

1 Timothy C. Rote  
7427 SW Coho Ct. #200  
2 Tualatin, OR 97062  
3 503.272.6264  
timothy.rote@gmail.com  
4

5 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
6 FOR THE COUNTY OF CLACKAMAS  
7

8 MAX ZWEIZIG,

9 Plaintiff,

10 vs.

11 TIMOTHY ROTE, TANYA ROTE,

12 Defendants  
13

Case No.: 23CV28582

DEFENDANT TIMOTHY ROTE’S  
DECLARATION AND EXHIBITS IN  
SUPPORT OF ANTI-SLAPP MOTION TO  
STRIKE, MOTION TO DISMISS AND  
MOTION FOR SANCTIONS

14  
15 I, TIMOTHY ROTE, do hereby declare:

16 1. I represent myself in the above-captioned case. I make this declaration on personal  
17 knowledge and am competent to testify to the matters stated herein.

18 2. I started the blog “When Justice Fails in 2015. Plaintiff Zweizig is still attempting  
19 to suppress much of the blog from the public. I started that blog to expose the compromises,  
20 corruption and costs I identified in the Zweizig arbitration, by sharing with the audience all of  
21 the evidence presented during the arbitration. One of the most serious of these issues was that  
22 the arbitrator Bill Crow, referred one of his former Miller Nash partners to Zweizig sometime  
23 in 2009, soon after Zweizig sent him an email requesting more time after Zweizig’s latest  
24 attorney resigned. It was not until we were in the middle of the first day of arbitration in 2010  
25 that this scam came to light. Once confronted on this, arbitrator Crow attempted to resign.  
26 Later Crow would provide to me a declaration confirming that he was approached to assist

1 Zweizig by federal Judge Michael Mosman, also a former Miller Nash employee. Crow  
2 admitted to being overwhelmed and relying heavily on his former partner Linda Marshall, a  
3 decision he would soon regret.

4 3. Mosman in turn was approached by Robert Kugler, also a Federal Judge in Camden  
5 New Jersey. Kugler is a person with whom Zweizig's girlfriend Sandra Ware had been in an  
6 intimate and open relationship and she called in a favor. Kugler and Ware met at a Rutgers law  
7 School function sometime in 2003. Kugler and Mosman were both on the FISA Court at the  
8 time Mosman reached out to Crow, which according to Crow was in 2009.

9 4. Attached hereto as Exhibit 1 is a true and accurate copy of Plaintiff Zweizig's  
10 Fraudulent Transfer action filed in 2019 in Clackamas Court, case #19cv01547, against the  
11 same Defendants named in this case. In that action, Zweizig was granted an anti-SLAPP  
12 Motion to Strike the defendant's counterclaims for IIED, Defamation, Slander of Title, and  
13 Interference with Contract. The anti-SLAPP was granted against those Counterclaims upon a  
14 finding that those damages identified arose in judicial proceedings, i.e., in Zweizig's pursuit to  
15 reverse transfers he unilaterally convinced himself were fraudulent even when those transfers  
16 occurred twelve years before the judgment he was attempting to collect. Now the table has  
17 been turned and he is seeking defamation and IIED damages for filings I made in judicial  
18 proceedings. Zweizig's anti-SLAPP Motion in that case is also included with this exhibit.

19 5. Attached hereto as Exhibit 2 is a true and accurate copy of the signed General  
20 Judgment in case 19cv01547, dismissing Zweizig's claims with prejudice, as well as the  
21 related Court of Appeals AWOP and Denial of Zweizig's Motion for Reconsideration.

22 6. Attached hereto as Exhibit 3 is a true and accurate copy of Zweizig's federal action  
23 whistle blower complaint, case 3:15-cv-2401, wherein Zweizig also requested declaratory  
24 relief framed in a way that was intended to suppress my blog. Zweizig's attorney was advised  
25 that the blog was a free speech product and it could not be suppressed. Zweizig chose to not  
26 pursue a defamation claim or declaratory relief in that case because he had concluded the

1 forensic reports referenced in the blog would need to get into the trial. He feared the truth of  
2 his despicable and filthy behavior as he does now. No further action was taken to suppress the  
3 blog. Joel Christiansen, Zweizig's attorney in that case, was so repulsed by what he found out  
4 about Zweizig that he stopped practicing law and moved to Washington State.

5 7. Attached hereto as Exhibit 4 is a true and accurate copy of Zweizig's deposition in  
6 case 19cv01547, dated December 21, 2020. As a result of Zweizig's many admissions in that  
7 deposition, to what can easily be labeled as perjury and during the 3:15-cv-2401 trial, I filed a  
8 Motion to Vacate the \$1 million judgment Zweizig is pursuing even today.

9 8. It is appropriate to offer some historical perspective to Zweizig's litigation strategy  
10 and the unlawful steps he took to destroy his employer.

11 9. The typical evolution of Zweizig's more than 12 attorney relationships starts out  
12 with his sob story of abuse and the presentation of what on its surface looks like a credible case.  
13 Then he reveals that he is a child predator and engaged in cybercrime and identity theft (while  
14 engaged as an IT manager for his former employer, Northwest Direct). Then he threatens  
15 malpractice if that attorney were to reveal any of these secrets and squeezes the attorney to  
16 provide services only on a contingent fee basis. In almost every case, the attorneys that have  
17 represented Zweizig enter into a contingent fee relationship, but then upon finding out what  
18 Zweizig has done attempt to move to an hourly billing. He is a pathological liar. The Oregon  
19 State Bar Professional Liability Fund has been providing free legal services to Zweizig since  
20 2020.

21 10. What Zweizig does not at first reveal to his attorneys, nor in Court documents, is  
22 that he and three others formed a competing company a few months after he started working  
23 for Northwest Direct (a company I previously owned and controlled). Zweizig was subject to a  
24 non-compete employment agreement, which was affirmed in New Jersey state court. Zweizig's  
25 principal co-conspirator organized a Delaware company called Superior Results Marketing and  
26 had started reaching out to customers of Northwest Direct when their plan was discovered. The

1 ring leader of that effort was removed from the company. Zweizig appealed to me for leniency  
2 and I allowed him to stay; however I later discovered that within six months of his clemency he  
3 began removing programming owned by my company in order to attempt another coup with  
4 the same players.

5 11. When that new coup was placed in motion Zweizig took steps to destroy his  
6 employer's programming infrastructure. By May 2003 he had removed all the programming  
7 owned by his employer, from servers in Oregon and Iowa (including back-ups maintained  
8 offsite). He further stole 500,000 personal identity records from notable clients.

9 12. In September 2003 Zweizig made his move by withholding client files and data that  
10 should have been returned to several clients since May 2003. Those clients put my company on  
11 notice that they were about to terminate our contracts if the reports and data were not  
12 immediately completed and returned. In exchange for completing that work and meeting those  
13 client contractual mandates, Zweizig demanded a raise, a bonus of \$50,000 and a vice-  
14 president title. I refused to bend to that extortion and terminated Zweizig in writing in October  
15 2, 2003, just after he completed processing and returning the client files.

16 13. In response and three weeks later, Zweizig filed several false claims with the  
17 Department of Justice and Lane County District attorney, claiming my company had overbilled  
18 clients. What he did not convey was that his allegation of overbilling was for some \$400 in  
19 October 2003, a month in which his employer billed over \$450,000. In fact his employer  
20 Northwest Direct (my company) had not invoiced any clients as yet that month of October  
21 2003. Those clients were not overbilled. Later in the arbitration Zweizig would claim that my  
22 company was not even permitted to give discounts to clients for any reason, showing the child  
23 like views which he carries even today at 60 years old.

24 14. Soon after Zweizig was removed I was forced to shut down the company so that the  
25 programming could be recreated. The shut-down forced me to lay off more than 100 people  
26 during that same time period. All of that could have been avoided had Zweizig returned that

1 programming. He carried through with his extortion threats. None of this is refuted by Zweizig.  
2 His threats were well documented via email and in spite of his representation to the contrary,  
3 the programming did exist and was found on a 120 gig hard drive he had reformatted.

4 15. As I previously indicated, Zweizig fabricated the failure of a 120 gig hard drive in  
5 May 2003, in order to carry out his extortion plan and presumably to cover up the existence of  
6 the employer owned programming. That programming was used to process and report on  
7 100,000 bits of data generated daily in multiple call centers. Zweizig deployed a new 60 gig  
8 hard drive in May 2003 to replace the 120 gig hard drive he claimed had failed. Zweizig did  
9 not however put the existing data programming files on the 60 gig hard drive.

10 16. About 1.5 years later, and after Zweizig had shut down the company, forensic  
11 computer experts were hired to evaluate the 120 gig and 60 gig hard drives used by Zweizig.  
12 All three experts opined and testified that the programs Zweizig claimed did not exist were  
13 found on the 120 gig hard drive. He had destroyed them by reformatting the hard drive. Since  
14 Zweizig had admitted to reformatting the 120 gig hard drive, he and his attorney Linda  
15 Marshall then tried to make a case that the destroyed programming could have discovered  
16 sooner and used to avoid the shutdown. The computer forensic experts opined that the  
17 programming could not have been used, since bits of program language would have been  
18 scrambled with the reformatting process.

19 17. Those same experts found porn, child porn and pirated movies and videos on that  
20 120 gig hard drive. They found 500,000 identity records that Zweizig had stolen and sold on  
21 the black market.

22 18. Attached hereto as Exhibit 5 is a true and accurate copy of my amended Motion to  
23 Vacate Zweizig's judgment for Fraud Upon the Court, filed on November 15, 2022. My Reply in  
24 support is also attached.

25 19. Attached hereto as Exhibit 6 is a true and accurate copy of my Declaration in Support  
26 of my Motion to Vacate. I have provided the declaration only as many of the attachments are

1 also provided herein as supporting attachment. My declaration in support of my reply is also  
2 attached.

3 20. Attached hereto as Exhibit 7 is a true and accurate copy of Zweizig's petition for a  
4 pre-trial order in case 19cv01547, the intent of which was to suppress my publication of  
5 Zweizig's deposition and my blog. Zweizig's Declaration is also provided in this exhibit. The  
6 common interpretation of Zweizig's declaration is that he will not be able to influence a jury in  
7 the 19cv01547 case if a jury member would to see what he has been up to. That is similar to the  
8 Motion in Limine he filed in Federal Court preceding the January 2018 trial.

9 21. Attached hereto as Exhibit 8 is a true and accurate copy of the Transcript of the  
10 March 9, 2021 hearing, during which the Court denied Zweizig's pre-trial order and  
11 specifically found the blog is a free speech product. Zweizig attempted to invoke that the blog  
12 should be suppressed because of my critiques of the Court; however, the Court was not  
13 entertained by Zweizig's argument. Zweizig is attempting to re-litigate this question in this  
14 new case. And I would point out that many of the blog posts attached by Plaintiff to his  
15 complaint take issue with decisions made by the Oregon Judicial Department and/or the PLF.  
16 Chapter 196 for example explores why would the PLF fight to not disclose the coverage  
17 agreement with Zweizig when they are required to do so under Oregon Law.

18 22. Attached hereto as Exhibit 9 is a true and accurate copy of the Excerpt of Record,  
19 Volume II, filed with the 9<sup>th</sup> Circuit Court of Appeals Opening Brief. Zweizig filed the  
20 Opening Brief as Exhibit 2 to this Complaint, but argued therein that there was no evidence  
21 that supported my Motion. Excerpt Volumes I through III provide almost 700 pages of  
22 evidence to the Court.

23 23. Attached hereto as Exhibit 10 is a true and accurate copy of the Table of Contents  
24 only of the Excerpt of Record Volumes I and III.

25 24. Attached hereto as Exhibit 11 is a true and accurate copy of a 1099NEC filed with  
26 the Internal Revenue Service reflecting my interpretation of the value sectors of the LGB

1 community assigned to Zweizig taking the stock of a shell company, on a property offered to  
2 him and a property he rejected three times. He may certainly take issue with the value of  
3 \$750,000, but directly with the IRS. His complaint in this case is also for \$750,000 in damages  
4 and his jumbled thought process is that he due more than the \$1 Million in judgment he already  
5 has. In fact, the taking of the stock in the sheriff sale was designed by Zweizig's former  
6 attorney to only offset \$1,000 against the judgment.

7 25. Attached hereto as Exhibit 12 is a true and accurate copy of some of the computer  
8 forensic reports that have heretofore been provided to the Federal and State Courts, which were  
9 included as Exhibit 5 in the Excerpt of Record Volume II. This small sample of forensic reports  
10 outlines some of the critical details of the evaluation of Zweizig's 120 gig hard drive. For  
11 example, on page 47 of Exhibit 12 forensic expert Mark Cox opines as follows:

12 "It is my conclusion the 120 GB hard drive was in normal usage prior to May 12,  
13 2003...Between May 12, 2003 and November 12, 2003 the hard drive was being  
14 used mainly as a storage medium for video files...Following the November 12,  
15 2003 re-formatting of the hard drive, the hard drive was not used or accessed and  
16 no subsequent dates or recovered files are present on the hard drive."

17 The other forensic experts agreed, namely all the material found on the 120 gig hard  
18 drive was put there while in Max Zweizig's possession. Zweizig testified that the computer and  
19 120 gig hard drive was always in his possession, login and password protected by him. The  
20 forensic experts also opined that the computer failure Zweizig alleged was not true and that  
21 contrary to his testimony the hard drive was not reformatted and put into a safe on May 12,  
22 2203 by Zweizig, but rather continued to be used by him to store his porn, child porn, and  
23 pirated music and videos.

24 26. Attached hereto as Exhibit 13 is a true and accurate copy of the Transcript of the  
25 April 5, 2023 hearing in case 22cv17744, before Judge Leslie Roberts. The commentary from  
26 Roberts that I should not publish information and documents outside of a judicial proceeding

1 could be interpreted as encouraging Zweizig to file a complaint in this case on behalf of the  
2 Oregon Judicial Department and in retaliation for my prior Civil Rights Law Suits against the  
3 Department and/or PLF. Although Roberts admonished Zweizig to not then bring his own  
4 malicious use case, my evaluation of this complaint is that it was brought by Zweizig out of the  
5 encouragement he read from Roberts, which is why some of his attachments in Plaintiff  
6 Exhibit are critiques of the judiciary.

7 27. Attached hereto as **Exhibit 14** is a true and accurate copy of a transcript of a 2010  
8 arbitration hearing in which Arbitrator Crow found that Northwest did nothing wrong (pages 3-  
9 6). Crow asked Zweizig whether it was unlawful in his mind for Northwest to write-off what it  
10 considered unproductive hours. Zweizig testified, "I would say yes."(pages 8-10).

11 28. Attached hereto as Exhibit 15 is a true and accurate copy of a document I pulled off  
12 the web from a site titled *ageofconsnet.net*. Based on my research the age of consent in Oregon  
13 now and at the time Zweizig downloaded his child porn is age 18. Showing a child age 16  
14 engaged in sexual contact is child porn under Oregon law.

15 29. Attached hereto as **Exhibit 16** is a true and accurate copy of Exhibits and testimony  
16 during the 2010 arbitration hearing. Pages 1 and 2 of that exhibit are exhibits of an email  
17 exchange between me and Zweizig, wherein he alleges there are no programs and he made no  
18 transfer of programs to process and report daily on 100,000 bits of data generated by the call  
19 center groups owned by Northwest, Zweizig's employer. Pages 3-6 is cross examination  
20 testimony by Zweizig confirming he refused to transfer the programming maintaining it did not  
21 exist. Page's 7-11 of the exhibit is an excerpt of the testimony from Justin McAnn who  
22 confirmed he found 1900 programs on the 120 gig hard drive Zweizig reformatted. The  
23 forensic reports provide at **Exhibit 12** also confirm that there were 1900 programs Zweizig  
24 claimed did not exist that he destroyed to carry out his extortion and destruction scheme. There  
25 are hundreds of pages of expert testimony opining that Zweizig removed the 1900 programs  
26 from other Northwest servers, destroyed the 120 gig hard drive which contained the programs



1 and that those same programs were never added to the 60 gig hard drive which he used from  
2 May 2003 through his day of employment of November 13, 2003.

3 30. Attached hereto as **Exhibit 17** is a true and accurate copy of an Exhibit 2 to a report  
4 issued by Zweizig's expert Justin McAnn, which shows a picture uploaded by Zweizig on  
5 September 30, 2003, at 11:09 am, to the 60 gig hard drive with a path of c:\\NWT  
6 Employee\\My Documents\\My Pictures. It is un-refuted that Zweizig had the 60 gig hard drive  
7 in his exclusive control up until he returned it on November 13, 2003. **Exhibit 16** shows the  
8 dates of the email traffic arranging for me to pick up that computer and hard drive. There are  
9 hours and hours and hundreds of pages of testimony that confirms Zweizig had possession of  
10 that hard drive until November 13, 2003.

11  
12 **I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST**  
13 **OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE**  
14 **FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR**  
15 **PERJURY.**

16  
17 Dated this 14<sup>th</sup> day of August, 2023

18  
19 */s/ Timothy C. Rote*  
20 

---

Timothy C. Rote,  
21 Defendant *Pro Se*  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing on:

The Cauble Firm  
Attn: Chase Beguin  
111 S.E. Sixth St.  
Grants Pass, Oregon 97258  
541.476.8825  
[cbeguin@thecaublefirm.com](mailto:cbeguin@thecaublefirm.com)  
Of Counsel for Max Zweizig

Chenoweth Law Group  
Attn: Brooks Foster  
510 SW 5<sup>th</sup>, 4<sup>th</sup> Floor  
Portland, OR 97204  
[foster@chenowethlaw.com](mailto:foster@chenowethlaw.com)  
Of Counsel for Tanya Rote

Via First Class Mail

Via Email

Via OECF Notification

DATED: August 14, 2023

*/s/ Timothy C. Rote*  
\_\_\_\_\_  
**Timothy C. Rote**  
Defendant *Pro Se*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

MAX ZWEIZIG, an individual,  
Plaintiff,  
v.  
TANYA ROTE and TIMOTHY ROTE,  
husband and wife; and NORTHWEST  
HOLDING, LLC, an Oregon limited liability  
company,  
Defendants.

Case No.  
**COMPLAINT (Fraudulent Transfer)**  
NOT SUBJECT TO MANDATORY  
ARBITRATION  
Amount Claimed: \$500,000  
Fee Authority: ORS 21.160(1)(c)

Plaintiff alleges:

1.

On December 24, 2015, plaintiff commenced an action against Timothy Rote and other entities which he owned or controlled.

2.

On November 20, 2018, judgment was entered in favor of plaintiff in the United States District Court, District of Oregon, Case Number 3:15-cv-02401-HZ, in favor of plaintiff and against defendant Timothy Rote and the other entities. A copy of the judgment is attached as Exhibit A.

3.

On information and belief, Timothy Rote owns, owned or has an interest in real property located at the following addresses:

58009 Cypress Ln.  
Sunriver, OR 97707

1 24790 SW Big Fir Rd.  
West Linn, OR 97068

2 5710 Alva Ave.  
3 Klamath Falls, OR 97603

4 Copies of the legal descriptions of those parcels are attached as Exhibits B, C and D to  
5 this Complaint.

6 4.

7 Northwest Holding, LLC is an Oregon limited liability company which is owned and  
8 controlled by Timothy Rote.

9 5.

10 Timothy Rote and Northwest Holding, LLC have, from time to time, purported to transfer  
11 or encumber those parcels for less than reasonably equivalent value.

12 **FIRST CLAIM FOR RELIEF**

13 **(Fraudulent Transfer)**

14 6.

15 At the time of the purported transfers and encumbrances, Timothy Rote was aware of the  
16 pending claim in favor of plaintiff.

17 7.

18 The purported transfers and encumbrances by Timothy Rote and Northwest Holding,  
19 LLC were for less than reasonably equivalent value or no consideration.

20 8.

21 At the time of the purported transfers or encumbrances, Timothy Rote and Northwest  
22 Holding, LLC were either insolvent or were rendered insolvent by virtue of those transactions.

23

24

25

26

1 **SECOND CLAIM FOR RELIEF**

2 **(Insider Fraud)**

3 9.

4 At all times relevant, Tanya Rote was related by marriage to Timothy Rote and was,  
5 therefore, an insider in relation to any transactions with Timothy Rote or any of the entities  
6 named in the judgment.

7 10.

8 On information and belief, certain transfers were made of the real property in question to  
9 Tanya Rote with actual intent to hinder, delay or defraud plaintiff.

10 11.

11 Defendant Tanya Rote was aware of Timothy Rote's intent to hinder, delay, or defraud  
12 plaintiff.

13 **THIRD CLAIM FOR RELIEF**

14 **(Possible Punitive Damage Claim)**

15 12.

16 The conduct of defendants in conspiring to hinder, delay or defraud plaintiff may be a  
17 basis for a punitive damage award. Plaintiff reserves the right to amend the Complaint in the  
18 future to include such a claim.

19 WHEREFORE, plaintiff prays for a judgment as follows:

20 A. Declaring all transfers and encumbrances of real property by defendant Timothy  
21 Rote or any of his companies to be void;

22 B. Granting an injunction against any further transfer of any of the properties by  
23 defendants during the pendency of this action;

24 C. Granting plaintiffs an attachment lien on the real property subject to a final  
25 judgment in this action;

26

1 D. Granting judgment against Tanya Rote for the lesser of the full amount due under  
2 plaintiff's judgment against Timothy Rote or an amount equal to the value of any property  
3 transferred to Tanya Rote for less than fair equivalent value;

4 E. Directing the sale of any real property transferred for less than fair equivalent  
5 value, with the proceeds of the sale to be applied to plaintiff's judgment and any judgment  
6 rendered herein;

7 F. For plaintiff's costs and disbursements incurred herein; and

8 G. For such other and further relief as the court may deem just and equitable.

9 DATED this 9th day of January, 2019.

10 WILLIAMS KASTNER GREENE & MARKLEY

11 By s/ S. Ward Greene  
12 S. Ward Greene, OSB #774131  
13 Phone: (503) 228-7967  
14 Fax: (503) 222-7261  
15 Email: [wgreene@williamskastner.com](mailto:wgreene@williamskastner.com)

16 *Attorneys for Plaintiff*

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MAX ZWEIZIG,

No. 3:15-cv-02401-HZ

Plaintiff,

JUDGMENT

v.

NORTHWEST DIRECT TELESERVICES,  
INC.; NORTHWEST DIRECT MARKETING  
OF OREGON, INC.; TIMOTHY ROTE;  
NORTHWEST DIRECT MARKETING  
(DELAWARE), INC.; NORTHWEST DIRECT  
OF IOWA, INC.; ROTE ENTERPRISES, LLC;  
and NORTHWEST DIRECT MARKETING, INC.;

Defendants.


HERNÁNDEZ, District Judge:

This matter was tried before a jury from January 16 to January 17, 2018, in Portland, Oregon, the Honorable Marco A. Hernández presiding. The matter being tried and the jury having rendered its verdict,

IT IS ORDERED AND ADJUDGED that Judgment is entered for Plaintiff and against Defendants Timothy C. Rote, Northwest Direct Teleservices, Inc., Northwest Direct Marketing of Oregon, Inc., Northwest Direct Marketing, Inc., Northwest Direct of Iowa, Inc., Rote

Enterprises, LLC, and Northwest Direct Marketing, Inc (Delaware) jointly and severally in the amount of five hundred thousand dollars (\$500,000.00) with interest accruing on Plaintiff's claims against Defendants under Oregon Revised Statutes Chapter 659A at the rate of 2.70% per annum from the date judgment is entered.

DATED this 20 day of November, 2018.

  
\_\_\_\_\_  
MARCO A. HERNANDEZ  
United States District Judge



**Exhibit B**

58009 Cypress Ln.  
Sunriver, OR 97707

LEGAL DESCRIPTION

Lot Four (4), Block Seventeen (17), FAIRWAY POINT VILLAGE IV, recorded April 17, 1985,  
in Cabinet C, Page 140, Deschutes County, Oregon.

24790 SW Big Fir Rd.  
West Linn, OR 97068

**LEGAL DESCRIPTION**

Lots 4 and 5, HILLS OF HOME, in the County of Clackamas, State of Oregon, EXCEPTING THEREFROM a part of Lot 4, described as follows:

Beginning at an iron pipe at the most Southerly corner of said Lot 4; thence North 61°57' West 455.88 feet; thence North 32°37' East, 260.39 feet to an iron pipe at the Northwest corner of Lot "B" of said plat; thence South 56°32' East, 293.76 feet to an iron pipe; thence South 74°49' East and following the Northerly line of said Lot "B" 98.7 feet to the most Easterly line of said Lot "B"; thence South 15°51' West, 260 feet to the Point of Beginning.

ALSO EXCEPTING THEREFROM that portion of Lots 4 and 5 conveyed to David G. Knox, et ux, by Deed recorded July 11, 1989, Fee No. 89-29565, Clackamas County Deed Records, described as follows:

A tract of land comprised of the North part of Lot 5 and an Easterly part of Lot 4, HILLS OF HOME, situated in the Northwest one-quarter of Section 3, Township 3 South, Range 1 East of the Willamette Meridian, in the County of Clackamas, State of Oregon, described as follows:

Beginning at the most Northerly corner of Lot 4, HILLS OF HOME, said corner being in the center line of Big Fir Road (a 40-foot roadway); thence North 32°55'28" East along said center line of Big Fir Road a distance of 191.89 feet to the TRUE POINT OF BEGINNING of the herein described tract; thence continuing North 32°55'28" East along said center line a distance of 317.25 feet to an angle point in the center line of Valley View Road (a 40-foot roadway); thence tracing said center line of Valley View Road along the following courses: South 51°55'33" East a distance of 232.28 feet, South 59°18'04" East a distance of 193.27 feet to an intersection with the center line of Notdurft Road; South 07°40'50" East a distance of 104.95 feet, South 53°02'36" West a distance of 183.01 feet, South 32°18'57" West a distance of 157.60 feet, South 19°15'25" East a distance of 116.96 feet, and South 53°18'59" East a distance of 19.30 feet to the most Easterly corner of Lot 4, HILLS OF HOME; thence leaving said center line South 59°25'42" West along a Southeasterly line of said Lot 4, a distance of 51.24 feet; thence North 27°46'20" West a distance of 350.87 feet; thence North 43°22'25" West a distance of 220.59 feet to the True Point of Beginning.

**Exhibit D**

5710 Alva Ave.  
Klamath Falls, OR 97603

LEGAL DESCRIPTION

LOT 14 IN BLOCK 1 CASA MANANA, ACCORDING TO THE OFFICIAL PLAT  
THEREOF ON FILE IN THE OFFICE OF THE COUNTY CLERK OF KLAMATH COUNTY,  
OREGON.

1  
2  
3  
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR THE COUNTY OF CLACKAMAS

6 MAX ZWEIZIG, an individual,

7 Plaintiff,

8 v.

9 TANYA ROTE and TIMOTHY ROTE,  
10 husband and wife; and NORTHWEST  
11 HOLDING, LLC, an Oregon limited liability  
12 company,

Defendants.

Case No. 19CV01547

**PLAINTIFF/COUNTERCLAIM  
DEFENDANT MAX ZWEIZIG'S  
SPECIAL MOTION TO STRIKE  
DEFENDANT/COUNTERCLAIM  
PLAINTIFF TIMOTHY ROTE'S  
COUNTERCLAIMS**

13 I. UTCR CERTIFICATION

14 Oral argument is not requested on this motion.

15 II. MOTION

16 Pursuant to Oregon's anti-SLAPP ("strategic lawsuits against public participation")  
17 statute, ORS 31.150 *et seq.*, counterclaim defendant Max Zweizig respectfully moves this Court  
18 for an order: (1) striking Timothy Rote's counterclaims one (defamation), two (abuse of process  
19 and malicious prosecution), and three (intentional infliction of emotional distress), and any  
20 allegations contained within them; and (2) awarding Mr. Zweizig's reasonable attorney fees  
21 pursuant to ORS 31.152(3). Mr. Rote alleges that Mr. Zweizig is liable based on his protected  
22 exercise of speech made in a judicial proceeding—the precise kind of allegations subject to an  
23 anti-SLAPP special motion to strike.

24 This motion is supported by the court file and the points and authorities below.  
25  
26

1 III. INTRODUCTION

2 A money judgment awarding Mr. Zweizig \$500,000 was entered against Mr. Rote in the  
3 United States District Court for the District of Oregon on November 20, 2018. This case arises  
4 from Mr. Zweizig’s attempt to collect that money judgment. Specifically, the complaint alleged  
5 that defendants, husband and wife and their company (“Defendants”), fraudulently transferred  
6 three pieces of property among themselves or incurred obligations on those properties for the  
7 purpose of hindering plaintiff’s ability to collect on his judgment against Mr. Rote. Defendants  
8 moved for summary judgment on January 24, 2019, arguing that the statute of limitations had  
9 run and that the badges of fraud were absent as to the transfer of one of the properties—the Sun  
10 River property. This Court denied Defendants’ motion for summary judgment as to the Sun  
11 River property and dismissed Mr. Zweizig’s claims as to the other two properties.

12 Shortly after this Court entered the order denying his motion for summary judgment as to  
13 the Sun River property, Mr. Rote brought the instant counterclaims against Mr. Zweizig and  
14 others<sup>1</sup> alleging that, Mr. Zweizig knowingly filed the fraudulent transfer claim with the  
15 intention of forcing Mr. Rote to dismiss his appeal of the money judgment. The sole basis for  
16 Mr. Rote’s counterclaims against Mr. Zweizig for defamation, abuse of process and malicious  
17 prosecution, and intentional infliction of emotional distress, is the fact Mr. Zweizig filed the  
18 instant action. Oregon’s anti-SLAPP law addresses precisely this type of lawsuit-based attack on  
19 speech made in a judicial proceeding. Accordingly, Mr. Zweizig’s special motion to strike  
20 should be granted and Mr. Zweizig should be awarded costs and attorney fees for having to  
21 defend against Mr. Rote’s counterclaims.

22  
23  
24

---

25 <sup>1</sup> Defendants have also filed third party claims against the attorney who represented Mr. Zweizig in the underlying  
26 litigation leading to his money judgment, the attorney and law firm representing Mr. Zweizig in collecting the  
money judgment, and against Mr. Zweizig’s fiancé.

1 IV. STATEMENT OF FACTS<sup>2</sup>

2 A. Toward the End of the Underlying Litigation That Led to Mr. Zweizig’s Judgment, Mr.  
3 Rote Transferred His Entire Interest in Property to His Company for No Consideration  
4 Aside From the Company’s Assumption of the Mortgage.

5 Mr. Rote purchased a home located at 58009 Cypress Lane, Bend, OR 97707 (“the Sun  
6 River property”) on October 22, 2012. *Declaration of Taryn Basauri*, ¶ 5, Ex. A (Prior  
7 Declaration – Ex. A, First American Title Report). The Sun River property was purchased for  
8 \$525,000 and Timothy mortgaged the property for \$394,225. *Id.* On April 24, 2017, Timothy  
9 quit claimed his entire interest in the Sun River property to Defendant Northwest Holding, LLC.  
10 *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. B, Quitclaim Deed). Northwest Holding  
11 assumed the mortgage but did not pay any monetary consideration for the Sun River property.  
12 *Id.* In its annual reports filed with the Secretary of State, Northwest Holding listed only Timothy  
13 as the owner and manager until December 11, 2017. *Basauri Decl.* ¶ 5, Ex. A (Prior Declaration  
14 – Ex. C, 2016-2017 Annual Reports). Then, as of November 29, 2018, Tanya was also listed as  
15 an owner. *Id.*

16 B. After A Jury Verdict Was Entered in Favor of Plaintiff in the 2015 Litigation and Three  
17 Months Before Judgment Was Entered Against Northwest Holding, LLC, It Transferred  
18 Its Entire Interest to Tanya.

19 On August 2, 2018, Defendant Northwest Holding conveyed via general warranty deed  
20 the Sun River property to Defendant Tanya Rote for “\$0.00 (Zero Dollars and Zero Cents) in  
21 consideration paid.” *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. D, Warranty Deed).  
22 Immediately prior to the transfer however, Tanya took out a mortgage for \$542,750.00 on the  
23 property in her individual name. *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. E, Trust  
24 Deed). It is unclear what was done with the proceeds from that mortgage. Recently, the Sun

25 <sup>2</sup> Subsections A and B of the Statement of Facts are copied from Mr. Zweizig’s response to Mr. Rote’s original  
26 motion for summary judgment and Subsections C and D are copied from Mr. Zweizig’s response to Mr. Rote’s  
second motion for summary judgment. The declaration and supporting exhibits are the same declaration and  
supporting exhibits used in Mr. Zweizig’s response to Mr. Rote’s second motion for summary judgment but are  
being reincorporated in this filing for the Court’s convenience.

1 River property was listed for \$850,000. *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. F,  
2 Property Listing).

3 C. Mr. Zweizig Retained Counsel to Collect the Money Judgment Against Mr. Rote and  
4 Learned of Circumstances Suggesting Fraudulent Transfer.

5 After plaintiff secured a \$500,000 money judgment in November 2018, plaintiff provided  
6 to counsel a list of Mr. Rote’s known real property assets. *Basauri Decl.*, ¶ 2, ¶ 6, Ex. B.  
7 Plaintiff’s counsel conducted a brief search of recorded documents related to the Sun River  
8 property. *Basauri Decl.*, ¶ 2. Plaintiff first discovered the April 24, 2017 quit claim deed of  
9 defendant Timothy Rote’s interest in the Sun River property between December 2018 and  
10 January 2019. *Basauri Decl.*, ¶ 6, Ex. B. When plaintiff’s counsel advised plaintiff of the  
11 transfers, plaintiff advised that Mr. Rote had been listed as an owner of the Sun River property  
12 on the Vacation Rental by Owner (“VRBO”) website, but that only Mrs. Rote was listed as an  
13 owner now. *Basauri Decl.*, ¶ 3, ¶ 6, Ex. B.

14 Based on the recorded documents, plaintiff’s counsel learned that the judgment debtor  
15 quit claimed his interest in the property during the underlying litigation between the parties, on  
16 April 24, 2017. *Basauri Decl.*, ¶ 3. Plaintiff’s counsel further learned that the property was quit  
17 claimed to a company wholly owned by the judgment debtor at the time of the transfer. *Basauri*  
18 *Decl.*, ¶ 3. Plaintiff’s counsel further learned that the judgment debtor added his wife as an  
19 owner of the company holding the property. *Basauri Decl.*, ¶ 3. Finally, plaintiff learned that,  
20 after the jury rendered a verdict and before judgment was entered, the company transferred the  
21 property to the judgment debtor’s wife via a deed that recited \$0.00 of monetary consideration.  
22 *Basauri Decl.*, ¶ 3. Based on the self-authenticating and admissible evidence, in addition to  
23 other information provided by plaintiff’s internet research, plaintiff’s counsel filed the instant  
24 fraudulent transfer claim on January 4, 2019. *Basauri Decl.*, ¶ 3.

1 D. The Court Denied Mr. Rote’s Motion for Summary Judgment and He Promptly Filed  
2 Counterclaims Against Plaintiffs and Others for Defamation, Abuse of Process, and  
3 Intentional Infliction of Emotional Distress.

4 On March 8, 2019, this Court heard argument on Mr. Rote’s motion for summary  
5 judgment and denied the motion as to the Sun River property. *Basauri Decl.*, ¶ 4. Mr. Rote  
6 promptly filed counterclaims for defamation, abuse of process, and intentional infliction of  
7 emotional distress against Mr. Zweizig and third party claims for the same causes of action  
8 against many others.

8 V. LEGAL AUTHORITY AND ARGUMENT

9 A. Oregon’s Anti-SLAPP Law.

10 Oregon's anti-SLAPP statute, ORS 31.150 to 31.155, protects free speech and the right to  
11 petition by creating an expedient method for ending litigation that targets the exercise of those  
12 constitutionally-protected rights. The purpose of ORS 31.150 is to “permit a defendant who is  
13 sued over certain actions taken in the public arena to have a questionable case dismissed at an  
14 early stage.” *Mullen v. Meredith Corp.*, 271 Or App 698, 700 (2015). More recently, the  
15 Oregon legislature clarified that the purpose of the statute “is to provide a defendant with the  
16 right to not proceed to trial,” and that the statute is “to be liberally construed in favor of the  
17 exercise of the rights of expression ...” ORS 31.152(4).

18 Procedurally, the anti-SLAPP law allows a defendant to file a special motion to strike in  
19 the early stages of a case where the defendant’s purported liability is based on the defendant’s  
20 protected speech or right to petition. A special motion to strike is resolved through a “two-step  
21 burden-shifting process.” *Young v. Davis*, Or App 497, 500 (2013). In *Young*, the Oregon Court  
22 of Appeals explained,

23 First, the court must determine whether the defendant has met its initial burden to  
24 show that the claim against which the motion is made arises out of one or more  
25 protected activities described in subsection (2). Second, if the defendant meets its  
26 burden, the burden shifts to the plaintiff in the action to establish that there is a  
probability that the plaintiff will prevail on the claim by presenting substantial  
evidence to support a prima facie case.



1 If the motion to strike is successful, the defendant is entitled to reasonable attorney fees and  
2 costs. ORS 31.152(3).

3 B. Oregon’s Anti-SLAPP Law Protects Statements Made In the Course of a Judicial  
4 Proceeding, Including The Instant Action on Mr. Zweizig’s Fraudulent Transfer Claims.

5 A plaintiff may not maintain a civil action that arises out of any statement made or  
6 written statement submitted in a judicial proceeding. ORS 31.150(2)(a). “The plain meaning of  
7 statements ‘submitted in a judicial proceeding’ means statements that are sent for consideration  
8 or presented for use in a court proceeding *or a proceeding initiated to procure an order, decree,*  
9 *judgment, or similar action.*” *Baldwin v. Seida*, 297 Or App 67, 74 (2019) (emphasis added). In  
10 *Baldwin*, the Oregon Court of Appeals determined writs of garnishment that were not filed with  
11 the Court, but were sent only to third parties, were not statements submitted in a judicial  
12 proceeding because they did not initiate a legal proceeding nor did they seek a judicial  
13 determination. *Id.* at 75-76.

14 In this case, Mr. Rote’s counterclaims all allege that his reputation was harmed by Mr.  
15 Zweizig’s legal claim that Mr. Rote engaged in fraudulent transfers. However, Mr. Rote fails to  
16 allege that Mr. Zweizig made any non-protected statement. In fact, Mr. Rote fails to even  
17 specify which statements, although clearly protected as made in a judicial proceeding, he  
18 contends gave rise to his defamation, abuse of process, and intentional infliction of emotional  
19 distress claims. Moreover, Mr. Rote does not contend that, and Mr. Zweizig has not made, any  
20 statements to third parties outside of the instant action.

21 The instant action is a proceeding initiated to procure a judicial determination as to the  
22 fraudulent nature of Mr. Rote’s property transfer so that Mr. Zweizig may enforce his judgment  
23 against property transferred to a non-debtor. Thus, Mr. Zweizig’s allegations and statements  
24 made to the court in the instant litigation are “statements submitted in a judicial proceeding.”  
25 Accordingly, Mr. Rote’s counterclaims must all be dismissed pursuant to ORS 31.150(2)(a) and  
26

1 Mr. Zweizig is entitled to reasonable attorney fees and costs as a result of defending against the  
2 improper counterclaims.

3 C. Mr. Rote Cannot Meet His Burden of Presenting Substantial Evidence In Support of His  
4 Prima Facie Case to Establish His Probability of Success on Any Counterclaim.

5 Mr. Zweizig filed the fraudulent transfer claim based on self-authenticating and  
6 admissible evidence strongly suggesting Mr. Rote fraudulently transferred the Sun River  
7 property to hinder Mr. Zweizig’s ability to collect on his money judgment. During the  
8 underlying litigation, Mr. Rote quit claimed his interest in the Sun River property--an interest he  
9 had maintained for five years--to a company owned solely by him at the time of that transfer.  
10 After the jury rendered a verdict against Mr. Rote but before judgment was entered, the company  
11 owned solely by him transferred the Sun River property to his wife for no monetary  
12 consideration. Finally, the month that judgment was entered against Mr. Rote, the Oregon  
13 Secretary of State’s records showed he added his wife as an owner of the company that  
14 transferred the property to her for no monetary consideration. Thus, it is clear Mr. Zweizig’s  
15 sole purpose in bringing the instant fraudulent transfer claim was, and is, to collect his money  
16 judgment against Mr. Rote.

17 ///  
18 ///  
19 ///  
20 ///  
21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26

1 VI. CONCLUSION

2 For the foregoing reasons, plaintiff/counterclaim defendant Max Zweizig respectfully  
3 asks this Court for an order granting his special motion to strike and dismissing Mr. Rote's  
4 counterclaims for defamation, abuse of process and malicious prosecution, and intentional  
5 infliction of emotional distress.

6 DATED this 30th day of April, 2019.

7 WILLIAMS KASTNER GREENE & MARKLEY

8  
9 By s/Taryn M. Basauri

10 S. Ward Greene, OSB #774131

Taryn M. Basauri, OSB #182144

11 Phone: (503) 228-7967

12 Fax: (503) 222-7261

Email: wgreene@williamskastner.com

tbasauri@williamskastner.com

13 *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing PLAINTIFF/COUNTERCLAIM DEFENDANT  
MAX ZWEZIG’S SPECIAL MOTION TO STRIKE DEFENDANT/COUNTERCLAIM  
PLAINTIFF TIMOTHY ROTE’S COUNTERCLAIMS on the following attorneys by the  
method indicated below on the 30th day of April, 2019:

Timothy Rote  Via First Class Mail  
24790 SW Big Fir Rd.  Via Federal Express  
West Linn, OR 97068  Via Facsimile  
Email: timothy.rote@gmail.com  Via Hand-Delivery  
 Via E-Mail  
 Via Odyssey eFile & Serve™

*Pro Se*

Tanya Rote  Via First Class Mail  
24790 SW Big Fir Rd.  Via Federal Express  
West Linn, OR 97068  Via Facsimile  
Email: tanyarote5@gmail.com  Via Hand-Delivery  
 Via E-Mail  
 Via Odyssey eFile & Serve™

*Pro Se*

Michael Montag  Via First Class Mail  
Vial Fotheringham LLP  Via Federal Express  
17355 SW Ferry Rd.  Via Facsimile  
Lake Oswego, OR 97035  Via Hand-Delivery  
Email: mdm@vf-law.com  Via E-Mail  
 Via Odyssey eFile & Serve™

*Attorney for Northwest Holding, LLC*

WILLIAMS KASTNER GREENE & MARKLEY

By s/ Taryn M. Basauri  
Taryn M. Basauri, OSB #182144

*Attorneys for Plaintiff*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

MAX ZWEIZIG, an individual,  
  
Plaintiff,  
  
v.  
  
TANYA ROTE and TIMOTHY ROTE,  
husband and wife; and NORTHWEST  
HOLDING, LLC, an Oregon limited liability  
company,  
  
Defendants.

Case No. 19CV01547

**PLAINTIFF/COUNTERCLAIM  
DEFENDANT MAX ZWEIZIG'S  
SPECIAL MOTION TO STRIKE  
DEFENDANT/COUNTERCLAIM  
PLAINTIFF TANYA ROTE'S  
COUNTERCLAIMS**

I. UTCR CERTIFICATION

Oral argument is not requested on this motion.

II. MOTION

Pursuant to Oregon’s anti-SLAPP (“strategic lawsuits against public participation”) statute, ORS 31.150 *et seq.*, counterclaim defendant Max Zweizig respectfully moves this Court for an order: (1) striking Tanya Rote’s counterclaims one (defamation), two (intentional interference with contract), three (abuse of process and malicious prosecution), four (slander of title) and five (intentional infliction of emotional distress), and any allegations contained within them; and (2) awarding Mr. Zweizig’s reasonable attorney fees pursuant to ORS 31.152(3). Mrs. Rote alleges that Mr. Zweizig is liable based on his protected exercise of speech made in a judicial proceeding—the precise kind of allegations subject to an anti-SLAPP special motion to strike.

This motion is supported by the court file and the points and authorities below.

///

1 III. INTRODUCTION

2 A money judgment awarding Mr. Zweizig \$500,000 was entered against Mr. Rote in the  
3 United States District Court for the District of Oregon on November 20, 2018. This case arises  
4 from Mr. Zweizig’s attempt to collect that money judgment. Specifically, the complaint alleged  
5 that defendants, husband and wife and their company (“Defendants”), fraudulently transferred  
6 three pieces of property among themselves or incurred obligations on those properties for the  
7 purpose of hindering plaintiff’s ability to collect on his judgment against Mr. Rote. Defendants  
8 moved for summary judgment on January 24, 2019, arguing that the statute of limitations had  
9 run and that the badges of fraud were absent as to the transfer of one of the properties—the Sun  
10 River property. This Court denied Defendants’ motion for summary judgment as to the Sun  
11 River property and dismissed Mr. Zweizig’s claims as to the other two properties.

12 Shortly after this Court entered the order denying defendants’ motion for summary  
13 judgment as to the Sun River property, Mrs. Rote brought the instant counterclaims against Mr.  
14 Zweizig and others<sup>1</sup> alleging that, Mr. Zweizig knowingly filed the fraudulent transfer claim with  
15 the intention of both interfering with Mrs. Rote’s sale of the Sun River property and forcing Mr.  
16 Rote to dismiss his appeal of the money judgment. The sole basis for Mrs. Rote’s counterclaims  
17 against Mr. Zweizig for defamation, intentional interference with contract, abuse of process and  
18 malicious prosecution, slander of title, and intentional infliction of emotional distress, is the fact  
19 Mr. Zweizig filed the instant action. Oregon’s anti-SLAPP law addresses precisely this type of  
20 lawsuit-based attack on speech made in a judicial proceeding. Accordingly, Mr. Zweizig’s  
21 special motion to strike should be granted and Mr. Zweizig should be awarded costs and attorney  
22 fees for having to defend against Mrs. Rote’s counterclaims.

23  
24

25 \_\_\_\_\_  
26 <sup>1</sup> Defendants have also filed third party claims against the attorney who represented Mr. Zweizig in the underlying  
litigation leading to his money judgment, the attorney and law firm representing Mr. Zweizig in collecting the  
money judgment, and against Mr. Zweizig’s fiancé.

1 IV. STATEMENT OF FACTS<sup>2</sup>

2 A. Toward the End of the Underlying Litigation That Led to Mr. Zweizig’s Judgment, Mr.  
3 Rote Transferred His Entire Interest in Property to His Company for No Consideration  
4 Aside From the Company’s Assumption of the Mortgage.

5 Mr. Rote purchased a home located at 58009 Cypress Lane, Bend, OR 97707 (“the Sun  
6 River property”) on October 22, 2012. *Declaration of Taryn Basauri*, ¶ 5, Ex. A (Prior  
7 Declaration – Ex. A, First American Title Report). The Sun River property was purchased for  
8 \$525,000 and Timothy mortgaged the property for \$394,225. *Id.* On April 24, 2017, Timothy  
9 quit claimed his entire interest in the Sun River property to Defendant Northwest Holding, LLC.  
10 *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. B, Quitclaim Deed). Northwest Holding  
11 assumed the mortgage but did not pay any monetary consideration for the Sun River property.  
12 *Id.* In its annual reports filed with the Secretary of State, Northwest Holding listed only Timothy  
13 as the owner and manager until December 11, 2017. *Basauri Decl.* ¶ 5, Ex. A (Prior Declaration  
14 – Ex. C, 2016-2017 Annual Reports). Then, as of November 29, 2018, Tanya was also listed as  
15 an owner. *Id.*

16 B. After A Jury Verdict Was Entered in Favor of Plaintiff in the 2015 Litigation and Three  
17 Months Before Judgment Was Entered Against Northwest Holding, LLC, It Transferred  
18 Its Entire Interest to Tanya.

19 On August 2, 2018, Defendant Northwest Holding conveyed via general warranty deed  
20 the Sun River property to Defendant Tanya Rote for “\$0.00 (Zero Dollars and Zero Cents) in  
21 consideration paid.” *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. D, Warranty Deed).  
22 Immediately prior to the transfer however, Tanya took out a mortgage for \$542,750.00 on the  
23 property in her individual name. *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. E, Trust  
24 Deed). It is unclear what was done with the proceeds from that mortgage. Recently, the Sun

25 \_\_\_\_\_  
26 <sup>2</sup> Subsections A and B of the Statement of Facts are copied from Mr. Zweizig’s response to Mr. Rote’s original  
motion for summary judgment and Subsections C and D are copied from Mr. Zweizig’s response to Mr. Rote’s  
second motion for summary judgment. The declaration and supporting exhibits are the same declaration and  
supporting exhibits used in Mr. Zweizig’s response to Mr. Rote’s second motion for summary judgment but are  
being reincorporated in this filing for the Court’s convenience.

1 River property was listed for \$850,000. *Basauri Decl.*, ¶ 5, Ex. A (Prior Declaration – Ex. F,  
2 Property Listing).

3  
4 C. Mr. Zweizig Retained Counsel to Collect the Money Judgment Against Mr. Rote and  
5 Learned of Circumstances Suggesting Fraudulent Transfer.

6 After plaintiff secured a \$500,000 money judgment in November 2018, plaintiff provided  
7 to counsel a list of Mr. Rote’s known real property assets. *Basauri Decl.*, ¶ 2, ¶ 6, Ex. B.  
8 Plaintiff’s counsel conducted a brief search of recorded documents related to the Sun River  
9 property. *Basauri Decl.*, ¶ 2. Plaintiff first discovered the April 24, 2017 quit claim deed of  
10 defendant Timothy Rote’s interest in the Sun River property between December 2018 and  
11 January 2019. *Basauri Decl.*, ¶ 6, Ex. B. When plaintiff’s counsel advised plaintiff of the  
12 transfers, plaintiff advised that Mr. Rote had been listed as an owner of the Sun River property  
13 on the Vacation Rental by Owner (“VRBO”) website, but that only Mrs. Rote was listed as an  
14 owner now. *Basauri Decl.*, ¶ 3, ¶ 6, Ex. B.

15 Based on the recorded documents, plaintiff’s counsel learned that the judgment debtor  
16 quit claimed his interest in the property during the underlying litigation between the parties, on  
17 April 24, 2017. *Basauri Decl.*, ¶ 3. Plaintiff’s counsel further learned that the property was quit  
18 claimed to a company wholly owned by the judgment debtor at the time of the transfer. *Basauri*  
19 *Decl.*, ¶ 3. Plaintiff’s counsel further learned that the judgment debtor added his wife as an  
20 owner of the company holding the property. *Basauri Decl.*, ¶ 3. Finally, plaintiff learned that,  
21 after the jury rendered a verdict and before judgment was entered, the company transferred the  
22 property to the judgment debtor’s wife via a deed that recited \$0.00 of monetary consideration.  
23 *Basauri Decl.*, ¶ 3. Based on the self-authenticating and admissible evidence, in addition to  
24 other information provided by plaintiff’s internet research, plaintiff’s counsel filed the instant  
25 fraudulent transfer claim on January 4, 2019. *Basauri Decl.*, ¶ 3.

25 ///

26 ///



1 D. The Court Denied Defendants’ Motion for Summary Judgment and Mrs. Rote Promptly  
2 Filed Counterclaims Against Plaintiffs and Others for Defamation, Intentional  
3 Interference with Contract, Abuse of Process, Slander of Title, and Intentional Infliction  
4 of Emotional Distress.

5 On March 8, 2019, this Court heard argument on Mrs. Rote’s motion for summary  
6 judgment and denied the motion as to the Sun River property. *Basauri Decl.*, ¶ 4. Mrs. Rote  
7 promptly filed counterclaims for defamation, intentional interference with contract, abuse of  
8 process, slander of title, and intentional infliction of emotional distress against Mr. Zweizig and  
9 third party claims for the same causes of action against many others.

10 V. LEGAL AUTHORITY AND ARGUMENT

11 A. Oregon’s Anti-SLAPP Law.

12 Oregon's anti-SLAPP statute, ORS 31.150 to 31.155, protects free speech and the right to  
13 petition by creating an expedient method for ending litigation that targets the exercise of those  
14 constitutionally-protected rights. The purpose of ORS 31.150 is to “permit a defendant who is  
15 sued over certain actions taken in the public arena to have a questionable case dismissed at an  
16 early stage.” *Mullen v. Meredith Corp.*, 271 Or App 698, 700 (2015). More recently, the  
17 Oregon legislature clarified that the purpose of the statute “is to provide a defendant with the  
18 right to not proceed to trial,” and that the statute is “to be liberally construed in favor of the  
19 exercise of the rights of expression ...” ORS 31.152(4).

20 Procedurally, the anti-SLAPP law allows a defendant to file a special motion to strike in  
21 the early stages of a case where the defendant’s purported liability is based on the defendant’s  
22 protected speech or right to petition. A special motion to strike is resolved through a “two-step  
23 burden-shifting process.” *Young v. Davis*, 259 Or App 497, 500 (2013). In *Young*, the Oregon  
24 Court of Appeals explained,

25 First, the court must determine whether the defendant has met its initial burden to  
26 show that the claim against which the motion is made arises out of one or more  
protected activities described in subsection (2). Second, if the defendant meets its  
burden, the burden shifts to the plaintiff in the action to establish that there is a  
probability that the plaintiff will prevail on the claim by presenting substantial  
evidence to support a prima facie case.

1 If the motion to strike is successful, the defendant is entitled to reasonable attorney fees and  
2 costs. ORS 31.152(3).

3  
4 B. Oregon’s Anti-SLAPP Law Protects Statements Made In the Course of a Judicial  
5 Proceeding, Including The Instant Action on Mr. Zweizig’s Fraudulent Transfer Claims.

6 A plaintiff may not maintain a civil action that arises out of any statement made or  
7 written statement submitted in a judicial proceeding. ORS 31.150(2)(a). “The plain meaning of  
8 statements ‘submitted in a judicial proceeding’ means statements that are sent for consideration  
9 or presented for use in a court proceeding *or a proceeding initiated to procure an order, decree,*  
10 *judgment, or similar action.*” *Baldwin v. Seida*, 297 Or App 67, 74 (2019) (emphasis added). In  
11 *Baldwin*, the Oregon Court of Appeals determined writs of garnishment that were not filed with  
12 the Court, but were sent only to third parties, were not statements submitted in a judicial  
13 proceeding because they did not initiate a legal proceeding nor did they seek a judicial  
14 determination. *Id.* at 75-76.

15 In this case, Mrs. Rote’s counterclaims all allege that either her reputation was harmed by  
16 Mr. Zweizig’s legal claim that she engaged in fraudulent transfers or that the claim was intended  
17 to interfere with her sale of the Sun River property. As to the allegations that Mrs. Rote’s  
18 reputation was harmed, she fails to allege that Mr. Zweizig made any non-protected statement.  
19 In fact, Mrs. Rote fails to even specify which statements, although clearly protected as made in a  
20 judicial proceeding, she contends gave rise to her defamation, slander of title, and intentional  
21 infliction of emotional distress claims. Moreover, Mrs. Rote does not allege that Mr. Zweizig  
22 has made, and he has not made, any statements to third parties outside of the instant action.  
23 Second, as to the allegations that the fraudulent transfer claim was intended to interfere with  
24 Mrs. Rote’s sale of the Sun River property, the fraudulent transfer claim consists only of  
25 allegations made in the complaint and in responses to defendants’ various motions. Moreover, to  
26 prevent the sale of property is a natural consequence of filing of a lis pendens. *See e.g.*,  
*Vukanovich v. Kline*, 251 Or App 807, 812 (2012) (“the function of lis pendens is to give

1 constructive notice to one dealing with real property that is the subject of pending litigation that  
2 he does so *subject to the outcome of that litigation*). Thus, Mrs. Rote’s slander of title, abuse of  
3 process, and intentional interference with contract claims also arise out of protected statements.

4 The instant action is a proceeding initiated to procure a judicial determination as to the  
5 fraudulent nature of Mr. Rote’s property transfer to Mrs. Rote so that Mr. Zweizig may enforce  
6 his judgment against property transferred to a non-debtor. Thus, Mr. Zweizig’s allegations and  
7 statements made to the court in the instant litigation are “statements submitted in a judicial  
8 proceeding.” Accordingly, Mrs. Rote’s counterclaims must all be dismissed pursuant to ORS  
9 31.150(2)(a) and Mr. Zweizig is entitled to reasonable attorney fees and costs as a result of  
10 defending against the improper counterclaims.

11  
12 C. Mrs. Rote Cannot Meet Her Burden of Presenting Substantial Evidence In Support of Her  
Prima Facie Case to Establish Her Probability of Success on Any Counterclaim.

13 Mr. Zweizig filed the fraudulent transfer claim based on self-authenticating and  
14 admissible evidence strongly suggesting Mr. Rote fraudulently transferred the Sun River  
15 property to Mrs. Rote for the purpose of hindering Mr. Zweizig’s ability to collect on his money  
16 judgment. During the underlying litigation, Mr. Rote quit claimed his interest in the Sun River  
17 property--an interest he had maintained for five years--to a company owned solely by him at the  
18 time of that transfer. After the jury rendered a verdict against Mr. Rote but before judgment was  
19 entered, the company owned solely by him transferred the Sun River property to Mrs. Rote for  
20 no monetary consideration. Finally, the month that judgment was entered against Mr. Rote, the  
21 Oregon Secretary of State’s records showed he added Mrs. Rote as an owner of the company that  
22 transferred the property to her for no monetary consideration. Thus, the admissible evidence to  
23 date shows at least a possibility Mr. Zweizig will prevail on his fraudulent transfer claim. It will  
24 ultimately depend on whether the jury is more persuaded by the above-outlined suspicious  
25 circumstances or defendants’ position that the transfers were not made with any intent to hinder  
26 Mr. Zweizig’s collection against the Sun River property. Thus, the circumstances make clear

1 Mr. Zweizig had good, legitimate reason to bring the instant fraudulent transfer claim for the  
2 purpose of collecting his money judgment against Mr. Rote.

3 D. A Counterclaim Is Not the Appropriate Legal Mechanism for Mrs. Rote’s Claim That  
4 Mr. Zweizig Claim Was Brought without Evidence.

5 As a basis for her counterclaims, Mrs. Rote insists the fraudulent transfer claim was filed  
6 “without a shred of evidence.” Tanya Rote Counterclaims., 8:6. The appropriate vehicle for that  
7 argument is a motion for summary judgment on the fraudulent transfer claim or an action  
8 following disposition of the fraudulent transfer claim. Defendants’ motion for summary  
9 judgment was already denied and they have since filed a second motion for summary judgment.  
10 If the second motion for summary judgment were granted, then Mrs. Rote could bring her claims  
11 that the fraudulent transfer litigation was frivolous. At this time, however, the Clackamas  
12 County Circuit Court determined there is sufficient evidence for Mr. Zweizig to present his  
13 fraudulent transfer claims to a jury and Mrs. Rote’s insistence that the transfers were valid only  
14 reveal further issues of fact ripe for jury determination.

15 VI. CONCLUSION

16 For the foregoing reasons, plaintiff/counterclaim defendant Max Zweizig respectfully  
17 asks this Court for an order granting his special motion to strike and dismissing Mrs. Rote’s  
18 counterclaims for defamation, intentional interference of contract, abuse of process and  
19 malicious prosecution, slander of title, and intentional infliction of emotional distress.

20 DATED this 8<sup>th</sup> day of May, 2019.

21 WILLIAMS KASTNER GREENE & MARKLEY

22 By s/Taryn M. Basauri

23 S. Ward Greene, OSB #774131  
24 Taryn M. Basauri, OSB #182144  
25 Phone: (503) 228-7967  
26 Fax: (503) 222-7261  
Email: [wgreene@williamskastner.com](mailto:wgreene@williamskastner.com)  
[tbasauri@williamskastner.com](mailto:tbasauri@williamskastner.com)

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing PLAINTIFF/COUNTERCLAIM DEFENDANT  
MAX ZWEIZIG’S SPECIAL MOTION TO STRIKE DEFENDANT/COUNTERCLAIM  
PLAINTIFF TANYA ROTE’S COUNTERCLAIMS on the following attorneys by the method  
indicated below on the 8<sup>th</sup> day of May, 2019:

Timothy Rote  Via First Class Mail  
24790 SW Big Fir Rd.  Via Federal Express  
West Linn, OR 97068  Via Facsimile  
Email: [timothy.rote@gmail.com](mailto:timothy.rote@gmail.com)  Via Hand-Delivery  
 Via E-Mail  
 Via Odyssey eFile & Serve™

*Pro Se*

Tanya Rote  Via First Class Mail  
24790 SW Big Fir Rd.  Via Federal Express  
West Linn, OR 97068  Via Facsimile  
Email: [tanyarote5@gmail.com](mailto:tanyarote5@gmail.com)  Via Hand-Delivery  
 Via E-Mail  
 Via Odyssey eFile & Serve™

*Pro Se*

Michael Montag  Via First Class Mail  
Vial Fotheringham LLP  Via Federal Express  
17355 SW Ferry Rd.  Via Facsimile  
Lake Oswego, OR 97035  Via Hand-Delivery  
Email: [mdm@vf-law.com](mailto:mdm@vf-law.com)  Via E-Mail  
 Via Odyssey eFile & Serve™

*Attorney for Northwest Holding, LLC*

WILLIAMS KASTNER GREENE & MARKLEY

By s/ Taryn M. Basauri  
Taryn M. Basauri, OSB #182144

*Attorneys for Plaintiff*

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS  
807 Main St Oregon City Oregon 97045

Max Zweizig

Case No: 19CV01547

Plaintiff

v.

**GENERAL JUDGMENT OF  
DISMISSAL**

Tanya Rote; Timothy Rote; Northwest Holding,  
LLC

Defendants

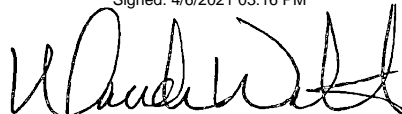
The court entered an order granting Defendants' Motion for Summary Judgment ("Motion"). The Motion was filed on Jan. 25, 2021 and a hearing was held on March 9, 2021. Based upon the order granting the Motion, and for reasons stated on the record during the March 9, 2021 hearing on the Motion,

IT IS HEREBY ORDERED AND ADJUDGED:

1. All of Plaintiff's claims are dismissed with prejudice.
2. This General Judgment is without prejudice to any pending appeals in this action, or to any pending or future motions for attorney fees/costs.

Apr. 6, 2021

Signed: 4/6/2021 03:16 PM



Circuit Court Judge Ulanda Watkins  
Hon. Ulanda L. Watkins

CIRCUIT COURT JUDGE

**FILED: February 16, 2022**

IN THE COURT OF APPEALS OF THE STATE OF OREGON

MAX ZWEIZIG,  
Plaintiff-Appellant,

v.

TANYA ROTE; TIMOTHY ROTE; and NORTHWEST HOLDING, LLC, an Oregon  
limited liability company,  
Defendants-Respondents.

---

TIMOTHY ROTE and TANYA ROTE,  
Third Party Plaintiffs,

v.

JOEL CHRISTIANSEN and WILLIAMS KASTNER,  
Third Party Defendants,

and

SANDRA WARE, TARYN BASAURI, and JOHN DOES,  
Third Party Defendants.

Clackamas County Circuit Court  
19CV01547

A175781

Ulanda L. Watkins, Judge.

Submitted on December 03, 2021.

Before Mooney, Presiding Judge, and Shorr, Judge, and DeHoog, Judge pro tempore.

Attorney for Appellant: Helen C. Tompkins.

Attorney for Respondent Timothy Rote: Timothy C. Rote *pro se*.

Attorney for Respondents Northwest Holding, LLC, and Tanya Rote: Brooks M. Foster.

**AFFIRMED WITHOUT OPINION**

---

**DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS**

Prevailing party: Respondents

- No costs allowed.  
 Costs allowed, payable by Appellant.
-



IN THE COURT OF APPEALS OF THE STATE OF OREGON

MAX ZWEIZIG,  
Plaintiff-Appellant,

v.

TANYA ROTE; TIMOTHY ROTE; and NORTHWEST HOLDING, LLC,  
an Oregon limited liability company,  
Defendants-Respondents.

---

TIMOTHY ROTE and TANYA ROTE,  
Third Party Plaintiffs,

v.

JOEL CHRISTIANSEN and WILLIAMS KASTNER,  
Third Party Defendants,

and

SANDRA WARE, TARYN BASAURI, and JOHN DOES,  
Third Party Defendants.

Clackamas County Circuit Court No. 19CV01547

Court of Appeals No. A175781

**ORDER DENYING RECONSIDERATION**

Appellant petitions for reconsideration of the court's decision dated February 16, 2022, pursuant to ORAP 6.25, which respondents Tanya Rote and Northwest Holding, LLC, and respondent Timothy Charles Rote, oppose. The court has considered the petition and the responses, and orders that the petition is denied.

The petition for reconsideration is denied.

  
SCOTT A. SHORR  
PRESIDING JUDGE, COURT OF APPEALS  
3/21/2022 11:02 AM

c: Helen C Tompkins  
Brooks M Foster  
Timothy Charles Rote

ej

**ORDER DENYING RECONSIDERATION**

---

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,  
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

Joel Christiansen, OSB #080561  
VOGELE & CHRISTIANSEN  
812 NW 17<sup>th</sup> Avenue  
Portland, OR 97209  
T: (503) 841-6722  
E: [joel@oremploymentlawyer.com](mailto:joel@oremploymentlawyer.com)

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**MAX ZWEIZIG,**

Case No. 3:15-cv-2401

Plaintiff,

**COMPLAINT**

v.

Whistleblower Retaliation (ORS 659A.230,  
ORS 659A.199); Retaliation for Opposing  
Unlawful Employment Practices (ORS  
659A.030(1)(f)); Aiding and Abetting  
(ORS 659A.030(1)(g))

**TIMOTHY C. ROTE**, a citizen of the  
state of Oregon, **NORTHWEST DIRECT  
TELESERVICES, INC.**, an Oregon for-  
profit corporation, **NORTHWEST  
DIRECT MARKETING OF OREGON,  
INC.**, an Oregon for-profit corporation,  
**NORTHWEST DIRECT MARKETING,  
INC.**, an Oregon for-profit corporation,  
**NORTHWEST DIRECT OF IOWA,  
INC.**, an Iowa for-profit corporation,  
**ROTE ENTERPRISES, LLC**, an Oregon  
limited liability company, **NORTHWEST  
DIRECT MARKETING, INC.**, aka  
Northwest Direct Marketing (Delaware),  
Inc., a Delaware Corporation, and **DOES 1  
through 5**,

**DEMAND FOR JURY TRIAL**

Defendants.

---

**JURY DEMAND**

1. Plaintiff Max Zweizig ("Plaintiff") demands a trial by jury of all issues properly subject to a jury trial.

### **NATURE OF THE ACTION**

2. This is an action under Oregon's state unlawful employment practices statutes, ORS 659A.230, ORS 659A.199, ORS 659A.030(1)(f), and ORS 659A.030(1)(g).

### **JURISDICTION AND VENUE**

3. This court has jurisdiction of this action under 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

4. The unlawful employment actions alleged herein were committed in the District of Oregon and venue is proper in this district.

### **PARTIES**

5. Plaintiff Max Zweizig is an individual resident of the State of New Jersey.

6. Defendant Timothy C. Rote ("Rote") is an individual resident of the state of Oregon.

7. Defendant Northwest Direct Teleservices, Inc. ("NDT") is a for-profit corporation existing under the laws of the State of Oregon with its principal place of business in Oregon.

8. Defendant Northwest Direct Marketing of Oregon, Inc. ("NDMO") is a for-profit corporation organized and existing under the laws of the State of Oregon with its principal place of business in Oregon.

9. Defendant Northwest Direct Marketing, Inc. ("NDM") is a for-profit corporation organized and existing under the laws of the State of Oregon with its principal place of business in Oregon. Northwest Direct of Eugene, Inc. ("NDE") is a for-profit corporation organized under the laws of the State of Oregon with its principal place of business in Oregon. On or about June 30, 2010, NDE changed its name to and began operating as NDM.

10. Defendant Northwest Direct of Iowa, Inc. ("NDI") is a for-profit corporation organized under the laws of the State of Iowa with its principal place of business in Oregon.

11. Defendant Rote Enterprises, LLC ("Rote Enterprises") is a limited liability

company organized under the laws of the State of Oregon with its principal place of business in Oregon. In July 1995, Rote filed Articles of Organization with the Oregon Secretary of State for Rote Enterprises that describes the company as a holding company. Its members include Rote and Rote & Company, P.C.

