

21          A.    Well, once again, I -- I don't see  
22 how -- I wouldn't know if it was a contract  
23 or not.

1 Q. Wouldn't have any idea?

2 A. No, sir.

3 Q. When you signed it, did you think  
4 it was a contract?

5 MR. GOYER: Same objection. Object  
6 to the form.

7 A. No, sir. I didn't think it was a  
8 contract. No, sir.

9 Q. Well, what did you think it was?

10 A. I thought it was a necessary thing  
11 to have in case I got incapacitated.

12 Q. Okay. Did you intend for  
13 Mr. Hayden to be bound by that document if  
14 you became incapacitated?

15 A. Yes, sir.

16 MR. GOYER: Object to the form.  
17 Asks for a legal conclusion.

18 Q. When you spoke with Mr. Hayden  
19 about these documents, you said you didn't  
20 spring them on him and say "Hey, by the way,"  
21 but you said you talked to him beforehand.  
22 When you spoke to him, did you mention  
23 anything about him being paid for his efforts

1 as an executor?

2 A. No, I did not.

3 Q. Never did?

4 A. Never did.

5 Q. On this or any other will or ever  
6 do that?

7 A. (Witness shakes head negatively.)

8 MR. GOYER: With Mr. Hayden?

9 MR. BURDICK: With Mr. Hayden.

10 A. No. No pay.

11 Q. Okay. Mr. Hayden -- now, you said  
12 that this document is not -- not your will  
13 anymore; is that right?

14 A. That's correct.

15 Q. Okay. You -- you executed another  
16 one since then?

17 A. That's correct.

18 Q. All right. How many wills have you  
19 executed since that one?

20 A. Once.

21 Q. Just one?

22 A. (Witness nods head affirmatively.)

23 Q. When was that executed; do you

1 know?

2 A. Uh, approximately December the  
3 10th, uh, 2010.

4 Q. And who the executor on that one?

5 A. Marty Higgins.

6 Q. Who is Marty Higgins?

7 A. My CPA.

8 Q. Okay. And what was that date  
9 again?

10 A. December the 10th, 2000 and --  
11 2010, best I remember.

12 Q. December the 10th, 2010.

13 A. Yes, sir.

14 Q. Okay. Did you ever, before or  
15 after this document was executed, this will,  
16 did you ever have any discussions with  
17 Mr. Hayden about any executor fee?

18 MR. GOYER: We --

19 A. Not that I remember.

20 MR. GOYER: We're talking about --  
21 when you say "this will -- document" --

22 MR. BURDICK: This will right here  
23 that was executed on the same day as the

1 power of attorney. I'm trying not to be --  
2 get into any details about --

3 MR. GOYER: 2007 will.

4 MR. BURDICK: Yeah. I'm trying to  
5 keep it as --

6 MR. GOYER: Okay.

7 MR. BURDICK: -- private as  
8 possible.

9 MR. GOYER: Okay.

10 Q. But did you ever discuss Dr. Hayden  
11 being paid for his efforts as an executor?

12 A. Not that I can remember.

13 Q. Okay. Well, if Dr. Hayden says you  
14 did discuss it with him, is he a liar, liar,  
15 pants on fire?

16 MR. GOYER: Object to the form.

17 Argumentative. You can answer if you know.

18 I think he's answered the question as best he  
19 can. Go ahead.

20 A. Ask the question again.

21 Q. It was a good question. I want to  
22 hear it again.

23 (Record read.)

1           A.    Well, I don't -- I don't remember  
2    if I did or didn't so I don't know if he'd be  
3    a liar or not.

4           Q.    Okay.  So you're not saying --  
5    you're not calling him a liar, then, if he  
6    said that?

7           A.    I said I didn't remember, period.

8           Q.    Okay.  All right.  Would you have  
9    any reason to dispute a statement made by  
10   anyone else or a document stating that you  
11   did promise to pay your executor a fee --

12           MR. GOYER:  Object to the form.

13           Q.    -- for this will?

14           MR. GOYER:  For the June -- I'm  
15   sorry -- January 2007 will?

16           MR. BURDICK:  Yes.

17           Q.    You can answer it.

18           MR. GOYER:  You can answer.  He's  
19   asking if you -- if anybody else said you  
20   promised him you'd pay him, would you dispute  
21   that?

22           MR. BURDICK:  That's not exactly  
23   right.  That's not exactly what I asked him.

1 Q. Let me ask it again.

2 A. Please.

3 Q. And I may have asked it just in a  
4 terrible, terrible way, you know, because I  
5 do that sometimes. Do you have any evidence  
6 that you did not offer to pay Dr. Hayden for  
7 his efforts as executor under this will right  
8 here from back in 2007?

9 A. I don't have a will --

10 MR. GOYER: Object to the form.  
11 Hang on. Object to the form. You mean other  
12 than what he's already testified to?

13 MR. BURDICK: I don't think he  
14 testified to any evidence.

15 MR. GOYER: I think he -- well, his  
16 testimony is evidence.

17 MR. BURDICK: He said he didn't  
18 remember.

19 MR. GOYER: Well, he said -- he  
20 said several things today.

21 MR. BURDICK: I'm just trying to  
22 get down to what -- what his story is. If he  
23 said several things, then hopefully we can

1 get a definitive answer here, Jim.

2 Q. And I think you just said you don't  
3 have any evidence; is that correct?

4 MR. GOYER: Object to the form.  
5 His testimony stands as given on this record.

6 Q. Less and except --

7 MR. GOYER: Are you asking --

8 Q. Less and except the testimony that  
9 you've already given, do you have any  
10 evidence that you never discussed a fee for  
11 the executor under this will right here?

12 A. I don't have any evidence, no.

13 Q. Okay.

14 MR. GOYER: And by "evidence," are  
15 you talking about documentary evidence?

16 MR. BURDICK: I'm talking about any  
17 evidence.

18 MR. GOYER: Well, okay. We've  
19 already objected to the form. He's already  
20 testified about that too.

21 MR. BURDICK: I said less and  
22 except his testimony.

23 MR. GOYER: Okay. All right.

1 Q. Now, if you don't know something,  
2 it's okay to say you don't know it. I'm not  
3 --

4 A. That's right.

5 Q. I'm not asking you to make stuff up  
6 for me.

7 A. I ain't gonna make nothing up,  
8 period.

9 Q. Okay. All right. Now, going back  
10 to Exhibit 1, the power of attorney, is that  
11 document binding today as far as you know?

12 MR. GOYER: Object to the form.  
13 Calls for a legal conclusion. You can  
14 answer.

15 A. It's not -- it's not -- it's not  
16 effective.

17 Q. Why do you say it's not effective?

18 A. Because I -- because I, uh, signed  
19 a, uh, revocation of it.

20 Q. When did you do that?

21 A. Best I remember, January the 31st,  
22 2012.

23 Q. Okay. Before you signed that

1 revocation, was it a -- a binding document?

2 MR. GOYER: Object to the form.

3 Calls for a legal conclusion.

4 A. Yeah. I'll leave that up to the  
5 lawyers.

6 Q. Okay. Let me say it this way. And  
7 if I'm misstating, you please tell me. But  
8 my understanding is you said it's not binding  
9 because you -- you -- you revoked it on the  
10 31st; is that right?

11 MR. GOYER: Object to the form. I  
12 mean binding, is that a legal term? What --  
13 what do you mean by binding? Was it  
14 effective? Let's -- I'm okay with effective.

15 Q. Okay. Was it effective? Was it  
16 effective? Let me say this. Was that  
17 document -- is that document effective today?

18 A. No.

19 Q. Okay. Why do you say that document  
20 is not effective?

21 A. Because I signed the revocation on  
22 January 31st, 2012.

23 Q. Do you have any other basis for

1 claiming that that document is not effective?

2 A. You -- you -- you said today, and I  
3 said today it's not effective.

4 Q. Yes, sir. I -- that -- that's  
5 fine. Do you have any other basis -- other  
6 than your revocation, do you have any other  
7 basis for claiming that that document is not  
8 effective?

9 A. I just stated that it's not  
10 effective because I signed the, uh,  
11 revocation or vocation of it, canceled it,  
12 January 31st, 2007 [sic].

13 Q. Okay. What I'm trying to figure  
14 out is if -- if you have any other reason to  
15 say that it's not -- other than the  
16 revocation, that it's not binding, that it's  
17 not effective?

18 A. When I -- when I signed the other  
19 one, that canceled this one.

20 Q. You had another power of attorney?

21 A. No.

22 Q. Okay. I'm not trying to be tricky  
23 or anything like that. You know, today is

1 your day to let me know exactly what your  
2 gripes are, and it's my day to try to figure  
3 them out too so that's why I'm asking these  
4 questions. Now, other than the revocation  
5 that you spoke of earlier, do you have any  
6 other basis for your claim that this document  
7 is not effective?

8 MR. GOYER: Object to the form.

9 A. Yes, I have a claim. I'm -- I'm  
10 not incapacitated in any way, any form for --  
11 or fashion, period.

12 Q. Okay. So then those are your two  
13 bases?

14 A. Yes, sir.

15 Q. Okay. You're not incapacitated?

16 A. That's exactly right.

17 Q. And you signed a revocation?

18 A. That's right.

19 Q. Okay. Any other basis?

20 A. Yes. One other basis. I'm not  
21 incompetent.

22 Q. Okay. Not incompetent, not  
23 incapacitated, and you signed a revocation?

1 A. That's exactly right. Yes, sir.

2 Q. Any other basis?

3 A. Not that I can think of.

4 Q. Well, these are your claims. I'm  
5 not trying to make them for you.

6 A. Well, I'm sitting here. I'm  
7 standing by what I said.

8 Q. Okay. So that's good. Nothing  
9 else?

10 A. Nothing else.

11 Q. All right.

12 MR. GOYER: Austin, I hope you  
13 understand his lawyers may have some other  
14 things, but we'll leave that for another day.

15 MR. BURDICK: Well, yeah. I'm just  
16 trying to get his perspective --

17 MR. GOYER: I understand.

18 MR. BURDICK: -- you know. I mean,  
19 he signed a verified complaint, correct?

20 MR. GOYER: Yeah. And there's  
21 orders in this case that deal with that issue  
22 that you're asking him about.

23 MR. BURDICK: I'm just trying to

1 find out what his claims are.

2 MR. GOYER: Okay.

3 Q. All right. Let me ask you this.

4 Why did you revoke that document? Why did

5 you sign a revocation or prepare a

6 revocation, execute one?

7 MR. GOYER: You're talking about

8 the power of attorney, right, revocation?

9 MR. BURDICK: Yeah. Revocation of  
10 power of attorney.

11 Q. Why did you revoke it?

12 A. My own thoughts and thoughts of my  
13 attorney, uh, Gerald Colvin.

14 MR. GOYER: Well, don't talk about  
15 what he said.

16 Q. I don't -- yeah. I don't care what  
17 they think.

18 MR. GOYER: Your reasons.

19 A. My reason is because I -- I -- I  
20 wanted -- I needed to do it, period.

21 Q. Why?

22 A. Because Dr. Hayden had used it  
23 wrongly.

1 Q. Why do you say he used it wrongly?

2 A. Because I was not incapacitated and  
3 I was not incompetent, period.

4 Q. Okay. So Dr. Hayden couldn't use  
5 that document unless you were  
6 incapacitated --

7 A. That's --

8 Q. -- or incompetent?

9 A. That's exactly right.

10 MR. GOYER: Object to the form.

11 Calls for a legal conclusion. You can  
12 answer.

13 A. That's exactly right.

14 MR. GOYER: Slow down a little bit.

15 Q. All right. You know, we're gonna  
16 step back for just a minute. I kind of,  
17 uh -- you know, I'm gonna bounce around a  
18 little bit.

19 A. (Witness nods head affirmatively.)

20 Q. Uh, I need to go back and talk  
21 about your family a little bit or find some  
22 things out about your family. I asked you  
23 about your siblings or your brothers and

1 sisters and about their children, uh, but I  
2 didn't get into your children. Do you have  
3 any children?

4 A. I do.

5 Q. All right. Tell me who your  
6 children are.

7 A. Uh, Larry, Ricky, Teresa Ann, and  
8 Kathy.

9 Q. All right. What are their full  
10 names? What are their last names?

11 A. Uh, Larry M. Garrett and John Ricky  
12 Garrett and Teresa Ann Cashion Capps and  
13 Kathy Cashion Claridy.

14 Q. Okay. So those four are your  
15 children?

16 A. That's correct.

17 Q. Do they live in Jefferson County  
18 that you know of?

19 A. No.

20 Q. Have they ever lived in Jefferson  
21 County?

22 A. Yes.

23 Q. Do they have any adult children

1 that live in Jefferson County?

2 A. No.

3 Q. Do they work in Jefferson County,  
4 any of them?

5 A. Yes.

6 Q. Where do they work, each of them  
7 that work in Jefferson County?

8 A. Larry works for Western Steel,  
9 Incorporated, and -- and Ricky works for, uh,  
10 Walpar, Incorporated. That's W-A-L-P-A-R.

11 Q. All right. And you said they  
12 didn't have any adult children in Jefferson  
13 County; is that right?

14 A. Not living in Jefferson County.

15 Q. Okay. Do any of your children live  
16 in Elmore County?

17 A. Yes. My youngest daughter, Kathy.

18 Q. Okay. Is she married?

19 A. Not at this time, no.

20 Q. Does she have any adult children in  
21 Elmore County?

22 A. Yes, sir. She has a daughter.

23 Q. All right. Do you have any

1 stepchildren?

2 A. Not at this time, no.

3 Q. Okay. Have you previously had any  
4 stepchildren?

5 A. Yes.

6 Q. Who would that be?

7 A. Uh, Teresa Ann Myrick.

8 Q. Okay. Does she live in Jefferson  
9 County?

10 A. Uh, yes, sir.

11 Q. Is she married?

12 A. Yes.

13 Q. What's her husband's name?

14 A. Uh, Myrick. Last name is Myrick.

15 Q. Do you know his first name?

16 A. I know it, but I can't recall it  
17 right now. Thank you.

18 Q. All right. If you can get that  
19 name to your attorney, your attorney can get  
20 that to me.

21 A. Okay.

22 Q. Any adult children that -- that --  
23 that they have in Jefferson County?

1           A.    No.

2           Q.    Any, uh, stepchildren or former  
3   stepchildren of yours that live in Elmore  
4   County?

5           A.    Ask the question again.

6           Q.    Do you have any child -- former  
7   stepchildren or current stepchildren that  
8   live in Elmore County?

9           A.    No.

10          Q.    Okay.  Have you ever been married  
11   before?

12          A.    Yes.

13          Q.    Can you tell me who your -- what  
14   your ex-wife or ex-wives' names are?

15          A.    Uh, I'm still married to Frankie  
16   Cashion.

17          Q.    Okay.

18          A.    I'm divorced from Jeanell Cashion,  
19   Shirley Cashion, deceased, and, uh, Margaret  
20   McClarity (phonetic) today -- cash --  
21   Margaret, uh, McClarity.  And I can't spell  
22   her last name.

23          Q.    Margaret McClarity?

1           A.    Uh-huh.

2           Q.    Do any of those women that you've  
3    just listed, your wife or your ex-wives, live  
4    in Jefferson County?

5           A.    Margaret lives in Jefferson County,  
6    and, uh, for -- no. That's the only one.

7           Q.    Okay. Now, you listed four  
8    children, correct?

9           A.    Right.

10          Q.    Do you have any other child -- or  
11   do you have any other children that were born  
12   out of wedlock?

13          A.    No. Not that I know of, no.

14          Q.    Okay. Is there anybody that you've  
15   been with that you could've possibly had  
16   children out of wedlock?

17          A.    I don't know that.

18          Q.    You don't know if you've ever slept  
19   with anybody that you're not married to?

20                MR. GOYER: What's the relevance of  
21   that comment?

22                THE WITNESS: Yeah. Ask him that.

23                MR. BURDICK: I'm just trying to

1 find out --

2 MR. GOYER: That's kind of just  
3 harassment.

4 MR. BURDICK: No. I'm looking for  
5 perspective jurors. We've made a jury charge  
6 in this case, and I want to make sure that  
7 people who are related to him are not on the  
8 jury.

9 MR. GOYER: I think he's answered  
10 the question. Now you've gone beyond that  
11 and you're just add -- asking speculation.

12 MR. BURDICK: I just want to make  
13 sure I don't get anybody in on that jury --  
14 uh, in that jury pool that is his child,  
15 whether legitimate or illegitimate.

16 MR. GOYER: He said he doesn't know  
17 of any.

18 A. I don't know of any.

19 MR. GOYER: What else can he say?

20 Q. Okay. Now, you listed four  
21 children, correct?

22 A. Right.

23 Q. Are they all four legally your

1 children?

2 A. Yes, sir, by adoption.

3 Q. You adopted all four of them?

4 A. That's correct.

5 Q. Okay. What age were they when you  
6 adopted them?

7 A. Well, it'd be approximately, you  
8 know. Uh, uh, Kathy was probably about four  
9 or five and -- and the oldest one, Larry, at  
10 the time was probably about 11 or 12, 13,  
11 something like that.

12 Q. What county did you adopt in?

13 A. Jefferson County.

14 Q. Okay. Did you go through probate  
15 court or family court for that or do you  
16 remember?

17 A. Probate court.

18 Q. Now, your youngest, is her name  
19 Kathy Cashion? What was her name?

20 A. Claridy, C-L-A-R-I-D-Y.

21 Q. Kathy Claridy?

22 A. Yes, sir.

23 Q. Was her name formally Cashion when

1 you adopted her?

2 A. It was, yes, sir. It was when I  
3 adopted her. It was Cashion, yes.

4 Q. Okay. The other children that you  
5 have, were -- was their last name Cashion  
6 when you adopted them?

7 A. Uh, Teresa Ann Cashion.

8 Q. Okay. What about the other two?

9 A. You know, Garrett, G-A-R-R-E-T-T.

10 Q. Is there any reason why they didn't  
11 take your last name?

12 A. Well, the -- the judge chose to  
13 allow them to keep their name, and that's all  
14 I can tell you.

15 Q. Okay. Was -- was Kathy's last name  
16 Cashion before you adopted her?

17 A. No.

18 Q. Was her last name listed as Cashion  
19 on her birth certificate?

20 A. Well, it is now.

21 Q. But was it before you adopted her?

22 A. No.

23 Q. It was not?

1 A. No.

2 Q. You're absolutely positive?

3 A. I'm positive.

4 Q. Okay. Now, what actions have been  
5 taken by any of the defendants in this case  
6 that interfere with the business or have  
7 interfered with the business of Western Steel  
8 that you know of?

9 A. I know, uh, February the 1st, uh,  
10 interfered with it.

11 Q. How so?

12 A. By disrupting it.

13 Q. How so?

14 A. Coming in with papers and making a  
15 scene.

16 Q. Coming in with what and making a  
17 scene?

18 A. Papers, P-A-P-E-R-S, papers.

19 Q. What kind of papers?

20 A. Uh, documents.

21 Q. How did those documents make a  
22 scene or how did they make a scene with those  
23 documents?

1           A.    I'm told they came in with them and  
2    disrupted the business.  And -- and in the  
3    process the sheriff's department came and  
4    interfered with the business.

5           Q.    Let me ask you this.  What is the  
6    nature of the business of Western Steel?

7           A.    It's a diversified company.

8           Q.    Okay.  Well, tell me what they do.

9           A.    They do different things.

10          Q.    Specifically?

11          A.    Uh, handle, uh, downhole casing and  
12    pipe for doing oil and gas wells.

13          Q.    Okay.

14          A.    And shopping centers, uh, rentals.  
15    Uh, whatever -- whatever business they do,  
16    they do it as a corporation.

17          Q.    Okay.  Is most of that work done on  
18    site or off site?

19          A.    Uh, on site mostly.

20          Q.    By "on site," do you mean on site  
21    where the project is or on site where your  
22    facility is?

23          A.    The facilities, plural.

1 Q. Okay. Where Western Steel's  
2 facilities are?

3 A. Plural, facilities.

4 Q. Okay. So most of the work is done  
5 there at Western Steel?

6 A. That's correct.

7 Q. Not at some shopping center or  
8 wherever?

9 A. Right. They're mostly done at  
10 the -- the facilities.

11 Q. Okay. How do you measure  
12 productivity? You've run that company for a  
13 while now, I think you said.

14 A. Yes. Uh, yes, sir. By the bottom  
15 line.

16 Q. Okay. How often do you track the  
17 bottom line? Is it like a daily income,  
18 weekly income, monthly income?

19 A. Monthly.

20 Q. Okay. On that month of February  
21 that you referenced earlier where you said  
22 this scene happened --

23 A. Uh-huh.

1 Q. -- was the income decreased that  
2 month for the company?

3 A. Don't have the record in front of  
4 me.

5 Q. Do you know?

6 A. Not offhand.

7 Q. Okay. Is there anything that they  
8 did that directly affected the company's  
9 income by causing a scene with some papers?

10 A. Yes.

11 Q. Tell me about it.

12 A. One of the employees quit and went  
13 to work for U.S. Steel in their pipe plant.

14 Q. And you guys weren't able to make  
15 as much -- how did that affect your company?

16 A. Because he -- he informed them what  
17 went on there that day.

18 Q. He informed who?

19 A. U.S. Steel officials.

20 Q. Oh. Well, what effect did that  
21 have on your company, informing Western  
22 Steel -- or, uh, U.S. Steel?

23 A. Quite a bit.

1 Q. Tell me about it.

2 A. Well, I'm -- I'm telling you  
3 secondhand that, uh, my people handled it and  
4 I only know what they told me.

5 Q. Who's your people that handled it?

6 A. Uh, Fred Campbell.

7 Q. What does Fred Campbell do?

8 A. Well, at that -- at that particular  
9 day he was, uh, vice president of operations.

10 Q. What is he today?

11 A. President.

12 Q. President of operations?

13 A. President of the company.

14 Q. President of the company?

15 A. Yes, sir.

16 Q. When did that happen?

17 A. Well, sometime after this, uh,  
18 February the 1st incident.

19 Q. Okay. So do you know if he was  
20 made president before or after February 7th?

21 A. After.

22 Q. Okay. Has Fred -- and I'm assuming  
23 you're talking about Fred Russell Campbell,

1 Jr.?

2 A. That's correct.

3 Q. Has he ever informed you of any  
4 actual damage to the company as a result of  
5 what happened on February 1st?

6 MR. GOYER: Talking about physical  
7 damage, financial damage, what?

8 MR. BURDICK: Both.

9 Q. Physical or financial damage.

10 A. Financial because of interruption  
11 and -- and -- and, uh --

12 Q. To what extent?

13 A. -- the being told to U.S. Steel  
14 officials.

15 Q. Okay. Now, attached to your  
16 complaint there's an affidavit signed by  
17 Frederick Russell Campbell, Jr., and he  
18 doesn't list any damages that actually  
19 resulted from that. In fact he says,  
20 Although I believe I was able to deal with  
21 their concerns, this incident -- talking  
22 about U.S. Steel, their concerns -- this  
23 incident and the resulting adverse publicity

1 concerning it could have seriously damaged  
2 the company if this type of disruptive  
3 activity were to continue. The business of  
4 Western Steel likely could be seriously  
5 damaged. He doesn't say it was ever damaged.  
6 He says it could be. Is your testimony  
7 different from his? Do you feel like there  
8 was damage that he wasn't able to perceive?

9 MR. GOYER: Let me object to the  
10 form. I'm not sure that's a question. It  
11 sounds more like a speech.

12 THE WITNESS: Right.

13 MR. GOYER: What's -- what's your  
14 question, whether he agrees with what --

15 MR. BURDICK: Yeah.

16 Q. Do you agree with what he said?

17 A. I agree with what he said on that  
18 day he signed that piece of paper.

19 Q. Okay. So is the story any  
20 different today?

21 A. Well, it would have to be  
22 researched.

23 Q. Okay. But you haven't done that

1 research?

2 A. No, sir.

3 Q. Because today is your day to tell  
4 me how badly you suffered as a result of  
5 the -- of the actions of the defendant, and I  
6 need to know because you're asking for  
7 compensatory damages and punitive damages.  
8 Do you understand what compensatory damages  
9 are?

10 A. Yes, sir.

11 Q. So what compensatory damages have  
12 you suffered as a result of the actions of  
13 any of the defendants?

14 MR. GOYER: Object to the form.  
15 Asks for a legal conclusion. You can answer  
16 if you know.

17 A. I don't know.

18 Q. You don't know of any damages?

19 A. I don't know the answer to your  
20 question.

21 Q. Why don't you know the answer to my  
22 question? What part of it do you not  
23 understand?

1 THE WITNESS: Well, read it again,  
2 would you?

3 (Record read.)

4 MR. GOYER: Compensatory are --

5 MR. BURDICK: He said he understood  
6 what those were.

7 MR. GOYER: Do you understand what  
8 compensatory damages are?

9 THE WITNESS: Oh, yes, sir.

10 MR. GOYER: Okay.

11 A. I'm gonna answer by saying the  
12 final -- the final, uh, uh, audit hadn't been  
13 made or looked into yet, period.

14 MR. GOYER: Now, he's not talking  
15 just about Western Steel.

16 THE WITNESS: He's talking about  
17 me, too.

18 MR. GOYER: Yeah.

19 Q. Yeah. I need you to tell me every  
20 way that you've been damaged by anything the  
21 defendants have been done in this case.

22 A. Laying asleep [sic] at night  
23 thinking about it night after night, loss of

1 sleep.

2 Q. Okay. Have you made any claims for  
3 those kind of damages in this case, those  
4 kind of -- I don't remember reading anything  
5 about losing sleep, I mean --

6 MR. GOYER: Let me add --

7 Q. Do you have any mental anguish  
8 damages in this case? Have you asked for any  
9 mental anguish damages?

10 MR. GOYER: Object to the form.  
11 Asks for a legal conclusion. You can answer.

12 Q. All right. Well, let's put this  
13 aside. You -- you're saying you suffered  
14 mental anguish; is that right?

15 A. That's right.

16 Q. Okay. Now, quantify that for me.

17 MR. GOYER: Let me --

18 Q. Have you gone to the doctor because  
19 of mental anguish?

20 A. I've been to the doctor because of  
21 stress, which comes from mental anguish.

22 Q. Well, related specifically only to  
23 the actions of the defendants you've been to

1 the doctor?

2 A. That's correct.

3 Q. So you didn't go for any other  
4 reason?

5 A. No, sir. No other reason.

6 Q. So if I get your doctor's records,  
7 it's gonna say Mr. Cashion came in  
8 complaining of stress because of things  
9 that -- one of --

10 A. No.

11 Q. -- one or all of these defendants?

12 MR. GOYER: Object to the form.

13 Asks for speculation and conjecture. No  
14 foundation that he's seen those records. You  
15 can answer if you know.

16 Q. Who's your doctor you went to for  
17 stress?

18 A. Uh, uh, Julie Kemp, K-E-M-P.

19 Q. How long have you been seeing that  
20 doctor?

21 A. One time.

22 Q. You've only been one time?

23 A. Right.

1 Q. Where is Julie Kemp located?

2 A. With UAB Medicine, uh, uh, at the,  
3 uh, clinic, I would guesstimate. It's on,  
4 uh, uh, Allison Bonnett Memorial Parkway in  
5 Hueytown.

6 Q. Did you complain of any other  
7 malady when you went to see her other than  
8 just "I feel stress?"

9 A. Stress and high blood pressure.

10 Q. Had you ever had high blood  
11 pressure before that day?

12 A. Yes, sir.

13 Q. How long have you had high blood  
14 pressure?

15 A. Uh, it only affected me when I knew  
16 personally I was having high blood pressure,  
17 uh, and then the last, uh, couple of weeks,  
18 three weeks, four weeks.

19 Q. How long have you been taking  
20 medication for high blood pressure?

21 A. Uh, about a week.

22 Q. Okay. You never took it before?

23 A. Oh, yes, sir. I took it before.

1 Yes, sir.

2 Q. When did you take it before?

3 A. I don't remember the year, but I  
4 took it before. Yes, sir.

5 Q. So you have a history of high blood  
6 pressure?

7 A. Well, I did have high blood  
8 pressure before, yes, sir. And I -- I think  
9 it was right after my divorce from my wife,  
10 Jeanell, or in that period.

11 Q. When you went to go see her, this  
12 doctor that you just spoke of, you've only  
13 been to see her once, right?

14 A. Correct.

15 Q. Did she run any tests while you  
16 were there?

17 A. An EKG, blood, drew blood. The  
18 only two tests I can remember.

19 Q. Okay. So the only time in your  
20 life you've ever had high blood pressure was  
21 whenever you went to see her a couple of  
22 weeks ago and when you got divorced?

23 MR. GOYER: From Jeanell?

1 MR. BURDICK: From Jeanell.

2 Q. Is that right?

3 A. That -- that -- that's the best of  
4 my memory.

5 Q. Okay. You've never had high blood  
6 pressure at any other time in your life?

7 A. Well, you know, I only took  
8 medicine for it once before, period.

9 Q. Okay. Did your doctor ever talk to  
10 you about your high blood pressure at any  
11 point other than those two incidents?

12 A. I don't remember.

13 Q. When did you go see this doctor,  
14 uh, at this UAB clinic on Allison Bonnett?

15 A. I guess, uh -- let me -- let me  
16 change my, uh, thoughts. I just remembered  
17 something. I went to some doctors on, uh,  
18 uh, uh, early August. I forgot about them  
19 till just now.

20 Q. Early August of this year?

21 A. Yes, sir.

22 Q. 2012?

23 A. Yes, sir.

1 Q. And who did you go see?

2 A. Uh, it was, uh, a clinic at, uh --  
3 kind of a clinic, sort of a clinic, one time  
4 clinic.

5 Q. Who?

6 A. One time clinic.

7 Q. Where's that at?

8 A. It was at, uh, uh, uh, unit, uh --  
9 Unity or United -- Unity, I believe -- Unity  
10 Methodist Church in, uh, Pleasant Grove.

11 Q. Do you have a regular doctor?

12 A. Not at -- not at this time, no.

13 Q. How long has it been since you've  
14 had a regular doctor?

15 A. Oh, let's see. I'd say it's been,  
16 uh -- this year, uh, I haven't had a regular  
17 doctor this year.

18 Q. But you did last year?

19 A. I did.

20 Q. Up through December of 2011?

21 A. Well, through the latter part of  
22 last year, yes.

23 Q. Uh, are you taking any or have you

1 taken any pills in the past for anxiety or  
2 depression?

3 MR. GOYER: Object to the form.

4 A. I don't know.

5 Q. You don't know if you've ever taken  
6 any pills --

7 A. Right.

8 Q. -- for anxiety or depression? Now,  
9 what was your doctor's name over at that  
10 clinic in August, early August?

11 A. Uh, it was a -- it was a clinic  
12 where there was several people there, you  
13 know. I don't know if it was doctors or not  
14 doctors.

15 Q. You don't even know if the person  
16 you saw was a doctor or not?

17 A. That's correct. They -- they're  
18 supposed to be doctors.

19 Q. Were they wearing a white coat?

20 A. A green coat, I think.

21 Q. Green coat? Okay.

22 A. Yeah.

23 Q. They just -- I've heard of that for

1 golf. I haven't heard of that for medicine.

2 A. Well, that's the best I remember.

3 MR. GOYER: Dr. Hayden has got a  
4 blue jacket -- outfit on.

5 A. The best I remember, they were  
6 light green.

7 Q. Well, it's not a coat.

8 A. Well, they were, uh, uh -- I -- I  
9 would say a coat. A coat un- -- you know,  
10 I'd say a coat, you know.

11 Q. It was a coat. It wasn't, uh,  
12 scrubs?

13 A. I -- best I remember, it was a  
14 coat.

15 Q. Okay. Didn't have a name tag on it  
16 you can recall or do you recall?

17 A. I do not recall a name tag, no.

18 Q. Is this clinic like some kind of  
19 free clinic or something or --

20 A. No, sir. You had to pay 119  
21 dollars.

22 Q. Okay. And was this associated with  
23 some church or --

1           A.    Well, it was held at a church.  I  
2    don't know if it's associated with it or not.

3           Q.    It was held at a church?

4           A.    That's correct.

5           Q.    Do you have health insurance?

6           A.    Yes, sir.  I have BlueCross  
7    BlueShield.

8           Q.    Okay.

9           A.    And -- and, uh, and that's, uh,  
10   C -- C -- BlueShield BlueShield C.

11           MR. GOYER:  C Plus?

12           THE WITNESS:  C Plus.

13           Q.    Have you suffered any accidents  
14   this year?

15           A.    Uh, yes, sir.  One accident.

16           Q.    Can you tell me about it, please?

17           A.    Well, I had a blowout on my pickup  
18   truck in -- in my driveway and I -- I jacked  
19   it up and, uh, put an extra jack and I took  
20   the wheel off and put a -- uh, on the left  
21   rear and I put an extra jack under it for  
22   safety.  And then I had to get the spare tire  
23   out from underneath it.  And, uh, as I was

1 getting the spare tire off, it -- uh, down  
2 and off of the -- it jumped off the jacks and  
3 jumped on me.

4 Q. The car? The truck landed on you?

5 A. The truck fell on me.

6 Q. You had a blowout in your driveway;  
7 is that what you said?

8 A. That's -- exactly. The tire blew  
9 out in my driveway, period.

10 Q. How did it -- did it -- did it --  
11 did it actually blow out or did it just have  
12 like a hole in it from like a nail or  
13 something?

14 A. No. It blew out. It blew out with  
15 a bang.

16 Q. Oh. Did you -- were you somewhere  
17 else and heard it or were you in the truck?

18 A. No. I was ride -- I was -- I was  
19 in the truck.

20 Q. You were in the truck and you pull  
21 up in the driveway and you hear a boom?

22 A. No, sir. I was fixing to back out  
23 of the driveway and it went boom.

1 Q. Okay. Were the tires bald?

2 A. No, sir.

3 Q. Relatively new?

4 A. No, sir.

5 Q. Just -- but they were not -- they  
6 were -- they were road worthy?

7 A. Yes, sir.

8 Q. Or appeared to be, I guess?

9 A. Appeared to be road worthy. Yes,  
10 sir.

11 Q. All right. Who was the last person  
12 to put air in those tires?

13 A. It had to be me.

14 Q. Did you use a gauge to see how much  
15 air you were putting in those tires or did  
16 you eyeball it?

17 A. No, sir. I used gauges.

18 Q. Okay. How many pounds of pressure  
19 were in that tire?

20 A. There may have been as much as 80  
21 pounds.

22 Q. 80 pounds of pressure in that tire?

23 A. Yes, sir.

1 Q. What kind of truck were you  
2 driving?

3 A. It's a -- it's a Chevrolet, uh,  
4 heavy duty pickup truck with -- with a  
5 utility body on the back.

6 Q. Three quarter ton, half ton?

7 A. Three quarter ton.

8 Q. And this was the back -- the rear  
9 tire?

10 A. The back left rear tire.

11 Q. Is this a dually truck or it is  
12 just one side?

13 A. No. It's a single -- single wheels  
14 on it -- single tire -- single wheel on each  
15 position.

16 Q. Okay. And you had over 80 pounds  
17 of pressure in that tire?

18 A. Yes, sir. The last time I put air  
19 in it, it was over 80 pounds. Yes, sir.

20 Q. Okay. Do you think that had  
21 anything to do with the tire blowing out?

22 A. No, sir, because that's on the side  
23 of it.

1 Q. That's what's recommended, 80 PSI?

2 A. That's the recommended pressure on  
3 the side of it.

4 Q. Okay. Well, you said the truck  
5 fell on you?

6 A. That's correct.

7 Q. How did you get it off you?

8 A. A neighbor came with a -- a floor  
9 jack and jacked it off of me.

10 Q. How old are you, again?

11 A. 83 years old.

12 Q. What are you doing at age 83  
13 underneath a pickup truck?

14 A. I'm doing what I do every day,  
15 whatever is necessary.

16 Q. Do you think that was a wise choice  
17 to get under that truck?

18 A. Not looking back, but, you know, at  
19 that time I thought I was all right.

20 Q. Wasn't the funnest time you ever  
21 had?

22 A. Sir?

23 Q. That's not -- it wasn't the funnest

1 time you ever had?

2 A. Well, I got to admit it wasn't fun.

3 Q. Okay. Were you injured in any way?

4 A. Slightly.

5 Q. How so?

6 A. Well, I had a -- a bleeding place

7 up here (referring to head) and a messed up

8 shoulder here and I had a messed up hip.

9 Q. Did you go see any healthcare  
10 professionals regarding these injuries?

11 A. No, sir.

12 Q. How often do you -- well, let me  
13 ask you this. Since January of this year,  
14 since January 1st, how many times have you  
15 been to the doctor?

16 A. I have seen the doctor twice.

17 Q. All right. And that's the two that  
18 we just talked about?

19 A. That's correct.

20 Q. All right. And when did you go to  
21 this UAB clinic?

22 A. Uh, with -- within the last two  
23 weeks.

1           Q.    It's been within the last two  
2 weeks?

3           MR. GOYER:  Now, I want to make  
4 sure y'all are on the same page.  There's a  
5 clinic he talked about, the United -- Unity  
6 Methodist Church and then he went to see  
7 Dr. Julie Kemp.

8           THE WITNESS:  Right.

9           MR. GOYER:  Which one are you  
10 talking about?

11          MR. BURDICK:  Well, that's what I'm  
12 trying to figure out because he says about a  
13 couple of weeks ago.

14          Q.    So you've seen both of these  
15 doctors or the green jacket guy that may or  
16 may not be a doctor, you've seen them this  
17 month?

18          A.    Yes, sir.  That's correct.

19          Q.    So --

20          A.    Early -- early in the month.  And  
21 I -- best I remember, early in the month.

22          Q.    Okay.  And those are the only two  
23 doctors you've seen this year?

1 A. Yes, sir.

2 Q. So you never went to the doctor in  
3 January?

4 A. No, sir.

5 Q. Never went to the doctor in  
6 February?

7 A. Not that I remember.

8 Q. Never went to the doctor in March?

9 A. Not that I remember.

10 Q. Never went to the doctor in April?

11 A. Not that I remember.

12 Q. Or May?

13 A. Not that I remember.

14 Q. Or June?

15 A. Not that I remember.

16 Q. Or July?

17 A. Not that I remember.

18 Q. Okay. If you don't remember, is  
19 there anybody else who could remember?

20 A. Oh, no. No, no, no, no.

21 Q. Okay. I just want to make sure if  
22 there's anybody else who's in charge of your  
23 healthcare --

1 A. No.

2 Q. -- other than you.

3 A. Uh-uh. I'm in charge of my  
4 healthcare.

5 Q. Okay. So Frankie wouldn't know  
6 differently than you? I couldn't -- I -- it  
7 would be -- I wouldn't need to call her and  
8 ask her if you had been to the doctor?