12. Defendant Northwest Direct Marketing, Inc., aka Northwest Direct Marketing (Delaware), Inc. ("NDM Delaware"), is a for-profit corporation organized under the laws of the state of Delaware.

13. Upon information and belief, each DOE defendant is an entity with a principal place of business in a state other than New Jersey and/or is a citizen of a state other than New Jersey.

### **SUCCESSOR LIABILITY ALLEGATIONS**

14. At all times relevant to this complaint, Rote has directly or indirectly owned and operated telemarketing businesses including call centers providing inbound and outbound telemarketing services to a variety of clients nationwide. During this time, Rote has operated two call centers at a time - one in Oregon and one in Iowa. Yet, Rote has created a complex, confusing, and ever-changing web of corporate entities to own and operate these call centers. Rote is and has at all relevant times been the chief executive, president, and primary owner of each of the named corporate entities.

15. As set forth herein, NDT was Plaintiff's employer. However, NDMO, NDM, NDI, Rote Enterprises, and NDM Delaware are liable to Plaintiff as NDT's successors. Specifically: (1) the successors knew or reasonably should have known of Plaintiff's employment-related claims resulting from Defendants' concerted activities; (2) NDT was and may remain unable to provide relief to Plaintiff; (3) there has been a substantial continuity of business operations between NDT and its successors; (4) the successors have used the same facilities, equipment, and methods of service provision as NDT to conduct their business; (5) the successors have used the same work force and have maintained substantially similar working conditions as NDT in carrying out their business; and (6) the successors have produced the same work product as NDT.

### COMMON FACTS

16. NDT, under one ultimate owner corporation, employed Plaintiff as Director of Information Technology. Pursuant to the parties' employment agreement, Plaintiff and NDT agreed that Oregon substantive law would apply to all disputes related to Plaintiff's employment.

17. During Plaintiff's employment, Plaintiff reported to the Oregon Department of Justice and the Lane County District Attorney information that Plaintiff reasonably believed to be evidence that NDT had engaged in criminal activity (mail and wire fraud with respect to client billings).

18. As a direct result of Plaintiff's protected reports, Rote and NDT took adverse employment actions against Plaintiff, including terminating Plaintiff's employment, because of Plaintiff's protected reports of criminal activity. Rote and NDT also took adverse actions against Plaintiff after Plaintiff's employment ended because of Plaintiff's protected reports, including publishing statements to third parties and the general public accusing Plaintiff of destroying data and engaging in other criminal and civil misconduct during his employment with Defendants.

19. Plaintiff opposed Rote and NDT's unlawful employment practices by filing a complaint and pursuing legal claims for whistleblower retaliation against Rote and NDT. After a series procedural motions, the matter was transferred to arbitration in Oregon. Plaintiff pursued claims against NDT for: (1) whistleblower retaliation under ORS 659A.230; and (2) wrongful termination. NDT pursued claims against Plaintiff for: (1) breach of contract; (2) conversion; (3) breach of fiduciary duty; (4) attorneys' fees associated with pre-arbitration litigation; and (5) court reporting fees associated with the arbitration proceedings.

20. As part of the parties' litigation, NDT and Plaintiff became subject to stipulations and protective orders that restricted the dissemination and publication of certain materials associated with the parties dispute. One such order restricted the parties from using electronic media produced in the arbitration outside of those proceedings.

21. After several years of protracted litigation, an arbitrator found in Plaintiff's

favor on his whistleblower claims, ruling that "[Plaintiff] was terminated at the time he was because of retaliation" and awarded damages to Plaintiff. The arbitrator denied NDT's claims against Plaintiff with the exception of ordering Plaintiff to pay his pro rata share of court reporting fees associated with the arbitration proceedings.

22. Plaintiff's arbitration award was later reduced to a judgment in the United States District Court for the District of Oregon. NDT has failed to satisfy that judgment.

23. In a continuing effort to oppose Defendant's unlawful employment practices and enforce his employment-related rights, Plaintiff filed a lawsuit on March 11, 2014 in the United States District Court against NDT, Rote, and related corporate entities. Plaintiff's operative complaint alleges that Defendants violated the Uniform Fraudulent Transfer Act and engaged in other fraudulent activity to defeat Plaintiff's ability to enforce his whistleblower retaliation judgment.

24. In direct response to Plaintiff's protected conduct, on or about February 27, 2015, Defendants created a website titled Sitting Duck Portland<sup>1</sup> ("Sitting Duck Portland Website"). Upon information and belief, Defendant Rote is the author of the Sitting Duck Portland Website. The Sitting Duck Portland Website is fully accessible to the general public.

25. According to the Sitting Duck Portland Website, the website tells a "story [...] about an arbitration involving one of [Rote's] companies and a former IT manager by the name of Max Zweizig." The Sitting Duck Portland Website purports to monetize the experience of its employment-related arbitration with Plaintiff on behalf of Defendants' family of corporate entities, which includes all corporate entities named in this lawsuit.

26. Defendants have used the Sitting Duck Portland Website as tool to discriminate and retaliate against Plaintiff because of Plaintiff's protected conduct. Specifically, the Sitting Duck Portland Website:

- (a) Prominently identifies Plaintiff, Plaintiff's fiancé, and Plaintiff's counsel by name;

---

<sup>1</sup> <https://sittingduckportland.wordpress.com>

- (b) Disparages Plaintiff in his profession in a personally identifiable manner;
- (c) Asserts that Plaintiff's arbitration victory was the result of "bias, of cronyism, perhaps of bribery, of corruption, of fraud."
- (d) Accuses Plaintiff, Plaintiff's fiancé, and Plaintiff's counsel of engaging in widespread criminal conduct and other unlawful conduct;
- (e) Publishes photographs suggesting that Plaintiff, Plaintiff, Plaintiff's fiancé, and Plaintiff's counsel are criminals;
- (f) Publishes and threatens to continue publishing sensitive and disparaging documents subject to protective stipulations and orders;
- (g) Accuses Plaintiff of viewing homosexual pornography, specifically drawing Plaintiff's (heterosexual) fiancé's attention to such allegations;

27. As a result of Defendants' efforts to optimize their discriminatory and retaliatory publications for internet search engines, content from the Sitting Duck Portland Website, including images Defendants have intentionally associated with Plaintiff's name, now appear prominently in search results for Plaintiff, Plaintiff's fiancé, and Plaintiff's counsel's names. The content from the Sitting Duck Portland Website that appears in search engine results prominently suggests that Plaintiff is a criminal, a frivolous litigant, and unfit to work as an information technology professional.

28. The content of the Sitting Duck Portland Website outlined in paragraph 27 constitutes a series of ongoing adverse employment actions against Plaintiff targeted at Plaintiff as a result of Plaintiff's participation in protected conduct as set forth herein. Defendants' conduct would dissuade a reasonable worker from making or supporting a charge of discrimination.

29. As a result of Defendants' publications outlined in paragraph 27, Plaintiff has suffered damages in the form of damage to reputation, loss of enjoyment of life, inconvenience, frustration, fear, dread, stress, helplessness, hopelessness, humiliation, and anxiety.

30. Plaintiff seeks an assessment of punitive damages against Defendants because

Defendants have acted with malice and have shown a reckless and outrageous indifference to a highly unreasonable risk of harm and have acted with a conscious indifference to the health and welfare of others.

**FIRST CLAIM FOR RELIEF**

(Whistleblower Discrimination and Retaliation)

*Against NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware*

Count 1 - ORS 659A.230

31. Plaintiff realleges paragraphs 1-30 by reference.

32. Plaintiff engaged in protected conduct by reporting in good faith NDT's information and by, in good faith: (1) filing a complaint against NDT; (2) cooperating with law enforcement agencies responsible for conducting a criminal investigation; (3) bringing a civil proceeding against an employer; and (4) testifying in good faith at a civil proceeding.

33. NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware discriminated and retaliated against Plaintiff by subjecting Plaintiff to adverse employment actions because of Plaintiff's protected conduct set forth in the preceding paragraph.

34. Plaintiff suffered damages as set forth in paragraph 29 as a direct and proximate result of the unlawful employment practices of NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware.

35. Plaintiff seeks an assessment of punitive damages against NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware as set forth in paragraph 30.

36. Plaintiff seeks temporary and permanent injunctive relief and any other equitable relief that may be appropriate, including but not limited to an order restraining NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware from further discrimination and retaliation against Plaintiff because of Plaintiff's protected conduct.

37. Plaintiff is entitled to recover attorney fees and expert witness fees pursuant to ORS 659A.885 and ORS 20.107. Plaintiff also seeks an award of statutory interest and reasonable costs incurred in pursuing this matter.



Count 2 - ORS 659A.199

38. Plaintiff realleges paragraphs 1-30 by reference.

39. Plaintiff engaged in protected conduct by reporting in good faith information that Plaintiff believed was evidence of a violation of a state or federal law, rule or regulation.

40. NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware discriminated and retaliated against Plaintiff by subjecting Plaintiff to adverse employment actions because of Plaintiff's protected reports set forth in the preceding paragraph.

41. Plaintiff suffered damages as set forth in paragraph 29 as a direct and proximate result of the unlawful employment practices of NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware.

42. Plaintiff seeks an assessment of punitive damages against NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware as set forth in paragraph 30.

43. Plaintiff seeks temporary and permanent injunctive relief and any other equitable relief that may be appropriate, including but not limited to an order restraining NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware from further discrimination and retaliation against Plaintiff because of Plaintiff's protected conduct.

44. Plaintiff is entitled to recover attorney fees and expert witness fees pursuant to ORS 659A.885 and ORS 20.107. Plaintiff also seeks an award of statutory interest and reasonable costs incurred in pursuing this matter.

**SECOND CLAIM FOR RELIEF**

(Retaliation for Opposing Unlawful Conduct - ORS 659A.030(1)(f))

*Against All Defendants*

45. Plaintiff realleges paragraphs 1-30 by reference.

46. Plaintiff engaged in protected conduct by reporting in good faith NDT's information and by, in good faith: (1) opposing Defendants' unlawful practices; (2) filing a complaint against Defendants; (3) testifying and assisting in a proceeding under ORS Chapter 659A; and (4) attempting to testify and assist in a proceeding under ORS Chapter 659A.

47. NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware

discriminated and retaliated against Plaintiff by subjecting Plaintiff to adverse employment actions because of Plaintiff's protected conduct set forth in the preceding paragraph.

48. Plaintiff suffered damages as set forth in paragraph 29 as a direct and proximate result of the unlawful employment practices of NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware.

49. Plaintiff seeks an assessment of punitive damages against Defendants NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware as set forth in paragraph 30.

50. Plaintiff seeks temporary and permanent injunctive relief and any other equitable relief that may be appropriate, including but not limited to an order restraining NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware from further discrimination and retaliation against Plaintiff because of Plaintiff's protected conduct.

51. Plaintiff is entitled to recover attorney fees and expert witness fees pursuant to ORS 659A.885 and ORS 20.107. Plaintiff also seeks an award of statutory interest and reasonable costs incurred in pursuing this matter.

### **THIRD CLAIM FOR RELIEF**

(Aiding & Abetting - ORS 659A.030(1)(g))

*Against Rote*

52. Plaintiff realleges paragraphs 1-30 by reference.

53. Rote has aided, abetted, incited, compelled and coerced by directly subjecting and causing NDT, NDMO, NDM, NDI, Rote Enterprises and NDM Delaware to subject Plaintiff to harm and adverse employment actions because of Plaintiff's protected employment activities.

54. Plaintiff suffered damages as set forth in paragraph 29 as a direct and proximate result of Rote's conduct.

55. Plaintiff seeks an assessment of punitive damages against Rote as set forth in paragraph 30.

56. Plaintiff seeks temporary and permanent injunctive relief and any other equitable relief that may be appropriate, including but not limited to an order restraining Rote

from further discrimination and retaliation against Plaintiff because of Plaintiff's protected conduct.

57. Plaintiff is entitled to recover attorney fees and expert witness fees pursuant to ORS 659A.885 and ORS 20.107. Plaintiff also seeks an award of statutory interest and reasonable costs incurred in pursuing this matter.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

- a. Compensatory damages in the amount of \$150,000.00;
- b. Punitive damages in the amount of \$1,000,000.00;
- c. Temporary and permanent injunctive relief and any other equitable relief that may be appropriate, including but not limited to an order restraining Defendants from further discrimination and retaliation against Plaintiff because of Plaintiff's protected conduct;
- d. Attorneys' fees and expert witness fees pursuant to ORS 659A.885 and ORS 20.107;
- e. Statutory interest and reasonable costs incurred in pursuing this matter;
- f. Any other relief appropriate under the circumstances.

Dated: December 24, 2015

/s/ Joel Christiansen  
Joel Christiansen, OSB #080561  
Of Attorneys for Plaintiff

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

MAX ZWEIZIG, )  
 )  
 Plaintiff, )  
 )  
 vs. ) NO. 19CV01547  
 )  
 TANYA ROTE and TIMOTHY ROTE, )  
 husband and wife; and NORTHWEST )  
 HOLDING, LLC, an Oregon limited )  
 liability company, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

**DEPOSITION OF MAX ZWEIZIG**

Appearing Remotely From  
Cherry Hill, New Jersey

Taken on behalf of the Defendant

Monday, December 21, 2020

1 BE IT REMEMBERED THAT, pursuant to Oregon  
2 Rules of Civil Procedure, the deposition of MAX ZWEIZIG was  
3 taken remotely by LaRisa Y. Giacomini, a Certified  
4 Shorthand Reporter for Oregon, California, Idaho, and a  
5 Registered Professional Reporter, that pursuant to Oregon  
6 Revised Statute 44.320 said reporter is empowered to  
7 administer oaths to witnesses, that the above-named witness  
8 was placed under oath on Monday, December 21, 2020,  
9 commencing at the hour of 10:04 a.m.

10  
11 APPEARING REMOTELY

12 For Plaintiff: ALBERTAZZI LAW FIRM  
13 By: Anthony Albertazzi  
14 296 SW Columbia  
Suite B  
Bend, Oregon 97702

15 For Defendant: Timothy Rote  
16 Pro Se

17  
18 --o0o--  
19  
20  
21  
22  
23  
24  
25

- I N D E X -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

EXAMINATION BY: PAGE

MR. ROTE 4

EXHIBITS FOR IDENTIFICATION: PAGE

1 3:14-cv-00406-HZ Findings of Fact & Conclusions of Law 9

2 Declaration of Michael Montag 16

3 Agreement for the Operation & Transfer of Real Property, Sunriver, Oregon 17

4 Asset Contribution Agreement 20

5 2014 Schedule K-1 for Northwest Holding Company 21

7 VRBO marketing page 23

8 Declaration of Taryn Basauri 23

9 Declaration of Taryn Basauri 26

10 Vacation rental agreement form, 5 pages 29

11 seller's Counter Offer on Sunriver property 31

12 Plaintiff's Response to Defendant's First Request for Production 35

13 Copy of Twitter post 35

--o0o--

1 REPORTED REMOTELY FROM DESCHUTES COUNTY

2 Monday, December 21, 2020, 10:04 a.m.

3  
4 **MAX ZWEIZIG,**

5 called as a witness herein in behalf of the Defendant,  
6 having been first duly sworn on oath by the Certified  
7 Shorthand Reporter, was examined and testified as follows:

8  
9 **EXAMINATION**

10 **BY MR. ROTE:**

11 Q. Can you state your full name for the record,  
12 please?

13 A. Maximilian Douglas Zweizig. And I want --  
14 now, that we're on the record, I would like to make sure  
15 that I have on the record this deposition is being done  
16 under a little bit of duress.

17 The things that you're doing out there on the  
18 internet is not very fair to me being -- sitting in this  
19 position under this kind of pressure from you, answering  
20 questions from you, especially directly from you. So I  
21 want to make sure that was on the record. That's all.

22 Q. Have you ever been arrested and/or convicted  
23 of a felony or misdemeanor?

24 A. No, sir.

25 Q. what did you do to prepare for this deposition

1 today?

2 **A. I drove over here.**

3 Q. Have you discussed this lawsuit with anyone  
4 else, signed any statements or affidavits relating to this  
5 lawsuit or posted anything about this lawsuit on the  
6 internet?

7 MR. ALBERTAZZI: I would object to the extent  
8 that seeks any communication with me or any other  
9 attorney, otherwise you can answer.

10 **A. No.**

11 BY MR. ROTE:

12 Q. Your answer? What's your answer?

13 **A. No.**

14 Q. No. Have you read any witness statement or  
15 seen any other evidence before this deposition?

16 **A. I don't think so.**

17 Q. Do you have a history of drug or alcohol  
18 abuse?

19 **A. No, I do not.**

20 Q. Are you under the effect of any medication  
21 that may influence your ability to answer the questions  
22 presented to you in this deposition?

23 **A. Presented to who?**

24 Q. Presented to you.

25 **A. No, sir.**



1 Q. would you like to review the transcript of  
2 this deposition and make any changes before it's entered  
3 into the record?

4 A. **I would like to reserve that right. Yes.**

5 MR. ROTE: We would as well, Mr. Albertazzi.

6 MR. ALBERTAZZI: So noted.

7 MR. ROTE: Okay.

8 MR. ALBERTAZZI: I haven't ordered a  
9 transcript yet. If I do, I'll let you know.

10 BY MR. ROTE:

11 Q. Your responses to discovery were paper thin.  
12 Have you provided every document that you have  
13 in your possession on the claims of this lawsuit?

14 A. **To the best of my knowledge, yes.**

15 Q. When did you discover the quitclaim deed?

16 MR. ALBERTAZZI: Mr. Rote, would you mind  
17 clarifying which quitclaim deed you're talking about?

18 MR. ROTE: April 24th, 2017, I believe is the  
19 date. The document was in your -- was in a  
20 deposition you took of us. Plaintiff's document  
21 00001.

22 THE WITNESS: What are we referencing now?

23 BY MR. ROTE:

24 Q. The quitclaim deed, when did you discover the  
25 quitclaim deed?

1           A.       I'm not going to answer any questions that go  
2 against attorney/client privilege.

3           Q.       Did you discover it independently or was it  
4 provided to you by your attorney?

5           A.       I'm not going to answer that question because  
6 it may violate attorney/client privilege.

7           Q.       Your attorney's not made an objection on this  
8 question. It's not about attorney/client privilege.

9                     Did you independently discover the quitclaim  
10 deed?

11          A.       As I sit here today, I don't remember.

12          Q.       When did you discover the warranty deed  
13 between Northwest Holding and Tanya Rote?

14          A.       Do you have a piece of paper to show me or can  
15 you point to an exhibit?

16          Q.       It's actually your exhibit. Your exhibit,  
17 page number three.

18                   MR. ALBERTAZZI: I'm -- are you talking about,  
19 Mr. Rote, our deposition exhibits from when we took  
20 yours and Mrs. Rote's deposition last week?

21                   MR. ROTE: Yes. That's correct. And it also  
22 is the only two documents that were provided so far  
23 in discovery. The quitclaim deed and the warranty  
24 deed are the only two documents that you have  
25 provided in discovery.

1 BY MR. ROTE:

2 Q. Are you familiar with the warranty deed, Max?

3 A. **I'm not sure which document you're referring**  
4 **to.**

5 Q. You only provided two documents in response to  
6 discovery. It was one of two.

7 A. **I've never heard the term "warranty deed". So**  
8 **I don't know what you're talking about.**

9 Q. You have not looked at the data you provided,  
10 the documents you provided in discovery?

11 A. **I'm sorry. Can you repeat the question?**

12 Q. I said you have not looked at the documents  
13 you have provided in discovery?

14 A. **I'm sure I have looked at them. As I sit here**  
15 **today, I don't remember is my answer.**

16 Q. You don't remember looking at the warranty  
17 deed? That's your answer?

18 A. **No. My answer is to your question when did I**  
19 **discover that.**

20 Q. You don't remember that?

21 A. **I believe I answered that.**

22 Q. Was it -- to jog your memory, was it before  
23 counsel -- before you hired counsel or after?

24 A. **As I sit here today, I don't remember.**

25 Q. I want to refer to Exhibit 1 that we provided,

1 Defendant's Exhibit 1, opinion and order.

2 (Exhibit 1 identified.)

3 Q. Do you recall engaging in fraudulent transfer  
4 litigation from 2014 to 2018?

5 A. I do recall that case. Yes, sir.

6 Q. And you recall the opinion by Judge Hernandez  
7 in favor of me and the other defendants?

8 A. Yes, sir. That is an interesting opinion. I  
9 don't agree with it, of course. That wasn't my case. I  
10 also find it extremely interesting that -- had you not done  
11 anything you did -- somehow you got away with that.

12 You know, somehow you flim-flammed and got  
13 away with that -- at that case. And had you not done any  
14 of the things that you did with your blog, you wouldn't owe  
15 me half a million dollars today. Only because of your  
16 actions did you not walk away from this whole thing. That  
17 was really stupid, sir.

18 THE REPORTER: I'm sorry. Hold on. Hold on.

19 Your voice cut out. I didn't hear you.

20 BY MR. ROTE:

21 Q. Are you going to answer my questions or are  
22 you going to use this as a platform to make your  
23 statements?

24 A. Sir, I'm answering your questions. You've  
25 done a lot of things to me over the years and you requested

1 that I be here at this deposition. Frankly, I don't know  
2 what information I have for you, but you seem to think I  
3 have some information for you, so I'm appearing at this  
4 deposition as I am supposed to do.

5 And you have a very aggravated witness here  
6 because you have been unrelenting for 20 years torturing  
7 myself, my family, my attorneys. You have successfully  
8 denied me my right to counsel by asking one of my  
9 attorneys, Given your age how many children --

10 MR. ROTE: Mr. Albertazzi, I'm going to object  
11 to --

12 A. -- how many children have you raped. Okay.  
13 You asked my attorney how many children he has raped, sir.  
14 You like to fly under the radar and you like to do these  
15 actions and then you like to step back from them, like, you  
16 know, oh, I didn't do that.

17 Or I don't know what you think, but everybody  
18 else sees your actions. And I think it's pretty important  
19 that everybody sees your actions, sir. Your credibility  
20 has stretched beyond belief and perhaps you should consider  
21 that before you keep going as your own attorney.

22 You walked into a courtroom with \$150,000  
23 against you and walked out losing a million. You're not  
24 good at it, sir. You should probably stop.

25 MR. ROTE: You have the benefit of continued

1 counsel all this time.

2 MR. ALBERTAZZI: Objection. Do not answer  
3 anything related to communications or agreements  
4 between yourself and me or any other attorney that  
5 represented you.

6 THE WITNESS: Yes, sir.

7 BY MR. ROTE:

8 Q. Do you recall a deposition in August of 2017  
9 on the same fraudulent transfer case?

10 A. I do not.

11 Q. You do not remember having your deposition  
12 taken in August 2016?

13 A. I had a lot of depositions taken as a result  
14 of the things that you've done to me, my family, and my  
15 attorneys. And also included judges once in a while. So  
16 no, I do not.

17 Q. Do you recall in August 2016 that Linda  
18 Marshall admitting to having driven by the Sunriver  
19 property?

20 A. You have a deposition that you can show me  
21 that indicates that?

22 Q. No, I do not.

23 A. Are you telling me that Linda Marshall said  
24 this in a deposition?

25 Q. I'm saying the August 2016 deposition she

1 admitted to driving by the Sunriver house.

2 when did you discover the ownership of the  
3 Sunriver property or the existence of the Sunriver  
4 property?

5 **A. That would go against attorney/client**  
6 **privilege. I do not remember the date and I will tell you**  
7 **that. And I have no idea where you're going with Linda**  
8 **Marshall. No. I don't remember anything that you're**  
9 **talking about about that.**

10 Q. You placed a lien on the Sunriver property as  
11 well as a lis pendens. Are you aware of that?

12 Did you hear my question?

13 **A. I don't know.**

14 Q. Ward Greene's firm, Williams Kastner, placed  
15 the lien on the Sunriver property?

16 **A. Okay.**

17 Q. Do you know that?

18 **A. Yes, sir.**

19 Also, I'm going to trust what you're saying in  
20 that. And believe me that's tough. I don't trust a lot of  
21 what you say, but if you're saying that happened I have to  
22 believe that you're consulting a piece of paper that  
23 indicates that. So, fine.

24 Q. Yeah. We -- I can continue to give you the  
25 same kind rhetoric back and forth so --

1           **A.       You do whatever you want, sir. This is your**  
2 **deposition --**

3           Q.       And I'm trying to take it.

4           **A.       You do whatever you want.**

5           THE REPORTER: Excuse me.

6           MR. ROTE: I'm trying to take it.

7           THE REPORTER: Hold on. I can only report one  
8 person at a time.

9 BY MR. ROTE:

10          Q.       Ready to go on?

11          **A.       You asked me here, sir. Some of your answers**  
12 **-- I have been -- I have been asked to tell the truth, the**  
13 **whole truth, and nothing but the truth.**

14                 That whole truth part seems to be the problem  
15 where you're concerned. So a lot of times you're asking me  
16 questions that have other circumstances surrounding them  
17 and I'm going to make sure they're mentioned.

18          Q.       Are you ready to go on? I've got lots of  
19 other questions for you.

20          **A.       I'm sure you do.**

21          Q.       Okay. You're aware that the lis pendens  
22 caused the sale of the property to fail?

23          **A.       I'm not aware -- no. I'm not aware of that.**  
24 **If that property failed, I was not there with you. I don't**  
25 **know the particulars of what happened there. Properties**



1 fail for a lot of reasons. I have no idea why your  
2 property failed to sell.

3 Q. How long have you been following or aware of  
4 the Sunriver property?

5 A. As I sit here today, I don't remember.

6 Q. Was it in 2004, 2015, 2016?

7 Does that jog your memory?

8 A. I believe I answered your question.

9 Q. Joel Christiansen owns half the judgment you  
10 referred to earlier?

11 A. I believe you may be talking about an  
12 attorney.

13 Q. That's correct.

14 A. I don't know what Joel Christiansen owns or  
15 has.

16 Q. What role did Joel Christiansen play in filing  
17 the lis pendens?

18 Do you know?

19 A. You have to be aware of these areas that  
20 you're going into that have already been discussed that I'm  
21 not supposed to go into.

22 THE REPORTER: I'm sorry. What was that?

23 MR. ROTE: I said there was no objection to  
24 that question.

25 THE REPORTER: Thank you.

1           A.       If you need me to tell you again that I'm not  
2 going to go into answers that would go into attorney/client  
3 privilege, then I'll be happy to say that as my answer.

4 BY MR. ROTE:

5           Q.       So we need to note that for the record because  
6 that is not an attorney/client privilege question.

7                    when did you discover the Sunriver property  
8 was being marketed for rent on VRBO?

9           A.       As I sit here today, I don't remember.

10          Q.       Have you filed a malpractice claim against  
11 Williams Kastner?

12                   MR. ALBERTAZZI: Objection as to relevance.

13                   You can answer it.

14          A.       No.

15 BY MR. ROTE:

16          Q.       Why was Williams Kastner fired?

17                   MR. ALBERTAZZI: Object.

18                   THE WITNESS: I would like to answer that  
19 question.

20                   MR. ALBERTAZZI: Hold on.

21          A.       Yeah. I'm sorry.

22                   Williams Kastner quit because you sent an  
23 e-mail to Ward saying, Given your age how many children  
24 have you raped. You denied me that right to counsel.

25                   Thank you for asking the question.

1 BY MR. ROTE:

2 Q. Are you aware that Michael Montag who  
3 represented us -- Northwest Holding at the time -- I want  
4 to refer you to Exhibit 2.

5 (Exhibit 2 identified.)

6 Q. Do you have it?

7 A. **Not yet, sir.**

8 MR. ALBERTAZZI: If it's possible to enable  
9 screen sharing, I can bring these up if that would be  
10 easier.

11 THE WITNESS: I think I have it now. If I  
12 can't get one, sir, I'll let you know, but I got this  
13 one.

14 MR. ALBERTAZZI: All right.

15 BY MR. ROTE:

16 Q. Are you aware that Michael Montag offered you  
17 alternative property as opposed to pursue this lawsuit  
18 against Tanya Rote?

19 A. **Sir, the award -- the half-million-dollar**  
20 **award given by the jury -- the jury -- sorry -- was a**  
21 **cash award. Not interested in getting into a land deal**  
22 **with a completely untrustworthy person.**

23 So you can sell your land. You can sell  
24 whatever you need to sell and I imagine you probably will  
25 have to. And you can pay your judgment. The award was for

1 a cash judgment.

2 Q. -- to do so. That is correct.

3 A. **I'm sorry. I talked over you. Can you say**  
4 **that again?**

5 Q. Yeah. I'm just restating. You refuse to  
6 accept that property?

7 A. **Sir, the property had no objective value.**  
8 **It's a subjective value commodity. You can't even say a**  
9 **statement of, here, I am offering you X amount of money.**  
10 **It is a subjective commodity, so it doesn't even work. You**  
11 **can't just offer something and say whatever --**

12 I'm sorry. What's that, sir?

13 Q. Do you consider yourself a real estate expert?

14 A. **No, I don't, but I consider myself to have**  
15 **common sense.**

16 Q. Let's go to Exhibit 3 please.

17 (Exhibit 3 identified.)

18 A. **I have it.**

19 Q. Okay. On the last page, can you give me the  
20 date that that was signed on page four?

21 A. **This is your document, sir.**

22 Q. It is.

23 A. **It is.**

24 Q. When did you --

25 A. **I'm not going to discuss your documents.**

1 These are your documents for your case. And I'm not going  
2 to discuss your documents for your case.

3 MR. ROTE: Mr. Albertazzi, I'm having a very  
4 difficult time deposing Max. He seems to want to  
5 interject a commentary here.

6 I'm trying to decide -- get an observation  
7 from him, a comment, or an acknowledgment of when  
8 this document -- when he first became aware of this  
9 document.

10 MR. ALBERTAZZI: And so your question is when  
11 did you first become aware of Deposition Exhibit  
12 Number 3?

13 MR. ROTE: Correct.

14 MR. ALBERTAZZI: Okay. So you can answer  
15 that, Mr. Zweizig.

16 THE WITNESS: Okay. As I sit here today, I  
17 don't remember when I became aware of this. I  
18 basically would challenge the authenticity of almost  
19 any document you said you prepared. You forged  
20 subpoenas to other attorneys before. I mean, it's  
21 very difficult to trust any document that you --

22 MR. ROTE: Enough. Enough of the nonsense.  
23 Okay. Let's get to the questions. Answer my  
24 questions. You'll have your day in court if that's  
25 what you choose and you can show up and do that.

1 THE WITNESS: No. You're choosing that, sir.

2 MR. ROTE: Right now --

3 THE WITNESS: You're choosing the day in  
4 court.

5 MR. ROTE: This is not your deposition. This  
6 is my deposition. I'd like --

7 THE WITNESS: I understand that.

8 MR. ROTE: -- like to be able to complete it  
9 without --

10 THE WITNESS: I understand.

11 MR. ROTE: -- without the ongoing commentary.  
12 okay?

13 THE WITNESS: I appreciate that desire. I  
14 appreciate you not telling me it's my day in court  
15 and I want it. I don't want it. I want you to pay  
16 your judgment. And you can go on and have all the  
17 real estate and houses and everything that you want.

18 Your life doesn't concern me, sir. What  
19 you've done to mine does. So don't tell me that I'm  
20 looking for a day in court. You're the one causing  
21 all of this to happen.

22 MR. ROTE: You filed this lawsuit.

23 THE WITNESS: Yes, sir. You're not paying  
24 your judgment. You need to pay your judgment. If  
25 you think I'm not going to try and get you to pay

1           your judgment -- if you choose not to pay it, then  
2           that would be silly on your part.

3 BY MR. ROTE:

4           Q.       How about Exhibit 4?

5                    Can you take a look at Exhibit 4?

6                    (Exhibit 4 identified.)

7           A.       **I have it.**

8           Q.       Okay.  When did you first receive notice of  
9 this Exhibit 4 from Williams Kastner?

10                   MR. ALBERTAZZI:  I guess I'm going to object  
11 if you're asking him when he got information from  
12 Williams Kastner because that could get into  
13 attorney/client privilege.

14                   The question is when did he become aware of  
15 the existence of this agreement.  I mean, is that  
16 what you're trying to ask?

17                   If you can narrow it that way, you know, that  
18 might help.  When did he become aware of the  
19 existence of this document.  Not assuming that it's  
20 valid -- not valid, authenticate or not.  When did he  
21 become aware.  I don't have any objection to that.

22 BY MR. ROTE:

23           Q.       Okay.  When did you become aware of this  
24 document?

25           A.       **As I sit here today, I don't remember.**

1 Q. This document was filed almost two years ago.  
2 Does that jog your memory?

3 A. **That's something you're saying. I don't**  
4 **believe you.**

5 Q. The document was filed in a summary judgment  
6 motion almost two years ago.

7 A. **If you say so.**

8 Q. Does that jog your memory?

9 A. **No. It does not jog my memory.**

10 Q. Let's go to Exhibit 5 please.

11 (Exhibit 5 identified.)

12 A. **I have it.**

13 Q. All right. On the left-hand side about three  
14 quarters of the way down on J, area J, you see Tanya Rote's  
15 ownership percentage of Northwest holding?

16 A. **This is your tax return or somebody else's tax**  
17 **return. It's not mine.**

18 Q. It's Northwest Holding's tax return.

19 A. **Okay. I don't know anything about Northwest**  
20 **Holding's tax return. I'm not comfortable commenting on**  
21 **documents for Northwest Holding.**

22 MR. ALBERTAZZI: what's the question about  
23 item J, Mr. Rote? Maybe you can just ask the  
24 question.

25 BY MR. ROTE:



1 Q. The ownership percentage, you see that on item  
2 J?

3 A. Okay. I see it.

4 Q. Okay. What does it say?

5 A. Says profit, loss, capital, beginning, ending.

6 Q. What are the percentages?

7 A. I don't know. 25, 25, 25. Isn't that  
8 supposed to add up to something? Is it 75 it's supposed to  
9 add up to? I don't understand what I'm looking at. This  
10 is your document.

11 And, again, I would challenge the authenticity  
12 of any document that you would give me.

13 MR. ROTE: That gets old, Mr. Albertazzi.

14 THE WITNESS: It can get hold. You're right.  
15 It has gotten old.

16 MR. ALBERTAZZI: Are you asking him just to  
17 repeat what he sees on that?

18 MR. ROTE: He answered 25 percent. That's  
19 fine. It's the after document commentary. You know,  
20 we showed I think professional courtesy to you during  
21 our depositions. And I'm going to -- I'm going to  
22 ask that of Mr. Zweizig if he can summon that up.

23 THE WITNESS: Well, I'm trying, sir, but like  
24 I explained in the beginning of this, you're putting  
25 myself and my family in danger while you're asking me

1 to come here and give a deposition. So I'm sorry for  
2 your look.

3 MR. ALBERTAZZI: So let's proceed with the  
4 questions.

5 THE REPORTER: I'm sorry. I cannot hear you.

6 BY MR. ROTE:

7 Q. Let's go to Exhibit 7 please.

8 (Exhibit 7 identified.)

9 A. **I have it.**

10 Q. So that is a -- I'll represent to you that's a  
11 VRBO home-away marketing statement that we provided to your  
12 counsel.

13 Do you see that Tanya Rote's identified up  
14 above as an owner and member?

15 A. **I see that.**

16 Q. All right. Let's go to Exhibit 8 please.

17 (Exhibit 8 identified.)

18 A. **I have it.**

19 Q. Okay. This a declaration from your attorney  
20 tear Taryn Basauri, former attorney. Notes that the  
21 quitclaim -- on paragraph three the quitclaim was dated  
22 April 24th, 2017. It was submitted as a document in  
23 opposition to the motion for summary judgement.

24 Do you see that?

25 MR. ALBERTAZZI: Mr. Rote.

1 THE WITNESS: I'm sorry. I didn't hear.

2 MR. ALBERTAZZI: I'm sorry. Which paragraph  
3 number did you say? I'm just trying to follow along.

4 MR. ROTE: Paragraph three, three.

5 THE WITNESS: Can you repeat the question?

6 BY MR. ROTE:

7 Q. Referring to paragraph three, do you see that  
8 Taryn Basauri has admitted into evidence there for the  
9 first time the quitclaim deed? You see it by reference?

10 A. I do.

11 Q. Go ahead and read that paragraph.

12 Okay. And the date of that -- the date of  
13 that deposition by Taryn Basauri on page two, do you see  
14 it's dated March 1st, 2019, on page two?

15 A. Looking for it. You're saying there's a date  
16 there?

17 Q. Right after --

18 A. Yeah. I see it.

19 Q. Okay.

20 A. I got it.

21 Q. Okay. Referring back to paragraph four, you  
22 see that she made reference -- Taryn did -- to the  
23 secretary of state's documentation as to a member's  
24 interest on that date, December 11, 2017?

25 A. Couple things. I don't understand what a

1 **member's interest is. What is that?**

2 Q. That's the question we're going to get to.

3 Do you understand LLC or partnership law at  
4 all, tax law or any other?

5 A. No.

6 Q. No. So do you understand that a member has an  
7 ownership interest in an LLC or partnership?

8 Do you understand that?

9 A. **You're telling me that right now. Are you**  
10 **saying that the members are you and Tanya.**

11 Q. Members are me and Tanya. They were.

12 A. **Oh. Any other members?**

13 Q. Even if that were true no other members need  
14 to be disclosed. Do you understand that?

15 A. **Sure.**

16 Q. Okay. And on that same document dated March  
17 1, 2019, it is on paragraph five, do you see that it is  
18 referencing a general warranty deed of the Sunriver  
19 property?

20 Do you see that?

21 A. **Yeah. I see what it says.**

22 Q. would these be the approximate dates then that  
23 on or before this declaration was provided that you became  
24 aware of the quitclaim and warranty deed or was it before  
25 that?

1           **A.     As I sit here today, I don't remember.**

2           Q.     Okay. Like to look at Exhibit Number 9  
3 please.

4                     (Exhibit 9 identified.)

5           **A.     I have it.**

6           Q.     Okay. would you go to paragraph three on the  
7 second page, starting at line one?

8           **A.     You're saying second page?**

9           Q.     Page two.

10          **A.     Got it.**

11          Q.     Line one.

12          **A.     Yep.**

13          Q.     You see it says, My office informed  
14 Mr. Zweizig of these transfers?

15          **A.     I see that.**

16          Q.     You also see that, Mr. Zweizig also informed  
17 my office that Mr. Rote has previously been listed as an  
18 owner of the Sunriver property on VRBO?

19          **A.     VRBO is what? Is that a website?**

20          Q.     It is. It's a marketing website --

21          **A.     Okay.**

22          Q.     -- for vacation rental property.

23                     You see that Ms. Basauri is acknowledging that  
24 you were -- you informed her or her office about some  
25 content on the Sunriver property that was on VRBO?

1 Do you see that on lines two and three?

2 A. Yeah. I see it.

3 Q. Okay. Do you see on line five that in a  
4 addition to other information provided by Mr. Zweizig's  
5 internet research?

6 A. I'm not seeing the words "internet research".  
7 Sorry.

8 Q. It's on line five.

9 A. Okay. Got it.

10 Q. Can you tell me what that internet research  
11 was?

12 A. I don't remember.

13 Q. Can you tell me when you did that internet  
14 research?

15 A. I cannot. I don't remember.

16 Q. Remember how far back -- do you happen to know  
17 when you discovered the Sunriver property?

18 A. I think I answered that, but as I sit here  
19 today I don't remember that.

20 I'm going to need a break in about five  
21 minutes.

22 Q. Probably a good time to break if you'd like.

23 A. Okay.

24 (Pause in proceedings at 10:36 a.m.)

25 (Proceedings resumed at 10:42 a.m.)

1 Q. All right. I think we left off with Exhibit 9  
2 and I want to restate again for the record -- or ask the  
3 question again how long you've been following the Sunriver  
4 property on VRBO?

5 A. I believe I answered that.

6 Q. Do you have any documents that you turned over  
7 to -- that you saved that would identify when you  
8 discovered the Sunriver property? It appears that Taryn  
9 Basauri makes reference to information you provided.

10 A. I believe I've turned over all the documents I  
11 have.

12 THE REPORTER: I'm sorry. What was the  
13 question?

14 BY MR. ROTE:

15 Q. I asked if there were additional documents  
16 that Taryn -- that Mr. Zweizig has turned over or  
17 identified or saved that he should have turned over by now  
18 by reference to Taryn Basauri's statement in the Exhibit  
19 Number 9.

20 A. That was a long time ago. As I sit here  
21 today, I don't remember.

22 Q. So I, again, restate that you've only turned  
23 over two documents to us in discovery. And Taryn Basauri's  
24 declaration makes it clear that you provided information to  
25 her, including documents.

1                   Do you not have those documents? Is that your  
2 position?

3           **A.       As I sit here today, I don't remember. There**  
4 **may be things that were printed out from a website that you**  
5 **had. It's your website. So it may be a document that you**  
6 **already have. I don't know.**

7                   MR. ROTE: Well, I'll note for Mr. Albertazzi  
8 that according to Taryn Basauri there are other  
9 documents that Mr. Zweizig has provided on his  
10 discovery data of VRBO that we're still looking to  
11 receive from you.

12                   THE WITNESS: If you can identify any  
13 documents, I'd be happy to turn them over. Like I'm  
14 telling you, I don't know if documents that you're  
15 alleging are missing were responsive or not.

16 BY MR. ROTE:

17           Q.       well, we'll have to -- the Exhibit Number 9  
18 made reference to that and you've just been deposed on  
19 that. And it is clear that you provided other documents to  
20 Taryn Basauri on your discovery data of the Sunriver  
21 property. So we do, in fact, want those documents.

22           **A.       That's fine. I'm saying -- to clear it up --**  
23 **it's not clear to me. So you're saying it's clear. Fine.**

24           Q.       Good. Go to Exhibit Number 10.

25                   (Exhibit 10 identified.)



1 Q. Do you have it?

2 A. **Not yet.**

3 Yes, I have it.

4 Q. Okay. I'll represent to you that this is a  
5 rental agreement between Northwest Holding and a renter of  
6 that property.

7 Under paragraph one, under term, do you see  
8 the date there?

9 A. **I see the date there.**

10 Q. And is it November 29th -- 25th to November  
11 29th, 2013?

12 A. **That's what the document says.**

13 THE REPORTER: I'm sorry. Your voice cut out  
14 again.

15 BY MR. ROTE:

16 Q. I'd like to go to the last page of that same  
17 document.

18 A. **I'm at the last page.**

19 Q. Do you see that Tanya Rote is listed as  
20 manager and, in fact, signed that document?

21 A. **I see on the document that there is a  
22 signature that reads in handwriting Tanya Rote.**

23 Q. She's identified as the manager?

24 A. **Underneath whoever signed it that says Tanya  
25 Rote, it says manager Tanya Rote. Yes, sir.**

1 Q. And the date it was executed, do you see May  
2 24th, 2013?

3 A. **I do see that.**

4 Q. Okay. Back up to the page two, it says,  
5 Please make checks payable. It's about the middle of the  
6 page. Do you see that?

7 A. **I do see that.**

8 Q. And it says Northwest Holding LLC.  
9 Do you see that?

10 A. **I do see that.**

11 Q. All right. Go to Exhibit Number 11 please.

12 A. **Is that your company you're saying that has  
13 those members? Is that what you're saying?**

14 Q. Go to Exhibit 11 please.  
15 (Exhibit 11 identified.)

16 Q. Do you have it?

17 A. **There it is. Sorry. Go ahead.**

18 Q. So you see that this is a sell document. If  
19 you look on line two, do you see who the seller is?

20 A. **I see that.**

21 Q. And you see on line four that it is the  
22 Sunriver property that's the topic of this -- subject of  
23 this litigation?

24 A. **I see that as well.**

25 Q. Okay. I'll represent to you that this is an

1 offer that failed because of the lis pendens you filed.

2 were you aware of that?

3 **A. I think I already answered I'm not aware why**  
4 **any real estate sales that you made were successful or**  
5 **failed. I'm not there with you.**

6 Q. Do you know that the lis pendens caused a lien  
7 that caused the buyers to want to exit the purchase of the  
8 property?

9 **A. That's a lot of clauses. And I'm not there.**  
10 **I don't know. I don't know how I can answer your question.**  
11 **I'm not trying to be difficult. I'm just -- I wasn't there**  
12 **with you. I don't know.**

13 Q. Do you know what a lis pendens is?

14 **A. Not really.**

15 Q. Okay. Your attorney hasn't disclosed to you  
16 or educated you on what a lis pendens is?

17 **A. Can't answer that question.**

18 Q. You can answer that question.

19 MR. ALBERTAZZI: No. Hold on. I'm just going  
20 to instruct him not to answer that, Mr. Rote. You're  
21 asking him what his attorney has educated him about.  
22 It's fine to ask him if he knows what something is.

23 I don't object to that, but I object to your  
24 asking him what he learned or what communications  
25 were made by his attorney to him because that's

1 attorney/client privilege.

2 BY MR. ROTE:

3 Q. Did Sandra wear (ph) educate you on what a lis  
4 pendens is?

5 A. Sir, I'm not going to talk to you about other  
6 people.

7 Q. Is Sandra wear still your fiancé?

8 A. I really don't believe that's any of your  
9 business. And given what you've done with anybody that  
10 comes in contact with me, I don't think that that is very  
11 responsible of me to talk about anyone. I will tell you  
12 that your information is sadly out of date. That's the  
13 answer you're going to get.

14 Q. The Clackamas County case 19CV14552 you were  
15 represented by the Professional Liability Fund; is that  
16 correct?

17 A. Are you telling me I was represented by an  
18 attorney?

19 Q. Nina Cook who was hired by the Professional  
20 Liability Fund. Can you confirm that?

21 A. I believe I did have Nina Cook as somebody I  
22 knew in regard to all this.

23 Q. Did you file a malpractice claim against Linda  
24 Marshall?

25 A. No.

1 Q. Can you tell me why the PLF represented you  
2 during that litigation?

3 A. I think they have a phone number. I think  
4 you're starting to get into an area of conversations with  
5 an attorney that -- I don't think that's an area we should  
6 get into. You're welcome to ask them.

7 Q. You don't know why you were represented by the  
8 PLF?

9 MR. ALBERTAZZI: I guess I would object on  
10 relevance. He can answer it if he knows as long as  
11 it doesn't venture into what would -- what he was  
12 advised by an attorney.

13 A. Yeah. Because of the attorney/client  
14 privilege area, I don't think I can answer that.

15 BY MR. ROTE:

16 Q. Did you file this lawsuit to just harass Tanya  
17 Rote?

18 A. No, sir. I am trying to collect a half  
19 million dollar that will likely in my opinion turn into a  
20 million dollar judgment against you which you could simply  
21 pay. Anything happening to Tanya Rote, you're causing.  
22 You don't need to be doing any of this.

23 Q. You filed this lawsuit against Tanya Rote?

24 A. I believe this is fraudulent transfer lawsuit.  
25 And as I've told you, I'm not an attorney. I'm not sure

1 you're characterizing this properly, but if you say that  
2 that's how it's worded, then that's how it's worded.

3 MR. ROTE: I don't have any other questions.

4 MR. ALBERTAZZI: I just wanted to do a little  
5 bit of follow-up just to -- just to clear up the  
6 record here on this discovery issue.

7 I am going to e-mail an exhibit here. I've  
8 got two exhibits actually. And, Mr. Rote, I'm going  
9 to e-mail those to you and then the court reporter.  
10 I'm going to e-mail those to her as well, so that I  
11 can put these in the record. So just give me a  
12 moment here while I do that. And once you receive  
13 them, please let me know.

14 MR. ROTE: What e-mail address are you using?

15 MR. ALBERTAZZI: I'm using  
16 Tim@rote-enterprises.com or which one do you want me  
17 to use?

18 MR. ROTE: That's fine.

19 MR. ALBERTAZZI: Okay. So the first -- I just  
20 sent it and it has two attachments. The first one is  
21 named Discovery Responses. And I would like to have  
22 that be Exhibit Number 12 to this deposition.

23 (Exhibit 12 identified.)

24 Q. The second one is called Twitter post and I'd  
25 like that to be Exhibit 13.

1 (Exhibit 13 identified.)

2 MR. ROTE: The first one appears to be your  
3 deposition exhibit responses; is that accurate?

4 MR. ALBERTAZZI: Yes. So Exhibit 12 is the  
5 formal response that my office did to your request  
6 for production of documents. And you -- and I see  
7 attached onto there some documents starting at 000001  
8 to 14.

9 THE REPORTER: I'm sorry. I can't hear you,  
10 Mr. Rote.

11 MR. ROTE: I said those are documents that I  
12 have also represented -- presented here in this  
13 deposition as well as the quitclaim and warranty deed  
14 and the others. I think a title report. So, yeah.

15 MR. ALBERTAZZI: Okay. So, anyway, there was  
16 some comments made before that only two documents had  
17 been produced. And I wanted to clarify for the  
18 record that -- that this here is what was produced,  
19 which is Exhibit Number 12, was the response to  
20 production of documents.

21 And I think, Mr. Rote, you acknowledge here  
22 that, yes, you did receive that?

23 MR. ROTE: Correct.

24 MR. ALBERTAZZI: As to discovery from other  
25 attorneys, I just wanted to clarify that to my

1 knowledge there has just been one request for  
2 production of documents from you, Mr. Rote. And I've  
3 actually reproduced those here in the response. They  
4 number from 1 to 47.

5 Are there any other discovery requests,  
6 document requests, in this case that you have  
7 submitted to Mr. Zweizig?

8 MR. ROTE: Yes. We submitted a request for  
9 production to Williams Kastner some time ago as you  
10 know and -- but I think that these requests are  
11 identical. So they did not respond to it, so I  
12 think --

13 MR. ALBERTAZZI: So what I am hearing from you  
14 is that Williams Kastner did not produce anything in  
15 response to your request; is that accurate?

16 MR. ROTE: That's correct.

17 MR. ALBERTAZZI: Okay. Just clarifying.

18 So this was intended to -- Exhibit 12 was  
19 intended to be the complete response, so I just  
20 wanted to have that put on the record for  
21 clarification purposes.

22 And if you have additional questions relating  
23 to that, you can certainly ask them.

24 The next item is Exhibit Number 13. And this  
25 is a Twitter post that I brought up during your



1 deposition, Mr. Rote, last week. And you asked me to  
2 e-mail this to you which I did.

3 MR. ROTE: Correct.

4 MR. ALBERTAZZI: Okay. I wanted to know if  
5 this is something that -- this type of public  
6 communication is going to continue or if it's going  
7 to stop during the pendency of this litigation while  
8 we're not wanting to taint the jury?

9 MR. ROTE: So I have taken that down at your  
10 request or at least I interpreted that to be your  
11 request.

12 MR. ALBERTAZZI: All right. And that this  
13 type of communication then won't -- won't be posted  
14 while the case is pending; is that our agreement?

15 MR. ROTE: No. I haven't necessarily agreed  
16 to that. I have agreed to curtail anything that is  
17 that specific, but I'll continue to post on my blog.

18 MR. ALBERTAZZI: Okay. But this Twitter post  
19 which is Exhibit 13 has been taken down you say?

20 MR. ROTE: At your request I took it down.

21 MR. ALBERTAZZI: Okay. All right. And, once  
22 again, it's not -- the purpose here -- main purpose  
23 is to not have communications out there that could  
24 contaminate the jury pool.

25 what you say that's not related to this case

1 is certainly something that you can do should you  
2 choose to do that, but these kind of personal attacks  
3 on Mr. Zweizig and his attorneys is not appropriate  
4 and I'm hoping it doesn't continue.

5 If it does continue, I'll take it up with the  
6 court. I'm assuming based on our discussions today  
7 it won't, but if it does, I will take it up with the  
8 court.

9 MR. ROTE: There may be a time when we need to  
10 do that.

11 MR. ALBERTAZZI: Okay. And so I just wanted  
12 to make that clear.

13 So with that, I don't have any follow-up. And  
14 are you done with your questioning now, sir?

15 MR. ROTE: Yeah.

16 MR. ALBERTAZZI: Okay. So we can close this  
17 deposition. And then I just wanted to make sure the  
18 court reporter got those exhibits.

19 If you didn't get them, please let me know.

20 And I guess we'll go ahead and conclude. I'm  
21 going to log off.

22 MR. ROTE: Okay.

23 MR. ALBERTAZZI: Thank you.

24 (Deposition concluded at 11:05 a.m.)

25

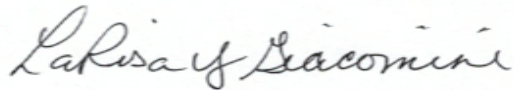
. . .

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

REPORTER'S CERTIFICATE

I, LARISA Y. GIACOMINI, Registered Professional Reporter and Certified Shorthand Reporter for the State of Oregon, California and Idaho, hereby certify that, pursuant to Oregon Rules of Civil Procedure, MAX ZWEIZIG, appeared remotely at the time and place set forth in the caption hereof; that at said time and place I reported remotely in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription, under my direction, and that the foregoing pages, numbered 1 to 40, both inclusive, constitutes a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof. Further, that I am a disinterested person to said action.

WITNESS my hand at Bend, Oregon, this 29th day of December, 2020.



---

LARISA Y. GIACOMINI, RPR, CSR  
Oregon CSR No. 10-0415  
Expiration September 30, 2022  
California CSR No. 5734  
Expiration June 30, 2021  
Idaho CSR No. SRL-981  
Expiration June 30, 2021

<p style="text-align: center;"><u>          </u> <b>\$</b> <u>          </u></p> <p>\$150,000 - 10:22</p> <p style="text-align: center;"><u>          </u> <b>0</b> <u>          </u></p> <p>000001 - 36:7 00001 - 6:21</p> <p style="text-align: center;"><u>          </u> <b>1</b> <u>          </u></p> <p>1 [7] 3:7, 8:25, 9:1, 9:2, 25:17, 37:4, 40:12 10 [3] 3:16, 29:24, 29:25 10-0415 - 40:22 10:04 [2] 2:9, 4:2 10:36 - 27:24 10:42 - 27:25 11 [5] 3:17, 24:24, 31:11, 31:14, 31:15 11:05 - 39:24 12 [6] 3:19, 35:22, 35:23, 36:4, 36:19, 37:18 13 [5] 3:20, 35:25, 36:1, 37:24, 38:19 14 - 36:8 16 - 3:8 17 - 3:9 19CV01547 - 1:6 19CV14552 - 33:14 1st - 24:14</p> <p style="text-align: center;"><u>          </u> <b>2</b> <u>          </u></p> <p>2 [3] 3:8, 16:4, 16:5 20 [2] 3:11, 10:6 2004 - 14:6 2013 [2] 30:11, 31:2 2014 [2] 3:12, 9:4 2015 - 14:6 2016 [4] 11:12, 11:17, 11:25, 14:6 2017 [4] 6:18, 11:8, 23:22, 24:24 2018 - 9:4</p>	<p>2019 [2] 24:14, 25:17 2020 [4] 1:18, 2:8, 4:2, 40:18 2021 [2] 40:23, 40:24 2022 - 40:22 21 [4] 1:18, 2:8, 3:12, 4:2 23 [2] 3:13, 3:14 24th [3] 6:18, 23:22, 31:2 25 [4] 22:7, 22:7, 22:7, 22:18 25th - 30:10 26 - 3:15 29 - 3:16 296 - 2:13 29th [3] 30:10, 30:11, 40:17</p> <p style="text-align: center;"><u>          </u> <b>3</b> <u>          </u></p> <p>3 [4] 3:9, 17:16, 17:17, 18:12 30 [3] 40:22, 40:23, 40:24 31 - 3:17 35 [2] 3:19, 3:20 3:14-cv-00406-hz - 3:7</p> <p style="text-align: center;"><u>          </u> <b>4</b> <u>          </u></p> <p>4 [6] 3:3, 3:11, 20:4, 20:5, 20:6, 20:9 40 - 40:12 44.320 - 2:6 47 - 37:4</p> <p style="text-align: center;"><u>          </u> <b>5</b> <u>          </u></p> <p>5 [4] 3:12, 3:16, 21:10, 21:11 5734 - 40:23</p> <p style="text-align: center;"><u>          </u> <b>7</b> <u>          </u></p> <p>7 [3] 3:13, 23:7, 23:8 75 - 22:8</p> <p style="text-align: center;"><u>          </u> <b>8</b> <u>          </u></p> <p>8 [3] 3:14, 23:16, 23:17</p>	<p style="text-align: center;"><u>          </u> <b>9</b> <u>          </u></p> <p>9 [7] 3:7, 3:15, 26:2, 26:4, 28:1, 28:19, 29:17 97702 - 2:14</p> <p style="text-align: center;"><u>          </u> <b>A</b> <u>          </u></p> <p>a.m [5] 2:9, 4:2, 27:24, 27:25, 39:24 ability - 5:21 able - 19:8 above-named - 2:7 abuse - 5:18 accept - 17:6 according - 29:8 accurate [3] 36:3, 37:15, 40:13 acknowledge - 36:21 acknowledging - 26:23 acknowledgment - 18:7 action - 40:16 actions [4] 9:16, 10:15, 10:18, 10:19 add [2] 22:8, 22:9 addition - 27:4 additional [2] 28:15, 37:22 address - 35:14 adduced [2] 40:9, 40:14 administer - 2:7 admitted [2] 12:1, 24:8 admitting - 11:18 advised - 34:12 affidavits - 5:4 against [8] 7:2, 10:23, 12:5, 15:10, 16:18, 33:23, 34:20, 34:23 age [2] 10:9, 15:23 aggravated - 10:5 agree - 9:9 agreed [2] 38:15, 38:16 agreement [6]</p>	<p>3:9, 3:11, 3:16, 20:15, 30:5, 38:14 agreements - 11:3 ahead [3] 24:11, 31:17, 39:20 Albertazzi [43] 2:12, 2:12, 5:7, 6:5, 6:6, 6:8, 6:16, 7:18, 10:10, 11:2, 15:12, 15:17, 15:20, 16:8, 16:14, 18:3, 18:10, 18:14, 20:10, 21:22, 22:13, 22:16, 23:3, 23:25, 24:2, 29:7, 32:19, 34:9, 35:4, 35:15, 35:19, 36:4, 36:15, 36:24, 37:13, 37:17, 38:4, 38:12, 38:18, 38:21, 39:11, 39:16, 39:23 alcohol - 5:17 alleging - 29:15 already [3] 14:20, 29:6, 32:3 alternative - 16:17 amount - 17:9 and/or - 4:22 answered [6] 8:21, 14:8, 22:18, 27:18, 28:5, 32:3 answering [2] 4:19, 9:24 answers [2] 13:11, 15:2 Anthony - 2:12 anyway - 36:15 appeared - 40:6 appearing [3] 1:15, 2:11, 10:3 appears [2] 28:8, 36:2 appreciate [2] 19:13, 19:14 appropriate - 39:3 approximate -</p>	<p>25:22 April [2] 6:18, 23:22 areas - 14:19 arrested - 4:22 asking [8] 10:8, 13:15, 15:25, 20:11, 22:16, 22:25, 32:21, 32:24 Asset - 3:11 assuming [2] 20:19, 39:6 attached - 36:7 attachments - 35:20 attacks - 39:2 attorney [15] 5:9, 7:4, 10:13, 10:21, 11:4, 14:12, 23:19, 23:20, 32:15, 32:21, 32:25, 33:18, 34:5, 34:12, 34:25 attorney's - 7:7 attorney/client [9] 7:2, 7:6, 7:8, 12:5, 15:2, 15:6, 20:13, 33:1, 34:13 attorneys [6] 10:7, 10:9, 11:15, 18:20, 36:25, 39:3 August [4] 11:8, 11:12, 11:17, 11:25 authenticate - 20:20 authenticity [2] 18:18, 22:11 award [4] 16:19, 16:20, 16:21, 16:25</p> <p style="text-align: center;"><u>          </u> <b>B</b> <u>          </u></p> <p>Basauri [9] 3:14, 3:15, 23:20, 24:8, 24:13, 26:23, 28:9, 29:8, 29:20 Basauri's [2] 28:18, 28:23 basically - 18:18 became [3] 18:8,</p>
---	---	---	--	--

<p>18:17, 25:23 become [5] 18:11, 20:14, 20:18, 20:21, 20:23 beginning [2] 22:5, 22:24 behalf [2] 1:17, 4:5 belief - 10:20 Bend [2] 2:14, 40:17 benefit - 10:25 best - 6:14 beyond - 10:20 bit [2] 4:16, 35:5 blog [2] 9:14, 38:17 break [2] 27:20, 27:22 bring - 16:9 brought - 37:25 buyers - 32:7</p> <hr/> <p style="text-align: center;"><b>C</b></p> <p>California [3] 2:4, 40:5, 40:23 can't [5] 16:12, 17:8, 17:11, 32:17, 36:9 cannot [2] 23:5, 27:15 capital - 22:5 caption - 40:7 case [10] 9:5, 9:9, 9:13, 11:9, 18:1, 18:2, 33:14, 37:6, 38:14, 38:25 cash [2] 16:21, 17:1 caused [3] 13:22, 32:6, 32:7 causing [2] 19:20, 34:21 certainly [2] 37:23, 39:1 CERTIFICATE - 40:1 Certified [3] 2:3, 4:6, 40:4 certify - 40:5 challenge [2] 18:18, 22:11 changes - 6:2</p>	<p>characterizing - 35:1 checks - 31:5 Cherry - 1:16 choose [3] 18:25, 20:1, 39:2 choosing [2] 19:1, 19:3 Christiansen [3] 14:9, 14:14, 14:16 CIRCUIT - 1:1 circumstances - 13:16 Civil [2] 2:2, 40:6 Clackamas [2] 1:2, 33:14 claim [2] 15:10, 33:23 claims - 6:13 clarification - 37:21 clarify [2] 36:17, 36:25 clarifying [2] 6:17, 37:17 clauses - 32:9 clear [7] 28:24, 29:19, 29:22, 29:23, 29:23, 35:5, 39:12 close - 39:16 collect - 34:18 Columbia - 2:13 comes - 33:10 comfortable - 21:20 commencing - 2:9 comment - 18:7 commentary [3] 18:5, 19:11, 22:19 commenting - 21:20 comments - 36:16 commodity [2] 17:8, 17:10 common - 17:15 communication [3] 5:8, 38:6, 38:13 communications [3] 11:3, 32:24, 38:23 company [3] 1:8, 3:12, 31:12</p>	<p>complete [2] 19:8, 37:19 completely - 16:22 computer-aided - 40:11 concern - 19:18 concerned - 13:15 conclude - 39:20 concluded - 39:24 Conclusions - 3:7 confirm - 33:20 consider [3] 10:20, 17:13, 17:14 constitutes - 40:13 consulting - 12:22 contact - 33:10 contaminate - 38:24 content - 26:25 continue [5] 12:24, 38:6, 38:17, 39:4, 39:5 continued - 10:25 Contribution - 3:11 conversations - 34:4 convicted - 4:22 Cook [2] 33:19, 33:21 correct [8] 7:21, 14:13, 17:2, 18:13, 33:16, 36:23, 37:16, 38:3 counsel [6] 8:23, 8:23, 10:8, 11:1, 15:24, 23:12 Counter - 3:17 County [3] 1:2, 4:1, 33:14 Couple - 24:25 course - 9:9 court [9] 1:1, 18:24, 19:4, 19:14, 19:20, 35:9, 39:6, 39:8, 39:18 courtesy - 22:20 courtroom - 10:22 credibility - 10:19 CSR [4] 40:21, 40:22, 40:23,</p>	<p>40:24 curtail - 38:16 cut [2] 9:19, 30:13</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p>danger - 22:25 data [3] 8:9, 29:10, 29:20 date [11] 6:19, 12:6, 17:20, 24:12, 24:12, 24:15, 24:24, 30:8, 30:9, 31:1, 33:12 dated [3] 23:21, 24:14, 25:16 dates - 25:22 deal - 16:21 December [5] 1:18, 2:8, 4:2, 24:24, 40:18 decide - 18:6 declaration [6] 3:8, 3:14, 3:15, 23:19, 25:23, 28:24 deed [15] 6:15, 6:17, 6:24, 6:25, 7:10, 7:12, 7:23, 7:24, 8:2, 8:7, 8:17, 24:9, 25:18, 25:24, 36:13 Defendant [3] 1:17, 2:15, 4:5 Defendant's [2] 3:19, 9:1 defendants [2] 1:9, 9:7 denied [2] 10:8, 15:24 deposed - 29:18 deposing - 18:4 deposition [29] 1:14, 2:2, 4:15, 4:25, 5:15, 5:22, 6:2, 6:20, 7:19, 7:20, 10:1, 10:4, 11:8, 11:11, 11:20, 11:24, 11:25, 13:2, 18:11, 19:5, 19:6, 23:1, 24:13, 35:22, 36:3, 36:13,</p>	<p>38:1, 39:17, 39:24 depositions [2] 11:13, 22:21 DESCHUTES - 4:1 desire - 19:13 difficult [3] 18:4, 18:21, 32:11 direction - 40:12 directly - 4:20 disclosed [2] 25:14, 32:15 discover [8] 6:15, 6:24, 7:3, 7:9, 7:12, 8:19, 12:2, 15:7 discovered [2] 27:17, 28:8 discovery [13] 6:11, 7:23, 7:25, 8:6, 8:10, 8:13, 28:23, 29:10, 29:20, 35:6, 35:21, 36:24, 37:5 discuss [2] 17:25, 18:2 discussed [2] 5:3, 14:20 discussions - 39:6 disinterested - 40:16 document [25] 6:12, 6:19, 6:20, 8:3, 17:21, 18:8, 18:9, 18:19, 18:21, 20:19, 20:24, 21:1, 21:5, 22:10, 22:12, 22:19, 23:22, 25:16, 29:5, 30:12, 30:17, 30:20, 30:21, 31:18, 37:6 documentation - 24:23 documents [26] 7:22, 7:24, 8:5, 8:10, 8:12, 17:25, 18:1, 18:2, 21:21, 28:6, 28:10, 28:15, 28:23, 28:25, 29:1, 29:9, 29:13, 29:14, 29:19,</p>
---	--	---	---	--