9 MR. GOYER: Object to the form.  
10 Calls for speculation and conjecture. He  
11 can -- I don't know how he can answer that.

12 THE WITNESS: I don't either.

13 MR. GOYER: You mean --

14 Q. That's not her responsibility --

15 A. That's correct.

16 Q. -- to make sure you go to the  
17 doctor?

18 A. That's correct.

19 Q. You handle that yourself?

20 A. That's correct.

21 Q. Okay. Well, sometimes wives do a  
22 lot of stuff for us and make us go to the  
23 doctor when we don't want to go. Frankie

1 ever do that?

2 A. Not that I remember.

3 Q. Okay. How much do your pills cost  
4 that you take for high blood pressure?

5 A. A 30 supply was 79 dollar -- 78 or  
6 79 dollars, something like that.

7 Q. That's after your insurance?

8 A. That's the amount I paid.

9 Q. Okay. So that's -- that's not the  
10 total cost; that's just what you pay?

11 A. That's what I paid.

12 Q. Does your insurance coverage cover  
13 that at all?

14 A. I don't know.

15 Q. So you just paid it whether  
16 insurance pays for anything or not?

17 A. The clerk said what it was and I  
18 paid them cash money.

19 Q. Okay. And you bought a 30-day  
20 supply?

21 A. I did.

22 Q. And that was sometime this month?

23 A. That -- that's correct. Uh, around

1 13th or 14th of this month.

2 Q. How many pills come in a 30-day  
3 supply?

4 A. 30 pills.

5 Q. So it's one -- one a day?

6 A. One a day.

7 Q. Have you been taking them each day?

8 A. Yeah, I have.

9 Q. Do you feel any better?

10 A. Yes, sir. A little.

11 Q. Now, who prescribed those? Was it  
12 green jacket guy or UAB?

13 A. No. It was Julie Kemp.

14 Q. Okay.

15 A. K-E-M-P.

16 Q. When you went to go see green  
17 jacket guy, did he diagnose you with any  
18 maladies?

19 A. Yes, sir.

20 Q. What did he diagnose you with?

21 A. High blood pressure.

22 Q. High blood pressure. Did he  
23 prescribe any medication or anything?

1 A. No, sir.

2 Q. What did he tell you to do?

3 A. You know, I'll look after it.

4 Q. I'll look after it?

5 A. Yes, sir.

6 Q. When did you start to feel like you  
7 needed to go see a doctor?

8 A. Uh, about a -- a -- a month ago.  
9 Probably in July.

10 Q. In July?

11 A. (Witness nods head affirmatively.)

12 Q. Okay. But you felt fine before  
13 that?

14 A. I -- I didn't feel like I needed to  
15 go to the doctor before that.

16 Q. Okay. Do you have anything else  
17 bothering you right now other than getting  
18 beat up by a truck?

19 A. No, sir.

20 Q. That's not Mr. Hayden --  
21 Dr. Hayden's fault, is it?

22 A. Oh, no, sir.

23 Q. Okay. He wasn't nowhere around?

1           A.    No, sir.  He wasn't nowhere around.

2           Q.    Okay.  And where was that again?

3    That was in your driveway?

4           A.    In my driveway.  Yes, sir.

5           Q.    Where's your driveway at?  Where do  
6    you live?

7           A.    I live at, uh, 1305 13th Way,  
8    Pleasant Grove, 35127-2447.

9           Q.    So you live in the Bessemer  
10   Division of Jefferson County?

11          A.    I do.

12          Q.    Have you ever lived in the  
13   Birmingham Division of Jefferson County?

14          A.    Oh, yes, sir.

15          Q.    How long ago?

16          A.    Uh, let me think about that.  How  
17   long ago?  Oh, I -- oh, it's been a long  
18   time.  I can't tell you.  It's been a long --

19          Q.    More than 20 years ago?

20          A.    Yes, sir.

21          Q.    Okay.  Excuse me.  Uh, Western  
22   Steel has, you said, different facilities.

23          A.    Correct.

1 Q. Where are those facilities located?

2 A. The corporate office is in Western  
3 Pipe Services. Western Iron Works is at --  
4 at, uh, 3360 Davey Allison Boulevard,  
5 Hueytown, Alabama 35020 -- 35023.

6 Q. Okay.

7 A. And, uh, Western --

8 Q. And that's in the cutoff, right?

9 A. Sir?

10 Q. That's in the cutoff, in Hueytown?

11 A. Yes, sir. It's in the cutoff.

12 Q. All right.

13 A. And then -- then, uh, Western  
14 Threaders is located at, uh, uh, Vulcan Road  
15 in the Bessemer area.

16 Q. That's in the Bessemer cutoff?

17 A. Yeah.

18 Q. Usually Bessemer is in the Bessemer  
19 cutoff.

20 A. Yes, sir.

21 Q. Anywhere else? Any other  
22 facilities for Western Steel?

23 A. Oh, yes, sir. They -- we have, uh,

1 uh -- we have a, uh, plastics, uh, uh,  
2 operation in Pleasant Grove, Alabama.

3 Q. Which is in the cutoff as well?

4 A. Yes, sir. And we have a, uh -- a  
5 port leased out in Birmingham, Alabama. And  
6 we have, uh --

7 Q. Where is Birmingham?

8 A. It is --

9 Q. Is that in Jefferson County?

10 A. It's in Jefferson County.

11 Q. Is it in the Birmingham Division or  
12 Bessemer or do you know?

13 A. Uh, it's in the Birmingham.

14 Q. Okay.

15 A. And we have, uh, uh, shopping  
16 centers in Bibb County.

17 Q. Okay. This disruption that you  
18 talked about on February 1st, did that happen  
19 out in Birmingham or did that happen on  
20 Allison Bonnett?

21 A. Uh, Davey Allison --

22 Q. Davey Allison. I'm sorry.

23 A. -- Boulevard.

1 Q. Happened there?

2 A. Yes, sir.

3 Q. Okay. Merchants Commercial Bank,  
4 where is that at?

5 A. St. Thomas, the U.S. Virgin  
6 Islands.

7 Q. Okay. And does Merchants  
8 Commercial Bank have any offices in Jefferson  
9 County --

10 A. No, sir.

11 Q. -- that you -- now, are you an  
12 owner or stockholder for Merchants  
13 Commercial?

14 A. I'm a stockholder, yeah.

15 Q. Okay. Do you serve in any  
16 administrative capacity as a director,  
17 president, or anything like that?

18 A. I'm chairman of the board of  
19 directors.

20 Q. Chairman of the board of directors.  
21 How long have you been chairman of -- of the  
22 board?

23 A. Since we had our first stockhold --

1 uh, stockholders meeting and election of  
2 officers.

3 Q. When was that?

4 A. In, uh -- sometime in 2006.

5 Q. Have you ever been a resident of  
6 the U.S. Virgin Islands?

7 A. Yes, sir.

8 Q. Are you currently a resident of the  
9 U.S. Virgin Islands?

10 A. No, sir.

11 Q. When did you establish a residency  
12 in the Virgin Islands?

13 A. From basically 2002 through 2005.

14 Q. 2002 to 2005?

15 A. Right.

16 Q. Did you actually live there 2002 to  
17 2005?

18 A. Part of the time.

19 Q. How much of the time?

20 A. It varied.

21 Q. Well, would you stay there a day at  
22 a time, two days at a time, a week at a time,  
23 year at a time, month at a time?

1           A.     Well, sometimes months at a time,  
2     sometimes weeks at a time.

3           Q.     When you say it was your residence,  
4     did you actually spend more time in the  
5     Virgin Islands or more time in Alabama during  
6     that time period, '02 to '05?

7           MR. BURDICK:   Object to the form.

8           THE WITNESS:   Thank you.

9           MR. GOYER:     You can answer.

10          A.     In 2005 I spent more than half of  
11     the time in the Virgin Islands.

12          Q.     Okay.   So out of 365 days, about  
13     how many days would you estimate that you  
14     were in the Virgin Islands?

15          A.     Uh, better than 185 in 2'05 [sic].

16          Q.     More than 185?

17          A.     Yes, sir.

18          Q.     What about 2004?

19          A.     No, sir.   Uh, more in -- more in,  
20     uh, United States territory than -- than the  
21     islands.

22          Q.     In Alabama or somewhere else?

23          A.     Alabama.

1           Q.    Okay.  Now, is the bank a holding  
2   company or bank shares company or is it just  
3   a bank?

4           A.    Just a bank.

5           Q.    Are you a bank holding company?

6           A.    No, sir.

7           Q.    Ever been?

8           A.    No, sir.

9           Q.    Do you know what the income tax  
10  rate is in the Virgin Islands?

11          A.    No, sir.  I don't know at this  
12  time, no.

13          Q.    Do you know what it was from 2002  
14  to 2005?

15          A.    No, sir, I don't.

16          Q.    Why did you move down to the Virgin  
17  Islands?  What was your reason?

18          A.    I liked -- I liked the place and  
19  I -- I was there to, you know -- to file my  
20  income tax there and live there and file my  
21  income tax there.

22          Q.    So you were there for tax purposes?

23          A.    That's correct.

1           Q.    Do you know if you're authorized to  
2 own more than a quarter of the shares of any  
3 FDIC bank?

4           MR. GOYER:  I'm gonna object to the  
5 form.

6           THE WITNESS:  Please object.

7           MR. GOYER:  It asks for a legal  
8 conclusion.  You can answer if you know.

9           Q.    You can still answer.

10          MR. GOYER:  You can answer.

11          Q.    The question was do you know?

12          A.    Personally I have a letter from the  
13 FDIC that says I can own it all, period.

14          Q.    Can I see that letter?

15          MR. GOYER:  I think you have a  
16 copy.

17          A.    I don't have it.  You have a copy.

18          Q.    Okay.  When did you gain that  
19 authorization?

20          A.    I don't remember the year, but  
21 might have been in the last three or four  
22 years.

23          Q.    2002 to 2005 while you were

1 spending -- while you were a resident of the  
2 Virgin Islands -- you were for that time  
3 period, right?

4 A. Right.

5 Q. Okay. During that time period, who  
6 was running Western Steel?

7 A. I was.

8 Q. From the Virgin Islands?

9 A. That's correct.

10 Q. Okay. But there's no possible way  
11 you were at the facility on a daily basis  
12 during that time period.

13 A. Not every day.

14 Q. Have you been back to the Virgin  
15 Islands since 2005?

16 A. Yes.

17 Q. How frequently do you go back?

18 A. How frequently or -- I don't have  
19 the record in front of me.

20 Q. Did -- while you were in the Virgin  
21 Islands, did anybody ever act as a proxy to  
22 vote your stock or anything like that?

23 A. No, sir.

1           Q.    So you never authorized any proxies  
2   to function on your behalf when voting stock  
3   between the years of 2002 to 2005?

4           A.    Well, I mailed -- I mail -- I  
5   always signed the -- the standard forms that  
6   are sent out, uh, and -- and -- and mail it  
7   back in.  And -- and on that form it may say  
8   something about a proxy, you know.

9           Q.    Was Teresa Myrick your proxy?

10          A.    Not to my knowledge.

11          Q.    Who's Teresa Myrick?

12          A.    She's my stepdaughter.

13          Q.    Okay.  Does she work for Western  
14   Steel now?

15          A.    No, sir.

16          Q.    But during 2002 to 2005, do you  
17   know if she voted your stock for you as  
18   proxy?

19          A.    Are you --

20                   MR. GOYER:  Which stock are we  
21   talking about?

22                   MR. BURDICK:  Western Steel.

23                   THE WITNESS:  Right.

1 MR. BURDICK: Western Steel.

2 MR. GOYER: Because you were  
3 talking about the bank and --

4 MR. BURDICK: Yeah. Western Steel.

5 MR. GOYER: Okay.

6 THE WITNESS: For the record, let  
7 me say this. He was talking about Merchant  
8 Commercial Bank and now he's injected Western  
9 Steel for the answers that I have given.  
10 Would you put that in the record, please,  
11 ma'am?

12 MR. GOYER: She's gonna --

13 MR. BURDICK: She's gonna type  
14 everything you say.

15 MR. GOYER: Everything you say  
16 she's writing down.

17 THE WITNESS: Thank you.

18 Q. All right. Now, I did ask you  
19 questions about whether or not you were at  
20 the facilities from 2002 to 2005, the  
21 facilities owned by Western Steel, on a daily  
22 basis. And you said no. Is that not correct  
23 or were you here?

1                   MR. GOYER: Is it not correct that  
2 he said that or that -- was he here? I mean,  
3 your question is unclear. Object to the  
4 form.

5                   A. It's unclear. The question is  
6 unclear.

7                   Q. I'll tell you what.

8                   MR. GOYER: He -- he wants to know  
9 were you at the Western Steel on a daily  
10 basis between '02 and '05.

11                   THE WITNESS: On a daily basis, the  
12 answer is no.

13                   Q. Okay. I didn't think we'd fight  
14 too much about that one. Now, did Teresa  
15 Myrick have a voting agreement to vote your  
16 stock in Western Steel as your proxy from  
17 2002 to 2005?

18                   A. There's a possibility it was. I  
19 don't remember.

20                   Q. Okay. Have you ever authorized  
21 anybody else to vote your stock as proxy at  
22 Western Steel?

23                   A. Not that I remember.

1 Q. Have you ever authorized anyone  
2 else to vote any stock that you hold as a  
3 proxy in any company?

4 A. As I said, the form that comes from  
5 Merchant Commercial Bank probably says proxy  
6 if I'm not present.

7 Q. Okay. So you may have a proxy down  
8 in the Virgin Islands?

9 A. If I'm not present at a stockholder  
10 meeting.

11 Q. Okay. What actions, if any, have  
12 harmed -- what actions, if any, taken by any  
13 of the named defendants in this case have  
14 harmed Merchants Commercial Bank?

15 A. Mark Hayden. Mark Steven Hayden.  
16 Steven Mark Hayden.

17 Q. I'm asking what actions they took  
18 to harm them, not -- not who.

19 A. Steven Mark Hayden, uh --

20 Q. What did he do?

21 A. Comm- -- he communicated with Tom  
22 Bolt that the, uh -- the bank's, uh, legal  
23 counsel.

1 Q. Uh-huh.

2 A. And he communicated with the FDIC.

3 Q. And what was the result of that?

4 A. Zero.

5 Q. Nothing?

6 A. Well, other than troubles and  
7 problems and costs.

8 Q. What costs?

9 A. Administrative costs, counsel  
10 costs. Cost is cost.

11 Q. So attorney's fees?

12 A. Attorney fees and administrative  
13 people's time it took.

14 Q. How much -- how much in -- how much  
15 time are we talking about here?

16 A. Well, I'd have to investigate that.

17 Q. So Merchants Commercial is not a  
18 party to this suit, correct? You didn't sue  
19 on behalf of Merchants Commercial, did you?

20 MR. GOYER: Object to the form.

21 Asks for a legal conclusion. You can answer  
22 if you know. I think his question is: Is  
23 Merchants Commercial a named party in that --

1 THE WITNESS: They're not a named  
2 party, no.

3 MR. GOYER: Okay.

4 Q. Okay. So you didn't sue on their  
5 behalf, then?

6 A. I did not.

7 Q. Okay.

8 A. Can I inject that I should have,  
9 please?

10 Q. You get to say whatever you want  
11 today.

12 A. Yes, sir.

13 Q. The more, the better. Now, tell me  
14 about this FDIC investigation. What  
15 happened? What -- what kind of investigation  
16 was there? What were they looking at?

17 MR. GOYER: Object to the form.  
18 You asked about four questions.

19 A. I'll answer what I know.

20 Q. At least four.

21 A. Tom Bolt and Jim Crites handled it.  
22 And I think essentially no problem after much  
23 was doings [sic].

1 Q. Okay. So it's all resolved?

2 A. As far as I know, it's resolved.

3 Yes, sir.

4 Q. What were -- what claims were made  
5 that you know of?

6 A. I -- I don't have the documents in  
7 front of me.

8 MR. GOYER: Claims by Dr. Hayden  
9 or -- is that what you're talking about?

10 MR. BURDICK: Just whatever claims  
11 were the basis of the FDIC investigation.

12 THE WITNESS: Read me the question  
13 again.

14 (Record read.)

15 THE WITNESS: You're gonna have to  
16 say it one more time.

17 (Record read.)

18 MR. GOYER: This is FDIC that led  
19 to the investigation. What caused that to  
20 happen?

21 A. Mark -- Steven Mark Hayden's  
22 communication with the FDIC.

23 Q. What did he tell the FDIC?

1           A.    I don't have the documents in front  
2   of me.

3           Q.    Do you know?

4           A.    Oh, I know.  He claimed I --  
5   Mark -- Steven Mark Hayden claimed that I  
6   owned more than 24.9 percent of the stock.

7           Q.    Uh-huh.  Was that true?

8           A.    The truth is I have a letter from  
9   the FDIC that says I can own it all, period.

10          Q.    Did you get that before or after  
11   the investigation?

12          A.    Before.  Years before.

13          Q.    Okay.  Do you know what the FDIC's  
14   basis was for granting you that authority?

15          A.    I don't run the FDI -- FDIC and you  
16   don't run FDIC.

17          Q.    Not yet.

18          A.    No.

19          Q.    What, uh -- they didn't -- when  
20   they gave you that authority and permission,  
21   they did not state why they gave you that  
22   authority and permission?  Is that what  
23   you're saying?

1           A.    I'm -- I'm saying they issued a  
2   letter that said I can own all of the stock  
3   of Merchants Commercial Bank.

4           Q.    Did you solicit that letter or did  
5   they just voluntarily send that to you --

6           A.    I -- I had it solicited by Maynard,  
7   Cooper and Gale, attorneys.

8           Q.    And that was before the complaints  
9   were made to the FDIC?

10          A.    That's true.

11          Q.    And what was Jim Crites' role?

12          A.    He's president of Merchants  
13   Commercial Bank and CEO.

14          Q.    Did you play any role in his  
15   hiring?

16          A.    What was your question?

17          Q.    Did you play any role in his  
18   hiring, the hiring of Mr. Crites?

19          A.    No, sir. He was onboard before I  
20   came onboard.

21          Q.    Okay. Is he still currently  
22   employed there?

23          A.    Yes, sir.

1 Q. Same role?

2 A. Yes, sir.

3 Q. Let me ask you. There's another  
4 lawsuit out in Nevada that -- with your name  
5 on it. Are you aware of that?

6 A. Yes, sir.

7 Q. Do you have any involvement with  
8 that case at all?

9 A. My attorneys.

10 Q. You have attorneys that are  
11 involved in that case?

12 A. I do in Birmingham and Nevada.

13 Q. Okay. So have they actually filed  
14 pleadings in that case --

15 A. I'm --

16 Q. -- or have they just been watching  
17 it?

18 A. No. They've been -- they've been  
19 actively in the case.

20 Q. When did they first become actively  
21 involved in that case?

22 A. When they were hired.

23 Q. Was -- did they become involved in

1 that case prior to the filing of this case?

2 A. Prior to -- to the filing of this  
3 case (mumbling to himself). Can I get some  
4 help from an attorney?

5 MR. GOYER: Just say if you  
6 remember. Fine. Which one was filed first?  
7 I mean, did they get involved in Nevada  
8 before or after you filed this lawsuit, if  
9 you recall?

10 THE WITNESS: Oh, oh.

11 A. I'd say -- I would say after.

12 Q. It was after they filed this suit?

13 A. Yes, sir.

14 Q. So --

15 MR. GOYER: They being -- we're  
16 getting confused on --

17 MR. BURDICK: I'm sorry.

18 Q. We'll say you because you filed  
19 this suit, right?

20 A. Right.

21 Q. Okay. Did you, through your  
22 attorneys, become involved in any way in the  
23 Nevada case before this case was filed?

1           A.    I -- I don't know.

2           Q.    Okay.  Were you aware of the Nevada  
3 case before this case was filed?

4           A.    I don't think so.

5           Q.    Okay.  Well, I'll represent to you  
6 that your complaint mentions the Nevada case.

7           A.    Good.

8           Q.    So is it safe to say that you and  
9 your attorneys knew about the Nevada case  
10 before this document was filed, before your  
11 complaint was filed in this case?

12          A.    I'm sure.  Yeah, I'm sure.

13          Q.    Okay.  But you're not sure if you  
14 were involved or not yet, whether or not you  
15 had attorneys out there or not?

16          A.    Let me answer by saying he -- he  
17 got me confused about what's what.

18          Q.    What do you mean I got you  
19 confused?

20          A.    Exactly what I said.

21          Q.    Okay.  I'm a tricky attorney.  I do  
22 stuff like that.

23          A.    He is.  He's a tricky returner --

1 attorney. Yes, sir.

2 Q. To what extent are you involved  
3 with the lawsuit in Nevada?

4 A. As much as I can be.

5 Q. Okay. What do you mean by that?  
6 You're in it full? You're all in? That's a  
7 Nevada term. See, I snuck that in there.  
8 You're all in?

9 A. I'm all in.

10 Q. All right. Uh, do you need a break  
11 or a snack or anything?

12 A. No. Uh-uh. No, sir. I don't need  
13 no break. You need a break. I don't need a  
14 break.

15 Q. Well, the tape's gonna need a break  
16 here in just a couple --

17 MR. HAYDEN: Why don't we take an  
18 early lunch about 11:00? You used to --  
19 y'all guys, you used to take a -- 11 o'clock  
20 lunch sound good for you fellows? We'll take  
21 a break in five minutes? About what, three  
22 minutes?

23 MR. GOYER: How much tape?

1                   MR. HAYDEN: How much time you got  
2 left on that tape?

3                   MR. BURDICK: Less than five  
4 minutes.

5                   MR. GOYER: Okay.

6                   MR. HAYDEN: Sound good? Take --  
7 get an early lunch and come back and get in  
8 more hours. Okay. Sound good? I know  
9 you're early morning. He's an early morning  
10 fellow.

11                  THE VIDEOGRAPHER: Ready to go off,  
12 Austin?

13                  MR. HAYDEN: Sound good?

14                  MR. BURDICK: We might as well. I  
15 mean, we're here --

16                  MR. HAYDEN: He's all -- he's a  
17 diabetic. He needs an early morning lunch  
18 and I know some of y'all are early morning  
19 people.

20                  MR. GOYER: Yeah.

21                  MR. BURDICK: Go ahead and go off  
22 the record.

23                  THE VIDEOGRAPHER: This marks the

1 end of videotape two. Going off the record,  
2 10:56 a.m.

3 (Break taken.)

4 THE VIDEOGRAPHER: This marks the  
5 beginning of the videotape number three.

6 Going back on the record, 11:59 a.m.

7 Q. (BY MR. BURDICK) All right.

8 Welcome back from lunch, Mr. Cashion.

9 A. Thank you.

10 Q. Did you get a good lunch?

11 A. I did.

12 Q. Where'd you go?

13 A. Tuesday Ruby's.

14 Q. Tuesday Ruby's?

15 A. Yes, sir.

16 Q. Okay. Just right down the -- the  
17 hill here?

18 A. Right down the runway.

19 Q. Okay. Have you ever been there  
20 before?

21 A. Yes, sir.

22 Q. How recently?

23 A. Uh, the last time was, uh, January

1 the 30th.

2 Q. What were you doing there on  
3 January the 30th?

4 A. Well, to meet Steven Mark Hayden.

5 Q. Uh-huh. Anybody else there?

6 A. Well, the people that -- I had a --  
7 a gentleman with me, Sam Robertson, a friend,  
8 and, uh --

9 Q. Uh-huh.

10 A. -- Frankie, my wife showed up.  
11 That's, uh -- you know, my wife at that time  
12 showed up.

13 Q. Where were you sitting in that  
14 restaurant? What part?

15 A. In the bar part. In a booth in the  
16 bar part.

17 Q. Did you sit in a booth in the bar  
18 part today for lunch?

19 A. Yes, sir.

20 Q. Just a few seats down, I guess?

21 A. No. In the same seat, I hope.

22 Q. Oh, the same seat?

23 A. Yeah or close.

1 Q. Okay.

2 A. Yeah.

3 Q. Was that a traumatic experience to  
4 go eat lunch today?

5 A. Traumatic, uh --

6 MR. GOYER: Traumatic or dramatic?

7 THE WITNESS: Yeah.

8 MR. BURDICK: Traumatic.

9 MR. GOYER: Traumatic?

10 Q. I know with these lively attorneys  
11 you've got it might've been dramatic, but I  
12 wonder if it was traumatic, with a T.

13 A. Well, it -- it -- you know, it's,  
14 uh, both recollections [sic].

15 Q. Okay. Did you get upset? Did you  
16 cry?

17 A. Today?

18 Q. Yeah.

19 A. No. I ain't the crying kind of  
20 person.

21 Q. Okay. So, I mean, how did it upset  
22 you? I mean, was it -- did you have to take  
23 an extra heart pill or anything?

1 A. No.

2 Q. Did anybody come by, comfort you,  
3 and say "I can see you're having a hard  
4 time?"

5 A. No.

6 Q. Are you gonna be okay for the rest  
7 of the deposition or --

8 A. Oh, yes, sir.

9 Q. So it wasn't that big of a deal?

10 A. No, sir.

11 Q. Was -- was it --

12 A. It wasn't that big of a deal, no.

13 Q. Well, you don't seem -- you seem  
14 like a tough guy to me. You're outlasting me  
15 on the depo, right?

16 A. Well, I hope to.

17 Q. Okay.

18 A. You know, it ain't over, but I hope  
19 to.

20 Q. Okay.

21 MR. GOYER: It's gonna be hard to  
22 go forward without both of y'all. Whoever  
23 falls first, will be the end of the

1 deposition unless you're gonna let  
2 Dr. Hayden ask questions.

3 MR. BURDICK: I think I might, but  
4 I don't know that you would want him to.  
5 Usually most attorneys would object to that.

6 Q. Okay. Well, let's get back to  
7 the -- to the fun that we've been having.  
8 Uh, and like I said, if you do need to take a  
9 break or anything, you let me know. Okay?

10 A. All right.

11 Q. Not an endurance test. Uh, what is  
12 10:16 Mining Corporation?

13 A. Uh, I have signed two  
14 confidentiality agreement, uh -- agreements  
15 and I'm not able to talk about that.

16 Q. Well, I -- I think you can tell me  
17 what they are.

18 MR. GOYER: We're gonna let him  
19 talk a little bit about that but --

20 MR. BURDICK: Uh-huh. I mean, I --  
21 I'm just looking at the complaint and he  
22 mentions them in the complaint. He brought  
23 the issue up. I -- I'm trying to find out

1 what his claims are with regard to it.

2 MR. GOYER: Sure. You can talk  
3 about it a little bit, but I -- I don't know  
4 if Dr. Hayden has shared with you --

5 MR. BURDICK: Uh-huh.

6 MR. GOYER: -- a letter from a  
7 lawyer on behalf, I think, of 10 cents -- 16  
8 Mining Corporation and the Wadsworth family.

9 MR. BURDICK: Uh-huh.

10 MR. GOYER: Uh, it came out in the  
11 past week.

12 MR. HAYDEN: Do you -- do you have  
13 a copy of that letter?

14 MR. GOYER: I think do. I don't  
15 know if I have it with me, but he was  
16 reminding Dr. Hayden not -- you know, not to  
17 violate the, uh, confidentiality agreement,  
18 and I think it applies as well to doc -- uh,  
19 to Mr. Cashion. And I think there may be  
20 other confidentiality agreements as well, so  
21 we don't want to put him into a -- we don't  
22 want to put Mr. Cashion into a position where  
23 he's gonna violate those. Un -- unless until

1 we get a protective order in place, Austin,  
2 I'm not gonna be able to let him answer many  
3 questions about 10:16 Mining Corporation.  
4 I'll let you ask a few, but let's see how it  
5 goes.

6 MR. BURDICK: Okay.

7 MR. GOYER: And let me say this.  
8 The confidentiality agreement itself is  
9 confidential, so if you want to make that --

10 MR. BURDICK: Is that the letter  
11 you were talking about?

12 MR. GOYER: I think this is.

13 MR. BURDICK: Just want to make  
14 sure I'm on the same page with you. Excuse  
15 me.

16 MR. GOYER: Yeah. This is August  
17 14th, 2012. I think so.

18 MR. BURDICK: Yeah.

19 MR. GOYER: Also got an E-mail  
20 while we were sitting here this morning from  
21 Mike White, which I haven't had a chance to  
22 read carefully --

23 MR. BURDICK: Uh-huh.

1                   MR. GOYER:  -- addressing it.  He  
2   says that there are additional  
3   confidentiality agreements other than the one  
4   he addresses in the letter you've got there.

5                   MR. BURDICK:  Okay.

6                   THE WITNESS:  It was.

7                   MR. BURDICK:  Yeah.  I saw a  
8   confidentiality agreement that was attached  
9   with this letter and it was transmitted to  
10  Mr. Naftel.

11                  MR. GOYER:  Uh-huh.

12                  MR. BURDICK:  I think he's at your  
13  firm.

14                  MR. GOYER:  Yes.

15                  MR. BURDICK:  Uh, I was a little  
16  confused because of the first sentence in  
17  this, It is my understanding that you are  
18  currently representing Dr. Steven Mark Hayden  
19  in his claims against Mr. William Cashion.

20                  Q.    Are you aware of any claims that  
21  Mr. Hayden has brought against you?

22                  A.    No.

23                  Q.    Okay.

1                   MR. GOYER: Now, you're talking  
2 about a letter that's written by some other  
3 lawyer, right?

4                   MR. BURDICK: Yeah. That claims to  
5 represent Argo Mills, Incorporated, and  
6 Wadsworth family members.

7                   MR. GOYER: Yeah. We can't speak  
8 to the accuracy --

9                   MR. BURDICK: I'm just asking is --  
10 I'm not asking if it's accurate. I'm just  
11 asking --

12                   MR. GOYER: Yeah.

13                   MR. BURDICK: -- if he knows of  
14 something that I don't know of.

15                   MR. GOYER: Okay.

16                   MR. BURDICK: Because as far as  
17 I -- my understanding is that the only person  
18 who's brought claims in this case -- and you  
19 can correct me if I'm wrong, Counsel -- is  
20 either Mr. Cashion or Western Steel, that  
21 those are the only named plaintiffs and there  
22 was no counterclaim that I'm aware of.

23                   MR. GOYER: I think that's

1 accurate.

2 MR. BURDICK: Okay.

3 MR. GOYER: As far as I know.

4 MR. BURDICK: All right.

5 Q. So as far as you're aware,  
6 Mr. Hayden -- Dr. Hayden, your nephew,  
7 doesn't have any claims against you that  
8 you're aware of?

9 A. Not that I'm aware of, no.

10 Q. Okay. Now, in your complaint you  
11 mention 10:16 Mining Corporation. Do you own  
12 any stock in 10:16 Mining Corporation?

13 A. I do.

14 Q. Okay. And how much stock do you  
15 own in 10:16 Mining Corporation?

16 THE WITNESS: Counsel, can I answer  
17 that?

18 MR. GOYER: Yes.

19 A. Uh, 531 shares of a thousand  
20 shares, I believe.

21 Q. So a little more than half?

22 A. Yes, sir.

23 Q. How much did you pay for all those

1 shares?

2 A. Uh, best of my recollection.

3 THE WITNESS: Uh, should I answer  
4 that?

5 MR. GOYER: (Attorney nods head  
6 affirmatively.)

7 A. Best of my recollection, about six  
8 million, over six million dollars.

9 Q. Six million dollars?

10 A. Yes, sir.

11 Q. Are you involved in any other  
12 mining operations other than 10:16 Mining  
13 Corporation? Do you hold stock with anybody  
14 else?

15 A. Not that I can remember.

16 Q. Okay. So Argo Mills and others,  
17 you don't own stock with them?

18 A. Uh-uh.

19 MR. GOYER: You've got to say "yes"  
20 or "no," William.

21 A. No.

22 Q. Do you own stock with 10:27 or  
23 whatever it is, that other one?

1 A. No.

2 Q. So as far as mining companies, this  
3 is the only one you've got anything to do  
4 with?

5 A. As far as --

6 Q. 10:16?

7 A. As far as I can remember, yes.

8 Q. Okay. Uh, what's the nature of  
9 10:16 Mining Corporation?

10 MR. GOYER: Let me -- I think  
11 beyond what he's already said, I'm not --

12 MR. BURDICK: Uh-huh.

13 MR. GOYER: I don't want to go any  
14 farther with 10:16 Mining unless until we get  
15 a protective order in place and we get  
16 Mr. White. He can weigh in and intervene if  
17 necessary and we can sort this out because  
18 obviously he's -- Mr. White on behalf of  
19 Wadsworths has taken the position that  
20 Dr. Hayden, as I understand, is already in  
21 violation of that confidentiality agreement.  
22 I don't want to put my client in the same  
23 boat --

1 MR. BURDICK: Yeah.

2 MR. GOYER: -- so let's --

3 MR. BURDICK: Well, let me say  
4 this. He's not the one who interjected 10:16  
5 Mining into this lawsuit. It was actually  
6 this complaint which created the lawsuit.

7 MR. GOYER: Right.

8 MR. BURDICK: And 10:16 is in this.

9 MR. GOYER: Right. And --

10 MR. BURDICK: So --

11 MR. GOYER: -- are you willing to  
12 stipulate to a confidentiality agreement and  
13 a protective order in this case that deals  
14 with the -- the details of 10:16 Mining?

15 MR. BURDICK: Uh, I'd be willing to  
16 exchange, you know -- if y'all want to create  
17 a draft, we can send it back and forth and we  
18 can -- we can come to an agreement, I'm sure.

19 MR. GOYER: Okay.

20 MR. BURDICK: Uh, but, you know,  
21 on -- without any specific terms today, I  
22 don't -- obviously don't --

23 MR. GOYER: Let's just leave that

1 for another day, then.

2 MR. BURDICK: Okay. Now, there are  
3 some things that we've got to talk about  
4 today that -- that are kind of inextricably  
5 connected with it, you know, because some his  
6 other claims on here with regard to  
7 defamation and things like that, they have to  
8 do with his relationship with 10:16.

9 MR. GOYER: We just have to see  
10 what your questions are.

11 MR. BURDICK: Okay.

12 MR. GOYER: Okay?

13 MR. BURDICK: So --

14 MR. GOYER: I think my general  
15 understanding from reading Mike White's  
16 letter is that I'm not gonna be able -- able  
17 to allow William to talk about the Wadsworths  
18 or the inner workings of the company and the  
19 details of that company.

20 MR. BURDICK: Okay.

21 MR. GOYER: Uh, but beyond that,  
22 we'll see how -- what your questions are.

23 MR. BURDICK: All right.

1                   MR. GOYER:  And I'll work with you  
2   on a protective order.  We've just got to get  
3   --

4                   MR. BURDICK:  And we'll come back  
5   and finish the deposition with all that  
6   stuff, uh, but let -- let me see.  I'm gonna  
7   ask a few other general questions.  And  
8   you -- if you need to object to them, just  
9   object or whatever but --

10                  MR. GOYER:  Okay.

11                  MR. BURDICK:  -- we'll -- we'll  
12   talk about it.

13                  Q.   (BY MR. BURDICK) We talked about  
14   that you own stock, a little bit more than  
15   half.  Have you ever received any dividends  
16   for any stock in that corporation, 10:16  
17   Mining?

18                  MR. GOYER:  You can answer.

19                  THE WITNESS:  Yes, I -- I guess I  
20   can answer.  I'm sorry.

21                  MR. GOYER:  Yes.

22                  THE WITNESS:  Thanks.

23                  MR. GOYER:  You can answer.

1           A.    Yes, I can answer and the answer is  
2    no.

3           Q.    No dividends?

4           A.    No dividends.

5           Q.    Okay.  They don't -- have they ever  
6    paid out any dividends that you know of?

7           A.    No.

8           Q.    What's your -- what's your role  
9    with regard to 10:16?  Is -- or is it just  
10   shareholder or do you have another role?

11          A.    Well, at the present, uh, I'm the  
12   chairman and the president, chairman of the  
13   board and the president.

14          Q.    Okay.  And of the 500 and -- did  
15   you say 536?

16          A.    One.  531.

17          Q.    531.  I'm sorry.  Of the 531  
18   shares, did you purchase all of those  
19   directly from the corporation in an initial  
20   offering?

21          A.    No.

22          Q.    Who else did you purchase stock  
23   from?

1                   MR. GOYER: I think we're getting  
2 beyond the scope of what I'm gonna be  
3 allowing him to answer, okay? So I'm gonna  
4 instruct him not to answer until we get a  
5 protective order in place.

6                   MR. BURDICK: Okay.

7                   Q. Well, let's say this so we -- so we  
8 don't identify anybody yet until we get the  
9 protective order. Are you saying that you  
10 have bought stock in 10:16 Mining from  
11 sources other than directly from 10:16?

12                  MR. GOYER: You can answer.

13                  A. Yes.

14                  Q. Okay.

15                  MR. BURDICK: We're gonna have to  
16 leave their names out until we get the  
17 protective order.

18                  MR. HAYDEN: Okay.

19                  Q. Uh, in your complaint you ask for  
20 declaratory judgment, uh, judgments against  
21 defendants for their wrongful acts. And in  
22 paragraph F -- excuse me -- it states, Any  
23 and all actions involving 10:16 Mining

1 Corporation, paren, 10:16 Mining, including  
2 the transfer of 10:16 Mining stock owned by  
3 Plaintiff Cashion and the 10:16 Mining assets  
4 from Plaintiff Cashion to any individual,  
5 entity or trust including the so-called  
6 Nevada trust. Plaintiff Cashion further  
7 requests the defendant cease and desist  
8 immediately any communications with any other  
9 shareholder, director, officer, or employee  
10 of 10:16 Mining.

11 How has 10:16 Mining Corporation  
12 been affected by actions taken pursuant to  
13 the power of attorney that's gonna be marked  
14 as Exhibit 1 as soon as we get a copy?

15 MR. GOYER: You can answer.

16 THE WITNESS: Read the question  
17 again, will you?

18 (Record read.)

19 MR. GOYER: What impact has  
20 Dr. Hayden's actions had on 10:16 Mining  
21 Corporation, in a nutshell?

22 A. In a nutshell it's been awful,  
23 A-W-F-U-L, awful.

1 Q. Please elaborate.

2 A. Sir?

3 Q. Please elaborate.

4 A. The confidentiality -- I -- I can't  
5 elaborate to you until you establish it. I'm  
6 not gonna be -- I'm not gonna be sued. When  
7 you do that, I'll give you some answers.

8 Q. I can't promise you nobody else in  
9 the world will sue you for something. I wish  
10 I had that power. We wouldn't be here, would  
11 we, if I could pick who sues who?

12 MR. GOYER: I think what he's  
13 saying is we're gonna have to get into the  
14 details of 10:16 Mining and run afoul of  
15 these confidentiality agreements.