<p>29:21, 36:6, 36:7, 36:11, 36:16, 36:20, 37:2 dollar [2] 34:19, 34:20 dollars - 9:15 Douglas - 4:13 driven - 11:18 driving - 12:1 drove - 5:2 drug - 5:17 duly - 4:6 duress - 4:16</p> <hr/> <p style="text-align: center;"><b>E</b></p> <p>e-mail [6] 15:23, 35:7, 35:9, 35:10, 35:14, 38:2 earlier - 14:10 easier - 16:10 educate - 33:3 educated [2] 32:16, 32:21 effect - 5:20 else's - 21:16 empowered - 2:6 enable - 16:8 ending - 22:5 engaging - 9:3 entered - 6:2 especially - 4:20 estate [3] 17:13, 19:17, 32:4 everybody [2] 10:17, 10:19 everything - 19:17 evidence [2] 5:15, 24:8 EXAMINATION [2] 3:2, 4:9 examined - 4:7 Excuse - 13:5 executed - 31:1 exhibit [42] 7:15, 7:16, 7:16, 8:25, 9:1, 9:2, 16:4, 16:5, 17:16, 17:17, 18:11, 20:4, 20:5, 20:6, 20:9, 21:10, 21:11, 23:7, 23:8, 23:16, 23:17, 26:2,</p>	<p>26:4, 28:1, 28:18, 29:17, 29:24, 29:25, 31:11, 31:14, 31:15, 35:7, 35:22, 35:23, 35:25, 36:1, 36:3, 36:4, 36:19, 37:18, 37:24, 38:19 exhibits [4] 3:6, 7:19, 35:8, 39:18 existence [3] 12:3, 20:15, 20:19 exit - 32:7 expert - 17:13 Expiration [3] 40:22, 40:23, 40:24 explained - 22:24 extent - 5:7 extremely - 9:10</p> <hr/> <p style="text-align: center;"><b>F</b></p> <p>fail [2] 13:22, 14:1 failed [4] 13:24, 14:2, 32:1, 32:5 fair - 4:18 familiar - 8:2 family [3] 10:7, 11:14, 22:25 favor - 9:7 felony - 4:23 fiancé - 33:7 file [2] 33:23, 34:16 filed [6] 15:10, 19:22, 21:1, 21:5, 32:1, 34:23 filing - 14:16 Findings - 3:7 fine [6] 12:23, 22:19, 29:22, 29:23, 32:22, 35:18 fired - 15:16 firm [2] 2:12, 12:14 five [4] 25:17, 27:3, 27:8, 27:20 flim-flammed -</p>	<p>9:12 fly - 10:14 follow - 24:3 follow-up [2] 35:5, 39:13 follows - 4:7 foregoing [2] 40:10, 40:12 forged - 18:19 formal - 36:5 former - 23:20 forth [2] 12:25, 40:7 Frankly - 10:1 fraudulent [3] 9:3, 11:9, 34:24 full [2] 4:11, 40:13 Fund [2] 33:15, 33:20</p> <hr/> <p style="text-align: center;"><b>G</b></p> <p>general - 25:18 gets - 22:13 Giacomini [3] 2:3, 40:3, 40:21 given [4] 10:9, 15:23, 16:20, 33:9 gotten - 22:15 Greene's - 12:14 guess [3] 20:10, 34:9, 39:20</p> <hr/> <p style="text-align: center;"><b>H</b></p> <p>half [3] 9:15, 14:9, 34:18 half-million-dol - 16:19 handwriting - 30:22 happen [2] 19:21, 27:16 happened [2] 12:21, 13:25 happening - 34:21 happy [2] 15:3, 29:13 harass - 34:16 hasn't - 32:15 haven't [2] 6:8, 38:15 having [4] 4:6, 11:11, 11:18, 18:3</p>	<p>hear [5] 9:19, 12:12, 23:5, 24:1, 36:9 heard - 8:7 hearing - 37:13 hereby - 40:5 herein - 4:5 hereof - 40:8 Hernandez - 9:6 Hill - 1:16 hired [2] 8:23, 33:19 history - 5:17 hold [6] 9:18, 9:18, 13:7, 15:20, 22:14, 32:19 holding [8] 1:8, 3:12, 7:13, 16:3, 21:15, 21:21, 30:5, 31:8 Holding's [2] 21:18, 21:20 home-away - 23:11 hoping - 39:4 hour - 2:9 houses - 19:17 husband - 1:7</p> <hr/> <p style="text-align: center;"><b>I</b></p> <p>Idaho [3] 2:4, 40:5, 40:24 idea [2] 12:7, 14:1 identical - 37:11 IDENTIFICATION - 3:6 identified [15] 9:2, 16:5, 17:17, 20:6, 21:11, 23:8, 23:13, 23:17, 26:4, 28:17, 29:25, 30:23, 31:15, 35:23, 36:1 identify [2] 28:7, 29:12 imagine - 16:24 included - 11:15 including - 28:25 inclusive - 40:13 independently [2] 7:3, 7:9 indicates [2] 11:21, 12:23</p>	<p>influence - 5:21 information [7] 10:2, 10:3, 20:11, 27:4, 28:9, 28:24, 33:12 informed [3] 26:13, 26:16, 26:24 instruct - 32:20 intended [2] 37:18, 37:19 interest [3] 24:24, 25:1, 25:7 interested - 16:21 interesting [2] 9:8, 9:10 interject - 18:5 internet [6] 4:18, 5:6, 27:5, 27:6, 27:10, 27:13 interpreted - 38:10 Isn't - 22:7 issue - 35:6 item [3] 21:23, 22:1, 37:24</p> <hr/> <p style="text-align: center;"><b>J</b></p> <p>Jersey - 1:16 Joel [3] 14:9, 14:14, 14:16 jog [5] 8:22, 14:7, 21:2, 21:8, 21:9 journey - 16:20 Judge - 9:6 judgement - 23:23 judges - 11:15 judgment [9] 14:9, 16:25, 17:1, 19:16, 19:24, 19:24, 20:1, 21:5, 34:20 June [2] 40:23, 40:24 jury [3] 16:20, 38:8, 38:24</p> <hr/> <p style="text-align: center;"><b>K</b></p> <p>K-1 - 3:12 Kastner [8] 12:14, 15:11,</p>
--	--	--	---	---

<p>15:16, 15:22, 20:9, 20:12, 37:9, 37:14 knowledge [2] 6:14, 37:1 knows [2] 32:22, 34:10</p> <hr/> <p style="text-align: center;"><b>L</b></p> <p>LaRisa [3] 2:3, 40:3, 40:21 law [4] 2:12, 3:7, 25:3, 25:4 lawsuit [9] 5:3, 5:5, 5:5, 6:13, 16:17, 19:22, 34:16, 34:23, 34:24 learned - 32:24 least - 38:10 left-hand - 21:13 let's [6] 17:16, 18:23, 21:10, 23:3, 23:7, 23:16 liability [3] 1:8, 33:15, 33:20 lien [3] 12:10, 12:15, 32:6 likely - 34:19 limited - 1:8 Linda [4] 11:17, 11:23, 12:7, 33:23 lines - 27:1 lis [8] 12:11, 13:21, 14:17, 32:1, 32:6, 32:13, 32:16, 33:3 listed [2] 26:17, 30:19 litigation [4] 9:4, 31:23, 34:2, 38:7 LLC [4] 1:8, 25:3, 25:7, 31:8 log - 39:21 looking [5] 8:16, 19:20, 22:9, 24:15, 29:10 losing - 10:23 loss - 22:5 lots - 13:18</p>	<hr/> <p style="text-align: center;"><b>M</b></p> <p>main - 38:22 makes [2] 28:9, 28:24 malpractice [2] 15:10, 33:23 manager [3] 30:20, 30:23, 30:25 March [2] 24:14, 25:16 marketed - 15:8 marketing [3] 3:13, 23:11, 26:20 Marshall [4] 11:18, 11:23, 12:8, 33:24 matter - 40:10 Max [7] 1:4, 1:14, 2:2, 4:4, 8:2, 18:4, 40:6 Maximilian - 4:13 Maybe - 21:23 medication - 5:20 member [2] 23:14, 25:6 member's [2] 24:23, 25:1 members [5] 25:10, 25:11, 25:12, 25:13, 31:13 memory [5] 8:22, 14:7, 21:2, 21:8, 21:9 mentioned - 13:17 Michael [3] 3:8, 16:2, 16:16 middle - 31:5 million [4] 9:15, 10:23, 34:19, 34:20 mind - 6:16 mine [2] 19:19, 21:17 minutes - 27:21 misdemeanor - 4:23 missing - 29:15 moment - 35:12 Monday [3] 1:18, 2:8, 4:2 money - 17:9</p>	<p>Montag [3] 3:8, 16:2, 16:16 motion [2] 21:6, 23:23 myself [3] 10:7, 17:14, 22:25</p> <hr/> <p style="text-align: center;"><b>N</b></p> <p>named - 35:21 narrow - 20:17 necessarily - 38:15 Nina [2] 33:19, 33:21 nonsense - 18:22 Northwest [10] 1:7, 3:12, 7:13, 16:3, 21:15, 21:18, 21:19, 21:21, 30:5, 31:8 note [2] 15:5, 29:7 noted - 6:6 notes [2] 23:20, 40:10 nothing - 13:13 notice - 20:8 November [2] 30:10, 30:10 numbered - 40:12</p> <hr/> <p style="text-align: center;"><b>O</b></p> <p>oOo [2] 2:18, 3:21 oath [2] 2:8, 4:6 oaths - 2:7 object [7] 5:7, 10:10, 15:17, 20:10, 32:23, 32:23, 34:9 objection [5] 7:7, 11:2, 14:23, 15:12, 20:21 objective - 17:7 observation - 18:6 offer [3] 3:17, 17:11, 32:1 offered - 16:16 offering - 17:9 office [4] 26:13, 26:17, 26:24, 36:5 ongoing - 19:11 onto - 36:7</p>	<p>Operation - 3:9 opinion [4] 9:1, 9:6, 9:8, 34:19 opposed - 16:17 opposition - 23:23 oral [2] 40:9, 40:14 order - 9:1 ordered - 6:8 Oregon [11] 1:1, 1:8, 2:1, 2:4, 2:5, 2:14, 3:10, 40:5, 40:6, 40:17, 40:22 others - 36:14 otherwise - 5:9 owe - 9:14 owner [2] 23:14, 26:18 ownership [4] 12:2, 21:15, 22:1, 25:7 owns [2] 14:9, 14:14</p> <hr/> <p style="text-align: center;"><b>P</b></p> <p>pages [2] 3:16, 40:12 paragraph [9] 23:21, 24:2, 24:4, 24:7, 24:11, 24:21, 25:17, 26:6, 30:7 particulars - 13:25 partnership [2] 25:3, 25:7 Pause - 27:24 pay [6] 16:25, 19:15, 19:24, 19:25, 20:1, 34:21 payable - 31:5 paying - 19:23 pendency - 38:7 pendens [8] 12:11, 13:21, 14:17, 32:1, 32:6, 32:13, 32:16, 33:4 pending - 38:14 percent - 22:18 percentage [2] 21:15, 22:1 percentages - 22:6 perhaps - 10:20 personal - 39:2 ph - 33:3 piece [2] 7:14, 12:22 placed [3] 2:8, 12:10, 12:14 Plaintiff [2] 1:5, 2:12 Plaintiff's [2] 3:19, 6:20 platform - 9:22 play - 14:16 please [11] 4:12, 17:16, 21:10, 23:7, 23:16, 26:3, 31:5, 31:11, 31:14, 35:13, 39:19 PLF [2] 34:1, 34:8 point - 7:15 pool - 38:24 position [2] 4:19, 29:2 possession - 6:13 possible - 16:8 post [5] 3:20, 35:24, 37:25, 38:17, 38:18 posted [2] 5:5, 38:13 prepare - 4:25 prepared - 18:19 presented [4] 5:22, 5:23, 5:24, 36:12 pressure - 4:19 previously - 26:17 printed - 29:4 privilege [9] 7:2, 7:6, 7:8, 12:6, 15:3, 15:6, 20:13, 33:1, 34:14 Pro - 2:15 probably [3] 10:24, 16:24, 27:22 problem - 13:14 Procedure [2] 2:2, 40:6 proceed - 23:3 proceedings [4] 27:24, 27:25, 40:9, 40:14</p>
--	---	---	---

<p><b>produce</b> - 37:14  <b>produced</b> [2]  36:17, 36:18  <b>production</b> [5]  3:19, 36:6,  36:20, 37:2,  37:9  <b>professional</b> [5]  2:5, 22:20,  33:15, 33:19,  40:3  <b>profit</b> - 22:5  <b>properly</b> - 35:1  <b>Properties</b> - 13:25  <b>property</b> [26]  3:10, 3:18,  11:19, 12:3,  12:4, 12:10,  12:15, 13:22,  13:24, 14:2,  14:4, 15:7,  16:17, 17:6,  17:7, 25:19,  26:18, 26:22,  26:25, 27:17,  28:4, 28:8,  29:21, 30:6,  31:22, 32:8  <b>provided</b> [16]  6:12, 7:4, 7:22,  7:25, 8:5, 8:9,  8:10, 8:13, 8:25,  23:11, 25:23,  27:4, 28:9,  28:24, 29:9,  29:19  <b>public</b> - 38:5  <b>purchase</b> - 32:7  <b>purpose</b> [2]  38:22, 38:22  <b>purposes</b> - 37:21  <b>pursuant</b> [3] 2:1,  2:5, 40:5  <b>pursue</b> - 16:17  <b>putting</b> - 22:24</p>	<p style="text-align: center;"><b>R</b></p> <p><b>radar</b> - 10:14  <b>raped</b> [3] 10:12,  10:13, 15:24  <b>reads</b> - 30:22  <b>ready</b> [2] 13:10,  13:18  <b>real</b> [4] 3:10,  17:13, 19:17,  32:4  <b>really</b> [3] 9:17,  32:14, 33:8  <b>reasons</b> - 14:1  <b>receive</b> [4] 20:8,  29:11, 35:12,  36:22  <b>record</b> [12] 4:11,  4:14, 4:15, 4:21,  6:3, 15:5, 28:2,  35:6, 35:11,  36:18, 37:20,  40:14  <b>refer</b> [2] 8:25,  16:4  <b>reference</b> [5]  24:9, 24:22,  28:9, 28:18,  29:18  <b>referencing</b> [2]  6:22, 25:18  <b>referred</b> - 14:10  <b>referring</b> [3] 8:3,  24:7, 24:21  <b>refuse</b> - 17:5  <b>regard</b> - 33:22  <b>Registered</b> [2]  2:5, 40:3  <b>related</b> [2] 11:3,  38:25  <b>relating</b> [2] 5:4,  37:22  <b>relevance</b> [2]  15:12, 34:10  <b>REMEMBERED</b> -  2:1  <b>remotely</b> [6]  1:15, 2:3, 2:11,  4:1, 40:7, 40:8  <b>rent</b> - 15:8  <b>rental</b> [3] 3:16,  26:22, 30:5  <b>renter</b> - 30:5  <b>repeat</b> [3] 8:11,  22:17, 24:5  <b>report</b> [2] 13:7,  36:14</p>	<p><b>reported</b> [2] 4:1,  40:8  <b>reporter</b> [17] 2:4,  2:5, 2:6, 4:7,  9:18, 13:5, 13:7,  14:22, 14:25,  23:5, 28:12,  30:13, 35:9,  36:9, 39:18,  40:4, 40:4  <b>REPORTER'S</b> -  40:1  <b>represent</b> [3]  23:10, 30:4,  31:25  <b>represented</b> [7]  11:5, 16:3,  33:15, 33:17,  34:1, 34:7,  36:12  <b>reproduced</b> - 37:3  <b>request</b> [8] 3:19,  36:5, 37:1, 37:8,  37:15, 38:10,  38:11, 38:20  <b>requested</b> - 9:25  <b>requests</b> [3] 37:5,  37:6, 37:10  <b>research</b> [4] 27:5,  27:6, 27:10,  27:14  <b>reserve</b> - 6:4  <b>respond</b> - 37:11  <b>response</b> [7]  3:19, 8:5, 36:5,  36:19, 37:3,  37:15, 37:19  <b>responses</b> [3]  6:11, 35:21,  36:3  <b>responsible</b> -  33:11  <b>responsive</b> -  29:15  <b>restate</b> [2] 28:2,  28:22  <b>restating</b> - 17:5  <b>result</b> - 11:13  <b>resumed</b> - 27:25  <b>return</b> [4] 21:16,  21:17, 21:18,  21:20  <b>review</b> - 6:1  <b>Revised</b> - 2:6  <b>rhetoric</b> - 12:25  <b>role</b> - 14:16</p>	<p><b>Rote</b> [81] 1:7,  1:7, 2:15, 3:3,  4:10, 5:11, 6:5,  6:7, 6:10, 6:16,  6:18, 6:23, 7:13,  7:19, 7:21, 8:1,  9:20, 10:10,  10:25, 11:7,  13:6, 13:9,  14:23, 15:4,  15:15, 16:1,  16:15, 16:18,  18:3, 18:13,  18:22, 19:2,  19:5, 19:8,  19:11, 19:22,  20:3, 20:22,  21:23, 21:25,  22:13, 22:18,  23:6, 23:25,  24:4, 24:6,  26:17, 28:14,  29:7, 29:16,  30:15, 30:19,  30:22, 30:25,  30:25, 32:20,  33:2, 34:15,  34:17, 34:21,  34:23, 35:3,  35:8, 35:14,  35:18, 36:2,  36:10, 36:11,  36:21, 36:23,  37:2, 37:8,  37:16, 38:1,  38:3, 38:9,  38:15, 38:20,  39:9, 39:15,  39:22  <b>Rote's</b> [3] 7:20,  21:14, 23:13  <b>RPR</b> - 40:21  <b>Rules</b> [2] 2:2,  40:6</p>	<p>29:22, 29:23,  31:12, 31:13  <b>says</b> [8] 22:5,  25:21, 26:13,  30:12, 30:24,  30:25, 31:4,  31:8  <b>Schedule</b> - 3:12  <b>screen</b> - 16:9  <b>Se</b> - 2:15  <b>secretary</b> - 24:23  <b>seeing</b> - 27:6  <b>seeks</b> - 5:8  <b>seem</b> - 10:2  <b>seems</b> [2] 13:14,  18:4  <b>sees</b> [3] 10:18,  10:19, 22:17  <b>seller</b> - 31:19  <b>Seller's</b> - 3:17  <b>sense</b> - 17:15  <b>sent</b> [2] 15:22,  35:20  <b>September</b> -  40:22  <b>sharing</b> - 16:9  <b>She's</b> - 30:23  <b>Shorthand</b> [3]  2:4, 4:7, 40:4  <b>showed</b> - 22:20  <b>signature</b> - 30:22  <b>signed</b> [4] 5:4,  17:20, 30:20,  30:24  <b>silly</b> - 20:2  <b>simply</b> - 34:20  <b>sit</b> [11] 7:11,  8:14, 8:24, 14:5,  15:9, 18:16,  20:25, 26:1,  27:18, 28:20,  29:3  <b>sitting</b> - 4:18  <b>somebody</b> [2]  21:16, 33:21  <b>somehow</b> [2]  9:11, 9:12  <b>sorry</b> [16] 8:11,  9:18, 14:22,  15:21, 16:20,  17:3, 17:12,  23:1, 23:5, 24:1,  24:2, 27:7,  28:12, 30:13,  31:17, 36:9  <b>specific</b> - 38:17  <b>SRL-981</b> - 40:24</p>
<p style="text-align: center;"><b>Q</b></p> <p><b>quarters</b> - 21:14  <b>questioning</b> -  39:14  <b>quitclaim</b> [11]  6:15, 6:17, 6:24,  6:25, 7:9, 7:23,  23:21, 23:21,  24:9, 25:24,  36:13</p>			<p style="text-align: center;"><b>S</b></p> <p><b>sadly</b> - 33:12  <b>Sandra</b> [2] 33:3,  33:7  <b>saved</b> [2] 28:7,  28:17  <b>saying</b> [12]  11:25, 12:19,  12:21, 15:23,  21:3, 24:15,  25:10, 26:8,</p>	



<p><b>starting [3]</b> 26:7, 34:4, 36:7  <b>state [3]</b> 1:1, 4:11, 40:4  <b>state's -</b> 24:23  <b>statement [4]</b> 5:14, 17:9, 23:11, 28:18  <b>statements [2]</b> 5:4, 9:23  <b>Statute -</b> 2:6  <b>stereotype -</b> 40:9  <b>step -</b> 10:15  <b>stop [2]</b> 10:24, 38:7  <b>stretched -</b> 10:20  <b>stupid -</b> 9:17  <b>subject -</b> 31:22  <b>subjective [2]</b> 17:8, 17:10  <b>submitted [3]</b> 23:22, 37:7, 37:8  <b>subpoenas -</b> 18:20  <b>successful -</b> 32:4  <b>successfully -</b> 10:7  <b>Suite -</b> 2:13  <b>summary [2]</b> 21:5, 23:23  <b>summon -</b> 22:22  <b>Sunriver [18]</b> 3:10, 3:17, 11:18, 12:1, 12:3, 12:3, 12:10, 12:15, 14:4, 15:7, 25:18, 26:18, 26:25, 27:17, 28:3, 28:8, 29:20, 31:22  <b>supposed [4]</b> 10:4, 14:21, 22:8, 22:8  <b>surrounding -</b> 13:16  <b>SW -</b> 2:13  <b>sworn -</b> 4:6</p>	<p><b>Tanya [14]</b> 1:7, 7:13, 16:18, 21:14, 23:13, 25:10, 25:11, 30:19, 30:22, 30:24, 30:25, 34:16, 34:21, 34:23  <b>Taryn [12]</b> 3:14, 3:15, 23:20, 24:8, 24:13, 24:22, 28:8, 28:16, 28:18, 28:23, 29:8, 29:20  <b>tax [5]</b> 21:16, 21:16, 21:18, 21:20, 25:4  <b>tear -</b> 23:20  <b>telling [5]</b> 11:23, 19:14, 25:9, 29:14, 33:17  <b>term [2]</b> 8:7, 30:7  <b>testified -</b> 4:7  <b>testimony [2]</b> 40:9, 40:14  <b>Thank [3]</b> 14:25, 15:25, 39:23  <b>there's -</b> 24:15  <b>thereafter -</b> 40:10  <b>thereof -</b> 40:15  <b>they're -</b> 13:17  <b>thin -</b> 6:11  <b>thing -</b> 9:16  <b>Tim@rote-enterpr -</b> 35:16  <b>Timothy [2]</b> 1:7, 2:15  <b>title -</b> 36:14  <b>today [14]</b> 5:1, 7:11, 8:15, 8:24, 9:15, 14:5, 15:9, 18:16, 20:25, 26:1, 27:19, 28:21, 29:3, 39:6  <b>topic -</b> 31:22  <b>torturing -</b> 10:6  <b>tough -</b> 12:20  <b>transcribed -</b> 40:11  <b>transcript [2]</b> 6:1, 6:9  <b>transcription -</b> 40:11  <b>transfer [4]</b> 3:9,</p>	<p>9:3, 11:9, 34:24  <b>transfers -</b> 26:14  <b>true [2]</b> 25:13, 40:13  <b>trust [3]</b> 12:19, 12:20, 18:21  <b>truth [4]</b> 13:12, 13:13, 13:13, 13:14  <b>turn [2]</b> 29:13, 34:19  <b>turned [5]</b> 28:6, 28:10, 28:16, 28:17, 28:22  <b>Twitter [4]</b> 3:20, 35:24, 37:25, 38:18  <b>type [2]</b> 38:5, 38:13</p> <hr/> <p style="text-align: center;"><b>U</b></p> <hr/> <p><b>Underneath -</b> 30:24  <b>understand [8]</b> 19:7, 19:10, 22:9, 24:25, 25:3, 25:6, 25:8, 25:14  <b>unrelenting -</b> 10:6  <b>untrustworthy -</b> 16:22  <b>using [2]</b> 35:14, 35:15</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>vacation [2]</b> 3:16, 26:22  <b>valid [2]</b> 20:20, 20:20  <b>value [2]</b> 17:7, 17:8  <b>venture -</b> 34:11  <b>violate -</b> 7:6  <b>voice [2]</b> 9:19, 30:13  <b>VRBO [8]</b> 3:13, 15:8, 23:11, 26:18, 26:19, 26:25, 28:4, 29:10</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>walk -</b> 9:16  <b>walked [2]</b> 10:22, 10:23</p>	<p><b>wanted [7]</b> 35:4, 36:17, 36:25, 37:20, 38:4, 39:11, 39:17  <b>wanting -</b> 38:8  <b>Ward [2]</b> 12:14, 15:23  <b>warranty [8]</b> 7:12, 7:23, 8:2, 8:7, 8:16, 25:18, 25:24, 36:13  <b>we'll [2]</b> 29:17, 39:20  <b>we're [4]</b> 4:14, 25:2, 29:10, 38:8  <b>Wear [2]</b> 33:3, 33:7  <b>website [4]</b> 26:19, 26:20, 29:4, 29:5  <b>week [2]</b> 7:20, 38:1  <b>welcome -</b> 34:6  <b>What's [3]</b> 5:12, 17:12, 21:22  <b>whatever [4]</b> 13:1, 13:4, 16:24, 17:11  <b>whoever -</b> 30:24  <b>whole [4]</b> 9:16, 13:13, 13:14, 40:15  <b>wife -</b> 1:7  <b>Williams [8]</b> 12:14, 15:11, 15:16, 15:22, 20:9, 20:12, 37:9, 37:14  <b>witness [21]</b> 2:7, 4:5, 5:14, 6:22, 10:5, 11:6, 15:18, 16:11, 18:16, 19:1, 19:3, 19:7, 19:10, 19:13, 19:23, 22:14, 22:23, 24:1, 24:5, 29:12, 40:17  <b>witnesses -</b> 2:7  <b>won't [3]</b> 38:13, 38:13, 39:7  <b>worded [2]</b> 35:2, 35:2  <b>wouldn't -</b> 9:14</p>	<hr/> <p style="text-align: center;"><b>Y</b></p> <hr/> <p><b>yeah [9]</b> 12:24, 15:21, 17:5, 24:18, 25:21, 27:2, 34:13, 36:14, 39:15  <b>Yep -</b> 26:12  <b>yet [3]</b> 6:9, 16:7, 30:2  <b>you'd -</b> 27:22  <b>You'll -</b> 18:24  <b>yours -</b> 7:20  <b>yourself [2]</b> 11:4, 17:13</p> <hr/> <p style="text-align: center;"><b>Z</b></p> <hr/> <p><b>Zweizig [14]</b> 1:4, 1:14, 2:2, 4:4, 4:13, 18:15, 22:22, 26:14, 26:16, 28:16, 29:9, 37:7, 39:3, 40:6  <b>Zweizig's -</b> 27:4</p>
<hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>taint -</b> 38:8  <b>taken [6]</b> 1:17, 2:3, 11:12, 11:13, 38:9, 38:19</p>				

Timothy C. Rote  
7427 SW Coho Ct. #200  
Tualatin, OR 97062  
Phone: (503) 272-6264  
E-Mail: timothy.rote@gmail.com  
*Pro Se* Defendant

Honorable Marco Hernandez

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MAX ZWEIZIG,

Plaintiff,

vs.

TIMOTHY C. ROTE, *et al.*,

Defendants.

Case No.: 3:15-CV-2401-HZ

DEFENDANT'S AMENDED MOTION TO  
VACATE JUDGMENT FOR FRAUD UPON  
THE COURT ON NEW EVIDENCIARY  
ADMISSIONS BY PLAINTIFF DATED  
DECEMEBER 21, 2020 AND SEPTEMBER  
15, 2022

**MOTION**

Defendant respectfully offers his Motion to Vacate the Judgment and Dismiss the Plaintiff's the Judgment for Fraud upon the Court under FRCP 60 (d) (3), based suborned perjury during the January 2018 Trial, wherein Zweizig denied downloading, possessing and distributing child pornography, porn, music and videos. The new evidence offered through this Motion is Zweizig's deposition and admissions dated December 21, 2020 (**Exhibit 1**) in Clackamas case 19cv01547, Plaintiff's Motion to suppress that deposition and a declaration filed by Zweizig in Deschutes case 19cv00824 on September 15, 2022 (**Exhibit 2**). The declaration by Zweizig

PAGE 1. DEFENDANT MOTION TO VACATE FOR FRAUD UPON  
THE COURT

specifically denies being a pedophile but does not deny that he downloads, possesses and distributes child pornography using a peer to peer program registered to him.

## INTRODUCTION

Defendant acknowledges that some people who download, possess and distribute child porn do not believe they are criminals or child predators because they have not as yet molested a child. The reasonable interpretation of the evidence provided in this Motion shows that not only did Zweizig engage in perjury in this case and during the trial in January 2018, but that he has become increasingly candid in his depositions and declarations in multiple state districts that provide credible evidence that the perjury in this case was suborned by counsel representing Zweizig in this and several other cases.

One of the latest examples of the solicitation of abuse by child predator Max Zweizig is his recent Motion for Contempt in Deschutes case 19cv00824. On September 15, 2022, Plaintiff Zweizig filed a Motion with Deschutes County Court to have Plaintiff Rote imprisoned for opposing Max Zweizig's effort to unlawfully take Rote's property and otherwise for Rote successfully engaging in litigation against Zweizig. Attached to that Motion was a declaration by Max Zweizig, wherein Zweizig denied being a pedophile and child predator but did not deny downloading, possessing and distributing child pornography (**Exhibit 2, page 2**). His Declaration is an admission that then taken together with Zweizig's testimony in trial 3:15-cv-2415, his efforts therein to suppress the forensic reports showing Zweizig's child pornography activity, his tantamount admissions to distributing child pornography in his deposition of December 21, 2020 in case 19cv01547 and his effort to then suppress that deposition (claiming that he would not receive a fair jury if his child porn admissions were to become public), all in

all the history of these collective acts paint now a very clear picture of Zweizig's criminal conduct that should no longer be ignored. There is no remaining rock for this Court hide behind.

To take no action to vacate the judgment is tantamount to supporting child pornography.

According to the Mayo Clinic of the US, studies and case reports indicate that 30% to 80% of individuals who viewed child pornography and 76% of individuals who were arrested for Internet child pornography had molested a child; however, they state that it is difficult to know how many people progress from computerized child pornography to physical acts against children and how many would have progressed to physical acts without the computer being involved. See Ryan C. W. Hall; Richard C. W. Hall (April 2007). "A Profile of Pedophilia: Definition, Characteristics of Offenders, Recidivism, Treatment Outcomes, and Forensic Issues". Oregon ranks first amount the states with the most sex offenders per capita.

Federal law prohibits the production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce (18 U.S.C. § 2251; 18 U.S.C. § 2252; 18 U.S.C. § 2252A). Specifically, Section 2251 makes it illegal to persuade, induce, entice, or coerce a minor to engage in sexually explicit conduct for purposes of producing visual depictions of that conduct. Any individual who attempts or conspires to commit a child pornography offense is also subject to prosecution under federal law. Oregon has similar laws.

## **FACTS**

Defendant references his prior Motions to Vacate for Fraud Upon the Court as laying the ground work for the pervasive perjury by Zweizig suborned by opposing counsel and offers herein new evidence of the plaintiff's collusion with counsel to perpetrate Fraud Upon The Court. That fraud is perjury, the subornation of that perjury by opposing counsel and the history

of these behaviors which Zweizig celebrates in his deposition of December 21, 2020 and declaration of September 15, 2022.

The Ninth Circuit itself acknowledged that “a long trail of [even] small misrepresentations—none of which constitutes fraud on the court in isolation—could ... paint a picture” of fraud on the court. *Sierra Pacific Industries, Inc., et al.*, No. 15-15799 (July 13, 2017). The evidence is a long trail of more than small misrepresentation and criminal conduct stemming back to September 2002.

#### **A. The Body of New Evidence**

##### **(1) Zweizig’s Declaration in 19cv00824 of September 15, 2022.**

Zweizig’s declaration claims that the allegations that Zweizig is a child predator and pedophile are false (**Exhibit 2, pg 2, ¶4**). Most notably, Zweizig does not deny that he has in the past and does in the present download, possess and disseminate child porn. Federal law prohibits the production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce (**18 U.S.C. § 2251; 18 U.S.C. § 2252; 18 U.S.C. § 2252A**). This is a particularly noteworthy affirmation by omission and an attempt to deceive the Court that was no doubt commissioned and suborned by his attorney Anthony Albertazzi.

Zweizig is pursuing a judgment of \$1 Million that he secured in this federal case (3:15-cv-2401). Zweizig filed an ORS 659A.030 lawsuit against Rote alleging therein that Rote had published blogs alleging forensic evidence ignored by the arbitrator in 2010 that objectively and summarily vitiated Zweizig’s ORS 659A claims in that case. **Exhibit 3** are excerpts of the trial transcript in case 3:15-cv-2415 in which Zweizig denies that he committed these federal and

Oregon crimes of downloading, possessing and disseminating porn of any kind. See **Exhibit 3, pages 7, 9, 68, 103, 104, 123 and 172.**

In order for Zweizig to lie to the jury, to do so credibly, it was necessary for him to try to exclude the forensic reports from the trial and he accomplished that. **Exhibit 4** is Zweizig's Motion in Limine in the 3:15-cv-2401 case, wherein he sought successfully to suppress the forensic reports from the jury, reports and testimony that affirmed Zweizig's criminal conduct related to child porn and for other criminal conduct including spoliation, perjury, cybercrime and destruction of evidence.

**Exhibit 5** is one of Rote's blog posts (Chapter 4) and in evidence in this case, the post with which Zweizig took most offense and which allegedly caused him to file his ORS 659A.030 complaint in this case. The forensic reports used by Defendant Rote to reach his conclusions are cited and linked in that blog post and attached to this exhibit. The forensic report by Police officer Steve Williams is also attached thereto starting at **page 5**. Williams report and the others provided herein confirm that Zweizig separated his employer issued 120 gig hard drive into multiple partitions or sectors such as d:\, d:\paul, d:\shared, d:\winmx, d:\laptop and others which were used to download, store and disseminate child porn, porn, movies and videos. D:\ paul refers to Paul Bower, who had organized a competing company called Superior Results Marketing with Zweizig on September 16, 2001. The group intent was to breach their respective non-compete agreements and to solicit and steal Rote's clients. Much of this evidence arose in arbitration between the parties and it is un-refuted that Zweizig's forensic expert testified against him, confirming Zweizig's use of his computer to download, possess and distribute child pornography using a peer to peer program called bit torrent. The registration certificate was in Zweizig's name. This is un-refuted.

For purposes of housekeeping, if you will, Zweizig used a computer having 120 gig hard drive issued to him and used that computer from his home. In May 2003 he claimed the hard drive failed and from that point on used a new 60 gig hard drive to conduct his employer related business. Zweizig was then head of the IT department for Northwest Direct. On his day of employment (November 13, 2003), Zweizig returned the computer with the 60 gig hard drive and a reformatted 120 gig hard drive (which had been removed from his computer). This is unrefuted. Subsequent review of those hard drives by forensic experts revealed child porn, porn, music and videos on the 120 gig hard drive.

Police officer and forensic expert Steve Williams provided a report identifying the child porn, porn and other material on the 120 gig hard drive. See **Exhibit 5, pages 6-31.**

Forensic expert Mark Cox also opined that the programming which Zweizig claimed did not exist did in fact exist but were destroyed by Zweizig when he reformatted the hard drive, **pages 40-42.**

Forensic expert Mark Cox also opined that from May 2003 to November 12, 2003 the hard drive was used primarily to store videos of Max Zweizig. He also opined that there was no evidence of use of the hard drive after Zweizig reformatted the hard drive of November 12, 2003, **page 47.**

Forensic expert Mark Cox also opined that contrary to Zweizig's testimony, the 120 gig hard drive had not failed in May 2003 and continued to be used up until the time it was reformatted, **page 51.**

**(2) Zweizig's Deposition Transcript in 19cv01547 of December 21, 2020.**

**Exhibit 1** is Zweizig's deposition transcript in Clackamas County case 19cv01547, wherein he admits to a number of facts material and relevant in this case. For purposes of clarity,

case 19cv01547 is a fraudulent transfer case brought by Zweizig against defendants Tanya Rote and Timothy Rote on property Tanya acquired in 2003 to 2012, the latest of which was more than six years before the judgment in this case. Zweizig believes he is protected by the court.

Although the Zweizig deposition admissions will be addressed in the argument section of this brief, the sections of the deposition defendant will address by reference follow:

1. Zweizig alleged emotion distress because he was deposed on the 19cv01547 case, a case he brought (**Exhibit 1, page 4**);
2. Zweizig refused to acknowledge the only two documents his attorneys claimed to have used to justify the 19cv01547 litigation (**pages 6-8**);
3. Zweizig critiqued the opinion and order of this court in 3:14-cv-0406 (**page 9**);
4. Zweizig acknowledged that Ward Greene resigned from representing him in case 19cv01547 (**page 10**) upon Rote asking Greene to measure the impact to child molestation if Greene was successful in securing money for Zweizig (**page 47**);
5. Zweizig acknowledged that he got away with a \$1 Million jury award instead of \$150,000 because defendant Rote was not good at defending himself, which defendant argues is a reference to the suppressed forensic reports showing child porn (**page 10**);
6. Zweizig did not deny that he downloaded child porn and lied to the jury (**page 10**);
7. Zweizig claimed he is in danger for attending the deposition in New Jersey (**pages 22-23**);
8. Zweizig refused to acknowledge or provide documents in discovery, documents referenced to him by former counsel (**pages 26-29**); and



9. Zweizig refused to disclose why then the Oregon State Bar PLF represented him in Clackamas case 19cv14552 (**page 33-34**) and subsequently in several other case, wherein Zweizig admits to not soliciting representation.

This evidence is offered in part for its specific support of allegations in this Motion and as the latest history of a litigant who is following a script with the intent of conning the litigation process.

**(3) Zweizig's Motion to Suppress his deposition of December 21, 2020**

Zweizig admitted in his deposition of December 21, 2020 that his former attorney Ward Greene reviewed the forensic reports provided to him by Rote (Steve Williams 120 gig hard drive report) and resigned no longer wanting to be associated with Zweizig and the raping of children. **See Exhibit 1, pg 10, line 12.**

Soon thereafter and also in case 19cv01547 Zweizig filed a Motion to suppress his deposition from the public space claiming he would not receive a fair trial if this child porn evidence was available to the jury pool. Defendant Rote opposed that Motion. **See Exhibit 6.** Clackamas Court refused to suppress his deposition testimony. **See Exhibit 6, pages 18-20.** The Court denied Plaintiff Zweizig Motion for a Pretrial Order (**Exhibit 11, pages 3-10**). The Rote's were during that same hearing granted Summary Judgment against all of Zweizig's fraudulent transfer claims in case 19cv01547. **See Exhibit 11, page 92.** As previously noted, Zweizig appealed and the Oregon Court of Appeals affirmed the Court granting the MSJ and denied reconsideration.

Plaintiff argues there is now a stacking of evidence that shows Zweizig no longer denies that he downloads, possesses and disseminates child porn and that he has in multiple cases asked the Court to suppress that evidence so he could lie about it under oath. The evidence that he lied

is objectively provable. When a Court suppresses that credible forensic evidence, Zweizig's history is to then lie about the existence of the forensic evidence and even of his own expert's prior testimony, implicating perjury in the 3:15-cv-2401 trial during which he claimed he did not download, possess or disseminate any porn. See **Exhibit 3, pgs 7, 9, 68, 103, 104, 123 and 172.**

#### **(4) Defendant's Email to Ward Greene**

**Exhibit 1, page 48** is one of several emails defendant sent to former Zweizig counsel Ward Greene in case 19cv01547. The new evidence includes an admission by Zweizig that former counsel Williams Kastner quit representation over not wanting to be associated with Zweizig's present and past activity of distributing child pornography. Zweizig maintained that the publishing of the forensic reports to Greene affected his right to counsel in civil case 19cv01547. See **Exhibit 1, page 15.** As has been done with all attorneys who represent Zweizig, defendant Rote asks a pertinent question, which is if "you as counsel are successful in garnering property for Zweizig, how many more children will be molested." In all cases, the forensic reports filed in this case were provided to opposing counsel. A growing number of attorneys have refused to represent Zweizig, acknowledging the likely outcome of increases molestation and production of child pornography.

Also provided herein is an early Motion by Ward Greene in case 19cv01547 (**Exhibit 6, page 20**) asking the court to try to force defendant Rote to stop raising these child trafficking issues as Greene was having trouble staffing the litigation, a portion of the Motion provided as follows:

*"Absent injunctive relief, Plaintiff will suffer immediate and irreparable injury, loss, or damage in the form of interference with Plaintiff's legal rights to prosecute this matter in accordance with Oregon law."*

Defendant Rote in that case filed an anti-SLAPP to strike that Motion. Greene resigned and that Motion was been withdrawn.

## **B. The Body of Corroborating Evidence**

### **(1) The Forensic Reports**

Defendant **Exhibit 5, pages 6-51**, are the forensic reports that were suppressed in this case.

**Exhibit 5, page 6-32 (Doc #120-18 filed in this case on June 22, 2017)** was the first forensic report. In 2005, the first of many forensic reports was issued forensic experts showing Zweizig fabricated the crash of the 120 gig hard drive and reformatted it on November 12, 2003, just before returning it to NDT.

**Exhibit 5, page 50 (Doc #120-17)** addressed whether the 120 gig hard drive was used by Zweizig after Zweizig claimed he had reformatted it, for any known purpose, expert Cox concluding that it was used to store videos up until November 12, 2003 when Zweizig reformatted that hard drive.

**Exhibit 5, page 46 (Doc #116-5)** addressed again whether the 120 gig hard drove was used by Zweizig during a period of time in which Zweizig claimed the hard drive had been reformatted and placed in his safe. Expert Cox opined that the hard drive was in continuous use through November 12, 2003 by Zweizig and that the hard drive had not been used or accessed after that time. By May of 2003, Zweizig had refused to provide the programming and processing software generated by him during his employment, property that was owned by his employer NDT. On a visit to see Zweizig in New Jersey, Zweizig was making a presentation to Rote and feigned the crash of the 120 gig hard drive, a computer hard drive used exclusively by Zweizig from August 2001 to November 2003. Zweizig testified that the 120 gig hard drive had

crashed and he reformatted it immediately thereafter. This and other forensic reports refute Zweizig's testimony.

**Exhibit 5, page 40 (Doc #120-2)** is a report from expert Cox opining that the Foxpro program files deleted by Zweizig when he reformatted the hard drive on November 12, 2003 could not be recovered. This report also corroborates the existence of programs Zweizig claimed did not exist.

**(2) Other Corroborating Evidence**

**Exhibit 7** is an array of information starting with recent news articles on arrests, indictments and convictions of local child porn criminals and includes the filed indictments federal indictments of TV personality Josh Duggar. In December 2021, Duggar was convicted on downloading, possessing and distributing child pornography using a peer to peer program registered to his name, bit torrent. Like Zweizig, he separated his office computer into two sectors. On the one sector he maintained business records. On the other however, he maintained his child porn and share that child porn with others. Zweizig did exactly the same thing.

**Exhibit 9** is testimony from Jaime Gedye that he could find no programming files created by Zweizig or anyone else, on the Eugene servers, when he traveled to the Eugene location of NDT. Gedye had to recreate the programming and during that time NDT was shut down. Zweizig's behavior and performance deteriorated after the May 2003 feigned crash of the 120 gig hard drive, to the point that he was more than five months late in completing processing and returning data files to key clients. That came to an apex when Zweizig's failures were brought to Rote's attention. Zweizig refused to complete the processing unless given a raise. He was rebuffed in that raise, completed the processing and was immediately terminated on October 2, 2003 but with 45 days of notice, Rote wanting to secure the processing programs. Zweizig did

not provide the programming and NDT shutdown for 10 days right after Zweizig's last day. Ultimately the programming files were found on the 120 gig hard drive by the forensic experts.

Steve Williams was hired in 2005 to determine if Zweizig's hard drive contained programming that Zweizig had deleted. In 2003 Zweizig removed his employer owned programming from each and every server owned and used by his employer and then attempted to extort a raise. Zweizig was terminated but refused to turn over his programming. As a result his employer shut down for 10 days while the programming was being recreated. Williams found those programs on Zweizig's computer; however, since Zweizig reformatted the hard drive there was no opportunity to reverse the reformatting and scrambling of the programming. Unexpectedly, Williams also found the child porn, porn, movies and music that Zweizig had pirated and was making available to whomever he gave his site to.

**Exhibit 10** is Plaintiff Response in Opposition to the State Judges Motion to Dismiss Rote Civil Rights Claims in this federal court, case 3:22-cv-0985. Zweizig has enjoyed a tremendous amount of support, bending over backwards to aid Zweizig, really to a point of objectively unreasonable rulings on anti-SLAPP's, Motions to Dismiss, RICO all of which violated Rote's right of due process. Defendant provides this Motion only as an example of what evolved from Zweizig's perjury in this case and his attorney's conscious subornation of perjury in this case.

**Exhibit 11** is the transcript of a hearing in case 19cv01547, wherein the Clackamas Court denied Zweizig's Motion to suppress his deposition and then granted the Rote's Motion for Summary Judgment against Zweizig's fraudulent transfer claims, in his attempt to steal Tanya Rote's Sunriver home. Zweizig was offered alternative property of a higher value but chose instead to attack Defendant's family.

## LEGAL STANDARD

A judgment may be set aside under Rule 60(d)(3) if the movant provides clear and convincing evidence of “fraud on the court.” Fed. R. Civ. P. 60(3); see also *United States v. MacDonald*, No. 87-5038, 1998 U.S. App. LEXIS 22073, at \*6 (4th Cir. Sept. 8, 1998) (“It is settled that the clear and convincing standard applies in . . . cases alleging fraud upon the court.”) (citing cases). Fraud on the court, as the Fourth Circuit recently emphasized, is “not your ‘garden-variety fraud.’” *Fox*, 739 F.3d at 135 (quoting *George P. Reintjes Co. v. Riley Stoker Corp.*, 71 F.3d 44, 48 (1st Cir. 1995)). The doctrine instead involves “corruption of the judicial process itself,” *Cleveland Demolition Co. v. Azcon Scrap Corp.*, 827 F.2d 984, 986 (4th Cir. 1986), and “should be invoked only when parties attempt ‘the more egregious forms of subversion of the legal process.’”

“Almost all of the principles that govern a claim of fraud on the court are derivable from the Hazel-Atlas case.” Wright & Miller, *Federal Practice and Procedure* §2870 (3d ed.).

Rule 60(d)(3) was added in 1948. The framers’ intention may best be indicated in the Advisory’s Committee’s discussion of the rule:

The amendment . . . mak[es] fraud an express ground for relief by motion; and under the saving clause, fraud may be urged as a ground for relief by independent action insofar as established doctrine permits. And the rule expressly does not limit the power of the court . . . to give relief under the savings clause. As an illustration of the situation, see *Hazel-Atlas Glass Co. v. Hartford Empire Co.* [322 U.S. 238 (1944)].

The court may take action with Motion of a Party.

## ARGUMENT

Defendant's argument emphasizes that the scheme of misconduct was by design directed at the court, intended to mislead the court on law and fact, that it was perpetrated by plaintiff, plaintiff counsel Joel Christiansen and Sandra Ware (Zweizig's girlfriend) to exploit the litigation because they felt defendant Rote was incompetent to defend himself (**Exhibit 1, page 10**), "...You walked into a courtroom with \$150,000 against you and walked out losing a million. You're not good at it, sir. You should probably stop."

Fraud Upon the Court appears to be evaluated under a four part test described as (1) the offending party and his duty; (2) the conduct; (3) the victim; and (4) the relief.

Defendant's argument is that the most plausible inference drawn from Zweizig's statements in **Exhibit 1** is that the plaintiff's successful Motion in Limine, resulting in the suppression of the forensic reports, paved the way for Zweizig's false testimony at trial that he did not download and disseminate child porn, porn, movies or music, did not destroy programming owned by Northwest Direct ("NDT"), did not steal 500,000 identity records from NDT's clients and did not destroy that evidence. The forensic reports and testimony of defendant refute his allegations.

Defendant further argues that Christiansen (counsel) and Ware (NJ Counsel) suborned that perjury and that his attorneys representing in state court continue to suborn that perjury. That subornation appears to be a necessary element of this Motion.

Had Zweizig not lied about his child porn activity, this Motion would not likely be viable. Had the forensic reports not been suppressed, this action would not likely be viable. When combined with Christiansen's closing arguments misrepresenting almost all of the blog

and other evidence, the record of suborning Zweizig's perjury is abundantly clear and convincing.

**Exhibit 1** provides clear and convincing evidence that Zweizig no longer denies that he lied to the jury about his child porn and that a number of attorneys also believe the forensic evidence in the record in this case and more specifically that Zweizig is a child predator.

Zweizig's attorney in case sought to suppress that December 21, 2020 deposition (**Exhibit 6, page 18-20**) as well as Defendant's continued public publishing of concerns at the abuses perpetrated by Zweizig on Rote, on the Court and on the public. Defendant is entitled to an inference that Zweizig believed that his child porn activities would make it hard to find a jury that would wasn't to support his effort to steal Tanya Rote's Sunriver property.

Williams Kastner filed an earlier version of the same Motion, in fact intimating on the record of having difficulty finding staff who wanted to work on the Zweizig account (**Exhibit 6, 19-21**).

Defendant is entitled to an inference in this case that the forensic reports if provided to a jury would not have resulted in a judgment in this case, absent Zweizig's perjury denying he downloaded porn of any kind.

Defendant is entitled to an inference that Zweizig's declaration of September 15, 2022 is a statement that Plaintiff omits strategically a reference to child porn, claiming that he is not a pedophile or child predator (**Exhibit 2, page 2, line 4**). The issue on which ZWEIZIG LIED to the jury was on the question of whether he downloaded, possessed and distributed child porn, porn, music and videos. Denying that he is not pedophile is not tantamount to denying his crimes on child porn or copyright violations. He does not now deny that he downloads, disseminates and distributes child porn. One could reasonably draw a conclusion in this declaration that his



attorney, Anthony Albertazzi, helped craft the declaration to suborn the perjury from this case. The attorneys who represented Zweizig in this case, namely Joel Christiansen and Shenoa Payne did suborn Zweizig's perjury all the way to the 9<sup>th</sup> Circuit.

Defendant has already provided to the court more than 20 counts of criminal conduct during the course of Zweizig employment with NDT, his perjury in the arbitration, 10 counts of perjury in this action before and during trial, and the subornation of that perjury by opposing counsel in this and all other cases preceding it. Some of that evidence will be repeated in this Motion.

#### **A. The Framework of Analysis**

In *Kupferman v. Consolidated Research & Manufacturing Corp*, 459 F.2d 1072 (1972) the court stated that [w]hile an attorney “should represent his client with singular loyalty that loyalty obviously does not demand that he act dishonestly or fraudulently; on the contrary his loyalty to the court, as an officer thereof, demands integrity and honest dealing with the court.” And when he departs from that standard in the conduct of a case he perpetrates a fraud upon the court. In other words, “[s]ince attorneys are officers of the court, their conduct, if dishonest, would constitute fraud on the court.”

“Almost all of the principles that govern a claim of fraud on the court are derivable from the Hazel-Atlas case.” 11 Wright & Miller, Federal Practice and Procedure §2870 (3d ed.). In that case, Hazel-Atlas—alleging fraud on the court—commenced an action in 1941 to set aside a 1932 judgment for infringing Hartford's patent for a glass-making machine. *Hazel-Atlas*, 322 U.S. at 239. In support of Hartford's application for that patent, “certain officials and attorneys of Hartford determined to have published in a trade journal an article signed by an ostensibly disinterested expert” (William Clarke), championing Hartford's machine as “a remarkable

advance in the art of fashioning glass.” *Id.* Hartford received the patent in 1928 and sued Hazel-Atlas for infringement. *Id.* at 240-41.

As is particularly relevant here, “[a]t the time of the trial in the District Court in 1929,” Hazel’s attorneys “received information that both Clarke and one of Hartford’s lawyers” had “previously admitted that the Hartford lawyer was the true author of the spurious publication.” *Id.* at 241. Hazel-Atlas did not, however, raise the issue before the district court, which ruled in favor of Hazel-Atlas. Hartford appealed to the Third Circuit and, urging reversal, invoked the fraudulent publication signed by Clarke. *Id.* The Third Circuit, relying on that article, reversed and ordered the district court to enter an order of patent validity and infringement. *Id.* Even then, Hazel did not alert the Third Circuit to the evidence of fraud of which it had learned; instead, it entered into a settlement agreement with Hartford regarding damages. *Id.* at 243.

In 1939, the United States brought an antitrust action against Hartford, which exposed and confirmed the full story of Hartford’s involvement in the fraudulent publication. *Id.* Now armed with the complete set of established facts, Hazel-Atlas filed a petition in the Third Circuit to set aside that court’s judgment and the district court’s subsequent order. *Id.* at 239. The Third Circuit denied relief, holding, among other things, that “the fraud was not newly discovered.” *Id.* at 243.

This Court reversed. The Court acknowledged that “[f]ederal courts ... long ago established the general rule that they would not alter or set aside their judgments.” *Id.* at 244. But “[f]rom the beginning there has existed ... a rule of equity to the effect that under certain circumstances, one of which is after-discovered fraud, relief will be granted against judgments regardless of the term of their entry.” *Id.* This rule “was firmly established in English practice ...

to fulfill a universally recognized need for correcting injustices which, in certain instances, are deemed sufficiently gross to demand a departure from rigid adherence to the term rule.” *Id.*

Applying these principles, the Court concluded that the judgment against Hazel-Atlas could not stand, as the record offered troubling evidence of a “planned and carefully executed scheme to defraud not only the Patent Office but the Circuit Court of Appeals.” *Id.* at 245. That “Hazel did not exercise the 24 highest degree of diligence” in bringing the fraud to the court’s attention made no difference, for Hartford inflicted injury not just against a “single litigant” but rather committed a “wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society.” *Id.* at 246; cf. *id.* at 264 (Roberts, J., dissenting) (noting that “Hazel’s counsel knew the facts with regard to the Clarke article and knew the names of witnesses who could prove those facts” even before the settlement, but “[a]fter due deliberation, it was decided not to offer proof on the subject”). At bottom, the Court reasoned, “it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants.” 322 U.S. at 246; see also *United States v. Beggerly*, 524 U.S. 38, 47 (1998) (citing Hazel-Atlas and concluding courts must intervene “to prevent a grave miscarriage of justice”).

## **B. The Application of Hazel-Atlas In This Case**

### **(1) The Offending Party and His Duty**

The offending party in this action is plaintiff counsel Joel Christiansen, and New Jersey attorney Sandra Ware who engaged in conduct as outlined below that suborned the perjury of Max Zweizig in this case. Citing *Kupferman v. Consolidated Research & Manufacturing Corp*, 459 F.2d 1072 (1972) and others it is well established that both Christiansen and Ware have a duty of “loyalty to the court, as an officer thereof, demands integrity and honest dealing with the

court.” And when he departs from that standard in the conduct of a case he perpetrates a fraud upon the court. In other words, “[s]ince attorneys are officers of the court, their conduct, if dishonest, would constitute fraud on the court.”

(2) The Conduct

Christiansen successfully (1) refused to provide discovery from plaintiff and opposed a Motion to Extend time of Discovery (Doc #111); (2) Quashed a subpoena to Sandra Ware and Schwabe Williamson on Crow’s file (Doc #126); and (3) suppressed the forensic reports through a Motion in Limine (Doc #150).

Christiansen’s refusal to provide discovery was intended to exploit a *pro se* litigant so as to suborn Zweizig’s denial of the forensic evidence referenced and linked in the blog and for Zweizig downloading and disseminating child pornography. This was a particularly unique circumstance where Rote was denied discovery from Zweizig and an opportunity to depose Sandra Ware and Zweizig.

Christiansen’s successful motion to Quash the subpoena of Crows records in the arbitration had the effect of suborning Zweizig’s denial during trial of the forensic evidence submitted in the arbitration, linked and identified in the blog showing Zweizig engaged in criminal conduct not the least of which was downloading and disseminating child porn. Most important encouraged Christiansen’s misrepresentation of the findings of the arbitrator on the forensic reports which he then exploited in his Motion in Limine.

Christiansen’s successful motion to Quash the subpoena of the deposition of Sandra Ware had the effect of suborning Zweizig’s denial during trial of the forensic evidence submitted in the arbitration, linked and identified in the blog showing Zweizig engaged in criminal conduct not

the least of which was downloading and disseminating child porn. Ware would have been able to corroborate that activity.

Christiansen's successful Motion in Limine had the effect of misleading the court into believing that the accuracy of the forensic reports had been litigated in the arbitration and reduced to a finding in Zweizig's favor, which was a gross misrepresentation he refused to correct and had the effect of suborning Zweizig's denial during trial of even the existence of the forensic evidence submitted in the arbitration, linked and identified in the blog showing Zweizig engaged in criminal conduct not the least of which was downloading and disseminating child porn.

Thus, for example, if an adversary misrepresents certain relevant information, fails to disclose such information, requests admissions that he knows to be false, lies during a deposition, or engages in any other deceitful form of discovery, he has clearly violated Rule 26 and has potentially engaged in fraud, misrepresentation, or other misconduct prohibited by ethical rules and state and federal rules of civil procedure.

If a party is responsible for undermining the integrity of the judicial process because it chose to recklessly present misleading or false evidence to the court and the court's judgment was influenced by the conduct at issue, the judgment should be set aside as a fraud on the court.

Defendant believes that the long term behavior of the plaintiff must also inform the court of the plaintiff's intent in this case since it is a repeating pattern of abuse. The scheme today is the same scheme that has been deployed by Zweizig and his legal team for seventeen years.

As most schemes do, the Zweizig-Christiansen scheme in this case unravels when Zweizig boldly claims that he was denied representation because Ward Greene did not want to be associated with Zweizig child porn history. Although that was an admission set up by an

email defendant Rote sent to Williams Kastner (**Exhibit 1, page 47**), the Motion to restrict statements to attorneys with copies of **Exhibit 5 (Motion, Exhibit 6)** showing the child porn, is an admission of common knowledge that all the attorneys representing Zweizig possess--that Zweizig admitted to the porn and other criminal acts outlined in **Exhibit 5**. And if he admitted to the porn, he committed perjury to the jury in this case when he denied it. Christiansen would only suborn that perjury if it was not going to backfire. He did as described take steps to suborn perjury and until now it has not backfired.

**Exhibit 1** is as identified a deposition transcript in Clackamas County case 19cv01547 and shows numerous evasive acts important in Zweizig post-judgment litigation, acts that are a repeat of those in this case which implicates a scripted plan or scheme. **Exhibit 1** shows that Zweizig refused to provide documents referenced as coming from him by the declaration of his attorney Taryn Basauri; initially refused to acknowledge Joel Christiansen as his attorney in this case; refused to acknowledge the only two documents provides in discovery in that case; refused to explain why he and Ware were represented by the PLF free of charge in Clackamas case 19cv14552; admitted his attorney quit over the child porn; did not deny that he downloaded and disseminated child porn as the forensic reports so indicate and ;admitted that Rote's pro se status in this case was exploited.

**Exhibit 2** is Zweizig's declaration in Deschutes case 19cv00824 and is a statement by Zweizig that he is not a pedophile, but nonetheless serves as an admission that Zweizig downloads, possesses and disseminates child porn. **Exhibits 3-11** corroborate Defendant Rote's position in this case.

///

///

(3) The Victim

Defendant is not the only victim. While Defendant has previously argued that plaintiff's testimony was replete with lies and therefore perjury, that Christiansen suborned that perjury directly in the suppression of evidence and indirectly in his closing arguments, Exhibit 1 and 2 reflect recent and brazen admissions by Zweizig that he lied to the jury in this case.

**Exhibit 1, page 10**, "...You walked into a courtroom with \$150,000 against you and walked out losing a million. You're not good at it, sir. You should probably stop."

There is little room to conclude that Zweizig acknowledged abuses of the litigation process by him and his team that defendant could not overcome.

The plaintiff's Motion in Limine in this case (**Exhibit 4**) intentionally misled the court into believing that the interpretation of the forensic reports had already been adjudicated in the arbitration in favor of Zweizig. There was nothing further from the truth as the Arbitrator's Opinion and Order (which was on the record) showed. The arbitrator did not refute that Zweizig downloaded and disseminated child porn or destroyed programming owned by NDT causing a shut down. The suppression of that forensic evidence not only vitiating the defendant's defense, but its absence was likely critical in the plaintiff's case because they alleged defendant's allegations in the blog by reference to those forensic reports were not truthful.

Defendant asks this court to also recognize the maxim the Supreme Court expressed in *Hazel-Atlas*: the fraud-on-the-court rule should be characterized by flexibility and an ability to meet new situations demanding equitable intervention.

Because of the equitable and flexible nature of the rule, this defendant contends that courts have ample leeway and discretion to consider the victim's status—i.e., those parties

unable to recognize or combat the fraudulent activity—in determining whether to set aside a judgment for fraud on the court.

Defendant will also contend that if Ward Greene believed that the forensic reports showed definitively that Zweizig had been engaged in multiple criminal acts, that both Christiansen and Sandra Ware believed the same and designed their discovery actions and Motion in Limine to exploit the defendant and deceive the court. Plaintiff made his claims that Ward Greene resigned no longer wanting to represent Zweizig and the raping of children, to which Zweizig ascribes an attempt to deny him a right counsel. **See Exhibit 1.** This attack is not just an attack on the defendant but on the litigation process itself.

Plaintiff should have provided in discovery specific blog posts and the forensic reports referenced he claimed were dishonest, as in a challenge to the report itself. A number of these forensic reports were in fact already on the record in the federal confirmation of the arbitration award in 2011 and in the arbitration and there was no allegation that the forensic reports provided in **Exhibit 5** were not in the record in multiple cases. Because discovery was not provided, plaintiff took a position even challenging the existence of the forensic reports, which implicates an attack directed to the litigation process itself.

The totality of the evidence provided herein shows a pattern by plaintiff of discovery abuses back to 2003, designed to not be responsive, to cover up and or destroy evidence such as digital email files, programming, identity records, child porn, movies, etc. **Exhibit 1** shows the same pattern of abuse today, where Zweizig produced only two documents to support his narrative in Clackamas County case 19cv01547. He attacks Tanya Rote in that case with no evidence to support the action and tied up a property for more than two years using an unlawful *lis penden and lien*. The Rote's prevailed in that case.



In spite of having no evidence to prosecute his claims against the Rote's, which included an effort to take Tanya Rote's Sunriver property, Zweizig was nonetheless unrepentant in his belief that he could convince a jury even with no evidence (**Exhibit 11, page 55**) as follows:

“I would just drop this whole thing if I didn't feel that this was, not only something in my best interest, but in the best interest of, you know, not setting some sort of limit on what a rich person can do to a person. This has been tough and I think I have a very good case for this or I wouldn't bring it.” The truth is that Zweizig and by and large his attorneys are willing to lie, cheat and steal at every corner of litigation.

And his attorneys designed and suborned all of it. This is not advocacy. This is criminality. This is discovery abuse and perjury. This is a scheme and plan that suborns that perjury, a plan scripted and used by Zweizig and Ware since September 16, 2001.

#### (4) Remedy

Interestingly, although Rule 60(d)(3) is the only rule that even mentions the fraud-on-the-court doctrine, other Federal Rules of Civil Procedure, including Rules 11, 16, 26, 37, and 41, have been cited in applying the doctrine. For example, courts have dismissed, defaulted, and sanctioned litigants for fraud on the court, and have found the necessary authority outside of Rule 60(d)(3)—often citing the inherent power given to all courts to fashion appropriate remedies and sanctions for conduct which abuses the judicial process. See, e.g., *Brockton Sav. Bank v. Peat, Marwick, Mitchell & Co.*, 771 F.2d 5, 11–12 (1<sup>st</sup> Cir. 1985); *Wyle v. R.J. Reynolds Indus., Inc.*, 709 F.2d 585, 589 (9th Cir. 1983); and *Eppes v. Snowden*, 656 F. Supp. 1267, 1279 (E.D. Ky. 1986).

Some courts have premised dismissal or default of a litigant who committed fraud on the court entirely on Rule 11. *Combs v. Rockwell Int'l Corp.*, 927 F.2d 486, 488 (9th Cir.

1991). Other courts have relied on Rule 41(b) for authority to dismiss a plaintiff who has committed fraud on the court. *C.B.H. Res., Inc. v. Mars Forging Co.*, 98 F.R.D. 564, 569 (W.D. Pa. 1983) (dismissing under Fed. R. Civ. P. 41(b) where party's fraudulent scheme, including use of a bogus subpoena, was "totally at odds with the . . . notions of fairness central to our system of litigation").

There is no statute of limitation under Rule 60 (d) (3). Rule 60(d) (3), serves one purpose: to "set aside a judgment for fraud on the court." That is the remedy defendant seeks.

Based on the indiscretion at issue, defendant presumes the court may set aside the judgment and additionally take any of the following actions: (1) require a trial on the merits unblemished by the misconduct, (2) sanction the offending party by an offsetting award, (3) dismiss a particular cause of action, or (4) dismiss the entire proceeding with prejudice.

### CONCLUSION

Based on the above facts and arguments, defendant asks the court to vacate the judgment of \$1 Million plus related attorney fee awards, those awards in favor of child predator Max Zweizig.

Dated: November 15, 2022

*s/ Timothy C. Rote*

\_\_\_\_\_  
Timothy C. Rote

*Pro Se* Defendant

## CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2022, I filed the foregoing with the Clerk of the Court by hard copy, which defendant believes will send notification of such filing to the following:

Joel Christiansen  
812 NW 17<sup>th</sup> Ave,  
Portland, OR 97209  
[joel@employeeelawyer.io](mailto:joel@employeeelawyer.io)

and I hereby certify that I have mailed by United States Postal Service and email the document to the following non-CM/ECF participants:

Joel Christiansen  
812 NW 17<sup>th</sup> Ave,  
Portland, OR 97209  
[joel@employeeelawyer.io](mailto:joel@employeeelawyer.io)  
Counsel for Zweizig

s/ Timothy C. Rote  
Timothy C. Rote  
*Pro Se Defendant*  
E-Mail: Timothy.Rote@gmail.com

Timothy C. Rote  
7427 SW Coho Ct. #200  
Tualatin, OR 97062  
Phone: (503) 272-6264  
E-Mail: timothy.rote@gmail.com  
*Pro Se* Defendant

Honorable Marco Hernandez

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MAX ZWEIZIG,

Plaintiff,

vs.

TIMOTHY C. ROTE, *et al.*,

Defendants.

Case No.: 3:15-CV-2401-HZ

DEFENDANT'S MOTION FOR  
RECONSIDERATION ON MOTION TO  
VACATE JUDGMENT FOR FRAUD UPON  
THE COURT

**ARGUMENT**

Defendant respectfully moves this Court to reconsider his Motion to Vacate the Judgment and Dismiss the Plaintiff's the Judgment for Fraud upon the Court under FRCP 60 (d) (3). Defendant argues there is no tenable or possible way for this Court to avoid the necessary finding that Max Zweizig and Joel Christiansen perpetrated this Fraud Upon The Court.

**I. STATUTE OF LIMITATIONS**

The Court concluded that a Motion to Vacate For Fraud Upon The Court has a statute of limitations of one year after the judgment. Defendant has found no support for that position. Rather, Rule 60(b), which governs relief from a judgment or order, provides no time limit on

PAGE 1. DEFENDANT MOTION FOR RECONSIDERATION TO  
VACATE FOR FRAUD UPON THE COURT

courts' power to set aside judgments based on a finding of fraud on the court. *11 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure* § 2870 (2d ed. 1987).

We exercise the power to vacate judgments for fraud on the court "with restraint and discretion," *Chambers*, 501 U.S. at 44, and only when the fraud is established "by clear and convincing evidence," *England v. Doyle*, 281 F.2d 304, 310 (9th Cir. 1960).

If by chance Defendant misstated or miscited the FRCP necessary to vacate for fraud upon the Court, this Court is obligated to show Defendant deference and not exploit this or any other error.

## **II. ADMISSIONS BY ZWEIZIG**

Although it is unclear how the Court could possibly render an opinion that Zweizig did not engage in perjury during the trial and further that the perjury was not suborned, Defendant nonetheless offers Zweizig's testimony during the arbitration that confirms he did engage in perjury on a key question asked of him by counsel during the 3:15-cv-2401 trial and direct on whether Zweizig downloaded, possessed or disseminated pornography (including child porn), stolen music and videos, all found on the 120 gig hard drive he used from his home while employed by Northwest Direct.

Defendant reaffirms the record already provided to the Court in the Motion to Vacate.

### **A. May 28, 2010 Arbitration testimony**

Defendant offers a few pages of Zweizig's testimony of May 28, 2010, pages 191-196 (**Exhibit 1, page 1-6**). Linda Marshall, Zweizig's attorney, inquired of Zweizig what he did with the 120 gig hard drive that failed in May 2003:

Page 192

1 Q. And that's when the -- the computer

2 crashed, and you discovered the blue screen?

3 A. Yes.

4 Q. And you're not able to resurrect it again.

5 What's the word other than resurrect?

6 A. Boot it up.

7 Q. Boot it up?

8 A. It wouldn't boot in Windows.

9 Q. You're unable to boot it up. What did you

10 do?

Page 195

5 Q. Okay. And then what did you do with the

6 old hard drive?

7 A. I know I stored it in the safe, and I got

8 all the -- I got all the programs off of it.

9 MR. CROW: How do you get the programs off

10 of it if you can't boot it up?

continuing...

24 Q. And I'm not sure whether you answered

25 clearly what you did with the old hard drive. Did

Page 196

1 you save it, or did you throw it away?

2 A. No, no, no, no. I didn't throw it away.

3 I, you know, got everything off it, and at some

4 point I would have formatted it.

Defendant has already provided to this Court the unanimous opinions, reports and testimony of the forensic experts that opined during the arbitration that the porn, child porn, music and videos were downloaded during a time when the 120 gig hard drive was in Zweizig's possession, from 2021 through November 13, 2003.

**The full transcript of the May 28, 2010 arbitration is available.**

**B. June 1, 2010 Arbitration Direct testimony.**

Defendant offers a few pages of Zweizig's testimony of June 1, 2010, pages 36-38 (**Exhibit 2, page 1-3**). Linda Marshall, Zweizig's attorney, inquired of Zweizig *again* what he did with the 120 gig hard drive that failed in May 2003:

Page 36

9 Q. Okay. You mentioned the 120 gigabyte hard

10 drive.