16 MR. BURDICK: Okay.

17 MR. GOYER: We need to get those  
18 straight before we go --

19 MR. BURDICK: So --

20 MR. GOYER: -- into further detail.

21 MR. BURDICK: All right. Well,  
22 we'll have to deal with that issue because  
23 obviously we can't even address whatever his

1 damages are until we do that.

2 THE WITNESS: Thank you.

3 MR. GOYER: Well, we -- you can  
4 address everything but 10:16 Mining.

5 MR. BURDICK: Well, but he's  
6 claiming damages as a result of the effect  
7 here and so --

8 MR. GOYER: I understand. We're  
9 gonna -- we're gonna have to save 10:16  
10 Mining for another day --

11 MR. BURDICK: Uh-huh.

12 MR. GOYER: -- until we get a  
13 protective order in place and we get Mike  
14 White and his clients onboard with that  
15 protective order. And, uh, otherwise, you  
16 can ask him other things. He's got other  
17 damages besides just 10:16 Mining that you  
18 can ask him about.

19 MR. BURDICK: Yeah. I know. I'm  
20 just trying to make sure that we're on the  
21 same, uh -- same sheet of music, and I think  
22 we're pretty close.

23 Q. Well, can I ask this? Uh, is --

1 you own shares in 10:16. We established  
2 that. Is 10:16 a publicly traded company?

3 A. No. It's a restricted stock.

4 Q. Has it ever been offered to the  
5 public?

6 A. Not to my knowledge.

7 Q. Did you ever file a prospectus with  
8 the Security Commission of the State of  
9 Alabama?

10 A. Me, William, no.

11 Q. What about as director?

12 A. Not that I remember.

13 Q. What about as chairman of the  
14 board?

15 A. No.

16 Q. Did anybody at 10:16 ever file  
17 anything with the Alabama Securities  
18 Commission?

19 MR. GOYER: Let me -- I think  
20 you're beyond the scope of what I'm gonna  
21 allow him to answer today based on 10:16.  
22 Okay? All right?

23 MR. BURDICK: Okay.

1                   MR. GOYER: That's gonna be subject  
2 to a protective order.

3                   MR. BURDICK: Well, okay.

4           Q. Let me ask you this. We talked  
5 about any, uh -- any dividends that you may  
6 have received, and you said you haven't  
7 received any; is that correct?

8           A. That's correct.

9           Q. Have -- have you received any gold  
10 from 10:16 Mining?

11          A. A little.

12          Q. How much?

13          A. Tiny little pieces.

14          Q. What would you value that at? You  
15 can ballpark it.

16          A. Ballpark, 10 dollars.

17          Q. 10 bucks? Okay. Is that all  
18 you've received?

19          A. Yes, sir.

20          Q. How long have you been involved  
21 with 10:16 Mining?

22          A. Since, uh, June '09.

23          Q. June of '09?

1 A. Uh-huh.

2 Q. And you've invested how much,  
3 again?

4 A. Uh, over two million -- over six  
5 million dollars.

6 Q. Over six million dollars. And so  
7 far your only return has been about 10  
8 dollars' worth of gold?

9 A. That's correct.

10 Q. Have you received any other  
11 precious metals through 10:16 Mining?

12 A. Not that I know of.

13 Q. Has that been a good investment for  
14 you with regard to your stock to the extent  
15 that you've invested over six million dollars  
16 and got 10 dollars back?

17 A. It's an investment I made and I'll  
18 stand by it.

19 Q. You feel like it's a wise  
20 investment?

21 A. I do.

22 Q. You feel like it's been profitable?

23 A. Not so far, no.

1                   MR. BURDICK: I mean, I guess if  
2 we're gonna get into the basis for him  
3 believing it's profitable, we're gonna have  
4 to --

5                   MR. GOYER: I think he said not so  
6 far.

7                   MR. BURDICK: Yeah. But I want to  
8 know why -- what makes him think it will be  
9 profitable at some point.

10                  MR. GOYER: Okay. Well, let's just  
11 hold up on that.

12                  THE WITNESS: Yeah.

13                  MR. BURDICK: Okay.

14                  MR. GOYER: I think it might be in  
15 your client's best interest too to get a  
16 protective order in place based on the tenor  
17 of Mike White's letter.

18                  MR. BURDICK: It may be but, like I  
19 said, I mean, we can discuss that off the  
20 record. I -- uh, I don't think my client's  
21 done anything since he hasn't brought any  
22 actions and he hasn't raised any of these  
23 issues. He's only tried his best to respond

1 to them. They've been raised by the  
2 president of the corporation.

3 MR. GOYER: Have you got that  
4 letter from Mike White?

5 THE WITNESS: You handed it to him  
6 while ago.

7 MR. BURDICK: Oh. Did I put it  
8 back over here?

9 MR. GOYER: Yeah. Let's mark that  
10 as -- are you gonna mark it? If you're not,  
11 I can mark it as Defendants' Exhibit 2 since  
12 you showed it to him. It doesn't have --

13 MR. BURDICK: I showed it to you.  
14 I didn't show it to him.

15 MR. GOYER: But we're talking about  
16 it and we don't have the confidentiality  
17 attached. Let's just make --

18 MR. BURDICK: Uh-huh.

19 MR. GOYER: -- that an exhibit.  
20 I'll make it Defendants' Exhibit 2.

21 MR. BURDICK: You probably need to  
22 make it plaintiff's exhibit because I'm not  
23 entering it. I guess if you --

1 MR. GOYER: I'm sorry.

2 MR. BURDICK: -- want to enter it,  
3 you can wait till you ask him questions  
4 later.

5 MR. GOYER: You're right. Mark it  
6 as Plaintiffs' Exhibit 1.

7 (Whereupon, Plaintiffs' Exhibit  
8 No. 1 was marked for  
9 identification.)

10 MR. BURDICK: Now, you're cheating.  
11 You're not supposed to be doing that while  
12 I'm asking questions.

13 MR. GOYER: Well --

14 MR. BURDICK: It's my turn.

15 MR. GOYER: -- it will save time so  
16 we don't have to come back.

17 MR. BURDICK: Well, I'm having fun.  
18 I want to come back.

19 Q. (BY MR. BURDICK) Uh, you also claim  
20 that actions were taken by defendants  
21 regarding the corporate affairs of Western  
22 Steel. You -- you said, All actions taken by  
23 defendants regarding the corporate affairs of

1 Western Steel are invalid including, without  
2 limitation, the purported certificate of  
3 Western Steel, Inc., on January 29th, 2012  
4 and a certified resolution of Western Steel,  
5 Inc., of January 29th, 2012. What's your  
6 basis for saying that those actions are  
7 invalid?

8 A. My attorneys.

9 Q. So even though this is a verified  
10 complaint and these are your words, they're  
11 really your attorney's words?

12 A. Well, they're my words too.

13 Q. Well, do you think --

14 A. But I truly believe they're  
15 invalid.

16 Q. But why?

17 A. Everything about them is invalid,  
18 period.

19 Q. But why? Why do you think they're  
20 invalid?

21 A. I think they're invalid.

22 Q. So you don't have any basis, then?

23 A. I do have basis, yes, sir.

1           Q.    Well, then, please tell me.  It's  
2   only fair.  I've got to know what I'm  
3   defending against.

4           A.    Uh-huh.

5           MR. GOYER:  You talking about the  
6   actions that Dr. Hayden took under the power  
7   of attorney?

8           MR. BURDICK:  Yeah.  I'm --

9           MR. GOYER:  Is that what we're  
10   talking about?

11          MR. BURDICK:  I'm talking about all  
12   actions taken by defendants regarding the  
13   corporate affairs of Western Steel are  
14   invalid including, without limitation, the  
15   purported certificate of Western Steel,  
16   Incorporated, of January 29th, 2012 and the  
17   certified resolutions of Western Steel, Inc.,  
18   of January 29th, 2012.

19          MR. GOYER:  Let me object to the  
20   form to the extent it asks for a legal  
21   conclusion.  You can answer if you know.

22          A.    I believe it --

23          THE WITNESS:  Ask that question

1 again.

2 Q. Let me ask it this way.

3 A. Okay.

4 Q. That statement that I just read you  
5 from your complaint --

6 A. Right.

7 Q. -- that claims that -- excuse me --  
8 that the purported certificate of Western  
9 Steel, Inc., that's dated January 29th, 2012  
10 and the certified resolution -- resolutions  
11 of Western Steel, Inc., of January 29th,  
12 2012 -- what factual basis do you have for  
13 claiming that those are invalid? Factual  
14 basis, not legal basis.

15 A. Factual. My -- my thoughts, my --  
16 my knowledge, uh, any knowledge I have. I  
17 understand that they're invalid. My lawyers  
18 tell me they're invalid.

19 Q. But you don't know of any factual  
20 basis other than them having a legal argument  
21 that they've given you, which I'm not gonna  
22 ask you about. I don't care what they think.  
23 But you don't have any other factual basis

1 other than what they told you?

2 A. My own conscience tells me they're  
3 invalid, period.

4 Q. Your conscience?

5 A. Yes, sir.

6 Q. Okay.

7 A. If I know anything, I know they're  
8 invalid.

9 Q. Okay.

10 A. If you can prove they're valid,  
11 then I don't know anything. It's that  
12 simple.

13 Q. Okay.

14 A. You prove they're valid.

15 Q. I'll do it.

16 A. Okay. Thank you.

17 Q. All right. You also claim that my  
18 client has a fiduciary duty to you. Why do  
19 you claim he has a fiduciary duty to you?

20 MR. GOYER: Object to the form and  
21 calls for a legal conclusion. You can tell  
22 him if you know.

23 A. Ask the question again.

1 Q. Why do you claim that my client has  
2 a fiduciary duty to you?

3 MR. GOYER: Same objection.

4 A. He has fiduciary duty just like I  
5 have fiduciary duty. There's a lot of things  
6 that he has fiduciary duty to me, his uncle,  
7 period.

8 Q. Because you're his uncle?

9 A. Yes, sir. And -- and -- and --  
10 and -- and human -- human morals, human  
11 actions. Yes, sir.

12 Q. Okay. So he has a moral obligation  
13 and a familial obligation?

14 A. Yes. He has all kind of  
15 obligations not to do this that he's done,  
16 period.

17 Q. Okay. Well, you said you have a  
18 lot of fiduciary obligations. Who do you  
19 have fiduciary obligations to?

20 A. Well, to any kind of, uh --  
21 anything I'm involved in. I have a fiduciary  
22 duty to do the right thing, not the wrong  
23 thing.

1 Q. Okay. Anything you're involved in?

2 A. Anything I'm involved in. I don't  
3 care if it's just personal, business, or what  
4 it is. I have a fiduciary duty to do the  
5 right thing, not the wrong thing.

6 Q. So you have a fiduciary duty to  
7 your family members?

8 A. Yes, sir.

9 Q. Your children?

10 A. Yes, sir.

11 Q. Your spouse?

12 A. Well, I -- I -- I -- I draw the  
13 line right there.

14 Q. Oh, you don't have a fiduciary duty  
15 to your spouse?

16 A. Not -- not at this time. No, sir,  
17 period.

18 Q. Okay. Do you have a spouse at this  
19 time?

20 A. Well, it's in the process of being  
21 divorced because of this action right here.

22 Q. Okay. Who else do you have a  
23 fiduciary duty to other than your children?

1           A.    My business associates.

2           Q.    What do you mean by "business  
3 associates?" Do you mean employees or do you  
4 mean people that you do business with?

5           A.    Both.

6           Q.    So anybody that you do business  
7 with, that you thread pipe for, you've got a  
8 fiduciary duty to?

9           A.    You better bet. Yes, sir.

10          Q.    How did you -- how did you come to  
11 have a fiduciary duty with these folks that  
12 you thread pipe for?

13          A.    Because, you know, I'm -- I'm doing  
14 them a service and I've got to do it right.  
15 It's got to be done right. My -- me and my  
16 people have got to do it right.

17          Q.    Okay.

18          A.    Not wrong. Right.

19          Q.    But you do work for people because  
20 you've got a contract to do work for them,  
21 right?

22          A.    Well, not always. No, sir.  
23 Sometimes it's just, uh, what called a

1 purchase order, and you can call that a  
2 contract if you want to.

3 Q. Uh-huh. If you don't do what's on  
4 the purchase order, have you breached your  
5 fiduciary duty or your contractual duty?

6 MR. GOYER: Object to the form.  
7 Calls for a legal conclusion.

8 Q. Well, you know what a contract is,  
9 right? You told me that earlier.

10 A. Yeah. Well, I'd say both. I'd say  
11 both. If I don't -- if it's not done right,  
12 I've -- I've violated both.

13 Q. Okay. So they're not mutually  
14 exclusive; it's not one or the other?

15 A. No. It's both.

16 MR. GOYER: Object to the form.  
17 Calls for a legal conclusion.

18 Q. You claim that there was a  
19 conspiracy. Tell me about this conspiracy.

20 A. Conspiracy consists of -- of Steven  
21 Mark Hayden, Frankie Cashion, and Gene  
22 Calhoun. That's the -- they -- they  
23 conspired to take my bank accounts, my

1 companies, everything I owned except my  
2 clothes maybe, period.

3 Q. They -- they -- they conspired to  
4 take it away from you?

5 A. I -- take it away from me. Yes,  
6 sir.

7 Q. All right. What were they gonna do  
8 with it once they took it away?

9 A. I have no idea.

10 Q. Okay. You don't know if it was  
11 gonna be put in a trust or if it was gonna  
12 be, uh, sold on a street corner?

13 A. Well, I -- I read papers that said  
14 a trust.

15 Q. Okay. You're aware that there's a  
16 trust out there?

17 A. Yes, sir.

18 Q. A Nevada Spendthrift Trust. I  
19 mean, you brought the causes of action and  
20 mentioned it, right?

21 A. Right.

22 MR. GOYER: Object to the form.

23 Calls for a legal conclusion.

1 Q. I mean, you're the one that brought  
2 the complaint in this case, right?

3 A. That's true. That's true. Me and  
4 Western Steel.

5 Q. That's -- that's a factual issue.

6 A. That's a factual issue.

7 Q. Okay.

8 MR. GOYER: Whether or not it's a  
9 valid -- a Nevada trust is --

10 MR. BURDICK: Well, I'm not asking  
11 if it's valid.

12 MR. GOYER: Okay.

13 MR. BURDICK: I didn't ask that.

14 MR. GOYER: All right.

15 Q. Is it valid?

16 MR. GOYER: Calls for a legal  
17 conclusion. Object to the form.

18 A. I'm gonna give my opinion. No.

19 Q. What's your opinion based on?

20 A. Attorneys. Attorneys.

21 Q. Well, don't tell me what they said.

22 Is that all it's based upon, just the

23 attorneys tell you -- told you it's not?

1           A.    And my common sense.

2                    THE WITNESS:  Put down there my  
3 common sense, please.

4           Q.    She's gonna put down whatever you  
5 say.

6           A.    Yes, sir.  Thank you.

7           Q.    She don't like me enough to not put  
8 down what you say.  It's on video, too.

9           A.    That's good.

10          Q.    Uh-huh.

11          A.    Thank you.

12          Q.    You're a good looking man.  You  
13 ain't broke the camera yet.

14          A.    Not yet.

15          Q.    All right.  So they conspired to  
16 take away your stuff?

17          A.    Right.

18          Q.    And you have no idea what they were  
19 gonna do with it?

20          A.    No, sir.  No idea.

21          Q.    Are you aware of this conspiracy --  
22 are you aware of these conspirators that you  
23 listed -- you listed -- you listed Frankie,

1 Gene, and Mark Hayden, right?

2 A. That's correct.

3 Q. Are there any other conspirators?

4 A. Not that I know of at this time.

5 Q. Did they conspire to participate in  
6 any sort of crime?

7 A. In my opinion, yes.

8 Q. What crimes?

9 A. Uh, fraud, F-R-A-U-D.

10 Q. Explain that to me. What fraud?

11 A. Fraud of taking everything that I  
12 had and leaving me with my clothes.

13 Q. I don't think you brought a cause  
14 of action for fraud.

15 A. I may -- I need to --

16 MR. GOYER: Come on, Austin.

17 A. -- confer with my attorneys on  
18 that.

19 MR. BURDICK: Well, I -- I'm trying  
20 to pin down what the issues are and he's  
21 expanding them.

22 MR. GOYER: No. You asked him what  
23 crime. He answered the question. You're --

1 now you're asking him legal questions about  
2 cause of action.

3 Q. Okay. So you're not saying --  
4 you're not saying a civil cause of action;  
5 you're saying the crime of fraud. I guess  
6 we'll clarify it.

7 MR. GOYER: Object to the form.  
8 Asks for a legal conclusion.

9 Q. Well, you're saying they conspired.  
10 What did they conspire to do, take your  
11 stuff?

12 A. Take everything, everything I had,  
13 everything but my clothes.

14 Q. Were they gonna take it for their  
15 own personal use?

16 A. I don't know that. I can't answer  
17 that.

18 Q. All right. Have you seen any of  
19 the trust documents from the Nevada  
20 Spendthrift Trust?

21 A. I have.

22 Q. Have you received any benefits or  
23 payments or anything from the trust?

1           A.    I have not.

2           Q.    Never received anything?

3           A.    No, sir.

4           Q.    Nothing flowed through to you, not  
5 a penny?

6           A.    Well, now, let me say this.  They  
7 claim -- Mark claimed that one instrument,  
8 50,000 dollars, and another they claim a  
9 hundred thousand dollars, but it was my money  
10 to start with.  They didn't give me nothing.

11          Q.    Well.  I'm not saying that came  
12 from Mark's pocket.  I'm just saying -- are  
13 you saying you received those payments from  
14 the trust?

15          A.    No, sir.  Uh --

16          Q.    Where did you get them from?

17          A.    From Western Steel, one payment.

18          Q.    Western Steel made you a payment?

19          A.    Yes, sir.

20          Q.    Who signed the check?

21          A.    I think -- Gene Calhoun, I think.

22          Q.    Okay.  And this is while he was a  
23 conspirator?

1 A. Yes, sir.

2 Q. Is he still a conspirator?

3 A. I think so.

4 Q. Okay. What -- when did you find  
5 out he was a conspirator?

6 A. Uh, first, uh -- first time I found  
7 out was, uh, February the 1st when that, uh,  
8 incident went on at Western Steel's office.

9 Q. Okay.

10 MR. GOYER: Is that two -- 2012?

11 THE WITNESS: 2012.

12 Q. February 1st, 2012?

13 A. And I think February the 1st.

14 Q. That's when you found out he was a  
15 conspirator?

16 A. That's correct, best of my  
17 knowledge.

18 Q. All right. Did you fire him?

19 A. No, sir.

20 Q. You let him keep conspiring?

21 A. I had no choice.

22 Q. You had no choice? What do you  
23 mean?

1           A.    I had no choice.

2           Q.    Why not?  You're the boss.

3           A.    Well, under court order, uh, it was  
4 best decided that I -- I leave him there.

5           Q.    So the court ordered you not to  
6 fire him?

7           A.    Well, some -- some people, uh -- it  
8 may have been my attorney.  Somebody told me  
9 to leave him there and he was left there.

10                   MR. GOYER:  Now, be careful about  
11 talking about conversations with your  
12 attorneys, okay?

13           Q.    So you didn't fire him?  Does he  
14 still work --

15           A.    On advice, I did not fire him.  No,  
16 sir.

17           Q.    Okay.  I don't care who gave you  
18 advice.  I -- I'm doing my best not to get  
19 into y'all's business.  Well, I'm getting  
20 into yours, but not his.  Now, so you didn't  
21 fire him right away on February 1st when you  
22 found out.  Did you ever fire him?

23           A.    No, sir.

1 Q. Does he still work for the company?

2 A. No, sir.

3 Q. Did he retire?

4 A. Yes, sir.

5 Q. When did he retire?

6 A. Uh, his last day was, uh, July the  
7 11th of his own accord.

8 Q. July 11th.

9 A. 2012.

10 Q. Did he receive any sort of  
11 retirement package from the company?

12 A. He -- he -- he's receiving his, uh,  
13 uh, profit sharing plan.

14 Q. Okay. Do you have an employment  
15 contract with Gene Calhoun?

16 A. No.

17 Q. So he's an at will employee?

18 A. At will.

19 Q. Does he own stock in Western Steel?

20 A. No.

21 Q. So how is he still receiving  
22 payments, then? Explain it to me.

23 MR. GOYER: Let me object to the

1 extent --

2 THE WITNESS: Please.

3 MR. GOYER: -- that asks for a  
4 legal conclusion to interpret the profit  
5 sharing plan. But you can answer if you  
6 know. You can answer if you know.

7 A. Well, the profits, uh, -- profit  
8 sharing plan is something that I put in for  
9 the employees about 1970, and he participated  
10 in it and he's collecting -- may have  
11 collected it in the last few days. It -- it  
12 might have accumulated in his account.

13 Q. Is there any contract by which you  
14 created this profit sharing relationship?

15 A. Yes, sir.

16 Q. So he -- he didn't have an  
17 employment contract, but he had a profit  
18 sharing contract?

19 A. That's correct.

20 Q. Okay. Just making sure I  
21 understand. Can I get a copy of that  
22 contract?

23 MR. GOYER: That's a question for

1 his lawyers, and we'll have to see whether  
2 that's relevant.

3 MR. BURDICK: That hurts. What do  
4 you mean you'll have to see?

5 MR. GOYER: Come on, Austin. Let's  
6 get moving.

7 MR. BURDICK: All right. Well,  
8 please send that to us if you would.

9 MR. GOYER: I'm not gonna agree to  
10 that necessarily.

11 THE WITNESS: Don't agree.

12 MR. GOYER: We'll have to see why  
13 you think it's relevant.

14 MR. BURDICK: Uh, I think it's  
15 reasonably calculated to lead to the  
16 discovery of admissible evidence.

17 MR. GOYER: Well, we disagree  
18 respectfully.

19 MR. BURDICK: On -- on a lot.

20 Q. All right. Well, after Gene became  
21 a conspirator, after you became aware that he  
22 was a conspirator February 1st, 2012, he  
23 stayed with the company until the middle of

1 July, you said?

2 A. That's correct.

3 Q. Is that right? What other actions  
4 did he take during that window, between  
5 February and July, mid July, as president of  
6 the company?

7 A. Signed the -- the -- the checks,  
8 the company check.

9 Q. Payroll checks?

10 A. All checks. Payroll checks.

11 Q. All checks?

12 A. All checks.

13 Q. So if he purchased equipment, would  
14 he be the person to sign those checks?

15 A. That's correct. Or other people.

16 Q. Well, if you thought he was a  
17 conspirator, why did you keep him on as an  
18 employee with the authority to write checks?

19 MR. GOYER: Don't answer if it  
20 involves attorney/client privilege  
21 communications. I instruct you not to answer  
22 that question. If you have some independent  
23 reason separate and apart from your

1 discussion with the lawyers, you can answer.

2 Otherwise, no.

3 A. No. The man -- the man gave my  
4 answer for me.

5 Q. So other than your discussions with  
6 your attorney, which I don't care what  
7 they've talked to you about, did you -- do  
8 you have any other reason to continue to  
9 trust the conspirator, Gene Calhoun, with  
10 your company checkbook?

11 MR. GOYER: Object to the form.  
12 Argumentative.

13 Q. You can answer.

14 A. (No response.)

15 Q. Still need your answer. He got his  
16 objection on, but you still get to answer.

17 MR. GOYER: You can answer.

18 THE WITNESS: Okay. Read the  
19 question again.

20 (Record read.)

21 MR. GOYER: Let me also object.  
22 That question presumes that the discussion  
23 with the attorneys gave William Cashion a

1 reason to trust Mr. Calhoun, and I don't  
2 think there's been any testimony by  
3 Mr. Cashion to that effect or any otherwise.  
4 But you can answer.

5 Q. I'll agree to that. Go ahead and  
6 answer.

7 A. I -- I -- I -- I object to your  
8 question and putting the word "trust" in it.

9 Q. Well, you don't get to object. You  
10 just get to answer. He gets to do the  
11 objection. He's doing a great job.

12 MR. GOYER: Did you trust Gene  
13 Calhoun after you found out about this  
14 conspiracy?

15 THE WITNESS: No.

16 Q. Well, then, why did you still allow  
17 him to write checks on behalf of the  
18 corporation less and except anything that may  
19 or may not have been said by your attorneys?

20 A. Well, the main reason, the  
21 conspirators went to the bank and put a  
22 freeze on anybody signing the checks.

23 Q. Uh-huh.

1           A.    They tried to have Calhoun and  
2   Steven Mark Hayden, to my knowledge, but the  
3   bank would only let them be Calhoun and  
4   nobody else.  Nobody else.  Until the court  
5   let me put somebody else on there to sign, he  
6   was the only man that could sign.  And so for  
7   that reason and that reason only, he was left  
8   on the premises, period.

9           Q.    Okay.  And so when did it become --  
10   when were you able to put somebody else on  
11   the checks?

12          A.    I don't remember the date.

13          Q.    After you were given that  
14   authority, did you continue to allow Gene to  
15   write checks?

16          A.    Normal -- normal -- normal  
17   business, yes.

18          Q.    So he could still write checks?

19          A.    Yes.

20          Q.    Even though he was a dirty  
21   conspirator?

22                   MR. GOYER:  Object to the form.

23   You can answer.

1           A.    Yes.

2           Q.    Was that a good business decision?

3           A.    No.

4           Q.    Did you ever make any decisions as  
5   a -- as a business owner that were not in  
6   your best interest?

7           A.    I have.

8           Q.    Can you list a few for me?

9           A.    No.

10          Q.    Why not?

11          A.    Because I don't remember each one  
12   of them, period.

13                   MR. GOYER:  You mean other than  
14   giving Dr. Hayden a power of attorney?

15                   THE WITNESS:  Amen.  Put that down.

16                   MR. BURDICK:  That may be the  
17   smartest thing he's ever done.

18                   THE WITNESS:  No.  That was the  
19   worst thing I've ever done.  Put that in the  
20   record, please.

21          Q.    That's a matter of opinion.  Uh,  
22   did Gene take any other actions as president  
23   between February -- uh, the February incident

1 that you thought -- talked about and his  
2 resignation or retirement other than writing  
3 checks?

4 MR. GOYER: Take any other actions  
5 about what, Gene Calhoun?

6 MR. BURDICK: Yeah.

7 Q. Did Gene Calhoun take any other  
8 actions during that time period regarding the  
9 corporation other than writing checks? Is  
10 that -- or is that all he did while he was  
11 there?

12 A. That was mostly what he done,  
13 period.

14 Q. What else, question mark?

15 A. I don't know what the -- what else  
16 he did.

17 Q. Well, who's running the company?

18 A. William B. Cashion, C-A-S-H-I-O-N.

19 Q. But you didn't know what your  
20 president was doing?

21 A. Under the circumstances, I didn't.

22 Q. So you didn't supervise his  
23 activities or keep track of what he was

1 doing?

2 A. No.

3 Q. Why not?

4 A. Because of this conspiracy.

5 Q. I don't really understand that.

6 Can you explain your answer, please?

7 A. Yes, I can explain that. Knowing  
8 that anything I done I could, you know, enter  
9 in another lawsuit against me or a lawsuit  
10 against me.

11 MR. BURDICK: I'm sorry. Can  
12 you -- can you read that back? I -- I didn't  
13 understand.

14 (Record read.)

15 Q. Has anybody brought a lawsuit  
16 against you?

17 A. Not that I know of.

18 Q. Have you ever been involved in any  
19 lawsuits other than this one --

20 A. Oh.

21 Q. -- and the Nevada one? You said  
22 you were involved in that one too.

23 A. Put down there yes, please.

1           Q.    Okay.  Well, what other lawsuits  
2    have you been involved in other than this one  
3    and the Nevada one that you already talked  
4    about earlier that you were all in?

5           A.    58 years of business, I can't  
6    recall.

7           Q.    Have you been sued a lot?

8           A.    I'd say yes.

9           Q.    Well, you know --

10          A.    Ask me have I lost.

11          Q.    Well, I haven't asked that yet.  
12    We'll get there, though.

13          A.    Oh, okay.

14          Q.    Okay.  Well, I'll -- I'll skip to  
15    it.  Have you ever lost?

16          A.    Not that I know of.

17          Q.    What do you mean not that you know  
18    of?

19          A.    Not that I know of.  Every time  
20    I've been sued I've always come out on top.

21          Q.    Do you mean you've also got jury  
22    verdicts in your favor?

23          A.    Not jury verdicts but at least a

1 settlement and sometimes a judge -- judge  
2 rules.

3 Q. Okay. So there have been some  
4 cases where you've had to settle out of  
5 court?

6 A. That's true.

7 Q. Okay. But you felt like you came  
8 out on top?

9 A. That's true.

10 Q. But you didn't get a verdict?

11 A. Well, uh, I don't know about a  
12 verdict. Uh, it was settled, and that's the  
13 main thing in -- in business is getting it  
14 settled and go on to something that you can  
15 do something and make some money at.

16 Q. Uh-huh.

17 A. Not fighting a lawsuit.

18 MR. BURDICK: Can we strike that?

19 A. Let me also add paying lawyers.

20 Q. What about paying lawyers?

21 A. Well, settle a suit and go on about  
22 your business and make some money and don't  
23 pay it out to lawyers. That's exactly what

1 I'm talking about.

2 Q. You don't want to pay your lawyer?

3 A. I pay my lawyers.

4 Q. But you don't like it?

5 A. I don't like it. No, sir.

6 Q. Okay. Just making sure.

7 MR. GOYER: I think Dr. Hayden is  
8 acknowledging he doesn't like paying lawyers  
9 either.

10 MR. BURDICK: That's probably true.  
11 But I like it.

12 MR. HAYDEN: He's --

13 MR. BURDICK: I like it when he  
14 pays lawyers.

15 THE WITNESS: Oh, yeah. I know you  
16 do.

17 MR. HAYDEN: He's -- he's 150 an  
18 hour, for the record.

19 MR. BURDICK: Hey, hey, hey.

20 MR. HAYDEN: Well, for the  
21 record --

22 MR. BURDICK: Stay out of my  
23 personal business.

1                   MR. HAYDEN:  -- he's very  
2    economical.  I'll have you know that.  
3    Very wise -- I'm very prudent.

4                   MR. BURDICK:  Well, let's -- you're  
5    not on the stand.

6                   MR. HAYDEN:  Okay.

7                   MR. BURDICK:  You don't have to  
8    talk.

9                   MR. HAYDEN:  All right.  I'm very  
10   wise, for the record.

11                  MR. BURDICK:  All right.

12                  MR. GOYER:  Did you get that?

13                  THE WITNESS:  Please.

14                  MR. BURDICK:  I'll have to put this  
15    gentleman in a cage.

16                  MR. HAYDEN:  I got you.

17                  Q.   (BY MR. BURDICK) All right.  Let's  
18    go back to talking about Gene, one of the  
19    conspirators.  When this happened -- was it  
20    February 1st where you became aware he was a  
21    conspirator?

22                  A.   That's right.

23                  Q.   Was he the president on that day?

1           A.    Yes, sir.

2           Q.    Who appointed him president of the  
3 corporation?

4           A.    I did.

5           Q.    Did he ever resign as president?

6           A.    No.  Not -- not that I know of  
7 other than this conspiracy.

8           Q.    What do you mean "other than this  
9 conspiracy?"  Did he -- did he resign as part  
10 of the conspiracy?

11          A.    It -- it's my -- my thoughts and --  
12 and I have read a -- a document that they  
13 produced and -- where he resigned or said he  
14 resigned.

15          Q.    Okay.  Well, let me ask you this.  
16 If he resigned as president, if, who could  
17 make him president again if he wanted -- if  
18 you wanted him to be president again?  Who  
19 would have the authority to decide who's the  
20 president of the corporation?

21                   MR. GOYER:  Let me object to the  
22 extent that it asks for a legal conclusion.  
23 You can answer if you know.

1 Q. Who makes that decision --

2 A. I do.

3 Q. -- for your corporate structure?

4 A. I do. I -- I make that decision.

5 Q. Why do you make that decision?

6 A. Because I -- because I'm the sole  
7 stockholder and the sole director. That's  
8 the reason.

9 Q. So the stockholders and the  
10 directors if -- are the ones who decide who  
11 the president is?

12 A. That's correct.

13 Q. Okay. So if you're not the  
14 stock -- a stockholder and if you're not the  
15 president, then you can't decide who the  
16 president of the corporation is?

17 MR. GOYER: Object to the form to  
18 the extent --

19 A. I am the president. I am the --

20 MR. GOYER: Hang on a second.

21 Object to the form. Asks for a legal  
22 conclusion. You can answer.

23 A. I am the chairman of the board and

1 I am the sole stockholder.

2 Q. That doesn't answer my question.

3 And I'm not asking you a legal question. I'm

4 asking y'all how y'all do things at Western

5 Steel, okay? Do you appoint presidents for

6 the corporation? Is it the stockholders that

7 do that or is it somebody else who does that?

8 A. The stockholder and the director.

9 Q. The stockholder and the director?

10 A. Right.

11 Q. Nobody else has authority to make

12 that decision?

13 A. Nobody else has that authority,

14 period.

15 Q. So you have to be the

16 stockholders -- stockholder or

17 stockholders -- and a director or directors

18 to make that decision?

19 A. That's correct.

20 Q. Okay. So any decision made by

21 somebody who's not -- so anyone who's not

22 can't make that decision, I guess is what I'm

23 saying?

1           A.    That's right.

2           Q.    Okay.  So I couldn't just go over  
3   to Western Steel today and decide I want to  
4   appoint a new president?

5           A.    That's right.

6           Q.    They'd laugh at me?

7           A.    That's right.

8           Q.    And not just because of the way I  
9   look?

10          A.    That's right.  No.

11          Q.    Did Gene Calhoun ever tell you that  
12   he resigned as president?

13          A.    No.

14          Q.    He never told you that?

15          A.    No.  That's correct.  Never told me  
16   that.

17          Q.    All right.  But you've seen a  
18   document where, as part of the conspiracy, he  
19   did that?

20          A.    That's right.  Where he -- where it  
21   said he did or he was not no longer.  It was  
22   worded as such that he was no longer the  
23   president, that Steven Mark Hayden was the

1 president.

2 Q. How long have you been working with  
3 Gene Calhoun?

4 A. Since, uh, about the 1st day of  
5 September of, uh, 2088 [sic], about 25 years.

6 Q. 1988?

7 A. Yeah. 1988. Yeah. About -- about  
8 24 years.

9 Q. About 24 years?

10 A. Yes, sir.

11 Q. What was he initially doing for the  
12 company when -- when you hired him?

13 A. Uh, comptroller.

14 Q. Okay. How long has he been the  
15 president or was he the president? He's not  
16 anymore, right?

17 A. No, he's not the president anymore.  
18 Uh, it -- it -- I don't know exactly how many  
19 years but, uh, many, many years, you know.

20 Q. For a while?

21 A. For a while.

22 Q. Do you ever see his signature on  
23 any documents?

1           A.    Oh, yes, sir.

2           Q.    Seen it on any checks?

3           A.    Yes, sir.

4           Q.    Before all this conspiracy, did you  
5 have authority to sign checks?

6           A.    Yes, sir.

7           Q.    Okay.  Do you ever sign blank  
8 checks or have blank checks signed?

9           A.    No, sir.

10          Q.    Never?

11          A.    Not that I remember.

12          Q.    So if anybody says you used to  
13 carry around blank signed checks in your  
14 truck, they're not telling the truth?

15          A.    That's correct.  That's correct.

16          Q.    All right.  Do you ever, uh -- do  
17 you ever buy any cars and take them over to  
18 your facility and melt them down for scrap?

19          A.    Melt them down, no.

20          Q.    Do you ever sell them for scrap?

21          A.    Yes, sir.

22          Q.    How much would you buy cars for?

23          A.    Whatever I bid.

1 Q. Did you buy them at auction or --

2 A. At auction mostly.

3 Q. Did you ever buy any from car lots?

4 A. From where?

5 Q. From a car lot like a dealership.

6 A. Not that I remember.

7 Q. I mean even a used car dealership.

8 A. No.

9 Q. Not necessarily big ones.

10 A. Not that I remember. I could have.

11 I don't remember.

12 Q. Did you ever buy cars with Western  
13 Steel's money?

14 A. Yes, sir.

15 Q. And sell them for scrap?

16 A. Yes, sir.

17 Q. Did you make money on all those  
18 deals?

19 A. The company makes money on those  
20 deals. I don't.

21 Q. Who did you sell them to for scrap?

22 A. Uh, American Cast Iron Pipe  
23 Company.

1 Q. Do you have any records that  
2 reflect those transactions?

3 A. The company has complete records.

4 Q. Of every vehicle purchased --

5 A. Every --

6 Q. -- and every scrap payment?

7 A. Every vehicle purchased that has  
8 been sold. There's some not sold yet.

9 Q. Every one that's been sold even for  
10 scrap?

11 A. Every one.

12 Q. Do you ever buy a car for 2,000 and  
13 sell it for 500?

14 A. Not that I remember, no.

15 Q. Okay. Never converted that money,  
16 you know, taken that money from the scrap  
17 money and just converted it into cash?

18 A. Not that I -- no, no, no, no. The  
19 answer is no.

20 Q. Keep -- do you keep much cash on  
21 hand?

22 MR. GOYER: You talking about the  
23 company?

1           A.    Are you talking about the company  
2    or personally?

3           Q.    I'm talking about you personally.

4           A.    Yes, I do.

5           Q.    At your home in a safe or just in  
6    your pockets?

7           A.    Uh, well, a little in my pocket and  
8    some at my home, some in safe a deposit box.

9           Q.    How much cash do you normally keep  
10   on hand?

11           MR. GOYER:  Is this relevant to  
12   anything?

13           MR. BURDICK:  It is.

14           A.    Is this relevant to something?

15           Q.    Uh-huh.

16           MR. GOYER:  What is this relevant  
17   to?

18           MR. BURDICK:  Well, we'll -- we'll  
19   get there.  You can object to the form and  
20   get the judge to strike it if you don't like  
21   it later or whatever.

22           MR. GOYER:  I'm gonna tell --  
23   instruct him not to answer unless you tell me

1 what it's relevant to. Just tell me what  
2 it's -- it sounds like harassment.

3 MR. BURDICK: It has to -- no. It  
4 has to be reasonably calculated to lead to  
5 the discovery of admissible evidence.

6 MR. GOYER: I understand that  
7 phrase, but what is the evidence -- what is  
8 relevant --

9 MR. BURDICK: I don't want to tell  
10 him where I'm going before I get there. I  
11 want the -- I want the resignation.

12 MR. HAYDEN: Okay. I'll find it  
13 for you in just a second. Hold on.

14 A. Was the question how much money I  
15 -- I --

16 Q. Normally.

17 MR. GOYER: Normally carry.

18 A. -- carry?

19 Q. Not necessarily carry, but keep on  
20 hand.

21 A. Various amounts.

22 Q. You have -- you -- you keep a safe  
23 at your home, right? You don't just stick it

1 in the freezer, right? You don't stick your  
2 cash in the freezer?

3 THE WITNESS: Should I answer that?  
4 Somebody can take that information and rob  
5 me.

6 MR. GOYER: I know. I'm thinking  
7 the same thing.

8 MR. BURDICK: I'm not publishing  
9 this to anybody.

10 MR. GOYER: Well, it's a public  
11 record and I --

12 THE WITNESS: It's a public record.

13 MR. GOYER: I think we ought to  
14 move on --

15 THE WITNESS: Me too.

16 MR. GOYER: -- until you can  
17 demonstrate what the relevance of this is.

18 MR. BURDICK: All right. Well,  
19 let's --

20 MR. GOYER: This is information  
21 that doesn't --

22 MR. BURDICK: This --

23 THE WITNESS: Yeah --

1                   MR. BURDICK:  -- has to do -- this  
2   has to do with, uh -- with his defamation,  
3   uh, claims, his judgment, his business  
4   decisions, and his judgments that he makes.

5                   MR. GOYER:  About where he keeps  
6   his money?

7                   MR. BURDICK:  About where he keeps  
8   his money.  That's absolutely a relevant  
9   business decision.  I mean, is it -- there's  
10  a question as to whether or not it's wise to  
11  keep several hundred thousand dollars in cash  
12  on hand.

13                  Q.  Let me ask you this.  You used to  
14  live at a -- in a house over on Heritage,  
15  over on Heritage or -- is that right?

16                  MR. HAYDEN:  Yeah.

17                  Q.  Yeah.  Is that correct?

18                  A.  That's correct.  Heritage Drive.

19                  Q.  And you had a safe there, right?

20                  A.  That's right.

21                  Q.  And you kept precious metals and  
22  other valuables in that safe, correct?

23                  A.  That's correct.

1 Q. Did you keep any platinum in that  
2 safe?

3 A. Some.

4 Q. Did you keep any silver in that  
5 safe?

6 A. Some.

7 Q. Did you keep any silver -- did you  
8 tell anybody that -- that you had a bunch of  
9 platinum in that -- in that case -- uh, safe?

10 A. What was the answer to the  
11 question?

12 Q. You get to pick the answer. I get  
13 to pick the question.

14 A. No. I got to know what the  
15 question is before I answer it.

16 Q. Did you ever tell anybody that you  
17 had bars of silver in that -- or bars of  
18 platinum in that safe?

19 A. I did.

20 Q. Who did you -- who did you publish  
21 that too?

22 A. Well, verbally to several people in  
23 my family.

1 Q. Okay.

2 MR. GOYER: Does that include  
3 Dr. Hayden?

4 THE WITNESS: Including Dr. Hayden.  
5 No. Let me take that back. Including Steven  
6 Mark Hayden, please.

7 Q. Did, uh --

8 THE WITNESS: I don't consider him  
9 a doctor. Put -- put that in the record,  
10 will you, please, ma'am?

11 Q. You don't consider him a doctor?

12 A. No, sir.

13 Q. Why's that?

14 A. Because he violated his oath,  
15 period.

16 Q. Wasn't Mr. -- wasn't Dr. Hayden  
17 your treating physician for a number of  
18 years?

19 A. He was. He was. Yes, sir.

20 Q. Did he do a good job?

21 A. Well, I got by. I lived. I'll say  
22 that.

23 Q. Well, uh, I think we'll all agree

1     you're not dead.

2             A.     That's right.

3             Q.     So he did okay.   But -- so you feel  
4     like he's not a physician now.   Is there any  
5     basis for that as far as, uh, has any  
6     board --

7             A.     No.

8             Q.     -- told you he's not a doctor?

9             A.     No, no, no, no, no, no.

10            Q.     So that's -- so why are you saying  
11    that?   Why are you saying he's not a doctor?

12            A.     Because he has violated his oath as  
13    a doctor.

14            Q.     Tell me how.

15            A.     By doing the things he done to me.

16            Q.     What did he do to you?

17            A.     Took everything I had and caused me  
18    more problems, pain, and troubles than  
19    anybody ought to have on this earth.

20            Q.     Let me ask you this.   Do you have  
21    any evidence that Mr. Hayden has benefitted  
22    to the tune of any amount of money from this  
23    so-called conspiracy that you talked about?

1           A.    No.  I don't have any -- any --  
2   any -- any evidence, but that's where they  
3   were headed, period.

4           Q.    What do you mean "that's where they  
5   were headed?"  Explain that, please.

6           A.    I'm gonna explain it as best I  
7   understand it.  From the papers that he --  
8   I've come in contact with, they were gonna  
9   take the fees that they wanted to take out  
10  of -- out of what I worked hard to accumulate  
11  and build.

12          Q.    What fees?  What are you talking  
13  about?

14          A.    I'm talking about fees, F-E-E-S.

15          Q.    I know what the word is, but what  
16  fees for -- fees for what?

17          A.    Well, you want to get all the  
18  papers and lay them out here, I'll point them  
19  out to you.

20          Q.    So has Mr. Hayden, to your  
21  knowledge, accepted or taken any fees for any  
22  services rendered?

23          A.    No, sir.  No, sir.  He has not.

1 But he -- in my mind, in my opinion, that's  
2 what this is all about, for him to take what  
3 he wanted to take when he wanted to take it.

4 Q. Uh-huh.

5 A. This ain't about doing my good.  
6 This ain't about doing me good.

7 Q. But you just said he hasn't  
8 collected a penny.

9 A. Hell, no. Not so far. No, sir.  
10 No, sir. No, sir --

11 Q. So when is he supposed to spring  
12 his trap?

13 A. Well, he -- well, that -- that's --  
14 that's his doing, not mine, you know.

15 Q. Okay.

16 A. I didn't do this. He did it.

17 Q. But he hasn't benefitted in any  
18 way, according to what you just said?

19 A. But -- but my opinion was that's  
20 where he was headed.

21 Q. So you're predicting that he's  
22 gonna do harm to you?

23 A. That's exactly right. I --

1 Q. But he hasn't actually harmed you?

2 A. He hasn't -- hasn't -- hasn't --  
3 money -- he hadn't taken anything yet but  
4 that's where he was headed, period.

5 Q. Well, how do you say he's headed  
6 that way? Did he say, Hey, I'm headed this  
7 way; I'm about to --

8 A. No, no. I -- I'm telling you my  
9 opinion, though, my opinion.

10 Q. So you just feel that way?

11 A. Yes, sir.

12 Q. But not based on any documents or  
13 evidence of any kind?

14 A. No, sir, other -- other than  
15 what -- what they have -- that he has made up  
16 so far. There's -- there's mentions in there  
17 of 15 hundred dollars or more for people.  
18 And -- and sooner or later --

19 Q. Well, stop. 15 hundred dollars a  
20 month for what?

21 A. Yeah.

22 Q. What's -- what's the 15 hundred  
23 for?

1           A.    For my wife.

2           Q.    Well, he's not your wife, is he?

3           A.    No, no.   But --

4           Q.    Okay.

5           A.    -- the indication is -- the  
6    indication to me and my worry and my anguish  
7    and everything else, that he -- he -- the  
8    conspirators was headed to take everything I  
9    got and them benefit from it, folks.   This  
10   ain't about me.   This is about them.

11          Q.    But you can't point to any way that  
12   he's been benefitted --

13          A.    But he was headed there, though.  
14   That's what I'm saying my opinion is.

15          Q.    But you believe that based on no  
16   evidence.

17          A.    Oh.

18          Q.    That's what you just said.

19          A.    No.   Ain't no evidence.   But --  
20   yeah, just --

21                   MR. HAYDEN:   Be right back.

22                   MR. GOYER:   I tell you what.   Why  
23   don't we take a break?   We've been going

1 about an hour. I think we started back at  
2 11:49. It's 12:49.

3 THE VIDEOGRAPHER: Off the record,  
4 12:54 p.m.

5 (Break taken.)

6 THE VIDEOGRAPHER: This marks the  
7 beginning of videotape number four. Going  
8 back on the record, 1:09 p.m.

9 A. I'd -- I'd like to clear the  
10 record. I -- I failed to -- to, uh, list one  
11 of the conspirators. Angie Hayden. Angie  
12 Hayden is another conspirator in this thing.

13 Q. Okay. Is that it?

14 A. Yes, sir.

15 Q. Is that all the conspirators now?

16 A. Yes, sir.

17 Q. Can you list them all for me one  
18 more time so I make sure I understand?

19 A. Yes, sir. Uh, uh, Steven Mark  
20 Hayden, Angela Hayden, Frankie Cashion, and  
21 Gene Calhoun.

22 Q. Okay. Let me ask you this. This  
23 conspiracy, are you aware of any way that

1 Angie has been benefitted? Has she received  
2 any money or payments or anything for  
3 participating in this conspiracy that you  
4 talked about?

5 A. So far not that I know of.

6 Q. Not nothing?

7 A. So far nothing.

8 Q. Okay. Do you have any documents or  
9 evidence to suggest that she's going to  
10 receive something?

11 A. Not that I know of.

12 Q. Has Gene received any money,  
13 benefits, or payments for participating in  
14 this conspiracy?

15 A. Not that I know of.

16 Q. Are you aware of any documents or  
17 evidence that suggests that he's going to be  
18 benefitted by participating in this  
19 conspiracy?

20 A. Not that I know of.

21 Q. Okay.

22 MR. BURDICK: Uh, I'm gonna mark a  
23 document here, and I'll mark it No. 2,

1 Defendants' No. 2 --

2 THE COURT REPORTER: Right here?

3 MR. BURDICK: Yeah. I'm defendant.

4 Defendant No. 2 because we're saving one for  
5 that power of attorney.

6 (Whereupon, Defendants' Exhibit  
7 No. 2 was marked for  
8 identification.)

9 Q. And I'm gonna give your attorney a  
10 look at it as well. In fact, I'll hand you  
11 two copies so you can keep one for yourself  
12 and if you want to look at it before you hand  
13 it to him.

14 MR. BURDICK: And, uh, Counsel, do  
15 you want a copy as well?

16 MR. COLVIN: I'll take a look if  
17 you've got it. Thank you.

18 Q. Have you ever seen this document  
19 before, Mr. Cashion?

20 A. I have. Yes, sir.

21 Q. You've seen it before?

22 A. Yes, sir.

23 Q. All right. There are some sig- --

1 signatures at the bottom. Do you recognize  
2 any of those signatures?

3 A. Every one of them. Yes, sir.  
4 Steven Mark Hayden, Angela.

5 Q. Is it Rae?

6 A. Rae, I guess. I can't read it.

7 Q. Okay.

8 A. And I can't read the Hayden part,  
9 but I'm sure it's her.

10 Q. Okay.

11 A. And, uh, Frankie S. Cashion and  
12 Gene G. Calhoun.

13 Q. Okay. And when did you first see  
14 this document?

15 A. Sometime -- sometime in, uh, early  
16 February --

17 Q. Okay.

18 A. -- of this year.

19 Q. Okay. Uh, this signature for Gene  
20 Calhoun, have you ever seen that signature  
21 before on a check or anything?

22 A. Oh, yes, sir.

23 Q. So that looks like his signature?

1           A.    It does, yeah.

2           Q.    And you've -- you've seen his  
3   signature pretty regularly for the last  
4   20-something years?

5           A.    I have.

6           Q.    Okay.  Now, you see this first  
7   paragraph that starts with resolve?  It says,  
8   Resolve that Gene Calhoun is hereby replaced  
9   as president of Western Steel, Inc., and will  
10   have no official role as officer or director  
11   and is immediately replaced as president by  
12   Steven Mark Hayden.

13          A.    I do.

14          Q.    All right.  And also the last one  
15   that says resolve.  Resolve Gene Calhoun  
16   shall function henceforth solely as an  
17   employee.  Do you see that?

18          A.    Yes.

19          Q.    And Gene Calhoun signed that,  
20   correct?

21          A.    That's right.  I -- I think that's  
22   his sign- -- signature.  I could be wrong.

23          Q.    Uh-huh.

1           A.     Somebody could've put it on there  
2     without him, but it looks like his signature.

3           Q.     But you're pretty familiar with  
4     that signature.  You'd know it?

5           A.     Well, it looks like it, yeah, but  
6     that don't mean somebody didn't forge it on  
7     there.

8           Q.     Uh-huh.  Are you saying you have  
9     any --

10          A.     No.  Uh-uh.

11          Q.     -- evidence to suggest that  
12     somebody forged --

13          A.     Uh-uh.  I'm not tell- -- I'm not  
14     telling you that that don't mean that that's  
15     his signature.

16          Q.     I mean --

17          A.     I mean, it looks like his  
18     signature.

19          Q.     And you're familiar with his  
20     signature.  You've seen it a bunch of times.

21          A.     Yes.  But I'm not familiar enough  
22     to say that he signed that right there.  I'm  
23     not saying --

1           Q.    I'm not -- I'm not asking if you're  
2   a hand -- handwriting expert.  I'm just  
3   asking if you've seen his -- that signature  
4   before and that looks like it?

5           A.    Right.  That looks like it.

6           Q.    Okay.

7           A.    But we'll let it go like that.

8           MR. GOYER:  Did you see him sign  
9   it?

10          THE WITNESS:  Huh?

11          MR. GOYER:  Did you see Gene  
12   Calhoun sign it?

13          THE WITNESS:  No, no.  I didn't see  
14   him.  That's what I'm saying.  I didn't see  
15   him sign it.  No, sir.  Uh-uh.

16          Q.    But you've seen his signature  
17   thousands of times.

18          A.    Oh, I've seen him sign.

19          Q.    All right.  And you've seen this.  
20   So you knew back in February that he had  
21   resigned as president.  Who reinstated him as  
22   president?

23          A.    Nobody.

1 Q. Nobody?

2 A. Amen.

3 Q. So he wasn't president, then?

4 A. He was president.

5 Q. I don't understand. He resigned  
6 but -- and he's not president, but he is  
7 president. You've got to explain this to me.

8 A. He was president. Yes, sir.

9 Q. Okay. So he's a liar in this  
10 document if he signed it that says that he's  
11 not the --

12 A. That's right.

13 Q. -- president anymore?

14 A. Yes, sir. When he signed that  
15 right there the former, he lied. He lied,  
16 L-I-E-D.

17 Q. Okay. So I get to say my favorite  
18 phrase here, that Gene Calhoun is a liar,  
19 liar with pants on fire?

20 A. When he signed that right there, he  
21 was a liar, yes, sir, about that statement.

22 Q. Okay. Why do you say he was lying?

23 A. Because he was not the former. He

1 never was anything but the president.

2 Q. So he can't decide to resign. He  
3 didn't have the authority to resign?

4 MR. GOYER: Let me object to the  
5 form. You're misconstruing this document as  
6 a resignation and --

7 MR. BURDICK: No, I'm not.

8 MR. GOYER: Yes, you are. This is  
9 a resolution signed by what purports to be  
10 the directors of Western Steel.

11 MR. BURDICK: I'm just wanting to  
12 find out if what's contained in this is true  
13 and he's telling me it's not. And Gene  
14 signed it. He said, That's Gene's signature.  
15 He's seen his signature thousands of times.  
16 He's telling us that Gene lied about  
17 resigning.

18 Q. Is that right? Am I --

19 MR. GOYER: Object to the form.  
20 Misstates what this document is. This is not  
21 a resignation letter.

22 MR. BURDICK: I didn't -- I never  
23 said it was a resignation. The only thing

1 I've identified this document as is Exhibit  
2 2.

3 MR. GOYER: That's right.

4 A. Let me identify this document,  
5 please. It's part of the conspiracy, please.

6 Q. You said that Gene Calhoun was an  
7 at will employee, right?

8 A. That's right.

9 Q. So that means he could quit anytime  
10 he wants to?

11 A. Amen.

12 Q. All right. So if he says he quit  
13 being the president, then he quit being the  
14 president, didn't he?

15 MR. GOYER: Object to the form.  
16 Misconstrues this document.

17 A. (No response.)

18 Q. Do you have any basis for saying --

19 A. Yes, sir.

20 Q. -- that Gene doesn't have --

21 A. I do --

22 Q. -- the authority to -- to resign?

23 A. I have a basis that he did not

1 resign because he did not give me a letter of  
2 resignation. He's got to give me a letter of  
3 resignation to resign.

4 Q. I thought he had to give a letter  
5 of resignation or he had to submit his  
6 resignation to the shareholders and  
7 directors.

8 A. I am the shareholder and director.

9 Q. But if you weren't the shareholder  
10 or the directors, then he wouldn't have to  
11 submit that to you, would he?

12 A. I was the -- the shareholder and  
13 the director.

14 Q. But if you weren't, he wouldn't  
15 have to submit that to you, correct?

16 A. I was the shareholder and the  
17 director.

18 Q. You're not answering me. But if  
19 you were not, he wouldn't have to submit --

20 A. I was. I was the shareholder and  
21 the director.

22 MR. GOYER: You're saying  
23 hypothetically --

1 MR. BURDICK: I am.

2 MR. GOYER: -- he was not?

3 Q. If you were not the shareholder and  
4 you were not the director --

5 A. I was the -- I was the -- I was the  
6 shareholder and the director of the company.

7 Q. But if you were not, he would not  
8 have to submit his resignation to you,  
9 correct?

10 A. I was the shareholder and the  
11 director.

12 Q. But if you were not, he would --

13 A. I was. I was.

14 Q. -- not have to submit his  
15 resignation to you?

16 MR. GOYER: Let's move on, please.

17 MR. BURDICK: No. I don't want to.  
18 I want him to answer my question.

19 MR. GOYER: Okay. Well, you can  
20 ask the judge -- you can ask the judge for an  
21 order. We're gonna -- I think he's answered  
22 it enough.

23 MR. BURDICK: I don't think he's

1 answered it once.

2 MR. GOYER: Look, it's self  
3 evident, okay? You've -- you've asked the  
4 question four times. He's answered it as  
5 best he can. Let's move on.

6 MR. BURDICK: I don't think that's  
7 true.

8 MR. GOYER: Okay. I disagree.

9 MR. BURDICK: That's the best he  
10 can do?

11 MR. GOYER: Yes, sir. You're  
12 misrepresenting what this document is. It's  
13 not a letter of resignation.

14 MR. BURDICK: All I represented was  
15 as Exhibit 2.

16 MR. GOYER: I know, but the  
17 questions you're asking him imply that this  
18 is a letter of resignation. It's not.

19 MR. BURDICK: Well, I guess you're  
20 reading more into my questions than --  
21 than -- than I intend.

22 Q. (BY MR. BURDICK) Uh, did you ever  
23 talk to Gene Calhoun about this document when

1 you first got it?

2 A. No, sir.

3 Q. Let me ask you this. From that  
4 time period of February 1st through July  
5 11th, did you have an office at Western  
6 Steel?

7 A. Yes.

8 Q. Did Gene Calhoun have an office at  
9 Western Steel?

10 A. Yes.

11 Q. Did you guys ever talk to each  
12 other?

13 A. Some.

14 Q. Did you ever present this document  
15 to him at all?

16 A. No, sir.

17 Q. Y'all never discussed it?

18 A. No, sir.

19 Q. This document didn't bother you  
20 enough to talk about?

21 MR. GOYER: Object to the form.

22 You can answer.

23 A. (No response.)

1           Q.    Well, tell me this.  What was this  
2 document to you?  What did it mean to you  
3 when you saw it?

4           A.    A conspiracy.

5           Q.    It meant there was a conspiracy?

6           A.    Amen.

7                   MR. BURDICK:  I can't ask that.  
8 Well, let me ask you this.  Y'all don't  
9 represent Gene, do you?

10                   MR. COLVIN:  No.

11                   MR. BURDICK:  He's not your client?

12                   MR. COLVIN:  Uh-uh.

13                   MR. BURDICK:  Okay.

14           Q.    Did your attorneys ever talk to  
15 Gene Calhoun about this document?

16           A.    Not to my knowledge.

17                   MR. GOYER:  Let me say this.  He  
18 answered that question, but who we talked to  
19 and didn't talk to I would say would be  
20 within the scope of our attorney work  
21 product, okay?

22                   MR. BURDICK:  I think content would  
23 be.  I'll -- I'll agree to that.

1                   MR. GOYER: Well, who we choose to  
2 talk to or not talk to reveals our attorney  
3 work product so if you ask him more questions  
4 about who we talk to --

5                   MR. BURDICK: Uh-huh.

6                   MR. GOYER: -- I'm gonna instruct  
7 him not to answer.

8                   MR. BURDICK: Okay.

9                   Q. Excuse me. Let me go back to the  
10 complaint here a little bit. We're moving  
11 through here. I want to take a look here.  
12 This durable power of attorney, it lists  
13 several things that it empowers. Well, let  
14 me see this. Let me just look at it real  
15 quick.

16                   MR. GOYER: For the record, we're  
17 talking about Defendants' Exhibit 1?

18                   MR. BURDICK: Yeah. That's  
19 correct.

20                   Q. Let me ask you this. Did Gene  
21 Calhoun ever sign a document transferring  
22 ownership of Western Seal -- Steel stock from  
23 the trust back to you?

1           A.    No.  Not to my knowledge, no.

2           Q.    So he never transferred stock back  
3 to you?

4           A.    Not to my knowledge, no.

5           Q.    All right.  This document appoints  
6 Dr. Hayden to be your agent; is that correct?

7           MR. GOYER:  Are you talking about  
8 Defendants' Exhibit 1?

9           MR. BURDICK:  Yes.

10          A.    It says that, A-G-E-N-T, in  
11 parentheses.

12          Q.    All right.  And through that  
13 document what is he given, uh, consent or  
14 permission to do on your behalf?

15          MR. GOYER:  And I'm assuming you're  
16 asking this not as a legal question but what  
17 he knows as a layperson, right?

18          MR. BURDICK:  Sure.

19          THE WITNESS:  As a layperson?

20          MR. BURDICK:  Unless he gets a law  
21 degree at -- got a law degree at lunch.

22          A.    As a -- as a lay -- as a layperson,  
23 it gives --

1 Q. Right.

2 A. It gives him the authority to take  
3 care of me when I'm incapacitated and -- and,  
4 uh, and don't know what I'm doing.

5 Q. Uh-huh. Is there any part of that  
6 document that you feel like you don't  
7 understand?

8 A. No. I -- I think I understand it.  
9 Yes.

10 Q. Okay. Do you think that that  
11 document, that the words on the page mean  
12 what they say or do you think there's special  
13 magical meaning to any of those words?

14 MR. GOYER: Let me object to the  
15 extent that asks for a legal conclusion.

16 MR. BURDICK: That's a magical  
17 conclusion, actually.

18 MR. GOYER: Well, whatever, magical  
19 conclusion means. I'm not familiar with that  
20 term. That may be, uh, an Austin Burdick  
21 term.

22 MR. BURDICK: It is.

23 MR. GOYER: Whatever --

1                   MR. BURDICK:  You can use it if you  
2  like.

3                   MR. GOYER:  Whatever it means, I  
4  object to it.  I -- this is a four-page --  
5  five-page legal document, uh, single spaced.  
6  He obviously felt the need to get an attorney  
7  to draft it.

8                   Q.  Let -- let -- let me ask you this.  
9  Is there any portion of this document, as you  
10 look at it today -- you go ahead and look at  
11 it -- that gives a special definition to any  
12 term that you're aware of?  Do you see any  
13 definition section that says "special  
14 definition for attorney?"

15                  A.  No.  I don't see nothing special.  
16 I don't see the word "special" in this  
17 document.

18                  Q.  Yeah.  There's no terms that are  
19 given a unique definition in the document  
20 itself; is that correct?

21                  MR. GOYER:  Object to the form.

22                  A.  Uh, I object because it's a  
23 legal -- legal question and -- and I'm not

1 gonna digest that legal question. I'm a  
2 layman.

3 Q. No. I guess what I'm saying is --

4 A. I'm a layman.

5 Q. I understand. Uh, sometimes --  
6 you've seen contracts before.

7 A. Yes.

8 Q. And sometimes in contracts there  
9 are terms that are -- that there's a  
10 definition section of a contract sometimes.  
11 Have you seen contracts like that before?

12 MR. GOYER: Let me object to the  
13 form --

14 A. I object.

15 MR. GOYER: -- to the extent you  
16 use the term "contract" --

17 MR. BURDICK: I'm not calling this  
18 one one.

19 MR. GOYER: All right.  
20 Defendants' --

21 MR. BURDICK: We -- we can fight  
22 about that one later.

23 MR. GOYER: Defendants' Exhibit 1

1 is a power of attorney, and we take issue  
2 with any contention that it's a contract. Go  
3 ahead.

4 Q. But you've signed contracts before?

5 A. Yes.

6 Q. And sometimes contracts have  
7 special terms with special definitions  
8 contained in the contract. Have you ever  
9 seen that before?

10 A. Yes, sir. I've had con- -- all  
11 contracts I've seen they're next to the  
12 signing page, yes, going into a lot of  
13 details about this means this, this means  
14 this, this means this, and this means this.  
15 And if one thing is knocked out, the rest of  
16 it is still good.

17 Q. All right. Do you see any --  
18 anything like that in here as far as a  
19 definition section where terms are defined?

20 A. No, sir. I don't see that section.

21 Q. And if you need to take your time  
22 and look at it, I --

23 A. Yeah.

1 Q. I'm not rushing you or anything.

2 A. Uh-huh.

3 Q. And I'm not trying to put anything  
4 in there that's not in there.

5 A. I don't see any definition of words  
6 in here anywhere. I see a -- you know, a  
7 signature and then a -- a notary public  
8 signature.

9 Q. Okay. So you don't see any special  
10 definitions in there?

11 A. Not of words. No, sir.

12 Q. Okay. And you've read that  
13 document, correct?

14 A. I read that document.

15 Q. And you understand that document?

16 A. Well, I won't say I understand it,  
17 no, sir. I leave that up to legal minds,  
18 including yours.

19 MR. GOYER: Good answer.

20 Q. Okay. Well, I'll interpret it for  
21 you, then; is that fair?

22 MR. GOYER: Uh-uh.

23 A. No. That ain't fair to me. No,

1 sir.

2 Q. It could be. You're hurting my  
3 feelings.

4 A. It couldn't be. You're on the  
5 wrong side. You get on the other side of the  
6 table over here and you can help me.

7 Q. Come on. We shook hands and  
8 everything. I think we should all be  
9 friends.

10 A. Well, I've got to disagree with you  
11 there too.

12 Q. But you're a Christian, right? You  
13 go to --

14 A. Amen.

15 Q. -- the Church of Christ?

16 A. Yes, sir, I'm a Christian.

17 Q. Uh-huh. And you --

18 A. I'm saved.

19 Q. You're saved?

20 A. Yes, sir.

21 Q. How do you go about doing that?

22 A. Well, you go by the, Bible. That's  
23 the way you do it. B-I-B-L-E, God's Word.

1 Q. All right.

2 A. Yes, sir.

3 Q. And how did you get saved?

4 A. By being baptized. By confessing  
5 that Jesus Christ is the Son of God.

6 Q. Okay.

7 A. Being baptized, coming up a new  
8 creature, a child of God, period. My sin's  
9 forgiven. And every time since then I've  
10 been praying that he'll continue to forgive  
11 me of my sins.

12 Q. Good policy.

13 A. Thank you. That's what I try to  
14 live by.

15 Q. Well, good. Now, you've got four  
16 children, right?

17 A. Right.

18 Q. All four adopted?

19 A. Right.

20 Q. And you've been their daddy since  
21 they were young?

22 A. Yes, sir.

23 Q. The youngest one was four, I think

1 you said --

2 A. Around that age, you know, more or  
3 less.

4 Q. More or less? They were all kids.

5 A. Before she went to school.

6 Q. Yeah. They were all kids.

7 A. Yes.

8 Q. Did you feel like -- do you feel  
9 like you have any responsibility to your  
10 children?

11 A. Yes, sir.

12 Q. What responsibility do you have to  
13 your children?

14 A. The same as any father had.

15 Q. Well, explain that to me.

16 A. Well, you know, to help them as you  
17 think they need help.

18 Q. To help them financially?

19 A. If -- if -- if -- if -- if -- if -- if  
20 you think they need it financially, yes, make  
21 a good -- make a, uh, uh, uh, good decision.  
22 And sometimes it's not best to help people  
23 financially, even your children.

1 Q. Okay. What if your children were  
2 being abused? Would you have a  
3 responsibility to prevent that from  
4 happening?

5 A. I'd have a responsibility to go to  
6 the law, yes, sir, and put a stop to it.  
7 Yes, sir.

8 Q. Your previous ex-wife, Jeanell, is  
9 that her name?

10 A. My -- my third wife was Jeanell.

11 Q. Okay. And she has a couple of --  
12 she had a couple of kids as well, right?

13 A. That's right, Doug and Teresa  
14 Ann -- or Teresa Carroll. Excuse me. Doug  
15 and Teresa Carroll.

16 Q. Any of them in Jefferson County?

17 A. Uh, yes. Teresa Carroll, as I  
18 testified earlier, lives in Jefferson County.

19 Q. Uh-huh.

20 A. In McCalla, Alabama.

21 Q. What about Doug?

22 A. He's dead. He's deceased.

23 Q. Passed away?

1 A. Passed away.

2 Q. How did he die?

3 A. Cancer.

4 Q. Who diagnosed that cancer?

5 A. Steven Mark Hayden.

6 Q. Was he a --

7 A. He was a doctor then.

8 Q. -- good doctor?

9 A. Yeah.

10 Q. He was a doctor back then?

11 A. Yes, sir.

12 Q. You hadn't removed his license?

13 A. Sir?

14 Q. You hadn't removed his license?

15 A. No, I hadn't, but other people  
16 tried.

17 Q. Okay. Uh, your -- your ex-wife,  
18 Jeanell?

19 A. That's right.

20 Q. Did she ever hit any of your kids  
21 with a board?

22 A. I've been told verbally by other  
23 people she did, but I didn't see it. I

1 wouldn't allow it if I see it.

2 Q. Okay. Did you ever do any  
3 investigation to see if it was happening --

4 A. No.

5 Q. -- when you heard -- heard about  
6 it?

7 A. I wasn't -- I wasn't -- I wasn't  
8 told until the children were grown --

9 Q. Okay.

10 A. -- and we were divorced.

11 Q. Were any of your children ever  
12 sexually molested in your home?

13 A. I don't know it personally, but  
14 after, uh -- after the divorce they said they  
15 were. Yes, sir.

16 Q. Did you do anything to take care of  
17 that?

18 A. What can I do? It wasn't taken  
19 care of then. How can I take care of it now?

20 Q. You didn't know about it then?

21 A. No, sir.

22 Q. Did you ever help any of your  
23 children get psychiatric help?

1           A.    Teresa Ann needs it.  I help, yes,  
2    sir, any way I can.

3           Q.    Uh-huh.  Is she receiving treatment  
4    now?

5           A.    Yes, sir.

6           Q.    Are you paying for that?

7           A.    Not directly, no, but I help -- I  
8    help her and her husband.

9           Q.    How so?

10          A.    They're out of work and  
11    occasionally I might help them a little bit.

12          Q.    Does Dr. Hayden ever help them  
13    out --

14          A.    I don't know --

15          Q.    -- that you know of?

16          A.    I don't know what Dr. Hayden does,  
17    period.

18          Q.    Now, y'all used to be pretty tight,  
19    didn't you?

20          A.    We were tight, yes, sir, for many,  
21    many years.  Yes, sir.

22          Q.    Yeah.  He used to come down and  
23    visit you in the Virgin Islands.

1           A.    Once in a while.  Yes, sir.

2           Q.    Yeah.  I mean, he couldn't move in  
3 with you or nothing.

4           A.    No.  But he could stay in my home  
5 while they was there.

6           Q.    Yeah.  And he used to be your  
7 doctor and he used to help take care of you  
8 and act like a good family member?

9           A.    That's true.

10          Q.    Okay.  Can you tell me anywhere in  
11 that power of attorney -- well, before I go  
12 there, have you ever received any psychiatric  
13 treatment?

14          A.    Uh, I had an examination while I  
15 was in the U.S. Army, if that means anything.

16          Q.    How old were you?

17          A.    Oh, I was probably 25 years old  
18 roughly.

19          Q.    What did they say?

20          A.    Nothing wrong with this man.

21          Q.    Well, good.  Did you ever suffer  
22 any abuse as a child?

23          A.    No.  Other than brothers fighting,

1 you know.

2 Q. Yeah. But your parents never --

3 A. No, no, no.

4 Q. The hobos that you hung around with  
5 ever do anything to you?

6 A. No, no, no. Them were good people.

7 Q. The hobos were good people?

8 A. Oh, yes, sir.

9 Q. Okay. Well, why did you come back  
10 so violent?

11 MR. GOYER: Object to the form and  
12 I'm gonna instruct him not to answer that  
13 question.

14 A. I'm not gonna answer that question.

15 Q. You -- you hit your --

16 MR. GOYER: That's --

17 Q. You hit your hit aunt with a chair  
18 and broke it on her. That's pretty violent.

19 A. No. That's, uh -- that's not  
20 violent. That's, uh, uh, uh -- as -- as --  
21 as the Old Testament said, that was an eye  
22 for an eye and a tooth for a tooth.

23 Q. So that's what you live by?

1           A.    Yes, sir.  Sometimes when it's  
2    necessary.

3           Q.    When -- when it works for you?

4           A.    No.  When it's necessary.

5           Q.    When's it necessary?

6           A.    At times.

7           Q.    In your complaint you list and in  
8    your affidavit you list, uh, a bunch of  
9    paragraphs that are -- with lower case  
10   letters, A through --

11           MR. GOYER:  Have you got a copy he  
12   can look at?

13           MR. BURDICK:  Uh, I could get him  
14   one.  Hold on a second.  It may not be such  
15   an intricate question as you might suppose.  
16   I can't get into that.

17           MR. HAYDEN:  Okay.

18           Q.    Uh, you accuse the defendants of  
19   doing wrong in this case; is that a fair  
20   statement?

21           A.    Yes, sir.

22           Q.    Okay.  And in your affidavit and  
23   your complaint you list off some things that

1 you feel like they've done wrong.

2 A. That's right.

3 Q. Is that a fair statement?

4 A. That's a fair statement.

5 Q. Are you aware of anything else?

6 Have you come to know of anything else that  
7 they have done wrong that you didn't include  
8 in your complaint but would like to list as  
9 something they've done wrong now?

10 A. Not at this time.

11 Q. Okay. And you looked into these  
12 issues?

13 A. Yes, sir.

14 Q. You've been involved in this  
15 lawsuit?

16 A. Yes, sir.

17 Q. You met with attorneys. I'm not  
18 gonna talk about what you talked to them  
19 about. But -- but you're involved?

20 A. Yes, sir.

21 Q. Okay. Have you held any  
22 stockholders meetings this year?

23 A. One.

1 Q. When?

2 A. I don't remember the day, but it  
3 was this year.

4 Q. It was this year?

5 A. Yes, sir.

6 Q. Did you take -- who took minutes?

7 A. Uh, I think I took my own minutes.

8 Q. For Western Steel?

9 A. Yes, sir.

10 Q. Who was present at the meeting?

11 A. Who was present at the meeting?

12 Q. Uh-huh.

13 A. Uh, I'd have to go back and get the  
14 records and see.

15 Q. Okay. Well, uh, if -- I'll agree  
16 to allow you to supplement your answer  
17 with -- with that document, but can you tell  
18 me just from your memory today who you  
19 remember being present?

20 MR. BURDICK: Is that fair,  
21 Counsel, allow him to supplement with the  
22 record later?

23 MR. GOYER: Let's just ask him what

1 he remembers now and we'll see.

2 A. No. I can't remember who was  
3 there.

4 Q. Can't remember anybody else there  
5 other than you?

6 A. No. I'm the stockholder and I'm  
7 the director.

8 Q. Uh-huh.

9 A. Why did I need somebody else?

10 Q. I'm not saying you did or didn't.

11 A. I'm the -- I'm the -- I'm the  
12 director and I'm the only stockholder. Why  
13 did I need somebody else present?

14 Q. Now, you -- you said that -- that  
15 meeting took place this year.

16 A. This year.

17 Q. Do you have any idea what month it  
18 took place in?

19 A. No. I don't even remember what  
20 month, but it was this year.

21 Q. Do you know if it took place in  
22 January?

23 A. No. I don't remember what month it

1 was. The document will speak for itself.

2 Q. Okay. If I can get it?

3 MR. BURDICK: You don't want to  
4 agree to give that to me, Counsel?

5 THE WITNESS: Leave it up to him.

6 MR. GOYER: It's not my deposition.

7 MR. BURDICK: I'm not putting you  
8 on the stand. I just want to --

9 MR. GOYER: Let's go -- let's go,  
10 Austin.

11 Q. Let me ask you this. Will you  
12 agree to get that record to me?

13 MR. GOYER: No, he doesn't. It's  
14 not up to him. His lawyers --

15 MR. BURDICK: Sure, it is.

16 MR. GOYER: Look, file a request  
17 and we'll look and see.

18 MR. BURDICK: All right.

19 Q. Let me ask you this. Uh, Fred  
20 Campbell is your president now; is that  
21 correct?

22 A. That's correct. Yes, sir.

23 Q. Who's your vice president now?

1           A.    Uh, Jason Spinks.

2           Q.    Jason Spinks?

3           A.    Uh-huh.

4           Q.    How long has he been working for  
5 Western Steel?

6           A.    Since around the first of October  
7 of 2010.

8           Q.    What is he -- what did he do before  
9 he became vice president for Western Steel?

10          A.    He had, uh, Spinks Mortgage in  
11 Montevallo, Alabama.

12          Q.    That's the job he had before he  
13 came to work for Western Steel?

14          A.    That's right.  Yes, sir.

15          Q.    Well, what -- since -- since he  
16 joined the company in 2010 up through this  
17 year when he became vice president, what was  
18 he doing for the company?

19          A.    Working for the company.

20          Q.    As what?  What was his title?

21          A.    Uh, I don't remember what his title  
22 was.

23          Q.    Well, what --

1 A. I'd have to look at the record.

2 Q. What were his responsibilities?

3 A. It -- uh, to be my administrative  
4 assistant.

5 Q. He's your secretary?

6 A. No. Administrative assistant --

7 Q. I'm sorry. Is that an offensive  
8 term?

9 A. -- which included secretary.

10 Q. Huh?

11 A. Which included being my secretary.  
12 He was my administrative assistant.

13 Q. Okay. So in addition to doing  
14 secretarial work for you, what else did he do  
15 as an administrative assistant?