11 A. Um-hum.

12 Q. That was the one that crashed --

13 A. Yeah, right, right.

14 Q. -- that there's been some testimony about.

15 Had -- had you done anything to make that hard drive

16 usable again?

17 A. Oh, yes, I did. I had that hard drive --

18 you know, I think I already told you that I put it

19 in as a secondary drive in there and copied

20 everything I needed off it. And it sat there for a

21 while, because you copy everything you need off it.  
22 And just from experience, you know, if you think you  
23 have everything you need off it, and you disconnect  
24 it, you put it in the box, within 10 minutes you're  
25 going to go get that box, and you're going to bring

Page 37

1 that hard drive back. You didn't realize something  
2 that you -- you didn't realize --

3 THE WITNESS: I will.

4 A. -- you're going to realize something that  
5 you -- you might still need off it. So I just left  
6 it sit in the computer probably for -- could have  
7 been weeks. When I was completely sure that I  
8 really didn't need anything more off of that hard  
9 drive, I took it out of the computer, I formatted it  
10 so it could be used as a regular Windows drive if  
11 ever needed again, and put it in a box, put it in a  
12 fireproof safe, and that's where it sat until Tim  
13 came over.

14 BY MS. MARSHALL:

15 Q. Now, what does that mean? You formatted  
16 it so it could be used again?

17 A. Well, here's the thing. Without



18 formatting it, it can be used as a regular hard  
19 drive, but it has an issue. We know there's an  
20 issue on that hard drive. You know, you don't plug  
21 a hard drive into a computer and boot up the  
22 computer. When it used to be a bootable drive, it  
23 would make the computer work all by itself and it's  
24 going to go and crash on you, there's some file on  
25 that hard drive that is causing some grief. And

Page 38

1 rather than deal with it -- I already have replaced  
2 my Windows hard drive. Rather than deal with it,  
3 you reformat it, and that takes care of all those  
4 issues. Now you can use it again for whatever you  
5 want.

6 At the time, if this was now, I would have  
7 thrown that hard drive in the trash. I would have  
8 just thrown it away. But at the time, that was, I  
9 would say, between a 400 and \$600 hard drive,  
10 because 120 gig at that time was pretty big. That  
11 was a -- that was a pretty -- pretty large hard  
12 drive. It's not my hard drive. So, you know, if  
13 our data -- my thinking at the time was if our data  
14 requirements increased to where I need a lot more

15 space for something, we're planning to grow, you  
16 know, maybe I would and whatever, here's a -- here's  
17 a hard drive we've already paid for that I have,  
18 so...

**The full transcript is part of the record in this case, Doc # 120-1.**

**C. June 1, 2010 Arbitration Cross testimony**

Defendant offers a few pages of Zweizig's testimony on Cross of June 1, 2010, pages 132-166 (Exhibit 3, page 1-34). Scott Cliff, Rote's and Employer's attorney, inquired of Zweizig again what he did with the 120 gig hard drive that failed in May 2003:

Page 132

18 Q. Okay. Well, let's just talk about your --

19 your computer for a moment.

20 A. Okay.

21 Q. That was the Sony Vaio.

22 A. Okay. Yes, sir.

23 Q. First of all, when did -- what's your

24 recollection as to when that was placed into

25 service?

Page 133

1 A. I don't remember. I've tried to think of

2 that answer in preparation. I -- I don't know.

3 Q. But initially --

4 A. There may be a bill for it around

5        somewhere.

6        Q. Initially you were in the Delaware office

7        when that was in place, correct?

8        A. That's true, sir.

9        Q. Okay.

10       A. Yes.

11       Q. And when it was there, did you -- did you

12       have a password on it?

13       A. I believe I would have.

14       Q. Well, that's just common sense, correct?

15       A. Yeah.

16       Q. Never would leave it --

17       A. I'm sorry. When you said that, I was

18       trying to think of the password. Yes, I'm sure I

19       would have a password.

20       Q. I'm not asking you for the password.

21       A. I know you're not.

22       Q. Okay.

23       A. I'm sorry.

24       Q. So the purpose of a password is to prevent

25       unauthorized access, correct?

Page 134

1        A. Yes, sir.

2 Q. Okay. So do you have any reason to  
3 believe that Mr. Bower, who you have testified  
4 earlier worked in the Delaware office with you, that  
5 he would have somehow been able to access that  
6 computer while it was under your care and protection  
7 and password protected?

8 A. I -- I can't completely answer that. I  
9 wasn't there at the computer the whole time.

10 Q. The answer is no, you don't have any  
11 evidence of that?

12 A. The answer is, I can't answer that.

13 Q. Okay. Now, the Sony Vaio you testified  
14 initially had the 120-gig hard drive in it, correct?

15 A. Yes, sir.

16 Q. Okay. And then there's been testimony  
17 about some sort of event that resulted in the 60-gig  
18 hard drive being placed into service --

19 A. Yes, sir.

20 Q. -- somewhere around March 12 of 2003,  
21 correct -- May 12, 2003; is that correct?

22 A. That is correct.

23 Q. Okay. Now, at the time that the -- well,  
24 do you recall, first of all, when you moved the

25 machine from the Delaware office to your home?

Page 135

1 A. I don't. I don't recall when I started  
2 working in -- I mean, I was there in my home a year.

3 I don't recall exactly when that was, I'm sorry.

4 Q. Okay. Once you moved into your home  
5 office, I assume you continued to employ basic  
6 common sense security precautions regarding access  
7 to Northwest Direct's computer and its data,  
8 correct?

9 A. Yes, sir.

10 Q. Okay. That would have included password  
11 protection at a minimum, correct?

12 A. Yes, sir.

13 Q. Firewall?

14 A. Yeah. I mean, that came through a -- a  
15 network hub that -- yeah, certainly Windows firewall  
16 was on the machine, and that's what I believe I used  
17 at the time.

18 Q. And you've testified that you -- you've  
19 lived with Ms. Ware for quite some time, your  
20 fiancée?

21 A. Yes, I have.

22 Q. Okay. You didn't allow her access to that  
23 machine, did you?

24 A. No.

25 Q. Okay. You understood that machine had

Page 136

1 sensitive customer information on it?

2 A. It had customer information on it. The  
3 sensitivity is not a huge issue. We -- we didn't  
4 have any accounts that had actual credit card  
5 numbers. These credit card numbers would be  
6 encrypted when sent to us. And when the -- when the  
7 credit card numbers would go back, it was a  
8 proprietary logarithm that the -- each client would  
9 have to be able to decrypt them so that a  
10 representative never saw it. And I could never tell  
11 what it was. Nobody could tell what it was. So  
12 there were names and addresses. There were things  
13 like that, and Social Security numbers.

14 Q. The question is, it had customer  
15 information?

16 A. It had customer information.

17 Q. And for some of your banking clients, it  
18 had -- it had some additional information beyond

19 just name and phone number, correct?  
20 A. Not really, no. Social Security number  
21 was not there, no.  
22 Q. Well, in any event, I take it you  
23 understood that preserving the integrity of that  
24 data was important to Northwest Direct?  
25 A. Certainly.

Page 144

23 Q. Okay. And you testified that that  
24 computer never worked again, correct?  
25 A. That hard drive never worked again. The

Page 145

1 computer with a new hard drive worked fine. To be  
2 clear and answer your question, we did not get to  
3 looking at code. It didn't happen.  
4 Q. Okay. But the 120-gig drive failed at  
5 that point and never worked again, correct?  
6 A. Yes, sir.  
7 Q. Okay. And you testified that after maybe  
8 a week or two -- I don't recall -- some period of  
9 time you somehow plugged -- plugged -- I didn't  
10 quite understand this. You plugged a ribbon into  
11 the back of that drive --

12 A. Okay.  
13 Q. -- and somehow extracted some information  
14 from it. How did you do that when it didn't work?

Page 147

5 Q. Okay. And then after a period of a couple  
6 weeks or so, you put that 120-gig drive in the box?  
7 You put it in the fireproof safe; do you recall  
8 that?

9 A. Yes, sir.

10 Q. Okay. But it's still your firm  
11 recollection that that's what you did with it?

12 A. Yeah. I don't remember how long exactly  
13 after, but yes.

14 Q. Okay. But you didn't use it personally, I  
15 take it, for anything of any sort?

16 A. No. It sat in the box.

17 Q. And I think it was your testimony that you  
18 reformatted it before you put it in the safe; is  
19 that correct?

20 A. At some point.

21 Q. And from that point on, it would have been  
22 completely empty; is that right?

23 A. Reformatting it, as we should all know by



24 now, doesn't remove the data from it completely. If  
25 you want to, you know, forensically try and do so.

Page 148

1 And there's -- there's tools out there that you  
2 don't need to be a forensic expert that can get data  
3 back off of the formatted drive.

4 Q. So in other words, a forensic expert could  
5 -- could take that drive that's been reformatted and  
6 fairly quickly pull up enough information to  
7 determine when files were created, when they were  
8 last accessed, that sort of thing?

9 A. I don't know -- I've seen recovery things  
10 that even I've tried to do myself, like on a USB  
11 drive or something like that. Sometimes when you  
12 recover things, some of that information goes  
13 missing. So as far as what information you can pull  
14 off of that, I would have -- I would rather you ask  
15 an expert that because it's not always the same.

16 Q. So certainly, for instance, if a program  
17 file was on there and it was missing one piece, you  
18 wouldn't necessarily put that program file back into  
19 service for a client, would you?

20 A. No, not --

21 Q. That would be too dangerous, wouldn't it?

22 A. Yeah, yeah, yeah. You wouldn't want to do

23 that.

24 Q. Okay.

25 A. Yeah.

The balance of the testimony goes into the Ebay files Zweizig used to sell a variety of things including guitars, books, suntan lotions, etc... all traceable to him and admitted by him.

The forensic experts concluded that the 120 gig hard drive had not failed, but that Zweizig used that fabricated failure to delete and reformat the hard drive to destroy programming that his employer desperately needed. Some 1900 Foxpro program files were found on the 120 gig hard drive, programs owned by employer Northwest Direct that Zweizig destroyed when reformatting of that hard drive. And he did so as part of an attempt to extort money from his employer.

**The full transcript is part of the record in this case, Doc # 120-1.**

### **III. The Power of the Court**

The Ninth Circuit itself acknowledged that “a long trail of [even] small misrepresentations—none of which constitutes fraud on the court in isolation—could ... paint a picture” of fraud on the court. *Sierra Pacific Industries, Inc., et al.*, No. 15-15799 (July 13, 2017). The evidence is a long trail of more than small misrepresentation and criminal conduct stemming back to September 2002.

#### **A. Affirming the Forensic Reports**

The Court has in its possession the forensic reports and evidence that place the 120 gig hard drive in Zweizig's hands and used exclusively by him. All experts confirmed that the hard

drive was not used again after Zweizig returned it. There is no other possible finding but that Zweizig and Christiansen committed Fraud upon the Court and with the Court's blessing and assistance.

Defendant reaffirms the following is in evidence:

**Motion Exhibit 8** (#120-18) was the first forensic report. In 2005, the first of many forensic reports was issued forensic experts showing Zweizig fabricated the crash of the 120 gig hard drive and reformatted it on November 12, 2003, just before returning it to NDT.

**Motion Exhibit 9** (#120-17) addressed whether the 120 gig hard drive was used by Zweizig after Zweizig claimed he had reformatted it, for any known purpose, expert Cox concluding that it was used to store videos up until November 12, 2003 when Zweizig reformatted that hard drive.

**Motion Exhibit 10** (#116-5) addressed again whether the 120 gig hard drive was used by Zweizig during a period of time in which Zweizig claimed the hard drive had been reformatted and placed in his safe. Expert Cox opined that the hard drive was in continuous use through November 12, 2003 by Zweizig and that the hard drive had not been used or accessed after that time. By May of 2003, Zweizig had refused to provide the programming and processing software generated by him during his employment, property that was owned by his employer NDT. On a visit to see Zweizig in New Jersey, Zweizig was making a presentation to Rote and feigned the crash of the 120 gig hard drive, a computer hard drive used exclusively by Zweizig from August 2001 to November 2003. Zweizig testified that the 120 gig hard drive had crashed and he reformatted it immediately thereafter. This and other forensic reports refute Zweizig's testimony.

**Motion Exhibit 11** (Doc #120-2) is a report from expert Cox opining that the Foxpro program files deleted by Zweizig when he reformatted the hard drive on November 12, 2003 could not be recovered. This report also corroborates the existence of programs Zweizig claimed did not exist.

**Motion Exhibit 14** is a forensic report from Mark Cox opining that Zweizig did not maintain a digital email file on the active 60 gig hard drive Zweizig used from May 12, 2003 through November 13, 2003.

**Motion Exhibit 13** is testimony from Jaime Gedye that he could find no programming files created by Zweizig or anyone else, on the Eugene servers, when he traveled to the Eugene location of NDT. Gedye had to recreate the programming and during that time NDT was shut down. Zweizig's behavior and performance deteriorated after the May 2003 feigned crash of the 120 gig hard drive, to the point that he was more than five months late in completing processing and returning data files to key clients. That came to an apex when Zweizig's failures were brought to Rote's attention. Zweizig refused to complete the processing unless given a raise. He was rebuffed in that raise, completed the processing and was immediately terminated on October 2, 2003 but with 45 days of notice, Rote wanting to secure the processing programs. Zweizig did not provide the programming and NDT shutdown for 10 days right after Zweizig's last day. Ultimately the programming files were found on the 120 gig hard drive by the forensic experts.

### **B. Clear and Convincing Evidence Has Been Provided**

A judgment may be set aside under Rule 60(d)(3) if the movant provides clear and convincing evidence of "fraud on the court." Fed. R. Civ. P. 60(3); see also *United States v. MacDonald*, No. 87-5038, 1998 U.S. App. LEXIS 22073, at \*6 (4th Cir. Sept. 8, 1998) ("It is settled that the clear and convincing standard applies in . . . cases alleging fraud upon the court.")

(citing cases). Fraud on the court, as the Fourth Circuit recently emphasized, is “not your ‘garden-variety fraud.’” *Fox*, 739 F.3d at 135 (quoting *George P. Reintjes Co. v. Riley Stoker Corp.*, 71 F.3d 44, 48 (1st Cir. 1995)). The doctrine instead involves “corruption of the judicial process itself,” *Cleveland Demolition Co. v. Azcon Scrap Corp.*, 827 F.2d 984, 986 (4th Cir. 1986), and “should be invoked only when parties attempt ‘the more egregious forms of subversion of the legal process.’”

“Almost all of the principles that govern a claim of fraud on the court are derivable from the Hazel-Atlas case.” Wright & Miller, *Federal Practice and Procedure* §2870 (3d ed.).

Defendant also published the summary of perjury by Zweizig. **See Doc # 120-16**. That evidence is not refuted. What’s new is that Zweizig no longer refutes that he downloads and disseminates child porn and that at least one of his attorney’s resigned from representing him over reaching the same conclusion and not wanting to be associated with it. While Zweizig may claim that defendant Rote “...successfully denied me my right to counsel by asking one of my attorneys, Given your age how many children have you raped...”, by reference to the forensic reports, this is not a denial by Zweizig that he downloaded and disseminated child porn using a peer to peer program registered to him.

**Motion Exhibit 8** shows that Zweizig used his business computer and the 120 gig hard drive to maintain personal files, including porn, child porn, movies, music, identity records (that should not have been there) and programming he denied existed. Withholding and destroying the programming caused the shutdown. This evidence was ignored by the arbitrator at the request of judicial actors. This same evidence was suppressed in this by the plaintiff’s Motion in Limine. That act of suppression suborned Zweizig’s perjury in this case.

**Motion Exhibit 9** shows that the 120 gig hard drive did not crash as Zweizig alleged and was used by him post May 8, 2003 to store videos. This evidence was ignored by the arbitrator at the request of judicial actors, the evidence suppressed in this case by the plaintiff's Motion in Limine. That act of suppression suborned Zweizig's perjury in this case.

**Motion Exhibit 10** shows that the 120 gig hard drive was reformatted on November 12, 2003, not in May 2003 as Zweizig alleged. This evidence was ignored by the arbitrator at the request of judicial actors, the evidence suppressed in this case by the plaintiff's Motion in Limine. That act of suppression suborned Zweizig's perjury in this case.

**Motion Exhibit 11** shows that the programming found on the 120 gig hard drive could not be recovered safely after Zweizig's reformatting of the hard drive. This evidence was ignored by the arbitrator at the request of judicial actors and the evidence was suppressed in this case by the plaintiff's Motion in Limine. That act of suppression suborned Zweizig's perjury in this case.

**Motion Exhibit 14** shows that Zweizig did not maintain his email on the active 60 gig hard drive he returned on his last day, November 13, 2003. This evidence was ignored by the arbitrator at the request of judicial actors and the evidence was suppressed in this case by the plaintiff's Motion in Limine. That act of suppression suborned Zweizig's perjury in this case.

Interestingly, although Rule 60(d) (3) is the only rule that even mentions the fraud-on-the-court doctrine, other Federal Rules of Civil Procedure, including Rules 11, 16, 26, 37, and 41, have been cited in applying the doctrine. For example, courts have dismissed, defaulted, and sanctioned litigants for fraud on the court, and have found the necessary authority outside of Rule 60(d)(3)—often citing the inherent power given to all courts to fashion appropriate remedies and sanctions for conduct which abuses the judicial process. See, e.g., *Brockton Sav. Bank v. Peat, Marwick, Mitchell & Co.*, 771 F.2d 5, 11–12 (1<sup>st</sup> Cir. 1985); *Wyle v. R.J. Reynolds*

*Indus., Inc.*, 709 F.2d 585, 589 (9th Cir. 1983); and *Eppes v. Snowden*, 656 F. Supp. 1267, 1279 (E.D. Ky. 1986).

### CONCLUSION

Based on the above facts and arguments, and also be reference to the Motion referenced herein, Defendant asks the court to vacate the judgment. There is no statute of limitation under Rule 60 (d) (3). Rule 60(d) (3), serves one purpose: to “set aside a judgment for fraud on the court.” That is the remedy defendant seeks.

The history of the case shows the Court was motivated to assist child predator Zweizig for at the very least because Defendant Rote had published a blog critical of Judges Kugler and Arbitrator Bill Crow. Zweizig’s legal team asked this Court to use this litigation to attack defendant’s right to critique the Court.

While Defendant appreciates that the road to becoming presiding Judge is paved with compromises that target and punish certain litigants, it is well past time to acknowledge that Zweizig is a child predator, a criminal and engaged in numerous criminal acts against his employer—and with the assistance of his counsel also against this Court that tainted due process.

Dated: March 31, 2023

*s/ Timothy C. Rote*

---

Timothy C. Rote

*Pro Se* Defendant

Certificate of Service

I hereby certify that on March 31, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following and have also served Christiansen by United States Postal Service first class mail:

Joel Christiansen  
P.O. Box 4120 #83585  
Portland, OR 97208

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

FBI HEADQUARTERS  
CRIMES AGAINST CHILDREN  
935 PENNSYLVANIA AVENUE, NW  
WASHINGTON, D.C. 20535-0001

HON. KEVIN MCCARTHY  
SPEAKER OF THE HOUSE  
H-232, THE CAPITOL  
WASHINGTON, D.C. 20515  
202-225-4000

s/ Timothy C. Rote  
Timothy C. Rote  
*Pro Se Defendant*  
E-Mail: Timothy.Rote@gmail.com



Timothy C. Rote  
7427 SW Coho Ct. #200  
Tualatin, OR 97062  
T: (503) 272-6264  
E: [timothy.rote@gmail.com](mailto:timothy.rote@gmail.com)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**MAX ZWEIZIG,**

Case No. 3:15-cv-02401-HZ

Plaintiff,

**DECLARATION OF TIMOTHY  
ROTE IN SUPPORT OF MOTION TO  
VACATE THE JUDGMENT FOR  
FRAUD UPON THE COURT**

v.

**TIMOTHY C. ROTE**, a citizen of the state of Oregon, **NORTHWEST DIRECT TELESERVICES, INC.**, an Oregon for-profit corporation, **NORTHWEST DIRECT MARKETING OF OREGON, INC.**, an Oregon for-profit corporation, **NORTHWEST DIRECT MARKETING, INC.**, an Oregon for-profit corporation, **NORTHWEST DIRECT OF IOWA, INC.**, an Iowa for-profit corporation, **ROTE ENTERPRISES, LLC**, an Oregon limited liability company, **NORTHWEST DIRECT MARKETING, INC.**, aka Northwest Direct Marketing (Delaware), Inc., a Delaware Corporation, and **DOES 1 through 5**,

Defendants.

---

I, Timothy Rote, do hereby declare:

1. I represent myself in the above-captioned case. I make this declaration on personal knowledge and am competent to testify to the matters stated herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of Max Zweizig's deposition transcript dated December 21, 2020 taken in case 19cv01547, a fraudulent transfer action filed against Tanya Rote on a Sunriver property interest she acquired in 2012. The deposition is material because it shows Zweizig's concern over losing an attorney who evaluated the forensic reports sent to Ward Greene, raising awareness that assisting in monetizing Zweizig's perjury will result in the molestation of numerous additional children. Zweizig does not at any point claim he did not and does not download, possess and distribute child porn. No denial of this criminal conduct.

3. Attached hereto as **Exhibit 2** is a true and correct copy of Max Zweizig's declaration in Deschutes case 19cv00824, wherein he denies being a pedophile but does not deny downloading, possessing and distributing child pornography. He asks that court to place Rote in prison for prevailing in case 19cv01547.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the trial transcript in this case, which I cite to with some frequency identifying the testimony by Zweizig denying that he downloaded child porn and porn. This brazen denial of the child porn is I believe a suborned perjury strategy that was available to Zweizig when the forensic reports were suppressed from the trial.

5. Attached hereto as **Exhibit 4** is a true and correct copy of Zweizig's Motion in Limine to suppress the forensic reports I references in my blog post. The Court granted that Motion in Limine.

6. Attached hereto as **Exhibit 5** a true and correct copy of my blog post on the record in this case, that was presented at trial. Missing from the trial however are each of the written opinions by forensic experts who opined that Zweizig downloaded, possessed and distributed child pornography from a 120 gig hard drive during the time he possessed that hard drive and did so by using a software program registered to Zweizig. Those forensic reports are provided here.

7. Expert and Police Officer Steve Williams found the programming, some

1900 files. This is un-refuted. He also found a peer to peer program used to upload files and download files and that the program was registered to Zweizig. As Williams explained to me that peer to peer program typically works to violate copyright laws and is used by disseminators of child porn by permitting a perp to download a file if he/she first uploads a file. That's what was going on with the 120 gig hard drive Zweizig returned on his last day, a hard drive he claimed had crashed in May of 2003 and had been reformatted by him in May 2003. Exhibit 8 and subsequent reports show that the hard drive never crashed; rather it was reformatted on November 12, 2003 just before Zweizig turned it over and it contained videos of child porn, porn, movies, and music. Williams also found personal identity records stolen from NDT's clients. This evidence is un-refuted. Zweizig's forensic expert Justin McAnn also confirmed the findings of Exhibit 8. Subsequent forensic reports confirm that the hard drive was not accessed or used by anyone after Zweizig returned the hard drive.

8. Attached hereto as **Exhibit 6** is a true and correct copy of my Response in opposition to Zweizig's pre-trial petition to suppress his deposition of December 21, 2020 and to force me to stop blogging on the case and other matters of public concern. Zweizig's pre-trial Motion is also provided herein as was a Motion filed a year earlier by Ward Greene. The hearing on that Motion was in March 2021 and was denied. The transcript of which is provided as **Exhibit 11**. At this stage of the litigation this Motion by Zweizig was tantamount to a Motion in Limine.

9. Attached hereto as **Exhibit 7** is a true and correct copy of local newspaper articles of arrests and convictions of criminals downloading and possessing child porn. I have also added the indictment of TV personality Josh Duggar, who like Zweizig separated his business computer into two or more sectors. On the one sector Duggar and Zweizig maintained regular business records. On the second and subsequent sectors, both Duggar and Zweizig maintained their stash of child porn and allowed others from the dark web to see their child porn and acquire from other child porn using a peer to peer program of bit torrent and other similar programs. Duggar was convicted of holding the same amount of child porn as Zweizig and was convicted to 12 years in federal prison.

10. Attached hereto as **Exhibit 8** is a true and correct copy of a forensic report on the 60 gig hard drive, also in Zweizig's possession at the time of his termination in  
Page | 3

2003.

11. Attached hereto as **Exhibit 9** is a true and correct copy of Jamie Gedye's testimony during the arbitration hearings between NDT and Zweizig in 2010. Gedye testified that he flew to Eugene to recreate programming necessary for NDT to continue to process data and produce reports. He testified that he found none of the programming Zweizig claimed was on the Eugene servers. Zweizig first claimed there were no programs. Later he recanted that testimony and claimed there were programs and they were on the Eugene Servers.

12. Attached hereto as **Exhibit 10** is a true and correct copy of a Response I filed in case 3:22-cv-0985. The reason I believe this is relevant is that Zweizig has enjoyed voluminous support from Clackamas and Deschutes County in his cases there at certain times, and at times those decisions implicated civil rights abuses. I believe that vacating the judgment in this case will mitigate the damages perpetrated on me, my wife, my children and grandchildren over the last 5 years. I will not willingly turn over \$1 million to a child predator like Zweizig.

13. Attached hereto as **Exhibit 11** is a true and correct copy of the transcript of a hearing in Clackamas County addressing and granting my and my wife's Motion for Summary Judgment. The first 10 pages address Zweizig's pre-trial petition for what is essentially a gag order, asking the Court to suppress his deposition and my continued blogging, arguing that he would not receive a fair trial before a jury if the truth of child porn activities became public knowledge. The Court denied Zweizig's Motion. Throughout the remainder of this hearing Zweizig and his attorney tried very hard to convince the Court to allow them to proceed to a trial without a shred of evidence supporting his fraudulent transfer claim. The Court granted my summary judgment Motion, affirmed on Appeal.

14. The evidence I provided herein is sufficient for the Court to find that Zweizig engaged in perjury during the trial of January 2018. He denied downloading, possessing and distributing child porn some 6 times. Subsequently, however, he has not denied this child porn activity and as the record now shows went to some length to suppress his deposition of December 21, 2020. He did not deny the allegations of his criminal conduct with respect to child porn, which is the relevant inquiry. Moreover and

Page | 4

only two months ago he again claimed that he is not a pedophile, nor a child predator. He did not deny that he did and does download, possess and disseminate child porn. This is I think the final nail in the coffin of his criminal conduct before this Court and others and vacating the judgment is called for and legally justified.

**I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.**

Dated: November 14, 2022

/s/ Timothy C. Rote  
Timothy C. Rote,  
Defendant *Pro Se*

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing DECLARATION OF TIMOTHY C. ROTE and Exhibits on:

Joel Christiansen, OSB #080561  
VOGELE & CHRISTIANSEN  
812 NW 17th Avenue  
Portland, OR 97209  
T: (503) 841-6722  
Email: joel@employeelawyer.io

By the first class mail and email on November 15, 2022.

*/s/ Timothy C. Rote*

Timothy C. Rote,  
Defendant *Pro Se*

Timothy C. Rote  
Defendant, Pro Se  
7427 SW Coho Ct. #200  
Tualatin, OR 97062  
T: (503) 272-6264  
E: [timothy.rote@gmail.com](mailto:timothy.rote@gmail.com)

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

**MAX ZWEIZIG,**

Case No. 3:15-cv-02401-HZ

Plaintiff,

**DECLARATION OF TIMOTHY  
ROTE IN SUPPORT OF MOTION  
FOR RECONSIDERATION TO  
VACATE THE JUDGMENT FOR  
FRAUD UPON THE COURT**

v.

**TIMOTHY C. ROTE**, a citizen of the state of Oregon, **NORTHWEST DIRECT TELESERVICES, INC.**, an Oregon for-profit corporation, **NORTHWEST DIRECT MARKETING OF OREGON, INC.**, an Oregon for-profit corporation, **NORTHWEST DIRECT MARKETING, INC.**, an Oregon for-profit corporation, **NORTHWEST DIRECT OF IOWA, INC.**, an Iowa for-profit corporation, **ROTE ENTERPRISES, LLC**, an Oregon limited liability company, **NORTHWEST DIRECT MARKETING, INC.**, aka Northwest Direct Marketing (Delaware), Inc., a Delaware Corporation, and **DOES 1 through 5**,

Defendants.

---

I, Timothy Rote, do hereby declare:

1. I represent myself in the above-captioned case. I make this declaration on personal knowledge and am competent to testify to the matters stated herein.

2. Attached hereto as Exhibit 1 is a true and correct copy of an excerpt of the arbitration transcript between the same parties, dated May 28, 2010, pages 191-196. Zweizig admits to reformatting the 120 gig hard drive and placing the hard drive in his safe before turning it over to Defendant Rote on November 13, 2003.

3. Attached hereto as Exhibit 2 is a true and correct copy of an excerpt of the arbitration transcript between the same parties, dated June 1, 2010, pages 36-38. The transcript further confirms Zweizig's timeline of having possession of the 120 gig hard drive and reformatting that hard drive. That entire transcript is in the record of this case as **Doc #120-1**.

4. Attached hereto as Exhibit 3 is a true and correct copy of an excerpt of the arbitration transcript between the same parties, dated June 1, 2010, pages 132-166. The transcript further confirms past testimony and Zweizig's affirmation of his possession of the 120 gig hard drive, placing material unrelated to his employer on that hard drive, placing a password to protect the hard drive while in his home and from Sandra Ware, and affirms his date of possession and use while in his home office, from January 1, 2002 through November 13, 2003. That entire transcript is in the record of this case as **Doc #120-1**.

**I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.**

Dated: March 31, 2023

/s/ Timothy C. Rote  
Timothy C. Rote,  
Defendant *Pro Se*



**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing DECLARATION OF TIMOTHY C. ROTE on:

Joel Christiansen, OSB #080561  
VOGELE & CHRISTIANSEN  
812 NW 17th Avenue  
Portland, OR 97209  
T: (503) 841-6722  
E: [joel@oremploymentlawyer.com](mailto:joel@oremploymentlawyer.com)

through the Court's electronic filing system on March 31, 2023 and by first class mail. I also served the following:

FBI HEADQUARTERS  
CRIMES AGAINST CHILDREN  
935 PENNSYLVANIA AVENUE, NW  
WASHINGTON, D.C. 20535-0001

HON. KEVIN MCCARTHY  
SPEAKER OF THE HOUSE  
H-232, THE CAPITOL  
WASHINGTON, D.C. 20515  
202-225-4000

/s/ Timothy C. Rote  
Timothy C. Rote,  
Defendant *Pro Se*

1 ALBERTAZZI LAW FIRM  
2 296 SW Columbia St. Ste. B  
3 Bend, OR 97702  
4 Telephone: (541) 317-0231

5 Anthony V. Albertazzi, OSB #960036  
6 E-mail: a.albertazzi@albertazzilaw.com  
7 Attorney for Plaintiff

8 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
9 FOR THE COUNTY OF CLACKAMAS

10 MAX ZWEIZIG, and individual,

11 Plaintiff,

12 v.

13 TANYA ROTE and TIMOTHY ROTE, husband and  
14 wife; and NORTHWEST HOLDING, LLC, an Oregon  
15 limited liability company,

16 Defendants.

Case No. 19CV01547

PETITION FOR PRETRIAL ORDER

17 MOTION

18 Plaintiff moves the Court for an order prohibiting the parties from posting on Twitter or  
19 other social media platforms regarding the following topics:

20 (a) association of Plaintiff, his past counsel, or his present counsel with pedophilia or child  
21 pornography; and

22 (b) allegations of conspiracy(ies) to deprive Defendant(s) of due process of law or other legal  
23 rights by any or all of the following persons or entities:

24 (i) Plaintiff,

25 (ii) Plaintiff's past or present attorneys;

26 (iii) the Professional Liability Fund; or

27 (iv) the Oregon judiciary, its officers and employees.

Plaintiff requests that this order be made effective immediately and continue until a general  
judgment is entered in this case.

POINTS AND AUTHORITIES

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Every judicial officer has the power to preserve and enforce order in judicial proceedings. ORS 1.240(a), ORS 1.210 [defining “judicial officer”]. Likewise, a judge has a duty to administer justice according to law and to require others to do so. This includes matters relating to impaneling of juries and the conduct of trials. ORS 1.025(2). The court’s duties and powers extend to contempt, which is defined for purposes relevant here as “[m]isconduct in the presence of the court that interferes with a court proceeding or with the administration of justice, or that impairs the respect due the court.” ORS 33.015. In addition, the Oregon Constitution provides that “In all civil cases the right of Trial by Jury shall remain inviolate.” OR CONST Art. I, § 17.

FACTUAL BACKGROUND

Defendant Timothy Rote has a long history of litigation with Plaintiff Max Zweizig, in both State and Federal courts. In misguided attempts to gain advantage, Mr. Rote has made false accusations against Mr. Zweizig and his attorneys online. Likewise, he has spun and promulgated wild conspiracy theories about the judiciary system, the Oregon State Bar, and others involved in administering justice.

ARGUMENT

As set forth in the declaration of Max Zweizig, Mr. Rote’s conduct has been egregious and, because it is being done online, has the potential to taint the jury pool. Mr. Rote’s scurrilous accusations and conspiracy theories have already interfered with the administration of justice in this case. If he is allowed to continue with this conduct, Mr. Zweizig’s right to a fair jury and for orderly administration of justice will be impaired. For these reasons, the motion should be granted.

Dated this 18th day of ~~January~~ <sup>February</sup>, 2021.

DocuSigned by:  
  
A1D7D8C69F2F9C...  
Anthony Albertazzi, OSB #960036  
Attorney for Plaintiff

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

ALBERTAZZI LAW FIRM  
296 SW Columbia St. Ste. B  
Bend, OR 97702  
Telephone: (541) 317-0231

Anthony V. Albertazzi, OSB #960036  
E-mail: a.albertazzi@albertazzilaw.com  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

MAX ZWEIZIG, and individual,

Plaintiff,

v.

TANYA ROTE and TIMOTHY ROTE, husband and  
wife; and NORTHWEST HOLDING, LLC, an Oregon  
limited liability company,

Defendants.

Case No. 19CV01547

DECLARATION OF MAX ZWEIZIG IN  
SUPPORT OF PETITION FOR PRETRIAL  
ORDER

I, Max Zweizig, being duly sworn do depose and say:

- 1. I am the Plaintiff in this matter.
- 2. I became aware that Defendant, Timothy Rote, posted a message on Twitter implying that I am a pedophile. A copy of that posting is attached as Exhibit 1.
- 3. My attorney has requested that he take it down; however, that post is still up.
- 4. This type of behavior is affecting me personally and I believe it will also affect my

ability to obtain a fair and partial jury. It has affected me personally by:

- a. During these proceedings, on the same day that Mr. Rote was asking for extensions on finding a corporate attorney, and claiming to have been recovering from a stroke, he

1 posted the personal information discussed here on the internet about myself and my attorney (**SEE**  
2 **EXHIBIT 1**). Some brief background and details are as follows:

3 b. Mr. Rote has repeatedly retaliated against me for pursuing my rights under  
4 employment as well as collections law. He has endeavored for almost two decades to claim to the  
5 world, literally, via his website, that I am a person very much different than I actually am, saying  
6 and publishing the most imaginative and nasty disparaging claims and remarks about me and my  
7 family.

8 c. When this has not been able to achieve the result that Mr. Rote has desired,  
9 namely trying to get me to stop pursuing the awarded judgment, he has now gone one step much  
10 further, and has sought out convicted felons who have been convicted of the crimes he would like  
11 to have the world I have some propensity for, along with my family and my attorneys, and caused  
12 my name as well as my attorneys name to be linked with these felons on social media.

13 d. As I am sure that these convicted felons also read posts about themselves, I  
14 now also feel much less safe as a citizen due to the actions by Mr. Rote to introduce my name to  
15 these people. I do not live my life in any way that I should be associated with these types of  
16 people, and now Mr. Rote has made sure that I am now associated in some way with these types of  
17 individuals and that they now know my name, while he hides behind an online username, or gives  
18 no name at all. He has no right to do the things he does to people. Free speech was never intended  
19 for this purpose, and this is not free speech, this is harassment to extort me to stop pursuing  
20 collections against Mr. Rote (**SEE EXHIBIT 2**).

21 e. Mr. Rote also caused me to have to give my deposition (taken directly by  
22 him) under these circumstances, and under this intimidation. Following the deposition, Rote  
23 published via his website on the internet vulgar falsehoods concerning my answers at the  
24 deposition, and also posted the full transcript of my deposition for anyone to be able to download  
25 (**SEE EXHIBIT 3**). Mr. Rote published the claim on his website that my lawyer did not want to  
26 associate with me, when in actuality, Ward Greene quit because Mr. Rote emailed him directly  
27 and asked how many children did Mr. Greene rape. This type of behavior prompted Mr. Greene to

1 file a *Motion for Temporary Restraining Order and Declaration of S. Ward Greene in Support of*  
2 *the Motion to Show Cause Why an Injunction Should Not Be Entered Against Mr. Rote* on July 10,  
3 2020. Mr. Rote continues to use every aspect of legal and court proceedings as a further means of  
4 intimidation against myself and my attorneys.

5 f. Mr. Rotes willingness to harass myself seriously enough to obtain a million  
6 dollar judgement, his willingness to harasses attorneys to the points of them quitting a case,  
7 harassing judges over and over again until the US Marshals had to get involved (**SEE EXHIBIT**  
8 **4**), and publishing via the internet disparaging content on his website while directly harassing the  
9 jurors after the retaliation case until the court system had to demand that he stop, leaves me with a  
10 very genuine concern for his ever escalating campaign of harassment against me.

11 g. I have no recourse or remedy for this sort of behavior, and it has repeatedly  
12 proven itself able to seriously impede my ability to collect my judgement in the only ways open to  
13 me.

14 h. I do not have any experience in my life that would allow me to imagine, let  
15 alone engage in, activities of the nature of the suggestions and allegations that Mr. Rote has tried  
16 to convince others that I am capable of.

17 i. Mr. Rote is very deceptive, methodical, cruel and relentless in his  
18 harassment and disparagement of me, even a million-dollar judgement against him has  
19 not changed his behavior. I know from experience that this behavior will continue during any  
20 court proceedings whenever it is not ordered by that court to stop. Warnings and agreements  
21 simply do not function with this man.

22  
23 ///

24  
25 ///

26  
27 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

j. Clearly these actions are extortion, meant to intimidate me from collecting the judgment for the heinous actions of Mr. Rote. He has proven for years that he is not capable of restraint from publishing active court proceedings as well as documents about active court cases on the internet, usually accompanied by disparaging remarks about the litigants, lawyers, judges, Jury members, and court reporters. I ask that the court do whatever is in its power to allow these proceedings to move forward without further harassment and cyberbullying from Mr. Rote.

**I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.**

Date: 2/15/2021 | 4:15 PM PST

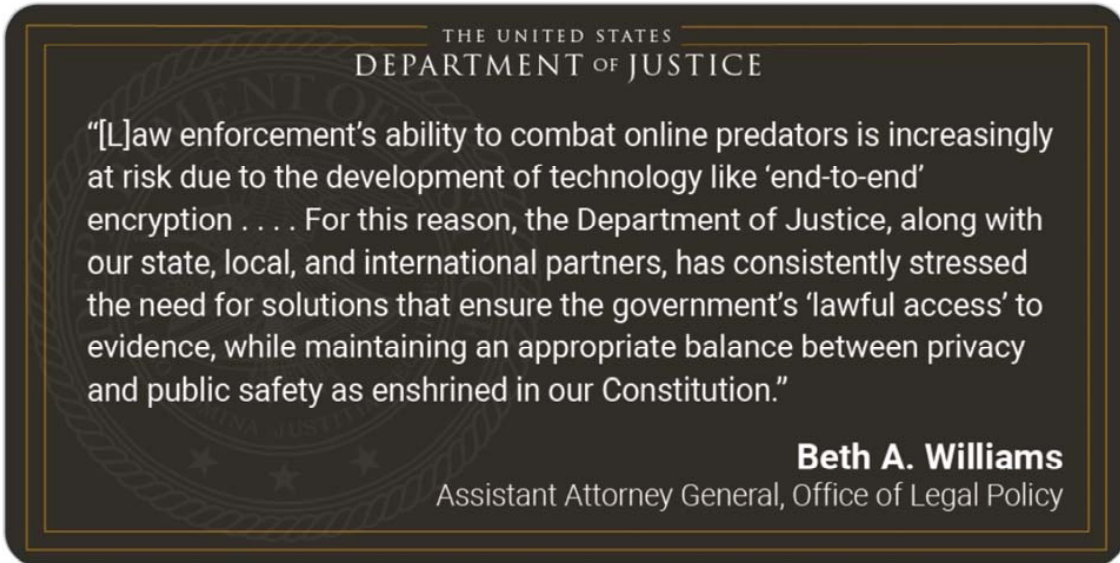
DocuSigned by:  
  
AF1A025C29AC471...  
Max Zweizig, Plaintiff



**Justice Department** @TheJusticeDept · Oct 28, 2020

⋮

Assistant Attorney General Beth A. Williams Delivers Remarks at Columbia Law School Virtual Event on Combating the Online Exploitation of Children [justice.gov/opa/speech/ass...](https://justice.gov/opa/speech/ass...)



20

102

183



**Tim Rote** @tim\_rote · Oct 28, 2020

⋮

Why can't I get the DOJ interested in a child porn case with independent forensic evidence?

2



1



**OT Coyote** @ot\_coyote · Oct 28, 2020

⋮

You may be interested in this, "Enactment of the Trafficking Victims Protection Act of 2000"



1



**Tim Rote** @tim\_rote · Oct 28, 2020

⋮

Listen I had two computer forensic experts examine a hard drive and produced reports that no one but the former user ever used the hard drive and it was replete with child porn and other criminal predicates. Turned over the hard drive. Called and emailed a hundred times. Nothing.

1







**Tim Rote** @tim\_rote · Oct 28, 2020

...

Listen I had two computer forensic experts examine a hard drive and produced reports that no one but the former user ever used the hard drive and it was replete with child porn and other criminal predicates. Turned over the hard drive. Called and emailed a hundred times. Nothing.



**OT Coyote**  
@ot\_coyote

...

Replying to @tim\_rote and @TheJusticeDept

You should report that crime to the @FBI.

Who did you call?

How often did you call?

I can help make calls to get this incident looked at.

DM me if you want my help to move this forward.

11:51 AM · Oct 29, 2020 · Twitter Web App



**Tim Rote** @tim\_rote · Oct 29, 2020

...

Replying to @ot\_coyote @TheJusticeDept and @FBI

FBI, NJ State Police. Often. Probably a hundred times. Outside the statute of limitations now. I will DM you one of the forensic reports because I think the perpetrator is still active.





**FBI Portland** @FBIPortland · Dec 3

Today a judge sentenced a Bend man, Pierce Morrow, to 87 months plus 10 years supervised release for his aggressive harassment of those he pursued & his re-victimization of sexually abused children seen in child pornography that he shared. [flashalert.net/id/USAO-Oregon...](https://flashalert.net/id/USAO-Oregon...)

**“This case is disturbing. Morrow's relentless, aggressive, and threatening behavior toward his victims - locally and in other parts of the country - shows the depths to which he would go to hurt others. If you are a victim of a sexual predator or sextortion scheme, please reach out to us. We want to help you and protect other potential victims.”**

SPECIAL AGENT IN CHARGE RENN CANNON  
Federal Bureau of Investigation

1 7 10



**Tim Rote** @tim\_rote · Dec 3

Congratulations. Now, please look into Joel Christiansen and Max Zweizig.

7 10

Tim Rote Retweeted



**Sidney Powell** @SidneyPowell1 · Dec 3

Oh yes, it's absolutely that BLATANT!

**PSG vs Istanbul Basaksehir**

Trending with Demba Ba

**#EscapeToPlutoTV**

With David Hasselhoff

Promoted by Pluto TV

Texas ... · 3 hours ago

**Texas AG sues over election results in four battleground states**

Trending with Texas

Politics · Trending

**Judge Sullivan**

91.3K Tweets

US elections · LIVE

**New Jersey: Election news and updates**

Show more

Terms of Service Privacy Policy

Cookie Policy Ads info More

© 2020 Twitter, Inc.

← **Tim Rote**  
4,112 Tweets

Follow



**KATU News** @KATUNews · Dec 4

A counselor who pleaded guilty to child pornography charges was sentenced to 15 years in prison.



Child psychologist sentenced to 15 years prison for sharing images of...  
EUGENE, Ore. - A counselor who pleaded guilty to child pornography charges was sentenced to 15 years in prison Tuesday. Dr. Craig ...  
[katu.com](http://katu.com)

6 6 10



**Tim Rote** @tim\_rote · Dec 4

Why is the judiciary protecting Max Zweizig and Joel Christiansen.

6

Search Twitter



Show more

What's happening

Politics · 26 minutes a...

**President Trump announces that Attorney General William Barr will step down from his post**



Trending with Resigned, Barr

#NuttiestTimeOfTheYear

Celebrate with Planters Nuts

Promoted by Bart

Politics · Trending

Rats

30.3K Tweets

US elections · This morning

President-elect Joe





**Tim Rote** @tim\_rote · Jan 7



Chapter 175 – Shenoa Payne and Joel Christiansen Refuse to Denounce Child Molestation



Chapter 175 – Shenoa Payne and Joel Christiansen...  
A week ago I finally received the transcript of  
Zweizig's deposition, taken on December 21, 2020....  
[thefirstdutyportland.wordpress.com](https://thefirstdutyportland.wordpress.com)





## When Justice Fails

A Portland Story of Fraud, Collusion & Cybercrime

# Chapter 175 – Shenoa Payne and Joel Christiansen Refuse to Denounce Child Molestation

Tim Rote | Uncategorized | January 7, 2021 | 1 Minute

A week ago I finally received the transcript of Zweizig’s deposition, taken on December 21, 2020. In that deposition Zweizig admitted that now former attorney Williams Kastner resigned from representation upon not wanting to be associated with child molestation and trafficking. That necessarily means Ward Greene reviewed the forensic reports and concluded that Zweizig downloaded and disseminated child pornography. Zweizig did not deny the allegations in his deposition. He still has not.

Based on Zweizig’s sworn testimony, I filed numerous Motions on several Appeals, one of which you can find here to the Oregon Supreme Court as a [Motion to Supplement the Record](#). The deposition and appendix you can find here as [Appendix 1 MAXZWEIZIG Deposition Transcript](#)

Yesterday I asked Zweizig’s attorneys Shenoa Payne and Joel Christiansen in writing to denounce child molestation, child pornography and child trafficking. They refused to do so. And they refused to meet to be interviewed on camera.

Shenoa Payne is an Appeals attorney of some note, active in the Bar Association and a former law clerk of the Oregon Supreme Court. Her office is in downtown Portland. I was very disappointed that she would not denounce.

Joel Christiansen is an attorney working in Walla Walla Washington. I have asked Joel to denounce many times. He has always refused to do. That does not surprise me.

Denouncing child molestation, child trafficking and child pornography would seem to be an easy enough step. It would not mean that these attorneys are abandoning their client. It does mean that they know he lied during trial, something I have long maintained. And it also means they suborned, aided and abetted that perjury during trial and during the appeal.



Want the same Internet, but more privacy?

We got you.

And if that is not enough, I also found out that Zweizig was represented free of charge by the Oregon State Bar Professional Liability Fund, specifically by Nena Cook. I will ask Cook to denounce as well and report back.

Until next time.

Search ...

Advertisements

Want the same Internet, but more privacy?

We got you.



DuckDuckGo

www.duckduckgo.com



**Don Winslow**  @donwinslow · Jan 8 ⋮

If you watch the video they just played on @CNN of the officer being crushed in the door by the mob of domestic terrorists I promise you will never suggest "moving on"

This is so awful

We can't be this

We have prosecute every person responsible to the fullest extent of the law

 833

 6.6K

 21.6K



**Tim Rote** @tim\_rote · Jan 10 ⋮

I just filed a lawsuit against Pete and the US Marshals Service for using their power to aid and abet child trafficking and molestation.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**CERTIFICATE OF SERVICE**

I hereby certify that on the date appearing above my signature below I served the foregoing  
**PETITION FOR PRETRIAL ORDER and DECLARATION OF MAX ZWEIZIG IN  
SUPPORT OF PETITION FOR PRETRIAL ORDER** by depositing a copy thereof in the  
United States Mail in Bend, Oregon enclosed in a sealed envelope, with postage and/or fees paid  
and addressed to:

**Timothy Rote**  
**24790 SW Big Fir Rd.**  
**West Linn, OR 97068**  
and via email at: **timothy.rote@gmail.com**

**Benjamin R. Scissors via email at: bscissors@chenowethlaw.com**

**Brooke M. Foster via email at bfoster@chenowethlaw.com**

Dated this 19<sup>th</sup> day of February, 2021.



\_\_\_\_\_  
Lindsay Azevedo, Paralegal to  
Anthony Albertazzi, OSB #960036  
Attorney for Plaintiff

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

MAX ZWEIZIG, ) Clackamas County  
 ) Circuit Court  
Plaintiff, )  
 ) Case No. 19CV01547  
vs. )  
 ) No. A175781  
TANYA ROTE and TIMOTHY ROTE, )  
NORTHWEST HOLDING, LLC, )  
 )  
Respondents. )

*TRANSCRIPT OF PROCEEDINGS ON APPEAL*

BE IT REMEMBERED that the above-entitled matter came on regularly for trial before the Honorable ULANDA L. WATKINS, Judge of the Circuit Court, Tuesday, March 9, 2021, at the Clackamas County Courthouse, Oregon City, Oregon.

APPEARANCES

For the Plaintiff:

Anthony V. Albertazzi, OSB #960036  
Albertazzi Law Firm  
296 SW Columbia Street, Suite B  
Bend, OR 97702  
541-317-0231  
a.albertazzi@albertazzilaw.com

(Appearances continued on next page)



APPEARANCES

For Defendants Tanya Rote and Northwest Holding, LLC:

Brooks M. Foster, OSB #042873  
Chenoweth Law Group  
510 SW 5<sup>th</sup> Avenue, 4th Floor  
Portland, OR 97204  
503-221-7958  
bfoster@chenowethlaw.com

Benjamin R. Scissors, OSB #204428  
Mark C. Cogan PC  
1500 SW 1st Avenue, Suite 780  
Portland, OR 97201  
503-985-8869  
bscissors@coganlawoffice.com

For Defendant Timothy Rote:

Timothy Rote, Pro se

GENERAL INDEX

<u>March 9, 2021 Proceedings</u>	<u>Page No.</u>
Case called.....	1
Court's ruling.....	85
Transcriber's Certificate.....	87

WITNESS INDEX

FOR THE PLAINTIFF:

None

FOR THE DEFENDANT:

None

EXHIBIT INDEX

FOR THE PLAINTIFF:

Offered

Received

None

FOR THE DEFENDANT:

Offered

Received

None

1 OREGON CITY, OREGON; TUESDAY, MARCH 9, 2021

2 -000-

3 (Call to Order of the Court at 9:11 a.m.)

4 THE COURT: Good morning, everyone. This is  
5 Judge Watkins. We are here in 19CV01547. And can I have  
6 everyone who's on WebEx, can you identify yourself and who  
7 you're representing or who you are?

8 MR. FOSTER: Good morning, Your Honor, can you  
9 hear me?

10 THE COURT: I can.

11 MR. FOSTER: Thank you, Your Honor. I'm Brooks  
12 Foster. I'm here today, representing Tanya Rote, and also  
13 represent Northwest Holding, LLC in this action.

14 THE COURT: Okay, thank you, Mr. Foster.  
15 I see you talking but I can't hear you.

16 MR. ROTE: I'm Timothy Rote here, Your Honor.

17 THE COURT: Good morning, Mr. Rote.

18 MR. ROTE: How are you today?

19 THE COURT: Good.

20 MR. ALBERTAZZI: Good morning, Your Honor, can  
21 you hear me now?

22 THE COURT: I can. Mr. Albertazzi?

23 MR. ALBERTAZZI: Yes, good morning. I had some  
24 trouble with the video connection this morning, so I  
25 apologize for that. I just tried to connect any way I

1 could.

2 THE COURT: Understood.

3 MR. ALBERTAZZI: I represent, representing Max  
4 Zweizig, the Plaintiff.

5 THE COURT: Okay. And I see Mr. Zweizig. Good  
6 morning, sir.

7 MR. ZWEIZIG: Good morning, how are you doing,  
8 Your Honor?

9 THE COURT: Good morning. I'm doing great. And  
10 there's another gentleman that I can see but I can't hear.

11 MR. FOSTER: That's my colleague, Ben Scissors.  
12 He's going to be observing the hearing, and I understand he  
13 may need to leave before it's over due to another  
14 appointment.

15 THE COURT: Understood. Well, welcome,  
16 Mr. Scissors.

17 Okay, guys, so this morning is our dispositive  
18 motions. I have two motions before me. Let's deal with  
19 what I think is the easier motion first, and that is the  
20 motion that is titled Petition for Pretrial Order that was  
21 filed by Mr. Albertazzi.

22 Mr. Albertazzi, is there anything that you wanted  
23 to add to your motion, or are you just standing by what you  
24 filed?

25 MR. ALBERTAZZI: Your Honor, there is one

1 argument I'd like to add.

2 THE COURT: Certainly.

3 MR. ALBERTAZZI: As far as the authority for  
4 this, I'm looking at this statute regarding the powers of  
5 the court for contempt. And it seems to indicate initially  
6 here that it is for actions or things that happened in the  
7 presence of the Court.

8 THE COURT: Uh-huh.

9 MR. ALBERTAZZI: And this is a difficult  
10 situation, because of course everything is remote now, and  
11 the idea of presence, I think, has been somewhat expanded.  
12 And I do think that what Mr. Rote had been doing is  
13 impairing the integrity of the Court and the dignity of the  
14 Court, and it's happening online. And it's happening in a  
15 lot of different ways. And I just wanted to stress that if  
16 there's a concern about the Court, well, I can't control  
17 things that aren't in my presence, that the Court consider  
18 that this -- that it really is affecting the dignity of  
19 this Court.

20 So other than that, I think I've set forth the  
21 legal arguments here, my authorities. I've provided two  
22 declarations, one at the outset and then one supplemental  
23 that we did. I do have my client on the line here. If  
24 there are questions or if the Court is inclined to take any  
25 testimony on this, he's certainly prepared to do that. So

1 other than that, I don't have anything to add.

2 THE COURT: Okay. Mr. Scissors or Mr. Foster, do  
3 you intend to chime in on this motion, or no?

4 MR. FOSTER: No, Your Honor. My representation  
5 today is limited to the summary judgment motion.

6 THE COURT: Okay. So Mr. Rote, I did read your  
7 reply, and is there anything that you wanted to add or  
8 supplement that isn't already written in your reply?

9 MR. ROTE: Yes, Your Honor. I'm a little  
10 confused by the petition after the reply declaration, which  
11 appears to me to want to modify the initial petition  
12 request for an employment contract owned by Zweizig's  
13 former employer, NDT and now owned by me, and some email  
14 correspondence, also part of discovery of NDT and now also  
15 owned by me.

16 Mr. Zweizig makes some representations as to a  
17 protective order and doesn't provide a protective order to  
18 support his claims. So I'm not sure if his reply  
19 declaration was intended to modify the original petition or  
20 to supplement it. It appeared to be modifying it. But all  
21 of these documents have been filed in multiple cases in the  
22 9th Circuit, U.S. District Court of Oregon and elsewhere.

23 And I would argue in the alternative to  
24 Mr. Albertazzi is that the continuing solicitation by  
25 Mr. Zweizig, asking any court to suppress what I believe is

1 my free speech right, is a compromise to the Court; it's  
2 asking for bias. And I gave that argument very clear  
3 elsewhere. I openly praise courts when I believe they're  
4 right, and I critique if I think they're wrong, and I --

5 THE COURT: You're not alone in that respect. I  
6 think we're pretty used to that. We get that response from  
7 everyone.

8 MR. ROTE: I'm sure you do. I'm sure you're  
9 pretty thick-skinned. You have to be to be a judge.

10 THE COURT: Absolutely.

11 MR. ROTE: So I don't think I've done anything  
12 that is contrary to my absolute rights, and what I did in  
13 response was to outline a particular case that I thought  
14 was right on point. And so I'll reset my argument on those  
15 points, Your Honor.

16 THE COURT: Okay. Well, Mr. Albertazzi, I have  
17 to tell you that I was pretty surprised by the petition.  
18 What it appears you're seeking is a, some sort of  
19 injunction or restraining order. But that's not what  
20 you've requested as outlined. It's titled Petition for  
21 Pretrial Order, and I really was not able to find any legal  
22 support for that under any statute or case law or anything  
23 that I'm aware of. And so unfortunately, while I  
24 understand how distressing the allegations or the stuff  
25 that's posted on social media may be, Mr. Zweizig, and I'm

1 not trying to diminish how that may affect you or how it  
2 makes you feel, there really isn't a legal basis for this  
3 Court to basically, I don't know, muzzle Mr. Rote. There's  
4 no legal support for this petition for pretrial order. And  
5 the Court is bound by the law.

6           So Mr. Rote's denial is correct. He has a First  
7 Amendment right, and there really isn't any evidence that  
8 he is affecting any potential juror. And those are issues  
9 that we will deal with when we start to select our jury.  
10 We in fact, ask them questions, do you know any of the  
11 parties? Do any of the parties look familiar? Do you know  
12 any of the witnesses? Have you read anything about this  
13 case? Do you have any particular feelings about this case?  
14 Do you have any biases that would prevent you from being a  
15 juror in this case? And we kind of examine all of those  
16 things during the voir dire process. And we screen jurors.  
17 Who admit now? I mean, obviously there are some jurors  
18 that will never reveal their bias, but that's the role of a  
19 good lawyer, is to dig into jurors and to find out, like  
20 who is the most appropriate juror for this case and why,  
21 and to reveal and uncover any particular bias or issue that  
22 may make a potential juror not appropriate to sit on our  
23 jury and weed them out. And you get to exclude so many  
24 jurors through challenges.

25           So the petition for pretrial order is denied.



1 There is no basis for me to grant it. I will stress,  
2 Mr. Rote, that we want to try this case in the courtroom  
3 and not on social media, okay?

4 MR. ROTE: Understood, Your Honor.

5 THE COURT: All right. Now we're moving on to  
6 the motion for summary judgment. And I did read the  
7 response, the original motion for summary judgment, what  
8 should be the amended but it's called Defendant's Reply in  
9 Support of Motion for Summary Judgment Post-Discovery and  
10 Defendant's Reply in Support of Motion for Summary  
11 Judgment -- there's two titled that. I read all of those.  
12 And so who wants to go first? Mr. Scissors?

13 MR. FOSTER: Your Honor, if it please the Court.

14 THE COURT: Oh, Mr. Foster's on.

15 MR. FOSTER: I represent Tanya Rote, as I said  
16 earlier, and she's one of the movants seeking summary  
17 judgment asking the Court to dismiss Zweizig's remaining  
18 claim. The chief authorities in there are to the Sunriver  
19 property.

20 THE COURT: Yep.

21 MR. FOSTER: The prior Judge, Judge Van Dyk, did  
22 deny summary judgment twice in 2019 as to the Sunriver  
23 property. And I don't know if Your Honor has had a chance  
24 to review the transcripts, but they were provided into the  
25 record by *Pereau* (phonetic), and I did review them. I

1 think they make it very clear that in the initial denial,  
2 the Judge intended to allow the Plaintiffs to conduct its  
3 summary. And that was the argument of Plaintiff's counsel  
4 at that time, and the Judge's reasoning made that clear.

5 We also know that was his intent based on his  
6 ruling on the second motion for summary judgment, where he  
7 didn't chastise or penalize Mr. Rote at all or any of the  
8 defendants for coming back with some new evidence that they  
9 thought would be dispositive. And he said that there was a  
10 reasonable basis, enough of a reasonable basis for the  
11 motion, even though he disagreed with it and denied it.

12 THE COURT: Right.

13 MR. FOSTER: We are now past the close of  
14 discovery, and it's almost two years from that second  
15 summary judgment decision. So we also have a new judge in  
16 Your Honor, and you have an opportunity to take a fresh  
17 look at the case and decide whether it should proceed to  
18 trial. This is also a way to narrow the issue and educate  
19 the Court and prepare for trial. So there's a lot of value  
20 in going through this summary judgment process, now that  
21 we're at the close of discovery.

22 And there's certainly no rule that I'm aware of  
23 that forbids a party from filing another motion for summary  
24 judgment after the close of discovery based on new  
25 argument, some new permutations, some new evidence, and

1 asking the Court to take a fresh look at it. In fact, we  
2 know from the *Superbilt* case that trial judges have very  
3 broad discretion to revisit any pretrial order and  
4 reconsider it, change it, re-rule on it as part of their  
5 role as a trial judge in deciding the case and bringing it  
6 to conclusion.

7           So I would encourage the Court to see this  
8 summary judgment proceeding as valuable to the Court and  
9 the parties, and if in fact this Court's opinion is that  
10 the movants have shown as a matter of law an undisputed  
11 fact that they are entitled to summary judgment, then they  
12 are in fact entitled to that, and they should receive  
13 summary judgment, and I would be pleased to kind of explain  
14 to Your Honor with just a few statutes and a few evidence  
15 documents on the record why I think they are entitled to  
16 summary judgment. Does Your Honor have any questions  
17 before I proceed to do that?

18           THE COURT: The question that I have is what is  
19 the new evidence that wasn't presented to my colleague that  
20 would be the basis for summary judgment? Everybody has  
21 outlined the appropriate standard, which is -- as you know,  
22 it's pretty low. It's just no genuine issue. And while I  
23 appreciate that my colleague was saying, hey, it's really  
24 hard to get a summary judgment before you've even conducted  
25 discovery, which it is, because you have no idea what

1 evidence the other side may produce, but it simply requires  
2 an affidavit or a declaration saying, this is the evidence  
3 that will be presented at trial to overcome a summary  
4 judgment.

5           So what is the new evidence that would knock out  
6 any material issue that a jury -- any material issue of  
7 fact that a jury would observe? I mean, because what I've  
8 seen from what Mr. Rote wrote was basically like, here's  
9 their evidence, Judge; here's my evidence. We've done  
10 discovery. They don't have anything better than before we  
11 conducted discovery. Their evidence is still super weak,  
12 and here's how strong my evidence is.

13           And so there is no way that when this goes to  
14 trial, I'm not going to prevail. But as counsel knows,  
15 that is not the standard. That simply means there is in  
16 fact a material issue for a jury to decide. The jury's  
17 role is to decide who has the stronger evidence and whether  
18 the Plaintiff can meet their burden. That's not the  
19 summary judgment time. Does that make sense, Mr. Rote,  
20 what I'm saying? You're saying, Judge, here's their  
21 evidence. Here's my evidence, which shows their claims are  
22 nonsensical. There's no way their claims can go forward.  
23 And now we've done discovery, now I'm able to see they  
24 don't have anything extra to support their claim.

25           So my claims -- my evidence is still strong to

1 show their claims are ridiculous; therefore, I win summary  
2 judgment. That's not the standard.

3 So my question to you, counsel is, knowing the  
4 standard isn't really about looking up the evidence and  
5 deciding, who's the stronger, what is the new evidence that  
6 overcomes the no material issue for a jury?

7 MR. FOSTER: Thank you, Your Honor. It's an  
8 excellent question. Your Honor said that if there's any  
9 affidavit in opposition, then summary judgment should be  
10 denied. That's sometimes true, but it's actually not  
11 always the case. We know, for example, that construction  
12 of a contract is part of the role of the judge, and it's  
13 generally done at summary judgment, unless another party  
14 can create a specific question of fact about the  
15 authenticity of the contract or maybe a subsequent  
16 modification or something like that. So the Court plays an  
17 important gatekeeping role in deciding what, if any,  
18 questions of fact must be tried.

19 THE COURT: Agreed.

20 MR. FOSTER: Now, as to the prior decision, just  
21 to review what occurred in those proceedings, Judge Van Dyk  
22 in the first proceeding, I believe that he was giving the  
23 Plaintiff an opportunity to get evidence to oppose summary  
24 judgment and therefore being very reluctant to grant it.  
25 And he then said in the second hearing that there was a

1 question of fact about the intent to hinder, delay, or  
2 defraud predators. He suggested that was the ultimate  
3 question of fact that could not be decided as a matter of  
4 law and undisputed fact of summary judgment.

5 But you notice, Your Honor, he did not -- at no  
6 time did he say nobody should be coming to me again for  
7 summary judgment after the close of discovery. At no time  
8 did he say, I'm going to grant summary judgment to Mr.  
9 Zweizig, dismissing an affirmative defense or deciding any  
10 portion of the case and it's over. So it all remains open  
11 for this Court to decide.

12 Now, I believe the question of was it already  
13 decided or not should not be limited to is there any new  
14 evidence? There is new evidence in the record now before  
15 the court, and Mr. Rote detailed that. It does include  
16 objective, authenticated, undisputed evidence, including  
17 balance sheets, tax returns, documents that the response  
18 treats fairly dismissively, but in fact they're highly  
19 relevant, undisputed documents. And that's what makes for  
20 a summary judgment determination. If the movant files  
21 documents and doesn't just rely on their oral testimony  
22 saying, take my word for it, I saw the light, it was red.  
23 And if they have a photograph showing the light was red,  
24 the Court should treat that as an undisputed fact unless  
25 the other party meets their burden to show that there is a

1 genuine issue of material fact related to that objective  
2 evidence.

3           So the burden shifting has occurred based on the  
4 record before this Court, and it's sort of disappointing to  
5 me, Your Honor, that in response did not actually respond  
6 to the merits of the motion. And fortunately we have oral  
7 argument so that Your Honor can hear from the parties and  
8 any remaining arguments they have. But I'm here today to  
9 help focus the Court on, of all the evidence presented --  
10 and I agree that at some level when I review the motion and  
11 the supporting materials, it does include a lot of  
12 evidence. And some of it could probably be subject to  
13 different inferences.

14           And I believe Mr. Rote, he wanted to make sure  
15 that Your Honor, being -- not having heard the prior  
16 motions, didn't get the benefit of a complete record. Then  
17 there was a question by Judge Van Dyk about where was the  
18 record at? So it seemed that he was concerned about making  
19 a decision on an incomplete record. But as an attorney  
20 who's been practicing in civil litigation in Oregon for  
21 about 15 years, I usually try by the time I get to oral  
22 argument, to focus everybody in on just a couple of  
23 documents

24           THE COURT: Right.

25           MR. FOSTER: So I'd like to do that. I'd like

1 you to just give me the opportunity, if I can, Your Honor,  
2 to try to convince to you that this is a case that summary  
3 judgment is appropriate.

4 THE COURT: Okay.

5 MR. FOSTER: And even if you disagree, I believe  
6 this will be valuable because it will help frame the issues  
7 for trial, Your Honor.

8 THE COURT: Agreed.

9 MR. FOSTER: So first let's start with Plaintiffs  
10 Zweizig's claim. The first claim for relief is entitled  
11 Fraudulent Transfer.

12 THE COURT: Right.

13 MR. FOSTER: And it very clearly and concisely  
14 alleges that the center of her property was transferred by  
15 and Tim Rote and NWH for "less than reasonably equivalent  
16 value." So it acknowledges that is an essential element of  
17 the claim. The second claim is entitled Insider Fraud, and  
18 it alleges the property was transferred to Tanya Rote with  
19 "actual intent to hinder, delay or defraud Plaintiff." And  
20 so we'll see in a second, however, that even that claim of  
21 actual intent, which may sound like a difficult standard to  
22 decide at summary judgment because it's a subjective mental  
23 state.

24 THE COURT: Uh-huh.

25 MR. FOSTER: But we'll see there's another



1 statute that actually expressly says that claim is subject  
2 to an affirmative defense if there's evidence of reasonably  
3 equivalent value that it transfer in good faith. And we're  
4 going to see in in the documents, the clear, unequivocal  
5 objective documents show as a matter of undisputed facts  
6 that a reasonably equivalent value was conferred at the  
7 time of the transfer of ownership of Tim Rote's interest in  
8 the property, Tim Rote being the debtor. He's the relevant  
9 debtor. So reasonably equivalent value was given in  
10 exchange for the transfer of the property and it was all in  
11 good faith. That all happened in 2012.

12 But again, Your Honor, I will focus us and now on  
13 the exact statute and document at issue, and I believe  
14 you're going to see, this motion and these arguments do not  
15 depend on you taking Mr. Rote's oral testimony for what it  
16 states. These arguments rely on objective documents, that  
17 his authenticity is not in dispute.

18 THE COURT: Okay.

19 MR. FOSTER: The first relevant statute is ORS  
20 95.240, based on two subsections. Each subsection uses the  
21 term reasonably equivalent value. So whether Your Honor,  
22 95.240(1) or (2), and Your Honor is opening the statute --  
23 I really appreciate you doing that. I was wondering if  
24 there was a way I could just show this on my screen, but  
25 I'm not aware of that.

1 THE COURT: I'm with you.

2 MR. FOSTER: So I'm glad you're already clicking  
3 on it. Excuse me, Your Honor?

4 THE COURT: I'm with you.

5 MR. FOSTER: Okay, so (1) says, in pertinent  
6 part: "A transfer made by a debtor is fraudulent if the  
7 debtor made the transfer or incurred the obligation without  
8 receiving a reasonably equivalent value in exchange." So  
9 this statute does not provide a claim against a transfer  
10 that was for a reasonably equivalent value, period, end of  
11 story. That's dispositive.

12 Let's look at subsection (2). This says in  
13 pertinent part: "A transfer made by a debtor is fraudulent  
14 if the transfer was made to an insider for other than a  
15 present, reasonably equivalent value." And again, we see  
16 it espouses an element is whether the transfer was for a  
17 reasonably equivalent value.

18 Now, I will refer the Court to ORS 95.230(1).

19 THE COURT: Okay.

20 MR. FOSTER: It quotes the related statute. This  
21 says -- and by the way, Your Honor, the complaint is not  
22 cite-specific statutory claims for relief, so  
23 unfortunately, it's necessary to kind of check each box  
24 here.

25 This says in pertinent part: "A transfer made or

1 obligation incurred by a debtor is fraudulent if the debtor  
2 made the transfer or incurred the obligation: (a) With  
3 actual intent to hinder, delay, or defraud any creditor of  
4 the debtor, or (b) Without receiving a reasonably  
5 equivalent value in exchange." So we see two prongs. And  
6 one of them, and it's an or, it's an or between them. But  
7 now we'll look at ORS 95.270(1). This creates a defense --  
8 against, that's 95.270(1), Your Honor.

9 THE COURT: Yep, right there.

10 MR. FOSTER: This expressly cross-references  
11 95.230(1)(a), the intent to hinder, delay provision, and it  
12 says that "a transfer is not voidable under ORS  
13 95.230(1)(a) as against a person who took in good faith and  
14 for a reasonably equivalent value."

15 Now, I'm going to show, Your Honor, I'm going to  
16 intend to show that in 2012 when the property was  
17 transferred from Tim Rote to Northwest Holding, which is  
18 the only transfer from the debtor at issue here, Your  
19 Honor, that the documents show as a matter of law and  
20 undisputed facts, it was for reasonably equivalent value  
21 and it was in good faith.

22 THE COURT: Okay.

23 MR. FOSTER: So let's run through the documents.  
24 Mr. Zweizig contends the 2017 quitclaim recording from Tim  
25 Rote to NWH was a fraudulent transfer. We know this from

1 their filing. The quitclaim states it was given for \$0 in  
2 consideration. Now, that might suggest at face value that  
3 NWH should not give reasonably equivalent value, that it  
4 got something for nothing, or it got more than it paid for.  
5 But we now have the documents showing in fact it was quite  
6 the opposite.

7 I'm going to refer Your Honor to the 2012 asset  
8 contribution agreement, which is attached to the  
9 declaration in support of the motion. I'd be happy to give  
10 Your Honor a minute to find that. If you want, I'll give a  
11 moment to get reference to it.

12 THE COURT: Yes, looking for it.

13 MR. FOSTER: Okay, thank you, Your Honor.

14 THE COURT: It is not attached. Was it filed?

15 MR. FOSTER: So this was attached to the  
16 declaration filed in support of the motion for summary  
17 judgment as Exhibit 4, I believe -- Tim, is that correct?  
18 Can I ask Tim to speak up here and just help me make sure  
19 I'm referring to the right part of the record?

20 MR. ROTE: Your Honor, Exhibit 2 and Exhibit 3  
21 are the contracts. The OTA is Exhibit 2, the contribution  
22 agreement is Exhibit 3, and the 2012 tax return and balance  
23 sheet is Exhibit 4, found --

24 THE COURT: I'm trying to find those under --  
25 Sam, am I missing it? Do you see the exhibits?

1 MR. FOSTER: Your Honor, I pulled my copy up. It  
2 was filed on January 25, and it's attached to the  
3 declaration of Timothy Rote and Exhibit in Support of  
4 Motion for Summary Judgment Post-Discovery.

5 THE COURT: Okay.

6 THE CLERK: The declaration, January 25, it's  
7 taking forever to open.

8 THE COURT: Well, why is it not popping -- I have  
9 the motion the 21st, then the 28th.

10 THE CLERK: Yeah, and then the motion for the  
11 28th. Oh, it's like 276 pages.

12 MR. FOSTER: Your Honor, is there any way that I  
13 can show my screen? I don't see that option in my menu.

14 THE COURT: We have been able -- see, I'm on --  
15 oh, this one? That declaration?

16 THE CLERK: I don't think it's 2019.

17 THE COURT: Well, I don't see another one. We  
18 have had the ability to share screen. I'm sorry, I am not  
19 the tech person, so I can't instruct you on how that  
20 happens.

21 THE CLERK: I can read to the presenter.

22 MR. FOSTER: I think it would also be reasonable  
23 for me to just describe the evidence, because I've  
24 simplified this down quite a bit.

25 THE COURT: All right.

1 MR. FOSTER: Your Honor will obviously have a  
2 chance to review it --

3 THE COURT: Can you see it, Sam?

4 MR. FOSTER: -- at any time and --

5 THE CLERK: February 2021.

6 MR. FOSTER: You know, I know you've read the  
7 paper, so you're no stranger to the record that I'm going  
8 to give you. But I definitely simplified this down quite a  
9 bit so that you don't have to go digging all around, at  
10 tons of different documents. It's actually just a few  
11 specific documents section.

12 THE COURT: Okay, found it -- sorry. Okay, so  
13 there are quite a few pages. It is Exhibit number 2?

14 MR. FOSTER: So the declaration might be 276  
15 pages long.

16 THE COURT: It is.

17 MR. FOSTER: But I will refer the Court to  
18 Exhibit 3 to that, which --

19 THE COURT: And this is 2 -- okay.

20 MR. FOSTER: Here we go. So this begins on Page  
21 31 of the declaration PDF, and it is labeled as Exhibit 3,  
22 Page 1. There are some other exhibits based on it, Your  
23 Honor, but they're on the furthest bottom right area. It  
24 says Exhibit 3. And this is the asset contribution  
25 agreement.

1 THE COURT: Okay. Yeah, there are lots of  
2 Exhibit C Page --

3 MR. FOSTER: Yeah, I believe there are some prior  
4 exhibits there, Your Honor. So again, the exhibit stamps  
5 that correspond to the declaration are the ones on the very  
6 bottom right-hand corner of the page.

7 THE COURT: Okay.

8 MR. FOSTER: And so if you look at those --  
9 against, it's Page 31 of 276 of my PDF.

10 THE COURT: Okay, I'm there.

11 MR. FOSTER: And it's labeled Exhibit 3.

12 THE COURT: I'm there. Okay.

13 MR. FOSTER: Okay, so if you look down at Article  
14 1, Section 1.1, Contribution of Assets.

15 THE COURT: Yup.

16 MR. FOSTER: This says "(Indiscernible) that Tim  
17 and Tanya Rote, TCR and TR, agree to and do hereby  
18 contribute, transfer undersign to NWH, and NWH does accept  
19 all of TCR's and TR's right, title and interest as of the  
20 closing date in and to the assets of Sunriver set forth on  
21 Schedule 1.1."

22 So what we have here is a contract that transfers  
23 rights. As we look down at Schedule 1.1, it is the first  
24 page after this contract. It is entitled "Buyers final  
25 closing statement." And down on the bottom right corner,

1 written in pen is the number 1.1. And it is labeled  
2 Exhibit 3 Page 6. There we see the buyer's final closing  
3 statement identifying the assets by its address in  
4 Sunriver. This is the Sunriver property. It lists the  
5 purchase price paid by Tim Rote. And so what this does is  
6 it clearly shows Tim was transferring all right, title and  
7 interest to NWH, in the property. Now, these documents are  
8 predicated, that's not in dispute, and it's up to the Court  
9 to construe the contract, of the legal determination.

10 THE COURT: But -- okay, so here's my question.

11 MR. FOSTER: Okay.

12 THE COURT: Isn't this --

13 MR. FOSTER: I want to pause in case you had a  
14 question, okay.

15 THE COURT: So isn't --

16 MR. FOSTER: Yeah, we --

17 THE COURT: Is it -- I do have a question --  
18 isn't this interpretation of this very issue a question of  
19 material fact? Isn't it the jurors' role to decide whether  
20 or not this is a fraudulent transfer? That's the whole  
21 question. They're to look at these documents and they're  
22 to make a decision on whether the Plaintiff has met their  
23 burden. It's not my role to look at the documents and say,  
24 well, they look valid. Because they do; I'm not disputing  
25 that at all. But it is not my role at a summary judgment



1 to say, ah, there's nothing for the jury to decide, because  
2 in fact you're proving the very point that there is  
3 something for the jury to decide. They have to take a look  
4 at all of these documents, and they have to decide, has the  
5 Plaintiff met their burden? Was this a fraudulent  
6 transfer? Was it for zero dollars, or was it for  
7 \$530,165.96? That's the role of the jury, is it not?

8 MR. FOSTER: Your Honor, if the case proceeds to  
9 trial, the jury will be instructed as to certain undisputed  
10 issue and will be asked to decide the issues of fact about  
11 if there's a genuine issue of material fact.

12 THE COURT: Right.

13 MR. FOSTER: Summary judgment requires the  
14 opposing party to actually identify a genuine issue of  
15 material fact. If the only witness says the light was red  
16 and the movant doesn't have any evidence otherwise, it is  
17 not necessary to impanel a jury to decide whether that is  
18 what happened or not. Okay, that is an undisputed fact.  
19 Now --

20 THE COURT: I agree with you.

21 MR. FOSTER: There may be a case where that  
22 witness is so impeachable that the jury might disbelieve  
23 them. And so I would just go one step further, and  
24 distinguish this from that sort of case, because without  
25 asking Your Honor to decide whether anybody's telling the

1 truth, we're asking Your Honor to interpret the plain  
2 language in a contract, and that is part of the role of the  
3 judge, even if we go to a jury trial. And it's not clear  
4 to me at all that this will be a jury trial. I didn't see  
5 any request for a jury trial in the pleadings.

6 THE COURT: That's my understanding --

7 MR. FOSTER: And --

8 THE COURT: -- is that this was a jury trial.

9 MR. FOSTER: Well, okay, I guess that remains to  
10 be determined, Your Honor, but the fact -- the only thing  
11 that remains, summary judgment is determined based on the  
12 law and whether there are any genuine issues of material  
13 fact.

14 THE COURT: Right.

15 MR. FOSTER: So I would challenge my esteemed  
16 colleague, Mr. Albertazzi, to tell us, what is the dispute  
17 about whether this contract did in fact transfer ownership  
18 of the property in 2012?

19 THE COURT: Okay, let's --

20 MR. FOSTER: Now, we know that --

21 THE COURT: Let's let him answer.

22 MR. FOSTER: -- the quitclaim was recorded in  
23 2017. That's another undisputed fact.

24 THE COURT: Mr. Albertazzi?

25 MR. FOSTER: So there are many undisputed facts

1 in this case, Your Honor, and there's no need to impanel a  
2 jury if those facts, combined with the applicable law,  
3 decide the case.

4 THE COURT: And I would agree with you,  
5 Mr. Foster, but what I have before me right now, I'm seeing  
6 that it can be interpreted either way, and if it can be  
7 interpreted either way, there is an issue of fact. So  
8 let's have Mr. Albertazzi speak to that very question that  
9 you just posed to him. Mr. Albertazzi?

10 MR. ALBERTAZZI: Yes, Your Honor. There's a  
11 reason that -- when Judge Van Dyk heard this previously, he  
12 was looking at the declaration of Tanya Basauri that was  
13 filed, where in her declaration, she provided a copy of the  
14 general warranty deed, which is recorded with Deschutes  
15 County, on -- this was recorded 8/2 of '18, transferring  
16 the summary of property from Northwest Property to Tanya  
17 Rote for \$0.0. That was the document that he looked at.

18 I believe he also looked at the transfer  
19 agreement that Mr. Foster was representing. So he looked  
20 at those things, and he said, well, there's a question of  
21 material fact here. Because here on one side I've got a  
22 deed, and on the other side I've got this agreement that  
23 happened. So the fact there, it seems like the jury could  
24 look at that agreement, and they could look at this deed,  
25 and the jury would have to decide, well, which one is it?

1 Because it says Mr. Rote signed the deed.

2 THE COURT: That's where I'm at, Mr. Foster.

3 MR. ALBERTAZZI: And it said general  
4 consideration, so --

5 THE COURT: That's exactly where I'm at,  
6 Mr. Foster, that I have these competing documents. And so  
7 I have this issue. For a summary judgment, it has to be no  
8 issue, not, eh -- it can be interpreted either way. And so  
9 I'm tending to side with Mr. Albertazzi here. We have  
10 these valid, legal documents; we have this declaration that  
11 compete. And so that is going to be an issue that a jury  
12 is going to have to decide. That's material to this claim.  
13 I'm not speaking to how strong it is or either document,  
14 but the whole point is there does appear to be a material  
15 issue that a jury would have to decide, and so that gets us  
16 past summary judgment on that part, the fraudulent  
17 transfer.

18 So unless you all have something else, I think we  
19 should move to the insider fraud. And I don't know how I'm  
20 going to be able to look at the intent of Mr. Rote by  
21 documents, but --

22 MR. FOSTER: Well, Your Honor, let me just make  
23 sure I make my argument clear and that you've had a chance  
24 to fully consider it.

25 THE COURT: Okay.

1           MR. FOSTER: I have not heard any argument from  
2 Mr. Albertazzi -- I challenged him, point blank, to  
3 identify evidence that the 2012 contract did not in fact do  
4 what it said. And those are words of meaning. He doesn't  
5 say anything authentic. He hasn't said it wasn't from  
6 2012. He hasn't said any of that. He doesn't have any  
7 evidence challenging it. In a contract case, it is the  
8 role of a judge to instruct the jury as to the meaning of  
9 the contract and what it says. So the jury will absolutely  
10 not be, and it should not be deciding what the 2012  
11 contract says or what that means or what it did. We know  
12 here that the contract said that Tim Rote transferred all  
13 right, title and interest to NWH.

14           THE COURT: That's --

15           MR. FOSTER: You don't need to balance any  
16 evidence. It is very unequivocal on its face. That is for  
17 the Court to consider. So I would suggest that Your Honor  
18 would not be asking the jury to decide whether that  
19 contract transferred the property. That's the -- that's  
20 the judge's role to (indiscernible) the contract unless  
21 there's a very special case in which the -- the nonmoving  
22 party, the opposing -- the opponent of apposition creates  
23 some specific issue of fact about that contract. It's  
24 authenticity or whether there's some modification of it  
25 later and there's been no argument of that here, Your

1 Honor.

2 THE COURT: I understand that's your --

3 MR. FOSTER: And -- and I --

4 THE COURT: I understand that's your position,  
5 Mr. Foster but -- and I'll have Mr. Albertazzi speak for  
6 himself.

7 MR. FOSTER: Your Honor, I can't -- I'm sorry,  
8 Your Honor, I can't hear you.

9 THE COURT: I said I understand. Is that better?

10 MR. FOSTER: Yeah, thank you.

11 THE COURT: No? Yes?

12 UNIDENTIFIED FEMALE SPEAKER: Yes.

13 THE COURT: You -- can you hear guys hear me?  
14 Okay. I said I understand that your position is that there  
15 is a contract and this is a contracts case. As I  
16 understand what Mr. Albertazzi just said. This is not an  
17 interpretation of a 2012 contract. That there are  
18 different documents out there that lead the issue for the  
19 jury to decide is not interpreting a 2012 contract. But,  
20 in fact, interpreting whether there was a fraudulent  
21 transfer and that there are very different documents.  
22 There are several, at least two documents that deal with  
23 the issue of whether or not this was a fraudulent transfer.  
24 There's a contract. There's a declaration and  
25 there are several other documents. And so it's not simply

1 just interpreting whether the 2012 contract is valid or not  
2 but it's, in fact, deciding was this transfer valid or  
3 fraudulent.

4 Mr. Albertazzi, I'll have you speak to the 2012  
5 contract if you could, please.

6 MR. ALBERTAZZI: Yes. Well, I -- you know, this  
7 is a contract that Mr. Rote created on his own with -- with  
8 Mrs. Rote. How would we know -- how would we be able to  
9 tell or have evidence that that's a fake? Where I could  
10 come in and say, oh, no, I have a witness that was standing  
11 there and you really didn't sign that or this is an  
12 inauthentic document.

13 Of course, there's no way to prove that. Well,  
14 that's why the statute it talks about a transfer. What is  
15 a transfer under 95.200? A transfer is every mode of  
16 disposing or parting with an asset or an interest in an  
17 asset. So perhaps the contract that Mr. Foster's been  
18 talking about is a mode. Well, certainly another mode is  
19 recording a deed. So it really doesn't matter that I --  
20 that -- that I could come forward with evidence and say  
21 that contract that Mr. Rote submitted to the Court is a  
22 fake and it didn't really happen. That's -- that -- that's  
23 one point I wanted to make.

24 The other is, for purposes of fraudulent transfer  
25 for the timing of when that transfer happens, specifically,

1 in 95.250, it talks about when a transfer is made with  
2 respect to real estate it -- it is -- when it is perfected.  
3 Meaning when it is recorded. So why are we talking about  
4 this unrecorded private agreement between the spouses? Has  
5 nothing to do with this case.

6 MR. FOSTER: Your -- Your Honor, if I may respond  
7 to that?

8 THE COURT: Absolutely.

9 MR. FOSTER: This is why I started out by going  
10 over the statute that show that the legislature did not  
11 intend the Fraudulent Transfer Act to be brought against a  
12 transfer for recent equivalent value. Okay. We -- we went  
13 over four different prongs of the statute. Three of them,  
14 that was the dispositive issue. The other one it was that  
15 plus good faith and I'll -- I'll be happy to address that  
16 additional good faith element based on the undisputed fact.

17 It's interesting, however, that -- and so, Your  
18 Honor, that's why the 2012 contract is of the utmost  
19 importance because it shows reasonably equivalent value.  
20 It documents that. And it does that where it says that Mr.  
21 Rote, if I may refer you to the specific provision, under  
22 consideration, Section 2.1 says, "NWH agrees to and does  
23 hereby accept and assume -- assume liabilities and shall  
24 credit to TCR, that's Tim Rote his equity in the center of  
25 her property."



1           So he had a contractual right. He traded his  
2 equity in the property. He traded a property subject to  
3 any liability in exchange for a contractual right to have  
4 credited to his capital account in NHW that exact amount  
5 dollar for dollar.

6           So if that isn't as a matter of law reasonably  
7 equivalent value, I don't know what is. Trading a dollar  
8 for a dollar is reasonably equivalent value. It says right  
9 there. "Shall credit to TCR his equity." It said he had a  
10 right to that.

11           THE COURT: Okay. Where does it say the equity?  
12 It says contribution of assets and assumption of liability.

13           MR. FOSTER: Section -- Section 2.1  
14 consideration, Your Honor.

15           THE COURT: Oh. 2 point.

16           MR. FOSTER: The very bottom line of the page.  
17 Exhibit 3, page 1.

18           THE COURT: Yep. I'm there.

19           MR. FOSTER: It says, "shall credit to TCR his  
20 equity in the -- in the center of her property." And so  
21 know when the -- so -- so I think what this shows is that  
22 the 2012 contract not only was a transfer, but it also gave  
23 reasonably equivalent value. It gave up a right. It gave  
24 back a right and the exact same monetary value.

25           Now Mr. Albertazzi, argued that he doesn't have

1 any evidence that this was an inauthentic 2012 contract and  
2 I believe that is a -- is an admission against his client's  
3 interest in this proceeding because they're the nonmovant.  
4 If they think there's an issue about authenticity, it's  
5 their burden to show that. He said that he doesn't have  
6 that evidence. We've been through discovery.

7 So the Court will -- is duty bound I respectfully  
8 submit to conclude that this contract for summary judgment  
9 purposes is authentic. That it's not -- there's no genuine  
10 issue about the document's authenticity.

11 Now I'd like to proceed to look at the remainder  
12 of this analysis, Your Honor.

13 THE COURT: Okay.

14 MR. FOSTER: What about the 2017 quitclaim? We  
15 know that does, in fact, say (indiscernible) and  
16 consideration. First of all, invalidating a valueless  
17 transfer would be a meaningless gesture and that there was  
18 no windfall to Northwest Holding in 2017. Why? Because  
19 we've just established it already had ownership of the  
20 property by right under the 2012 contract. And it gave  
21 equity in -- it gave capital account credit in exchange for  
22 that equity. The -- you know, what did Mr. Rote have at  
23 the time of the 2017 quitclaim? He had nothing of value.  
24 That is not based on a he said/she said proposition. It's  
25 based on the plain terms of the 2012 contract.

1           He gave up all his right, title and interest  
2 subject to the liabilities associated with the property.  
3 And he gave up everything he had in Northwest Holding and  
4 in exchange he got the value of his equity in capital  
5 account. So what did he have in 2017? It's  
6 (indiscernible) with law that a quitclaim does not  
7 represent to the receiver -- to the transferee that  
8 anything of value is being exchanged. And in this case, we  
9 have proof that that, in fact, did not happen.

10           That there was no value given with the quitclaim.  
11 It was simply a recording -- now, Mr. Albertazzi's very  
12 astute in point out that the statute dates the date of the  
13 transfer to the date of perfection and the public record.

14           THE COURT: Uh-huh.

15           MR. FOSTER: But that's only for statute of  
16 limitations purposes, Your Honor. That is very clear in  
17 the statute he -- he quoted and cited. For statute of  
18 limitations purposes, the date of the transfer is the 2017  
19 quitclaim deed. But for determining whether there is  
20 reasonably equivalent value as a matter of law and  
21 undisputed fact, you look at and construe the 2012  
22 contract.

23           So what about the question of good faith? Well,  
24 the -- as -- as the contribution agreement says that  
25 Northwest Holding would take the property subject to

1 liability. And, in fact, we know that it took the property  
2 subject to the mortgage that was on the property. And  
3 that's shown throughout additional documents submitted into  
4 the record, balance sheet, tax return. Again, to challenge  
5 my colleague, Mr. Albertazzi to point to a piece of  
6 evidence in the record that calls into question whether  
7 Northwest Holding actually assumed the liability of the  
8 mortgage.

9           And if it did as we've shown then the transfer in  
10 2012 could not have been to hinder, delay or frustrate or  
11 defraud creditors. Instead, it was subject to the known  
12 liability. Is the transfer subject to creditor? Subject  
13 to the mortgage that was placed on the property and then  
14 paid by Northwest Holding.

15           The mortgage was on the books for years before  
16 Mr. Zweizig brought a claim against Tim Rote. And this is  
17 another reason why we can conclude that there was good  
18 faith. Based on the 2012 contract, it clearly states its  
19 purpose was to set up a rental business at a property that  
20 Tanya would operate and that Tim would -- where Tim would  
21 own the property. And it does that on -- it does that in  
22 clear terms and it does that with respect to the mortgage.

23           And it even says, Your Honor, this is very true.  
24 It even said that Tim Rote has a duty to quitclaim the  
25 property in the future. And I would refer Your Honor to

1 Section 2.3. This is one of the last critical statute --  
2 or sorry, contractual provisions I'd ask the Court to -- to  
3 consider in deciding this motion.

4 THE COURT: And that's --

5 MR. FOSTER: That the two points that he clearly  
6 says in the last sentence that TRC agrees -- that Tim Rote  
7 agrees to quitclaim title to NWH if NWH is unable to  
8 refinance the assumed debt within three years of the date  
9 of agreement. What's that saying is if unless NWH has  
10 already refinanced and -- and cleared the mortgage and put  
11 title into its name in the public record, then Tim Rote  
12 will quitclaim the property to it after three years.

13 That agreement and that right for NWH to received  
14 that quitclaim existed over three years before Mr. Zweizig  
15 brought him claim against Tim Rote and almost six years  
16 before he obtained his judgment. So how could -- where's  
17 the evidence, Your Honor. Again, my -- the nonmovant.  
18 Where is the evidence creating a genuine issue of material  
19 fact as to whether that promise to quitclaim was intended  
20 to frustrate, hinder, delay or defraud a creditor, any  
21 creditor?

22 THE COURT: Let's --

23 MR. FOSTER: What creditor was there? What  
24 creditor was identified as of 2012 that was -- that was  
25 defrauded by this, Your Honor.

1 THE COURT: Okay.

2 MR. FOSTER: It was absolutely in good faith.  
3 There's no evidence to dispute that.

4 THE COURT: I would like to have Mister --

5 MR. FOSTER: Now, what about the 28 --

6 THE COURT: I would like to give Mr. Albertazzi  
7 the opportunity to respond to that. Mr. Albertazzi?

8 MR. ALBERTAZZI: Okay. So also in Ms. -- Ms.  
9 Basauri's declaration in the prior summary judgment motion,  
10 she submitted an online listing for the Sunriver property  
11 showing that it had been recently listed for \$850,000. Had  
12 a mortgage of about 300 -- \$400,000. So there was  
13 significant value there.

14 Now -- and there was a significant amount of  
15 equity. So I have that. I also have Mr. Zweizig's  
16 declaration about when he got his judgment and how long he  
17 had been into litigation with Mr. Rote. So those two  
18 things together, certainly there was a huge amount of value  
19 transferred with that -- with that quitclaim deed. I mean,  
20 whether there was a contract before, the fact is that until  
21 that deed was recorded, it really didn't cut off the rights  
22 of creditors.

23 When it was recorded, there was a tremendous  
24 amount of value that went there and there was no -- there  
25 was no declaration or no affidavit that, oh, I gave more

1 value besides that. So once again, this is all the same  
2 evidence that Judge Van Dyk looked at these documents. So,  
3 you know, I -- I -- I think it's just an issue of fact for  
4 the jury on -- on both of these. Whether there was actual  
5 fraud, whether there was intent or on the constructive  
6 fraud claim. So I don't have anything to add besides that.

7 THE COURT: Well, here's the -- here's the issue  
8 that I'm having. On the one hand, there is no motion for  
9 reconsideration in Oregon law. You all know that. I am  
10 not going to go line by line through the transcript of the  
11 hearing that occurred before my colleague to determine if  
12 the exact same evidence and the exact same arguments were  
13 presented to him and therefore that is what he used to make  
14 his overall ruling. That would be inappropriate. So what  
15 I am left with is at this point trying to determine based  
16 on what has been presented to me, this Court, not what was  
17 presented to Judge Van Dyk, whether there is a material  
18 issue of genuine fact.

19 I have one attorney arguing there is this  
20 contract. There is no dispute. This is a valid contract.  
21 This contract shows clearly that there was value. This  
22 contract shows clearly that there was an agreement to file  
23 a quitclaim deed within three years. Long before plaintiff  
24 received his judgment. So therefore, Judge, there's no  
25 possibility that this could be fraud.

1           And now I'm asking you, Mr. Albertazzi, what is  
2 there against that argument that this could be fraud. If I  
3 take this contract as authentic and I haven't heard  
4 anything otherwise, then what evidence is there at all that  
5 would go to a jury to say, okay, despite this contract,  
6 there is still an issue of material -- a material element  
7 dealing with whether or not this transfer was made  
8 fraudulently to frustrate and everything else that the  
9 statute requires.

10           What do I have? What am I left with?

11           MR. ALBERTAZZI: Well, I would -- I would respond  
12 to that. I mean, we have the recording of the subsequent  
13 date.

14           THE COURT: That said 00.

15           MR. ALBERTAZZI: We -- I think that the jury  
16 could certainly make an inference that if you had this  
17 contract going way back when and the deed was never  
18 recorded that, you know, perhaps that wasn't a real  
19 contract. I mean, that's certainly a reasonable inference  
20 the jury could make.

21           The other would be the jury could take a look at  
22 the circumstances of all the litigation and when that --  
23 when the quitclaim deed was recorded. Those two things put  
24 together could certainly lead you -- lead a jury to  
25 believe, well, you know, I know that the plaintiff can't



1 prove that that contract is a fake and that it was  
2 contrived just for these purposes. But looking at the  
3 circumstances we can draw a reasonable inference that  
4 perhaps it was because of the timing of what happened here  
5 and because of the value of the property at the time the  
6 quitclaim deed was recorded.

7           When people bring fraudulent transfer cases, of  
8 course, they look at the public records.

9           THE COURT: Right.

10           MR. ALBERTAZZI: And to determine whether they  
11 can do that. And if -- I mean, that's -- that's what  
12 happened here. So I -- I think there's ample evidence.  
13 That this is a matter for the jury to determine.

14           THE COURT: And when you say ample evidence,  
15 okay, talk to me like I'm a juror. Well, how is the timing  
16 important? If this contract says within three years if  
17 they are -- TCR agrees that if the quitclaim title to NWH  
18 is unable to refinance the assumed debt within three years  
19 of the date of this agreement that they will give them a  
20 quitclaim title.

21           So this -- now, obviously, I don't know when this  
22 is drawn up. Are you going to -- is there going to be  
23 someone that's going to come in that is going to look at  
24 this contract and look at the date where it's signed  
25 10/31/12 and say based on the ink and the paper, it's clear

1 to me this really wasn't signed back -- it says 2012 but it  
2 was really signed in 2019, Judge, and we know that because  
3 it was printed on this type of paper and this type of paper  
4 was only available as late or as early as 2019?

5 Or we can tell by deciphering the signatures and  
6 the ink. And by the ink we can tell that this was really  
7 signed in 2019 even though it says 2012. Or someone that's  
8 going to say, you know, I'm very good friends with the  
9 Rotes and we had many discussions over dinner and they  
10 talked about when they were going to make this contract and  
11 say that it was signed in 2 -- like what evidence is there  
12 that if one takes this contract as authentic and true that  
13 it's still a fraudulent transfer because this contract was  
14 made for the sole purpose of fraud and not at a -- for a  
15 reasonable value?

16 MR. ALBERTAZZI: Well, I think this came up when  
17 I took the -- the Rotes' depositions where I specifically  
18 asked did you tell anybody about this contract. Does  
19 anybody know about it? Was it provided to anybody? And  
20 yes, that's the type of evidence that we would bring up.  
21 You know, of if -- if -- if you did this, and did it way  
22 back when, was anybody else there. Well, no, there wasn't.  
23 Does anybody else know about it? Did you tell anybody else  
24 about it? I mean, somebody could -- it -- with -- with  
25 something like this, if -- if the Court would grant summary

1 judgment because I can't prove that a document that's been  
2 presented was signed on that date and is really an  
3 authentic document and not just something contrived post-  
4 litigation, I mean, that's -- there's no way anybody could  
5 prevail on a fraudulent transfer case.

6           Somebody could just after the fact draw up this  
7 document. They will see here it is. We had this  
8 agreement. It was way back when. And there is value and  
9 you can't prove it's not authentic. That's not the way it  
10 works. We -- we have other evidence here and -- and all of  
11 that comes in.

12           THE COURT: And that -- I guess that's what I'm  
13 getting to. What is the other evidence other than when it  
14 was recorded the quitclaim deed that says this is enough  
15 that a jury can make that determination on whether there is  
16 a material issue as to whether this was a fraudulent  
17 transfer even if --

18           MR. ALBERTAZZI: I think just --

19           THE COURT: -- I take this as authentic.

20           MR. ALBERTAZZI: Right. Just -- just the delay  
21 in actually transferring the title, there's certainly an  
22 inference that could be had there. There -- why didn't the  
23 quitclaim deed get recorded? Well, he forgot about it.  
24 That's what he said in his deposition or it was -- it  
25 escaped him. Well, why --

1 THE COURT: And when was it recorded? You all  
2 tell me.

3 MR. ALBERTAZZI: Let me see.

4 THE COURT: Mr. Rote, are you not joining us  
5 anymore visually? Did we lose Mr. Rote? Oh.

6 MR. ROTE: Nope, I'm here, Your Honor.

7 THE COURT: Okay.

8 MR. ROTE: I -- I was afraid you might catch me  
9 drinking a cup of coffee so I went off video.

10 THE COURT: Ah. See if we were in court, you  
11 wouldn't get that benefit of drinking coffee and watching  
12 TV.

13 MR. ROTE: I -- I -- I know. I know, Your Honor.  
14 I'm watching not TV. I'm paying (indiscernible). April  
15 2017 was when the quitclaim was -- was transferred and --

16 THE COURT: Thank you.

17 MR. ROTE: -- the house was -- yeah.

18 THE COURT: Okay.

19 MR. ROTE: House was put up for sale.

20 THE COURT: And when was the judgment? When did  
21 Mr. --

22 MR. ROTE: Judgment was November of 2018.

23 THE COURT: Okay. So it was still before the --  
24 the judge. Oh, but when -- let's see. You all were in  
25 litigation for quite some time but you didn't get the

1 judgment until November of '18.

2 MR. FOSTER: Your Honor?

3 THE COURT: Yes.

4 MR. FOSTER: I -- I'm very sorry. Can I request  
5 a short recess? Is that -- is that possible?

6 THE COURT: Certainly.

7 MR. FOSTER: Would you mind?

8 THE COURT: How long do we need? Five, ten  
9 minutes?

10 MR. FOSTER: I -- I think ten minutes would  
11 probably be fine. I would appreciate it.

12 THE COURT: All right. Everybody we're going to  
13 be in recess for ten minutes. Take a comfort break. Now,  
14 you can drink your coffee, Mr. Rote.

15 MR. ROTE: Thank you, Your Honor.

16 (Recess taken from 10:14 a.m. to 10:29 a.m.)

17 THE COURT: Okay. We're back on the record,  
18 19CV0157, Zweizig v. Rote and Northwest Holding, LLC. And  
19 as we took a comfort break, the dates that were provided by  
20 Mr. Rote were that it was recorded April 2017 and the  
21 judgment was granted November of 2018.

22 MR. ALBERTAZZI: Right. Your Honor, I believe I  
23 was speaking and I wanted to just continue.

24 THE COURT: Yep.

25 MR. ALBERTAZZI: Okay.

1           So with regards to the agreement over the break,  
2 this is called asset contribution agreement, and I was  
3 trying to find where this first appeared in the record and  
4 it appeared in the amended declaration of Timothy Rote with  
5 supporting documents. It was filed in the court May 5th  
6 and this was -- what had happened is, as I understand it, I  
7 was not the attorney there.

8           Mr. Rote had lost on summary judgment. He then  
9 comes back and says, oh wait a minute, I've got new  
10 evidence, and he submits this declaration and attached to  
11 it is the asset contribution agreement, which starts at  
12 page 8 of that document.

13           As far as I know, I don't -- I didn't review the  
14 transcripts, but I know Judge Van Dyk declined, or denied  
15 this motion based on new evidence. So I wanted to make  
16 sure the Court understood that, that we're not talking  
17 about anything new here.

18           I think what -- what Mr. Foster is saying is,  
19 well you haven't been able to dispute the authenticity of  
20 this document, and --

21           THE COURT: He'd definitely saying that.

22           MR. ALBERTAZZI: He's saying that. And I'm  
23 saying that, well let's say that I cannot prove that this  
24 is a fake or it's contrived. Well, I still think the jury  
25 could infer with the sequence of events in the subsequent

1 recording, that no, this is not dispositive of the  
2 transfer.

3           And you know, frankly that's -- that's what  
4 the -- that's what Judge Van Dyk said also. He said, you  
5 know, get some more discovery, or get something different.  
6 For instance, I mean maybe there was actual money that  
7 changed hands or something.

8           THE COURT: Right.

9           MR. ALBERTAZZI: Maybe there was a document where  
10 they could prove this happened, but something that, you  
11 know, but it didn't happen. And I mean when we're dealing  
12 with intent and fraudulent transfers, of course -- you  
13 know, it's -- we think, or Plaintiff believes, based on the  
14 facts and circumstances and the timeline, that a jury could  
15 certainly come to the conclusion that, yes this was a  
16 fraudulent transfer.

17           THE COURT: And that's why I asked about the  
18 dates because I would agree with you, if -- if we have a  
19 trans -- if we have a judgment that is 15, and then we have  
20 a transfer that is after judgment, I think hands down no  
21 issue.

22           But I have -- that's why I asked about the dates.  
23 But I have --

24           MR. ALBERTAZZI: Oh --

25           THE COURT: -- this recording in '17 and I have

1 this judgment that isn't until November of '18, way beyond  
2 12 months after. So --

3 MR. ALBERTAZZI: Right.

4 THE COURT: -- when you said -- earlier you said,  
5 well judge a jury could infer based on the timing that  
6 there's still something fraudulent about this, that's why I  
7 asked about the dates.

8 MR. ALBERTAZZI: Oh --

9 THE COURT: Based on the dates --

10 MR. ALBERTAZZI: Okay, I --

11 THE COURT: -- how could a jury infer that the  
12 transfer was fraudulent based on this timing?

13 MR. ALBERTAZZI: Well, I guess -- and I could  
14 respond to that, that the date the judgment was entered was  
15 very long after the jury rendered its verdict and everybody  
16 knew what was going on.

17 And I wanted to pull up -- I'm going to ask --  
18 Mr. Zweizig had -- there was a declaration here and I'm  
19 trying to pull that up -- in the initial motion, in  
20 response to the initial motion where -- where he talks  
21 about that.

22 THE COURT: Can anyone tell me the date that the  
23 jury rendered the verdict?

24 MR. ALBERTAZZI: Mr. Zweizig if you know that  
25 offhand, please let us know.



1 MR. ZWEIZIG: I'm looking around Your Honor. I  
2 don't know that offhand, but I definitely want to say that  
3 I will be offering testimony during this trial, and I think  
4 we've talked about an awful lot of things here, and this is  
5 sounding like it's a trial to me, and I would request that  
6 the Court definitely give me, you know, a jury trial on  
7 this.

8 There's an awful lot of evidence, you know, that  
9 we do have, and I don't know if it's incredibly to have us  
10 proffer that evidence now, giving Mr. Rote a possible  
11 chance to fabricate more evidence --

12 THE COURT: And I completely --

13 MR. ZWEIZIG: And I believe -- and without making  
14 an accusation, I will tell you that my belief is that that  
15 is going on, you know, that's all I'll say about that.

16 THE COURT: And Mr. Zweizig, I understand what  
17 you're saying, and a summary judgment does not require that  
18 you show your hand, and I'm certainly not asking for that.

19 The problem that I'm having is that your lawyer  
20 has to show that there is a material issue of fact for a  
21 jury and right now what I have -- I started this morning  
22 thinking, okay there must be -- I don't know all of the  
23 evidence, you all know this case much better than me, and  
24 I'm not supposed to know all the evidence. This is, I  
25 understand, going to be a jury trial.

1           At this stage, all I'm determining is if there's  
2 something to go to this jury, and when I started this  
3 hearing, I understood that there were lots of contrary  
4 documents, and if there are contrary documents to the very  
5 issues of the case, the things that you all are asking the  
6 jurors to decide, the material issues, then this goes to a  
7 jury, summary judgment is denied.

8           But my role here is a gatekeeper and now I'm  
9 understanding, at least we're still on the very first  
10 issue, which is fraudulent transfer. You know how your  
11 complaint has like several different -- so we're still on  
12 the first issue.

13           MR. ZWEIZIG: Understood.

14           THE COURT: So as I understand it, as we've  
15 gotten through the morning, they're -- I'm learning that  
16 there really aren't contrary documents on this issue of  
17 fraudulent transfer.

18           The argument that I've heard so far this morning  
19 is, there is a contract, there is no dispute from anyone  
20 that this is a valid contract. And under this contract  
21 there was valuable consideration in that the date of the  
22 transfer was long before your judgment.

23           And so now I'm left with -- I'm not asking your  
24 lawyer to sh -- you know, show his hand and tell me all,  
25 everything that he has, so that the other side can prepare,

1 certainly not. I'm just looking for what material issue is  
2 there, if I take this contract as valid, and that's why I  
3 was asking about the date, because your lawyer's response  
4 was, "Well Judge, a jury can infer, based on the timing,  
5 that this is fraudulent."

6 And so I said okay when is the timing; when was  
7 it recorded; when did you get your judgment; and if you got  
8 your judgment long after it was recorded, but that's --  
9 right now that's my next question is when did the jury  
10 render its verdict. Because if it was transferred after  
11 the jury rendered its verdict then I would agree with your  
12 lawyer; there could be an inference and there would be an  
13 issue of material facts.

14 So can someone please tell me the date that the  
15 jury rendered the verdict?

16 MR. ALBERTAZZI: So Your Honor, I can tell you  
17 that the complaint was filed in federal court from which  
18 this judgment comes on December 24th of 2015.

19 THE COURT: Right.

20 MR. ALBERTAZZI: Now looking at -- the jury found  
21 for Mr. Zweizig on January 17th, 2018; that's on his  
22 declaration.

23 THE COURT: Okay. April --

24 MR. ALBERTAZZI: In our -- and in our response to  
25 this summary judgment motion, because we thought it was the

1 same thing, we incorporated, you know, the previous  
2 materials that had been filed.

3 So the judgment, and I don't know why it would  
4 take so long it -- that it would take literally a year, or  
5 more than a year. Well, oh no, not quite a year --

6 THE COURT: Eleven months.

7 MR. ALBERTAZZI: -- to get a judgment put in.

8 MR. ZWEIZIG: There were a lot of motions filed  
9 in the case, you know, by Mr. Rote, and it held up some  
10 things in order to get that done, is my suspicion about why  
11 that is.

12 I mean I have, you know, (indiscernible), you  
13 know, material things that I think would be questions of  
14 fact, should I be mentioning them? I will if you want me  
15 to.

16 THE COURT: Well, I'm not trying -- I know that  
17 you have counsel, and so hopefully you and your lawyer have  
18 talked about what it is you want to share and what it is  
19 you don't want to share, but we're trying to get past  
20 summary judgment here, and for you to get past summary  
21 judgment you have to show that there are material issues of  
22 fact, something for a jury to consider on the very issues  
23 that you are alleging.

24 And so on the fraudulent transfer, knowing that  
25 the verdict was rendered January of '18, I still have the

1 recording April of '17, but I have the lawsuit started back  
2 in 2015, a jury could look at the timing of the transfer,  
3 the only problem -- the only problem that you have is we  
4 still have a contract from 2012.

5 So in terms of being able to infer from the  
6 timing whether there is a fraudulent transfer, that's very,  
7 very, very light, but that would be -- a jury could infer  
8 that -- I'm -- you know, that's going to be tough at a  
9 trial --

10 MR. ZWEIZIG: Yeah, (indiscernible) -- I'm sorry,  
11 Your Honor. I did not mean to cut you off.

12 THE COURT: No, go ahead.

13 MR. ZWEIZIG: We -- I guess -- evidence -- I  
14 have evidence to support that for sure.

15 THE COURT: Okay.

16 MR. ZWEIZIG: Mr. Rote tried to use the property  
17 to gain a loan at the time he was not supposed to be in  
18 control of it and we have documentation that should satisfy  
19 Mr. Foster's red-light issue on that.

20 THE COURT: Oh.

21 MR. ZWEIZIG: Also, the mortgage that Mr. Rote  
22 had expressly for bid using the property as a VRBO, so it  
23 was done in bad faith at some point. There's some intent  
24 there --

25 THE COURT: Oh.

1 MR. ZWEIZIG: -- to do something that is not  
2 allowed, and I would consider that, at least a yellow light  
3 for Mr. Foster.

4 THE COURT: Okay.

5 MR. ZWEIZIG: We have, you know, something; we  
6 have evidence; we have a case is what I would really like  
7 to convey to you; that I feel is very strong; I feel we're  
8 going to win it, of course, or believe me, I would not go  
9 through all this effort. I would not put up with what's  
10 going on the internet.

11 I would just drop this whole thing if I didn't  
12 feel that this was, not only something in my best interest,  
13 but in the best interest of, you know, not setting some  
14 sort of limit on what a rich person can do to a person.  
15 This has been tough and I think I have a very good case for  
16 this or I wouldn't bring it.

17 THE COURT: And I appreciate that. I'm just  
18 trying to find out whether there is a material issue for a  
19 jury, and so those pieces of information, that's very  
20 helpful to know that in the mortgage on this property it  
21 says it cannot be utilized as a VRBO; that's important  
22 information.

23 And also that there would be evidence that Mr.  
24 Rote, after the transfer, after the date of this signing,  
25 tried to take a loan out on the property. That would also

1 be important information, so those two things are actually  
2 kind of what I was asking your lawyer for, to present a  
3 material issue of whether this is, in fact, a fraudulent  
4 transfer.

5 Mr. Brooks (sic), do --

6 MR. ZWEIZIG: I appreciate that.

7 THE COURT: Mr. Brooks --

8 MR. FOSTER: Yes, Your Honor.

9 THE COURT: -- kind of got me with that, that  
10 information that evidence would, if presented to a jury  
11 would be enough to get past whether there's a material  
12 issue for a fraudulent transfer.

13 MR. ZWEIZIG: And I promise you it's not all the  
14 evidence that we have, Your Honor.

15 THE COURT: And I'm not asking you to share all  
16 your cards; that's not necessary; we're just going through  
17 the claims to see if there is a material issue.

18 MR. ZWEIZIG: Understood. Thank you.

19 MR. FOSTER: Your Honor, may I jump in here and  
20 respond to that?

21 THE COURT: Please, Mr. Foster.

22 MR. FOSTER: So first of all, I think I need to  
23 state for the record as a moving party categorically object  
24 to the introduction -- attempt to introduce evidence by  
25 hearsay statements and not through admissible means as

1 summary judgment.

2           The evidence is supposed to be in the record,  
3 it's supposed to submitted in opposition of the motion, and  
4 then we have an opportunity to reply. And here we've just  
5 heard multiple representations from Mr. Albertazzi and his  
6 client tag teaming the argument and talking about evidence  
7 that may promise the judge they have and will be able to  
8 present at trial.

9           And unfortunately that is not how summary  
10 judgment is to be decided, Your Honor, so we firmly object  
11 to consideration of any representations or descriptions  
12 about the evidence, any testimony by opposing counsel, or  
13 any attempt by his client to supplement the record through  
14 his hearsay statements here today.

15           THE COURT: And let me respond -- let me ask.  
16 Were those items, that you just referenced, are those  
17 things that are in your declaration, or are those things  
18 that have already been submitted in the record as an  
19 exhibit?

20           MR. ZWEIZIG: Without looking, Your Honor, I'm  
21 not aware of that. Maybe my attorney can answer that, I  
22 don't know. But they are both public records. The deed of  
23 trust is public record and the other document -- or -- or  
24 yeah, deed of trust is public record and the other document  
25 that I mentioned to you is public record. The Rotes would



1 certainly be aware of these documents.

2 THE COURT: But have they been submitted in this  
3 case by either side, as an exhibit, or referenced, or  
4 shared in discovery?

5 MR. ZWEIZIG: I believe they were shared in  
6 discovery.

7 MR. FOSTER: I'm not sure of that, Your Honor.

8 THE COURT: Mr. Albertazzi --

9 UNIDENTIFIED SPEAKER: Right now, that I see it,  
10 I'm not sure.

11 MR. ALBERTAZZI: I'm looking right now, Your  
12 Honor. This was the previous motion, previous two motions  
13 were handled by someone else, and I'm look for -- at some  
14 point there's -- the trust deed, the actual trust deed  
15 itself, with those provisions in it was filed with the  
16 Court. And that's what makes it difficult is that -- I'm  
17 sorry. Okay.

18 I see here that there is a trust deed referred to  
19 in -- I'm looking at a doc -- at a document here -- or in  
20 our response, excuse me -- a response in opposition to  
21 Defendant's motion for summary judgment, which we filed on  
22 February 12th.

23 THE COURT: And it references the -- both of the  
24 documents that your client just --

25 MR. ALBERTAZZI: And I --

1 THE COURT: -- spoke about?

2 MR. ALBERTAZZI: I want to point to this, just so  
3 I -- make sure I'm very clear.

4 Let's see here.

5 The quitclaim deed -- okay, that's the Basauri  
6 declaration. Northwest assumed the mortgage, but did pay  
7 monetary consideration for it. Okay.

8 I don't see that the --

9 Well, let's see here.

10 I don't see that the trust -- oh excuse me.

11 The Basauri declaration, Exhibit E -- and I'm  
12 going to look at that. And I believe it's on there, but  
13 before I say that I want to make sure I see it.

14 (Pause)

15 THE COURT: Ma'am, I wish there was a way that I  
16 could click on -- like when it references the Basauri  
17 declaration, I could click on the declaration and pull it  
18 up.

19 UNIDENTIFIED SPEAKER: Yep.

20 UNIDENTIFIED SPEAKER: I came from litigation in  
21 California where the attorneys hyperlinked -- they put  
22 hyperlinks in their briefs and I -- I foresee a day when  
23 that will be the standard, Your Honor.

24 THE COURT: Well actually we can do that in DR  
25 cases; it's really nice; their exhibits we can just click

1 on it and it pulls up the exhibit.

2 UNIDENTIFIED SPEAKER: Your Honor, while I --  
3 I'll be happy to --

4 MR. ALBERTAZZI: I think I've --

5 UNIDENTIFIED SPEAKER: If it helps, the deed of  
6 trust is mentioned in Timothy's affidavit and Mr. Rote's  
7 affidavit. So the deed of trust is mentioned there.

8 THE COURT: Okay.

9 MR. FOSTER: And Your Honor, can I just speak to  
10 the substance of these argument as well? I'm -- I presume  
11 they could potentially correct any omission in the record  
12 if Your Honor would allow it. And I'm going to try to  
13 explain why these items of evidence are legally  
14 (indiscernible).

15 THE COURT: Okay.

16 MR. FOSTER: Okay?

17 The first one is this trust deed that allegedly  
18 limits what can be done with the property and how it can be  
19 used. And the argument for that somehow is evidence that  
20 the 2012 transfer is (indiscernible) I don't believe to be  
21 (indiscernible) any genuine dispute.

22 But the 2012 transfer contract was somehow in bad  
23 faith. I don't really see the connection, Your Honor, the  
24 bad faith, the -- the good faith standard, which is only  
25 relevant to one of the four different types of fraudulent

1 transfer claims authorized by statute, is set up in  
2 opposition to actual intent to hinder the (indiscernible)  
3 creditors.

4           So good faith can only be understood in  
5 opposition -- in -- in contravention of that. And so why  
6 would it be somehow intended to defraud creditors, such as  
7 Mr. Zweizig, who was no -- was not a creditor until 2018,  
8 to transfer the property to NWH, subject to a mortgage, and  
9 the mortgage has the limitations on the use of the  
10 property.

11           That mortgage, I believe, the trustees will also  
12 confirm, there were no intended third-party beneficiaries.  
13 It's not enforceable by Mr. Zweizig. He has no standing to  
14 enforce it. He has no standing to complain if the mortgage  
15 company allowed it to be used as a VRBO, even if that could  
16 have been a default. Parties to contracts do that all the  
17 time. They don't enforce all their rights, and there's  
18 what's known as an efficient breach. It's when a party  
19 breaches a contract, but it doesn't cause any harm, so  
20 nobody's cares.

21           (Indiscernible) -- I don't know if this is true,  
22 Your Honor, because I haven't seen this -- this alleged  
23 trust deed, but let's just play with that. Let's just say  
24 it's true. So what? Why is that legally relevant at all  
25 to either the 2012 transfer that predated the claim by Mr.

1 Zweizig by over three years was actually intended to hinder  
2 or defraud a creditor.

3           If NWH was assuming the mortgage, and in fact it  
4 was paid in full, and there's no dispute that it was --  
5 that it was ever -- that that mortgage company ever took  
6 any loss on this, how are the terms of that mortgage  
7 relevant to the intent behind the 2012 contract?

8           And you know, this is -- also addresses the point  
9 we briefly touched on earlier about what is the date of the  
10 transfer. If we gave the transfer to the date of the  
11 recording, and I appreciate Your Honor's attempt to create  
12 a precise timeline.

13           Now, interestingly, if the judgment had been  
14 entered, (indiscernible) Mr. Zweizig, before the quitclaim  
15 was recorded, I don't think we would be here today.

16           There might be an interesting case about whether  
17 NWH was a good faith transferee for value that  
18 (indiscernible) was a bona fide purchaser and held priority  
19 over the quit -- over the judgment.

20           But in fact that didn't happen. What we saw was  
21 that the transfer was documented in 2012 by contract; it  
22 was not recorded. But we're assessing the reasonably  
23 equivalent value exchange and it was to be at the time of  
24 the transfer. So that value was documented in the 2012  
25 contract in the form of capital account credit, and we're

1 accepting the good faith or intent, actual intent, to  
2 hinder and defraud a creditor as of the time of the  
3 transfer, the 2012 contract.

4           And both predate even the claim by Mr. Zweizig  
5 let alone the jury verdict or the judgment. So I really  
6 question whether the trust deed has any relevance. I  
7 question whether these arguments raised -- you know, we've  
8 been in this case for several years. When we entered  
9 discovery, we have a summary judgment motion, and we have a  
10 Plaintiff who is saying that they have evidence that  
11 apparently, they didn't put in the record.

12           But you know, the question is not whether they  
13 could provide evidence at trial, it is their burden --

14           THE COURT: Uh-huh.

15           MR. FOSTER: -- to show a genuine issue -- I see  
16 Your Honor nodding. I won't -- I won't repeat this too  
17 much.

18           Can I just make my final comments? Just a few  
19 more final comments to kind of wrap this up, if I -- if it  
20 please the Court?

21           THE COURT: Well, can I ask you --

22           MR. FOSTER: So first of all --

23           THE COURT: Can I ask you one question, Mr.  
24 Foster? I would like you to address --

25           MR. FOSTER: Yes.

1 THE COURT: -- the issue that they would present  
2 evidence that Mr. Rote, after the transfer, tried to either  
3 get a loan on the mortgage or in some way get money off of  
4 that property that was already allegedly transferred.

5 Would that not show, was this really transferred?  
6 Wouldn't that go to the question of whether there was a  
7 material issue of fact on whether this transfer was  
8 legitimate or not, despite there being a contract? If  
9 there's evidence that, after this valid contract no one's  
10 disputed, that Mr. Rote, not Ms. Rote or the entity, tried  
11 to take a mortgage out.

12 Would that not show that there really wasn't a  
13 transfer? Maybe a transfer --

14 MR. FOSTER: Well, I believe you're -- you're  
15 assuming for the purpose of this hypothetical that --

16 THE COURT: Uh-huh.

17 MR. FOSTER: -- Mr. Rote tried to get a  
18 mortgage --

19 THE COURT: Yep.

20 MR. FOSTER: -- and he didn't. But if he tried  
21 and he didn't get it, then I would say what relevance is  
22 that? Anybody can try to get mortgage and not get it on  
23 any property.

24 But, you know, let's just -- let's imagine he  
25 did. Let's imagine Mr. Rote took out a mortgage in his

1 name. Under the 2012 contract, so that he would quitclaim  
2 the property in the future, but it said that NWH was taking  
3 the property subject to liability.

4 So it'd be perfectly consistent with that  
5 contract for Mr. Rote to take out a mortgage on the  
6 property and then have that -- that loan assumed by NWH.  
7 And that could be done without prejudice to any creditor  
8 because Mr. Rote would be personally guaranteeing the  
9 mortgage of a property owned by NWH.

10 And yet, you know this is a heck of a  
11 hypothetical, Your Honor, because I don't have the alleged  
12 document, I can't assess it, we haven't had the opportunity  
13 to reply to it.

14 So you know, if you're -- I mean, I've had  
15 proceedings that had to be extended, and it ended up a good  
16 thing because the parties actually got summary judgment and  
17 the judge was willing to work a little further and make  
18 sure that they knew what the status of the case was and  
19 what the issues were that needed to be presented at trial.

20 So, you know, we could do that here. You know,  
21 we could have a surresponse and a surreply, but I  
22 absolutely need to have an opportunity to reply to any  
23 specific evidence and not just operate on a hypothetical.  
24 It's one thing to say, you know, assume one simple fact,  
25 but we're talking about a whole fact pattern here.



1           So I just respectfully suggest that that might be  
2 grounds to extend the proceedings and not grounds to deny  
3 the motion today, Your Honor.

4           THE COURT: Got you.

5           MR. FOSTER: Well, and -- and you know, and I  
6 guess I ought to -- I ought to make sure you understand I'm  
7 not waiving the argument that it's their burden --

8           THE COURT: I --

9           MR. FOSTER: -- we shifted it to them. We're  
10 here today to decide this and they should have done that.  
11 And in fact, I would object to any request for further  
12 briefing on this, but I -- I understand that the Court  
13 could overrule the objection.

14           No, just a couple of final comments.

15           I would like to draw the Court's attention to a  
16 document that is new evidence in the record that was  
17 adduced in discovery --

18           THE COURT: Okay.

19           MR. FOSTER: -- that Plaintiffs had a full  
20 opportunity to (indiscernible) whatever witnesses he wanted  
21 about it, and I don't think we need this, Your Honor,  
22 because I think the contract is clear and it's a legally  
23 scrutable document.

24           But you know, an opposing party has some right to  
25 reasonable inferences in their favor --

1 THE COURT: Uh-huh.

2 MR. FOSTER: -- and it's the -- I think it's the  
3 art of summary judgment to decide -- where a judge decides  
4 what's reasonable and what's just speculation.

5 THE COURT: Right.

6 MR. FOSTER: Or what is an immaterial dispute of  
7 facts.

8 THE COURT: Right.

9 MR. FOSTER: And you know, I contend that that  
10 2012 contract, if it's authentic, and it says what it says,  
11 which is -- we've proven -- then let's -- let's -- you can  
12 stop there.

13 But if you look at Exhibit 4 to the declaration  
14 of Tim Rote and -- and I believe you'd probably have that  
15 open, we referred to it earlier, this is the 50th page out  
16 of 276, and this is a 2012 tax return for Northwest Holding  
17 Company. This return shows the unreasonableness of  
18 speculating about whether the transfer happened. It  
19 absolutely corroborates the transfer.

20 THE COURT: In what way?

21 MR. FOSTER: I don't need we need it, but --  
22 What's that, Your Honor?

23 THE COURT: In what way?

24 MR. FOSTER: Does Your Honor have it open?

25 THE COURT: I'm still trying to --

1 Sam (phonetic), can you help me hold that --

2 (Court and clerk confer)

3 MR. FOSTER: Your Honor, it's on the bottom  
4 right; it's marked Exhibit 4, page 8, and at the top it  
5 says, "Depreciation and amortization."

6 (Court and clerk confer)

7 THE COURT: All right, I'm there.

8 MR. FOSTER: Okay. So Your Honor, this -- this  
9 document; again this a piece of subjective (indiscernible).  
10 It's authenticity has not been put in dispute.

11 THE COURT: Okay.

12 MR. FOSTER: It's from 2012, and yeah, Mr. Rote  
13 has authenticated it in his declaration, and what it shows  
14 at the top left, name shown on return Northwest Holding  
15 Company, LLC.

16 THE COURT: Yep.

17 MR. FOSTER: Below that is says 8825 Sunriver.  
18 There's no dispute that there was only one Sunriver  
19 property owned by -- yeah, involved in the case, or owned  
20 by anybody here. Okay. So --

21 THE COURT: Okay.

22 MR. FOSTER: -- this is the property in question  
23 and what's really important here, because if you look down  
24 at the schedule at the bottom under Section B, the title  
25 says, "Assets placed in service during 2012 tax year."

1 THE COURT: Yep.

2 MR. FOSTER: Using the general depreciation  
3 system, you see residential rental property, Row H, month  
4 and year placed in service 10/12 --

5 THE COURT: Uh-huh.

6 MR. FOSTER: -- okay, October 2012 corresponding  
7 to the October date of the asset contribution agreement.  
8 To the right of that, (indiscernible) depreciation is  
9 425,000. This shows that the 2012 counter was not a  
10 fabrication, unless Mr. Rote had a crystal ball and could  
11 foresee all that he would do in the future to deceive his  
12 creditors by setting it up in a 2012 tax return. I mean,  
13 you have to be conspiracy theorists to reach that  
14 conclusion.

15 It is, Your Honor, not a reasonable inference  
16 that can be drawn against (indiscernible) summary judgment  
17 proceeding in the absence of any specific evidence that  
18 support it.

19 Now, just a couple of last comments, Your Honor.

20 Again, I think we need to look briefly at the  
21 2018 deed from Northwest Holding's (indiscernible).

22 THE COURT: What page is that on?

23 MR. FOSTER: Oh, well actually I don't -- I'm  
24 sorry, I don't have it referenced here, Your Honor. There  
25 was a 2018 deed. It -- what we really -- what I really

1 want to talk about is the statute.

2 So when we when over the statute, you saw that  
3 every single one, we read four different sections, about  
4 what constitutes a fraudulent transfer.

5 THE COURT: Right.

6 MR. FOSTER: Every single one requires a transfer  
7 to be from a debtor. Now, what do you do if you bring in a  
8 claim for fraudulent transfer and there have been  
9 downstream transfers between non-debtors? Well, one of the  
10 remedies alleged in the complaint is a lien that will  
11 follow that property.

12 THE COURT: Uh-huh.

13 MR. FOSTER: So if the transfer was fraudulent in  
14 2012, or that didn't happen and the transfer in 2017 was  
15 for less than equivalent value, then maybe there's a right  
16 to a lien on the property as a form of remedy. And then  
17 the subsequent owner shall be necessary parties, because  
18 they're subject to the lien.

19 THE COURT: Uh-huh.

20 MR. FOSTER: That's all. That's the only way you  
21 can get the 2018 transfer into this case. That transfer  
22 cannot be a fraudulent transfer because NWH has never been  
23 a debtor of Mr. Zweizig, and neither has Tanya, by the way,  
24 but it's only the transfer or debtor status that allows a  
25 transfer to be deemed invalidated as a fraudulent transfer.

1           This is -- that is not -- that is a pure matter  
2 of law, Your Honor, it is a pure question of law, it is  
3 painfully apparent on the face of the statute. So this is  
4 why I didn't argue this first. Okay. Because if there is  
5 to be a lien as one of the remedies for a legitimate  
6 fraudulent transfer claim arising from the 2012 contract,  
7 then the downstream owners could be subject to the that  
8 remedy.

9           But their transfers are not fraudulent transfers  
10 as a matter of law and undisputed fact because there is no  
11 evidence that NWH has ever been a debtor of Mr. Zweizig.

12           So to summarize, Your Honor, in 2012 Tim Rote  
13 bought the property. Then he transferred all of his right,  
14 title, and interest by written contract to NWH in exchange  
15 for a right to have his capital account in that company  
16 credited for the amount of equity he has in the property.

17           That transfer was for reasonably equivalent  
18 value.

19           It was also in good faith, because it predated  
20 the 2015 claim of Zweizig. Now, there's -- just as an  
21 aside, there's been some argument that litigation among the  
22 parties predated that claim. That's not really accurate,  
23 Your Honor, as stated in Mr. Zweizig's response, there was  
24 litigation by Mr. Zweizig against some other, one of our  
25 other companies, that he alleges were owned by Mr. Rote.

1           But I -- I'm telling Your Honor, that is not --  
2 that is not a claim against Mr. Rote, and he was -- he  
3 bought this property in his personal capacity, there's no  
4 evidence that any party or business entity that was  
5 involved a prior litigation by Zweizig, had any interest in  
6 this property. Okay.

7           So it's really irrelevant that there may have  
8 been prior litigation involving one of Mr. Rote's companies  
9 and Mr. Zweizig.

10           But, yeah, the good faith is apparent by the  
11 timing of the 2012 transfer and the lack of any claim by  
12 Mr. Zweizig against Mr. Rote at that time, and it's  
13 apparent by the fact that NWH assumed the liability and  
14 assumed the mortgage. It's apparent by the fact that that  
15 mortgage, and all the debts of the property were, in fact,  
16 paid in 2018 when the property was transferred out of NWH  
17 to Tanya. There's no dispute about any of that.

18           And so there's no evidence that the 2012 contract  
19 was for anything less than reasonably equivalent value, and  
20 that it was not in good faith. As a matter of law and  
21 undisputed facts, none of the Available Transfer Act claim  
22 can apply to the 2012 asset (indiscernible) agreement,  
23 which was not a fraudulent transfer.

24           Meanwhile the 2017 quitclaim was a transfer of no  
25 value and it was actually performance of an obligation Tim

1 Rote already contracted to assume; again, shown clearly in  
2 the 2012 contract that said he would quitclaim the property  
3 after three years if NWH had not already taken record title  
4 to it.

5 And the 2017 quitclaim was also in good faith  
6 because of that contract provision. The intent of the  
7 parties has to be determined as of the 2012 contract.

8 Finally, the 2018 deed for Northwest Holding to  
9 Tanya could not have been a fraudulent transfer because  
10 there was no debtor -- a debtor was not the transferer of  
11 that deed.

12 I rest my (indiscernible), Your Honor.

13 THE COURT: Okay.

14 Mr. Albertazzi, your response. I'm looking at --

15 MR. ALBERTAZZI: Okay, so --

16 THE COURT: -- apparently the new piece of  
17 evidence that wasn't presented at the argument, the summary  
18 judgment argument before my colleague, is this 2012 tax  
19 return for Northwest Holding LLC.

20 MR. ALBERTAZZI: Well, I -- under that -- that  
21 document is from Mr. Rote. It was not produced in the  
22 prior summary judgment hearings and he's now producing --  
23 he's producing it now.

24 I don't think it makes any difference because we  
25 just have to look at the facts as they are to see whether a



1 jury could draw rea -- a reasonable inference.

2 THE COURT: And I'm with you, but so far --

3 MR. ALBERTAZZI: Okay.

4 THE COURT: -- I'm trying to understand how this  
5 doesn't support the contract.

6 MR. ALBERTAZZI: The tax return itself --

7 THE COURT: Correct.

8 MR. ALBERTAZZI: -- I -- I mean, I guess it would  
9 support that a contract was sign -- I don't what it would  
10 support or not. I mean, it just supports that that's what  
11 he filed on his taxes.

12 THE COURT: Okay. But it backs up -- it has --  
13 it lists the property; it list that it's shown that it's  
14 held by Northwest Holding.

15 Are you saying that -- like this wasn't filed in  
16 2012, this isn't a legitimate return for Northwest Holding?  
17 Because that would be the only way that this doesn't  
18 completely back up and support the 2012 contract, which  
19 knocks out any issue of fraud, unless like Mr. Foster was  
20 arguing, he would -- Mr. Rote would really have to think  
21 far in the future and think like, hey if I'm ever sued, and  
22 there is a judgment that comes up against me, I'd better,  
23 in 2012 transfer this property now to ward off any  
24 potential judgment in five years.

25 MR. ALBERTAZZI: Well, and I -- I appreciate

1 that, but I think that the evidence -- I do agree that  
2 the -- that that return would support that, you know, that  
3 agreement, or that that agreement really happened.

4 But as stated in the prior summary judgment  
5 motion, and where we presented my prior counsel, Taryn  
6 Basauri, objected to that and provided evidence in her  
7 declaration, she's saying that -- she talks about the  
8 judgment in November '18. We now know that -- that the  
9 jury rendered its verdict in January of '18.

10 THE COURT: Right.

11 MR. ALBERTAZZI: Debtor quitclaimed his interest  
12 in the property in April of '17. We learned -- she says,  
13 my office learned that the property was quitclaimed to a  
14 wholly-owned -- to a company wholly owned by the debtor at  
15 the time of the transfer. So when that '17 transfer  
16 happened, it was to a company wholly owned by Mr. Rote.

17 She says, my office further learned that the  
18 judgment debtor added his wife Tanya Rote as an owner of  
19 the company -- owner of the company holding the property.  
20 So the wife was then added. We then learned that after the  
21 jury rendered a verdict and before judgment was entered,  
22 the company transferred property to the judgment debtor's  
23 wife via deed that recited zero of monetary consideration.