16 A. Whatever I told him to do.

17 Q. Okay. That's pretty broad.

18 A. Yes, that is broad.

19 Q. Was he good at it?

20 A. Yes.

21 Q. Has he worked for any other company  
22 that you hold stock in?

23 A. Yes, sir.

1 Q. What company would that be?

2 A. He -- he does work for Western  
3 Properties, LLC.

4 Q. What's he do for Western  
5 Properties?

6 A. Uh, looks at foreclosed properties  
7 and advises me about them.

8 Q. Let me ask you this. Gene -- do  
9 you trust Gene?

10 A. Would you rephrase that question,  
11 please?

12 Q. Do you trust Gene Calhoun? Is he a  
13 trustworthy person in your opinion?

14 MR. GOYER: Talking about as of  
15 today?

16 MR. BURDICK: As of today, right  
17 now sitting here.

18 A. Today? No, sir, not as of today.  
19 No, sir.

20 Q. You don't trust him at all?

21 A. No, sir.

22 Q. When's the last time you trusted  
23 him?

1           A.    Before I found out about this  
2    conspiracy.

3           Q.    So before February 1st?

4           A.    Latter days of January.

5           Q.    Okay.  Before the latter days of  
6    January?

7           A.    I trusted him before that, yes.

8           Q.    Okay.  So you wouldn't trust any  
9    statement that he's made since February 1st?

10          A.    I probably would not, no.

11          Q.    All right.  Uh, in that power of  
12   attorney can you find for me anywhere in that  
13   power of attorney, which is going to be  
14   marked as Exhibit 1 to this deposition, where  
15   your consent is required for my client to  
16   transact any business under the authority of  
17   that document?

18                   MR. GOYER:  You can answer.  I  
19   object to the form to the extent it asks for  
20   a legal conclusion.  You -- you can answer.

21          A.    That -- that -- that's a legal  
22   question.  I let the -- let you -- let you  
23   lawyers decide that and the judges and the

1 juries.

2 Q. You've read that document, correct?

3 A. Yes.

4 Q. And you understand it?

5 A. Yes.

6 Q. Will you read it for me again and  
7 tell me anywhere in there that you feel like  
8 your consent is required for Mr. Hayden to  
9 act or Dr. Hayden to act pursuant to the  
10 terms of that document?

11 MR. GOYER: Object to the extent it  
12 asks for --

13 A. Durable power of attorney --

14 MR. GOYER: Hang on a second.  
15 Object to the extent it asks for a legal  
16 conclusion. You can answer. I don't think  
17 he wants you to read it out loud.

18 MR. BURDICK: Uh-uh. Too  
19 expensive.

20 A. Let the -- let you -- let the  
21 lawyers work it out. That -- it's legal.  
22 Y'all work it out.

23 Q. Well, I'll be --

1           A.    My -- my opinion -- I've told you  
2 before and I'll tell you again. My opinion  
3 is this document only gives Mark -- Steven  
4 Mark Hayden the authority to do something if  
5 I'm incapacitated or incompetent, and I'm not  
6 either one. I'm of sound mind and good  
7 health except a truck fell on me and I  
8 recovered quick, period.

9           Q.    But -- but you can't point to  
10 anywhere in that document where your consent  
11 is required to act under that document, can  
12 you?

13                   MR. GOYER: Same objection.

14           A.    Let the lawyer --

15           Q.    No.

16           A.    -- tell me.

17           Q.    Answer that question.

18           A.    Let my lawyer tell me.

19           Q.    He's gonna answer the question.  
20 I'm asking you what you can point to in that  
21 document that requires your consent for your  
22 power of attorney to act.

23                   MR. GOYER: Same objection. Calls

1 for a --

2 A. I --

3 MR. GOYER: Calls for a legal  
4 conclusion. You can answer if you know.

5 A. I don't know.

6 Q. You haven't even looked at it  
7 again.

8 MR. GOYER: Come on. What --  
9 Austin, he's answered the question as best he  
10 can. You know it's a legal question. You  
11 know it is.

12 MR. BURDICK: But he's made the --  
13 he's made these conclusions in his verified  
14 complaint that he signed. I'm just trying to  
15 find out --

16 MR. GOYER: You've got an answer.  
17 Let's move on.

18 MR. BURDICK: I don't think --

19 MR. GOYER: He said "I don't know."

20 A. I said I don't know.

21 Q. All right. So you don't know of  
22 anywhere in that document where your consent  
23 is required?

1                   MR. GOYER: He said that doesn't --  
2 he can't answer your question. I don't know.  
3 I think you're harassing him. Ask some more  
4 questions.

5                   MR. BURDICK: No, no, no.

6                   MR. GOYER: He's answered the  
7 question as best he can. Let's go on.

8           Q.     So you don't know anywhere in that  
9 document where your consent is required?  
10 You're gonna leave that up to your attorney  
11 because you don't know of it?

12           A.     I don't know.

13           Q.     Okay. Hold on to that for a  
14 second. Do you need a drink or anything?

15           A.     No.

16           Q.     You're not running your talker as  
17 much as me, are you?

18                   MR. HAYDEN: Would anybody else  
19 like a drink?

20                   MR. COLVIN: No thanks.

21           Q.     In your, uh, complaint you claim  
22 that personal items were taken from Western  
23 Steel.

1           A.    That's correct.

2           Q.    What personal items were taken from  
3 Western Steel?

4           A.    Papers and records, files.

5           Q.    What papers, records, and files?

6           A.    All -- all my -- most all of my  
7 records of anything pertaining to St. Thomas,  
8 Virgin Islands. Uh, uh, one thing  
9 specifically, corporate -- the corporate, uh,  
10 book that had all the minutes in it from the  
11 original date that I went into business,  
12 January the -- not January but in 1954.  
13 All --

14          Q.    Wait a minute. Wait a minute. Uh,  
15 I -- I think I asked a bad question. I'm  
16 sorry to interrupt you. But I want to know  
17 what personal items because -- or are you  
18 insinuating that all the corporate documents  
19 are your personal items?

20                   MR. GOYER: Object to the form.  
21 You can answer.

22          A.    I'm not -- I'm not -- I'm not  
23 insinuating that. I'm --

1 Q. Okay. So let me just --

2 A. Okay.

3 Q. I was talking about the personal  
4 items.

5 A. Okay. I'm sorry. I -- I didn't --  
6 I didn't --

7 Q. I asked a bad question. That's not  
8 your fault.

9 A. Okay.

10 Q. Just the personal items.

11 A. The personal items from my office  
12 was my files and records on things in -- in,  
13 St. Thomas or 10:16 Mining, uh, loans and  
14 just files and files missing.

15 Q. What kind of loans?

16 A. Loans, period.

17 Q. You do a lot of personal loans?

18 A. I do some personal loans, yes.

19 Q. Who do you make personal loans to?

20 A. Whoever I think is worthy and asks  
21 for it.

22 Q. I'll have to keep that in mind.

23 A. Well, I want to tell you right now

1 on the record you wouldn't get a dime from  
2 me.

3 Q. Oh, you're killing me. Okay. Now  
4 that we've had a little fun, how many  
5 outstanding -- how many loans do you have out  
6 right now that were personal loans that  
7 you've made to some other business person or  
8 individual that are outstanding right now?

9 A. Oh, there's more than 10, probably  
10 less than 20.

11 Q. Okay. Can you tell me who some of  
12 those, uh, borrowers are?

13 MR. GOYER: I think that gets into  
14 areas that --

15 A. That's too long and drawn out.

16 MR. GOYER: What -- what's the  
17 relevance?

18 A. Why don't you ask a specific  
19 question to who you want to know about?

20 MR. BURDICK: We've got an issue as  
21 to whether or not he's competent --

22 A. Why don't you -- please, can I  
23 interrupt you and --

1 MR. BURDICK: He raised that issue.

2 A. -- ask you to ask me who you want  
3 to know about.

4 Q. I want know about the people you've  
5 loaned money to.

6 A. No, sir. I ain't giving you that  
7 answer unless my attorney tells me to do that  
8 because there's too many of them and I don't  
9 have my records in front of me. Now, there's  
10 somebody in this room that probably knows  
11 more about it than me and you both.

12 Q. Who's that?

13 A. Steven Mark Hayden. He took the  
14 records from my office.

15 Q. Of all your loans?

16 A. Most of them.

17 Q. You don't have any of those records  
18 now?

19 A. I have most of them back.

20 Q. All right. Do you have any loans  
21 that you've made to commercial entities, not  
22 individuals, but whether it's a corporation  
23 or some kind of companies?

1 A. Oh, yes. Oh, yes. Some of them.

2 Q. How many of those do you have right  
3 now?

4 A. Uh, several.

5 Q. More than 10?

6 A. Less than 10 probably.

7 Q. Okay. Well, that's a small group.  
8 Let's work on those.

9 A. Okay.

10 Q. Tell me about -- tell me about one  
11 of those.

12 MR. GOYER: Well, let me com- --  
13 uh, caution Mr. Cashion not to address any  
14 loans if there are any with respect to 10:16  
15 Mining Corporation --

16 THE WITNESS: Right.

17 MR. GOYER: -- or anybody  
18 associated with that company.

19 THE WITNESS: Right.

20 MR. GOYER: Okay? But other than  
21 that, go ahead.

22 THE WITNESS: Yeah, uh.

23 Q. Do you have any loans to anybody

1 other than 10:16 Mining Corporation, Argo  
2 Mills --

3 MR. GOYER: That's --

4 Q. Other than them. I'm -- I'm  
5 excluding them.

6 A. Oh, I do. Yes, sir.

7 Q. Okay. I just wanted to make sure  
8 that when you said you had several you  
9 weren't talking just about them.

10 A. Right.

11 Q. Okay. All right. Uh, well, list  
12 them for me. It says less than 10.

13 A. Well, less than 10, yes. Still  
14 less than 10. But, uh, one of them -- uh,  
15 one of them -- one of them is, uh, the Burt  
16 boys and I don't remember exactly -- Burt  
17 Holding, B-E -- B-U-R-T, Holding,  
18 H-O-L-D-I-N-G.

19 Q. Okay. And what did you loan them  
20 money for?

21 A. To -- to buy a, uh, lumber  
22 facility.

23 Q. To buy a lumberyard or more like a

1 mill?

2 A. Oh, it was -- it was a -- a retail  
3 yard, you know, where they sold lumber and  
4 stuff to build houses and that sort of stuff  
5 with it.

6 Q. Okay. How long ago did you make  
7 that loan?

8 A. Oh, couple of years ago. Maybe  
9 three years ago.

10 Q. What's the -- what's the interest  
11 rate on that loan?

12 A. Oh, man. I ain't got the record in  
13 front of me.

14 Q. Do they ever miss any payments?

15 A. No, sir.

16 Q. Do you ever, uh -- do people have  
17 to put up collateral to get loans from you?

18 A. Well, they've got to have security  
19 and sometimes that's collateral, yeah.

20 Q. Okay. So none of your loans are  
21 unsecured?

22 A. No. I won't say that, no.

23 Q. Oh. So some of them are unsecured?

1           A.    Some are unsecured, yes.

2           Q.    Do you have any unsecured loans to  
3   business entities?

4           A.    Uh, not that I can think of, no.

5           Q.    Are you entitled to any funds from  
6   a judgment that -- from a previous judgment?  
7   I'm not talking about in this case if you win  
8   or anything.  But are there any other cases  
9   that you've been awarded a judgment and  
10   you're entitled to funds and haven't received  
11   them yet?

12          A.    Not that I can recall.

13          Q.    Did you ever get a Jay -- uh, a  
14   judgment against Jason Spinks in the amount  
15   of about one and a quarter million dollars?

16          A.    Me personally, no.

17          Q.    Did Western Steel ever get a  
18   judgment --

19          A.    Yes, sir.

20          Q.    -- in that amount?

21          A.    Yes, sir.

22          Q.    Has Mr. Spinks ever paid that money  
23   back to Western Steel?

1           A.    Well, he -- he -- he thinks he's  
2    paying it back by working for me.  Phrase it  
3    that way.

4           Q.    Has he paid any payments?

5           A.    Made no payments, no.

6           Q.    So what's the balance, then, on  
7    what he owes?

8           A.    Uh, a million two probably plus  
9    accrued interest.

10          Q.    So has he decreased the value at  
11   all or the amount at all of what he owes?

12          A.    Well, not on paper.  No, sir.

13          Q.    Well, how he has decreased the  
14   amount, then?

15          A.    By doing a good job and -- and --  
16   and buying foreclosed properties and -- at  
17   foreclosure prices that the value is much  
18   more than we bought them for.

19          Q.    Have you waived some of his debt?  
20   Is that what you're telling me?

21          A.    What was your question?

22          Q.    Have you waived some of his debt?

23          A.    Waived it?

1 Q. I'm trying to understand how his --

2 A. Waive?

3 Q. -- debt gets lower without making  
4 payments. Have you waived some of it? Have  
5 you just said --

6 A. Oh, no. I -- I --

7 Q. -- you don't owe any more?

8 A. -- it hasn't been waived, no.

9 Q. So he still owes the full amount?

10 A. Oh, yes, sir. Yes, sir.

11 Q. Okay. That's what I'm trying to  
12 understand.

13 A. Okay. He still owes it to Western  
14 Steel, not me.

15 Q. Not you? Okay. Okay. So -- and  
16 that judgment was always Western Steel's; it  
17 was never yours?

18 A. That's correct, yes.

19 Q. Okay. Since that judgment has been  
20 entered against Mr. Spinks, is this the same  
21 guy who's your vice president?

22 A. That's correct.

23 Q. Have you loaned him any more money

1 since then?

2 A. Probably so, yeah.

3 Q. How much money have you loaned this  
4 guy?

5 A. Oh, I don't know. It's been  
6 several, I guess.

7 Q. So more than five bucks? You're  
8 not just buying him lunch?

9 A. More than five bucks. You're being  
10 funny.

11 Q. Okay. More than 10 grand?

12 A. 10,000. 10,000. Yeah.

13 Q. More than 20 grand?

14 A. Yeah.

15 Q. More than 30 grand?

16 A. Yeah.

17 Q. More than 40 grand?

18 A. Yeah.

19 Q. More than 50 grand?

20 A. Yeah.

21 Q. More than 60 grand?

22 A. Yeah.

23 Q. More than 70 grand?

1 A. Yeah.

2 Q. More than 80 grand?

3 A. Oh, yeah.

4 Q. More than \$90,000?

5 A. Oh, yeah.

6 Q. More man \$100,000?

7 A. Oh, yeah.

8 Q. More than \$200,000?

9 A. No.

10 Q. More than 150?

11 A. No. Well, let me -- let me take  
12 that back. I don't know. I ain't got the  
13 record in front of me for it.

14 Q. Somewhere more than a hundred,  
15 though?

16 A. Somewhere more than a hundred.

17 Q. We can stop there.

18 A. Yeah.

19 Q. Okay. So my five dollar thing was  
20 just crazy?

21 A. Right.

22 Q. Okay. And this is all since he has  
23 owed the company -- well, let me ask you

1 this. Did you make those loans of a hundred  
2 thousand dollars personally or did the  
3 company, Western Steel, make those loans?

4 A. Personally.

5 Q. Okay. And when you made those  
6 loans, you were aware that he owes Western  
7 Steel 1.25 million dollars?

8 A. Yes, sir.

9 Q. Okay. Did you feel like that was a  
10 good investment to make that loan to somebody  
11 who's so far in debt?

12 A. Well, I got security.

13 Q. What security did you get?

14 A. Uh, uh, basically it was a loan to  
15 him and -- and -- and a corporation that he  
16 and his brother-in-law owned.

17 Q. Uh-huh.

18 A. And they -- they put up their  
19 stock, you know, their, uh, physical stock  
20 for security.

21 Q. Stock in their company?

22 A. No. Physical stock.

23 Q. Explain that to me. I don't

1 understand. I'm not as experienced in  
2 business as you.

3 A. Well, I'll explain it the best --  
4 best I can.

5 Q. Yes, sir.

6 A. It's a, uh, uh -- a, uh, deer  
7 breeding farm facility.

8 Q. Uh-huh.

9 A. And they put the, uh, registered,  
10 uh, deers up as security. I own -- I own a  
11 security right in them.

12 Q. So you own a bunch of deers?

13 A. Yeah.

14 Q. Or at least the security interest  
15 in them to -- to secure the loan?

16 A. Yeah. If I don't get paid, I'll be  
17 going and getting them. Yes, sir.

18 Q. Are you gonna get them with a gun  
19 or how are you gonna get them?

20 A. No. I'll take people to --

21 Q. Trap them, catch them?

22 A. No. They're in cages. They're --

23 Q. Oh, they're already in cages?

1           A.    Well, they're in enclosures, you  
2    know, in fenced-in enclosures.

3           Q.    Okay.

4           A.    Yeah.

5           Q.    How many deer?

6           A.    Uh, best I remember, 40 or 50.

7           Q.    40 or 50 deer?

8           A.    Yes, sir.

9           Q.    And that's what you used as  
10   security on a over \$100,000 loan?

11          A.    Yes, sir.

12          Q.    Anything else as security on that  
13   loan?

14          A.    Not that I -- no, I don't think so.  
15   I don't remember anything else.

16          Q.    So what's the nature of that  
17   business? Is it some kind of hunting club or  
18   something or --

19          A.    No. They -- they, uh -- they, uh,  
20   breed, uh, uh, uh, registered, uh, deers, you  
21   know, that have the big horns on them, you  
22   know.

23          Q.    Uh-huh.

1           A.    Big huge horns.  And they -- you  
2    know, they keep multiplying.  You know how  
3    that goes.  A deer has one to four, five, six  
4    every year, you know.

5           Q.    Okay.

6           A.    Yeah.

7           Q.    Uh, of that loan that's worth over  
8    a hundred -- \$100,000 --

9           A.    Uh-huh.

10          Q.    -- have you received any payments  
11   from Mr. Spinks?

12          A.    Some interest.

13          Q.    Some interest payments?

14          A.    Uh-huh.

15          Q.    Anything toward the principal?

16          A.    Nothing toward the principal.

17          Q.    How long have you had these --  
18   these loans outstanding with him?

19          A.    Uh, uh, this year.  This year.

20          Q.    Has Western Steel undertaken any  
21   collection actions against Mr. Spinks?

22          A.    Yes.  We've, uh -- we have a -- a  
23   recorded, uh, judgment against him, yes, for

1 something.

2 Q. I mean, have you undertaken any  
3 collection action since the judgment. Like,  
4 for instance, he works for Western Steel  
5 right?

6 A. Right.

7 Q. Is he on salary?

8 A. On salary, yes, sir.

9 Q. Are his wages being garnished?

10 A. No, sir.

11 Q. Why aren't his wages being  
12 garnished? Whose decision was it to not  
13 garnish his wages or not co -- collect?

14 MR. GOYER: Object to the form.

15 A. Mine.

16 MR. GOYER: It's two questions.

17 Q. Okay. Both of the -- the answer to  
18 both of those questions is mine?

19 A. Yes, sir.

20 Q. Why have you decided not to collect  
21 the debt that is owed to Western Steel?

22 A. Because he's -- he's working it  
23 off. And it may take a long time, but he's

1 working the debt off with me.

2 Q. But you said he hasn't made a  
3 single payment.

4 A. No. But he -- he's made  
5 transactions the same as payments I know of,  
6 yeah. Things are going up in value, that's  
7 the same as payments.

8 Q. All right. I don't understand.

9 A. Well, I understand it, please.

10 Q. No. I understand it. I -- I want  
11 you to help me understand it. I'm not as  
12 smart as you.

13 A. Well, that's all right too.

14 Q. So he's entered into some business  
15 transactions on behalf of Western Steel; is  
16 that correct? Is that what you're saying?

17 A. Some for Western Steel, but more  
18 for Western Properties.

19 Q. For Western Properties. And those  
20 investments have been profitable?

21 A. They are profitable, yes, sir.

22 Q. So what has Western Steel received  
23 from Western Properties on the things that

1 Western Properties has profited from  
2 Mr. Spinks' efforts?

3 A. So far nothing.

4 Q. So the debt remains unchanged?

5 A. At this time.

6 Q. So let me make sure I understand  
7 correctly. He's got a judgment against him  
8 for 1.25 million dollars?

9 A. That's right.

10 Q. He owes all that money to Western  
11 Steel?

12 A. That's right.

13 Q. Western Steel employs him?

14 A. Right.

15 Q. Writes him checks every two weeks?

16 A. Every week.

17 Q. Every week. And doesn't garnish  
18 any of his wages?

19 A. No, sir.

20 Q. And because you decided they  
21 shouldn't do that?

22 A. That's correct.

23 Q. And then you personally have made a

1 hundred thousand dollar or more loan to this  
2 gentleman?

3 A. That's correct.

4 Q. And have received no payments  
5 toward the principal of that loan?

6 A. That's correct.

7 MR. GOYER: I think he said he did  
8 have interest payments.

9 Q. Interest payments.

10 A. Well, he has --

11 Q. No principal payments --

12 A. He has --

13 THE WITNESS: He said principal.

14 MR. GOYER: Principal. I'm sorry.

15 MR. BURDICK: Yeah.

16 MR. GOYER: My mistake.

17 Q. Let me ask you this. Is he current  
18 on the interest payments on the loan to you  
19 such that his prince -- such that the -- the  
20 debt is not growing?

21 A. As far as I know, yes.

22 Q. Who would keep the books on that  
23 loan?

1           A.    I do.

2           Q.    So who would know the answer to  
3   that question other than you?

4           A.    My record would.

5           Q.    So your documents would have the  
6   answer; no one else would?

7           A.    That's correct.

8           Q.    You don't have a secretary that  
9   processes those --

10          A.    No, sir.

11          Q.    -- or anything like that?

12          A.    Sure don't.

13          Q.    All right.  Is Mr. Spinks' office  
14   in the same building as your office?

15          A.    It is.

16          Q.    Are they located close or adjacent  
17   to one another?

18          A.    They're -- they're -- they're next  
19   to one another with a connecting door.

20   I'll -- I'll beat you to the punch.

21          Q.    Okay.  How often do y'all talk to  
22   each other?

23          A.    Many times every day.

1           Q.    You don't ever ask him to make some  
2    payments on the -- on the -- on the -- the  
3    judgment to Western Steel?

4           A.    I have inquired regularly about --  
5    about it, yes, sir.

6           Q.    But you've never taken any  
7    actions --

8           A.    No.

9           Q.    -- doing collection?

10          A.    No, sir.

11          Q.    Let me ask you this.  Those records  
12    with regard to this over a hundred thousand  
13    dollar debt to Mr. -- that Mr. Spinks has to  
14    you personally, those are your personal  
15    records?

16          A.    Correct.

17          Q.    If you were to pass away, what  
18    would happen to those records?  Where would  
19    they go?

20          A.    They would go to the estate.

21          Q.    Would Mr. Spinks have access to  
22    those documents?

23          A.    Not that I know of, no.

1 Q. Do you keep those records locked  
2 up?

3 A. I do.

4 Q. In a locked file cabinet or safe or  
5 what?

6 A. A locked cabinet, yes, sir.

7 Q. Do you maintain them at your office  
8 that's adjacent to his office?

9 A. I do.

10 Q. But you keep them locked up 24  
11 hours a day?

12 A. I do except when I open it and look  
13 at them and put them back.

14 Q. But you don't ever collect  
15 anything?

16 A. Interest. I've collected some  
17 interest.

18 Q. About how much have you received in  
19 interest payments on that loan?

20 A. Without looking at the records, I  
21 couldn't tell you.

22 Q. More than a dollar?

23 A. Oh, yes, sir.

1 Q. More than a hundred dollars?

2 A. Oh, yes, sir.

3 Q. More than a thousand dollars?

4 A. Uh, probably so, yeah.

5 Q. More than \$2,000?

6 A. I'd have to look at the records.

7 Q. Do you know what your interest rate  
8 is on that loan?

9 A. Yes, sir, I do. You asked a  
10 question I answer -- now I know the answer  
11 to. Four -- four percent.

12 Q. Four percent?

13 A. Yes, sir.

14 Q. Is that compounded annually?

15 A. That's annually four percent. Yes,  
16 sir.

17 Q. Okay. But it's compounded  
18 annually?

19 A. Yes, sir.

20 Q. It's an annual interest rate?

21 A. That an annual -- four percent  
22 annual --

23 Q. Not monthly or --

1           A.    No.  That's annual.  No, sir.

2           Q.    Okay.  And he's had that debt with  
3 you for less than a year?

4           A.    Less than a year, yes, sir.

5           Q.    Do you have any documents or  
6 evidence to show that you informed Dr. Hayden  
7 that you had never intended for him to act  
8 pursuant to Exhibit 1 unless you became  
9 incapacitated?

10          A.    I have no written -- written  
11 evidence, no.

12          Q.    So it's just the document itself;  
13 you don't have something else?

14          A.    No.  I don't have nothing else, no.

15          Q.    Okay.  Did you understand when you  
16 executed Exhibit 1 that you were giving  
17 Dr. Hayden, as your agent or attorney in  
18 fact, consent or authority to participate in  
19 a great many activities?

20               MR. GOYER:  Object to the form.

21               What do you mean by "great many activities?"

22               That's kind of vague.

23               MR. BURDICK:  Let's say all the

1 ones that are listed on there.

2 MR. GOYER: Okay.

3 Q. Did you understand that, sir?

4 A. Ask the -- tell me the question  
5 again.

6 (Record read.)

7 MR. GOYER: Object to the form.  
8 You can answer if you know.

9 A. My answer is I did it as a -- as a  
10 health thing. I also -- there were other  
11 documents besides this document at the same  
12 time to Dr. Hayden, and they needed to be in  
13 this, uh, thing right here. It was all about  
14 health, H-E-A-L-T-H.

15 Q. What other documents? I thought we  
16 just said this was it.

17 A. No, sir. I -- I haven't made that  
18 statement, I don't think. I don't think you  
19 can go back in this record and find that.

20 Q. Well, I misunderstood. Tell me  
21 what these other documents are.

22 A. Okay. Uh, uh, uh, uh, they're --  
23 they're about, uh, who -- who is -- is --

1 they're -- they're, uh, health things. And  
2 this was health to me. This was health,  
3 H-E-A-L-T-H. And the other things that's --  
4 uh, will be brought to you and I will give  
5 them to you.

6 Q. Thank you.

7 A. The same date and same people  
8 signed them.

9 Q. Excellent. That's wonderful. I  
10 would love that. I would appreciate that.

11 MR. GOYER: Are we talking about  
12 advanced healthcare directive?

13 THE WITNESS: Health -- advanced  
14 healthcare directive.

15 Q. Yeah. You -- who --

16 A. And -- and -- and -- and --

17 Q. Who do you name in your advanced  
18 healthcare directive as the person able to  
19 make those decisions on your behalf?

20 A. Steven Mark Hayden.

21 Q. You trusted Dr. Hayden with a great  
22 many things, didn't you?

23 A. I sure did. And I was -- my trust

1 was wrong.

2 Q. Okay. Let me read -- I'm gonna try  
3 and pick one of the shorter paragraphs just  
4 because I'm too lazy to read the longer ones.

5 MR. GOYER: Austin, we'll stipulate  
6 that the document says what it says. I mean,  
7 there's no reason for you to read it.

8 MR. BURDICK: I'm not gonna read  
9 the whole thing. Like I said, I'm --

10 Q. For instance, paragraph six, to pay  
11 any and all indebtedness of mine in such  
12 manner and at such times as agent may deem  
13 appropriate. Can you tell me in your opinion  
14 what that has to do with your health?

15 A. Health and -- and your mind is --  
16 is the same thing. If your mind is not  
17 healthy, you're not healthy. If your body is  
18 not healthy, you're not healthy.

19 Q. Okay. Let me read it again. Tell  
20 me which part of this has to do with your  
21 health. To pay any and all indebtedness of  
22 mine -- not mind, but M-I-N-E like it's  
23 mine -- in such manner and at such times as

1 agent may deem appropriate.

2 A. That's what it says and that's what  
3 it means.

4 Q. What does that have to do with  
5 health? Here, I'll let you read it again if  
6 you want to.

7 MR. HAYDEN: It's got number six --

8 A. Right here.

9 MR. HAYDEN: -- which has to do  
10 with your health.

11 A. Right there. It -- it -- it --  
12 it -- it means if I'm incapacitated and --  
13 and -- it means for him -- whoever was to pay  
14 any and all indebtedness of mine in such  
15 manner and at such time as agent may deem  
16 appropriate.

17 Q. So these paragraphs and these items  
18 that don't say anything about your health, we  
19 just need to infer that?

20 A. They're all talking about if I am  
21 in bad health or -- or incompetent. That's  
22 what it -- that's the whole instrument. And  
23 that other instrument that I signed at the

1 same time was all about -- it wasn't  
2 nothing -- it wasn't nothing about what we're  
3 talking about today. It was my health at  
4 that time.

5 Q. All right.

6 A. I was under great stress getting a  
7 divorce from a woman that had been 40 years  
8 my wife, and that's the reason I signed these  
9 papers, period.

10 Q. Please take a look at that  
11 document, Exhibit 1, and show me the first  
12 time -- cite to me the first time where your  
13 health is mentioned or referenced to.

14 A. That's a legal matter. I'm gonna  
15 --

16 Q. No.

17 A. I'm gonna let the lawyers --

18 Q. Tell me -- tell me the first place  
19 you see the word "health." You can tell me  
20 when you see the word "health." That's not a  
21 legal question.

22 MR. GOYER: All right, William.

23 You're just gonna have to start at page one

1 and read through it.

2 A. Let me see if I can find health and  
3 things in here.

4 Q. Tell me the first place you see the  
5 word "health."

6 A. (Witness reviewing record.)

7 THE VIDEOGRAPHER: We've been going  
8 over an hour.

9 MR. BURDICK: Huh?

10 MR. GOYER: Huh?

11 THE VIDEOGRAPHER: We've been going  
12 over an hour.

13 MR. GOYER: I'm sorry?

14 THE VIDEOGRAPHER: We've been going  
15 over an hour.

16 MR. CASHION: Is your tape about to  
17 run out?

18 THE VIDEOGRAPHER: I'm good on  
19 tape, but it's up to you guys.

20 MR. GOYER: Let's take a break.

21 MR. BURDICK: Yeah. He can keep  
22 reading it. We -- we don't need a videotape  
23 of him reading.

1 MR. GOYER: Let's go off the  
2 record.

3 THE VIDEOGRAPHER: This marks the  
4 end of videotape number four. Going off the  
5 record, 2:04 p.m.

6 (Break taken.)

7 THE VIDEOGRAPHER: This marks the  
8 beginning of videotape number five. Going  
9 back on the record, 2:14 p.m.

10 Q. (BY MR. BURDICK) All right.  
11 Mr. Cashion, you -- you rested and ready to  
12 go?

13 A. Right.

14 Q. All right. I asked you to find the  
15 word "health" for me in there. Did you find  
16 it?

17 A. On page three this says regardless  
18 of my capacity or ability to make my own  
19 healthcare and decisions at the time of  
20 commencement of the, uh, power granted my  
21 agent.

22 Q. What paragraph number are you  
23 reading?

1 A. Right there.

2 Q. Oh, it's not numbered. Okay. So  
3 this is after the numbered paragraphs.

4 A. Yeah. It's on page three, right  
5 down in the big paragraph --

6 Q. Okay.

7 A. -- in the middle of the page.

8 Q. So it mentions your health there?

9 A. Yeah, yeah. Health -- you know,  
10 health includes your mind as well as your --

11 Q. Yeah. Did -- did it mention health  
12 at any point before that in the document?

13 A. Not that I could find, no.

14 Q. Okay. Uh, is there -- is there  
15 another page after that?

16 A. Yes, sir.

17 Q. Okay. All right. Hope that makes  
18 the point. Okay. In your complaint you make  
19 reference to stock that you hold or have held  
20 in Western Steel, Merchants Commercial,  
21 Western Properties, and 10:16 Mining.

22 A. Correct.

23 Q. Now, since this conspiracy, to use

1 your terms --

2 A. Amen.

3 Q. -- which was at the end of January,  
4 beginning of February --

5 A. Amen.

6 Q. -- what has happened to the value  
7 of the stock for Western Steel, Merchants  
8 Commercial, Western Properties, and 10:16  
9 Mining? Has it gone up, gone down, stayed  
10 the same?

11 A. I don't have accounting on all of  
12 them.

13 Q. So you don't know if it's worth  
14 more or less?

15 A. Well, I have an opinion, you know.

16 Q. Let me ask you this. Western  
17 Steel, is Western Steel in good shape or is  
18 it floundering?

19 A. Good shape.

20 Q. Uh, Western Properties, good shape  
21 or floundering?

22 A. Good shape.

23 Q. Uh, 10:16 Mining, good shape or

1 floundering?

2 A. Confidentiality.

3 Q. Okay. We'll leave that one alone  
4 and skip it until after we get the protective  
5 order. What was the other one? Did we ask  
6 Merchant Commercial? We did, didn't we? Is  
7 it in good shape, Merchants Commercial, or  
8 floundering?

9 A. Good shape.

10 Q. Okay. Is it in worse shape today  
11 than it was a year ago?

12 A. Are you asking about Merchants  
13 Commercial Bank?

14 Q. Yes.

15 A. Uh, I'd say it's the same.

16 Q. Same?

17 A. Yes, sir.

18 Q. Okay. What about Western Steel?

19 A. Same.

20 Q. What about Western Properties?

21 A. Better.

22 Q. Western Properties is in better  
23 shape?

1 A. Oh, yes, sir.

2 Q. Okay. And 10:16 Mining we're not  
3 gonna talk about yet?

4 A. No. We're not gonna talk about it.

5 Q. Until -- until we get that order.

6 A. Confidentiality.

7 Q. All right. I'm not gonna beat you  
8 up about that. We can -- we can save that  
9 for another day. Did you ever go to, uh,  
10 Montana to look at a mining project or a mine  
11 or something like that?

12 A. I did.

13 Q. And that mine -- the mining project  
14 in Montana, that's not owned by 10:16?

15 A. No.

16 Q. Who's that owned by?

17 A. Uh, the main person was Billy  
18 Helms, H-E-L-M.

19 Q. Okay.

20 A. I believe -- it might have had an S  
21 on it, but it's H-E-L-M or L -- H-E-L-M-S,  
22 one of the two.

23 Q. How did you come to find out about

1 Billy Helm or Bill Helm and his mining  
2 project?

3 A. Uh, I don't -- I don't remember.  
4 Mark may have told me about him. Steven Mark  
5 Hayden may have told me about it or either I  
6 found it by research.

7 Q. Okay. Now, did you ever go up  
8 there?

9 A. Yes.

10 Q. Did you ever buy any stock in that  
11 project?

12 A. No.

13 Q. No? Okay. Did you ever purchase  
14 any precious metal or metal from that  
15 project?

16 A. I did.

17 Q. What did you buy?

18 A. A bar.

19 Q. How big is this bar? Show me with  
20 your hands. The camera can see you.

21 A. (Witness complies.)

22 MR. BURDICK: Can you -- can you  
23 see him?

1 THE VIDEOGRAPHER: Okay.

2 Q. About that big? That's a pretty  
3 good size.

4 A. Oh, it's a pretty good size.

5 Q. All right. Now, how much did you  
6 pay for that -- that big ole bar?

7 A. \$25,000.

8 Q. \$25,000. Well, what was that bar  
9 made out of?

10 A. Copper and precious metals.

11 Q. Copper and precious metals?

12 A. Yes, sir.

13 Q. Did you ever get that bar analyzed?

14 A. Yes, sir, I did.

15 Q. All right. And what was the value  
16 of that bar?

17 A. Uh, I haven't calculated it, but I  
18 have a, uh, assay of it.

19 Q. What's the assay of it, sir?

20 A. I don't have it in front of me, but  
21 it was high.

22 Q. Was it worth more than \$25,000?

23 A. Oh, I haven't calculated it.

1           Q.    Well, is it worth more or less than  
2   \$25,000?

3           A.    I haven't calculated it.

4           MR. GOYER:  I think he's answered  
5   the question.

6           MR. BURDICK:  No.

7           Q.    Huh?

8           A.    I haven't calculated it.

9           MR. GOYER:  You're asking him to  
10  speculate.

11          MR. BURDICK:  Okay.

12          Q.    So you don't have any idea, just to  
13  make sure I'm clear, of whether that bar is  
14  worth more or less than \$25,000?

15          A.    I have thoughts, but -- uh, you  
16  know, opinions, but I don't have evidence.  I  
17  don't have calculations.

18          Q.    Have you seen --

19          A.    I'll bring -- I'll -- I'll bring  
20  you the assay and let you do it.

21          Q.    Okay.  So you've seen an assay;  
22  you've seen calculations?

23          A.    I have an assay.

1 Q. And there is an actual value for  
2 this bar?

3 A. No, sir. The -- the -- the --  
4 the -- the -- the value, uh -- the value --  
5 the value of the contents not in dollars and  
6 cents but in ounces.

7 Q. Okay. Explain that to me --

8 A. Well --

9 Q. -- because I've never spent an  
10 ounce before.

11 A. Well, I -- I -- I'm not a very  
12 explainer of that, but an assay -- an assay  
13 done by a company that's been in business a  
14 long time assaying precious metals --

15 Q. Who? Who's done that? Who was the  
16 --

17 A. Well, this particular one, it was,  
18 uh, uh -- it was done by -- it was, uh, uh,  
19 an analytical -- Analytical, uh -- Assay  
20 Analyticals, I believe. That's close to the  
21 name.

22 Q. Advanced Analytical?

23 A. Yes, sir, that's it, Advanced

1 Analytical. Thank you. Appreciate that.

2 Q. Yeah. Where is Advanced Analytical  
3 located?

4 A. Uh, at the time the assay was made,  
5 uh, they were in, uh, Colorado and Arizona, I  
6 believe.

7 Q. What's an assay?

8 A. That's where they take it and, uh,  
9 uh, do, uh -- do treatments to it, you know,  
10 and find out what's in it. That's -- that's  
11 the business they're in.

12 Q. Do treatments to it, what do you  
13 mean?

14 A. Well, there's a lot of treatment  
15 that can be done to it. And -- and we -- we  
16 could talk about it probably the rest of the  
17 day if -- if -- if y'all want to.

18 Q. Well, now, is an assay research on  
19 the bar or is it research on the, you know --

20 A. The -- the contents of the  
21 materials in the bar.

22 Q. Okay. So it's some sort of test  
23 that they perform on the bar itself?

1           A.    A lot -- a lot of tests.  A lot of  
2    tests.

3           Q.    Okay.  A series tests?

4           A.    Series of tests.

5           Q.    That are done on the bar?

6           A.    Right.

7           Q.    That tell them what the bar is made  
8    out of?

9           A.    That's right.

10          Q.    And what did they tell you the bar  
11   was made of?

12          A.    Well, it -- it will speak for  
13   itself.  I have the assay if you want to see  
14   it.

15          Q.    I'd love to.

16                MR. GOYER:  It looks like you've  
17   got it in your hand.

18                MR. BURDICK:  No.  This is a  
19   different report.

20                THE WITNESS:  That's some of  
21   10:16's profitability.

22          Q.    Shh, we won't talk about 10:16.

23                THE WITNESS:  I'm -- I'm -- I'm --

1 I'm telling you probably what he's got in his  
2 hand.

3 (Discussion off the record.)