24 THE COURT: Right.

25 MR. ALBERTAZZI: And so that -- that's

1 essentially what we have.

2 THE COURT: And now -- and that's what I  
3 understood. But now we have evidence that that's not true.  
4 It wasn't after the jury rendered a verdict and that it was  
5 transferred five, six years prior to the judgment. And so  
6 while it appeared prior to discovery that those things were  
7 true. That it's questionable. It was transferred after  
8 the -- your client received his judgment. We now have a  
9 tax return that supports a contract that was -- that's  
10 valid on its face because I don't have any evidence that  
11 it's not. That it was signed way back in 2012.

12 So the things in her declaration are no longer  
13 true.

14 MR. ALBERTAZZI: Well, they're talking about --

15 THE COURT: Those were the suspicions before  
16 discovery.

17 MR. ALBERTAZZI: Well, you're talking about --  
18 well, the -- the fact is that when Mr. Zweizig was in  
19 federal court arguing his case, that property was not  
20 titled the way it is now. That that changed. And what was  
21 in the public record is really what matters. And that's  
22 why the statute says that's when the transfer occurs. And  
23 a transfer can happen. Maybe they transferred it in 2012  
24 but then to perfect that transfer, well, you have to record  
25 the deed. And the statute talks about any mode of a

1 transfer. And --and recording of a quitclaim deed  
2 certainly finalizes it. And so that's the date I'm looking  
3 at.

4 THE COURT: The day that it was recorded.

5 MR. ALBERTAZZI: Yes. Because any -- I mean,  
6 so -- so that's what we're looking at and the -- if you're  
7 talking about a -- a husband and wife and a solely owned  
8 company here. That the jury could say, well, you know,  
9 that maybe he had more control over this than -- than he's  
10 saying. And that's the point of it. That any disposition  
11 of an asset by any mode is -- is a transfer.

12 So that's really what this case is about and --  
13 and I think that's the way -- why it was decided the way it  
14 was before. And clearly the statute of limitations doesn't  
15 apply. So that -- that's really what we're saying and  
16 it's -- it's a matter of intent that -- that that  
17 particular deed being recorded.

18 Okay so if we didn't have this lawsuit and we  
19 didn't have this judgment, well, then why record that deed.  
20 And the answer is, well, I forgot to record it. It slipped  
21 -- it slipped by me. Well, that -- that's a thing for the  
22 jury to decide.

23 THE COURT: Well, I appreciate the arguments from  
24 all. I am all about making sure that people have access to  
25 justice and that everyone has their day in court. And

1 courts are here for disputes to be resolved if they can't  
2 be resolved outside of court.

3 I also have to follow my oath as a gatekeeper and  
4 with the issue of summary judgment, I really can't rely  
5 upon the record that was made before my colleague. I have  
6 to rely upon the record that is made before me. This  
7 record is the one that a Court of Appeals would look at and  
8 say what was Judge Watkins thinking. Why did she make the  
9 decision that she made? What was the reasoning behind her  
10 decision? What were the arguments that were presented to  
11 her? What law was she following?

12 And they're certainly not going to listen to this  
13 transcript and then go and listen to the transcript before  
14 Judge Van Dyk to decide whether I was appropriate or not in  
15 my decision. So the problem -- and I understand the  
16 limitation that you have, Mr. Albertazzi is that you  
17 weren't the lawyer in -- and actually, neither was Mr.  
18 Brooks (sic). Neither of you were the lawyers that argued  
19 the original summary judgment so you're both stepping in  
20 like I, new, to this argument.

21 The record that I have before me is whether there  
22 is a material issue of fact and the burden unfortunately is  
23 yours, Mr. Zweizig. It's not the burden of Mr. Rote. He's  
24 the one that brought the -- the summary judgment motion as  
25 he has every right to under the statute. But it's based on

1 the record that's before me and it's viewed in a manner  
2 most favorable to the adverse party. And if I'm --

3 THE PLAINTIFF: I understand that.

4 THE COURT: And --

5 MR. FOSTER: I'm sorry.

6 THE COURT: And so that's the problem that I'm  
7 having. The adverse party has the burden of producing  
8 evidence on any issue that it raises to show that you all  
9 would have the burden at trial. They don't have the burden  
10 at trial. You have the burden at trial to prove your  
11 claims.

12 MR. FOSTER: And I believe we can satisfy that,  
13 Your Honor. NWH could not have owned the property as a  
14 term of their contract and I have a document right in front  
15 of me that says, you know, the -- the lis pendens that was  
16 used by opposing counsel to try and force a settlement. A  
17 lis pendens interfered with my ability to borrow money for  
18 counsel.

19 This a document from Mr. Rote, you know, saying  
20 that the lis pendens interfered with his ability to borrow  
21 money. The lis pendens was only on that Sunriver property  
22 which he is claiming is not in his control. There are  
23 plenty issues of fact here, Your Honor.

24 THE COURT: But the issue -- the material issue  
25 is whether the transfer was fraudulent. That's the

1 material issue that we're all agreeing to, correct? Not --

2 THE PLAINTIFF: I understand that.

3 THE COURT: -- other action.

4 THE PLAINTIFF: But he was a debtor. He was a  
5 debtor to me for a very long time. I mean, since somewhere  
6 in 2012 or before. I'm not sure I would have to look it up  
7 but. And he was also very aware that the litigation  
8 against him was asking for an awful lot of money and he was  
9 probably in a pretty bad position as proven by how that  
10 litigation turned out. It was the highest award in -- in  
11 Oregon history to that time.

12 THE COURT: But what evidence do I have that this  
13 is a fraudulent transfer? The evidence that I've gotten  
14 this morning that we can all agree that the only thing I've  
15 seen is that there is a valid contract from 2012. There's  
16 a tax return also from 2012 that no one has disputed in  
17 terms of when it was actually filed. No one is telling me  
18 that, yes, it says 2012 but it was filed much, much later.  
19 After the 2018 judgment.

20 So I have a tax return that supports a October  
21 2012 transfer. I have a 2012 transfer which talks about  
22 doing a quitclaim deed within three years. All of this is  
23 done long before your judgment. I don't have anything on  
24 the record, guys. I -- everything that you have said, Mr.  
25 Zweizig would have been extremely helpful to show there was

1 a fraudulent transfer.

2           And it is your burden in a summary judgment to  
3 say, Judge, we -- here is the evidence that we would have  
4 at a trial that we would present to a jury which would  
5 present a question of fact. And I started this morning  
6 thinking that there were said documents and now I'm left  
7 with I don't have any other documents. All I have is a  
8 valid 2012 contract. I don't have any evidence that  
9 contract is a fraud, authenticated, signed after the date  
10 in question. Was made up in response to the summary  
11 judgment motion.

12           I have a tax return that supports that 2012  
13 contract. No evidence that it was subsequently filed after  
14 a judgment. That I have evidence that it was maybe shared  
15 in discovery after the fact but I don't have any evidence  
16 that it's not authentic and it wasn't actually filed. It's  
17 certainly something that could've been verified, you know,  
18 with the IRS. It's a tax filing.

19           And so I'm left with really no proof that it was  
20 a fraudulent. I mean, I have your lawyer telling me,  
21 Judge, a jury could speculate and look at the timing and be  
22 suspicious. That's true. But that's -- that doesn't  
23 create a material issue of fact. Suspicion and speculation  
24 and what they might think about evidence that you'll  
25 possibly present, that doesn't get me past the summary



1 judgment.

2           What should have been filed in response to the  
3 summary judgment motion is all of the evidence that you're  
4 telling me now that you have that would show -- that would  
5 support fraudulent transfer. It doesn't require that you  
6 tip your hand and tell me everything. It just requires  
7 some issue of material fact and I don't have that on this  
8 record.

9           I don't --

10           THE PLAINTIFF: Well, I think -- I think I've  
11 presented that to you, Your Honor. And, you know,  
12 unfortunately, my journey here to try and access the Court  
13 correctly has been greatly hindered by Mr. Rotes' actions  
14 against me, against my attorney. I had to get my attorney  
15 in here up to speed as quick as possible.

16           And what I would ask is that, you know, those  
17 actions not be rewarded by denying me my day in court. You  
18 said to me here today that, you know, I said some things to  
19 you and I've shown you some things even that, you know,  
20 would create, you know, materials of fact.

21           THE COURT: If they had been filed, correct.

22           THE PLAINTIFF: There are --

23           THE COURT: I -- I'm agreeing with you.

24           THE PLAINTIFF: I understand.

25           THE COURT: But they weren't. And they

1 weren't -- they're not before me. I don't have the  
2 documents that you referenced. You and your lawyer looked  
3 for those to see if those were filed. They were not.  
4 Unfortunately --

5 THE PLAINTIFF: I --

6 THE COURT: -- it requires -- the law requires  
7 that you support any claim that you file and there are  
8 certain ways that you have to do that. And I am so sorry,  
9 that this --

10 THE PLAINTIFF: Oh, I fully understand.

11 THE COURT: -- results in you --

12 THE PLAINTIFF: But these particular documents,  
13 the two that I think are very strong to -- to show what  
14 we're trying to show are documents that are both authored  
15 and signed and in public record by Mr. Rote. These are  
16 things publicly accessible.

17 THE COURT: And okay.

18 THE PLAINTIFF: So I think even if we were to go  
19 to trial, we would be able to bring those in even if we  
20 had -- had never produced them.

21 THE COURT: And let's say that we do.

22 THE PLAINTIFF: Of course we would do it in the  
23 counsel. What's that?

24 THE COURT: Let's say that we do. Let's say that  
25 we bring in the document that says under the mortgage

1 agreement it says you can't have a VRO. Let's say we have  
2 that one. And then the other that I -- I think you talked  
3 about was Mr. Rote trying to take out a mortgage on the  
4 property that he transferred in 2012. That's the other  
5 document that we're talking about, Mr. Zweizig?

6 Okay. So let's say --

7 THE PLAINTIFF: Yeah.

8 THE COURT: Let's say that we have those two.  
9 How does that get us around the fact that we have a 2012  
10 signed, authenticated transfer contract as well as a tax  
11 return? Now contract, one thing. But now we have a tax  
12 return also from 2012 that completely 100 percent supports  
13 the contract and shows that contract is, in fact, valid.  
14 Was made in October of 2012. Lists the very property that  
15 we are talking about. It validates that contract 100  
16 percent.

17 THE PLAINTIFF: I understand that.

18 THE COURT: How do we get around that?

19 THE PLAINTIFF: Well, I -- unfortunately, I have  
20 seen many different tax returns within these cases. Mr.  
21 Rote is a CPA and I fully agree with anyone that would say  
22 it would be our extreme burden to try and prove that they  
23 weren't what they appeared to be.

24 THE COURT: Yep.

25 THE PLAINTIFF: I assure you we would try to do

1 that.

2 THE COURT: But we don't have that. If you had  
3 that today then we would be in good shape. But all I have  
4 now is supposition and I can't let supposition go to a  
5 jury. There has to be a material issue of fact. And while  
6 I -- I appreciate that you know much more about this case  
7 and that you and Mr. Rote have a history and the two of you  
8 don't really care for each other and there's a long history  
9 of litigation, that's not really what I have to consider.

10 And I'm not trying to be dismissive of your  
11 feelings or what you believe in terms of whether. But you  
12 haven't provided -- basically, what you and your lawyer are  
13 telling me is, Judge, we don't -- we can't really prove  
14 that the contract's not valid. I can't really prove that  
15 the tax return isn't valid. Mr. Rote's timing and when he  
16 provided it was after the first summary judgment which is  
17 what he argues, which is new evidence and that would be  
18 correct. It would be new evidence.

19 But we can't really trust him, Judge. We know so  
20 many things about him. He's a CPA. I've seen lots of tax  
21 returns. Well, if you had a tax return that contradicts  
22 this tax return, that would be evidence that would show a  
23 material. But you haven't presented that. You're both  
24 just telling me trust me, Judge, we'll be able to throw a  
25 bunch of things at the jury and make them suspicious and

1 question the timing and wonder, hmm, why would he transfer  
2 this property.

3           But even the timing isn't suspicious based on the  
4 timeline that you all have presented to me this morning. I  
5 understand that the complaint was filed in '15. The  
6 transfer was recorded in April of '17. Your verdict wasn't  
7 until January of '18. And so even the timing isn't  
8 suspicious. The timing doesn't -- the jury -- it's not a  
9 material issue that even the timing doesn't create a  
10 material issue I guess is what I'm trying to say.

11           Had the transfer occurred after or even within a  
12 month or two months of when you received your jury verdict,  
13 I would completely agree with you. We would -- it would  
14 not be an issue. It would be pretty darn obvious and  
15 pretty suspicious. And yes, it would be a material issue.  
16 But based on the record that you all have presented to me  
17 today, there -- I don't see it. I'm so sorry.

18           THE PLAINTIFF: Okay. If -- if I could ask, Your  
19 Honor, I -- I am sorry that I monopolized the floor. I  
20 don't know if my attorney had anything left to say. If --  
21 if you could just give him the opportunity, I would  
22 appreciate that and I'm sorry that I busted in here.

23           THE COURT: No, it -- it's fine. You don't have  
24 to apologize. You are a party to the case and you are well  
25 within your rights to talk. In terms of being able to give

1 your attorney more time, that's not something that I'm able  
2 to do. Today was the day for dispositive motions. We  
3 created this timeline, guys, way back when we met and we  
4 talked about the date that things would happen. So today  
5 is the day that all parties were expected to bring their  
6 evidence, to file their motions, to make their arguments.  
7 And for me to decide --

8 THE PLAINTIFF: I'm sorry, I didn't -- I did not  
9 mean -- I'm very sorry. I did not -- I did not mean in the  
10 future. I -- I meant today.

11 THE COURT: Oh, okay. Yeah, certainly.

12 THE PLAINTIFF: Mr. Foster has spoken and then I  
13 spoke. I didn't know if Mr. Albertazzi had anything more  
14 to bring.

15 THE COURT: Oh, I understand what you're saying.  
16 Okay. Yeah, Mr. Albertazzi, is --

17 THE PLAINTIFF: Sorry.

18 THE COURT: No, I get it. Is there anything else  
19 that you wanted to say based on the evidence before me?  
20 That's kind of where I'm at right now?

21 MR. ALBERTAZZI: All right. I just wanted -- I'm  
22 not going to belabor this. I wanted to make a couple  
23 things clear just for the record. That the tax return  
24 argument was made at the motion for summary judgment based  
25 on new evidence and I -- I think I argued that but I just

1 wanted to make that clear. And that that motion was  
2 denied.

3 I made the point that when someone makes a motion  
4 for summary judgment, they're supposed to include all  
5 affidavits or all supporting materials. And that should --  
6 that was -- that should've been done in the prior motion.  
7 With regards to timing, I just wanted to clarify that the  
8 transfer to Tanya Rote occurred after the jury verdict and  
9 prior to the entry of the judgment. So those are the --  
10 just the points I wanted to emphasize that I think are in  
11 the record and other than that, I don't have anything  
12 additional to say.

13 THE COURT: Okay. And I'm curious about that  
14 last statement to Tanya Rote. So you're saying the  
15 transfer -- the 2012 agreement, NWH transfer is not a  
16 transfer that would give Tanya Rote all of the liabilities  
17 and assets and equity?

18 MR. ALBERTAZZI: Right. I -- I just don't think  
19 that that was a complete transfer. I think that -- So that  
20 was the argument I was trying to make.

21 THE COURT: Understood. Okay.

22 Well, Mr. Zweizig, I'm very, very sorry. I'm --  
23 I really believe that people deserve their day in court.  
24 Unfortunately, you and your lawyer were not able to  
25 demonstrate that there is a material issue of fact for the

1 jury other than possibly speculating and/or, you know,  
2 being curious or suspicious about timing. You were not  
3 able to overcome the 2012 documents that were provided by  
4 Mr. Rote and argued by Mr. Brooks (sic). So the summary  
5 judgment is granted.

6 Mr. Brooks (sic), I will expect you to draft the  
7 judgment and provide it to counsel for signature and I will  
8 sign it upon receipt.

9 MR. FOSTER: Thank you, Your Honor. Understood.

10 THE COURT: Everybody stay safe and be well.

11 THE PLAINTIFF: Thanks, Your Honor.

12 (Proceedings adjourned at 11:30 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF TRANSCRIBER

I, Nicole Horton-Ellis, court-approved transcriber, certify that the foregoing is a full and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

\_\_\_\_\_  
/s/

Nicole Horton-Ellis  
Weber Reporting  
7590 East Gray Road, Ste 202  
Scottsdale, AZ 85260  
800.406.1290

Date: May 12, 2021

No. 23-35292

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

Timothy Rote,

*Defendant-Appellant,*

v.

Max Zweizig, et. al.

*Plaintiffs-Appellees*

On Appeal from the United States District Court  
for the Portland District of Oregon  
No. 3:15-cv-2401-HZ  
Hon. Marco Hernandez

---

**APPELLANT'S EXCERPT OF RECORD  
VOLUME II of III**

---

Timothy C. Rote  
Defendant-Appellant *Pro Se*  
7427 SW Coho Ct. #200  
Tualatin, Oregon 97062  
503.272.6264  
timothy.rote@gmail.com

**No. 23-35292**

**TABLE OF CONTENTS**

ECF No.	DATE	DESCRIPTION	VOL.	ER PAGE#
365	11/15/22	Exhibit 3	II	299-374
365/150	11/15/22	Exhibit 4	II	375-381
365	11/15/22	Exhibit 5	II	382-432
365	11/15/22	Exhibit 6	II	433-458
365	11/15/22	Exhibit 7	II	459-474
365	11/15/22	Exhibit 8	II	475-479
365	11/15/22	Exhibit 9	II	480-486
365	11/15/22	Exhibit 10	II	487-566
	11/15/22	Exhibit 11	III	
			III	

Rote - D

1 THE COURT: Redirect?

2 MR. CHRISTIANSEN: No, Your Honor.

3 THE COURT: You may step down.

4 THE WITNESS: Do I take these?

5 THE COURT: No. Thank you.

6 THE WITNESS: Thanks.

7 THE COURT: Call your next witness.

8 MR. CHRISTIANSEN: We rest.

9 THE COURT: Mr. Rote, you're up.

10 MR. ROTE: Up there?

11 THE COURT: Yes. If you're ready to testify, step on  
12 up, raise a hand and be sworn.

13 You're welcome to take whatever documents with you  
14 that you think you may need to help your testimony, so you  
15 don't have to kind of be going back and forth.

16

17 TIMOTHY ROTE

18 called as a witness in his own behalf, having been first duly  
19 sworn, is examined and testifies as follows:

20

21 THE CLERK: Please have a seat and state your name  
22 and spell it.

23 THE WITNESS: My name is Timothy Rote, R-o-t-e.

24 THE COURT: Mr. Rote, you don't need to ask yourself  
25 questions and then answer them. You can simply make a

Rote - D

1 statement about the evidence that you want to share with the  
2 jury.

3 MR. ROTE: Okay. Thank you, Your Honor.

4 So I wrote this blog because we had been so  
5 significantly harmed by an arbitration that went sour. The  
6 first part of being able to analyze that and to showcase that  
7 was to do a deep dive in the evidence, and I've done precisely  
8 that. And so I dove into the testimony. I dove into the  
9 forensics work. And so, for example, I'm going to start  
10 diving into some of it right now and explaining why I wrote  
11 that particular chapter.

12 With reference, however -- the chapters, even though  
13 there are 96 of them, there's only a small number -- maybe 25  
14 percent of these actually have to do with the arbitration.  
15 And so with that, I think, though, I want to jump right in and  
16 start talking about some of that evidence.

17 Do I have a --

18 THE COURT: I don't think so. I don't think you can  
19 control the video system from there.

20 MR. ROTE: How do I bring up an exhibit?

21 THE COURT: If you want to go back, you can just  
22 testify from there. You can -- I don't know how else to do  
23 it.

24 Can you bring it up for him, an exhibit for him?

25 THE CLERK: No. It's on his laptop.

Rote - D

1 THE COURT: Yeah, you're going to have to go back and  
2 testify from there. I apologize.

3 MR. ROTE: It's okay.

4 (There is a brief pause in the proceedings.)

5 MR. ROTE: So at various stages of the blog -- it's  
6 an evolutionary piece. At various stages of the blog, I  
7 changed what I was writing. But in -- in essence, the first  
8 part, the first page of the blog is called "About." And when  
9 I reference "About," I talk about the fact that -- that  
10 this -- this arbitration was an event that ended up being in  
11 front of an arbitrator who was compromised in many respects,  
12 who was losing his cognitive skills. And I address some of  
13 that and how he was exploited, in that page about the blog.

14 Page 2 is called "The Sting," and in that I reference  
15 precisely what I believe this whole con was by Mr. Zweizig and  
16 attribute it to his -- his fiancée's attorney -- his fiancée,  
17 who is also an attorney.

18 But in that, I make it very clear that the components  
19 of what I'm addressing are that there is an element of -- of  
20 belief that he made a knowingly fake complaint to the  
21 Department of Justice, that the evidence of that is  
22 substantially provided in this blog, and that he used that to  
23 hide behind his ultimate intention, which was to not provide  
24 the programs that we needed to survive.

25 He claimed, as you saw in his testimony -- we have

Rote - D

1 FoxPro programs that we needed in order to process data. And  
2 those FoxPro programs were nowhere to be found after his  
3 termination.

4 We hired forensic experts ad nauseam. We had two.  
5 He had one. We looked for the data. We evaluated and  
6 examined him during the arbitration. And the point  
7 consistently was he simply did not turn that material over,  
8 those FoxPro programs.

9 The forensic experts that dealt with those issues  
10 were specifically hired to find evidence that the forensic  
11 programs, the FoxPro programs, were put -- were on the hard  
12 drive that he returned to us on his last day of employment,  
13 which was a 60-gig hard drive.

14 In addition, he maintains we had taken a position in  
15 the arbitration that he was fired beforehand, before he even  
16 filed his complaint, and that we provided that evidence, which  
17 was my computer, and the Outlook Express e-mail account by  
18 which I sent that termination e-mail.

19 Forensic experts looked at that, and I represented in  
20 the blog what those conclusions were. I'm not going to  
21 restate them now. Even though I've written them, I think that  
22 may be beyond the scope. But the issue was that we were doing  
23 a deep dive into this various evidence that we put on in the  
24 arbitration and had been summarily dismissed by the  
25 arbitrator.

Rote - D

1           If you refer to or see the arbitrator's opinion,  
2           which I think is Plaintiff's Exhibit -- Defendant's  
3           Exhibit 505 --

4           THE COURT: Mr. Rote, until you offer an exhibit,  
5           they don't get to see it. It's not being published.

6           MR. ROTE: But if I reference a plaintiff's exhibit  
7           that's already in --

8           THE COURT: If it's already in, they get to see it  
9           and you can publish it to them. If it's not yet been  
10          received, they cannot see it. And if you don't offer it, they  
11          will not be able to consider it in closing arguments.

12          MR. ROTE: I understand.

13          THE CLERK: It's 3.

14          MR. ROTE: 3.

15          So Plaintiff's Exhibit 3 --

16          THE COURT: I think that's been received.

17          MR. CHRISTIANSEN: Yes.

18          THE COURT: You can go ahead and publish that to the  
19          jury.

20          MR. ROTE: When you evaluate and look at the  
21          arbitrator's opinion on that exhibit, you're going to see that  
22          he took a great deal of time and effort to identify why he  
23          reached certain conclusions. But in that opinion he  
24          specifically noted that the forensic evidence -- that the  
25          opinions between them conflicted; and, therefore, he was not



Rote - D

1 going to consider that evidence.

2 He therefore concluded that because Mr. Zweizig --  
3 because I had sent Mr. Zweizig an e-mail inquiring about how  
4 he was doing right before he filed a complaint, that that  
5 somehow was an indication that I hadn't fired him, in spite of  
6 the testimony of three people with the company, in spite of  
7 the forensic evidence by our experts, our two experts, and his  
8 single expert, who all concluded that he had, in fact, been  
9 fired.

10 So we get back to even if that were not the case,  
11 even if he hadn't been fired before he had filed his  
12 complaint, even if he had filed a legitimate complaint in good  
13 faith, at the end of the day, on his last day no programming  
14 could be found, and we shut down.

15 It should have ended his complaint. It should have  
16 ended his damages. You can't burn down the barn on your way  
17 out and expect that the employer doesn't cut off your damages.  
18 That's the whole point. And we incurred a substantial amount  
19 of money losses, \$100,000 in lost revenue, \$25,000 to replace  
20 the -- to replace the programming.

21 And even in Mr. Zweizig's testimony, he confirmed  
22 that he did not -- he did not transfer programs over to the  
23 employer.

24 That being the case -- that's what I've written in  
25 the blog -- there was no justification for the arbitrator to

Rote - D

1 decide that we didn't preserve evidence, because there was  
2 nothing there to preserve. When your IT programmer, head of  
3 the IT department, puts on evidence that he did not transfer  
4 programs, then very clearly there was nothing that we  
5 destroyed, nothing that should have precluded the arbitrator  
6 from finding that he was the cause of the shutdown.

7 There was no dispute by the arbitrator that -- that  
8 we had shut down. He had only decided to dismiss all of our  
9 evidence. And he had decided that -- and I think if you look  
10 at the tone of his writing in the opinion and award in this  
11 exhibit, you're going to see him poking at me and making  
12 statements that I think were out of character.

13 I want to address a couple of very specific items,  
14 the 120-gig hard drive, which I have written in this -- in  
15 this blog. And the exhibit is Exhibit 12, starting at page  
16 25.

17 The significance of what Mr. Zweizig provided to us  
18 on his last day is he gave us a computer, a Sony VAOI  
19 computer, had a 60-gig hard drive in it. And he returned to  
20 us a hard drive that he claimed had been -- that crashed in  
21 May 2003. That hard drive is the 120-gig hard drive, and it  
22 was used exclusively by him. No one else ever used it.

23 After the shutdown and we had forensic examiners take  
24 a look at this hard drive, that's where we discovered the  
25 porn, the FoxPro programs, 1,900 FoxPro programs that he did

Rote - D

1 not transfer over to us on his last day, 500,000 records,  
2 customer confidential information unencrypted in his hard  
3 drive, on his hard drive, and a reformat date on the day  
4 before he was terminated.

5 He represented to us that he had reformatted this  
6 hard drive after it had crashed to protect it. But, in fact,  
7 we did have forensic evaluation done on that. And, as I've  
8 written, he did not reformat that until the day that he  
9 returned it to us.

10 So all of that information -- his e-mail account was  
11 there for e-mails prior to about May 6th, 2003. His -- the  
12 FoxPro programming files, 1,900 of them, were there, and he  
13 destroyed those. Obviously the evidence of the porn was all  
14 there. But in addition to all of that, there was programming  
15 that we found in a file-sharing arrangement, which was  
16 peer-to-peer, which meant that he was sharing files at a site  
17 or with people directly; and while he was doing so, his  
18 computer was wide open.

19 Now, he was the IT director of the company and  
20 responsible for maintaining and protecting our data, wherever  
21 it is. And yet he was opening up his computer to upload files  
22 and download files from a number of different sources. It  
23 could have been between individuals. It could have been to a  
24 site.

25 So that was a very material component. But mostly it

Rote - D

1 was material with respect to the FoxPro programs and the  
2 existence of an e-mail; and that I discussed extensively in  
3 Chapter 7 here, "The 120-Gig Hard Drive."

4 Now, in addition -- let me get us to Chapter 11.  
5 Chapter 11 addresses what happened to M's e-mail. When he  
6 returned the computer to us with the 60-gig hard drive, he  
7 maintained in testimony that the e-mail, all of his e-mails,  
8 sent and received e-mails from May -- middle of May 2003 until  
9 November 13th, 14th, 2003, were on that hard drive in an  
10 Outlook Express account. But we found no evidence that he  
11 used that e-mail -- he used that computer for e-mail.

12 So from May 2003 to November 2003, he was sending and  
13 receiving e-mail from another hard drive altogether, which he  
14 did not turn over for forensic evaluation during the  
15 arbitration.

16 It was key, because as you may recall in the  
17 testimony, he provided to me an e-mail and -- with his  
18 Complaint, and with his Complaint had a letter attached  
19 claiming that he had received the spreadsheet of evidence of  
20 our overbilling from another employee. He never turned that  
21 e-mail over at that time, nor did he turn that e-mail over  
22 during the course of the arbitration in discovery.

23 At no time did he corroborate the existence of this  
24 spreadsheet, at no time. Nobody from our company knew  
25 anything about it, and that's what we testified to. Only

Rote - D

1 via this e-mail would he be able to corroborate the fact that  
2 that spreadsheet was ours, and he chose not to provide that  
3 e-mail.

4 Now, he provided hundreds of others in hard copy  
5 form, not that e-mail. And he didn't provide the -- the  
6 Outlook Express PST account. So a very material point. And  
7 with respect to what he decided to keep and what he decided to  
8 provide, that was key evidence.

9 My e-mail is discussed on -- what happened to my  
10 e-mail is discussed in Chapter 12. It starts on -- it starts  
11 on Chapter -- it starts on page 41 of Exhibit 12. It was our  
12 position that he had been terminated on October 2nd, 2003, via  
13 e-mail, and then a letter was sent to him.

14 Obviously he wanted to do forensic examinations of my  
15 computer, and we had two of our experts do the same. I turned  
16 over my computer with the Outlook Express PST account that had  
17 the e-mail terminating him, didn't hide it. We didn't destroy  
18 it. None of that evidence was destroyed.

19 Forensic evaluations -- the forensic experts had  
20 every opportunity to determine and refute whether or not that  
21 e-mail was sent. And they confirmed that the e-mail was sent  
22 October 2nd, 2003, three weeks before he filed his Complaint.

23 Now, even though the arbitrator didn't like the fact  
24 that that was true and eliminated his claims, to summarily  
25 dismiss his forensic expert, which agreed with our forensic

Rote - D

1 expert, just because it went against us, was a good chunk of  
2 why I wrote this entire blog.

3 Not only was it our evidence that he dismissed when  
4 our experts presented it, he also dismissed evidence contrary  
5 to Mr. Zweizig if it was his expert that actually said it.  
6 And in this case -- this is an example where the experts  
7 agreed that he had been terminated prior to the time that he  
8 had filed his Complaint.

9 And so a good chunk of putting down the evidence for  
10 what happened to the e-mail, what was the spreadsheet about,  
11 we dove in -- I dove in to what the spreadsheet represented in  
12 another element of the blog, in another chapter.

13 And the bottom line is that the spreadsheet  
14 represented about \$400 of adjustments a month in which we --  
15 we invoiced \$400,000. That's roughly claiming that -- that we  
16 were committing racketeering for going 55.05 miles per hour in  
17 a 55-mile-per-hour zone, not 55 miles per hour, not 60, but,  
18 you know, 55.05 miles per hour. That was his representation  
19 of evidence that we were racketeering.

20 We also discuss in the blog the fact that  
21 Mr. Zweizig's Albany, Oregon attorney filed a Complaint on his  
22 behalf, and that Complaint was filed without any review of  
23 evidence whatsoever. He filed that Complaint based on his  
24 conversation with Mr. Zweizig's New Jersey attorney. And  
25 after the Oregon Department of Justice requested evidence and

Rote - D

1 no evidence was provided and the investigation was shut down,  
2 he found out that Mr. Zweizig's New Jersey attorney was  
3 Mr. Zweizig's fiancée, Sandra Ware.

4 So no evidence provided to the Oregon Department of  
5 Justice, a spreadsheet that represents \$400 in adjustments in  
6 a month in which we billed \$400,000, an arbitrator who didn't  
7 disclose his relationship with Linda Marshall, his former  
8 partner.

9 I go into a great deal of detail in the early stages  
10 of this blog. We're very critical of the arbitrator. And  
11 he's a man who lives in my community. I've known him a while,  
12 not intimately, not strongly, but I've known him a while. I  
13 met with him a year ago to talk to him about the status of the  
14 blog and what I've written and to get some idea from him on  
15 what was actually going on in his mind at the time.

16 I recorded that conversation, I had a witness there,  
17 and we openly spoke about this. And the bottom line was that  
18 he didn't have what he would describe as the energy to go  
19 through the evidence. He was angry that I had challenged his  
20 efficacy, his -- his position, his credibility.

21 But what -- what you need to understand, in part, is  
22 that in order for us to challenge whether or not this  
23 arbitration could be appealed by virtue of his failure to  
24 disclose that he was a prior partner with Linda Marshall,  
25 which is considered an issue, a potential conflict -- he has a

Rote - D

1 duty to disclose that. In order for us to challenge that  
2 issue on appeal, we had to raise it with him during the  
3 arbitration. And it upset him.

4 So in spite of the fact that his cognitive skills  
5 weren't up to snuff, his temper was still strong; and he  
6 responded very strongly by coming back into the case and  
7 dismissing all of our evidence.

8 I think it would be helpful to talk a little bit  
9 about the fact that Linda Marshall came into this case, the  
10 arbitration, just about a year before we went to the hearing.  
11 And so from 2003 to 2005, we were in New Jersey. 2005, we --  
12 we started the arbitration. And we were the plaintiff seeking  
13 damages. Mr. Zweizig was the defendant. And his  
14 counterclaims were for retaliation and past compensation,  
15 et cetera.

16 That went on -- this arbitration went on a really  
17 long time. And we -- we pay the arbitrator by the hour to do  
18 this. It wasn't fair to us. It wasn't fair to Mr. Zweizig.  
19 It cost both of us money to have this arbitrator engaged, and  
20 it went on and on and on.

21 Mr. Zweizig's attorneys he replaced three times. I  
22 think Linda Marshall was the fourth attorney since starting  
23 this in Portland. We talk about that.

24 The significance of it is that Mr. Zweizig wrote a  
25 letter to the arbitrator and asked for an extension of time



Rote - D

1 and -- and a referral. And it's my belief now, based on my  
2 conversation with Mr. Crow, that he did, in fact, refer the  
3 case to Linda Marshall.

4 We were told about that time that his cognitive  
5 skills weren't up to speed by his -- his legal secretary, who  
6 told one of my attorneys, a gentleman by the name of Jeff  
7 Edelson. We took issue with that, because we probably should  
8 have strongly thought about removing him as an arbitrator at  
9 that point.

10 He's a man of -- he's an elder statesman. He's a man  
11 of, I think, great integrity. And even when I challenged the  
12 fact that he did not disclose this critical issue to us, it  
13 wasn't with the intent of trying to suggest that he was a bad  
14 person. It was an intent to get on the record that he didn't  
15 do something that he should have known, that he should have  
16 done. He should have known it. He was the chairman of this  
17 region's disciplinary board for the Oregon State Bar, and he  
18 was ascending to the chairmanship of the entire state.

19 So we have a gentleman who is an elder statesman,  
20 whose skills were not as good as they used to be. He had  
21 trouble discerning some of the truth from the fiction, some of  
22 the lies and the perjury from the truth. And we had Linda  
23 Marshall, his former partner, who came into this arbitration  
24 and did not disclose to us either about the extent of her  
25 relationship with Mr. Crow.

Rote - D

1           At some point in time -- and I cover this pretty  
2 extensively in the blog, that an attorney who wants to put on  
3 dishonest evidence does so at a significant risk. An attorney  
4 could be disbarred for that. And so the significance of that  
5 is that -- that she had a consciousness, I think, of where  
6 Mr. Crow was in terms of his skill sets, in terms of his  
7 cognitive skills. I think that she knew that she was going to  
8 run a lot of things past him. And, in fact, she introduced  
9 evidence that had to do with litigation 10 years earlier.

10           And so we did not -- and so we had to make this  
11 challenge. But at the essence of this blog is about the fact  
12 that this arbitration gets compromised.

13           Arbitrations are more difficult to appeal than a case  
14 like this. There are very limited circumstances in which an  
15 arbitration can successfully be appealed, displays of absolute  
16 bias and a few other reasons. But that is very difficult  
17 evidence to put on, even though we thought we had an extremely  
18 good case for that.

19           So we did put on that evidence. We tried to set the  
20 arbitration aside, to vacate the judgment. And we talk about  
21 the evidence that we put on in the blog.

22           Most significantly was that after his recusal, that  
23 he came in and again dismissed everything from our side,  
24 dismissed the forensics, dismissed the testimony of eight  
25 people, citing instead that -- deciding instead that

Rote - D

1 Mr. Zweizig had been retaliated against.

2 So -- so the critical nature of all of this is that  
3 I decided, after Mr. Zweizig's employer was no longer in  
4 business, that I was going to write this story.

5 We've been subjected to cybercrime three times, and  
6 the last time in 2009, went to a trial in 2014. And  
7 ultimately we just haven't been able to protect the company.  
8 So I decided to shut down the company altogether after 2014.

9 Mr. Zweizig's former employer, NDT, was dissolved in  
10 2015, February 2015. The evidence I'm going to put on that,  
11 I'm going to start putting on some of that right now.

12 If we could look to the Defendant's Exhibit -- I  
13 think it's 599.

14 THE CLERK: It hasn't been received.

15 MR. ROTE: It hasn't been received.

16 This is a document that is from -- a copy of a  
17 document from the Oregon Secretary of State showing the  
18 dissolution date for Northwest Direct Teleservices,  
19 Mr. Zweizig's employer.

20 THE COURT: Any objection to 599?

21 MR. CHRISTIANSEN: No objection, Your Honor.

22 THE COURT: It's received. You may publish it.

23 MR. ROTE: Okay.

24 So the significance of that is that I wanted to avoid  
25 circumstances precisely like we're in right now. I wanted to

Rote - D

1 talk about this case. I wanted to talk about the arbitration.  
2 I wanted to write about it. But I wanted to do it. And if  
3 Mr. Zweizig was going to challenge it, I wanted him to -- if  
4 he was going to sue for it, sue me for defamation. And then  
5 we could present the evidence, all of it, as it came into the  
6 arbitration.

7 This is not the case here, where he's choosing to now  
8 sue me as assisting a corporation or a group of corporations  
9 that are now out of business. And it's an incredibly  
10 important point in terms of -- in terms of his ability to do  
11 so.

12 His employer, Northwest Direct Teleservices, as he  
13 already testified, both when he was examined on the opinion of  
14 the arbitrator, as well as on his employment agreement, he was  
15 employed by Northwest Direct Teleservices. The opinion and  
16 order from the arbitrator was with respect to Northwest Direct  
17 Teleservices and Mr. Zweizig. No other corporations have been  
18 involved.

19 Excuse me. Did the plaintiff put on his Exhibit 25,  
20 license agreement?

21 MR. CHRISTIANSEN: No, but no objection.

22 MR. ROTE: No objection?

23 THE COURT: 25 is received.

24 MR. ROTE: Thank you, Your Honor.

25 The license agreement is a document of my doing. I

Rote - D

1 wrote -- I wanted to be able to access litigation material for  
2 each of these corporations. So Mr. Zweizig's former employer,  
3 Northwest Direct Teleservices, wasn't the only active business  
4 that we had. And each of those active businesses, at one time  
5 or another, had litigation; and they had unique litigation,  
6 and none of it applied to Mr. Zweizig. Only Northwest Direct  
7 Teleservices applied to Mr. Zweizig.

8 So we entered into an agreement with these entities,  
9 where I was going to be able to use material from litigation  
10 associated with any of these entities.

11 Now, Mr. Zweizig's litigation is associated with  
12 Northwest Direct Teleservices. The last cybercrime event we  
13 had was with Northwest Direct Marketing and Northwest Direct  
14 Teleservices both, and it included a cybercrime case that was  
15 against Silicon Valley Bank. That was the last of our events.

16 But it is material to know that these are not the  
17 same entities. They are unique entities. They have separate  
18 obligations. They have separate contracts. And only  
19 Northwest Direct Teleservices was Mr. Zweizig's employer, and  
20 they were the only party that owned the e-mail evidence and  
21 other element -- other evidence in the arbitration. So no  
22 other entity owned that evidence with respect to Mr. Zweizig.  
23 And they licensed it to me for a percentage of whatever  
24 revenue I generate from this activity.

25 In the beginning I anticipated that the blog could be

Rote - D

1 used to generate revenue. I decided not to generate revenue  
2 from the blog. To do that, I would have needed to simply make  
3 it a private blog associated with a particular website, go out  
4 to the marketplace and find people that wanted to advertise on  
5 it. And I decided not to do that. I've used it instead to  
6 help me develop some of my material for my novel and other  
7 things that I have written.

8 The novel is a fictionalized version of my  
9 experience. It's not -- it has no individuals identified in  
10 it that in any way, shape, or form are associated with  
11 Mr. Zweizig or my company. It is a John Grisham-esque type of  
12 novel. I also generated -- still in the process of generating  
13 a screenplay, but that's decidedly more difficult than I  
14 thought it would be.

15 So we do not -- this license agreement doesn't  
16 pretend to provide -- it's intended to provide e-mail evidence  
17 and other transcript evidence, information that I had, that we  
18 had generated that was property owned by those companies.

19 Blog -- blog 86 deals with the shutdown.

20 I think that -- is that a unique exhibit of yours or  
21 is it in Exhibit 12?

22 MR. CHRISTIANSEN: Exhibit 12.

23 MR. ROTE: So blog Chapter 86 again goes back to the  
24 shutdown, but it is a longer chapter than I typically write.  
25 And in that chapter I go to great detail to identify the

Rote - D

1 program extensions, the programming, the material, the FoxPro  
2 programs that we expected to find on our servers in Eugene and  
3 Dyersville, Iowa, and on Mr. Zweizig's computer that we did  
4 not find. They're the same programs, six months earlier, that  
5 we found on the 120-gig hard drive that was reformatted, the  
6 same extensions.

7 They included 1900 FoxPro programs on that destroyed  
8 hard drive, and probably would have expected to see 40 or 50  
9 of these on his 60-gig hard drive, which he returned to us his  
10 last day. And because of that -- I've written extensively in  
11 this blog post that because of that, we shut down. But in  
12 arguing that, I wanted to make sure I identified all of the  
13 programs that we would have expected to find and didn't find.

14 Now, we have an extraordinary amount of forensic  
15 evidence on this. It can't come into this trial as yet. But  
16 I did identify forensic reports that we had. So by reference,  
17 in Chapter 4 of the blog, where I identify the forensic  
18 reports, and each time I talk about this category,  
19 Chapters 11, Chapters 12, this chapter, I identify forensic  
20 reports that were issued in order to identify the source of  
21 our materials.

22 I did that because, for credibility purposes, I  
23 wanted to make sure it was clear that we had that evidence,  
24 that we put that evidence on, and that the arbitrator's  
25 dismissal of that evidence was -- was why we have this blog,

Rote - D

1 was why I talk about these issues, which is why it is so risky  
2 to arbitrate against a bar association that does not appear to  
3 want to make these disclosures, even though they're required  
4 to do so.

5 Much of my analysis and how I went by analyzing a lot  
6 of this I refer to in Chapter 13 of the blog.

7 And I have -- I have a JPEG on that, Your Honor.  
8 Can I bring that up? It's not offered as an exhibit, just as  
9 testimony support.

10 THE COURT: I'm not sure what it is that you're  
11 trying to show, so I can't --

12 MR. ROTE: It's -- it's a visual of the fraud  
13 triangle. It's just a JPEG of the fraud triangle.

14 THE COURT: You can use it during closing argument.  
15 If it's not evidence, you shouldn't be using it.

16 MR. ROTE: Okay.

17 So in computer forensics, in computer fraud, the  
18 elements that are discussed in Chapter 13 about the fraud  
19 triangle, there are three points to the fraud triangle. The  
20 first, at the top, is that an individual must feel like he or  
21 she is in extreme financial need or emotional need that can't  
22 be satisfied by some other means, they can't find a way to  
23 solve their problem.

24 The second point of the triangle, down below and to  
25 the left, is the opportunity to do something and get away with



Rote - D

1 it, the opportunity to get away with stealing something or  
2 destroying something that satisfies the first top prong of  
3 opportunity.

4 The third point to the fraud triangle is  
5 justification that -- that the party engaged in the fraud has  
6 the opportunity, has -- has the need, and then justifies their  
7 behavior in the third point.

8 My position in this blog is that Mr. Zweizig had some  
9 need, emotional need, financial need; I'm not sure what. He  
10 had the opportunity to hurt his employer by shutting it down  
11 in retaliation. And the third prong is that he justified it  
12 through his complaint that he was somehow -- that the company  
13 was overbilling.

14 He justified it, and so he did it. His justification  
15 came before he shut us down. But the analysis as to why he  
16 did it is first addressed, in my mind, from an analysis  
17 perspective, in Chapter 13 of the blog.

18 I also have the same analysis for Linda Marshall, who  
19 is the attorney who represented him. Remember that they were  
20 pursuing a million dollars in damages. She had an opportunity  
21 to get away with something because Bill Crow, the arbitrator,  
22 wasn't on his game. He was 79 years old. He wasn't on his  
23 game.

24 Now, that doesn't mean that all 79-year-olds aren't  
25 on the game. We know that Judge Jones here is 90 years old

Rote - D

1 and still going strong. But it all happens to us at some  
2 point in time and differently.

3 He wasn't on his game. So she had the opportunity to  
4 put on testimony that she know to be -- she knew to be a lie,  
5 perjurious testimony. And she knew that Mr. Zweizig had  
6 destroyed evidence.

7 And the third part of that triangle, the  
8 justification is the same as his, which is that we're a bad  
9 person, I'm a bad person, the company is a bad person, because  
10 we -- even though they provided no corroborated evidence,  
11 because we had overbilled clients by, according to them, \$400  
12 in a month in which we billed \$400,000. The spreadsheet  
13 evidence had no clients identified, and we only billed once a  
14 month.

15 So no invoices, no other evidence, \$400 versus  
16 \$400,000, but we were bad people; and so that was their  
17 justification, aside from the economic gain that she expected  
18 to have from the litigation.

19 Mr. Crow's analysis is entirely different, and his  
20 analysis is really just about his -- his inability to go back  
21 through and spend a lot of time with the evidence and so  
22 forth. He -- after he was reinstated, after he joined again,  
23 he spent maybe a day looking at 10 days of evidence and just  
24 didn't have the stamina to do it, so he decided to come back  
25 in and find in favor of Mr. Zweizig.

Rote - D

1 In -- in the blog, I do add some transcripts. I did  
2 redact Mr. Zweizig's name substantially and sought to do so a  
3 number of times.

4 I did want to now refer to an exhibit. I believe  
5 this has already been offered in, Your Honor.

6 THE COURT: Has it been received?

7 THE CLERK: What's the number?

8 MR. ROTE: 560.

9 THE CLERK: It was offered. I don't have it noted as  
10 received.

11 THE COURT: Do you have any objection to 560?

12 MR. CHRISTIANSEN: No objection.

13 THE COURT: It's received.

14 MR. ROTE: Exhibit -- Defendant's Exhibit 560 is  
15 about, oh, December 16th, 2016. So Mr. Zweizig filed his  
16 lawsuit here against me and the corporations on Christmas Eve,  
17 2015. So this is just about a year later.

18 And I'm reaching out to counsel, saying, "If there's  
19 something that you want me to change about the blog, engage me  
20 with specificity. Tell me precisely what you want. Is it  
21 redacting Max's -- Mr. Zweizig's name? Is it something else?  
22 I don't want to take down the blog in its entirety, but I am  
23 more than interested in talking to you about what you might be  
24 interested in, in terms of mitigation any of your concerns --  
25 mitigating any of your concerns."

Rote - D

1 Up until the time of this trial a couple weeks ago,  
2 I had actually never met Mr. Christiansen in person. This has  
3 been going on two years. It was always my hope that we would  
4 come to a point where we could agree on what would be in and  
5 what would be out, understanding that I wanted to,  
6 nonetheless, critically analyze the evidence and, nonetheless,  
7 critically evaluate the arbitration itself.

8 Mr. Zweizig, as -- as a component of this, is not  
9 that important. It's not that important. It's more  
10 important to analyze the problem with the arbitration, the  
11 evidence that was dismissed, what we put on, and to get to the  
12 bottom line of a critical analysis of arbitration. That never  
13 happened.

14 So I feel like that, as an individual responsible for  
15 writing this product and reaching out to them, to do this,  
16 that I took steps to showcase what would happen. I did a  
17 couple of things. I took the blog in its form at that time  
18 and I rebranded it. That means I shut down the Sitting Duck  
19 Portland site and I reopened a different site, the First Duty  
20 of Portland, First Duty Portland, which -- and when I did  
21 that, I redacted Mr. Zweizig's name from the blog posts, all  
22 of them. I redacted his name from the transcripts and  
23 forensic evidence that we attached. I took all of it out to  
24 see if that would meet their need.

25 They didn't demand that. They didn't ask for it.

Rote - D

1 But I did it to show them that I'm willing to act in good  
2 faith to do this. But you still need to come to the table  
3 and tell me with specificity if that's going to meet your  
4 needs.

5 They did not, so I stopped doing that after a while.  
6 And Mr. Zweizig has pointed out in his direct testimony and  
7 through their exhibits, his name now appears on Google search.  
8 But for a period of time, for a long period of time, it did  
9 not. And I want to go to those exhibits right now.

10 (Pause) Excuse me. I'm just trying to find my place  
11 here, Your Honor.

12 Defense Exhibit 578.

13 THE COURT: Is there any objection to 578?

14 MR. CHRISTIANSEN: No objection.

15 THE COURT: It's received. You may publish it.

16 MR. ROTE: So the first page of 578 shows, as the  
17 plaintiff has shown, through Google search, that  
18 Mr. Zweizig -- I need to publish this -- that Mr. Zweizig does  
19 show up on Google search; in fact, in first position. But  
20 later -- but later he does not. The -- what shows up when you  
21 search his name is that he is -- provides guitar lessons, he  
22 is engaged in the IT community.

23 And what else shows up is the case histories, the  
24 case with -- against his former employer. All of that  
25 litigation shows up. But the reference to the blog goes away.

Rote - D

1 And why that's significant is that if he, with his -- in all  
2 sincerity, if he wanted to engage me to eliminate his name  
3 from association with this blog or any blog, that is something  
4 that we could have come to an agreement on. I had already  
5 done so. The fact that they will not, with specificity,  
6 however, communicate that need is an issue of mitigation.  
7 Pages 2 through 8 of that blog showcase that -- of the Google  
8 search showcase that.

9 Now, Google and other search engines are slow to  
10 publish information about blogs.

11 MR. CHRISTIANSEN: Objection.

12 (Pause).

13 THE CLERK: Objection.

14 THE COURT: I know. I'm thinking.

15 Your objection is overruled.

16 You may proceed.

17 MR. ROTE: The Google and other search engines  
18 don't -- what they often grab will be chapter names,  
19 et cetera. They don't do a good job of searching contents of  
20 the chapter itself. And so when we redact his name or when we  
21 remove his name from a chapter or when we don't identify him  
22 as a tag, then if we don't tag his name, then search engines  
23 have a difficult time associating him in any way, shape, or  
24 form with this blog.

25 And so we have not tagged his name, even as we

Rote - D

1 removed certain redactions. There is still a lot that have  
2 been redacted. We haven't tagged his -- his name in  
3 association with any particular chapter, all the chapters.  
4 But he is right now -- for example, as they provided, Chapter  
5 90, the perjury, has his name prominently presented throughout  
6 this document; and a search engine will pick up on that  
7 eventually.

8 The only way to eliminate that is for that blog to  
9 shut down, to rebrand. And that's why we rebranded in the  
10 first place. That's why we shut down Sitting Duck Portland  
11 and went to the First Duty Portland, was to eliminate any  
12 association. And even if they showed up on Google search, if  
13 you were to click it, it would go nowhere. It would not go to  
14 the blog because the blog was shut down.

15 So it is a misrepresentation to say that we have  
16 shown no concern for Mr. Zweizig. But we have a greater  
17 concern for the issues that arose in the arbitration, all of  
18 the perjury, all the forensics, all of the compromise.

19 It took seven years and \$300,000 in legal fees for us  
20 to litigate this. And, in the end, an arbitrator decided to  
21 dismiss our case, dismiss our facts, dismiss our evidence,  
22 because he trusted solely the representations of Linda  
23 Marshall, Mr. Zweizig's attorney, and he was angry that we had  
24 challenged the fact that he didn't disclose this.

25 That is -- represents a chunk of the blog, 30, 35

Rote - D

1 chapters of the blog. It's about that. The rest of the blog  
2 is what happened in kind of a consternation relationship  
3 between Mr. Zweizig's attorney -- attorneys and me. I think  
4 they raised the fact in their exhibit that there was a  
5 defamation claim. I filed it in Clackamas County and -- based  
6 on statements that they made. Those statements aren't getting  
7 into this case.

8 But litigation is kind of a fluid, disastrous thing,  
9 as Mr. Zweizig has testified. It's not just fluid and painful  
10 to him. It is painful to all of us involved. And it can't be  
11 discounted as something that is unrelated, because what I  
12 wrote with respect to the arbitration soon became issues that  
13 I wrote about even in this trial -- not this trial per se, in  
14 this litigation, in a defamation claim in Clackamas County, in  
15 the bar association's involvement.

16 You recall that the LinkedIn exhibit that Mr. Zweizig  
17 brought on, there were three of those that were published  
18 about when the bar lies. And I'm critical of what the bar  
19 association does. I'm critical of the fact that we have  
20 ethical canons of behavior by attorneys that are abused  
21 consistently without punishment.

22 One of those that I talk about in Chapter 90  
23 specifically is Linda Marshall's duty to be honest with the  
24 tribunal, to be honest with the arbitrator.

25 Under canon 3.3, an attorney is not supposed to lie



Rote - D

1 on behalf of his or her client. Advocacy is not lying.  
2 Advocacy is something different. An attorney owes a duty, in  
3 Chapter 90 -- and I think we should probably go to that at  
4 this stage.

5 Is that also Exhibit 12? Did you find it?

6 MR. CHRISTIANSEN: Which chapter?

7 MR. ROTE: 90.

8 THE CLERK: Exhibit 18.

9 MR. ROTE: Exhibit 18?

10 And this has already been accepted, I think, right?

11 THE COURT: I think so, too.

12 MR. ROTE: (Pause) So on page 12 of Exhibit 18,  
13 Plaintiff's Exhibit 18, it specifically includes Rule 3.3,  
14 candor towards the tribunal. And when you evaluate, look at  
15 that evidence, you'll see that an attorney has a duty of  
16 honesty to the Court, a duty of honesty to the arbitrator, to  
17 not put on false evidence, to not engage in testimony that she  
18 knows to be perjurious. She has a duty of care for the  
19 credibility of the justice system. And she breached that.  
20 Linda Marshall breached that. She has a duty of honesty even  
21 if it's not in her best -- even if it's not in her client's  
22 best interests.

23 And so a substantial part of not disclosing her  
24 relationship with the arbitrator to us, putting on evidence  
25 which she knew to be dishonest, putting on testimony which she

Rote - D

1 knew to be dishonest and inconsistent with her own forensic  
2 expert's conclusions, was something that I focused on  
3 seriously in the blog.

4 All in all, our detail of evidence that we outline in  
5 the blog, we had some six forensic reports, three forensic  
6 experts providing most of these. Two of those forensic  
7 experts were for my company, Northwest Direct Teleservices.  
8 One was for Mr. Zweizig. And they evaluated my computer, my  
9 e-mail. They evaluated Mr. Zweizig's 60-gig hard drive that  
10 he returned to us. They evaluated the 120-gig hard drive that  
11 had been reformatted by Mr. Zweizig.

12 All of this I discuss in great detail in the blog.  
13 The forensics starts on Chapter 4 of the blog, the 120-gig  
14 hard drive on Chapter 7, a detail of the analysis for  
15 Mr. Zweizig's e-mail account in Chapter 11. Chapter 12 is an  
16 evaluation of the forensics in my e-mail and my computer. And  
17 throughout, this blog is peppered the analysis from the  
18 forensics and from the testimony.

19 We had -- we had a client testify. We had three  
20 executives testify. We had two other employees testify.  
21 There was no dispute by the arbitrator that we shut down.  
22 What was at issue in the opinion was whether or not we  
23 preserved evidence to show that. The preservation question  
24 was one I think I addressed already in part, which was that at  
25 least with respect to the FoxPro programs that Mr. Zweizig had

Rote - D

1 in his possession on his last day, he testified that he  
2 had -- he transferred no programs over. Nothing came over, so  
3 nothing was found.

4 And, again, on his e-mail that he used from May 2003  
5 to November 2003, on the 60-gig hard drive, his e-mail account  
6 was installed the day before he returned the computer. And  
7 none of his e-mail from May to November 2003, none of it was  
8 found on his computer. He did produce a lot of hard copies of  
9 it. But the account itself was not -- the PST account, the  
10 digital form of that was not.

11 So I -- I am sensitive to the fact that -- I should  
12 say that I am compelled, in part, by the fact that cybercrime  
13 is such a significant issue these days and that it ultimately  
14 shut us down, that we had to suffer it three times. The  
15 second time was Mr. Zweizig, the third time another IT person  
16 from outside the company that broke into our network and  
17 destroyed software. And the first time we suffered, it was an  
18 IT manager who reset the passwords on our servers to try to  
19 extort a raise.

20 So we've suffered through this cybercrime multiple  
21 times. And the fact that we invested so much time and money  
22 and ran into an arbitration that was so compromised was the  
23 ultimate stimulation to beginning the blog.

24 Again, the blog took on a life and on topics that  
25 we're not discussing here today, not relevant to this case. A

Rote - D

1 lot of cybercrime material has been published in there, a lot  
2 of ethical mandates of attorneys, a lot of evidence of  
3 wrongdoing. But that is the essence of why I wrote the blog.

4 The companies, again, that -- that were part of this  
5 affiliated group of companies, the Northwest Direct companies  
6 that the plaintiff has referred to, are each unique and  
7 separate companies. I was the president for these companies.  
8 Most of them dissolved well before the blog started. Only  
9 one -- only two were alive at the time the blog was started.  
10 And that company, Northwest Direct Marketing, shut down  
11 afterwards. Rote Enterprises is an LLC that is not in the  
12 business of BPO, business processing outsourcing, or  
13 teleservices, as they would call it. Rather, it was a holding  
14 company that held these -- these shares in these corporations.

15 So I think that's my direct, Your Honor.

16 THE COURT: Thank you.

17 Cross-exam.

18 MR. CHRISTIANSEN: Please.

19 Could I have you on the stand for it?

20 MR. ROTE: Oh, of course.

21 (Defendant Rote takes the witness stand.)

22 MR. CHRISTIANSEN: One second.

23 (There is a brief pause in the proceedings.)  
24  
25

Rote - X

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CROSS-EXAMINATION

BY MR. CHRISTIANSEN:

Q. Mr. Rote, can you turn to Exhibit 3 in the plaintiff's exhibit binder. It's a white binder up there.

THE CLERK: (Handing).

THE WITNESS: Got it.

BY MR. CHRISTIANSEN: (continuing)

Q. This is the opinion and order from the arbitrator deciding the case?

A. Yes.

Q. Your company appealed that order, correct?

A. The company did appeal this order.

Q. And that went to the federal court?

A. It went to this U.S. District Court, to Judge Papak.

Q. And in support of that motion, you submitted a declaration, right?

A. I probably did. I don't recall.

Q. Do you recall attaching or filing a large number of documents in support of that motion?

A. I believe I did prior to the time counsel entered, and then the relevant ones were then refiled by counsel.

Q. Okay. And Mr. Zweizig also contested the arbitration award as well, right?

A. Yes, he did.

Q. And he contested it because this award declined to provide

Rote - X

1 any clause for attorney's fees; isn't that correct?

2 A. Any award for attorney's fees, yes.

3 Q. So the company was not obligated to pay any attorney's  
4 fees?

5 A. That's correct.

6 Q. You said he had three attorneys on the case during  
7 that -- that arbitration?

8 A. I think I testified that he had three before Linda  
9 Marshall. He may have had four while in Oregon.

10 Q. In your Exhibit 560 -- and this is the e-mail exchange  
11 where you offered to invite Mr. Zweizig to identify his  
12 concerns with your blog -- you put a line at the bottom of  
13 that, that e-mail, that said, "As you know, allegations of  
14 crime follow you for a lifetime."

15 Isn't that correct?

16 A. They followed me, yes.

17 Q. You referred to tags, Mr. Rote. I want to ask you a few  
18 questions about that.

19 This website is published on WordPress, right?

20 A. Correct.

21 Q. And that's -- that's a site you can log into to post this  
22 content?

23 A. Yes.

24 Q. You don't pay for this website, do you? You don't pay  
25 WordPress?

Rote - X

1 A. No. It's free.

2 Q. And when you log in -- you mentioned tags in the context  
3 of how this website shows up on Google. And you said that if  
4 you put a tag for something, it's more likely to show up on  
5 Google, right?

6 A. I believe that's accurate, that I have -- I believe that  
7 the search engines will pick up the tag lines.

8 Q. Can you turn to Exhibit 4, please. And I'd like you to  
9 turn to page 9. This is the end of the first chapter on this  
10 website.

11 A. I'm there.

12 Q. Do you see at the bottom, there's a tag for Max Zweizig?

13 A. I sure do.

14 Q. And there's a tag for Sandra Ware?

15 A. I do.

16 Q. Mr. Rote, you said you took steps to eliminate the  
17 association with Mr. Zweizig's name so it didn't appear on  
18 Google, correct?

19 A. No. I said that I rebranded the blog to disconnect the  
20 search engine component with the Sitting Duck Portland blog.  
21 And when I rebranded it, I redacted Mr. Zweizig's name from  
22 the content.

23 Q. And what date did you do that? When?

24 A. I don't recall. I would guess it was a year ago or so.

25 Q. Okay. Can you turn to Exhibit 18. I'd like you to turn

Rote - X

1 to page 3.

2 A. Which page?

3 Q. 3.

4 A. I'm there.

5 Q. Mr. Zweizig's name is all over that, isn't it?

6 A. Yes. I no longer redacted as of this time.

7 Q. Can you turn to Exhibit 40, please.

8 And this is a Google search result for Mr. Zweizig's  
9 name, isn't it?

10 A. That is correct, for Chapter 90.

11 Q. And so the fourth result down there, that's Chapter 90,  
12 isn't it?

13 A. Chapter 90, the exhibit we just looked at.

14 Q. And that provides a link to the First Duty Portland,  
15 correct?

16 A. Yes, it does.

17 Q. Mr. Rote, you said that Rote Enterprises is a company that  
18 has nothing to do with -- with Mr. Zweizig's employment,  
19 right?

20 A. Only Northwest Direct Teleservices has anything to do with  
21 Mr. Zweizig's employment.

22 Q. Can you turn to Exhibit 47.

23 THE CLERK: That has not been --

24 MR. CHRISTIANSEN: It has not?  
25



Rote - X

1 BY MR. CHRISTIANSEN: (continuing)

2 Q. Mr. Rote, do you have that in front of you?

3 A. I do.

4 Q. This is a press release, isn't it, Mr. Rote?

5 A. It is.

6 Q. And you published this on the website?

7 A. Multiple websites.

8 Q. And you published this on January 12th, 2018?

9 A. Correct.

10 Q. And the title of this press release is "Civil Trial of  
11 Author Exposing Attorney and Arbitrator Corruption."

12 A. Correct.

13 THE COURT REPORTER: I'm sorry. Repeat it again.  
14 "Civil Trial" --

15 MR. CHRISTIANSEN: Sorry. "Civil Trial of Author  
16 Exposing Attorney and Arbitrator Corruption."

17 THE COURT REPORTER: Thank you.

18 THE WITNESS: Correct.

19 BY MR. CHRISTIANSEN: (continuing)

20 Q. Is this an accurate printout of what you put on your  
21 website?

22 A. I think it is.

23 MR. CHRISTIANSEN: Offer Exhibit 47.

24 THE COURT: Any objection?

25 MR. ROTE: None.

Rote - X

1 THE COURT: I'm sorry. I didn't hear you.

2 MR. ROTE: No. Sorry.

3 THE COURT: Thank you. That's all right.

4 Received.

5 BY MR. CHRISTIANSEN: (continuing)

6 Q. Please turn to page 3, Mr. Rote.

7 At the bottom of this press release, you put contact  
8 information, right?

9 A. Yes.

10 Q. Is that your e-mail there, where it says  
11 "Tim@roteenterprises.com"?

12 A. It is.

13 MR. CHRISTIANSEN: Nothing further.

14 THE COURT: Mr. Rote, do you have anything else you  
15 want to add?

16 MR. ROTE: I don't think so, Your Honor.

17 THE COURT: You may step down.

18 Does the plaintiff wish to offer any evidence in  
19 rebuttal?

20 MR. CHRISTIANSEN: No.

21 THE COURT: Members of the jury, you've heard all the  
22 evidence that you're going to hear in this case. It's 4:30.  
23 I think that if we get into closing arguments and  
24 instructions, it will be probably around 6:00 by the time  
25 we're done. And I try just to work business hours, so I'm

1 going to let you go home for the evening. We will begin at  
2 9:00 with closing arguments. I will then instruct you, and  
3 you will begin your deliberations.

4 With that, I'm going to send you home. Please  
5 remember the precautionary instruction that directs you not to  
6 talk about the case with anybody until you begin your  
7 deliberations at the end of the trial.

8 Jennifer will escort you into your room, answer any  
9 of your questions. I will see you tomorrow at 9:00.

10 Thank you very much.

11 (The jury leaves the courtroom.)

12 THE COURT: Elisabeth, my clerk, I believe provided  
13 you with copies of the proposed jury instructions. I don't  
14 know whether you've had an opportunity to review those  
15 instructions or not. It's my intent to give those  
16 instructions as they have been provided to you. That's point  
17 1.

18 Point 2, I am dubious about whether or not punitive  
19 damages are available for this type of a case. I will cite to  
20 you *Wheeler v. Green*; it is found at 286 Or 99; *Paul v. May*  
21 *Department Stores*, 292 Or 131. You may also want to look at  
22 *Lewis v. Oregon Beauty Supply*, 302 Or 616.

23 And those cases together, in my mind, call into  
24 question whether or not punitive damages are available in this  
25 type of a case. It doesn't mean the case doesn't -- that the

1 jury doesn't deliberate. I just think we may be taking  
2 punitive damages off the table as part of what they can do in  
3 this case.

4 And basically what those cases are talking about --  
5 the first one talks about defamation. I recognize this isn't  
6 a defamation case. But if you look at the other cases, they  
7 talk about cases that are like defamation cases, where the  
8 allegation of misconduct is speech, and whether or not you can  
9 get punitive damages where the alleged misconduct is speech.

10 And in this case the alleged misconduct is the blog,  
11 which equals speech. So that's why I am very dubious that  
12 punitive damages are available in this context.

13 Anything else from the plaintiff before we depart  
14 this evening?

15 MR. CHRISTIANSEN: No. But I will talk about that  
16 tomorrow, because we might also want to amend our prayer,  
17 so I'll --

18 THE COURT: Yeah. What would happen is I would just  
19 take punitive damages off the table, you all argue about  
20 emotional distress damages, and that's all the jury would  
21 deliberate on.

22 MR. CHRISTIANSEN: And we would just want to amend  
23 our Complaint to conform with the evidence then.

24 THE COURT: Okay.

25 Anything else from your side, Mr. Rote, that we need

1 to talk about before tomorrow morning?

2 MR. ROTE: I don't think so, Your Honor.

3 THE COURT: Okay. Then that's all for now. I'll see  
4 you tomorrow.

5 Why don't you get together at 8:30, so that we can  
6 wrap up this issue about whether or not punitive damages are  
7 in or out of this case -- I think they're out -- and then  
8 anything else that we need to talk about before we bring the  
9 jury in at 9:00 for closing arguments.

10 Have a pleasant evening.

11 MR. ROTE: Thank you.

12 MR. CHRISTIANSEN: Thank you.

13 (The proceedings are adjourned on January 16, 2018  
14 and reconvened on January 17, 2018.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

--oOo--

I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-titled cause. A transcript without an original signature, conformed signature or digitally signed signature is not certified.