4 MR. BURDICK: Okay. Maybe -- I --  
5 I may have been mistaken here. Counsel, why  
6 don't you take a look at this first and  
7 then -- before I show it to your client,  
8 either -- either one of you. Do I have  
9 multiple copies of that?

10 MR. HAYDEN: Uh-huh.

11 MR. BURDICK: Oh, here we go.

12 MR. HAYDEN: Sure do.

13 MR. BURDICK: Let me give y'all --

14 MR. GOYER: Are -- we're gonna make  
15 this an exhibit?

16 MR. BURDICK: Sure. We'll make it  
17 No. 3.

18 MR. GOYER: All right.

19 MR. BURDICK: Do y'all want to look  
20 at it before he does? And you --

21 MR. GOYER: Got a sticker down  
22 there?

23 MR. BURDICK: This is No. 3.

1 MR. GOYER: Defendants' Exhibit 3?

2 MR. BURDICK: Yeah. We skipped

3 No. 1. That's the next.

4 (Whereupon, Defendants' Exhibit

5 No. 3 was marked for

6 identification.)

7 Q. All right. Have you seen this  
8 document before? Does this look familiar to  
9 you?

10 A. Well, I'm not real sure about that.

11 MR. GOYER: It says customer Bill  
12 Helm.

13 A. Yeah. It says Bill Helm up at the  
14 top, H-E-L-M.

15 Q. Okay. It says, Sample  
16 identification: A pit reported as headore.  
17 What does that mean? Do you know what that  
18 means?

19 A. Well, ask me that question again,  
20 please.

21 Q. Okay. Well, here's what I'm gonna  
22 tell you. I'm gonna rely on you to know more  
23 about mining than me, uh, since you invested

1 to the tune of six million dollars.

2 A. Yes. Yes, sir. Yes, sir. This  
3 is -- this is definitely a sample identified  
4 as a pit reported as headore.

5 Q. Uh-huh.

6 A. The customer was Bill Helms, and it  
7 wasn't William B. Cashion. It says Bill  
8 Helm, H-E-L-M.

9 Q. Okay. And that's the guy who owns,  
10 uh, this property up in Montana, the guy that  
11 gave you the bar for 25 grand, right? Is  
12 that correct?

13 A. That's -- that's who -- that --  
14 that -- that's the man. Yes, sir. That's  
15 the man and me. I mean, I was there. He  
16 poured the bar and I bought the bar.

17 Q. Okay.

18 A. I bought -- I -- I agreed to buy it  
19 before he poured it. But this is not -- this  
20 is not it, though.

21 Q. That's not the one you paid for?

22 A. I don't think this is the one. I  
23 think the one I paid for said William B.

1 Cashion or William Cashion right there where  
2 it says customer. I don't think that's got a  
3 thing in the world to do with William  
4 Cashion. It says Bill Helm, H-E-L-M.

5 Q. Okay. Well, let's look at the date  
6 here. It says 5/5/2008. So that was before  
7 you went up there; fair enough?

8 A. Uh --

9 Q. 2008? I'm sorry. Let me -- right  
10 there.

11 A. Okay. Yeah, yeah. 5/5/2008. I  
12 would think it was before I went up there,  
13 yes.

14 Q. Okay. Was this --

15 A. I would think I went up there more  
16 like in November or December, the -- the  
17 winter months.

18 Q. Okay. So was this something that  
19 was provided to you before you went up there?

20 A. Uh, I probably saw it before I went  
21 up there. Yes, sir.

22 Q. Okay. Now, for us non-mining  
23 experts, the attorneys, can you explain to us

1 what this document is conveying, what I'm --

2 MR. GOYER: Have you seen this  
3 before today?

4 THE WITNESS: Yes, I have seen it.

5 MR. GOYER: Okay.

6 THE WITNESS: It was a long time  
7 ago, you know, back --

8 MR. GOYER: All right.

9 THE WITNESS: Probably in '08.

10 MR. GOYER: Okay.

11 A. But -- but it says, uh, a sample  
12 identification. The customer was Bill Helm.  
13 The assay report was 81075, and the customer  
14 was Bill Helm. And to me -- uh, tell  
15 everybody. It doesn't say William Cashion.  
16 It says Bill Helm.

17 Q. Yes, sir.

18 A. It's says a sample identification,  
19 a pit reported as headore.

20 Q. What does that mean, a pit reported  
21 as headore? What does that mean, head --  
22 headore. Sorry.

23 A. Uh, I -- I don't know the term

1 "headore," but pit I know and pit is where  
2 the, uh, materials come out of.

3 Q. Okay. So hold on.

4 MR. GOYER: You're asking him to  
5 interpret this document that he didn't write  
6 and wasn't addressed to him?

7 A. I didn't write it.

8 MR. BURDICK: No. I'm asking if  
9 he -- if he knows how to interpret this  
10 document.

11 A. Yes, sir, I can -- I can tell you  
12 how to interpret it.

13 MR. BURDICK: Because he's -- he  
14 said he's seen it before and I don't pretend  
15 to be an expert in assay reports.

16 MR. GOYER: I'm not sure he does  
17 either.

18 Q. Well, you're familiar with assay  
19 reports?

20 A. Uh, somewhat, yes, sir. Somewhat.

21 Q. You've read several of them?

22 A. Oh, yes, as a layman I've read  
23 them. Yes, sir.

1 Q. Okay. And you understood them?

2 A. Yes, I understand them.

3 Q. Do you understand this one?

4 A. Yes, sir. I understand this one.

5 Q. Okay. Help me to understand it  
6 now. Tell me what --

7 A. Okay.

8 Q. -- a pit is. We'll go back to  
9 that.

10 A. All right. Bill Helms was the  
11 customer and the sample was identification  
12 [sic] as a pit reported as headore. So, you  
13 know, I don't know what it was, but it was  
14 some kind of material that was submitted  
15 for -- to be, uh, assayed, analyzed and  
16 assayed.

17 Q. Okay.

18 A. And assay, this -- this -- this,  
19 uh, Advanced Analytical --

20 Q. Uh-huh.

21 A. -- uh, under the signature of  
22 Kath- -- Kathleen Schmitt, uh, uh, senior lab  
23 manager.

1 Q. Uh-huh.

2 A. But somebody else signed her name,  
3 a Laura something another, as we can see.

4 Q. Uh-huh.

5 A. But it -- it -- it -- it's saying  
6 that that sample that was submitted had, uh,  
7 46.58 ounces of gold per ton, uh, 92.13  
8 ounces of silver, uh, 93.12 ounces of  
9 platinum, 72.57 of rhod -- rhodium, and  
10 119.23 ounces of some, uh, element that I  
11 can't pronounce and another element I can't  
12 pronounce, 9.32, and another element of  
13 palladium, 95.47 ounces, and another one, uh,  
14 I can't pronounce of 45.25. A lot of -- lot  
15 of precious metals in a ton of that.

16 Q. Okay. And that's from -- that's  
17 the Bill Helm report that you saw before you  
18 went?

19 A. I did see it before I went. I'm  
20 positive.

21 Q. Okay. So let me ask you this.  
22 What do all those numbers mean to you?

23 A. They -- they mean that if you have

1 one ton of this sample that was sent --

2 Q. Uh-huh.

3 A. -- and -- and you -- you knew how  
4 to -- to process it and get these metals out  
5 of it, that's what you'd have. And you would  
6 have -- multiply that gold, 46.58 ounces, out  
7 of one ton of it.

8 Q. Uh-huh.

9 A. By today's market about 16 hundred  
10 dollars an -- an ounce. And you'd have so  
11 much money and right on down the line, you  
12 know, for the -- for the silver, which is,  
13 say, 28, 29, 30 dollars an ounce today,  
14 platinum, uh, 650, 700 dollars an ounce,  
15 rhodium, uh, uh, 1250 dollars an ounce  
16 probably today. And that -- the rest of  
17 these I don't know. I don't know what  
18 these --

19 Q. Okay.

20 A. -- metals are.

21 Q. Well, let -- let -- let me ask you.  
22 If I went -- so if go to this site that this  
23 report is about, I dig up a ton of dirt and I

1 process it, however that's done, I'm gonna  
2 get this much stuff out of it? Is that  
3 basically what you're --

4 MR. GOYER: Object to the form.

5 A. That's what the report is saying.

6 Q. Okay. And what would all this  
7 stuff in this report be worth general -- you  
8 know, ballpark?

9 A. Per -- per ton, uh, uh, probably  
10 \$50,000 or \$100,000.

11 Q. So this is -- okay. So every ton  
12 of dirt you pull out of the earth, you're  
13 gonna get about 50 to 100 thousand dollars'  
14 worth of metals?

15 A. You're gonna spend several --

16 MR. GOYER: Object to the form.

17 Q. I -- I know you're gonna spend  
18 money. I'm not gonna talk about that. But  
19 do you feel like -- do you understand this to  
20 mean --

21 A. I understand it. Yes, sir.

22 Q. -- that you pull out a ton of dirt,  
23 process it, that there's this much precious

1 ore in that ton?

2 A. No, sir. No, sir. You said the  
3 word "dirt," D-I-R-T. We ain't talking about  
4 dirt. We're talking about -- we're talking  
5 about, uh --

6 Q. Whatever the raw material is.

7 A. Raw material. That's right.

8 Q. Okay. You pull out a ton of raw  
9 material, whatever it is there, some of it's  
10 dirt, some of it's ore, some of it's  
11 whatever. Pull out a ton of it, process it,  
12 and all these precious metals in these  
13 amounts are gonna be found in that ton?

14 A. Well, that's what that -- that --  
15 that laboratory is certifying that that's  
16 what they found.

17 Q. Yeah. I'm just trying to make sure  
18 I understand. I'm not saying you're wrong or  
19 you're right. And you're telling me that if  
20 this -- if this stuff is processed and pulled  
21 out, you find this in this ton of raw  
22 material, pull out this stuff, that these  
23 precious metals in these quantities

1 represented here is worth between 50 and 100  
2 thousand dollars?

3 A. I haven't -- I haven't done the  
4 calculations on it. It might be a lot more  
5 that, uh --

6 Q. Okay.

7 A. Uh --

8 Q. We'll say at least 50 and who knows  
9 how much for sure.

10 A. 50 to who knows how much.

11 Q. Okay. All right. Now, are you  
12 familiar with a country -- company called  
13 Action Mining Services, Incorporated?

14 A. Oh, yes, sir.

15 Q. Who are they?

16 A. They are -- they are a supply  
17 company that supplies, uh, uh, precious  
18 metals mining supplies and equipment up in,  
19 uh -- I believe they're up in Oregon or  
20 Washington state somewhere, northwest United  
21 States.

22 Q. Do they do any at -- fire assays?

23 A. Yes, sir.

1           Q.    Okay.  Let me pass more around here  
2   and put another sticker, wherever they are.  
3   Counsel, if you'd get that for me --

4                   MR. COLVIN:  Four?

5                   MR. BURDICK:  -- I'll let you mark  
6   that one.  And then I'll give you guys copies  
7   to look at.  Here's one for both of y'all and  
8   then --

9                   MR. GOYER:  Thank you.

10                  MR. BURDICK:  -- I'll let you get  
11   the marked one.

12                  THE WITNESS:  Thank you.

13                  (Whereupon, Defendants' Exhibit  
14                   No. 4 was marked for  
15                   identification.)

16                  MR. GOYER:  And just for the  
17   record, it's got some handwriting on it.

18                  MR. BURDICK:  I'm gonna ask him to  
19   identify that if he can.

20                 A.   Well, it's an assay report that was  
21   require -- uh, acquired from Action Mining  
22   Services, Incorporated, of Sandy, Oregon --

23                 Q.    Okay.

1           A.    -- on March 23rd, 2010.

2           Q.    All right.  Across the top there's  
3   a fax ledger.  Do you see that at the very,  
4   very top --

5           A.    Uh-huh.

6           Q.    -- where it's gone through a fax  
7   machine?

8           A.    Uh-huh.  Yeah.  Western Iron.

9           Q.    Who's Western Iron?

10          A.    Uh, that's a sub -- uh, a division  
11   of Western Steel.

12          Q.    Okay.  So that's part of the  
13   Western Steel?

14          A.    Yeah.  Uh-huh.

15          Q.    There's some handwriting on the top  
16   left-hand corner that your attorney  
17   referenced.  Do you recognize that  
18   handwriting?

19          A.    Oh, yes, sir.  That's my  
20   handwriting.  It says, Attention, Mark,  
21   1-334-478-3276 fax, from William, Bill Helms.  
22   Contents, William -- William, Bill Helms --  
23   uh, William, Bill Helms, uh, concentrate.

1 Uh, I was -- I was trying to write  
2 concentrate.

3 Q. Okay. Well, I'm not gonna  
4 criticize your spelling. If you've seen my  
5 handwriting, I -- I don't have any room to  
6 talk.

7 A. Well, if it got any worse than  
8 that, you ought not write.

9 Q. Well, I probably ought not. Okay.  
10 So you wrote that up there with your --

11 A. I wrote that.

12 Q. Okay. And you sent this to Mark?  
13 It says, Attention Mark?

14 A. Right. Amen.

15 Q. Is that -- are you referring to  
16 Dr. Hayden here?

17 A. Mark, Steven Mark Hayden. Yes,  
18 sir.

19 Q. Okay. So you sent that to him --

20 A. Right.

21 Q. -- from you and this is Bill Helms  
22 concentrate?

23 A. Right.

1 Q. All right. So explain this  
2 document to me, if you can.

3 A. Well, the concentrate is -- is  
4 something that I mailed back from up there  
5 that Bill give us. When I say "us," Mark and  
6 me.

7 Q. Uh-huh.

8 A. And, uh, uh, I -- I -- I took a  
9 portion of it and sent it up there to Action  
10 Mining Service for them to make a -- a, uh --  
11 what did you call it? -- a fire assay of it.

12 Q. Okay.

13 A. Uh-huh.

14 Q. When they do a fire assay, they  
15 take the -- wait. This says ICP 34 element  
16 plus Au, Pt, Pd. What does that mean?

17 A. That means -- ICP is a -- a machine  
18 that does a 34 element, uh, analysis of what  
19 you put under it to -- to give an analysis.  
20 And -- and -- and -- and -- and they ask  
21 for -- in my opinion, they ask for a gold  
22 report and a platinum gold and a palladium  
23 gold, uh, report.

1 Q. Okay. So this is not a fire assay?

2 A. Probably not. Probably not.

3 Q. Okay.

4 A. It's probably an ICP 34 element,  
5 uh, assay under a machine.

6 Q. Do you understand ICP to be an  
7 accurate test of the materials?

8 A. If operated correctly, it is.

9 Q. Action -- do you have any reason to  
10 believe that Action Mining Services,  
11 Incorporated, did not operate the ICP  
12 procedure correctly?

13 A. No. I do not know that.

14 Q. Okay.

15 A. They probably did.

16 Q. So --

17 MR. GOYER: Were you present when  
18 they did this assay?

19 THE WITNESS: No, sir. But you got  
20 to have faith.

21 MR. GOYER: I hear you.

22 Q. Okay. So there are several  
23 different elements listed here; is that fair?

1           A.    Yes, sir.

2           Q.    Or precious metals or whatever they  
3 might be? I guess it says elements so we can  
4 call them elements.

5           A.    Yeah. Au is gold and Pt is  
6 platinum and Pd is palladium and Ag is  
7 silver.

8           Q.    Okay.

9           A.    And aluminum and right on down the  
10 list, a long list of -- of elements.

11          Q.    So is this to be interpreted in  
12 like fashion with the prior document, uh, as,  
13 well, with regards to parts of a ton of  
14 material?

15          A.    I -- I -- I wouldn't think so.

16          Q.    Okay.

17          A.    I wouldn't think so.

18          Q.    Tell me how to interpret it.

19          A.    Well, I'm gonna interpret it just  
20 like I'm understanding. This -- this -- this  
21 was a -- this was a -- uh, uh, Bill Helms --  
22 material that he sent to Advanced Analogic --  
23 Ana- -- Analytical.

1 MR. GOYER: That's Exhibit 3,  
2 Defendants' Exhibit 3 --

3 THE WITNESS: Right.

4 MR. GOYER: -- you're talking  
5 about.

6 A. Defendants' Exhibit.

7 MR. GOYER: Yeah.

8 A. And -- and this is Exhibit 4. And  
9 this -- this is what I sent him, what I  
10 brought back over there.

11 Q. So that's from your bar?

12 A. No, sir.

13 Q. Oh, okay.

14 A. That's from -- that's from  
15 concentrate that was picked up off the  
16 ground, period.

17 Q. Okay. So you picked up some raw  
18 materials, then?

19 A. Off the ground.

20 Q. This isn't -- this isn't a test of  
21 the bar; it's a test of the raw material?

22 A. Raw material.

23 Q. Okay. And so you sent these raw

1 materials off to Action Mining to run this  
2 test on them?

3 A. That's right.

4 Q. And these are the test results?

5 A. Well, that's what they sent back.  
6 Yes, sir.

7 Q. Okay. Now --

8 MR. GOYER: Do you know where this  
9 dirt was taken from?

10 THE WITNESS: Yes, sir. I took it  
11 the first -- Mark was there when I took it.

12 MR. GOYER: Was it up there in  
13 Montana? I mean, we don't know.

14 Q. You took it from the Helm's  
15 property?

16 A. Yes, sir. The Helm's property.

17 Q. Okay. All right. So you took  
18 this -- you took it from the Helm's property,  
19 sent it off to Action to be analyzed, and  
20 these are the results they sent you back,  
21 right?

22 A. That's right.

23 Q. Okay. So looking at these results,

1     how much gold are we looking at in these raw  
2     materials?

3             A.     From Action Mining?

4             Q.     Uh-huh.

5             A.     Not -- not near -- near as much as  
6     it was from Analytical, but Bill Helm sent  
7     that -- that sample.

8                     MR. GOYER:   Exhibit 3?

9             A.     I don't know where he got it from.  
10    I sent this sample.  I know where I got it  
11    from.

12            Q.     Okay.  So you don't know where Bill  
13    Helms got his stuff?

14            A.     No, sir, I do not.

15            Q.     Did Bill Helms represent to you  
16    that he got it from his property?

17            A.     Yes, sir.

18            Q.     Okay.  And you did get this from  
19    the property?

20            A.     Yes, sir.

21            Q.     The Action, uh, report?  All right.  
22    And it says --

23            A.     And let me add this while I'm --

1 while we're talking about it.

2 Q. Yes, sir.

3 A. I still have lots of it. If you  
4 want some of it, I'll be glad to --

5 Q. You've still got some of the raw  
6 material?

7 A. Yes, sir. And I'll be glad to give  
8 you some of it.

9 Q. What are you gonna sell it for? I  
10 mean --

11 A. No. I'm gonna give it to you. I'm  
12 kind.

13 Q. Well, thank you. Okay. So this  
14 raw material that you sent off, it says Au.  
15 And Au was what?

16 A. Gold.

17 Q. Gold. PPM, what does that mean?  
18 Is that parts per million; is that right?

19 A. Right. Parts per million.

20 Q. All right. So gold parts per  
21 million, point 05?

22 A. Right.

23 Q. Is that a very small part --

1 A. Yes, sir.

2 Q. -- percentage?

3 A. You better believe that's small.

4 Q. Okay. And that's -- is that  
5 consistent with the report from Advanced?

6 A. Well, I can't answer that, but let  
7 me tell you why.

8 Q. Are those numbers similar? We'll  
9 say that.

10 A. No, sir, they're not similar.  
11 This -- this is -- this is parts per million.

12 Q. Uh-huh.

13 A. This is -- this is ounces per ton.

14 Q. Okay.

15 A. Two different -- two different  
16 animals altogether.

17 Q. Okay.

18 A. One might be a zebra and one might  
19 be a chicken.

20 Q. Okay. So how do you compare them,  
21 then --

22 A. Well, you've got to --

23 Q. -- your zebra and the chicken?

1           A.    You've got to get some help and --  
2    and do some calculations, some strong  
3    calculations.

4           Q.    Okay.  Did you go back and try and  
5    understand these numbers in terms so that you  
6    could relate them to the other report?  Did  
7    you do that?

8           A.    I don't remember doing that.

9           Q.    Okay.  So -- well, did you  
10   understand this report, the Action report?

11          A.    Oh, yes, sir.  I understand it  
12   thoroughly.  It's parts per million and this  
13   is ounces per ton.

14          Q.    Okay.

15          A.    One of them ain't got a thing in  
16   the world to do with the other one.

17          Q.    So -- okay.

18          A.    Just like I said, one's a chicken  
19   and one's a -- a horse or something.

20          Q.    They're -- they're both animals.  
21   We've just got to figure out how to look at  
22   them, right?

23          A.    Yes.

1 Q. Okay. So let's say gold parts per  
2 million.

3 A. Right.

4 Q. Point 05?

5 A. Right.

6 Q. And you said that's not a large  
7 amount?

8 A. No, sir, that's not a large amount.

9 Q. So if I had a ton of dirt -- so if  
10 I had a ton of dirt and I extracted out the  
11 base materials, how much gold are we talking  
12 about?

13 A. I don't know. I ain't -- ain't --  
14 I ain't ready to stop and calculate all that.

15 Q. If -- if I represent to you that  
16 one part per million is equal to one gram per  
17 metric ton --

18 A. I ain't interested in that. I  
19 ain't in the business of figuring.

20 Q. Okay. But if one part per million  
21 is equal to one gram per metric ton, then  
22 that's a teeny, tiny amount of grams, point  
23 05?

1 MR. GOYER: Object to the form.

2 A. I'm not calculating.

3 Q. I'm not asking --

4 MR. GOYER: I don't think it's a  
5 fair question, I mean, for him to try to  
6 calculate that in his head on the fly under  
7 the pressure of a deposition.

8 MR. BURDICK: No, no. All I'm  
9 asking is --

10 Q. Let's just say this was grams.  
11 Let's say it's equivalent to grams. Is point  
12 05 a lot of grams, five one-hundredths of a  
13 gram?

14 A. Oh, it's not. No. It -- it'll  
15 take -- it'll probably take around 32 grams  
16 to make an ounce. That's not much.

17 Q. Okay. So that's not --

18 A. That -- that -- that's, uh, uh, a  
19 half of a one over 32 roughly, you know.

20 Q. So it's a teeny, tiny amount?

21 A. Yeah. Yeah. That's point five --

22 Q. Point 05.

23 A. Well, it's --

1 Q. So it's not -- it's not even a  
2 half, is it?

3 A. -- point 05, but it -- it takes  
4 about 32 grams to make an -- an ounce.

5 Q. Okay.

6 A. And -- and -- and I may be wrong in  
7 all my, uh, thoughts right here --

8 Q. Okay.

9 A. -- but it -- it's not much.

10 Q. Okay. So --

11 A. It's not much.

12 Q. So that's a teeny tin- -- okay. So  
13 Pt, what did you say Pt was?

14 A. Oh, that's Platinum.

15 Q. Platinum?

16 A. Yes, sir.

17 Q. Point 006, that's six-thousandths?

18 A. That's right, very little.

19 Q. So that --

20 A. Two separate things. I sent this.

21 Q. I know.

22 A. He sent that.

23 Q. Uh-huh.

1           A.    And you -- you're -- you're taking  
2    up --

3           Q.    And these numbers are --

4           A.    -- our time talking about these two  
5    pieces of papers --

6           Q.    I'm sorry I'm taking up your time.

7           A.    -- that ain't got a thing in the  
8    world to do with us.

9           Q.    Have everything to do with you.

10          A.    No, it ain't got nothing to do with  
11   us, period.

12          Q.    All right.

13                MR. GOYER:   Okay.

14          Q.    Did you ever get your bar tested?

15          A.    Yes, sir.  I told you that while  
16   ago.  I'll tell you again.

17          Q.    Where did you get it tested?

18          A.    At, uh, Advanced Analytical.

19          Q.    Anybody else ever do any tests on  
20   that bar?

21          A.    No, sir.  Not -- not that I  
22   remember.  No, sir.

23          Q.    And you said there was copper in

1 that bar?

2 A. Yes, sir.

3 Q. What else was in that bar?

4 A. Uh, well, the elements that -- that  
5 came back on the report. And I ain't got the  
6 report in front of me, but it sure started  
7 off with, uh, Au gold, Ag silver, Pt  
8 platinum, and Rh rhodium because that's the  
9 only thing that they sent back on that. They  
10 didn't send this other, uh, uh, uh, metals  
11 and -- metals that I don't know nothing  
12 about -- elements that I don't know nothing  
13 about. But they sent back a report that had  
14 the four things on it.

15 Q. Uh-huh. Let me ask you this. They  
16 did a fire assay on the bar; is that what  
17 you're saying?

18 A. No. I don't say that. They --

19 Q. Okay.

20 A. They done a -- whatever analysis  
21 they done, they done it. I don't know what  
22 they done.

23 Q. It was something else, some other

1 kind of test?

2 A. But one thing about it, this lady,  
3 Katherine Smith -- Schmitt --

4 Q. Uh-huh.

5 A. -- or -- uh, somebody signed her  
6 name and something on it similar to what's on  
7 this.

8 Q. Okay.

9 A. Yeah.

10 Q. Uh, are you aware of anybody else  
11 doing any tests on portions of that bar, like  
12 treating it with acids or anything like that?

13 A. Well, let me say that Mark and me  
14 may have worked on it a little bit on a  
15 little piece of it.

16 Q. So Mark may have done a test on it?

17 A. With me helping him, yeah.

18 Q. Okay. So you were present?

19 A. Yes, sir.

20 Q. There was some sort of acid test  
21 done?

22 A. Well, best I remember, yeah.

23 Q. Well, what were the results of that

1 acid test that you were present for?

2 A. Uh, I don't remember. It wasn't  
3 good.

4 Q. It wasn't good?

5 A. No. But we were amateurs, both of  
6 us.

7 Q. Well, was it -- okay. Let me see.  
8 Did you get results or did you just screw up  
9 the test where you didn't even get results?

10 A. I don't remember the details. I --  
11 I don't remember the details.

12 Q. Okay. I'm just trying to figure  
13 out if it wasn't good because you got bad  
14 results or it wasn't good because you didn't  
15 do the test right.

16 A. Well, I'm gonna tell you I don't  
17 remember. I -- and us being amateurs, we  
18 probably didn't do the test right.

19 Q. Okay. Do certain metals react with  
20 certain acids?

21 A. I'm not a chemist, young man. I'm  
22 an --

23 Q. Well, I'm just asking if you know.

1           A.    -- I'm an iron worker.

2           Q.    Well, you know what the metals --

3           A.    I am a chairman and a president,  
4    but I'm an iron worker.  I'm worker,  
5    W-O-R-K-E-R.

6           Q.    Uh-huh.

7           A.    And God has been good to me and let  
8    me prosper and then people try to take it  
9    away from me.

10          Q.    Who?

11          A.    A conspiracy by the name of Steven  
12    Mark Hayden, Angela Hayden, Gene Calhoun, and  
13    Frankie Cashion.

14          Q.    Which has not benefitted them in  
15    any form?

16          A.    No, sir.  Anything but benefit.  
17    Headaches, stress, anxiety, attorney fees to  
18    no end.

19                MR. GOYER:  Well, your answer is  
20    what happened to you.  He asked you what  
21    happen -- what benefit they got out of it.

22                MR. BURDICK:  Oh.  I thought he was  
23    talking about my client --

1 MR. GOYER: Not --

2 MR. BURDICK: -- because that's  
3 true too.

4 MR. GOYER: Do you want to clarify  
5 that, William?

6 THE WITNESS: Yeah. Yeah. I'll  
7 clarify it that he's talking about his  
8 clients and I'm talking about them as a  
9 conspiracy.

10 Q. So my client -- my client get rich  
11 off this conspiracy?

12 A. Well, I don't know that.

13 Q. Any of my clients?

14 A. I don't know that.

15 Q. The trust?

16 A. I don't know.

17 Q. Mr. Hayden, trustees of the trust,  
18 Ms. Hayden, Dr. and Mrs. Hayden, did any of  
19 them get rich?

20 A. I don't know. You know they didn't  
21 get rich. I know they didn't get rich.

22 Q. Okay.

23 A. But they were trying to get rich.

1 Q. Oh.

2 A. Yeah.

3 Q. But you don't have any proof or  
4 evidence of that, do you?

5 A. I -- I have knowledge that they --  
6 they're -- you know, my common sense tells me  
7 that they was headed to take my goods and  
8 things and -- and benefit from them. Now,  
9 they didn't do this for my good, folks. They  
10 done this for their good. Now, we can sit  
11 here and talk about it as long as we want to  
12 talk about it, but if they wanted to help me?

13 MR. BURDICK: Do you have --

14 A. -- they'd come to see and say, Hey,  
15 I want to help you.

16 MR. HAYDEN: Yes, I do.

17 A. Don't go behind my back and do all  
18 of this.

19 MR. HAYDEN: Okay. Let's see.

20 MR. BURDICK: He's gonna try and  
21 find copies of this. Why don't you look at  
22 it first, Counsel, before I show it to him.

23 MR. GOYER: Yeah. Okay. This is

1 a --

2 MR. HAYDEN: Make sure you go over  
3 it.

4 MR. GOYER: It purports to be a  
5 certified assay to Bill Helm, Golden  
6 Technologies, dated November 10, 1998,  
7 certified copy May 10, 2000.

8 MR. BURDICK: Okay.

9 MR. GOYER: Let's mark that.

10 MR. COLVIN: Exhibit No. 5.

11 A. Golden Technologies, that's what he  
12 called it.

13 MR. GOYER: Marked as Defendants'  
14 Exhibit 5.

15 (Whereupon, Defendants' Exhibit  
16 No. 5 was marked for  
17 identification.)

18 A. Anaconda, Montana. That's correct.

19 Q. Okay. Have you ever seen that  
20 document before?

21 A. Not to my knowledge. No, sir. I  
22 don't never remember seeing something with  
23 Rogers Research & Analysis Company on it, no,

1 sir.

2 Q. You've never heard of them?

3 A. I don't -- to this point I don't  
4 think I have. No, sir.

5 Q. Okay. So do you have any idea what  
6 you're looking at?

7 A. Well, yeah. Once again, it seems  
8 to be a -- it says a certified assay.

9 Q. What's an assay?

10 A. What we were talking about, taking,  
11 uh, material and analyzing it to -- to see  
12 what elements is in it.

13 Q. The raw materials?

14 A. Uh-huh.

15 Q. Not bars or anything like that?

16 A. Well, it can be bars. It can be  
17 anything that's sent to them.

18 Q. You can do a fire assay on bars?

19 A. Oh, yes, sir.

20 Q. Okay. I'm trying to learn here?

21 A. Okay.

22 MR. BURDICK: Do y'all want a copy  
23 as well? Sorry I couldn't find this quickly.

1           A.    It says the following reported  
2 values were determined by comic absorption  
3 using industry accepted standard and -- and  
4 additional methods -- standard additional  
5 methods.  It says from pit A gold was 68.2  
6 ounces to a ton and platinum 1,617.3 ounces  
7 to a ton and rhodium 1,102 ounce -- point 1  
8 ounces to a ton and palladium 741.9 ounces to  
9 a ton.  And that's a lot.

10           Q.    And this is back in 1998, right?

11           A.    No, sir.  It says May the 10th,  
12 2000.

13           Q.    Well, that says certified copy.

14           A.    Oh, right -- oh, I see right above  
15 it.  November the 10th, 1998, yes.

16           Q.    Either way, it's been a while ago.

17           A.    A while ago.  Yes, sir.

18           Q.    So you didn't have anything to do  
19 with this test?

20           A.    No, sir.  I -- I -- I don't think I  
21 ever saw this till just now.  I could be  
22 mistaken.

23           Q.    Okay.

1           A.    I don't think I ever seen this  
2    before.

3           Q.    In any event, you had nothing to do  
4    with the samples that were collected or the  
5    test that was done?

6           A.    No.

7           Q.    And you may or may not have seen  
8    this before today?

9           A.    That's right.

10           MR. GOYER:  He said he hadn't.

11           Q.    But in any event --

12           MR. BURDICK:  Okay.  I thought he  
13    said he wasn't sure.

14           Q.    Are you unsure or are you positive  
15    you've never seen it?

16           A.    I don't think I've seen it, you  
17    know.

18           Q.    Okay.  If you don't think, that's  
19    fine -- that's a fine answer.

20           A.    You know, I could've seen something  
21    laying over there like that and I'd tell you  
22    a lie about that, I never seen it, and it was  
23    laying over there and -- and I was around.

1 Q. Okay.

2 A. I'm saying I don't think I ever  
3 seen it before.

4 Q. Okay. Well, let me ask you this.  
5 You read through those results. Are those  
6 results consistent with the Action Mining  
7 Services results? No. The other one. This  
8 one here. Are they -- are they somewhat  
9 proximate or similar?

10 A. They -- they -- they -- no. This  
11 one is in parts per million and this is  
12 ounces per ton.

13 Q. All right.

14 A. One -- one of them -- one's an ant  
15 and one of them's an elephant.

16 Q. All right. Have you ever done any  
17 business with this Rogers Research & An- --  
18 Analysis Company?

19 A. I'm positive I have not, no.

20 Q. Okay. So you don't know nothing  
21 about those -- those guys?

22 A. I don't know. Where are they at?  
23 Uh, where are they at? Salt Lake City, Utah.

1 I don't think I've ever done any business  
2 with them. No, sir.

3 Q. Probably Mormons, huh? Huh. Uh,  
4 so you went up and met with Mr. Helms, took a  
5 look at his property, took some samples, and  
6 he gave you a bar?

7 A. Well, I helped pour the bar.

8 Q. Okay. Did you do anything else  
9 while you were up there?

10 A. Well, sure, I done other things.

11 Q. Well, I mean, did you do anything  
12 else as far as like doing any kind of  
13 mineralogical or mining research, sample  
14 taking, or is that everything, what we've  
15 discussed?

16 A. As far as -- as far as, uh,  
17 samples, I -- I'm positive that's the only  
18 sample I did.

19 Q. Okay. Y'all may have gone off and  
20 done some vacation stuff?

21 A. Oh, yeah.

22 Q. Uh, did Helms tell you that the ore  
23 that he was providing to you was full of

1 precious metals?

2 A. I'm positive he did, yeah.

3 Q. Okay. The \$25,000 that you paid  
4 for that bar, did you pay that before you  
5 came up or after you came up and got the bar?

6 A. Before I went up there.

7 Q. Okay. So you paid him in advance,  
8 then you came up, poured the bar --

9 A. Right.

10 Q. -- and took the bar home?

11 A. Right.

12 Q. All right.

13 A. And I still have the bar.

14 Q. Okay. Can I have it?

15 A. No, sir.

16 Q. Too valuable. You'll give me the  
17 dirt but you won't give me the bar.

18 MR. GOYER: How much do you want to  
19 pay for it?

20 THE WITNESS: Yeah. That's another  
21 thing.

22 Q. Well, yeah. Okay. How much could  
23 I pay you for it?

1           A.    Well, you know.

2           Q.    Tell me a fair price.

3           A.    Okay.  Uh, I -- I -- I will sell  
4 you the bar for \$200,000.

5           Q.    \$200,000?

6           A.    Yes, sir.  200,000.

7           Q.    Is that fair market?

8           A.    Well, that's my opinion of what  
9 it's worth.

10          Q.    Well, you know --

11          A.    You -- you -- you --

12          Q.    You know metals have a market  
13 value.

14          A.    Yeah.  But that's --

15          Q.    Is that around market value or is  
16 that just a crazy I want to take all of  
17 Mr. Burdick's money?

18          A.    That ain't crazy.  That's, uh, my  
19 estimate of what I'll take for the bar.

20          Q.    So you think that's market value or  
21 somewhere in the neighborhood?

22          A.    I ain't telling you what the market  
23 value is.  I'm telling you what I'll take for

1 it. You asked me how much I'd take for it  
2 and I'd take \$200,000 for it.

3 Q. Oh, does it have sentimental value?  
4 Does it have sentimental value to you?

5 A. Some.

6 Q. Why?

7 A. Because I -- I put time and effort  
8 into it. Anything that you put time and  
9 effort into has sentimental, uh, value to it.

10 Q. Okay. Well, if it's worth \$200,000  
11 to you --

12 A. Well, that's what I'm gonna sell it  
13 for.

14 Q. Okay. You're willing to sell it  
15 for \$200,000.

16 A. Yeah. But it might be worth a  
17 million dollars, though. Keep that in mind.

18 Q. Hey, hey. Willing to roll the  
19 dice, huh?

20 A. Yeah. Yeah. You willing to roll  
21 the dice.

22 Q. All right. \$200,000. Of that  
23 \$200,000, how much of that is sentimental

1 value in your mind?

2 A. Well, I don't know. You know,  
3 let's just divide it in half. I'll take  
4 100,000 dollars' worth of sentimental and  
5 I'll take 100,000 dollars' worth of gold,  
6 silver, and platinum.

7 Q. Okay. Okay. So that's how you  
8 value it?

9 A. Yeah.

10 Q. All right. That's all. That's all  
11 I wanted to know. I'm -- I'll tell you right  
12 now I'm not sure I'm ready to -- to shell out  
13 the 200, but, uh -- but I'll remember that --  
14 is that offer still available?

15 A. Yes, sir.

16 Q. Okay.

17 A. As long as I've got the bar, it's  
18 available.

19 Q. Okay. You're involved in  
20 litigation in Nevada, correct? You said you  
21 were involved as much as you could be. You  
22 were all in?

23 A. I'm -- I'm in, yes.

1 Q. Okay.

2 A. I -- I was forced in this one.

3 Q. Is -- is that litigation -- has it  
4 come to a final conclusion?

5 A. Uh, my attorneys, uh, uh, inform me  
6 that Mark had, uh, appealed it, the decision  
7 or whatever happened.

8 Q. Okay. So that -- that case is  
9 still going. That's the only question I'm --  
10 I'm not asking what your attorneys are saying  
11 or --

12 A. Well, my --

13 Q. Just is the case still, uh -- is  
14 the case still active or is it over?

15 MR. GOYER: I think he answered the  
16 question.

17 A. I answered the question. I said my  
18 attorney says it's -- it's been appealed.  
19 That's all I know.

20 Q. Okay. Do you have any  
21 understanding as to whether or not the appeal  
22 has been completed?

23 A. No, I don't.

1 Q. Okay. So you don't know if that  
2 case is active or inactive?

3 A. Well --

4 MR. GOYER: You're asking him --

5 A. Well, what do I have attorneys for?

6 MR. GOYER: Look, let me say this.

7 We'll stipulate the case is on appeal. Okay?

8 Has not been decided.

9 MR. BURDICK: That's all I needed  
10 to know.

11 MR. GOYER: Okay.

12 MR. BURDICK: See, that was easy.  
13 I should start asking you questions instead  
14 of him.

15 THE WITNESS: I --

16 MR. GOYER: We'd probably get  
17 through a lot sooner.

18 MR. BURDICK: Yeah. I might not  
19 like some of your answers, though.

20 Q. One last thing before we proceed  
21 away from these documents, No. 3. Can you  
22 read for me this paragraph right here?

23 A. Oh, yes.

1 Q. Read that out loud, if you don't  
2 mind.

3 A. These results are based on well  
4 known accepted analytical procedures used  
5 solely on the sample submitted by the  
6 customer. This report is prepared for the  
7 in -- in -- exclusive use of the customer.  
8 No warranty as to the reproducibility or --  
9 in the -- a word that I'd have to spell.

10 Q. What does it start with?

11 A. E.

12 MR. GOYER: Extractability.

13 A. Yeah. Maybe. You know, yeah.  
14 That may be -- E-X-T-R-A-C-T-A-B -- yeah, I  
15 guess. I think it's extractability.

16 Q. Okay.

17 A. -- of the -- of the -- of the --

18 MR. GOYER: It's pretty small.

19 It's kind of hard to read.

20 THE WITNESS: Yeah. I can't make  
21 that other than --

22 MR. BURDICK: Yeah. It's kind of  
23 tough. I -- that's why we wanted him to read

1 it.

2 A. -- of the material other than the  
3 sample is given. Advanced Analytical made no  
4 --

5 MR. BURDICK: Not me.

6 A. -- representation express --

7 Q. Okay.

8 A. -- implied.

9 Q. So that -- that paragraph there is  
10 a disclaimer where he refuses to warrant the  
11 re -- reproducibility of his test or the  
12 extractability of the material; is that  
13 correct?

14 A. No. I'm gonna let you lawyers  
15 decide that.

16 Q. Well, the -- those are the words  
17 there, though, right?

18 A. The words there sound like it --

19 Q. It says --

20 A. Uh, uh, yeah.

21 Q. Yeah. No warranty as to the  
22 reproducibility --

23 A. Right.

1 Q. -- or extractability of the  
2 material other than the sample is given.

3 A. That's what it says.

4 Q. What does that mean to you? What  
5 does extractability mean?

6 MR. GOYER: Let me just object to  
7 the form. It's a document he didn't draft.  
8 You're --

9 MR. BURDICK: Right.

10 Q. Do you know what the --

11 MR. GOYER: You're asking him to  
12 speculate.

13 MR. BURDICK: If -- if he doesn't  
14 known what the word "extractability" means,  
15 that's fine.

16 MR. GOYER: Well, he's not an  
17 expert on assay reports so it's complete  
18 speculation, but I object to the form.

19 MR. BURDICK: All right.

20 Q. Do you know what extractability  
21 means?

22 A. Well, the word before says  
23 reproductive.

1 Q. Reproducible?

2 A. Reproducibility or extractability.

3 Q. Uh-huh.

4 A. Two words probably meaning the same  
5 thing, you know.

6 Q. Well, what do they mean? Do you  
7 know, yes or no?

8 MR. GOYER: Object to the form.

9 A. Well, I mean, I'm not -- I'm not --  
10 I'm not a -- a -- a scientist or anything so  
11 we're gonna have to take, uh, what it says  
12 and -- and -- and you lawyers argue about it.

13 Q. No. No. That's fine. It -- if  
14 you don't know what it means, you don't have  
15 to know everything in the world. Do you know  
16 what that means, yes or no?

17 A. No. I don't know what it means.

18 Q. Okay. That's what I'm trying to  
19 get at.

20 A. Okay. You won the battle.

21 Q. I don't think I won anything.

22 A. You got that.

23 Q. I'm getting a donut when we're

1 done, then, because I won. In your complaint  
2 it says, Defendants have no lawful right to  
3 act on behalf of Plaintiff Cashion to  
4 transfer Plaintiff Cashion's assets into  
5 so-called Nevada Trust or to in -- intrude  
6 into Plaintiff Cashion's business affairs.  
7 Now, these are your words because it's a  
8 verified complaint.

9 A. Right.

10 Q. Why do you say that he had no right  
11 to act on your behalf when there was a power  
12 of attorney that gave him that right?

13 A. Because I wasn't incapacitated and  
14 I wasn't incompetent --

15 Q. Okay.

16 A. -- period.

17 Q. So as long as you weren't -- as  
18 long as you had capacity and competence --

19 A. That's right.

20 Q. -- that power of attorney is no  
21 good?

22 A. That's exactly right. If I ain't  
23 sick or -- or --

1 Q. Well, is it --

2 A. -- or sick in the mind --

3 Q. Uh-huh.

4 A. -- it ain't worth the paper it's  
5 written on. Let's let a jury and judges and  
6 people decide. Let's put it before them and  
7 quit arguing --

8 Q. You -- you agree to put it in front  
9 of a jury?

10 A. Yes, sir.

11 MR. COLVIN: No, no.

12 Q. That was a trick. I'm telling you  
13 right now it was a trick.

14 MR. GOYER: He's not making the  
15 legal decisions in this case. You know that.  
16 I'd be scared of the judge --

17 MR. BURDICK: I know. I -- I'm not  
18 gonna throw that back in his face.

19 MR. GOYER: Okay.

20 MR. BURDICK: I'm just playing  
21 around.

22 A. You can play around if you want to.  
23 I want a judge and jury to make these

1 decisions.

2 Q. It's fine.

3 MR. HAYDEN: He's entitled to it.

4 MR. BURDICK: Uh-huh.

5 MR. HAYDEN: Let him have his way.

6 MR. BURDICK: Okay.

7 MR. HAYDEN: That's fine. That's  
8 good. It's a good way to be.

9 Q. All right. Okay. Let me ask you  
10 this. Are you aware of any tax consequences  
11 that would result from a transfer of your  
12 stock in Western Steel to the -- from you to  
13 the trust?

14 A. I'm not an accountant. I'm not  
15 attempting to answer that.

16 Q. Well, I mean, if you don't know,  
17 just say "I don't know."

18 A. I don't know.

19 Q. Okay. So you're not aware of  
20 having suffered any negative tax effect from  
21 any transfer or attempted transfer of the  
22 stock?

23 MR. GOYER: Object to --

1 Q. You're not aware?

2 MR. GOYER: Object to the form.

3 Asked and answered. He's already told you he  
4 doesn't know.

5 Q. Let me ask you this. Do you have  
6 an accountant?

7 THE WITNESS: What was the  
8 question?

9 MR. GOYER: Do you have an  
10 accountant? Do you have an accountant?

11 A. Sure. I have accountants.

12 Q. Okay. Has your incountant --  
13 accountant informed you of any negative tax  
14 repercussions that would result from a  
15 transfer of the stock of Western Steel from  
16 your personal property into one of these  
17 Nevada Spendthrift Trusts?

18 A. I haven't discussed it --

19 Q. Haven't even discussed it? Okay.

20 A. -- with my accountant, CPA.

21 Q. So you're not aware of any damages  
22 in that regard; is that true?

23 A. At this time.

1 Q. All right. Who is your accountant?

2 A. Marty Higgins.

3 Q. Did you say he was your executor as  
4 well?

5 A. That's, uh, right. Yes, sir.

6 Q. Is he gonna be paid a fee to  
7 function as your executor?

8 A. No, sir. Not in the will.

9 Q. Okay.

10 A. Let the -- let the law -- let the  
11 standard procedure take care of that. When  
12 you're dead, you don't -- you don't care what  
13 happens.

14 MR. COLVIN: Exactly.

15 A. You're dead all over.

16 Q. So your will makes no provision for  
17 him to be paid?

18 A. Not to my knowledge. No, sir.

19 Q. Okay.

20 A. But if I -- let me add. If I was a  
21 CPA, I'd send a bill every time I done  
22 something.

23 MR. GOYER: Let's don't add

1 anything if he's not asked for it.

2 THE WITNESS: Well, I wanted to add  
3 that. It's worth my -- it's worth my time.

4 MR. BURDICK: Yeah. We're having a  
5 good time here. Let the man talk.

6 Q. Uh, your accountant, is he just  
7 your personal accountant or does he function  
8 as accountant for any one of these companies  
9 that we've talked about?

10 A. He functions for Western Steel and  
11 Western Properties, yeah.

12 Q. What about the -- the bank down in  
13 the Virgin Islands? Does he --

14 A. No.

15 Q. -- work for them?

16 A. No.

17 Q. Okay. Does he work for 10:16 as an  
18 accountant?

19 A. No. Well, let me -- let me -- let  
20 me clarify that. Yes, I have -- I have used  
21 him for two years to make tax returns, yes.

22 Q. Okay. So he's handled the taxes  
23 for 10:16 as well?

1           A.    Two years.

2           Q.    Okay.

3           A.    '9 and '10 or '10 and '11. '10 and  
4 '11. '10 and '11.

5           Q.    All right. Now, in your  
6 complaint -- in your complaint you allege  
7 that the corporate actions undertaken by the  
8 defendants should not be binding on Cashion  
9 or Western Steel because they are invalidly  
10 executed by defendants. Why do you say that  
11 those actions were invalid?

12          A.    Well, in my opinion they are  
13 invalid and my attorney says they're invalid,  
14 so, uh, that's the only proof I got.

15          Q.    Are you simply saying they're  
16 invalid because you didn't lack capacity?

17          A.    Well, it wasn't -- it wasn't what I  
18 lack. It's what I thought, you know.

19          Q.    Well, please elaborate and help me  
20 to understand because I've got to know what  
21 your claims are.

22                   MR. GOYER: Did you authorize them  
23 to do that?

1 THE WITNESS: What?

2 MR. GOYER: Did you authorize --

3 THE WITNESS: No, sir. I did not  
4 authorize them --

5 MR. GOYER: Did you know about it?

6 THE WITNESS: I didn't know about  
7 it till after it happened.

8 Q. Okay. Did you know about that  
9 power of attorney?

10 A. Oh, yes. I -- I -- I -- I knew  
11 about the power of attorney.

12 Q. Who signed that thing?

13 A. I signed it.

14 Q. Okay. Did you agree to everything  
15 that's in it?

16 A. I agreed to everything in it with  
17 my health and -- and mental capacity, yes,  
18 sir.

19 Q. All right.

20 A. But to use it for something else,  
21 no, when I'm alive and got my capacity, no.

22 Q. So use it for any --

23 A. Go ahead and let them prove me

1 incompetent. And they -- they got -- they  
2 got it all. I'll give it to them. I'll walk  
3 home. I'll walk. Yes, sir. If you prove  
4 them -- them prove me incompetent --

5 Q. Well, let me ask you this.

6 MR. GOYER: Hang on a second,  
7 William.

8 Q. Let me make sure I understand.

9 MR. GOYER: You've got to --  
10 William, let him ask the questions and you  
11 answer them, okay?

12 Q. Are you saying that you're willing  
13 to submit to a test of your competency?

14 MR. GOYER: Hang on a second.  
15 That's a -- that's a legal question. I'm not  
16 gonna let --

17 MR. BURDICK: He --

18 MR. GOYER: -- him answer that.

19 MR. BURDICK: He invited me to  
20 prove it.

21 MR. GOYER: Well, I'm uninviting  
22 you, okay?

23 THE WITNESS: There you go. He's

1 uninviting. I'm paying for it.

2 MR. BURDICK: We were having a  
3 party.

4 MR. GOYER: This is not a cocktail  
5 party. This is a deposition.

6 A. This is serious matter, young man.  
7 Whether you believe it or not, I believe it.

8 Q. So you're not consenting to any  
9 kind of mental examination?

10 MR. GOYER: Let me say this. You  
11 filed a motion --

12 THE WITNESS: Right.

13 MR. GOYER: -- to have him, uh,  
14 given a mental examination and the court  
15 overruled it and that's where we stand.  
16 Okay? And we're not gonna have --

17 MR. BURDICK: I didn't, but that's  
18 okay. I -- I know what you're saying.

19 MR. GOYER: You're right. Your  
20 predecessor attorney.

21 MR. BURDICK: I just want to make  
22 sure his position has not changed.

23 MR. GOYER: Well, he hasn't taken a

1 pos- -- position on this yet because the --  
2 your predecessor, John Charles, former  
3 counsel for Dr. Hayden, filed a motion --

4 MR. BURDICK: Uh-huh.

5 MR. GOYER: -- to acquire a medical  
6 examination and Judge Vance overruled it.

7 And that's where we stand, okay?

8 MR. BURDICK: All right.

9 MR. GOYER: There's no pending  
10 motion and it's not appropriate for you to  
11 ask those questions of him when it's --

12 MR. BURDICK: He brought it up.

13 MR. GOYER: Okay. Well, William,  
14 answer the questions.

15 THE WITNESS: Let's go over  
16 something else.

17 MR. BURDICK: Yeah. I mean, I  
18 stepped into it, but he brought it up.

19 Q. (BY MR. BURDICK) All right. So  
20 let's go back to my original question before  
21 we got sidetracked. It says, These corporate  
22 actions should not be binding on Cashion or  
23 Western Steel because they are invalidly

1     executed by defendants. Now, what was your  
2     basis for saying that they were invalid? Was  
3     it because you're saying you are competent  
4     and that's the sole basis for saying they're  
5     in -- those actions are invalid?

6             A.     I'm saying I'm competent. Yes,  
7     sir.

8             Q.     Okay.

9             A.     They're saying I'm im- --  
10    uncompetent [sic] and I'm saying I'm  
11    competent so, you know ...

12            Q.     All right. Any other basis?

13                    MR. GOYER: Now, he's not a lawyer.  
14    You're asking him as a layman. There may be  
15    other basis that his lawyers --

16                    MR. BURDICK: Well, he made a  
17    statement. I just want to know what his  
18    support is for the statement.

19                    MR. GOYER: I know. Well, we --  
20    he's gonna have lawyers that articulate that  
21    as lawyers, but you can ask him what he  
22    knows.

23                    MR. BURDICK: Exactly.

1           Q.    What do you know of that forms the  
2    basis for that statement that the corporate  
3    actions are not binding on you or Western  
4    Steel because they're invalid?  Do you know  
5    of anything else?

6           A.    Well, my thoughts.  You know, I  
7    think invalid.  I've got a thought just like  
8    you've got a thought.  Everybody --

9           Q.    Everybody's got an opinion, right?

10          A.    Yes, sir.

11          Q.    What do they say about that?  All  
12    right.  Let's take a look here.  Got that.  
13    Let's talk about the defamation claim.  Were  
14    you defamed in any way?

15          A.    Yes, sir.

16          Q.    By whom?

17          A.    By the conspirators, Steven Mark  
18    Hayden, Angela Hayden, Frankie S. Cashion,  
19    and Gene G.  -- Gene G. Calhoun.

20          Q.    How did they defame you?

21          A.    They -- they put it on the internet  
22    and -- and told many, many people that I'm  
23    incompetent and they have defamed me by

1 saying I'm incompetent.

2 Q. What third parties witnessed or  
3 read or saw these statements that you claim  
4 are defamatory?

5 MR. GOYER: Are you talking about  
6 the internet or the ones that they said  
7 verbally too? Which one are you talking  
8 about?

9 MR. BURDICK: We'll start with the  
10 verbal ones.

11 A. My family, my children, my  
12 grandchildren --

13 Q. Uh-huh.

14 A. -- and many others. I don't -- you  
15 know, I ain't got the complete list --

16 Q. Uh-huh.

17 A. -- but, you know, those I know of  
18 personally.

19 Q. Let me ask you this. What  
20 statements were made on the internet about  
21 you by one of the -- we'll call them the  
22 conspirator. Those are your words.

23 A. Conspirators.

1           Q.    What statements were made by them  
2 on the internet that are not true about you?

3           A.    Well, I hadn't -- I haven't got  
4 the -- well, the things that's on the  
5 internet, I haven't got them with me, you  
6 know, but they can be gotten up.

7           Q.    Well, let me read a few statements  
8 and -- and you tell me if they're true or  
9 not.

10           MR. GOYER:   What is it you're  
11 reading from?

12           MR. BURDICK:   This is what I've  
13 been informed was the content of the websites  
14 that he's made reference to.

15           MR. GOYER:   All right.   If you're  
16 gonna ask him about them, how about making  
17 those an exhibit?

18           MR. BURDICK:   Sure.   I don't know  
19 that I've got another copy.   How close are we  
20 on tape as far as time?

21           THE VIDEOGRAPHER:   The hour mark,  
22 we're about six minutes.

23           MR. BURDICK:   Okay.   I was gonna

1 say I'd stop and make a copy.

2 MR. GOYER: Okay.

3 MR. BURDICK: Do y'all want to just  
4 stop, switch tape, and make a copy?

5 MR. GOYER: That's fine.

6 THE VIDEOGRAPHER: This marks the  
7 end of videotape five. Going off the record,  
8 3:09 p.m.

9 (Break taken.)

10 THE VIDEOGRAPHER: This marks the  
11 beginning of videotape number six. Going  
12 back on the record, 3:16 p.m.

13 MR. BURDICK: All right. Back from  
14 the break. Uh --

15 MR. HAYDEN: Hey, Austin --

16 MR. BURDICK: Let's mark --

17 MR. HAYDEN: -- what's wrong with  
18 your water around here?

19 MR. BURDICK: We're on the record.  
20 Uh, let's, uh -- where's our exhibit  
21 stickers? We'll mark this one as Exhibit  
22 No. 6.

23 (Whereupon, Defendants' Exhibit

1                   No. 6 was marked for  
2                   identification.)

3           Q.     And I'll let you take a look at it.

4                   MR. BURDICK:  I've got one for you  
5     and one for you.

6           Q.     And I'll represent to you that it's  
7     been represented to me that this is the  
8     content of the websites that you complained  
9     of in your complaint.  If you'll skip to the  
10    second page, I want you to read the second  
11    page and tell me each one of the -- each and  
12    every statement that is on this page  
13    regarding you that is not true.

14           A.     LINK:  Introduction.  (Referring to  
15    document.)

16           Q.     Huh?

17           A.     You told me to tell you what's on  
18    the page that's not true.  Ask me the  
19    question --

20           Q.     Okay.

21           A.     -- or tell me what you want me to  
22    do again.

23           Q.     All right.  I want you to take a

1 look at this second page and just go ahead  
2 and take your time and read it. And,  
3 actually, if you want to take this  
4 highlighter, I want you to highlight for me  
5 every statement about you on this page or  
6 that page there that's not true, okay? Just  
7 highlight the things that are not true.

8 A. (Witness complies.)

9 MR. GOYER: Have you got the links  
10 that are listed on here?

11 MR. COLVIN: Yeah. This is not the  
12 one we --

13 MR. BURDICK: This is all I've got.

14 MR. COLVIN: Okay.

15 MR. BURDICK: If -- if there's  
16 something else out there, I'd be happy to  
17 look at it too.

18 MR. GOYER: Well, it looks like  
19 there's at least three or four links  
20 throughout the stuff. Like, for example,  
21 LINK February 2 says --

22 A. My opinion is I didn't see it, but,  
23 uh, people told me there's all kind of stuff

1 on the internet and I don't --

2 Q. Uh-huh.

3 A. I don't think that we need to sit  
4 here and fool with one document that they put  
5 on the internet.

6 Q. Well, let's just take a look at  
7 this.

8 A. But my friends and associates and  
9 family tell me they put a lot of stuff on the  
10 internet.

11 Q. Okay. Well, please just tell me --  
12 just highlight all the statements on that  
13 page that are not true with regard to you.

14 A. (Witness complies.)

15 MR. GOYER: Austin, I take it this  
16 document is not dated, is it?

17 MR. BURDICK: I -- you've got  
18 everything I've got with regard to this  
19 content because I think it was --

20 MR. GOYER: It says February 2  
21 evidence. I don't know if that's February 2,  
22 2012 or what, but it's --

23 MR. BURDICK: I don't know.

1           A.    I don't -- I don't know anything  
2    about the internet, but I'm gonna tell you  
3    what this is gonna LINK you to, something  
4    that was on the February the 2nd evidence,  
5    William B. Cashion, another something,  
6    authorized sale of five million [sic] dollar  
7    asset.  And a LINK; WBC WMV file "William  
8    really did think he discovered the greatest  
9    gold mine ever."

10           Q.   All right.

11           A.   All right.  You asked me --

12           Q.   Hold on one second.  Just to be on  
13   the safe side, I want you to keep this  
14   highlighter and go back and look at the first  
15   page.  I didn't think there were any  
16   statements about you on the first page, but I  
17   could be mistaken.  So if there's anything on  
18   the first page about you that's not true,  
19   highlight that as well.  I don't -- I don't  
20   want to skip over anything if it's talking  
21   about you and it's not true.

22           A.   Was this on the internet?

23           Q.   That's my understanding.

1                   MR. HAYDEN: That information, I  
2 believe, was on the internet?

3                   A.     (Witness reviewing document.)

4                   Q.     Do you need another highlighter?

5                   A.     I believe I do.

6                   Q.     Okay. Well, these little teeny,  
7 tiny things don't seem to last. Here you  
8 are, sir.

9                   A.     (Witness reviewing document.)

10                  Q.     All done?

11                  A.     Yes, sir.

12                  Q.     Okay. You put a big X on that  
13 page. Are you saying --

14                  A.     I'm saying I don't know nothing  
15 about it and the lawyers got to interpret it,  
16 not me.

17                  Q.     Okay. Well, I'm just asking about  
18 statements about you. I'm not asking about  
19 statements just in general. I'm not asking  
20 you for what's true about the definition of a  
21 spendthrift trust or anything like that, but  
22 statements about you that are untrue. Okay?  
23 So on the first page, what statements about

1 you are untrue?

2 A. Right here where it says, Often  
3 is -- is unable to control spending. They --  
4 they -- this on the internet is saying  
5 William Cashion is often unable to control  
6 spending.

7 Q. Okay. So you feel like that --  
8 that sentence starts out, a spendthrift trust  
9 is a trust that is created for the benefit of  
10 a person (often is unable to control  
11 spending). Is that the part you're talking  
12 about?

13 A. That's exactly the part I'm talking  
14 about.

15 Q. Okay. So that doesn't make a  
16 direct reference to you, though, does it?  
17 It's just kind of a definition of spend --

18 A. Well, it does -- it does in a  
19 roundabout way. It sure does. It sure does.

20 MR. GOYER: It's got his name on  
21 it.

22 Q. It says "a person often."

23 A. It's got my name right up at the

1 top. It says, William B. Cashion.

2 Q. Okay. So you feel like that's  
3 directed at you --

4 A. Yes, sir.

5 Q. -- specifically, that you're "any  
6 person?"

7 A. Yes, sir. Yes, sir. It's --

8 Q. All right.

9 A. It's directed to me, William B.  
10 Cashion. It says it right there on the top,  
11 very top, that I'm -- I'm unable to control  
12 spending.

13 Q. Okay. You feel like you're able to  
14 control your spending?

15 A. Yes, sir.

16 Q. All right. So you would disagree  
17 with someone if they said that that was just  
18 the definition of a spendthrift trust, that  
19 it wasn't necessarily directed at you  
20 specifically?

21 A. That -- that's a legal thing and  
22 I'll let you lawyers work all that out.

23 Q. Okay. Let me ask you this. Other

1 than on the title of this page, does your  
2 name appear anywhere else on the first page?

3 A. Not that I can see.

4 Q. Okay. What else is stated on here  
5 about you that's not true on this page  
6 stating --

7 A. Well, I -- I think that that first  
8 sentence, the first, uh, very part of it  
9 where it says "often is unable to control  
10 spending" is defaming me, William B. Cashion.

11 Q. Anything else on this page?

12 A. Not that I see.

13 Q. Okay. So let's go to the next  
14 page. All right. Tell me what's false on  
15 this page.

16 A. Well, uh, where it talks -- talks  
17 about in the second line his financial  
18 success exploded with his becoming a major  
19 state contractor at a young age.

20 Q. Okay.

21 A. I, uh -- I won't say I was  
22 successful. I was -- I -- I did state  
23 contracts, but, uh, I -- I wasn't a young

1 age. I was a grown man.

2 Q. Well, you were younger than me,  
3 right, at the time?

4 A. No. I was probably younger than  
5 you. Yes, sir.

6 Q. Okay. I'm 35. Let's be fair.

7 A. Well, I -- I was probably that age.

8 Q. Okay. Uh, when, uh -- when  
9 Patterson was running for governor, weren't  
10 you about 29?

11 A. Could have been, yes, sir, around  
12 about that age.

13 Q. Okay. And about the time you got  
14 these contracts you were about 29 or 30 years  
15 old, is that right, these bridge building  
16 contracts?

17 A. In that -- in that neighborhood,  
18 yeah.

19 Q. Okay. That's not very old.

20 A. Well, a 16 year old will tell you  
21 that's old.

22 Q. Yeah.

23 A. On 80 year old will say that's

1 young.

2 Q. Yeah. You'd call them a spring  
3 chicken, wouldn't you?

4 A. Yeah.

5 Q. All right. So -- so tell me what's  
6 the problem with that statement again. He  
7 had hard work but his financial success  
8 exploded with his becoming a major state  
9 contractor at a young age. You just --

10 A. Well, my --

11 Q. You just don't believe you were  
12 young?

13 A. My -- my opinion is -- is my net  
14 worth didn't explode with that.

15 Q. Okay.

16 A. That was just --

17 Q. What was your net worth before  
18 that, before these contracts?

19 A. I don't -- you know, I couldn't  
20 remember that. Probably very little. And it  
21 still was very little after it was over with.  
22 I didn't make no money building bridges.

23 Q. You didn't make very much money

1 building bridges?

2 A. No, sir. Got a lot of experience  
3 but didn't make no money.

4 Q. So you don't know what your net  
5 worth was before or after that?

6 A. No, sir. I -- I have my financial  
7 records if you want me to drag them up for  
8 those years.

9 Q. Sure. That would be helpful.  
10 Okay. So we don't really know whether that  
11 was a defamatory statement or not because we  
12 don't know what you were worth before or  
13 after?

14 A. Uh-huh. And the next thing he  
15 says, uh, he's saying in -- in -- in -- he's  
16 saying, uh --

17 Q. When you say "uh-huh," does that  
18 mean yes?

19 A. Uh, no. That don't mean yes.

20 Q. It means no?

21 A. It don't mean either one.

22 Q. Oh, I don't know what it means.

23 A. Well, that's right. And sometimes

1 I don't know what it means.

2 Q. Okay. Well, let's go back.

3 A. The sentence here that says, He has  
4 loaned millions of dollars kindly and often  
5 has not been repaid. Sometimes I'm not  
6 repaid, but most of the time I am repaid.  
7 You know, business is one thing. Business  
8 is --

9 Q. Uh-huh.

10 A. You win or lose or draw even, you  
11 know.

12 Q. Well, we --

13 A. But you've got to win more times  
14 than you lose.

15 Q. Yeah. Well, we just talked earlier  
16 about -- was it Spinks? Is that the -- the  
17 guy's name?

18 A. That's correct. Yes, sir.

19 Q. That he owes you -- he owes the  
20 company --

21 A. Company.

22 Q. -- 1.25 million dollars.

23 A. That's right.

1 Q. Hadn't paid a penny.

2 A. That's right.

3 Q. And then you've loaned him over a  
4 hundred thousand dollars --

5 A. That's correct.

6 Q. -- and -- and he hasn't touched the  
7 principal on that?

8 A. That's correct. And it -- it's all  
9 business decisions, right, wrong, or draw  
10 even.

11 Q. Okay. But I think we can agree  
12 that from just a dollars and cents  
13 standpoint, that's not a good decision.

14 MR. GOYER: Object to the form.

15 A. Well, that may be your decision.  
16 My -- my decision is I'm a businessman. I  
17 make decisions --

18 Q. Uh-huh.

19 A. -- based on the facts as I see them  
20 right then. Sometimes they win, sometimes  
21 they lose, and sometimes they draw even,  
22 don't get nothing, don't lose.

23 Q. All right. Well, let me ask you

1 this. In your opinion, have your investments  
2 in 10:16 Mining been a good investment to the  
3 --

4 A. I will not -- I won't answer that  
5 under confidentiality.

6 Q. Well, I don't want any details  
7 about their company.

8 MR. GOYER: You've already asked  
9 him that. We covered that once.

10 A. I'm not gonna answer nothing on  
11 that 10:16 --

12 MR. BURDICK: Did he say it was a  
13 good investment or a bad --

14 MR. GOYER: He said not yet. It's  
15 -- it's --

16 Q. Not yet?

17 A. Not yet.

18 Q. But you have every reason to  
19 believe that it will be a good investment one  
20 day; is that what you're telling me?

21 A. I do believe it, yes, one day.

22 Q. All right. Do you have some sort  
23 of testing that you're relying on, some test

1 results that are -- that make you believe  
2 that you're gonna get --

3 MR. GOYER: We're getting into  
4 details. I can't let him answer --

5 A. I'm not talking any details.

6 MR. GOYER: -- till we get a  
7 protective order.

8 A. For the record, I'm not talking any  
9 details. I'm -- I'm confined by two  
10 confidentiality agreements that I've signed  
11 my name to. I'm not talking --

12 Q. We'll get the record sealed and  
13 we'll come back.

14 A. -- about the affairs of 10:16  
15 Mining Company.

16 Q. With the Patterson administration,  
17 how many bridges did you build?

18 A. Oh, several.

19 Q. Before you received contracts from  
20 the Patterson administration, how many  
21 bridges had you built?

22 A. Well, just a coincidence that --  
23 that he was the governor and I was, uh,

1 bidding on bridges.

2 Q. Just a coincidence?

3 A. Yes, a coincidence.

4 Q. Didn't you donate \$12,500 to his  
5 election campaign to get him on TV for a  
6 debate?

7 A. I did.

8 Q. Then that's not necessarily a  
9 coincidence, is it?

10 A. Oh, yes, it was a coincidence  
11 because I didn't tie the two things together  
12 in no way, shape, form, or fashion.

13 Q. Okay. Did you play any role in,  
14 uh, having -- uh, helping Mr., uh, Folsom get  
15 drunk before he wound up on TV for that  
16 debate?

17 A. No, sir. But it sure was nice that  
18 he got drunk.

19 Q. So you -- you don't have any  
20 involvement with his friends that took him  
21 out and got him drunk?

22 A. No.

23 Q. Have you ever told anybody you had

1 any involvement with that?

2 A. Well, I told people that I donated  
3 to that --

4 Q. Uh-huh.

5 A. -- so that Patterson could be on  
6 TV, yes, sir. I'm not ashamed of it.

7 Q. Well, what was your net worth when  
8 you donated \$12,500 to get him on TV?

9 MR. GOYER: I'm gonna object and  
10 instruct him not to answer. I don't think  
11 that's --

12 A. I didn't dwell on the records. I  
13 can't -- I can't tell -- make nothing.

14 Q. Let me ask you this. Are you aware  
15 of anybody else donating more than that to  
16 the Patterson campaign?

17 A. Yes.

18 Q. Who?

19 A. A fellow by the name of William  
20 Worley.

21 Q. Did he get any government  
22 contracts?

23 A. No, sir.

1           Q.     Who donated the other portion of  
2     what was necessary to get that debate  
3     televised?

4           A.     Best of my -- my memory, Bill  
5     Worley, William Worley.

6           Q.     He's the only one?

7           A.     Best of my -- uh, memory, yes, sir.

8           Q.     Do you donate to anybody else's  
9     campaigns?

10          A.     Oh, yes, sir.

11          Q.     Did you make that donation in cash  
12     to the -- with regard to what we've been  
13     talking about, this televised debate, or did  
14     you do it through check?

15          A.     I can't remember.

16          Q.     Do you have any records of that  
17     transaction?

18          A.     Not -- not still in existence. I  
19     only -- I only keep records about five years.

20          Q.     Okay. You -- you said you donated  
21     to other folks' campaigns.

22          A.     I have.

23          Q.     Who else have you donated to in the

1 last, let's say, five years?

2 A. I don't remember, but I donate  
3 regularly.

4 Q. Have you ever donated anything to  
5 Mike Hale?

6 A. No. Not -- not that I remember.  
7 If I did, it was very few dollars. I don't  
8 --

9 Q. Has he ever been to your house?

10 A. No, sir.

11 Q. He's never been to your house?

12 A. Not that I remember, Austin.

13 Q. Never received any cash  
14 contributions at all -- from the trust?

15 A. No, sir. Other than I --

16 Q. Okay.

17 A. I -- I can look in my checkbook and  
18 see if there was small donations sent to him.  
19 I'm not familiar with it. I don't remember  
20 if I did, but I probably did send as much as  
21 \$250 to the man when he was running for the  
22 office.

23 Q. Okay. If I run for judge again,

1 are you gonna donate to my campaign?

2 A. No, sir.

3 Q. Ouch. During the -- well, prior to  
4 the Patterson administration, how many  
5 bridges did you build?

6 A. Uh, none.

7 Q. Zero. How many did you build  
8 during the Patterson administration?

9 A. Uh, approximately five or six  
10 maybe.

11 Q. Five or six?

12 A. Yes, sir.

13 Q. Did you build the one on I-85 going  
14 from Alabama into Georgia?

15 A. Best I remember, I did or my  
16 company, Western Iron Works did.

17 Q. Okay. Now, just so I'm clear, you  
18 donated \$12,500 to Patterson while he was  
19 running. You had never built a bridge?

20 A. That's right.

21 Q. He gets elected and now you're the  
22 bridge contractor for the State?

23 A. Well, it -- it's open bid. It's --

1 it's -- it's competitive bid and I was the  
2 low bidder, period.

3 Q. Uh-huh.

4 A. Nothing more and nothing less.

5 Q. Nobody raised any questions about  
6 you being --

7 A. No, sir.

8 Q. -- completely inexperienced?

9 A. No, sir. Never. No, sir.

10 Q. It just seems like a funny  
11 coincidence, doesn't it?

12 A. It -- it -- it might be, but nobody  
13 asked a question.

14 Q. Not back then, not in Alabama.

15 A. No, no, or ever since till this day  
16 because, you know, it's competitive bidding  
17 and I was bonded. That -- that was all you  
18 needed to be. And -- and I did it.

19 Q. Did you, uh -- in addition to any  
20 pay that you might have received for building  
21 these bridges, did you receive any equipment  
22 from the State like a crane?

23 A. Could have. The use of a crane, I

1     could have, yes.

2           Q.     Well, did you get possession of the  
3     crane, not just use of it?

4           A.     Sir?

5           Q.     Were you given a crane?

6           A.     Uh, I probably used -- my company  
7     probably used a crane.

8           Q.     Did you return it to the state or  
9     were you allowed to keep it?

10          A.     Uh, in all probability, it was  
11     returned to the state.

12          Q.     Did you use it on other projects  
13     other than just the State projects?

14          A.     Not that I remember, no.

15          Q.     Did you ever brag to somebody that  
16     you got a \$500,000 crane from the State?

17          A.     Not that I remember the amount, no,  
18     sir. No, sir. I have told people that I got  
19     a -- a crane. I got a crane and I used it.  
20     Best I remember, we -- we returned it.

21          Q.     After the Patterson administration,  
22     did you build any other bridges for the State  
23     of Alabama?

1           A.    No, sir.

2           Q.    Were you a millionaire by the age  
3   of 30?

4           MR. GOYER:  Let me object and  
5   instruct him not to answer.  I don't think  
6   his, uh, wealth or net worth is proper and  
7   discoverable.  I'm not gonna let him answer  
8   that question.

9           MR. BURDICK:  So the subject matter  
10  of this case has to do with trust, power of  
11  attorney, and his will, and it being  
12  transferred or not transferred, but his  
13  wealth is not at issue?

14          MR. GOYER:  My objection stands,  
15  Austin.

16          MR. BURDICK:  Okay.  You're not  
17  gonna allow him to answer?

18          MR. GOYER:  No, sir.

19          THE WITNESS:  Thank you.

20          MR. BURDICK:  Not even as to what  
21  his -- his -- about his, uh, net worth was at  
22  age 30?

23          MR. GOYER:  Right.  Since he's 83

1 now, that was 63 years ago.

2 THE WITNESS: Amen.

3 MR. GOYER: So it's clearly not  
4 relevant to anything. It's also not  
5 discoverable.

6 Q. Let me ask you this. Let's --  
7 let's change the subject. Nobody wants to  
8 play along with me. Uh, after the Patterson  
9 administration, I think you said that you did  
10 not build any more bridges for the State of  
11 Alabama; is that correct?

12 A. I -- you know, there's no way I can  
13 remember when the Patterson administration  
14 ended and I quit building bridges.

15 Q. Well -- well, listen. Have you  
16 done any other building projects other than  
17 those -- those bridge building projects that  
18 we've spoken about for the State of Alabama?  
19 Have you done any other projects for the  
20 State of Alabama?

21 A. Not projects, no.

22 Q. Okay. So you haven't served as a  
23 general contractor or contractor for the

1 State of Alabama on anything since the bid --  
2 bridge project?

3 A. Best -- best of my knowledge,  
4 that's right.

5 Q. Okay. All right. Those bridges  
6 that you built for the state, are they still  
7 there?

8 A. Yes, sir.

9 Q. All right. Where -- where are the  
10 bridges located that you built other than the  
11 one on I-85 that I mentioned earlier?

12 A. Uh, one in Wilcox County and one  
13 in, uh, the county that Anniston is in, uh,  
14 Walker County, uh, Jefferson County. Those  
15 are that I can remember.

16 Q. Anniston and Calhoun; is that  
17 right?

18 A. I believe it was in Calhoun County.  
19 Yes, sir.

20 Q. Okay. Are you proud of that bridge  
21 on I-85?

22 A. Well, yes, sir. It was my first  
23 job and I'm proud of it. Yes, sir.

1 Q. That was your first job?

2 A. First bridge job.

3 Q. Wow. That's a pretty big bridge,  
4 isn't it?

5 A. Yes, sir.

6 Q. How big is that bridge?

7 A. Well, it's a twin bridge. It's --  
8 I don't know. That was a long time ago. You  
9 can take a tape measure and go down and  
10 measure it.

11 Q. Is it four lanes?

12 A. Two lanes on each bridge, the best  
13 I remember.

14 Q. Okay. So two bridges?

15 A. Two bridges.

16 Q. One going one way and one going the  
17 other?

18 A. Right.

19 Q. I heard it's a nice bridge. I  
20 don't think I've -- I just can't remember  
21 ever going across it. But it's been there  
22 for a while, so you must have done a good  
23 job, right?