*/s/ Nancy M. Walker*

2-22-19

\_\_\_\_\_  
NANCY M. WALKER, CSR, RMR, CRR  
Official Court Reporter  
Oregon CSR No. 90-0091

\_\_\_\_\_  
DATE

<b>\$</b>	<p><b>11</b> [9] - 24:19, 37:12, 101:7, 101:10, 118:10, 205:4, 205:5, 216:19, 227:15</p> <p><b>12</b> [26] - 24:20, 37:20, 38:3, 38:6, 50:18, 50:23, 50:25, 101:7, 101:10, 113:14, 114:7, 117:2, 123:23, 131:12, 169:10, 173:16, 194:13, 203:15, 206:10, 206:11, 215:21, 215:22, 216:19, 226:5, 226:12, 227:15</p> <p><b>12-minute</b> [1] - 54:19</p> <p><b>120-gig</b> [20] - 10:15, 11:6, 13:3, 22:4, 161:24, 173:17, 173:24, 174:2, 174:24, 175:6, 175:15, 176:9, 185:9, 187:3, 203:14, 203:21, 205:3, 216:5, 227:10, 227:13</p> <p><b>12th</b> [3] - 98:16, 98:25, 234:8</p> <p><b>13</b> [8] - 24:21, 38:9, 114:24, 115:11, 135:10, 217:6, 217:18, 218:17</p> <p><b>131</b> [1] - 236:21</p> <p><b>13th</b> [4] - 139:18, 140:22, 141:21, 205:9</p> <p><b>14</b> [24] - 24:22, 38:17, 39:10, 39:17, 39:23, 40:3, 40:5, 40:9, 40:15, 40:20, 40:24, 48:19, 49:2, 49:6, 49:9, 64:12, 68:3, 69:11, 70:1, 73:14, 135:10, 138:22, 139:12, 139:22</p> <p><b>14-year-old</b> [1] - 41:2</p> <p><b>14th</b> [1] - 205:9</p> <p><b>15</b> [13] - 24:23, 33:10, 40:25, 41:10, 41:14, 55:1, 55:3, 75:21, 76:2, 99:14, 140:15, 141:1, 184:19</p> <p><b>15-cv-2401</b> [1] - 23:13</p> <p><b>150</b> [3] - 64:25, 70:9, 79:24</p> <p><b>16</b> [10] - 1:5, 23:18, 23:24, 24:24, 41:16, 41:24, 42:3, 141:11,</p>	<p>141:25, 238:13</p> <p><b>16th</b> [2] - 190:11, 220:15</p> <p><b>17</b> [4] - 24:25, 42:5, 72:13, 238:14</p> <p><b>170</b> [1] - 131:14</p> <p><b>174</b> [1] - 131:16</p> <p><b>175</b> [4] - 64:25, 79:24, 114:19, 131:12</p> <p><b>17th</b> [1] - 2:3</p> <p><b>18</b> [18] - 25:1, 42:18, 101:7, 101:10, 112:11, 112:16, 122:14, 122:16, 122:21, 122:22, 138:16, 163:7, 163:8, 226:8, 226:9, 226:12, 226:13, 232:25</p> <p><b>184</b> [1] - 123:23</p> <p><b>19</b> [10] - 25:2, 43:2, 43:13, 43:17, 43:20, 44:1, 44:6, 44:9, 101:7, 101:10</p> <p><b>1900</b> [2] - 175:16, 216:7</p> <p><b>1:15</b> [1] - 127:8</p>	<p>90:18, 93:7, 94:24, 95:22, 96:16, 97:3, 98:16, 99:6, 99:20, 212:10, 220:17</p> <p><b>2016</b> [3] - 131:19, 190:11, 220:15</p> <p><b>2017</b> [6] - 112:19, 115:7, 138:21, 139:18, 140:22, 141:21</p> <p><b>2018</b> [9] - 1:5, 135:23, 137:22, 143:2, 144:1, 145:8, 234:8, 238:13, 238:14</p> <p><b>21</b> [1] - 25:4</p> <p><b>22</b> [9] - 25:5, 46:17, 46:19, 47:2, 47:7, 127:25, 128:1, 129:21, 130:13</p> <p><b>22nd</b> [1] - 130:7</p> <p><b>23rd</b> [2] - 99:5, 99:13</p> <p><b>24790</b> [1] - 2:6</p> <p><b>25</b> [11] - 16:19, 72:2, 155:19, 155:20, 156:17, 173:17, 173:19, 198:13, 203:16, 213:19, 213:23</p> <p><b>258</b> [1] - 125:2</p> <p><b>25th</b> [1] - 115:7</p> <p><b>26</b> [1] - 117:2</p> <p><b>27</b> [4] - 25:16, 51:6, 51:9, 51:10</p> <p><b>27th</b> [1] - 94:24</p> <p><b>286</b> [1] - 236:20</p> <p><b>292</b> [1] - 236:21</p> <p><b>2nd</b> [5] - 95:22, 96:16, 99:12, 206:12, 206:22</p>	<p><b>32</b> [1] - 76:11</p> <p><b>326-8186</b> [1] - 2:9</p> <p><b>341</b> [1] - 113:15</p> <p><b>35</b> [1] - 224:25</p> <p><b>37</b> [12] - 144:12, 145:11, 188:19, 188:22, 188:24, 192:3, 192:4, 192:12, 192:13, 192:18, 192:24, 193:13</p> <p><b>38</b> [4] - 135:16, 135:17, 136:2, 136:4</p> <p><b>3:15-cv-02401-HZ</b> [1] - 1:4</p> <p><b>3rd</b> [2] - 90:18, 92:24</p>
<b>,</b>				<b>4</b>
'07 [1] - 37:7				<p><b>4</b> [23] - 24:9, 32:16, 33:12, 33:19, 48:5, 48:8, 48:17, 95:7, 96:1, 96:2, 96:8, 96:15, 96:18, 106:8, 106:13, 119:23, 125:21, 131:22, 131:25, 133:3, 216:17, 227:13, 232:8</p> <p><b>40</b> [9] - 31:1, 33:6, 105:9, 137:14, 138:2, 146:4, 146:5, 216:8, 233:7</p> <p><b>41</b> [1] - 206:11</p> <p><b>42</b> [2] - 142:20, 143:6</p> <p><b>43</b> [3] - 143:14, 144:6, 144:10</p> <p><b>47</b> [2] - 233:22, 234:23</p> <p><b>48</b> [1] - 70:18</p> <p><b>4:30</b> [1] - 235:22</p> <p><b>4th</b> [3] - 93:6, 93:10, 94:3</p>
'08 [1] - 37:7				
<b>/</b>				
/s [1] - 239:11				
<b>1</b>		<b>2</b>		
<p><b>1</b> [16] - 1:15, 1:20, 23:23, 24:3, 29:4, 29:8, 29:23, 80:3, 80:11, 80:19, 107:6, 112:17, 136:22, 150:3, 150:4, 236:17</p> <p><b>1,875</b> [1] - 88:14</p> <p><b>1,900</b> [2] - 203:25, 204:12</p> <p><b>1-11</b> [1] - 135:23</p> <p><b>1-6</b> [2] - 141:12, 141:13</p> <p><b>10</b> [18] - 24:18, 36:25, 37:6, 37:10, 41:24, 55:1, 70:9, 99:16, 99:24, 100:1, 100:2, 100:8, 153:1, 169:10, 183:20, 193:22, 211:9, 219:23</p> <p><b>10-6</b> [1] - 97:5</p> <p><b>10-day</b> [1] - 165:7</p> <p><b>10-minute</b> [1] - 54:19</p> <p><b>100,000-per-week</b> [1] - 65:6</p> <p><b>1000</b> [1] - 2:8</p> <p><b>101</b> [1] - 133:19</p>	<p><b>2</b> [16] - 24:5, 30:1, 30:12, 30:14, 30:20, 83:15, 83:23, 106:13, 118:11, 128:5, 128:7, 133:3, 154:8, 199:14, 223:7, 236:18</p> <p><b>2-22-19</b> [1] - 239:11</p> <p><b>20</b> [10] - 25:3, 38:19, 43:14, 44:11, 49:11, 49:15, 49:17, 78:20, 101:7, 101:10</p> <p><b>2000</b> [1] - 20:3</p> <p><b>2001</b> [1] - 65:15</p> <p><b>2003</b> [20] - 65:16, 70:2, 161:23, 164:21, 173:1, 173:25, 174:3, 189:14, 203:21, 204:11, 205:8, 205:9, 205:12, 206:12, 206:22, 209:11, 228:4, 228:5, 228:7</p> <p><b>2005</b> [5] - 20:4, 71:4, 130:7, 209:11</p> <p><b>2009</b> [1] - 212:6</p> <p><b>2011</b> [1] - 19:21</p> <p><b>2014</b> [3] - 73:19, 212:6, 212:8</p> <p><b>2015</b> [13] - 67:14,</p>	<p><b>3</b> [23] - 24:8, 30:22, 31:10, 31:15, 31:21, 31:24, 32:4, 32:10, 32:13, 50:6, 50:13, 86:22, 87:4, 128:5, 128:7, 151:1, 201:13, 201:14, 201:15, 230:3, 233:1, 233:3, 235:6</p> <p><b>3.3</b> [2] - 225:25, 226:13</p> <p><b>30</b> [7] - 29:18, 29:21, 76:11, 76:18, 120:16, 224:25</p> <p><b>301</b> [1] - 2:8</p> <p><b>302</b> [1] - 236:22</p> <p><b>30th</b> [3] - 20:3, 112:19, 138:21</p>		<b>5</b>
				<p><b>5</b> [16] - 1:15, 24:13, 33:21, 34:11, 34:14, 96:20, 96:24, 97:11, 97:15, 108:14, 108:23, 121:20, 129:1, 157:13, 158:2, 188:16</p> <p><b>50</b> [3] - 129:7, 192:5, 216:8</p> <p><b>500</b> [1] - 140:5</p> <p><b>500,000</b> [2] - 176:25, 204:1</p> <p><b>503</b> [1] - 2:9</p> <p><b>505</b> [1] - 201:3</p> <p><b>525</b> [1] - 189:7</p>

<p><b>534</b> [4] - 90:12, 90:21, 90:22, 91:3  <b>540</b> [1] - 188:17  <b>546</b> [6] - 155:21, 155:22, 156:16, 156:19, 159:6, 159:7  <b>55</b> [2] - 127:14, 207:17  <b>55-mile-per-hour</b> [1] - 207:17  <b>55.05</b> [2] - 207:16, 207:18  <b>560</b> [12] - 188:18, 189:9, 189:18, 189:22, 190:1, 190:7, 190:12, 190:16, 220:8, 220:11, 220:14, 231:10  <b>578</b> [3] - 222:12, 222:13, 222:16  <b>590</b> [1] - 190:18  <b>593</b> [2] - 170:4, 170:5  <b>594</b> [7] - 188:20, 188:23, 189:2, 189:5, 189:8, 190:19, 190:20  <b>595</b> [14] - 154:1, 170:13, 170:17, 170:21, 171:15, 171:16, 171:20, 172:19, 172:20, 189:9, 189:10, 189:13, 190:5, 190:6  <b>599</b> [7] - 19:25, 20:2, 190:25, 191:2, 191:3, 212:13, 212:20  <b>5th</b> [1] - 97:16</p>	<p style="text-align: center;"><b>7</b></p>	<p><b>abetted</b> [3] - 46:7, 62:7, 63:17  <b>abetting</b> [2] - 62:17, 63:13  <b>ability</b> [6] - 57:19, 73:5, 73:6, 160:11, 213:10  <b>able</b> [33] - 4:3, 5:18, 36:4, 70:12, 87:24, 88:19, 89:9, 105:15, 111:6, 111:15, 123:20, 124:25, 132:23, 135:8, 137:8, 168:24, 176:18, 178:24, 187:14, 187:21, 187:22, 187:25, 191:7, 195:9, 196:18, 196:22, 198:6, 201:11, 206:1, 212:7, 214:1, 214:9  <b>aboard</b> [1] - 179:13  <b>above-titled</b> [1] - 239:5  <b>absence</b> [3] - 63:10, 177:23, 188:4  <b>absolute</b> [2] - 94:10, 211:15  <b>absolutely</b> [3] - 159:22, 159:23, 178:6  <b>abundance</b> [1] - 49:3  <b>abuse</b> [2] - 34:7, 132:6  <b>abused</b> [1] - 225:20  <b>abusive</b> [1] - 153:20  <b>accept</b> [1] - 55:22  <b>accepted</b> [1] - 226:10  <b>access</b> [3] - 9:5, 122:2, 214:1  <b>accident</b> [2] - 30:15, 30:16  <b>accidentally</b> [1] - 170:14  <b>accomplish</b> [3] - 79:11, 181:4, 187:13  <b>accomplished</b> [3] - 78:24, 79:9, 149:13  <b>according</b> [2] - 125:16, 219:11  <b>account</b> [24] - 57:19, 62:15, 142:23, 142:25, 143:7, 143:11, 160:15, 161:1, 161:3, 161:11, 161:13, 161:14, 182:23, 183:11, 200:17, 204:10, 205:10, 206:6, 206:16,</p>	<p>227:15, 228:5, 228:9  <b>accounts</b> [3] - 59:25, 160:10, 161:17  <b>accurate</b> [26] - 79:24, 80:17, 83:20, 87:2, 90:19, 93:9, 95:23, 97:7, 98:7, 99:21, 115:8, 130:11, 135:24, 137:23, 139:19, 140:23, 141:22, 145:9, 164:5, 168:15, 180:2, 180:7, 180:16, 181:11, 232:6, 234:20  <b>accused</b> [6] - 6:20, 66:11, 66:18, 68:4, 68:5, 138:11  <b>accuses</b> [1] - 138:11  <b>Ackley</b> [2] - 24:19, 37:12  <b>acknowledge</b> [1] - 182:6  <b>acknowledged</b> [1] - 182:5  <b>act</b> [6] - 25:19, 27:10, 63:24, 63:25, 123:3, 222:1  <b>Act</b> [5] - 39:12, 39:14, 39:18, 39:20, 39:24  <b>acted</b> [2] - 63:19, 63:22  <b>acting</b> [2] - 73:16  <b>Action</b> [1] - 107:7  <b>action</b> [8] - 26:21, 62:23, 62:24, 63:1, 63:2, 63:7, 63:9  <b>actions</b> [4] - 71:24, 89:2, 138:14, 149:10  <b>active</b> [2] - 214:3, 214:4  <b>actively</b> [3] - 14:11, 64:20, 169:10  <b>activities</b> [4] - 36:22, 42:10, 42:15, 174:17  <b>activity</b> [7] - 62:21, 62:25, 63:7, 82:21, 155:3, 196:19, 214:24  <b>acts</b> [4] - 26:7, 63:25, 102:23, 163:10  <b>actual</b> [5] - 9:10, 17:23, 88:24, 107:2, 107:4  <b>ad</b> [1] - 200:4  <b>add</b> [4] - 124:2, 124:17, 220:1, 235:15  <b>added</b> [4] - 14:14, 106:21, 124:19,</p>	<p>137:19  <b>addition</b> [6] - 63:15, 107:13, 124:6, 200:14, 204:14, 205:4  <b>additional</b> [3] - 14:10, 18:9, 19:2  <b>address</b> [6] - 60:8, 110:25, 111:9, 171:4, 199:12, 203:13  <b>addressed</b> [3] - 70:17, 218:16, 227:24  <b>addresses</b> [5] - 8:13, 70:11, 160:21, 196:21, 205:5  <b>addressing</b> [1] - 199:19  <b>adjourned</b> [1] - 238:13  <b>adjustments</b> [2] - 207:14, 208:5  <b>administrative</b> [5] - 20:6, 31:19, 31:25, 44:3, 44:5  <b>administratively</b> [3] - 20:3, 20:8, 20:19  <b>administrator</b> [1] - 37:22  <b>admit</b> [5] - 119:20, 123:15, 123:19, 155:11, 169:4  <b>admits</b> [1] - 123:4  <b>admitted</b> [4] - 56:12, 56:13, 60:14, 119:1  <b>adult</b> [1] - 32:24  <b>adverse</b> [6] - 62:23, 62:24, 63:1, 63:3, 63:6, 63:9  <b>advertise</b> [1] - 215:4  <b>advocacy</b> [2] - 226:1, 226:2  <b>affect</b> [7] - 102:21, 103:2, 148:1, 183:1, 183:2, 184:13  <b>affects</b> [5] - 5:16, 5:17, 132:9, 196:20  <b>affiliated</b> [2] - 32:25, 229:5  <b>afraid</b> [2] - 102:9, 127:20  <b>afternoon</b> [1] - 184:19  <b>afterwards</b> [2] - 16:21, 229:11  <b>agencies</b> [3] - 105:10, 146:5, 146:7  <b>ago</b> [35] - 9:18, 15:12, 29:19, 29:21, 30:11, 32:12, 33:6, 33:8, 33:10, 34:6, 35:24, 35:25, 38:2, 38:3,</p>
<p style="text-align: center;"><b>6</b></p> <p><b>6</b> [9] - 24:14, 34:16, 34:24, 35:1, 35:5, 97:18, 97:19, 98:2, 98:3  <b>60</b> [2] - 84:10, 207:17  <b>60-gig</b> [8] - 161:20, 176:9, 200:13, 203:19, 205:6, 216:9, 227:9, 228:5  <b>602</b> [2] - 19:21, 191:10  <b>616</b> [1] - 236:22  <b>6:00</b> [1] - 235:24  <b>6th</b> [9] - 97:3, 97:5, 97:22, 98:1, 98:7, 98:8, 131:19, 145:8, 204:11</p>	<p><b>7</b> [14] - 24:15, 35:14, 35:25, 36:3, 98:12, 98:20, 106:8, 106:13, 122:20, 122:24, 173:17, 187:2, 205:3, 227:14  <b>79</b> [2] - 74:11, 218:22  <b>79-year-olds</b> [1] - 218:24</p>	<p><b>absent</b> [3] - 63:10, 177:23, 188:4  <b>absolutely</b> [3] - 159:22, 159:23, 178:6  <b>abundance</b> [1] - 49:3  <b>abuse</b> [2] - 34:7, 132:6  <b>abused</b> [1] - 225:20  <b>abusive</b> [1] - 153:20  <b>accept</b> [1] - 55:22  <b>accepted</b> [1] - 226:10  <b>access</b> [3] - 9:5, 122:2, 214:1  <b>accident</b> [2] - 30:15, 30:16  <b>accidentally</b> [1] - 170:14  <b>accomplish</b> [3] - 79:11, 181:4, 187:13  <b>accomplished</b> [3] - 78:24, 79:9, 149:13  <b>according</b> [2] - 125:16, 219:11  <b>account</b> [24] - 57:19, 62:15, 142:23, 142:25, 143:7, 143:11, 160:15, 161:1, 161:3, 161:11, 161:13, 161:14, 182:23, 183:11, 200:17, 204:10, 205:10, 206:6, 206:16,</p>	<p>137:19  <b>addition</b> [6] - 63:15, 107:13, 124:6, 200:14, 204:14, 205:4  <b>additional</b> [3] - 14:10, 18:9, 19:2  <b>address</b> [6] - 60:8, 110:25, 111:9, 171:4, 199:12, 203:13  <b>addressed</b> [3] - 70:17, 218:16, 227:24  <b>addresses</b> [5] - 8:13, 70:11, 160:21, 196:21, 205:5  <b>addressing</b> [1] - 199:19  <b>adjourned</b> [1] - 238:13  <b>adjustments</b> [2] - 207:14, 208:5  <b>administrative</b> [5] - 20:6, 31:19, 31:25, 44:3, 44:5  <b>administratively</b> [3] - 20:3, 20:8, 20:19  <b>administrator</b> [1] - 37:22  <b>admit</b> [5] - 119:20, 123:15, 123:19, 155:11, 169:4  <b>admits</b> [1] - 123:4  <b>admitted</b> [4] - 56:12, 56:13, 60:14, 119:1  <b>adult</b> [1] - 32:24  <b>adverse</b> [6] - 62:23, 62:24, 63:1, 63:3, 63:6, 63:9  <b>advertise</b> [1] - 215:4  <b>advocacy</b> [2] - 226:1, 226:2  <b>affect</b> [7] - 102:21, 103:2, 148:1, 183:1, 183:2, 184:13  <b>affects</b> [5] - 5:16, 5:17, 132:9, 196:20  <b>affiliated</b> [2] - 32:25, 229:5  <b>afraid</b> [2] - 102:9, 127:20  <b>afternoon</b> [1] - 184:19  <b>afterwards</b> [2] - 16:21, 229:11  <b>agencies</b> [3] - 105:10, 146:5, 146:7  <b>ago</b> [35] - 9:18, 15:12, 29:19, 29:21, 30:11, 32:12, 33:6, 33:8, 33:10, 34:6, 35:24, 35:25, 38:2, 38:3,</p>	
<p style="text-align: center;"><b>A</b></p> <p><b>A-c-k-l-e-y</b> [1] - 24:19</p>	<p style="text-align: center;"><b>8</b></p>	<p><b>absent</b> [3] - 63:10, 177:23, 188:4  <b>absolutely</b> [3] - 159:22, 159:23, 178:6  <b>abundance</b> [1] - 49:3  <b>abuse</b> [2] - 34:7, 132:6  <b>abused</b> [1] - 225:20  <b>abusive</b> [1] - 153:20  <b>accept</b> [1] - 55:22  <b>accepted</b> [1] - 226:10  <b>access</b> [3] - 9:5, 122:2, 214:1  <b>accident</b> [2] - 30:15, 30:16  <b>accidentally</b> [1] - 170:14  <b>accomplish</b> [3] - 79:11, 181:4, 187:13  <b>accomplished</b> [3] - 78:24, 79:9, 149:13  <b>according</b> [2] - 125:16, 219:11  <b>account</b> [24] - 57:19, 62:15, 142:23, 142:25, 143:7, 143:11, 160:15, 161:1, 161:3, 161:11, 161:13, 161:14, 182:23, 183:11, 200:17, 204:10, 205:10, 206:6, 206:16,</p>	<p><b>8</b> [6] - 23:23, 24:16, 36:7, 99:2, 99:8, 223:7  <b>80</b> [1] - 84:10  <b>812</b> [1] - 2:3  <b>85</b> [3] - 74:11, 125:20, 131:20  <b>86</b> [6] - 164:9, 169:25, 170:2, 170:3, 215:19, 215:23  <b>89</b> [1] - 147:12  <b>8:30</b> [1] - 238:5</p>	



<p>38:19, 41:8, 41:23, 41:24, 43:14, 65:9, 73:3, 90:6, 90:11, 105:6, 112:21, 112:23, 115:22, 153:1, 161:7, 161:8, 169:8, 181:22, 208:13, 221:1, 232:24</p> <p><b>agree</b> [24] - 4:12, 52:19, 53:18, 55:18, 55:21, 126:3, 150:12, 151:14, 151:15, 151:20, 152:22, 158:10, 158:18, 159:1, 169:9, 176:12, 177:20, 178:3, 178:6, 179:17, 181:20, 181:22, 183:8, 221:4</p> <p><b>agreed</b> [3] - 168:14, 206:25, 207:7</p> <p><b>agreement</b> [14] - 66:2, 80:16, 80:17, 92:8, 108:3, 157:15, 158:3, 158:19, 213:14, 213:20, 213:25, 214:8, 215:15, 223:4</p> <p><b>Agreement</b> [1] - 157:9</p> <p><b>ahead</b> [15] - 24:2, 26:13, 47:6, 49:16, 54:7, 94:21, 96:5, 104:11, 127:15, 142:6, 174:12, 177:5, 195:25, 201:18</p> <p><b>aided</b> [3] - 46:7, 62:6, 63:16</p> <p><b>aiding</b> [2] - 62:17, 63:13</p> <p><b>aircraft</b> [1] - 37:21</p> <p><b>aka</b> [1] - 1:13</p> <p><b>al</b> [2] - 23:13, 26:5</p> <p><b>Albany</b> [1] - 207:21</p> <p><b>alias</b> [1] - 137:9</p> <p><b>alive</b> [1] - 229:9</p> <p><b>allegation</b> [1] - 237:8</p> <p><b>allegations</b> [3] - 18:6, 67:16, 231:13</p> <p><b>alleged</b> [5] - 10:22, 52:3, 102:19, 237:9, 237:10</p> <p><b>alleging</b> [2] - 100:23, 103:20</p> <p><b>allowed</b> [6] - 17:13, 28:4, 87:21, 124:21, 171:3, 171:5</p> <p><b>almost</b> [1] - 76:9</p>	<p><b>alone</b> [2] - 37:1, 55:14</p> <p><b>altering</b> [1] - 66:12</p> <p><b>alternative</b> [1] - 16:24</p> <p><b>altogether</b> [2] - 205:13, 212:8</p> <p><b>amend</b> [2] - 237:16, 237:22</p> <p><b>amount</b> [6] - 126:22, 137:1, 167:18, 177:21, 202:18, 216:14</p> <p><b>analogies</b> [1] - 126:22</p> <p><b>analogy</b> [2] - 126:20, 126:21</p> <p><b>analysis</b> [10] - 73:11, 217:5, 218:15, 218:16, 218:18, 219:19, 219:20, 221:12, 227:14, 227:17</p> <p><b>analyst</b> [1] - 165:14</p> <p><b>analyze</b> [4] - 103:21, 198:6, 221:6, 221:10</p> <p><b>analyzing</b> [1] - 217:5</p> <p><b>Andrea</b> [3] - 24:21, 38:9, 53:23</p> <p><b>Angeles</b> [1] - 140:14</p> <p><b>anger</b> [1] - 89:4</p> <p><b>angry</b> [5] - 71:15, 71:16, 92:6, 208:19, 224:23</p> <p><b>Ann</b> [1] - 25:10</p> <p><b>announce</b> [1] - 133:21</p> <p><b>anonymize</b> [2] - 111:11, 121:9</p> <p><b>answer</b> [24] - 6:11, 25:21, 25:24, 27:18, 57:8, 81:25, 104:10, 119:18, 134:22, 148:24, 148:25, 150:16, 150:18, 150:20, 155:15, 157:11, 158:15, 169:6, 172:15, 175:20, 175:23, 194:12, 197:25, 236:8</p> <p><b>answered</b> [5] - 45:17, 57:5, 57:6, 155:14, 158:13</p> <p><b>answering</b> [1] - 28:13</p> <p><b>answers</b> [2] - 27:16, 60:22</p> <p><b>anticipate</b> [1] - 27:23</p> <p><b>anticipated</b> [1] - 214:25</p> <p><b>anyhow</b> [1] - 28:19</p> <p><b>anyway</b> [4] - 4:3, 18:16, 77:15, 120:12</p> <p><b>apartment</b> [1] - 33:25</p>	<p><b>apologize</b> [3] - 116:5, 166:11, 199:2</p> <p><b>apparent</b> [1] - 89:4</p> <p><b>appeal</b> [3] - 209:2, 211:13, 230:12</p> <p><b>appealed</b> [3] - 208:23, 211:15, 230:11</p> <p><b>appear</b> [7] - 28:13, 99:14, 120:25, 136:12, 136:13, 217:2, 232:17</p> <p><b>appearance</b> [1] - 60:23</p> <p><b>APPEARANCES</b> [1] - 2:1</p> <p><b>appeared</b> [10] - 29:18, 34:22, 36:12, 36:23, 37:18, 38:15, 39:7, 41:7, 42:25, 121:1</p> <p><b>appearing</b> [1] - 42:16</p> <p><b>applications</b> [1] - 66:13</p> <p><b>applied</b> [2] - 214:6, 214:7</p> <p><b>applies</b> [3] - 59:1, 59:11, 59:12</p> <p><b>apply</b> [2] - 26:22, 55:15</p> <p><b>appointment</b> [1] - 48:11</p> <p><b>appreciate</b> [1] - 47:12</p> <p><b>approach</b> [1] - 80:6</p> <p><b>approached</b> [1] - 59:18</p> <p><b>appropriate</b> [3] - 16:1, 16:2, 16:4</p> <p><b>April</b> [3] - 20:3, 20:4, 115:7</p> <p><b>Arbiters</b> [1] - 184:6</p> <p><b>arbitrate</b> [1] - 217:2</p> <p><b>arbitration</b> [114] - 3:22, 3:23, 4:1, 4:4, 5:4, 5:5, 5:11, 5:14, 6:2, 7:2, 8:8, 8:11, 16:20, 18:4, 50:20, 51:14, 51:16, 51:17, 51:19, 51:21, 51:22, 66:2, 66:4, 66:5, 69:13, 69:15, 71:4, 72:4, 72:11, 72:12, 72:22, 73:13, 74:6, 74:11, 74:15, 85:2, 85:16, 85:17, 86:2, 86:5, 86:10, 86:15, 87:10, 87:25, 90:8, 92:2, 92:9, 94:7, 94:16, 94:18, 94:19, 101:25, 116:1, 124:11, 126:20, 132:7, 132:14,</p>	<p>133:22, 135:5, 138:11, 142:8, 142:13, 146:8, 151:10, 151:17, 152:20, 158:11, 158:19, 159:12, 160:5, 160:7, 162:6, 162:11, 162:24, 163:11, 163:12, 165:1, 166:24, 167:10, 167:13, 168:5, 168:20, 172:12, 182:2, 182:3, 198:5, 198:14, 199:10, 200:6, 200:15, 200:24, 205:15, 205:22, 208:23, 209:3, 209:10, 209:12, 209:16, 210:23, 211:12, 211:15, 211:20, 213:1, 213:6, 214:21, 221:7, 221:10, 221:12, 224:17, 225:12, 228:22, 230:22, 231:7</p> <p><b>Arbitration</b> [1] - 141:19</p> <p><b>arbitrations</b> [1] - 211:13</p> <p><b>arbitrator</b> [50] - 6:3, 7:13, 11:12, 66:7, 66:15, 66:16, 69:9, 69:10, 69:16, 70:3, 70:15, 71:5, 71:13, 72:23, 73:2, 73:13, 74:10, 85:21, 85:25, 86:12, 86:25, 88:21, 88:25, 107:16, 132:14, 167:21, 168:15, 168:23, 169:3, 199:11, 200:25, 202:25, 203:5, 203:7, 206:23, 208:6, 208:10, 209:17, 209:19, 209:25, 210:8, 213:14, 213:16, 218:21, 224:20, 225:24, 226:16, 226:24, 227:21, 230:8</p> <p><b>Arbitrator</b> [3] - 168:7, 234:11, 234:16</p> <p><b>arbitrator's</b> [6] - 8:12, 71:23, 168:2, 201:1, 201:21, 216:24</p> <p><b>arbitrators</b> [1] -</p>	<p>117:21</p> <p><b>Arbitrators</b> [1] - 107:7</p> <p><b>area</b> [3] - 21:4, 32:19, 166:21</p> <p><b>areas</b> [1] - 137:12</p> <p><b>argue</b> [4] - 27:8, 191:12, 194:15, 237:19</p> <p><b>argued</b> [1] - 70:2</p> <p><b>arguing</b> [3] - 6:7, 191:13, 216:12</p> <p><b>argument</b> [8] - 12:13, 17:1, 18:21, 19:12, 19:17, 19:18, 48:22, 217:14</p> <p><b>arguments</b> [7] - 56:4, 61:24, 124:18, 201:11, 235:23, 236:2, 238:9</p> <p><b>Army</b> [1] - 36:20</p> <p><b>arose</b> [1] - 224:17</p> <p><b>arrange</b> [1] - 28:1</p> <p><b>arrangement</b> [1] - 204:15</p> <p><b>Art</b> [1] - 30:7</p> <p><b>article</b> [2] - 111:22, 142:14</p> <p><b>ascending</b> [1] - 210:18</p> <p><b>ascribe</b> [1] - 121:6</p> <p><b>ascribing</b> [1] - 138:13</p> <p><b>aside</b> [3] - 156:9, 211:20, 219:17</p> <p><b>assembly</b> [1] - 54:8</p> <p><b>asserted</b> [1] - 66:10</p> <p><b>assigned</b> [1] - 118:24</p> <p><b>assist</b> [2] - 9:19, 60:23</p> <p><b>assistant</b> [2] - 33:23, 35:16</p> <p><b>assisting</b> [1] - 213:8</p> <p><b>associate</b> [2] - 42:8, 42:21</p> <p><b>associate's</b> [3] - 29:12, 35:17, 36:19</p> <p><b>associated</b> [6] - 112:9, 159:13, 214:10, 214:11, 215:3, 215:10</p> <p><b>associating</b> [1] - 223:23</p> <p><b>association</b> [6] - 217:2, 223:3, 224:3, 224:12, 225:19, 232:17</p> <p><b>Association</b> [2] - 33:1, 36:10</p> <p><b>association's</b> [1] - 225:15</p> <p><b>assume</b> [2] - 36:4, 171:12</p>
---	--	--	---	---

<p><b>assumed</b> [1] - 68:1  <b>assure</b> [1] - 71:9  <b>assures</b> [1] - 28:9  <b>Astoria</b> [2] - 29:9  <b>attached</b> [6] - 10:7, 12:7, 13:8, 82:19, 205:18, 221:23  <b>attaching</b> [2] - 126:12, 230:18  <b>attachment</b> [6] - 10:13, 11:5, 11:9, 11:21, 128:16, 186:16  <b>attack</b> [5] - 72:20, 112:4, 117:22, 117:23, 118:9  <b>attacked</b> [1] - 72:7  <b>attacks</b> [3] - 73:18, 73:23, 102:2  <b>attempted</b> [2] - 124:1, 130:24  <b>attempting</b> [1] - 167:1  <b>attendance</b> [1] - 28:6  <b>attention</b> [5] - 60:16, 69:16, 71:16, 106:5, 120:5  <b>attention-span</b> [1] - 106:5  <b>Attorney</b> [2] - 234:11, 234:16  <b>attorney</b> [45] - 14:9, 16:21, 65:20, 66:6, 68:9, 69:9, 69:11, 69:17, 71:14, 72:8, 72:10, 72:23, 73:13, 74:7, 82:20, 86:9, 89:15, 90:16, 91:19, 102:22, 102:23, 107:20, 120:17, 121:16, 124:10, 124:15, 136:23, 153:14, 154:8, 167:15, 183:12, 199:16, 199:17, 207:21, 207:24, 208:2, 209:22, 211:2, 211:3, 218:19, 224:23, 225:3, 225:25, 226:2, 226:15  <b>Attorney's</b> [1] - 65:22  <b>attorney's</b> [3] - 231:1, 231:2, 231:3  <b>attorneys</b> [13] - 61:24, 72:6, 72:7, 85:22, 149:15, 183:12, 209:21, 210:6, 225:3, 225:20, 229:2, 231:6  <b>attribute</b> [1] - 199:16</p>	<p><b>attributing</b> [1] - 10:23  <b>August</b> [2] - 112:19, 138:21  <b>authenticate</b> [3] - 185:25, 186:11, 187:18  <b>Author</b> [2] - 234:11, 234:15  <b>Authority</b> [2] - 31:11, 32:3  <b>authorized</b> [1] - 63:25  <b>automated</b> [1] - 182:21  <b>automatically</b> [2] - 46:23, 187:9  <b>available</b> [5] - 52:1, 176:23, 236:19, 236:24, 237:12  <b>Avenue</b> [2] - 2:3, 2:8  <b>aviation</b> [1] - 39:13  <b>avoid</b> [5] - 4:1, 4:9, 58:13, 70:13, 212:24  <b>award</b> [15] - 6:4, 7:13, 7:14, 8:12, 8:14, 11:13, 158:20, 167:21, 168:2, 169:3, 169:7, 203:10, 230:23, 230:25, 231:2  <b>awarded</b> [3] - 87:25, 88:21, 89:5  <b>aware</b> [1] - 161:18  <b>awareness</b> [1] - 133:9  <b>awful</b> [5] - 6:20, 67:16, 92:15, 117:24, 149:11</p>	<p><b>base</b> [1] - 54:25  <b>based</b> [20] - 12:10, 12:12, 14:3, 52:12, 52:14, 58:24, 60:7, 60:13, 96:16, 133:22, 133:24, 158:6, 179:24, 180:6, 180:11, 180:19, 181:15, 207:23, 210:1, 225:5  <b>baseless</b> [1] - 104:7  <b>basic</b> [1] - 77:23  <b>basis</b> [4] - 6:1, 6:17, 8:1, 69:24  <b>Bauer</b> [2] - 162:21, 162:22  <b>bear</b> [1] - 58:1  <b>bears</b> [1] - 183:20  <b>beating</b> [1] - 110:3  <b>Beauty</b> [1] - 236:22  <b>Beaver</b> [2] - 76:24, 77:4  <b>Beaverton</b> [2] - 64:23, 79:17  <b>became</b> [5] - 71:15, 71:16, 119:8, 120:11, 225:12  <b>beef</b> [1] - 46:22  <b>BEFORE</b> [1] - 1:22  <b>beforehand</b> [1] - 200:15  <b>began</b> [3] - 69:7, 69:8, 194:2  <b>begin</b> [7] - 23:22, 47:19, 54:22, 159:16, 236:1, 236:3, 236:6  <b>beginning</b> [3] - 69:4, 214:25, 228:23  <b>begins</b> [1] - 128:13  <b>behalf</b> [6] - 67:4, 73:17, 75:4, 197:18, 207:22, 226:1  <b>behavior</b> [7] - 72:5, 121:18, 125:7, 126:11, 160:24, 218:7, 225:20  <b>behaviors</b> [1] - 69:9  <b>behind</b> [2] - 70:12, 199:23  <b>belief</b> [3] - 166:16, 199:20, 210:1  <b>believability</b> [1] - 58:1  <b>belong</b> [15] - 29:15, 30:6, 30:8, 32:25, 34:3, 34:20, 36:21, 37:16, 37:24, 38:13, 38:22, 41:5, 41:20, 42:23, 43:8  <b>below</b> [3] - 157:6,</p>	<p>217:24, 239:3  <b>bench</b> [1] - 58:7  <b>benefit</b> [3] - 63:20, 124:1, 124:2  <b>Bernick</b> [4] - 14:4, 14:5, 192:4, 193:1  <b>beside</b> [1] - 118:5  <b>best</b> [9] - 27:18, 101:1, 114:22, 116:5, 125:25, 126:5, 126:7, 226:21, 226:22  <b>better</b> [2] - 47:11, 123:11  <b>between</b> [12] - 14:3, 14:7, 15:15, 15:24, 16:6, 46:22, 79:24, 172:6, 184:12, 201:25, 204:23, 225:3  <b>beyond</b> [3] - 27:2, 168:24, 200:22  <b>bias</b> [3] - 46:20, 57:23, 211:16  <b>biased</b> [2] - 47:4, 47:6  <b>Big</b> [1] - 2:6  <b>big</b> [4] - 14:19, 76:10, 113:14, 147:5  <b>bigger</b> [2] - 7:21, 18:22  <b>biggest</b> [1] - 92:16  <b>bikes</b> [1] - 39:2  <b>Bill</b> [6] - 66:7, 86:13, 132:9, 132:13, 132:14, 218:21  <b>bill</b> [1] - 86:13  <b>billed</b> [3] - 208:6, 219:12, 219:13  <b>binder</b> [6] - 80:3, 80:4, 80:7, 83:15, 230:4  <b>biographical</b> [3] - 28:12, 28:21, 28:25  <b>biography</b> [1] - 109:14  <b>bit</b> [17] - 25:22, 29:7, 29:13, 40:12, 42:13, 44:21, 52:21, 64:7, 75:18, 109:21, 113:10, 126:25, 142:5, 146:16, 164:19, 165:12, 209:8  <b>Bitch</b> [1] - 107:6  <b>block</b> [1] - 106:24  <b>blog</b> [170] - 4:15, 5:3, 5:4, 6:22, 6:23, 8:2, 9:7, 9:8, 9:22, 9:23, 10:10, 12:11, 13:2, 13:3, 13:5, 13:6, 13:10, 13:15, 13:22, 14:6, 16:9, 16:15,</p>	<p>16:16, 16:17, 16:18, 17:22, 18:6, 18:7, 18:12, 18:15, 20:5, 20:7, 20:8, 20:15, 21:9, 21:13, 21:18, 21:21, 22:7, 51:24, 52:3, 52:4, 52:8, 59:10, 67:7, 67:8, 67:13, 67:15, 67:16, 67:25, 69:2, 69:7, 69:8, 70:6, 70:11, 71:19, 71:25, 72:16, 72:17, 72:21, 73:11, 105:12, 108:10, 128:20, 128:23, 132:6, 137:1, 153:7, 153:9, 153:10, 153:16, 154:20, 154:22, 154:24, 155:2, 155:3, 155:4, 155:12, 160:14, 160:17, 161:9, 162:5, 164:19, 168:3, 170:7, 170:8, 173:8, 173:10, 173:14, 175:6, 175:9, 185:19, 186:7, 186:8, 186:9, 186:10, 186:15, 187:7, 187:8, 187:24, 190:8, 190:20, 190:23, 195:10, 196:19, 198:4, 199:5, 199:6, 199:8, 199:13, 199:22, 200:20, 202:25, 203:15, 207:2, 207:12, 207:20, 208:10, 208:14, 211:2, 211:11, 211:21, 214:25, 215:2, 215:3, 215:19, 215:23, 216:11, 216:17, 216:25, 217:6, 218:8, 218:17, 220:1, 220:19, 220:22, 221:17, 221:21, 222:25, 223:3, 223:7, 223:24, 224:8, 224:14, 224:25, 225:1, 227:3, 227:5, 227:12, 227:13, 227:17, 228:23, 228:24, 229:3, 229:8, 229:9, 231:12, 232:19, 232:20, 237:10  <b>Bloggling</b> [2] - 97:20,</p>
<b>B</b>		<p><b>B-o-l-i-n</b> [1] - 24:20  <b>bachelor</b> [1] - 42:11  <b>bachelor's</b> [6] - 30:5, 36:19, 38:20, 41:3, 42:20, 43:4  <b>bad</b> [14] - 29:22, 30:18, 34:13, 102:3, 103:18, 104:18, 149:4, 149:19, 149:20, 210:13, 219:8, 219:9, 219:16  <b>bailliff</b> [1] - 26:7  <b>bands</b> [1] - 76:12  <b>Bank</b> [1] - 214:15  <b>bar</b> [8] - 38:23, 182:25, 184:6, 217:2, 225:15, 225:18  <b>Bar</b> [5] - 14:1, 38:23, 146:6, 210:17  <b>barn</b> [1] - 202:16</p>		

<p>162:10  <b>blogging</b> [1] - 196:19  <b>blogs</b> [2] - 51:25, 223:10  <b>blow</b> [1] - 118:13  <b>blowing</b> [5] - 7:10, 40:4, 50:3, 50:7, 82:6  <b>blowup</b> [5] - 112:16, 114:10, 117:7, 123:24, 132:4  <b>board</b> [3] - 81:20, 179:18, 210:17  <b>boats</b> [1] - 37:25  <b>bold</b> [5] - 106:21, 137:5, 139:4, 139:7  <b>bolded</b> [3] - 106:20, 107:13, 139:11  <b>Bolin</b> [4] - 24:20, 37:20, 50:18, 53:23  <b>book</b> [1] - 122:23  <b>books</b> [2] - 156:19, 171:15  <b>boss</b> [3] - 81:1, 81:4, 134:14  <b>bother</b> [2] - 116:18, 132:15  <b>bottom</b> [13] - 106:23, 106:24, 107:2, 107:4, 124:16, 142:16, 184:2, 207:13, 208:17, 221:12, 231:12, 232:12, 235:7  <b>box</b> [4] - 23:18, 23:22, 48:1, 117:8  <b>BPO</b> [1] - 229:12  <b>Brandon</b> [2] - 25:3, 44:11  <b>breached</b> [2] - 226:19, 226:20  <b>breadth</b> [1] - 68:19  <b>break</b> [5] - 64:5, 152:3, 191:23, 193:21, 194:5  <b>Bret</b> [3] - 24:16, 36:7, 53:23  <b>bridge</b> [2] - 18:24, 75:22  <b>bridges</b> [1] - 75:22  <b>brief</b> [4] - 53:19, 74:21, 199:4, 229:23  <b>briefly</b> [4] - 29:5, 84:2, 138:7, 141:5  <b>bring</b> [11] - 6:17, 11:15, 17:12, 116:17, 137:3, 179:18, 183:6, 198:20, 198:24, 217:8, 238:8</p>	<p><b>bringing</b> [1] - 8:5  <b>brings</b> [1] - 67:3  <b>broke</b> [1] - 228:16  <b>broker</b> [1] - 41:3  <b>brother</b> [3] - 42:7, 42:8, 42:11  <b>brought</b> [10] - 7:18, 7:23, 43:24, 66:10, 69:15, 69:22, 71:16, 120:5, 183:12, 225:17  <b>build</b> [1] - 31:4  <b>built</b> [1] - 76:21  <b>bunch</b> [8] - 15:11, 25:20, 25:21, 92:22, 94:11, 102:2, 108:25, 109:8  <b>burden</b> [3] - 62:11, 62:19, 63:14  <b>burn</b> [1] - 202:16  <b>Burnside</b> [1] - 37:1  <b>business</b> [39] - 37:14, 39:14, 42:20, 45:21, 46:5, 46:7, 51:10, 62:3, 62:5, 62:7, 62:17, 62:22, 63:18, 63:20, 64:16, 64:20, 64:21, 64:22, 65:6, 65:14, 66:13, 67:5, 69:7, 73:17, 74:5, 78:22, 81:18, 81:20, 120:18, 140:13, 149:4, 163:3, 194:15, 212:4, 213:9, 214:3, 229:12, 235:25  <b>businesses</b> [3] - 63:21, 64:17, 214:4  <b>businesses's</b> [1] - 67:6  <b>button</b> [1] - 182:17  <b>BY</b> [65] - 75:15, 78:15, 80:10, 80:24, 84:1, 87:8, 87:15, 91:16, 94:1, 96:11, 97:14, 98:6, 98:23, 99:11, 100:10, 101:13, 104:12, 115:15, 116:20, 122:13, 122:19, 125:12, 129:18, 130:17, 131:10, 136:8, 138:5, 140:1, 141:4, 142:3, 143:10, 144:9, 145:24, 150:2, 152:5, 153:24, 154:12, 156:7, 156:20, 156:24, 158:17, 159:10, 164:18,</p>	<p>166:14, 166:23, 167:14, 168:1, 169:2, 170:20, 172:4, 172:18, 173:3, 173:13, 173:21, 174:13, 174:23, 175:4, 176:8, 177:6, 196:4, 230:2, 230:7, 234:1, 234:19, 235:5</p> <p style="text-align: center;"><b>C</b></p> <p><b>caching</b> [1] - 155:10  <b>calculation</b> [1] - 162:7  <b>Cameron</b> [5] - 24:5, 24:14, 30:1, 34:16, 53:22  <b>campaign</b> [2] - 133:14, 133:15  <b>camping</b> [1] - 37:17  <b>Canby</b> [1] - 30:23  <b>candor</b> [1] - 226:14  <b>cannot</b> [5] - 3:13, 57:6, 61:6, 201:10  <b>canon</b> [1] - 225:25  <b>canons</b> [1] - 225:20  <b>capable</b> [1] - 149:18  <b>car</b> [2] - 37:24, 37:25  <b>card</b> [2] - 176:20, 177:14  <b>cards</b> [1] - 176:22  <b>care</b> [8] - 26:8, 32:23, 73:23, 128:18, 128:24, 146:21, 169:23, 226:18  <b>career</b> [2] - 70:23, 102:21  <b>Carol</b> [5] - 14:4, 25:16, 51:9, 192:4, 193:1  <b>carpenter</b> [1] - 37:1  <b>case</b> [156] - 5:2, 5:7, 6:6, 7:10, 7:18, 7:23, 8:20, 9:18, 10:17, 11:10, 14:12, 17:24, 23:2, 23:12, 25:20, 26:4, 26:8, 26:24, 27:1, 27:9, 27:10, 27:24, 28:22, 30:13, 32:8, 32:9, 32:11, 33:6, 33:9, 33:11, 33:18, 34:7, 34:10, 36:1, 36:4, 37:9, 38:1, 38:7, 40:8, 40:10, 40:11, 40:14, 40:22, 41:9, 41:10, 41:13, 42:2, 43:10, 44:8, 45:1, 45:2, 45:19, 45:20, 45:22, 46:11, 47:16, 47:17,</p>	<p>48:24, 50:12, 50:19, 51:15, 51:23, 51:24, 52:5, 52:6, 52:11, 52:21, 52:24, 55:8, 56:3, 56:10, 56:11, 57:12, 57:14, 57:22, 58:18, 58:24, 58:25, 59:2, 59:4, 59:7, 59:8, 59:12, 59:17, 59:19, 59:25, 60:5, 60:21, 61:20, 62:2, 62:4, 62:5, 62:14, 64:15, 64:16, 65:8, 65:25, 66:3, 66:8, 67:1, 67:3, 67:18, 68:21, 68:22, 69:18, 84:18, 85:24, 89:22, 89:23, 90:2, 107:5, 118:24, 120:4, 120:5, 127:10, 127:11, 149:4, 151:9, 153:2, 169:7, 181:23, 182:15, 191:6, 193:20, 202:10, 202:24, 207:6, 209:6, 209:9, 210:3, 211:13, 211:18, 213:1, 213:7, 214:14, 222:23, 222:24, 224:21, 225:7, 228:25, 230:9, 231:6, 235:22, 236:6, 236:19, 236:25, 237:3, 237:6, 237:10, 238:7  <b>Case</b> [1] - 23:13  <b>cases</b> [14] - 26:25, 27:3, 31:14, 31:15, 31:17, 39:14, 39:18, 111:6, 236:23, 237:4, 237:6, 237:7  <b>categories</b> [1] - 101:16  <b>category</b> [1] - 216:18  <b>caught</b> [2] - 102:23, 107:25  <b>caused</b> [3] - 72:6, 114:12, 146:15  <b>causes</b> [3] - 50:22, 52:5, 120:3  <b>causing</b> [1] - 121:18  <b>caution</b> [1] - 49:3  <b>cautionary</b> [1] - 142:9  <b>CD</b> [1] - 103:23  <b>CD-ROM</b> [1] - 103:23  <b>cease</b> [1] - 126:11  <b>center</b> [2] - 79:19, 179:12  <b>centers</b> [5] - 64:23,</p>	<p>64:24, 78:23, 79:14, 81:9  <b>CEO</b> [1] - 81:21  <b>certain</b> [5] - 58:11, 182:12, 187:21, 201:23, 224:1  <b>certainly</b> [8] - 72:6, 103:18, 109:5, 123:19, 135:14, 149:9, 149:17, 152:1  <b>certified</b> [1] - 239:8  <b>certify</b> [1] - 239:3  <b>cetera</b> [3] - 127:10, 209:15, 223:19  <b>chair</b> [2] - 29:3, 179:12  <b>chairman</b> [1] - 210:16  <b>chairmanship</b> [1] - 210:18  <b>challenge</b> [8] - 87:20, 133:8, 135:3, 135:4, 208:22, 209:1, 211:11, 213:3  <b>challenged</b> [5] - 66:20, 168:10, 208:19, 210:11, 224:24  <b>challenges</b> [9] - 25:22, 28:4, 28:23, 53:7, 53:13, 53:15, 53:16, 146:19, 146:21  <b>challenging</b> [3] - 8:20, 120:4, 133:12  <b>chance</b> [4] - 103:24, 148:24, 194:6  <b>change</b> [2] - 64:6, 220:19  <b>changed</b> [4] - 113:9, 113:10, 160:24, 199:7  <b>CHAP</b> [1] - 30:6  <b>Chapter</b> [31] - 96:24, 97:19, 98:2, 107:6, 108:23, 136:21, 138:15, 163:7, 164:9, 173:17, 187:2, 205:3, 205:4, 205:5, 206:10, 206:11, 215:23, 216:17, 217:6, 217:18, 218:17, 224:4, 225:22, 226:3, 227:13, 227:14, 227:15, 233:10, 233:11, 233:13  <b>chapter</b> [33] - 6:25, 95:16, 95:18, 96:24, 97:15, 98:8, 106:17,</p>
---	--	--	--	--

<p>106:21, 107:9, 107:10, 109:4, 111:14, 113:12, 122:21, 138:16, 141:19, 162:9, 175:6, 184:7, 184:11, 185:23, 198:11, 207:12, 215:24, 215:25, 216:19, 223:18, 223:20, 223:21, 224:3, 226:6, 232:9</p> <p><b>Chapters</b> [2] - 216:19</p> <p><b>chapters</b> [47] - 13:4, 13:8, 20:10, 22:3, 72:2, 95:13, 95:14, 95:15, 95:19, 96:16, 98:14, 98:24, 99:6, 99:14, 101:2, 101:3, 104:1, 106:6, 114:12, 138:9, 141:8, 141:18, 142:18, 144:18, 147:11, 147:12, 147:15, 162:4, 162:6, 173:14, 182:24, 183:3, 183:4, 183:5, 183:9, 183:11, 183:12, 183:15, 184:3, 184:4, 184:11, 198:12, 224:3, 225:1</p> <p><b>character</b> [1] - 203:12</p> <p><b>charge</b> [2] - 63:4, 65:12</p> <p><b>charged</b> [1] - 71:6</p> <p><b>charges</b> [1] - 71:5</p> <p><b>chat</b> [1] - 59:10</p> <p><b>cheat</b> [1] - 136:23</p> <p><b>check</b> [1] - 53:17</p> <p><b>Cherry</b> [1] - 75:24</p> <p><b>Chester</b> [4] - 124:3, 124:7, 124:12, 124:13</p> <p><b>Chicago</b> [2] - 116:2, 116:7</p> <p><b>chief</b> [1] - 191:6</p> <p><b>child</b> [2] - 42:21, 125:8</p> <p><b>children</b> [13] - 36:5, 42:10, 42:20, 126:1, 126:2, 126:5, 126:8, 126:10, 126:13, 127:2, 127:19, 127:22, 129:20</p> <p><b>Children's</b> [1] - 30:7</p> <p><b>children's</b> [2] - 36:22, 125:24</p> <p><b>choose</b> [1] - 126:23</p> <p><b>choosing</b> [1] - 213:7</p> <p><b>chose</b> [4] - 126:21,</p>	<p>126:23, 168:13, 206:2</p> <p><b>chosen</b> [2] - 52:10, 102:22</p> <p><b>Chris</b> [8] - 115:4, 115:6, 115:20, 116:1, 116:11, 116:19, 116:21, 163:16</p> <p><b>CHRISTIANSEN</b> [168] - 3:11, 3:14, 3:16, 6:11, 6:13, 6:24, 7:10, 7:16, 8:3, 8:9, 8:18, 8:25, 9:8, 9:10, 9:24, 10:3, 10:7, 10:16, 10:22, 11:20, 11:25, 12:12, 12:18, 12:21, 15:2, 15:5, 15:14, 15:25, 17:11, 19:6, 20:23, 26:15, 45:13, 53:9, 64:10, 74:23, 75:15, 78:15, 80:6, 80:9, 80:10, 80:19, 80:24, 83:23, 84:1, 87:4, 87:8, 87:15, 90:21, 90:25, 91:6, 91:13, 91:15, 91:16, 93:12, 93:16, 93:20, 94:1, 95:25, 96:6, 96:9, 96:11, 97:10, 97:14, 98:3, 98:6, 98:20, 98:23, 99:7, 99:11, 99:24, 100:5, 100:10, 101:6, 101:10, 101:13, 104:12, 115:11, 115:15, 116:20, 122:7, 122:13, 122:16, 122:19, 125:12, 127:4, 127:18, 128:1, 128:4, 128:7, 128:11, 128:15, 129:6, 129:18, 130:13, 130:17, 131:10, 136:2, 136:7, 136:8, 138:2, 138:5, 139:22, 140:1, 141:1, 141:4, 141:25, 142:3, 143:6, 143:10, 144:6, 144:9, 145:11, 145:14, 145:24, 149:23, 154:3, 154:6, 154:9, 158:13, 159:8, 164:11, 165:23, 167:23, 170:10, 172:25, 173:6, 173:18, 174:21, 175:2, 175:18,</p>	<p>189:20, 189:23, 190:2, 190:9, 190:12, 191:16, 192:5, 192:14, 192:19, 192:21, 193:7, 194:20, 197:2, 197:8, 201:17, 212:21, 213:21, 215:22, 220:12, 222:14, 223:11, 226:6, 229:18, 229:22, 230:2, 230:7, 233:24, 234:1, 234:15, 234:19, 234:23, 235:5, 235:13, 235:20, 237:15, 237:22, 238:12</p> <p><b>Christiansen</b> [20] - 2:2, 2:2, 7:3, 14:3, 14:5, 14:7, 14:12, 14:14, 14:16, 19:5, 26:12, 26:15, 124:4, 124:8, 124:14, 124:15, 153:14, 193:2, 194:19, 221:2</p> <p><b>Christmas</b> [1] - 220:16</p> <p><b>chunk</b> [5] - 14:6, 16:20, 207:1, 207:9, 224:25</p> <p><b>church</b> [3] - 31:3, 43:8, 44:15</p> <p><b>circuit</b> [1] - 31:21</p> <p><b>Circuit</b> [4] - 32:2, 33:7, 33:8, 38:25</p> <p><b>circumstances</b> [3] - 61:11, 211:14, 212:25</p> <p><b>circumstantial</b> [3] - 56:16, 56:18, 56:21</p> <p><b>cite</b> [1] - 236:19</p> <p><b>citing</b> [1] - 211:25</p> <p><b>citizen</b> [1] - 1:6</p> <p><b>citizen's</b> [1] - 62:14</p> <p><b>city</b> [1] - 81:10</p> <p><b>City</b> [2] - 33:7, 35:15</p> <p><b>Civil</b> [3] - 234:10, 234:14, 234:15</p> <p><b>civil</b> [7] - 26:24, 27:3, 30:15, 36:4, 43:10, 132:6</p> <p><b>Clackamas</b> [5] - 14:15, 30:23, 33:8, 225:5, 225:14</p> <p><b>claim</b> [15] - 8:1, 8:5, 12:10, 40:13, 41:11, 46:9, 63:16, 66:17, 70:13, 70:17, 136:25, 142:12,</p>	<p>225:5, 225:14</p> <p><b>claimant</b> [1] - 151:3</p> <p><b>claimant's</b> [1] - 89:3</p> <p><b>claimed</b> [6] - 50:9, 88:16, 120:18, 152:17, 199:25, 203:20</p> <p><b>claiming</b> [4] - 116:1, 152:12, 205:19, 207:15</p> <p><b>claims</b> [21] - 8:2, 39:22, 39:25, 40:1, 40:21, 46:6, 62:6, 62:11, 62:13, 66:10, 66:11, 68:17, 85:3, 85:13, 86:16, 86:17, 86:19, 86:20, 104:6, 115:25, 206:24</p> <p><b>clarify</b> [2] - 124:9, 145:12</p> <p><b>class</b> [1] - 44:15</p> <p><b>clause</b> [2] - 85:2, 231:1</p> <p><b>clear</b> [6] - 84:17, 120:14, 137:6, 179:3, 199:18, 216:23</p> <p><b>clearly</b> [9] - 9:15, 61:6, 90:8, 102:4, 103:14, 119:10, 162:10, 203:4</p> <p><b>clerk</b> [11] - 6:21, 9:15, 9:18, 118:22, 118:24, 121:11, 131:7, 131:8, 154:5, 192:2, 236:12</p> <p><b>CLERK</b> [40] - 22:20, 22:22, 22:25, 23:11, 24:3, 24:5, 24:8, 24:12, 25:9, 25:16, 35:8, 74:25, 75:7, 91:8, 91:14, 96:5, 96:8, 100:1, 155:24, 156:22, 171:21, 188:19, 188:22, 188:25, 189:3, 190:20, 190:24, 192:15, 192:22, 193:25, 197:21, 198:25, 201:13, 212:14, 220:7, 220:9, 223:13, 226:8, 230:5, 233:23</p> <p><b>clerks</b> [1] - 11:1</p> <p><b>click</b> [2] - 184:9, 224:13</p> <p><b>clicked</b> [2] - 94:11, 106:18</p> <p><b>clicker</b> [1] - 93:19</p> <p><b>client</b> [19] - 6:20, 7:18,</p>	<p>8:4, 10:19, 10:23, 10:24, 12:14, 12:23, 17:12, 51:11, 64:12, 79:10, 82:17, 127:20, 127:22, 176:3, 178:20, 226:1, 227:19</p> <p><b>client's</b> [4] - 7:22, 17:15, 72:10, 226:21</p> <p><b>clients</b> [5] - 65:20, 79:8, 82:9, 219:11, 219:13</p> <p><b>close</b> [7] - 54:16, 60:16, 77:8, 107:3, 124:25, 139:9, 139:10</p> <p><b>closed</b> [4] - 70:18, 77:7, 79:18, 125:24</p> <p><b>closer</b> [1] - 144:23</p> <p><b>closing</b> [6] - 61:24, 201:11, 217:14, 235:23, 236:2, 238:9</p> <p><b>clothes</b> [1] - 126:7</p> <p><b>cloud</b> [1] - 147:2</p> <p><b>club</b> [1] - 37:25</p> <p><b>clubs</b> [11] - 31:3, 34:20, 35:19, 36:21, 37:2, 37:16, 37:25, 38:13, 41:5, 41:20, 42:14</p> <p><b>code</b> [3] - 66:12, 70:7, 72:9</p> <p><b>coerced</b> [1] - 63:17</p> <p><b>cognitive</b> [5] - 74:12, 199:12, 209:4, 210:4, 211:7</p> <p><b>cold</b> [1] - 126:6</p> <p><b>collect</b> [7] - 66:25, 89:9, 89:12, 89:15, 89:18, 89:19, 89:24</p> <p><b>collecting</b> [1] - 67:2</p> <p><b>college</b> [12] - 29:13, 32:23, 35:2, 35:12, 35:18, 37:22, 37:23, 38:12, 41:19, 42:13, 49:12, 49:13</p> <p><b>College</b> [1] - 32:21</p> <p><b>collisions</b> [1] - 39:13</p> <p><b>collusion</b> [1] - 14:9</p> <p><b>combat</b> [1] - 111:10</p> <p><b>combination</b> [1] - 196:14</p> <p><b>comfortable</b> [2] - 28:20, 77:18</p> <p><b>coming</b> [18] - 6:23, 13:5, 13:15, 18:7, 18:10, 18:16, 20:25, 21:21, 21:23, 21:24, 22:13, 22:14, 92:21, 100:20, 134:19,</p>
---	---	--	--	---

<p>190:22, 192:18, 209:6</p> <p><b>commence</b> [1] - 23:14</p> <p><b>comment</b> [2] - 5:22, 138:23</p> <p><b>commentary</b> [2] - 59:25, 102:13</p> <p><b>commissioners</b> [1] - 50:7</p> <p><b>commit</b> [1] - 163:14</p> <p><b>committing</b> [2] - 163:10, 207:16</p> <p><b>communicate</b> [5] - 56:9, 59:5, 59:6, 61:10, 223:6</p> <p><b>communicated</b> [1] - 6:16</p> <p><b>communicating</b> [3] - 14:11, 59:11, 59:13</p> <p><b>communications</b> [2] - 52:1, 153:11</p> <p><b>Community</b> [2] - 32:21, 49:15</p> <p><b>community</b> [5] - 49:12, 49:13, 110:7, 208:11, 222:22</p> <p><b>companies</b> [18] - 73:20, 73:21, 77:14, 94:7, 108:7, 108:9, 150:13, 150:18, 151:12, 157:22, 215:18, 229:4, 229:5, 229:7</p> <p><b>companions</b> [1] - 31:2</p> <p><b>company</b> [57] - 1:12, 20:3, 35:17, 65:4, 66:20, 67:18, 67:22, 69:7, 70:8, 70:24, 77:4, 77:7, 78:25, 81:14, 81:19, 82:15, 108:1, 111:2, 111:5, 115:24, 116:7, 123:18, 138:12, 149:10, 162:13, 162:14, 162:15, 162:20, 163:3, 163:19, 163:21, 163:25, 164:22, 167:13, 176:1, 177:17, 177:24, 178:4, 178:9, 181:12, 202:6, 204:19, 205:24, 212:7, 212:8, 215:11, 218:12, 219:9, 227:7, 228:16, 229:10, 229:14, 230:11, 230:12, 231:3, 233:17</p>	<p><b>Company</b> [1] - 140:12</p> <p><b>compatible</b> [2] - 70:22</p> <p><b>compelled</b> [2] - 63:17, 228:12</p> <p><b>compensation</b> [1] - 209:14</p> <p><b>competing</b> [3] - 108:1, 138:12, 162:13</p> <p><b>competitive</b> [1] - 42:15</p> <p><b>complaint</b> [16] - 6:2, 70:4, 73:24, 82:23, 84:6, 107:24, 152:7, 173:5, 173:11, 199:20, 200:16, 202:4, 202:12, 202:15, 218:12</p> <p><b>Complaint</b> [19] - 14:14, 14:21, 15:1, 19:12, 19:13, 19:16, 66:1, 83:20, 157:2, 157:21, 158:6, 205:18, 206:22, 207:8, 207:21, 207:22, 207:23, 237:23</p> <p><b>complete</b> [4] - 27:18, 54:4, 103:16, 115:23</p> <p><b>completed</b> [2] - 28:3, 58:22</p> <p><b>completely</b> [6] - 6:19, 7:17, 7:20, 27:16, 103:9, 159:1</p> <p><b>complex</b> [1] - 33:25</p> <p><b>component</b> [7] - 19:16, 72:5, 153:8, 167:3, 204:25, 221:8, 232:20</p> <p><b>components</b> [6] - 7:13, 14:13, 168:5, 185:11, 199:18</p> <p><b>comprehend</b> [1] - 73:5</p> <p><b>compromise</b> [3] - 74:6, 190:7, 224:18</p> <p><b>compromised</b> [4] - 160:11, 199:11, 211:12, 228:22</p> <p><b>compromises</b> [1] - 72:25</p> <p><b>computer</b> [30] - 42:12, 42:24, 76:9, 78:7, 78:8, 78:9, 78:14, 109:25, 130:21, 154:15, 161:19, 180:12, 183:18, 200:17, 203:18, 203:19, 204:18, 204:21, 205:6, 205:11, 206:15,</p>	<p>206:16, 216:3, 217:17, 227:8, 227:16, 228:6, 228:8</p> <p><b>computers</b> [9] - 65:13, 66:12, 67:21, 76:9, 77:15, 78:4, 78:6, 109:24, 148:20</p> <p><b>con</b> [1] - 199:15</p> <p><b>concentration</b> [1] - 196:20</p> <p><b>concern</b> [4] - 183:24, 194:14, 224:16, 224:17</p> <p><b>concerned</b> [3] - 82:13, 109:9, 119:8</p> <p><b>concerning</b> [2] - 142:4, 142:7</p> <p><b>concerns</b> [7] - 73:5, 105:24, 109:3, 182:24, 220:24, 220:25, 231:12</p> <p><b>concluded</b> [4] - 6:3, 118:23, 202:2, 202:8</p> <p><b>conclusion</b> [1] - 181:25</p> <p><b>conclusions</b> [4] - 120:6, 200:20, 201:23, 227:2</p> <p><b>conduct</b> [2] - 58:20, 125:18</p> <p><b>confer</b> [5] - 23:4, 53:1, 53:5, 122:10, 192:2</p> <p><b>conference</b> [5] - 58:7, 58:16, 58:17, 85:19, 85:20</p> <p><b>conferences</b> [2] - 58:10, 58:15</p> <p><b>confidential</b> [8] - 149:9, 159:12, 159:19, 159:22, 159:25, 160:1, 177:7, 204:2</p> <p><b>confidentiality</b> [5] - 94:16, 102:8, 159:13, 160:4, 160:6</p> <p><b>confirm</b> [1] - 172:6</p> <p><b>confirmed</b> [5] - 66:22, 73:5, 87:23, 202:21, 206:21</p> <p><b>confirming</b> [1] - 71:17</p> <p><b>conflict</b> [1] - 208:25</p> <p><b>conflicted</b> [1] - 201:25</p> <p><b>conform</b> [1] - 237:23</p> <p><b>conformed</b> [1] - 239:7</p> <p><b>confused</b> [1] - 92:6</p> <p><b>confusing</b> [1] - 92:15</p> <p><b>confusion</b> [1] - 58:13</p> <p><b>Congressional</b> [1] - 133:7</p> <p><b>Congressman</b> [1] -</p>	<p>133:12</p> <p><b>conjunction</b> [1] - 185:18</p> <p><b>connected</b> [1] - 65:11</p> <p><b>connection</b> [2] - 39:7, 39:17</p> <p><b>connections</b> [1] - 140:2</p> <p><b>consciousness</b> [1] - 211:5</p> <p><b>consider</b> [16] - 27:22, 56:2, 56:14, 56:20, 57:13, 58:16, 59:23, 73:12, 73:15, 121:4, 169:4, 169:8, 186:20, 186:22, 201:11, 202:1</p> <p><b>considerably</b> [1] - 92:3</p> <p><b>considered</b> [3] - 7:14, 168:6, 208:25</p> <p><b>considering</b> [1] - 57:18</p> <p><b>consist</b> [1] - 55:19</p> <p><b>consistent</b> [4] - 11:16, 128:19, 128:22, 152:8</p> <p><b>consistently</b> [3] - 67:14, 200:7, 225:21</p> <p><b>conspiring</b> [1] - 107:25</p> <p><b>constant</b> [1] - 147:25</p> <p><b>consternation</b> [1] - 225:2</p> <p><b>construction</b> [1] - 37:14</p> <p><b>consultant</b> [1] - 165:20</p> <p><b>consulted</b> [2] - 168:16</p> <p><b>consulting</b> [3] - 38:12, 60:2, 65:20</p> <p><b>consumption</b> [1] - 172:24</p> <p><b>contact</b> [10] - 9:15, 10:25, 59:21, 131:7, 131:8, 133:1, 135:11, 137:12, 165:25, 235:7</p> <p><b>contacting</b> [1] - 124:1</p> <p><b>contain</b> [2] - 103:7, 142:14</p> <p><b>contained</b> [1] - 52:13</p> <p><b>contains</b> [1] - 12:13</p> <p><b>contemplate</b> [1] - 167:21</p> <p><b>contemporaneous</b> [1] - 161:9</p> <p><b>contempt</b> [1] - 120:14</p> <p><b>contends</b> [1] - 62:13</p> <p><b>content</b> [15] - 9:4,</p>	<p>68:18, 96:14, 104:14, 105:18, 112:9, 121:25, 126:21, 161:15, 161:16, 174:6, 175:6, 175:9, 231:22, 232:22</p> <p><b>contention</b> [1] - 157:17</p> <p><b>contents</b> [3] - 115:3, 130:3, 223:19</p> <p><b>contested</b> [2] - 230:22, 230:25</p> <p><b>context</b> [4] - 17:24, 108:6, 232:2, 237:12</p> <p><b>continue</b> [2] - 168:14, 196:18</p> <p><b>continued</b> [1] - 168:18</p> <p><b>continuing</b> [63] - 32:22, 78:15, 80:10, 80:24, 84:1, 87:8, 87:15, 91:16, 94:1, 96:11, 97:14, 98:6, 98:23, 99:11, 100:10, 101:13, 104:12, 115:15, 116:20, 122:13, 122:19, 125:12, 129:18, 130:17, 131:10, 136:8, 138:5, 140:1, 141:4, 142:3, 143:10, 144:9, 145:24, 152:5, 153:24, 154:12, 156:7, 156:20, 156:24, 158:17, 159:10, 164:18, 166:14, 166:23, 167:14, 168:1, 169:2, 170:20, 172:4, 172:18, 173:3, 173:13, 173:21, 174:13, 174:23, 175:4, 176:8, 177:6, 196:4, 230:7, 234:1, 234:19, 235:5</p> <p><b>contract</b> [9] - 51:10, 66:3, 84:22, 85:2, 135:12, 150:21, 158:10, 181:16</p> <p><b>contractor</b> [1] - 195:12</p> <p><b>contracts</b> [1] - 214:18</p> <p><b>contradicted</b> [1] - 57:23</p> <p><b>contrary</b> [1] - 207:4</p> <p><b>contribution</b> [1] - 28:9</p> <p><b>control</b> [9] - 26:9, 47:20, 55:12, 56:24,</p>
---	---	---	--	---