1           A.    Amen.

2           Q.    All right. All right. It says  
3 you've been a long time supporter of your two  
4 sisters, Phyllis and Francis; is that true?

5           A.    Yes. I support them the best I can  
6 or whenever they need help, they let me know,  
7 I'll help them. Yes, sir.

8           Q.    All right. We already talked about  
9 you loaning a bunch of money. Uh, is it true  
10 that your family has received substantial  
11 support from you over the years?

12          A.    Probably true. Yes, sir.

13          Q.    Is that defamatory in any way?

14          A.    No, sir. That's not defamatory.  
15 But there's some things in here that's  
16 defamatory to me.

17          Q.    All right. What's the next  
18 defamatory statement, then?

19          A.    Well, the -- the next thing, he  
20 authorized setting up an asset sale of five  
21 billion dollars based on false, inaccurate  
22 mining assay. That -- that -- that's  
23 defamatory to me. I didn't set it up. I

1 didn't do anything. I participated in it one  
2 day and one day only.

3 Q. Well, there was a one day --

4 A. One day, one time incident.

5 Q. Okay. There was an asset sale of  
6 five billion dollars that happened one day  
7 and you didn't set it up?

8 A. No, sir.

9 Q. What assets were being sold for  
10 five billion dollars?

11 A. Well, that's 10:16 Mining business  
12 and I'm not telling you.

13 Q. Okay. Well, we can wait on that.  
14 That's all I'm trying to figure out is if  
15 that -- we're talking about that or something  
16 else. All right. What's the next defamatory  
17 statement?

18 A. William B. Cashion Nevada -- Nevada  
19 Spendthrift Trust was created to prevent the  
20 wealth from being squandered. That's a false  
21 statement and it's slanderous to me.

22 Q. Can you see how somebody might feel  
23 like it would be a bad investment to spend

1 over six million dollars on a mine and get  
2 \$10 back?

3 MR. GOYER: Object to the form.

4 THE WITNESS: Thank you.

5 MR. GOYER: Calls for speculation  
6 and conjecture.

7 Q. Please speculate.

8 A. I speculate that's somebody else.  
9 That's not me.

10 Q. Okay. You feel like that's a good  
11 investment? Did I just describe a good  
12 investment to you or a bad investment?

13 MR. GOYER: Object to the form.  
14 You can answer.

15 A. I'll answer it. I thought it was a  
16 good investment then and I still think it's a  
17 good investment.

18 Q. Okay. All right. Tell me what  
19 else is phony baloney false in this.

20 A. This website provides evidence and  
21 explanations on me for William B. Cashion  
22 Nevada Spendthrift Trust. That's false.

23 Q. What's false about it?

1           A.    The website provides evidence and  
2    explanations, that's wrong.

3           Q.    So you're not satisfied with the  
4    evidence and the explanation provided on the  
5    website?

6           A.    No, sir.

7           Q.    Okay.  Is there any evidence out  
8    there that should've been added to the  
9    website?

10           MR. GOYER:  Object to the form.

11           A.    Nothing should have been on the  
12    website.

13           Q.    Okay.  Well, I just need to know  
14    are you objecting to the want of evidence or  
15    are you just objecting, saying that, uh --  
16    well, yeah.  What are you objecting to?  
17    What's your problem with that -- with that  
18    statement?

19           A.    I have explained my objection.

20           THE WITNESS:  Counsel, shouldn't  
21    we --

22           MR. GOYER:  Yeah.

23           THE WITNESS:  -- object to these

1 things right here?

2 MR. GOYER: How about we would ask  
3 that you turn over the rest of this LINK  
4 February 2 evidence; LINK William B. Cashion  
5 authorizes sale of five billion dollars  
6 assets; LINK WC, WBC, WMV file, quote,  
7 William really did think he discovered the  
8 greatest gold mind ever.

9 MR. BURDICK: Okay. I'll tell you  
10 this. I'm gonna do my best --

11 MR. HAYDEN: You --

12 MR. BURDICK: -- to get -- hold --  
13 don't stop. Don't talk. I'm gonna do my  
14 best to get my hands on all of this  
15 information because I want it too.

16 MR. GOYER: Uh-huh.

17 MR. BURDICK: But I'll tell you  
18 this. My client doesn't have possession of  
19 it so I'm gonna have to subpoena it from the  
20 people who do have it.

21 MR. GOYER: Okay.

22 MR. BURDICK: My client did not  
23 publish this information.

1                   MR. GOYER: Well, Angela Rae Hayden  
2 is listed as one of the trustees on the first  
3 page. She's one of your clients.

4                   MR. BURDICK: She's listed as a  
5 trustee, but that doesn't mean that she  
6 published this.

7                   MR. GOYER: Are you saying your  
8 client, Mr. -- Dr. Hayden, didn't draft this?

9                   MR. BURDICK: I'm saying he did not  
10 publish this --

11                   MR. GOYER: Did he draft it?

12                   MR. BURDICK: -- to any third  
13 party. I don't know whether he drafted it or  
14 not.

15                   MR. GOYER: I thought you said this  
16 was on the website.

17                   MR. BURDICK: It was on a website,  
18 yes.

19                   MR. GOYER: Okay. Are you saying  
20 no -- we don't know who drafted it?

21                   MR. BURDICK: I'm not sure.

22                   MR. GOYER: Okay.

23                   MR. BURDICK: But I'm sure of this,

1 that this website did not belong to my  
2 client.

3 MR. GOYER: All right. Well, that  
4 doesn't mean he didn't put it on there.

5 MR. BURDICK: That he didn't have  
6 access to put it on there.

7 MR. GOYER: We'll see.

8 Q. (BY MR. BURDICK) All right. So  
9 let's go back. Tell me about this -- let's  
10 go back to that false statement we were just  
11 talking about.

12 A. Which one?

13 Q. The -- the last one you mentioned.  
14 You -- where were you at? You were talking  
15 about --

16 A. I was right down at the bottom.  
17 The website provides evidence and  
18 explanations for Mr. William B. Cashion  
19 Nevada Spendthrift Trust.

20 Q. Let me ask you this. Have you  
21 discovered the greatest gold mine ever?

22 A. I haven't discovered anything. I'm  
23 involved in a gold mine.

1 Q. Is --

2 A. 10:16 Mining and I won't talk about  
3 it.

4 Q. Well, don't talk about that mine.  
5 I'm not asking you about any mine in  
6 particular. Are you involved with any mine  
7 that is in fact the greatest gold mine ever?

8 MR. GOYER: Object to the form.  
9 You mean does he agree with that description;  
10 is that what you're asking?

11 MR. BURDICK: I'm asking if he's  
12 involved with any gold mine that in his  
13 opinion is the greatest gold mine ever.

14 MR. GOYER: Object to the form.  
15 You can answer.

16 A. That's my opinion, yes.

17 Q. Okay. That's your opinion today?

18 A. Today.

19 Q. This gold mine, not mentioning what  
20 gold mine we're talking about, how much are  
21 you willing to invest in this gold mine that  
22 is the greatest gold mine ever? Of the  
23 assets that you have, how much are you

1 willing to invest in it?

2 A. Well, I'll -- I'll answer it this  
3 way. If I own all of it, I'll fund it to a  
4 great extent.

5 Q. Are you willing to spend every  
6 dollar that you have on this gold mine?

7 A. No. Not every dollar. No, sir.

8 Q. How much would you hold back in  
9 reserve?

10 A. I'm -- I don't know at this time.  
11 That's a hypothetical future question.

12 Q. I'm just trying to find out your  
13 level of commitment to this gold mine.

14 MR. GOYER: I think he's answered  
15 it. I mean, you can't answer something till  
16 you know what the circumstances are.

17 MR. BURDICK: All right.

18 A. This is a business decision,  
19 period.

20 Q. Uh-huh.

21 A. Has been and still is.

22 Q. It's just a pure business decision  
23 for you?

1           A.    Yes, sir.

2           Q.    Dollars and cents?

3           A.    Pure dollars and cents.

4           Q.    All right.  Not based on anything  
5 else?

6           A.    No, sir.

7           Q.    Any other false statements on that  
8 document?

9           A.    (No response.)

10          Q.    Let me ask you this.  Do you know  
11 who produced -- your -- your attorney had  
12 questions about that.  Do you know who  
13 published that document if it was ever  
14 published?  Do you know who did that?

15          A.    No, sir, I don't.

16          Q.    You have no idea who published it?

17          A.    No.

18          Q.    Do you know who published those  
19 websites that you made reference to in your  
20 complaint?

21          A.    No, sir.

22          Q.    So you don't know if any of the  
23 named defendants are actually responsible for

1 that web -- those websites?

2 A. No, sir.

3 MR. GOYER: The fact that y'all  
4 have got them in your hands makes me wonder.

5 MR. BURDICK: Got them from  
6 somewhere, not from home.

7 A. Yeah. Let -- let -- let -- let's  
8 go back to this again and go down to the --

9 Q. Tell me what you're looking at.

10 A. The second paragraph. At the end  
11 of it it says, Regardless of what official  
12 rules were, his wealth exploded. He was --  
13 it was rumored he was worth millions of  
14 dollars when only 30 years old in the '50s.  
15 I don't know nothing about rumors, but the  
16 statement that regardless of means or what  
17 official rules were, his wealth exploded,  
18 now, that's -- that's detriment to my -- my  
19 reputation.

20 Q. Tell me how.

21 A. Well, it just -- it -- it's  
22 detrimental. In my opinion, it's  
23 detrimental.

1           Q.    All right.  Tell me.  As a result  
2   of these -- all the things that you are  
3   alleging in your complaint are defamatory  
4   statements, as a result of those what damages  
5   have you suffered?

6           A.    I -- I've suffered damages from  
7   friends and relatives constantly reminding me  
8   what's on -- what's on that internet.

9           Q.    But you said earlier that the price  
10  of the stock and all the companies listed in  
11  your complaint has not decreased.  In fact,  
12  some of them have increased since that time.  
13  So it hasn't hurt your business interest, has  
14  it?

15          A.    Well, I ain't got -- I ain't got  
16  yearly audits yet.  Let's -- let's wait till  
17  the year -- year -- year -- the yearly audits  
18  come out and let's see.

19          Q.    So --

20          A.    But personally -- personally,  
21  friends and neighbors and acquaintances have  
22  come to me and started to tell me about all  
23  the stuff on the internet about me and I tell

1     them, Don't tell me. I don't want to know  
2     nothing about it.

3             Q.     Did you set them straight?

4             A.     Sir?

5             Q.     Did you set them straight?

6             A.     No, sir. All I told them, I don't  
7     know nothing about it.

8             Q.     You didn't tell them it wasn't  
9     true?

10            A.     No, sir. I didn't tell them it  
11    wasn't true. I let them have their own  
12    thoughts.

13            Q.     Why wouldn't you tell them it's not  
14    true if it's not true?

15            A.     Well, if I didn't know what it was,  
16    how could I tell them it wasn't true? I'm  
17    gonna be frank with you, young man. This is  
18    the first time I ever seen this right here  
19    today.

20            Q.     Okay.

21            A.     And that ain't the only thing that  
22    people tell me was on the internet back then.

23            Q.     What else is on the internet?

1           A.    I don't know.  We can find out.

2                   MR. BURDICK:  Psychological.

3    Scroll on down to that.

4                   MR. HAYDEN:  Yeah.

5                   MR. BURDICK:  That was filed by  
6    their attorney, his attorney?

7                   MR. HAYDEN:  Yes.  In -- in Vegas.

8                   MR. BURDICK:  Okay.

9                   (Discussion off the record.)

10           Q.    (BY MR. BURDICK) Let me ask you.

11    In your Las Vegas -- in your Nevada case that  
12    you've got going right now, your -- do your  
13    attorneys in that case, do they tell you what  
14    they're filing or do they just file stuff?

15                   MR. GOYER:  I think that invades  
16    attorney/client privilege.

17                   THE WITNESS:  Right.

18                   MR. GOYER:  And I'm gonna instruct  
19    him not to answer.

20           Q.    Have you reviewed any pleadings  
21    that have been filed out there in the Las  
22    Vegas case at all?

23                   MR. GOYER:  You can answer that.

1           A.    I don't remember.

2           Q.    Okay.  So if your attorneys have  
3 already filed this same information, this  
4 same content --

5           MR. GOYER:  Are you talking about  
6 filed in the court?

7           MR. BURDICK:  Filed in court, a  
8 pleading.

9           MR. GOYER:  That -- that's a  
10 different issue, okay?  If they have to bring  
11 a claim against Dr. Hay -- Hayden for his  
12 defa- -- defamation, they have to put it in  
13 evidence and they put that in the pleading.  
14 Is that what you're talking about?

15          MR. BURDICK:  It -- yeah.  It's  
16 listed as Exhibit 14 to his special  
17 appearance and his ex parte, uh, request for  
18 a TRO.  Okay.  His attorneys filed that with  
19 the court.

20          MR. GOYER:  Yeah, as evidence of  
21 wrongdoing by Dr. Hayden.

22          MR. BURDICK:  I'm not saying it's  
23 not.  I'm just saying if his attorneys have

1 filed it, I'm wondering how it is that he's  
2 never seen these exhibits.

3 Q. (BY MR. BURDICK) So you've already  
4 been provided this information. We see it  
5 in -- at least your attorneys have been  
6 provided it in some form --

7 A. Yes.

8 Q. -- because they filed it.

9 A. My attorneys have, not me. I --

10 Q. Okay.

11 A. To my knowledge, this is the first  
12 time I ever seen this right here.

13 Q. Okay. You attached an affidavit to  
14 your complaint, uh, and in your affidavit you  
15 state that you reside -- that until January  
16 30th, 2012, I resided at 12621 Tannehill  
17 Parkway, McCalla, Alabama 35111 with my  
18 spouse, Frankie S. Cashion, whom I married on  
19 November 25th, 2008; is that true?

20 A. That's true.

21 Q. And that's in Tuscaloosa County?

22 A. Tuscaloosa County.

23 Q. Where do you live now?

1           A.    Pleasant Grove.

2           Q.    And who do you live with?

3           A.    Uh, I have a nephew and his wife  
4 and their youngest son lives with me.

5           Q.    Why don't you just live on your  
6 own?

7           A.    I don't like living on my own.  
8                   (Discussion off the record.)

9           Q.    (BY MR. BURDICK) You also state  
10 that you own 95 percent of Western  
11 Properties, LLC. Who owns the other five  
12 percent?

13          A.    Jason Spinks.

14          Q.    Have -- what's the value of that  
15 interest in Western Properties, your 95  
16 percent interest?

17          A.    I haven't got the figures in front  
18 of me.

19          Q.    Let me ask you this. Since he owes  
20 you over \$100,000, why don't you just get him  
21 to transfer the five percent over to you?

22          A.    Well, I hadn't thought of it.

23          Q.    Haven't thought of it?

1 A. No, sir.

2 Q. Do you have any intention of  
3 collecting that debt?

4 A. Yes.

5 Q. Before you die?

6 A. Before I die, if the Lord is  
7 willing. If the Lord is willing.

8 Q. How do you plan to do that? I  
9 mean, you haven't accepted any payments yet  
10 on the principal.

11 A. Well --

12 MR. GOYER: Object to the form.  
13 Argumentative. You can answer.

14 Q. Are you gonna put him on some kind  
15 of payment schedule or what's -- what's the  
16 plan?

17 A. No. Increase in property value.

18 Q. What property?

19 A. Can I use an example?

20 Q. Please do.

21 A. Okay.

22 Q. No, I don't want an example. I  
23 want -- he's -- you -- he's gonna pay you

1 back by increased property values?

2 A. That's what I'm thinking.

3 Q. Are you talking about real property  
4 or are you talking about these deer that you  
5 were talking --

6 A. I'm talking about the real  
7 property.

8 Q. So what real property is gonna  
9 increase in value?

10 A. Well --

11 Q. Property owned by Western  
12 Properties?

13 A. Western Properties, yes, sir. I  
14 own 95 percent of it and, uh --

15 Q. But that's not a payment to you  
16 if --

17 A. You asked --

18 Q. -- your assets appreciate.

19 A. You asked -- you asked the question  
20 what properties would I profit so much or  
21 will profit so much. Let me tell you about  
22 one of them, 488 --

23 Q. I'm asking you how you're gonna get

1 paid back.

2 A. I'll tell you about one of them  
3 answering the question you asked. A 488-acre  
4 subdivision. He was able to find it and we  
5 was able to purchase it for \$413,000 and it  
6 was foreclosed on for 27 million dollars.

7 Q. Okay. But you're entitled to that  
8 anyway because you own 95 percent of Western  
9 Properties, right?

10 A. Yes. But I would've never found  
11 nothing if I hadn't have hired Jason Spinks.

12 Q. So Jason Spinks comes to work, does  
13 his job.

14 A. Right.

15 Q. And you consider that repaying the  
16 debt?

17 A. That -- that's my plan, that's his  
18 plan, period.

19 Q. So you don't really anticipate  
20 getting any payments from him?

21 A. Yes. He -- he wants to pay me and  
22 will pay me.

23 Q. Do you have a payment schedule?

1           A.    No, sir.

2           Q.    Is that how you run the rest of  
3 your businesses?  You just say, well, if  
4 you -- long as you plan to pay me, I'll be  
5 glad to do business with you?

6           A.    With some people and I know them,  
7 yes, I do business that way.  That's what's  
8 known as a handshake, doing business on a  
9 handshake.

10          Q.    But you let them just keep on going  
11 on not paying you.  That's a good business  
12 decision?

13          A.    Yes, sir.  If he's not able, yes,  
14 sir.

15          Q.    Why would he not be able to -- what  
16 do you pay -- what does he get paid to work  
17 at Western Steel?  You said he's on -- he's  
18 on salary.

19          A.    Yes.  Oh, I don't know.  I haven't  
20 got the figures in front of me.

21          Q.    He's your vice president and you  
22 don't have any idea what he's --

23          A.    Yeah.  I don't have the figures,

1 but I'd, you know, as a -- a guesstimation  
2 say \$60,000 a year.

3 Q. He makes \$60,000 a year and he  
4 can't make any payments toward a hundred  
5 thousand dollar loan?

6 A. That's right. He's got three  
7 children in college.

8 Q. Does he have a home that he lives  
9 in?

10 A. He does.

11 Q. Have you tried to put a lien on it  
12 or anything?

13 A. No. It's not in his name. Why do  
14 I want to put a lien on it when it's not in  
15 his name?

16 Q. Whose name is it in?

17 A. In his wife's name.

18 Q. That's convenient. What about  
19 Western Steel? Western Steel done anything?  
20 I mean, I know we talked about garnishments,  
21 but, uh, are they doing anything to collect  
22 on this 1.2 million dollars, this 1.25?

23 A. (No response.)

1           Q.    Let me ask it this way.  You told  
2   me they weren't doing anything.  Are -- are  
3   you doing anything to prevent them from it?  
4   Are you allowing Western Steel to progress --  
5   to -- to proceed after him for this judgment,  
6   for this money?

7           MR. GOYER:  Object to the form.  
8   You can answer.

9           Q.    Are you allowing them?

10          A.    (No response.)

11          Q.    You're not gonna answer?

12          A.    I don't know.

13          Q.    If your president comes in and  
14   says, Hey, we've got this debt out here for  
15   1.25 million dollars and it's owed to you by  
16   this guy who's got the desk sitting right in  
17   the room next to your desk; why don't we  
18   garnish his wages?  What would you say to  
19   him?

20          A.    Well, I'd make that decision, that  
21   business decision, at that time, not now.

22          Q.    But you haven't even addressed that  
23   business decision during the whole time he's

1       owed you this money, correct?

2               A.     Not corporate wide, no.

3               MR. GOYER:   The decision to garnish  
4       his wages; is that --

5               MR. BURDICK:   Uh-huh.

6               MR. GOYER:   -- what you're talking  
7       about?

8               Q.     The truth is you really just don't  
9       care if he pays you back.

10              A.     Oh, I do care.

11              Q.     Then why aren't you doing anything  
12       to get paid back?

13              A.     Well, he is.   He's working to pay  
14       it back.

15              Q.     He's working by working for Western  
16       Properties and going out and buying property  
17       which you're entitled to the benefit of  
18       anyway because he's your employee.

19              MR. GOYER:   Object to the form.  
20       Argumentative.

21              Q.     Is that correct?

22              MR. GOYER:   Same objection.   You  
23       can answer.

1           A.    Well, that's the way he's working  
2   to pay it back.

3           Q.    Okay.  Do you feel like that's a  
4   good business decision, good business model?

5           A.    Yes, sir.

6           Q.    Mr. Campbell, your president -- did  
7   you say he's your president now?

8           A.    President.  Yes, sir.

9           Q.    And he was previously your vice  
10  president in charge of production?

11          A.    That's correct.

12          Q.    When was he made the vice president  
13  in charge of production?

14          A.    Uh, I don't remember the year, but  
15  it's been several years.

16          Q.    Been a good while?

17          A.    Yes, sir.

18          Q.    Over the past 25 years, have you  
19  had daily contact with Mr. Campbell?

20          A.    Yes, I have.

21          Q.    Every day?

22          A.    Not every day because I'm not in  
23  the plant offices every day.

1 Q. Do you call him on the phone?

2 A. Sometimes.

3 Q. Before he was vice president, why  
4 would you speak to him so frequently?

5 A. Because he was -- he was running  
6 Western Pipe Service, a division, doing a  
7 good job, perfect job.

8 Q. Okay. Let me ask you this. How  
9 frequently would you talk to him on the  
10 phone? And just exclude all the personal  
11 contact when he'd come out to the plant. But  
12 how often do y'all -- did y'all actually talk  
13 on the phone?

14 A. If I was out of town, basically  
15 daily.

16 Q. Okay. So when you were living in  
17 the Virgin Islands, y'all were talking to  
18 each other every day?

19 A. That's correct, Skyped.

20 MR. BURDICK: How much more time  
21 have we got?

22 THE VIDEOGRAPHER: 13 minutes to  
23 the hour mark.

1 MR. HAYDEN: Okay.

2 MR. BURDICK: When did y'all say  
3 you needed to be done?

4 MR. GOYER: 13 minutes.

5 MR. BURDICK: 13 minutes? I guess  
6 we're gonna set up a time to come back and  
7 talk to y'all or that's the position --

8 THE WITNESS: Could I make a  
9 suggestion we don't come back until y'all get  
10 a ruling about 10:16?

11 MR. GOYER: Yeah.

12 MR. BURDICK: Do what?

13 THE WITNESS: I suggest we don't  
14 come back until we get a ruling about 16 --  
15 10:16, can I talk about it or not talk about  
16 it.

17 MR. COLVIN: Yeah.

18 MR. GOYER: Yeah.

19 (Discussion off the record.)

20 MR. BURDICK: All right. And, of  
21 course, we're gonna have some discussions  
22 about documents and you've furnished me with,  
23 I think, more objections than documents.

1                   MR. GOYER: I think we furnished  
2 you with about 560 pages of documents plus  
3 there are documents attached to the complaint  
4 and also documents attached to the request  
5 for admissions to be filed this week. So  
6 you've got lots of documents.

7                   MR. BURDICK: But of the 560 -- 559  
8 that you provided me, close to 500 of those  
9 were not responsive to my discovery request  
10 but were responsive instead to what we  
11 discussed at the previous deposition. That's  
12 what your letter says -- maybe not your  
13 letter, but the letter from the company that  
14 came with it. It says that -- that you sent  
15 me documents 1 through 559. And with that  
16 production set, please note that documents  
17 labeled 54 through 536 are copies of our  
18 correspondence with John Charles. So most of  
19 the documents, the vast majority of the  
20 documents you sent me, are not responsive.

21                   MR. GOYER: I disagree, but, I  
22 mean, go through the stuff we gave you and  
23 we'll see.

1                   MR. BURDICK:  And we'll deal --  
2    like I said, we'll -- we'll save that for  
3    another day.  But basically we need to come  
4    back to just finish up sometime.

5                   MR. GOYER:  Well, we'll come back  
6    to cover 10:16 Mining and we'll see what  
7    else.  I mean, it's not an unlimited time for  
8    you to take his deposition.

9                   MR. BURDICK:  Well, I'll try and  
10   keep it in less time than you guys spent with  
11   my clients.

12                  MR. GOYER:  Which was eight hours  
13   and 10 minutes.  We counted it up,  
14   depositions.

15                  MR. BURDICK:  Of all my clients  
16   total?

17                  MR. GOYER:  No.  With that -- with  
18   Dr. Hayden.

19                  MR. BURDICK:  Okay.

20                  MR. GOYER:  I think, uh, his wife's  
21   was less than that.

22                  MR. BURDICK:  All right.  Well,  
23   these are your claims so I should get more

1 time to find out what the claims are so I can  
2 defend them.

3 MR. GOYER: Well, I think if you  
4 had asked about the claim instead of a bunch  
5 of wasteful documents on assays that he  
6 doesn't know anything about, we'd get --

7 MR. BURDICK: I thought he -- he  
8 told me he did know about them.

9 MR. GOYER: I think we're wasting  
10 time here, Austin.

11 MR. BURDICK: I agree.

12 MR. GOYER: Have you got any other  
13 questions in the next five minutes?

14 MR. BURDICK: I tell you what.  
15 Most everything that I need to discuss has to  
16 do with 10:16 or related issues --

17 MR. GOYER: All right.

18 MR. BURDICK: -- that -- well, one  
19 last thing.

20 Q. (BY MR. BURDICK) Would you look at  
21 this?

22 MR. BURDICK: Let you look at that.  
23 That document, we'll label it No. 7. Let me

1 slap that sticker on there.

2 (Whereupon, Defendants' Exhibit

3 No. 7 was marked for

4 identification.)

5 Q. Does it, uh -- do you recognize  
6 Gene Calhoun's signature on that document?

7 A. I do.

8 Q. Was Gene Calhoun president of  
9 Western Steel when he signed that document?

10 A. In -- in all probability, yes, sir.

11 Q. Okay. What's the date on that  
12 document?

13 A. Uh, right down here at the bottom,  
14 1/26/12.

15 Q. Okay. So on 1/26/12 was Gene  
16 Calhoun the president of Western Steel,  
17 Incorporated?

18 A. He was.

19 Q. All right. And so if he issued  
20 this certificate -- it says certificate of  
21 stock of Western Steel, Incorporated. This  
22 certifies that William B. Cashion Nevada  
23 Spendthrift Trust is the sole owner of 13,515

1 shares of outstanding stock of Western Steel,  
2 Incorporated, a corporation of Alabama whose  
3 registered address is 3360 Davey Allison  
4 Boulevard, Hueytown, Alabama. If he signed  
5 that as president, is it valid?

6 MR. GOYER: Object to the form.

7 Asks for a legal conclusion.

8 A. From my directions, he was  
9 president at that time. Yes, sir.

10 Q. Okay. So he had the authority to  
11 sign a stock certificate at that time?

12 MR. GOYER: Object to the form.

13 Calls for a legal conclusion.

14 A. I disagree with that totally.

15 Q. Okay. So he did not have  
16 authority?

17 A. He did not have authority.

18 Q. How -- who has authority to sign a  
19 stock certificate, then?

20 A. William B. Cashion.

21 Q. So only a stockholder could sign  
22 the stock certificate even if the stock  
23 certificate was transferred to someone else?

1 MR. GOYER: Object to the form.

2 Asks for a legal conclusion. You can answer.

3 A. Yes.

4 Q. So the president, according to --

5 from what you know, he had no authority

6 whatsoever to transfer this stock?

7 A. That's exactly right. That's my

8 opinion.

9 Q. Okay. What's that opinion based  
10 on?

11 A. My knowledge.

12 Q. Of?

13 A. My knowledge of the corporation.

14 The corporation has one shareholder and one

15 director and I'm it. He didn't have any

16 authority to sign that without my permission.

17 Q. So --

18 A. He also had an obligation to me

19 to -- to discuss it with me before he signed

20 that piece of paper right there.

21 Q. Are you familiar with this

22 document? Have you ever seen it before?

23 A. I'm familiar with the bylaws.

1 Q. Okay.

2 MR. GOYER: All right. This is --  
3 are we gonna mark this?

4 THE WITNESS: You've got to mark  
5 it.

6 MR. BURDICK: Yeah. Exhibit No. 8.  
7 (Whereupon, Defendants' Exhibit  
8 No. 8 was marked for  
9 identification.)

10 Q. Please identify that document for  
11 the record.

12 A. It's bylaws of Western Steel,  
13 Incorporated, uh, adopted on October 1st,  
14 1987 before Gene Calhoun went to work.

15 Q. Okay. So these are the bylaws that  
16 have existed since then?

17 A. Yes, sir. And still in existence  
18 and still enforced.

19 Q. Okay. They have -- they haven't  
20 been altered since this date?

21 A. No, sir.

22 Q. Okay. In the first paragraph it  
23 says, The principle office of the corporation

1 shall be at or near Midfield, Alabama and the  
2 corporation may also have such office or  
3 offices as -- at such places as the board of  
4 directors shall from time to time designate.

5 A. That's right.

6 Q. So they could -- the principle  
7 place of business can be moved by the board  
8 of directors?

9 A. And was moved.

10 Q. Where was it moved to?

11 A. From Midfield to a county next to  
12 Hueytown [sic].

13 Q. Okay. All right. Number five, any  
14 stockholder or stockholders owning as much as  
15 50 percent of the stock may at any time call  
16 a special meeting of stockholders for any  
17 business that may come before them and a  
18 majority of all the stockholders, according  
19 to the number of shares owned, shall  
20 constitute a quorum.

21 A. That's what it says.

22 Q. All right. So up until this time,  
23 you had been the majority of stockholders by

1     yourself, correct?

2                   MR. GOYER:  Up until what time?

3                   MR. BURDICK:  Up until January

4     1st -- uh, sorry -- January 26, 2012.

5                   A.     That's right.  I was and still am.

6                   Q.     Okay.  And so the president has no  
7     authority to do that?

8                   A.     That's exactly right.

9                   Q.     Are you aware of any document that  
10    designates that the president doesn't have  
11    any authority to sign stock certificates?

12                   MR. GOYER:  Object to the form.  It  
13    calls for a legal conclusion.

14                   A.     My opinion --

15                   MR. BURDICK:  I'm asking of a  
16    document that he's aware of.

17                   A.     In my opinion, there's no document  
18    in the world that says that he has the, uh --  
19    contracts, deeds, agreements, mortgages,  
20    obligations, instruments, all that stuff, is  
21    authorized by the board of directors, and I  
22    did not authorize him signing that piece of  
23    paper.

1 Q. Who selects the board of directors?

2 A. I'm the board of directors.

3 Q. How are you selected?

4 A. By myself.

5 Q. Is there much argument about it?

6 A. What was the question?

7 MR. GOYER: Come on, Austin.

8 Q. Uh --

9 A. Why beat a dead dog?

10 Q. You're not a dead dog.

11 A. Uh, this subject's a dead dog.

12 Q. Oh. Well, here. Let's look at one  
13 more document.

14 MR. GOYER: All right. We're gonna  
15 mark this Exhibit 9.

16 MR. BURDICK: Yeah.

17 MR. GOYER: Defendants' Exhibit 9.

18 (Whereupon, Defendants' Exhibit  
19 No. 9 was marked for  
20 identification.)

21 Q. Can you identify the document for  
22 me?

23 A. Yes, sir. It was written by me.

1 Uh --

2 Q. That's in your handwriting?

3 A. Yes, sir, in my handwriting called  
4 a written memorandum --

5 Q. Okay.

6 A. -- to Mark Hayden on 3/31/2010.

7 And the subject is my last will dated

8 3/21/2010 -- March 31 -- I'm sorry 31/2010.

9 Q. Okay. And we skip down to the last  
10 paragraph.

11 A. All right.

12 Q. You tell me if I'm reading it  
13 right.

14 A. Right.

15 Q. Uh, I suggest you pay yourself  
16 about two and a half percent of my total  
17 estate for your work as executor. Also hire  
18 Marty Higgins of Living & Company to help  
19 you. He knows a lot about my business.  
20 Please take all expenses out of my estate.

21 A. That's right.

22 Q. Did you write that?

23 A. Yes, sir.

1 Q. So you intended for, uh, Dr. Hayden  
2 to take two and a half percent of your estate  
3 for his services as executor?

4 A. Plus expenses.

5 Q. Plus expenses?

6 A. Right.

7 Q. Earlier you testified that you  
8 never intended for him to take any fee at  
9 all.

10 A. Well, I had forgotten about this  
11 memorandum --

12 Q. Okay.

13 A. -- so that explains that.

14 Q. Is it possible you could've  
15 forgotten any other agreement before or after  
16 this?

17 MR. GOYER: Object to the form.

18 A. It's a possibility, yeah.

19 MR. GOYER: Calls for speculation  
20 and conjecture.

21 Q. Okay. Uh, that one is marked.  
22 You've got that one. Take a look at this  
23 real quick.

1 MR. BURDICK: Mark it as No. 10.

2 Please put this sticker on there.

3 (Whereupon, Defendants' Exhibit

4 No. 10 was marked for

5 identification.)

6 Q. Have you ever seen this document

7 before?

8 MR. GOYER: For the record, this

9 purports to be an Action By Written Consent

10 Of The Sole Shareholder of Western Steel,

11 Inc., dated January 12th, 2007.

12 MR. BURDICK: Okay.

13 Q. Have you ever seen this document

14 before?

15 A. (Witness reviewing document.) Yes,

16 I've seen it before. I executed it on, uh,

17 January the 12th, 2007.

18 Q. That's your signature on there?

19 A. Yes, sir.

20 Q. Okay. Now, this says, In witness

21 thereof, the undersigned -- this is the last

22 full paragraph -- In witness thereof, the

23 undersigned has executed this action by

1 written consent as to the date and year first  
2 above written waiving all notice  
3 requirements, whether provided by statute or  
4 otherwise. Did you waive notice  
5 requirements?

6 A. I did.

7 Q. Okay. So for any of these -- any  
8 action to be taken -- to be taken by -- any  
9 action contemplated herein, you weren't  
10 required to receive notice?

11 MR. GOYER: Object to the form.  
12 Calls for a legal conclusion.

13 A. Yes.

14 Q. Okay.

15 THE WITNESS: Counsel, do I have --

16 MR. GOYER: Shush. We'll talk  
17 about that in a second.

18 Q. You ran another company called  
19 Preach the Gospel; is that right?

20 A. That's right. Well, it's an  
21 Alabama nonprofit foundation. I don't have  
22 it. It's an Alabama nonprofit foundation.

23 Q. Well, what's your relationship to

1 that company --

2 A. Well, I'm --

3 Q. -- that nonprofit company?

4 A. Well, I'm -- I'm -- I'm in charge  
5 of it, period.

6 Q. You're in charge of it?

7 A. Yes, sir.

8 Q. Do you have any -- bear any titles  
9 with regard to Preach the Gospel?

10 A. Do I have a title?

11 Q. Yeah. Are you the president or  
12 CEO?

13 A. No. Nothing -- nothing but -- no.  
14 I'm -- I'm -- I'm a Christian and it -- it's  
15 Christian endeavor and that's -- you know,  
16 that's it.

17 Q. So you -- what -- what's your  
18 responsibility with regard to Preach the  
19 Gospel? Did you start that company --

20 A. I did.

21 Q. -- or entity?

22 A. I started that entity. Yes, sir.

23 Q. All right. And what was the

1 purpose for doing that?

2 A. To, uh, uh, pay missionary  
3 preachers through Churches of Christ and do  
4 other things to, uh, help preach the gospel  
5 around the world.

6 Q. Okay. Where does the funding come  
7 from for that entity?

8 A. Well, a number of places, uh,  
9 myself personally and Western Steel  
10 Corporation and other individuals at times.

11 Q. Okay. What percentage would you  
12 say of the contributions that are received by  
13 Preach the Gospel are received from you?

14 A. Are you asking me personally or  
15 corporate wide because --

16 Q. I'm asking you personally first.

17 A. Oh, okay. Personally, uh, uh, some  
18 percentage. Uh, you know, I don't know the  
19 exact figures, but what would you like for me  
20 to say?

21 Q. I don't really have a preference.  
22 I just kind of want to know what -- what the  
23 truth is.

1           A.    Well, I'm telling you I ain't got  
2   the figures in front of me.

3           Q.    What about Western Steel?  What  
4   percentage of -- of the contributions come  
5   from Western Steel?

6           A.    The biggest portion.

7           Q.    80 percent, 90 percent, 50 percent,  
8   51 percent?

9           A.    I -- I'm not willing -- I'm not  
10  willing to give you a figure without the --  
11  the facts in front of me.

12          Q.    Did you create this entity as a tax  
13  shelter or a sh- -- tax shield?

14          A.    No, sir.

15          Q.    Do you claim your contributions to  
16  this entity on your taxes?

17          A.    You better bet.

18          Q.    Western Steel does as well?

19          A.    Well, they're on my -- it's a  
20  Subchapter S Corporation.  They're on my tax  
21  return.

22          Q.    Okay.  Is there anyone else that  
23  you contribute more charitable funds to than

1 Preach the Gospel?

2 A. Ask me that again.

3 Q. Do you contribute more charitable  
4 funds to any other entity or is -- or is, uh,  
5 Preach the Gospel your main charity that you  
6 contribute to?

7 A. It's -- it's my main. I do others,  
8 but it's my main.

9 Q. Okay. Do you know how much money  
10 you and Western Steel gave to Preach the  
11 Gospel last year?

12 A. No. Not exactly.

13 Q. Okay.

14 MR. GOYER: I think we're done.

15 MR. BURDICK: Out of time?

16 MR. GOYER: Yeah.

17 MR. BURDICK: It's been a pleasure.  
18 And we'll come back and talk about the  
19 remaining issues --

20 THE VIDEOGRAPHER: This marks --

21 MR. BURDICK: -- documents.

22 THE VIDEOGRAPHER: This marks the  
23 end of videotape six. Going off the record,

1 4:19 p.m.

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3 (THE DEPOSITION CONCLUDED AT 4:19 P.M.)

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1 CERTIFICATE

2 STATE OF ALABAMA )

3 COUNTY OF JEFFERSON )

4 I hereby certify that the above and  
5 foregoing proceeding was taken down by me in  
6 stenotype and the questions and answers  
7 thereto were transcribed by means of  
8 computer-aided transcription, and that the  
9 foregoing represents, to the best of my  
10 ability, a true and correct transcript of the  
11 proceedings occurring at said date and said  
12 time.

13 I certify that I am neither of counsel,  
14 nor kin to the parties to the action, nor am  
15 I in anyway interested in the result of said  
16 cause named in said caption.

17 I further certify that I am duly  
18 licensed by the Alabama Board of Court  
19 Reporting as evidenced by the ACCR number.

20

21 /s/Bridget Stacey McClain

22 Bridget Stacey McClain

23 ACCR #56 - Expires 9/30/12

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