<p>64:8, 132:24, 146:22, 166:3, 198:19  <b>controlling</b> [1] - 10:17  <b>convene</b> [2] - 3:2, 23:9  <b>conversation</b> [6] - 17:20, 19:10, 84:16, 207:24, 208:16, 210:2  <b>convey</b> [1] - 73:4  <b>conveyed</b> [1] - 73:3  <b>convinced</b> [1] - 69:17  <b>convoluted</b> [1] - 92:14  <b>cooking</b> [2] - 33:2, 41:20  <b>coordinator</b> [2] - 32:22, 179:12  <b>copies</b> [5] - 64:2, 156:1, 190:2, 228:8, 236:13  <b>copy</b> [2] - 80:17, 83:20, 87:2, 90:13, 90:19, 95:23, 97:7, 99:21, 112:13, 115:8, 115:16, 130:11, 131:12, 137:23, 139:19, 140:23, 141:22, 145:9, 145:20, 206:4, 212:16  <b>corporate</b> [6] - 67:4, 69:5, 150:10, 151:6, 157:1, 157:6  <b>corporation</b> [10] - 1:7, 1:9, 1:10, 1:11, 20:6, 45:25, 46:2, 158:23, 158:25, 213:8  <b>Corporation</b> [2] - 1:14, 158:1  <b>corporations</b> [9] - 71:9, 89:25, 157:19, 157:20, 213:8, 213:17, 214:2, 220:16, 229:14  <b>correct</b> [30] - 5:6, 18:14, 20:13, 20:16, 21:14, 96:17, 98:24, 99:14, 112:18, 129:3, 129:4, 151:19, 167:17, 173:9, 181:17, 185:22, 189:3, 191:15, 230:11, 231:1, 231:5, 231:15, 231:20, 232:18, 233:10, 233:15, 234:9, 234:12, 234:18, 239:4</p>	<p><b>correct?</b> [1] - 31:20  <b>correctly</b> [1] - 187:1  <b>correspondence</b> [3] - 14:3, 181:24, 193:1  <b>corroborate</b> [2] - 205:23, 206:1  <b>corroborated</b> [1] - 219:10  <b>Corruption</b> [2] - 234:11, 234:16  <b>cost</b> [5] - 71:1, 92:10, 114:18, 209:19  <b>counsel</b> [12] - 3:2, 23:8, 53:5, 55:6, 61:19, 61:21, 122:10, 129:15, 193:24, 220:18, 230:20, 230:21  <b>counselor</b> [1] - 43:23  <b>count</b> [2] - 58:4, 146:4  <b>counterclaims</b> [1] - 209:14  <b>counts</b> [1] - 72:13  <b>County</b> [12] - 14:15, 30:23, 33:8, 34:6, 37:7, 41:7, 43:11, 50:7, 50:8, 65:22, 225:5, 225:14  <b>couple</b> [17] - 11:5, 11:8, 33:8, 37:4, 64:2, 90:6, 90:11, 97:5, 113:11, 151:21, 153:11, 155:17, 161:7, 161:8, 203:13, 221:1, 221:17  <b>course</b> [22] - 3:9, 19:13, 27:23, 58:14, 59:3, 64:4, 69:12, 69:14, 92:6, 104:1, 108:2, 119:7, 122:6, 126:3, 128:14, 147:23, 152:7, 153:6, 166:24, 205:22, 229:20  <b>COURT</b> [391] - 1:1, 1:23, 2:7, 3:3, 3:13, 3:15, 3:17, 4:12, 4:17, 4:24, 5:2, 5:7, 5:16, 5:21, 5:24, 6:12, 6:22, 7:1, 7:5, 7:8, 7:25, 8:6, 8:24, 9:7, 9:9, 9:22, 9:25, 10:6, 10:9, 10:21, 11:3, 11:18, 11:23, 12:2, 12:7, 12:10, 12:16, 12:20, 12:24, 13:5, 13:11, 13:13, 13:17, 13:21, 13:25, 14:24, 15:4, 15:8,</p>	<p>15:10, 15:23, 16:1, 16:3, 16:6, 16:12, 17:5, 17:9, 17:18, 18:15, 18:24, 19:7, 19:22, 20:11, 20:14, 20:20, 20:24, 21:10, 21:14, 21:18, 21:21, 22:8, 22:11, 22:16, 22:18, 22:21, 22:24, 23:2, 23:6, 23:10, 23:15, 24:4, 24:6, 24:10, 25:7, 25:14, 25:17, 26:3, 26:18, 26:22, 29:20, 29:24, 30:11, 30:13, 30:17, 30:21, 31:9, 31:13, 31:18, 31:23, 32:1, 32:6, 32:11, 32:15, 33:11, 33:16, 33:20, 34:8, 34:12, 34:15, 34:23, 34:25, 35:2, 35:6, 35:9, 35:24, 36:1, 36:6, 36:14, 36:24, 37:5, 37:8, 37:11, 37:19, 38:2, 38:4, 38:7, 38:16, 39:9, 39:16, 39:21, 40:1, 40:4, 40:6, 40:11, 40:19, 40:23, 41:9, 41:12, 41:15, 41:23, 41:25, 42:4, 42:17, 43:1, 43:12, 43:15, 43:18, 43:24, 44:4, 44:7, 44:10, 44:17, 45:15, 45:17, 46:13, 46:14, 46:18, 47:1, 47:5, 47:8, 48:7, 48:14, 48:18, 48:25, 49:4, 49:8, 49:10, 49:13, 49:16, 49:18, 50:11, 50:14, 50:17, 50:21, 50:24, 51:1, 51:7, 51:13, 53:7, 53:10, 53:12, 53:17, 53:20, 54:2, 54:12, 55:3, 55:8, 68:24, 74:19, 74:22, 74:24, 75:11, 76:25, 80:8, 80:21, 80:23, 83:25, 87:5, 87:7, 87:12, 90:22, 90:24, 91:2, 91:10, 93:13, 93:15, 93:17, 96:2, 96:4, 97:13, 98:5, 98:22, 99:10, 99:25, 100:2, 100:4, 100:7, 101:12, 104:9, 115:12, 115:14, 116:3, 122:9, 122:12, 125:11, 127:6, 127:17,</p>	<p>127:24, 128:2, 128:6, 128:10, 128:13, 128:18, 128:21, 128:25, 129:5, 129:7, 129:11, 129:13, 129:17, 130:16, 131:2, 136:3, 136:6, 138:4, 139:24, 141:3, 142:2, 143:9, 144:8, 145:18, 145:23, 149:24, 151:24, 152:2, 153:23, 154:4, 154:11, 155:23, 155:25, 156:4, 156:9, 156:12, 156:14, 158:14, 159:7, 159:9, 164:2, 164:13, 165:24, 166:6, 166:9, 166:12, 166:19, 167:11, 167:24, 168:21, 168:23, 170:2, 170:6, 170:9, 170:11, 170:15, 170:17, 171:5, 171:10, 171:12, 171:17, 171:24, 172:14, 173:2, 173:7, 173:12, 174:9, 174:12, 174:22, 175:3, 175:19, 177:3, 177:5, 184:16, 184:23, 184:25, 185:16, 185:20, 185:24, 186:6, 186:19, 187:6, 187:14, 187:17, 188:2, 188:6, 188:9, 188:17, 188:21, 188:24, 189:2, 189:4, 189:8, 189:11, 189:16, 189:19, 189:22, 189:25, 190:11, 190:13, 190:16, 190:19, 190:22, 191:2, 191:6, 191:17, 191:20, 191:22, 192:1, 192:3, 192:10, 192:12, 192:17, 192:20, 192:23, 193:4, 193:8, 193:13, 193:17, 194:1, 194:17, 194:22, 195:18, 195:20, 195:23, 196:3, 197:1, 197:3,</p>	<p>197:5, 197:7, 197:9, 197:11, 197:24, 198:18, 198:21, 199:1, 201:4, 201:8, 201:16, 201:18, 212:20, 212:22, 213:23, 217:10, 217:14, 220:6, 220:11, 220:13, 222:13, 222:15, 223:14, 226:11, 229:16, 234:13, 234:17, 234:24, 235:1, 235:3, 235:14, 235:17, 235:21, 236:12, 237:18, 237:24, 238:3  <b>court</b> [32] - 31:6, 31:13, 31:14, 31:19, 32:7, 33:5, 33:14, 33:17, 34:22, 36:23, 37:18, 38:1, 38:15, 38:23, 39:7, 41:7, 42:16, 42:25, 43:25, 44:2, 44:3, 50:9, 50:19, 51:11, 56:11, 59:24, 66:20, 87:18, 120:15, 124:20, 193:25, 230:13  <b>Court</b> [28] - 3:2, 9:16, 23:4, 23:8, 32:2, 33:7, 33:8, 39:1, 40:17, 48:21, 53:5, 55:6, 56:7, 59:21, 60:11, 61:9, 66:21, 72:9, 122:8, 122:10, 127:5, 127:17, 129:15, 192:2, 193:24, 226:16, 230:14, 239:13  <b>Courthouse</b> [1] - 2:8  <b>courtroom</b> [12] - 23:4, 26:7, 54:3, 54:11, 55:2, 58:8, 120:12, 127:15, 127:16, 184:22, 196:2, 236:11  <b>courts</b> [1] - 31:22  <b>cover</b> [1] - 211:1  <b>covered</b> [1] - 154:19  <b>coworkers</b> [2] - 88:25, 105:1  <b>Cox</b> [4] - 115:4, 115:6, 115:9, 163:16  <b>crafts</b> [1] - 38:14  <b>crashed</b> [7] - 161:23, 174:3, 174:4, 176:2, 176:18, 203:20, 204:6</p>
--	--	---	---	---

<p><b>crazier</b> [1] - 116:8  <b>create</b> [2] - 47:22, 178:5  <b>credibility</b> [3] - 208:20, 216:22, 226:19  <b>credible</b> [1] - 16:11  <b>credit</b> [3] - 176:20, 176:22, 177:14  <b>crime</b> [1] - 231:14  <b>criminal</b> [7] - 26:24, 26:25, 27:1, 34:6, 34:9, 41:10, 68:4  <b>critical</b> [6] - 208:10, 210:12, 212:2, 221:12, 225:18, 225:19  <b>critically</b> [4] - 133:8, 133:12, 221:6, 221:7  <b>critique</b> [1] - 74:13  <b>crochet</b> [1] - 35:20  <b>CROSS</b> [2] - 150:1, 230:1  <b>cross</b> [14] - 18:24, 21:2, 61:19, 61:20, 61:22, 149:24, 153:3, 162:3, 168:20, 170:18, 174:19, 193:15, 194:3, 229:17  <b>cross-exam</b> [2] - 149:24, 229:17  <b>cross-examination</b> [2] - 21:2, 193:15  <b>CROSS-EXAMINATION</b> [2] - 150:1, 230:1  <b>cross-examine</b> [6] - 61:19, 61:20, 61:22, 153:3, 168:20, 194:3  <b>cross-referenced</b> [1] - 174:19  <b>crossing</b> [1] - 39:13  <b>crow</b> [3] - 210:2, 210:25, 211:6  <b>Crow</b> [8] - 66:7, 86:13, 132:9, 132:13, 132:14, 168:7, 218:21  <b>Crow's</b> [1] - 219:19  <b>CRR</b> [2] - 2:7, 239:12  <b>CSR</b> [3] - 2:7, 239:12, 239:13  <b>curious</b> [1] - 163:5  <b>current</b> [1] - 140:7  <b>customer</b> [2] - 177:7, 204:2  <b>cut</b> [1] - 202:17  <b>Cybercrime</b> [1] - 138:17</p>	<p><b>cybercrime</b> [9] - 73:18, 73:22, 146:10, 212:5, 214:12, 214:14, 228:12, 228:20, 229:1  <b>cycle</b> [1] - 14:19</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>dad</b> [1] - 34:19  <b>daily</b> [4] - 79:7, 81:23, 113:11, 177:21  <b>damages</b> [25] - 7:14, 7:15, 7:16, 11:13, 15:17, 16:13, 17:25, 18:1, 62:16, 63:12, 166:2, 194:23, 194:24, 202:16, 202:17, 209:13, 218:20, 236:19, 236:24, 237:2, 237:9, 237:12, 237:19, 237:20, 238:6  <b>Damned</b> [2] - 141:19, 184:6  <b>dancers</b> [1] - 29:15  <b>dangerous</b> [1] - 125:19  <b>Daniel</b> [1] - 25:12  <b>Danielle</b> [1] - 25:12  <b>dare</b> [1] - 137:13  <b>dark</b> [1] - 147:2  <b>data</b> [19] - 78:12, 78:13, 79:8, 82:10, 82:16, 165:1, 176:3, 177:12, 177:21, 178:17, 180:1, 180:3, 180:6, 180:11, 200:1, 200:5, 204:20  <b>database</b> [2] - 165:15, 179:21  <b>DATE</b> [1] - 239:12  <b>date</b> [28] - 20:1, 90:17, 94:24, 95:2, 95:21, 95:23, 96:13, 97:2, 97:4, 97:21, 98:12, 98:15, 130:6, 131:18, 135:22, 137:21, 138:18, 139:17, 140:21, 141:20, 143:1, 143:4, 143:25, 144:5, 145:7, 204:3, 212:18, 232:23  <b>dates</b> [3] - 96:12, 96:17, 112:17  <b>daughter</b> [3] - 36:9,</p>	<p>37:14, 41:18  <b>daughters</b> [1] - 36:16  <b>David</b> [3] - 25:1, 36:9, 42:18  <b>DAY</b> [1] - 1:20  <b>days</b> [12] - 47:17, 49:11, 70:9, 97:5, 97:6, 113:6, 120:16, 135:8, 165:8, 178:23, 219:23, 228:13  <b>deal</b> [11] - 21:16, 70:2, 71:1, 71:5, 71:6, 71:19, 73:23, 134:18, 134:22, 201:22, 208:9  <b>dealing</b> [1] - 109:10  <b>deals</b> [1] - 215:19  <b>dealt</b> [3] - 36:4, 73:25, 200:9  <b>dearly</b> [1] - 114:18  <b>December</b> [2] - 190:11, 220:15  <b>decent</b> [1] - 109:22  <b>decently</b> [1] - 110:6  <b>decide</b> [12] - 52:14, 55:13, 55:15, 56:11, 56:22, 57:15, 58:11, 58:21, 58:24, 60:21, 79:12, 203:1  <b>decided</b> [16] - 18:2, 18:7, 162:25, 169:4, 172:9, 172:13, 203:8, 203:9, 206:7, 212:3, 212:8, 215:1, 215:5, 219:24, 224:20  <b>decidedly</b> [1] - 215:13  <b>deciding</b> [6] - 56:2, 57:12, 57:14, 60:24, 211:25, 230:8  <b>decision</b> [7] - 52:12, 60:13, 66:8, 74:7, 86:1, 149:4, 190:18  <b>decisions</b> [1] - 82:14  <b>declaration</b> [1] - 230:16  <b>declined</b> [1] - 230:25  <b>dedicated</b> [1] - 84:22  <b>deep</b> [3] - 44:23, 198:7, 200:23  <b>deeper</b> [1] - 44:19  <b>deeply</b> [1] - 195:11  <b>defamation</b> [12] - 6:2, 11:10, 14:15, 14:22, 15:1, 124:8, 213:4, 225:5, 225:14, 237:5, 237:6, 237:7  <b>DEFENDANT</b> [1] - 2:4  <b>defendant</b> [16] -</p>	<p>26:19, 27:2, 45:20, 46:6, 61:19, 61:20, 61:21, 62:3, 62:6, 62:12, 62:16, 63:12, 63:16, 63:19, 63:22, 209:13  <b>Defendant</b> [1] - 229:21  <b>Defendant's</b> [11] - 91:3, 153:25, 155:22, 156:16, 159:6, 170:4, 170:13, 170:21, 201:2, 212:12, 220:14  <b>defendant's</b> [1] - 155:18  <b>defendants</b> [1] - 26:21  <b>Defendants</b> [1] - 1:16  <b>defense</b> [8] - 45:15, 53:10, 68:24, 90:13, 129:1, 189:2, 189:4, 222:12  <b>Defense</b> [1] - 90:21  <b>definitely</b> [4] - 81:19, 83:5, 121:18, 168:8  <b>degree</b> [8] - 29:12, 32:24, 35:17, 36:19, 38:20, 38:21, 104:5  <b>degrees</b> [2] - 41:4, 43:4  <b>Delaware</b> [4] - 1:14, 1:14, 45:24, 65:10  <b>delegation</b> [1] - 133:8  <b>deliberate</b> [4] - 48:15, 62:1, 237:1, 237:21  <b>deliberating</b> [1] - 48:14  <b>deliberation</b> [1] - 59:12  <b>deliberations</b> [8] - 47:19, 47:20, 55:12, 58:23, 59:3, 64:8, 236:3, 236:7  <b>delineating</b> [1] - 183:14  <b>demand</b> [1] - 221:25  <b>demanded</b> [2] - 16:18, 120:15  <b>demanding</b> [1] - 16:9  <b>demonstrative</b> [5] - 91:1, 100:12, 108:19, 111:13, 123:1  <b>demoted</b> [2] - 139:1, 139:2  <b>denials</b> [1] - 31:16  <b>denied</b> [4] - 123:4, 124:17, 185:12, 186:14</p>	<p><b>denies</b> [1] - 62:12  <b>Denver</b> [3] - 143:20, 154:22  <b>deny</b> [1] - 72:20  <b>denying</b> [1] - 58:17  <b>depart</b> [1] - 237:13  <b>department</b> [1] - 203:3  <b>Department</b> [17] - 43:6, 43:19, 43:20, 43:21, 65:21, 70:4, 70:18, 73:24, 82:23, 146:6, 173:5, 173:11, 199:21, 207:25, 208:4, 236:21  <b>deposition</b> [3] - 86:6, 86:7, 116:13  <b>depositions</b> [1] - 159:21  <b>deputy</b> [2] - 23:4, 26:7  <b>describe</b> [22] - 8:15, 75:18, 78:21, 84:3, 85:6, 85:16, 86:14, 88:3, 91:17, 94:2, 100:11, 105:20, 106:25, 118:16, 136:9, 138:7, 141:5, 146:15, 151:3, 172:5, 177:18, 208:18  <b>description</b> [2] - 123:11, 192:6  <b>desist</b> [1] - 126:11  <b>desk</b> [1] - 65:2  <b>desperate</b> [1] - 136:22  <b>destroy</b> [7] - 86:18, 130:24, 136:24, 154:14, 154:17, 176:2, 206:17  <b>destroyed</b> [7] - 67:21, 203:5, 204:13, 206:18, 216:7, 219:6, 228:17  <b>destroying</b> [2] - 66:12, 218:2  <b>destruction</b> [3] - 71:11, 72:13, 85:9  <b>detail</b> [14] - 4:15, 14:8, 22:6, 71:19, 71:20, 71:21, 72:14, 173:24, 177:18, 208:9, 215:25, 227:4, 227:12, 227:14  <b>detailed</b> [1] - 55:11  <b>details</b> [3] - 67:10, 67:12, 84:3  <b>deteriorating</b> [1] - 74:12  <b>determination</b> [1] -</p>
---	---	---	---	--

<p>106:1  <b>determine</b> [3] - 27:9, 106:6, 206:20  <b>determining</b> [1] - 63:22  <b>develop</b> [1] - 215:6  <b>developer</b> [1] - 42:8  <b>development</b> [1] - 42:21  <b>diagnostic</b> [3] - 128:15, 130:20, 130:21  <b>dialer</b> [5] - 178:18, 180:4, 180:11, 180:14, 180:19  <b>dialers</b> [3] - 179:23, 180:8  <b>dialing</b> [1] - 180:14  <b>dictionaries</b> [1] - 60:3  <b>different</b> [24] - 6:19, 7:17, 7:20, 17:2, 27:3, 37:4, 66:6, 88:17, 102:1, 103:1, 105:2, 113:13, 143:21, 144:25, 146:7, 155:11, 186:23, 189:6, 195:9, 204:22, 219:19, 221:19, 226:2  <b>differently</b> [2] - 63:10, 219:2  <b>difficult</b> [7] - 71:25, 157:11, 159:3, 211:13, 211:16, 215:13, 223:23  <b>difficulty</b> [19] - 32:8, 33:17, 34:9, 37:9, 38:5, 40:7, 41:13, 42:1, 44:8, 46:10, 50:12, 50:22, 51:22, 52:5, 52:16, 52:18, 52:23, 70:15, 196:19  <b>Digest</b> [1] - 29:5  <b>digital</b> [1] - 228:10  <b>digitally</b> [1] - 239:7  <b>digress</b> [2] - 9:6, 122:3  <b>direct</b> [13] - 56:16, 56:21, 117:22, 117:23, 162:3, 162:12, 169:1, 178:3, 187:2, 191:1, 222:6, 229:15  <b>DIRECT</b> [6] - 1:7, 1:8, 1:9, 1:10, 1:13, 75:14  <b>Direct</b> [54] - 1:13, 23:12, 26:5, 45:22, 45:23, 45:24, 45:25,</p>	<p>46:1, 64:17, 64:18, 64:19, 64:22, 65:7, 65:19, 66:9, 66:18, 78:16, 78:22, 78:23, 79:14, 79:22, 80:25, 81:3, 85:3, 86:16, 86:17, 87:13, 88:12, 108:8, 138:13, 150:8, 150:9, 150:11, 150:21, 151:5, 151:15, 151:18, 158:1, 158:12, 158:20, 212:18, 213:12, 213:15, 213:16, 214:3, 214:6, 214:12, 214:13, 214:19, 227:7, 229:5, 229:10, 233:20  <b>directly</b> [4] - 119:18, 162:6, 194:20, 204:17  <b>director</b> [6] - 30:3, 65:12, 78:17, 79:1, 181:12, 204:19  <b>directors</b> [1] - 81:20  <b>directs</b> [1] - 236:5  <b>disagree</b> [1] - 181:25  <b>disastrous</b> [1] - 225:8  <b>disbarred</b> [1] - 211:4  <b>discerning</b> [1] - 210:21  <b>disciplinary</b> [1] - 210:17  <b>disclose</b> [11] - 71:13, 71:15, 72:23, 73:14, 168:11, 208:7, 208:24, 209:1, 210:12, 210:24, 224:24  <b>disclosed</b> [1] - 69:12  <b>disclosing</b> [1] - 226:23  <b>disclosure</b> [1] - 71:24  <b>disclosures</b> [3] - 48:20, 49:5, 217:3  <b>discomfort</b> [1] - 27:17  <b>disconnect</b> [1] - 232:19  <b>discounted</b> [1] - 225:11  <b>discover</b> [1] - 90:10  <b>discovered</b> [5] - 10:15, 67:25, 69:14, 92:4, 203:24  <b>discovery</b> [1] - 205:22  <b>Discovery</b> [1] - 10:4  <b>discuss</b> [8] - 6:13, 13:2, 13:14, 13:21,</p>	<p>59:20, 190:25, 207:20, 227:12  <b>discussed</b> [11] - 6:15, 13:1, 22:2, 22:6, 118:23, 165:1, 185:11, 205:2, 206:9, 206:10, 217:18  <b>discusses</b> [1] - 127:21  <b>discussing</b> [3] - 59:8, 172:7, 228:25  <b>disgusting</b> [4] - 118:8, 126:25, 175:11, 175:14  <b>dishonest</b> [3] - 211:3, 226:25, 227:1  <b>dismiss</b> [5] - 203:8, 206:25, 224:21  <b>dismissal</b> [1] - 216:25  <b>dismissed</b> [12] - 6:1, 11:11, 69:19, 69:21, 86:21, 200:24, 207:3, 207:4, 211:23, 211:24, 221:11  <b>dismissing</b> [3] - 8:20, 120:4, 209:7  <b>disparages</b> [1] - 68:16  <b>disparaging</b> [4] - 12:13, 62:8, 90:7, 102:18  <b>display</b> [1] - 28:25  <b>displays</b> [1] - 211:15  <b>dispositive</b> [1] - 48:24  <b>dispute</b> [9] - 16:24, 51:11, 65:25, 84:23, 85:17, 135:13, 149:5, 203:7, 227:21  <b>disputing</b> [1] - 182:25  <b>disregard</b> [3] - 56:6, 57:11, 57:13  <b>disseminate</b> [1] - 133:7  <b>dissolution</b> [3] - 20:1, 20:7, 212:18  <b>dissolved</b> [6] - 20:3, 20:8, 20:15, 20:19, 212:9, 229:8  <b>dissuade</b> [1] - 8:5  <b>dissuaded</b> [1] - 63:3  <b>distract</b> [1] - 60:21  <b>distress</b> [6] - 7:12, 16:13, 17:25, 94:10, 195:8, 237:20  <b>distributing</b> [1] - 104:16  <b>District</b> [7] - 2:8, 38:24, 48:21, 48:23, 65:22, 230:14  <b>DISTRICT</b> [3] - 1:1,</p>	<p>1:2, 1:23  <b>dive</b> [2] - 198:7, 200:23  <b>diversity</b> [1] - 124:18  <b>diving</b> [1] - 198:10  <b>division</b> [1] - 31:15  <b>doctor</b> [1] - 41:4  <b>document</b> [27] - 80:13, 83:16, 86:23, 90:15, 93:3, 95:9, 98:13, 99:4, 99:18, 101:3, 115:1, 130:1, 135:20, 137:15, 139:14, 144:14, 151:8, 156:25, 157:21, 172:19, 173:4, 181:15, 189:5, 212:16, 212:17, 213:25, 224:6  <b>documents</b> [8] - 6:9, 14:17, 55:20, 61:8, 86:3, 101:5, 197:13, 230:19  <b>DOES</b> [1] - 1:15  <b>DOJ</b> [1] - 84:15  <b>dollars</b> [4] - 65:4, 88:21, 181:18, 218:20  <b>domain</b> [1] - 191:11  <b>Dominican</b> [1] - 64:25  <b>done</b> [42] - 39:12, 39:14, 39:16, 39:21, 39:24, 40:1, 47:18, 47:19, 48:25, 66:1, 67:8, 68:1, 76:12, 77:6, 84:6, 88:25, 89:2, 89:24, 92:17, 92:20, 104:3, 111:6, 125:18, 132:21, 135:6, 149:1, 149:2, 149:10, 149:11, 169:8, 178:12, 179:10, 181:1, 184:5, 184:25, 193:16, 193:20, 198:7, 204:7, 210:16, 223:5, 235:25  <b>door</b> [2] - 21:3, 116:17  <b>dot</b> [2] - 111:1, 146:6  <b>double</b> [1] - 53:17  <b>double-check</b> [1] - 53:17  <b>doubt</b> [1] - 27:2  <b>doubted</b> [1] - 119:3  <b>Douglas</b> [1] - 36:9  <b>dove</b> [4] - 198:8, 207:11  <b>down</b> [77] - 8:24,</p>	<p>15:21, 16:9, 16:15, 16:16, 16:18, 17:13, 17:21, 25:14, 29:2, 29:5, 35:12, 48:3, 54:7, 54:13, 54:14, 66:13, 67:21, 70:8, 73:20, 73:21, 76:22, 77:1, 77:7, 79:18, 91:21, 92:25, 106:23, 107:11, 113:24, 114:13, 116:4, 121:10, 129:11, 137:4, 147:13, 147:21, 147:24, 154:11, 155:6, 157:6, 157:10, 157:13, 159:21, 161:10, 161:11, 177:24, 178:5, 179:15, 179:16, 184:23, 185:1, 185:2, 188:23, 197:3, 202:14, 202:16, 203:8, 207:9, 208:1, 212:8, 216:11, 217:24, 218:10, 218:15, 220:22, 221:18, 224:9, 224:10, 224:14, 227:21, 228:14, 229:10, 233:11, 235:17  <b>download</b> [4] - 123:16, 174:16, 174:18, 204:22  <b>downloaded</b> [5] - 123:5, 123:10, 123:15, 123:18, 123:19  <b>downloading</b> [6] - 9:14, 68:5, 103:19, 104:15, 131:1, 131:5  <b>downstairs</b> [5] - 35:7, 35:10, 35:12, 47:8, 114:5  <b>dozen</b> [1] - 15:19  <b>Drive</b> [6] - 173:17, 173:24, 174:2, 175:7, 187:3, 205:3  <b>drive</b> [55] - 10:15, 11:6, 22:4, 103:22, 103:23, 105:13, 130:24, 161:20, 161:24, 173:25, 174:3, 174:4, 174:6, 174:15, 174:19, 174:24, 175:11, 175:15, 175:24, 175:25, 176:1,</p>
--	--	--	---	--



<p>176:4, 176:6, 176:7, 176:9, 176:10, 176:13, 176:14, 176:15, 176:16, 176:18, 176:22, 176:24, 177:8, 200:12, 200:13, 203:14, 203:19, 203:20, 203:21, 203:24, 204:3, 204:6, 205:6, 205:9, 205:13, 216:5, 216:8, 216:9, 227:9, 227:10, 227:14, 228:5</p> <p><b>drives</b> [4] - 103:21, 103:22, 174:5, 177:16</p> <p><b>dubious</b> [2] - 236:18, 237:11</p> <p><b>Duck</b> [9] - 91:23, 94:5, 113:23, 143:20, 154:22, 221:18, 224:10, 232:20</p> <p><b>dude</b> [2] - 116:2, 116:6</p> <p><b>due</b> [3] - 15:12, 48:20, 50:9</p> <p><b>duly</b> [2] - 75:4, 197:18</p> <p><b>During</b> [2] - 107:21, 108:5</p> <p><b>during</b> [32] - 3:9, 21:2, 22:5, 27:23, 55:23, 58:5, 59:2, 64:4, 64:5, 69:12, 69:14, 88:15, 92:15, 104:6, 115:25, 138:10, 152:7, 163:10, 163:12, 166:19, 166:24, 174:14, 182:2, 187:2, 191:3, 194:5, 200:6, 205:14, 205:22, 209:2, 217:14, 231:6</p> <p><b>duties</b> [7] - 55:10, 79:1, 79:2, 79:7, 81:23, 84:6, 149:9</p> <p><b>Duty</b> [8] - 114:2, 114:3, 114:8, 141:9, 221:19, 221:20, 224:11, 233:14</p> <p><b>duty</b> [9] - 55:13, 72:8, 209:1, 225:23, 226:2, 226:15, 226:16, 226:18, 226:20</p> <p><b>Dyersville</b> [5] - 79:21, 178:22, 179:14, 181:3, 216:3</p>	<p style="text-align: center;"><b>E</b></p> <p><b>e-mail</b> [75] - 15:15, 17:12, 59:9, 82:11, 110:25, 115:4, 115:6, 115:8, 115:17, 115:20, 126:14, 144:25, 145:3, 145:7, 145:9, 146:3, 146:8, 146:9, 152:8, 152:12, 152:13, 152:16, 152:18, 152:23, 154:18, 160:20, 163:16, 163:17, 172:2, 172:3, 172:6, 172:19, 173:1, 177:25, 182:4, 188:18, 189:14, 192:4, 192:5, 192:8, 196:21, 200:17, 200:18, 202:3, 204:10, 205:2, 205:5, 205:7, 205:11, 205:13, 205:17, 205:21, 206:1, 206:3, 206:5, 206:9, 206:10, 206:13, 206:17, 206:21, 207:10, 214:20, 215:16, 227:9, 227:15, 227:16, 228:4, 228:5, 228:7, 231:10, 231:13, 235:10</p> <p><b>e-mailed</b> [1] - 82:7</p> <p><b>e-mails</b> [11] - 15:21, 103:14, 105:13, 111:8, 133:9, 133:11, 189:23, 189:24, 204:11, 205:7, 205:8</p> <p><b>E-r-d-t</b> [1] - 25:1</p> <p><b>E-s-t-r-a-d-a</b> [1] - 24:21</p> <p><b>E-v-a-n-s</b> [1] - 25:5</p> <p><b>Eager</b> [2] - 76:24, 77:4</p> <p><b>early</b> [3] - 32:14, 33:4, 208:9</p> <p><b>easier</b> [4] - 24:7, 77:25, 100:14, 171:13</p> <p><b>easiest</b> [1] - 146:19</p> <p><b>easily</b> [1] - 112:6</p> <p><b>East</b> [1] - 36:25</p> <p><b>Eastern</b> [2] - 38:24, 48:23</p> <p><b>easy</b> [3] - 49:6, 92:9, 179:5</p>	<p><b>economic</b> [3] - 166:1, 194:22, 219:17</p> <p><b>economics</b> [1] - 38:21</p> <p><b>Edelson</b> [1] - 210:7</p> <p><b>edges</b> [1] - 195:15</p> <p><b>edit</b> [2] - 15:18, 134:19</p> <p><b>editing</b> [1] - 133:23</p> <p><b>editor</b> [1] - 42:9</p> <p><b>editorialize</b> [1] - 112:2</p> <p><b>edits</b> [1] - 155:7</p> <p><b>education</b> [6] - 32:22, 32:24, 35:11, 35:16, 42:11</p> <p><b>efficacy</b> [1] - 208:20</p> <p><b>efficiency</b> [1] - 38:11</p> <p><b>effort</b> [4] - 9:19, 89:1, 136:24, 201:22</p> <p><b>efforts</b> [3] - 89:12, 110:16, 125:5</p> <p><b>ego</b> [1] - 148:9</p> <p><b>eight</b> [6] - 23:15, 23:17, 53:20, 69:20, 109:12, 211:24</p> <p><b>eighties</b> [1] - 32:5</p> <p><b>either</b> [4] - 36:12, 85:21, 162:1, 210:24</p> <p><b>elder</b> [2] - 210:10, 210:19</p> <p><b>electronic</b> [1] - 59:9</p> <p><b>element</b> [4] - 8:4, 199:19, 207:12, 214:21</p> <p><b>elementary</b> [1] - 36:17</p> <p><b>elements</b> [3] - 62:19, 63:15, 217:18</p> <p><b>eliminate</b> [4] - 223:2, 224:8, 224:11, 232:16</p> <p><b>eliminated</b> [1] - 206:24</p> <p><b>Elisabeth</b> [1] - 236:12</p> <p><b>embarrass</b> [2] - 27:9, 89:1</p> <p><b>emotional</b> [10] - 7:12, 8:19, 16:13, 17:24, 120:2, 166:3, 195:7, 217:21, 218:9, 237:20</p> <p><b>employed</b> [4] - 64:25, 79:15, 101:23, 213:15</p> <p><b>employee</b> [19] - 10:19, 46:23, 46:24, 47:3, 63:2, 64:1, 100:24, 102:6, 108:1, 126:9, 138:13, 149:7, 152:18, 159:24, 161:19, 165:20, 165:21, 195:11, 205:20</p>	<p><b>employees</b> [6] - 37:15, 39:19, 65:1, 79:22, 114:19, 227:20</p> <p><b>Employees</b> [1] - 136:22</p> <p><b>employer</b> [41] - 20:1, 20:8, 40:13, 46:23, 47:3, 47:4, 59:14, 59:16, 64:16, 69:5, 69:6, 70:5, 71:8, 73:17, 149:8, 150:7, 150:12, 150:20, 150:21, 151:9, 157:18, 158:7, 158:9, 158:10, 158:11, 158:18, 165:22, 166:15, 195:6, 195:15, 195:16, 202:17, 202:23, 212:3, 212:9, 212:19, 213:12, 214:2, 214:19, 218:10, 222:24</p> <p><b>Employers</b> [1] - 39:12</p> <p><b>employers</b> [15] - 46:20, 46:21, 73:17, 74:4, 169:13, 169:15, 169:16, 169:18, 194:4, 194:12, 194:13, 194:16, 195:1, 196:7, 196:10</p> <p><b>employment</b> [44] - 3:6, 7:23, 20:12, 39:16, 50:2, 50:20, 62:10, 62:23, 62:24, 63:1, 63:6, 63:9, 63:13, 63:19, 63:23, 63:25, 64:15, 65:18, 66:3, 80:16, 80:17, 80:25, 81:3, 82:4, 82:5, 88:10, 88:24, 102:5, 102:9, 107:21, 108:5, 158:19, 159:23, 164:20, 164:21, 164:23, 166:18, 169:11, 196:6, 196:15, 200:12, 213:14, 233:18, 233:21</p> <p><b>employment-related</b> [1] - 62:10</p> <p><b>empty</b> [2] - 103:23, 112:12</p> <p><b>encrypted</b> [2] - 176:21, 177:14</p> <p><b>end</b> [24] - 22:9, 55:10, 58:23, 59:4, 60:12, 64:7, 64:8, 65:17, 68:21, 72:15, 72:21, 73:15, 79:9, 82:4, 85:21, 86:24, 88:23, 88:24, 152:3, 202:13, 224:20, 232:9, 236:7</p> <p><b>ended</b> [8] - 33:14, 81:1, 81:3, 82:5, 83:14, 199:10, 202:15, 202:16</p> <p><b>ending</b> [1] - 4:19</p> <p><b>endless</b> [1] - 126:22</p> <p><b>energy</b> [2] - 38:11, 208:18</p> <p><b>enforced</b> [1] - 62:10</p> <p><b>enforcement</b> [1] - 11:7</p> <p><b>engage</b> [5] - 160:11, 174:16, 220:19, 223:2, 226:17</p> <p><b>engaged</b> [8] - 7:19, 62:21, 68:9, 117:17, 169:10, 209:19, 218:5, 222:22</p> <p><b>engaging</b> [1] - 62:21</p> <p><b>engine</b> [3] - 112:7, 224:6, 232:20</p> <p><b>engineer</b> [1] - 43:7</p> <p><b>engines</b> [4] - 223:9, 223:17, 223:22, 232:7</p> <p><b>enjoy</b> [6] - 30:9, 36:22, 37:25, 41:6, 41:20, 43:8</p> <p><b>enlightening</b> [1] - 34:14</p> <p><b>ensure</b> [1] - 60:6</p> <p><b>enter</b> [1] - 24:10</p> <p><b>entered</b> [3] - 89:17, 214:8, 230:20</p> <p><b>ENTERPRISES</b> [1] - 1:12</p> <p><b>Enterprises</b> [4] - 46:2, 140:12, 229:11, 233:17</p> <p><b>enters</b> [1] - 196:2</p> <p><b>entertained</b> [1] - 120:25</p> <p><b>entertaining</b> [2] - 120:11, 121:4</p> <p><b>enticed</b> [1] - 136:23</p> <p><b>entire</b> [6] - 12:5, 12:7, 113:24, 148:6, 207:2, 210:18</p> <p><b>entirely</b> [2] - 47:21, 219:19</p> <p><b>entirety</b> [4] - 16:19, 175:7, 175:10, 220:22</p> <p><b>entities</b> [25] - 45:21,</p>
--	---	---	--

<p>46:3, 46:4, 46:5, 46:7, 62:4, 62:5, 62:7, 62:17, 63:18, 63:20, 67:5, 69:5, 150:10, 157:1, 157:6, 157:15, 157:17, 158:2, 158:7, 189:6, 214:8, 214:10, 214:17 <b>entity</b> [5] - 62:22, 151:6, 158:8, 158:18, 214:22 <b>environment</b> [1] - 180:3 <b>environmental</b> [2] - 30:25, 31:11 <b>equal</b> [1] - 56:22 <b>equals</b> [1] - 237:11 <b>equipment</b> [1] - 76:22 <b>equivalent</b> [1] - 88:11 <b>Erdt</b> [2] - 25:1, 42:18 <b>Eric</b> [1] - 25:11 <b>Erin</b> [2] - 24:17, 36:15 <b>error</b> [1] - 58:13 <b>escalate</b> [1] - 133:18 <b>escalating</b> [3] - 121:18, 147:6, 147:7 <b>escort</b> [3] - 54:24, 127:12, 236:8 <b>especially</b> [3] - 102:12, 112:2, 135:12 <b>esque</b> [1] - 215:11 <b>essence</b> [3] - 199:7, 211:11, 229:3 <b>estate</b> [2] - 34:1, 41:3 <b>Estrada</b> [3] - 24:21, 38:9, 53:24 <b>et</b> [5] - 23:13, 26:5, 127:10, 209:15, 223:19 <b>ethical</b> [2] - 225:20, 229:2 <b>ethics</b> [1] - 72:9 <b>Eugene</b> [3] - 64:23, 79:20, 216:2 <b>evaluate</b> [5] - 133:8, 133:12, 201:20, 221:7, 226:14 <b>evaluated</b> [4] - 200:5, 227:8, 227:9, 227:10 <b>evaluating</b> [1] - 72:22 <b>evaluation</b> [5] - 72:19, 153:6, 204:7, 205:14, 227:16 <b>evaluations</b> [1] - 206:19 <b>Evans</b> [2] - 25:5, 46:17 <b>evans</b> [1] - 46:18 <b>Eve</b> [1] - 220:16</p>	<p><b>evening</b> [3] - 236:1, 237:14, 238:10 <b>event</b> [7] - 27:25, 28:19, 119:15, 119:19, 119:21, 199:10, 214:12 <b>events</b> [5] - 83:1, 101:24, 119:3, 214:15 <b>eventually</b> [3] - 71:3, 87:22, 224:7 <b>evidence</b> [164] - 4:16, 14:10, 22:13, 26:10, 27:5, 52:12, 52:13, 52:14, 55:14, 55:15, 55:19, 55:20, 55:24, 56:1, 56:2, 56:5, 56:6, 56:11, 56:12, 56:13, 56:16, 56:17, 56:18, 56:19, 56:21, 56:23, 56:24, 56:25, 57:1, 57:3, 57:10, 57:11, 57:13, 57:23, 57:25, 58:2, 58:4, 58:12, 58:25, 59:22, 60:7, 60:13, 61:8, 61:15, 61:16, 61:18, 61:21, 61:23, 61:25, 62:12, 62:20, 63:15, 69:19, 69:21, 70:7, 70:16, 71:12, 71:21, 71:22, 71:23, 72:14, 72:19, 73:6, 73:7, 74:1, 74:8, 74:16, 80:20, 85:25, 86:18, 93:12, 101:7, 103:13, 103:25, 136:2, 137:2, 138:2, 152:18, 160:16, 163:18, 164:14, 165:2, 165:4, 167:22, 168:5, 168:21, 169:4, 169:5, 172:11, 173:15, 182:3, 182:9, 185:10, 185:13, 186:20, 187:4, 191:18, 198:1, 198:7, 198:16, 199:21, 200:10, 200:16, 200:23, 201:24, 202:1, 202:7, 203:1, 203:3, 203:9, 204:13, 205:10, 205:19, 206:8, 206:18, 207:3, 207:4, 207:9, 207:19, 207:23, 207:25, 208:1,</p>	<p>208:4, 208:19, 209:7, 211:3, 211:9, 211:17, 211:19, 211:21, 212:10, 213:5, 214:20, 214:21, 214:22, 215:16, 215:17, 216:15, 216:23, 216:24, 216:25, 217:15, 219:6, 219:10, 219:13, 219:15, 219:21, 219:23, 221:6, 221:11, 221:23, 224:21, 226:15, 226:17, 226:24, 227:4, 227:23, 229:2, 235:18, 235:22, 237:23 <b>Evidence</b> [1] - 138:17 <b>evolutionary</b> [2] - 72:5, 199:6 <b>ex</b> [1] - 126:9 <b>ex-employee</b> [1] - 126:9 <b>exact</b> [1] - 28:15 <b>exactly</b> [2] - 83:1, 161:6 <b>exam</b> [2] - 149:24, 229:17 <b>examination</b> [4] - 21:2, 162:4, 174:14, 193:15 <b>EXAMINATION</b> [3] - 75:14, 150:1, 230:1 <b>examinations</b> [1] - 206:14 <b>examine</b> [111] - 61:19, 61:20, 61:22, 71:20, 71:21, 153:3, 156:25, 167:4, 168:20, 194:3 <b>examined</b> [5] - 75:5, 185:19, 197:19, 200:6, 213:13 <b>examiners</b> [1] - 203:23 <b>examining</b> [1] - 132:6 <b>example</b> [111] - 4:21, 6:5, 13:2, 14:13, 21:15, 21:24, 103:17, 169:3, 198:9, 207:6, 224:4 <b>excel</b> [2] - 180:23, 180:24 <b>except</b> [3] - 54:13, 129:1, 158:23 <b>exception</b> [1] - 84:15 <b>excerpt</b> [1] - 106:9 <b>exchange</b> [2] - 172:3,</p>	<p>231:10 <b>exclusive</b> [3] - 9:3, 121:25, 175:1 <b>exclusively</b> [2] - 108:13, 203:22 <b>excuse</b> [11] - 35:3, 43:22, 47:6, 49:16, 155:21, 155:22, 164:25, 170:4, 190:17, 213:19, 222:10 <b>executives</b> [1] - 227:20 <b>exercise</b> [4] - 25:22, 28:4, 38:14, 53:12 <b>exercising</b> [1] - 53:15 <b>exhibit</b> [56] - 4:7, 4:8, 6:25, 19:9, 19:19, 19:24, 20:2, 20:21, 22:2, 57:1, 57:5, 57:6, 81:7, 90:13, 91:1, 93:8, 99:8, 112:18, 121:20, 125:20, 131:12, 144:25, 145:19, 151:16, 156:14, 163:15, 169:24, 170:1, 170:13, 171:3, 171:8, 171:9, 171:10, 185:17, 185:21, 188:12, 188:24, 189:2, 191:16, 191:17, 192:8, 198:20, 198:24, 201:4, 201:6, 201:21, 203:11, 203:15, 215:20, 217:8, 220:4, 220:14, 225:4, 225:16, 230:4, 233:13 <b>Exhibit</b> [114] - 19:21, 19:25, 20:2, 79:25, 80:3, 80:11, 80:19, 83:15, 83:23, 86:22, 87:4, 90:12, 90:21, 91:3, 93:2, 93:12, 93:23, 95:7, 96:1, 96:15, 96:18, 96:20, 97:11, 97:15, 97:18, 98:12, 98:20, 99:2, 99:8, 99:16, 99:24, 100:8, 106:8, 106:13, 108:14, 112:11, 112:16, 113:14, 114:7, 114:24, 115:11, 117:2, 118:10, 122:14, 122:16, 122:21, 123:23,</p>	<p>127:25, 129:21, 130:13, 131:12, 135:16, 136:2, 136:4, 137:14, 138:2, 138:16, 138:22, 139:12, 139:22, 140:15, 141:1, 141:11, 141:25, 142:20, 143:6, 143:14, 144:6, 144:10, 144:12, 145:11, 150:3, 150:4, 151:1, 153:25, 155:19, 155:20, 155:21, 155:22, 156:16, 156:17, 159:6, 163:7, 163:8, 170:5, 170:13, 170:21, 173:15, 173:16, 188:16, 188:22, 201:2, 201:3, 201:15, 203:15, 206:11, 212:12, 213:19, 215:21, 215:22, 220:14, 222:12, 226:5, 226:8, 226:9, 226:12, 226:13, 230:3, 231:10, 232:8, 232:25, 233:7, 233:22, 234:23 <b>Exhibits</b> [1] - 101:7 <b>exhibits</b> [28] - 3:24, 4:6, 4:18, 5:13, 14:14, 15:11, 15:12, 15:13, 15:15, 21:23, 22:12, 26:9, 55:21, 60:14, 105:19, 113:22, 151:22, 151:25, 154:4, 155:18, 156:1, 156:6, 189:4, 189:11, 190:2, 222:7, 222:9 <b>exist</b> [1] - 169:18 <b>existence</b> [5] - 185:12, 185:23, 186:15, 205:2, 205:23 <b>exiting</b> [1] - 127:15 <b>expect</b> [3] - 111:14, 125:8, 202:17 <b>expectation</b> [1] - 160:6 <b>expected</b> [5] - 14:4, 216:2, 216:8, 216:13, 219:17 <b>expects</b> [1] - 61:16 <b>expedite</b> [1] - 101:6</p>
--	--	---	---	---

<p><b>expenses</b> [1] - 88:20  <b>experience</b> [19] - 29:13, 29:20, 30:17, 34:8, 34:12, 35:23, 40:6, 41:12, 43:12, 49:21, 50:11, 50:21, 51:21, 52:13, 71:10, 140:6, 140:7, 183:18, 215:9  <b>experiences</b> [6] - 32:7, 33:16, 37:8, 38:5, 42:1, 44:7  <b>expert</b> [8] - 165:9, 167:7, 186:13, 187:18, 202:8, 206:25, 207:1, 207:5  <b>expert's</b> [1] - 227:2  <b>experts</b> [14] - 10:14, 69:21, 103:24, 200:4, 200:9, 200:19, 202:7, 206:15, 206:19, 207:4, 207:6, 227:6, 227:7  <b>explain</b> [8] - 5:8, 21:12, 139:4, 147:1, 154:21, 187:6, 187:7, 196:6  <b>explaining</b> [1] - 198:10  <b>exploited</b> [1] - 199:13  <b>explore</b> [2] - 21:4, 195:3  <b>export</b> [1] - 79:8  <b>exporting</b> [3] - 180:16, 180:18, 180:19  <b>expose</b> [1] - 72:25  <b>exposed</b> [2] - 59:1, 60:10  <b>Exposing</b> [2] - 234:11, 234:16  <b>exposing</b> [1] - 137:2  <b>Express</b> [4] - 200:17, 205:10, 206:6, 206:16  <b>extension</b> [1] - 209:25  <b>extensions</b> [2] - 216:1, 216:6  <b>extensively</b> [4] - 67:22, 205:2, 211:2, 216:10  <b>extant</b> [7] - 3:24, 11:14, 12:4, 19:18, 194:14, 194:25, 210:24  <b>extort</b> [1] - 228:19  <b>extraordinary</b> [2] - 137:1, 216:14  <b>extreme</b> [1] - 217:21  <b>extremely</b> [2] - 27:19,</p>	<p>211:17</p> <hr/> <p style="text-align: center;"><b>F</b></p> <hr/> <p><b>F-i-l-l-i-s</b> [1] - 25:3  <b>F-r-i-e-d-s-t-r-o-m</b> [1] - 24:24  <b>Facebook</b> [7] - 42:24, 143:19, 144:2, 160:10, 160:15, 161:13, 161:14  <b>facility</b> [1] - 178:22  <b>fact</b> [46] - 9:23, 20:18, 47:22, 51:15, 52:4, 56:20, 58:2, 67:11, 69:22, 70:12, 70:16, 74:4, 74:5, 82:8, 82:11, 110:14, 121:3, 123:5, 128:8, 138:12, 154:14, 163:18, 174:16, 185:13, 199:9, 202:8, 204:6, 206:1, 206:23, 207:20, 209:4, 209:9, 210:2, 210:12, 211:8, 211:11, 222:19, 223:5, 224:24, 225:4, 225:19, 228:11, 228:12, 228:21  <b>factor</b> [1] - 63:8  <b>factors</b> [3] - 57:25, 58:1, 63:23  <b>facts</b> [11] - 26:22, 55:13, 55:14, 55:15, 55:16, 55:21, 56:2, 56:10, 56:19, 57:14, 224:21  <b>failure</b> [3] - 74:13, 85:9, 208:23  <b>fair</b> [5] - 52:24, 60:7, 160:12, 209:18  <b>fairness</b> [3] - 27:19, 28:10, 60:9  <b>faith</b> [2] - 202:13, 222:2  <b>fake</b> [1] - 199:20  <b>falls</b> [1] - 11:17  <b>false</b> [4] - 12:13, 107:24, 107:25, 226:17  <b>falsely</b> [1] - 33:13  <b>familiar</b> [6] - 81:23, 110:1, 130:8, 130:9, 130:11, 178:17  <b>family</b> [9] - 37:17, 59:13, 59:16, 68:8, 102:16, 103:2, 117:23, 118:9, 148:1</p>	<p><b>far</b> [8] - 42:16, 49:4, 81:25, 83:1, 109:6, 113:16, 126:21, 176:18  <b>fast</b> [1] - 100:25  <b>fast-forward</b> [1] - 100:25  <b>father</b> [1] - 36:4  <b>favor</b> [4] - 66:17, 66:23, 138:15, 219:25  <b>favorable</b> [1] - 72:10  <b>fear</b> [1] - 121:19  <b>feature</b> [2] - 59:10, 180:4  <b>February</b> [4] - 67:13, 94:24, 131:19, 212:10  <b>federal</b> [4] - 50:8, 118:22, 124:20, 230:13  <b>Federal</b> [2] - 39:12, 39:24  <b>fees</b> [4] - 224:19, 231:1, 231:2, 231:4  <b>fellow</b> [4] - 56:10, 58:22, 59:11, 60:20  <b>felt</b> [3] - 77:18, 92:14, 113:10  <b>few</b> [11] - 9:17, 27:7, 55:9, 61:13, 88:1, 88:3, 97:6, 112:21, 165:8, 211:16, 231:17  <b>fiancee</b> [11] - 68:15, 76:4, 100:19, 102:17, 107:20, 117:16, 124:7, 125:1, 149:14, 199:16, 208:3  <b>fiancee's</b> [1] - 199:16  <b>fiction</b> [2] - 133:24, 210:21  <b>fictionalized</b> [1] - 215:8  <b>field</b> [2] - 78:14, 109:23  <b>fifteen</b> [1] - 30:12  <b>fifth</b> [2] - 128:11, 128:18  <b>fight</b> [3] - 84:23, 87:16, 87:21  <b>figure</b> [2] - 168:23, 188:10  <b>figured</b> [1] - 20:14  <b>file</b> [9] - 82:23, 85:13, 102:6, 102:9, 107:6, 124:25, 154:18, 182:4, 204:15  <b>file-sharing</b> [1] -</p>	<p>204:15  <b>filed</b> [30] - 11:10, 14:15, 14:21, 17:6, 17:8, 19:21, 66:1, 83:8, 83:12, 83:13, 83:19, 83:20, 84:18, 84:19, 85:12, 92:19, 124:6, 173:4, 173:11, 200:16, 202:4, 202:11, 202:12, 206:22, 207:8, 207:21, 207:22, 207:23, 220:15, 225:5  <b>files</b> [9] - 79:10, 177:12, 178:12, 178:15, 178:21, 204:12, 204:16, 204:21, 204:22  <b>filing</b> [3] - 84:5, 84:15, 230:18  <b>Fillis</b> [2] - 25:3, 44:11  <b>finagling</b> [1] - 111:3  <b>final</b> [4] - 66:22, 116:19, 131:25, 133:22  <b>financial</b> [2] - 217:21, 218:9  <b>findable</b> [1] - 136:19  <b>fine</b> [7] - 48:17, 84:13, 88:7, 128:8, 146:20, 181:9, 189:21  <b>finish</b> [3] - 127:15, 164:3, 195:23  <b>finished</b> [4] - 37:1, 156:5, 156:8, 193:15  <b>Fir</b> [1] - 2:6  <b>fire</b> [1] - 120:4  <b>fired</b> [8] - 8:19, 50:7, 84:17, 88:17, 200:15, 202:5, 202:9, 202:11  <b>First</b> [9] - 114:2, 114:3, 114:8, 141:9, 172:5, 221:19, 221:20, 224:11, 233:14  <b>first</b> [52] - 7:18, 20:5, 20:8, 23:1, 23:3, 45:1, 46:15, 50:17, 51:5, 67:13, 74:22, 75:4, 75:9, 94:4, 95:12, 100:21, 101:18, 101:22, 106:17, 107:19, 108:16, 110:4, 111:1, 113:5, 113:22, 113:23, 114:10, 123:1, 123:2, 123:3, 123:4,</p>	<p>125:3, 128:12, 135:2, 136:14, 147:12, 155:19, 170:18, 170:25, 197:18, 198:6, 199:7, 199:8, 217:20, 218:2, 218:16, 222:16, 222:19, 224:10, 228:17, 232:9, 237:5  <b>fit</b> [1] - 47:11  <b>Fitness</b> [1] - 44:14  <b>five</b> [5] - 35:25, 37:13, 71:5, 99:13, 196:8  <b>five-year-old</b> [1] - 37:13  <b>flatbed</b> [1] - 76:21  <b>flattering</b> [1] - 109:7  <b>flew</b> [1] - 181:3  <b>floor</b> [3] - 47:9, 54:7, 156:11  <b>fluctuated</b> [1] - 79:23  <b>fluid</b> [2] - 225:8, 225:9  <b>fly</b> [3] - 77:18, 116:2, 116:6  <b>focus</b> [4] - 39:20, 154:13, 168:4  <b>focused</b> [1] - 227:2  <b>focuses</b> [1] - 68:12  <b>folder</b> [1] - 107:7  <b>folks</b> [1] - 65:2  <b>follow</b> [7] - 52:19, 55:17, 85:2, 109:6, 119:8, 120:11, 231:14  <b>followed</b> [3] - 73:8, 231:16  <b>following</b> [7] - 45:19, 45:21, 56:1, 61:20, 62:19, 63:14, 187:1  <b>follows</b> [7] - 72:24, 75:5, 130:23, 134:14, 147:3, 197:19  <b>font</b> [1] - 139:4  <b>food</b> [2] - 33:2, 36:17  <b>FOR</b> [3] - 1:2, 2:2, 2:4  <b>for-profit</b> [6] - 1:7, 1:9, 1:10, 1:11, 45:24, 46:1  <b>foregoing</b> [1] - 239:4  <b>forensic</b> [80] - 4:21, 4:22, 6:6, 10:14, 10:21, 11:6, 11:7, 11:8, 11:14, 11:15, 11:18, 11:21, 11:23, 12:1, 12:5, 12:7, 12:25, 13:1, 13:3, 13:9, 18:11, 18:16, 18:20, 18:21, 18:22,</p>
---	--	--	--	--

<p>19:11, 19:15, 19:20, 21:11, 21:16, 21:17, 22:2, 22:4, 22:10, 69:20, 71:17, 71:20, 166:25, 167:7, 167:22, 174:19, 185:9, 185:10, 185:12, 185:17, 185:25, 186:11, 186:13, 186:18, 186:23, 187:5, 187:10, 187:18, 191:10, 191:14, 200:4, 200:9, 200:10, 200:19, 201:24, 202:7, 203:23, 204:7, 205:14, 206:14, 206:19, 206:25, 216:14, 216:16, 216:17, 216:19, 221:23, 227:1, 227:5, 227:6</p> <p><b>forensics</b> [7] - 198:9, 211:24, 217:17, 224:18, 227:13, 227:16, 227:18</p> <p><b>forever</b> [2] - 134:14, 134:15</p> <p><b>forget</b> [1] - 188:13</p> <p><b>forgot</b> [4] - 171:14, 194:2, 194:3, 194:6</p> <p><b>form</b> [5] - 206:5, 215:10, 221:17, 223:24, 228:10</p> <p><b>former</b> [11] - 10:19, 69:5, 73:9, 94:8, 149:7, 194:25, 208:7, 210:23, 212:9, 214:2, 222:24</p> <p><b>forth</b> [4] - 150:15, 159:17, 197:15, 219:22</p> <p><b>forty</b> [1] - 38:3</p> <p><b>forty-six</b> [1] - 38:3</p> <p><b>forum</b> [1] - 17:2</p> <p><b>forums</b> [5] - 110:1, 136:15, 136:20, 137:9, 160:19</p> <p><b>forward</b> [3] - 74:24, 100:25, 112:11</p> <p><b>fought</b> [5] - 84:25, 87:11, 87:13, 87:17, 88:16</p> <p><b>foundation</b> [1] - 13:18</p> <p><b>four</b> [10] - 35:22, 37:14, 54:15, 54:16, 85:12, 95:20, 96:16, 126:8, 128:11, 231:9</p> <p><b>fourteen</b> [1] - 64:12</p>	<p><b>fourth</b> [2] - 209:22, 233:11</p> <p><b>Fox</b> [1] - 175:16</p> <p><b>FoxPro</b> [18] - 165:9, 165:16, 165:17, 179:19, 179:21, 180:10, 180:20, 200:1, 200:2, 200:8, 200:11, 203:25, 204:12, 205:1, 216:1, 216:7, 227:25</p> <p><b>fraud</b> [11] - 39:14, 72:11, 88:17, 146:10, 217:12, 217:13, 217:17, 217:18, 217:19, 218:4, 218:5</p> <p><b>fraudulent</b> [1] - 89:23</p> <p><b>fraudulently</b> [1] - 65:19</p> <p><b>Fred</b> [1] - 44:13</p> <p><b>free</b> [3] - 34:21, 51:4, 232:1</p> <p><b>freezing</b> [1] - 126:6</p> <p><b>Friday</b> [1] - 48:21</p> <p><b>Friedstrom</b> [2] - 24:24, 41:17</p> <p><b>friend</b> [4] - 65:11, 126:1, 126:4, 179:7</p> <p><b>friend's</b> [1] - 125:25</p> <p><b>frightened</b> [1] - 121:1</p> <p><b>frightening</b> [1] - 119:14</p> <p><b>front</b> [15] - 23:24, 24:6, 28:24, 50:16, 54:12, 54:14, 54:15, 121:15, 131:13, 145:19, 170:23, 199:11, 234:2</p> <p><b>fucks</b> [1] - 10:5</p> <p><b>fulfillment</b> [1] - 178:20</p> <p><b>full</b> [2] - 113:2, 113:6</p> <p><b>fun</b> [1] - 76:7</p>	<p><b>general</b> [3] - 101:20, 101:21, 116:4</p> <p><b>generally</b> [8] - 4:4, 79:23, 81:17, 85:8, 92:1, 101:15, 104:14, 105:20</p> <p><b>generate</b> [4] - 180:20, 214:24, 215:1</p> <p><b>generated</b> [2] - 215:12, 215:18</p> <p><b>generating</b> [1] - 215:12</p> <p><b>gentleman</b> [4] - 115:5, 135:6, 210:6, 210:19</p> <p><b>gentlemen</b> [2] - 64:11, 69:2</p> <p><b>gift</b> [1] - 9:16</p> <p><b>girlfriend</b> [8] - 9:17, 33:23, 42:7, 42:9, 42:13, 100:19, 118:21, 119:11</p> <p><b>given</b> [1] - 60:17</p> <p><b>gold</b> [1] - 78:5</p> <p><b>golf</b> [2] - 33:3, 36:11</p> <p><b>goodness</b> [2] - 32:4, 189:19</p> <p><b>Google</b> [32] - 93:6, 99:19, 100:16, 106:16, 106:17, 135:21, 136:10, 136:19, 137:5, 137:18, 137:24, 139:7, 139:8, 146:14, 148:22, 155:13, 155:17, 183:19, 222:7, 222:17, 222:19, 223:7, 223:9, 223:17, 224:12, 232:3, 232:5, 232:18, 233:8</p> <p><b>Googled</b> [7] - 67:25, 90:6, 93:9, 94:3, 99:21, 100:12, 135:25</p> <p><b>Googles</b> [3] - 68:4, 110:19, 110:20</p> <p><b>Gorge</b> [1] - 39:3</p> <p><b>Gossett</b> [2] - 25:16, 51:9</p> <p><b>gov</b> [1] - 146:7</p> <p><b>grab</b> [1] - 223:18</p> <p><b>grade</b> [1] - 39:13</p> <p><b>graduated</b> [1] - 9:17</p> <p><b>grand</b> [3] - 33:7, 41:22, 43:11</p> <p><b>grant</b> [1] - 58:16</p> <p><b>granting</b> [1] - 58:17</p> <p><b>great</b> [24] - 4:15, 9:16, 14:8, 21:15, 70:2,</p>	<p>71:1, 71:5, 71:6, 71:19, 71:20, 71:21, 72:14, 73:23, 92:22, 125:6, 126:1, 129:6, 173:24, 183:14, 201:22, 208:9, 210:11, 215:25, 227:12</p> <p><b>greater</b> [2] - 102:24, 224:16</p> <p><b>green</b> [2] - 78:6, 236:20</p> <p><b>Grisham</b> [1] - 215:11</p> <p><b>Grisham-esque</b> [1] - 215:11</p> <p><b>grounds</b> [1] - 168:17</p> <p><b>group</b> [4] - 42:22, 95:17, 213:8, 229:5</p> <p><b>guarantee</b> [1] - 149:12</p> <p><b>Guard</b> [1] - 36:20</p> <p><b>guarded</b> [1] - 148:12</p> <p><b>guess</b> [12] - 33:25, 57:8, 78:20, 101:6, 112:23, 113:2, 113:21, 118:16, 184:24, 187:13, 232:24</p> <p><b>guessing</b> [2] - 93:22, 186:12</p> <p><b>guilty</b> [1] - 27:2</p> <p><b>guitar</b> [7] - 33:4, 34:4, 76:11, 76:13, 109:14, 109:22, 222:21</p> <p><b>guy</b> [2] - 10:5, 133:15</p> <p><b>gym</b> [1] - 30:6</p>	<p><b>handle</b> [1] - 84:24</p> <p><b>hands</b> [3] - 48:3, 49:24, 50:1</p> <p><b>hang</b> [7] - 10:9, 44:18, 47:25, 48:16, 49:5, 145:18, 192:10</p> <p><b>hanging</b> [1] - 148:4</p> <p><b>happy</b> [6] - 70:23, 113:25, 120:10, 126:3, 133:21, 147:21</p> <p><b>Happy</b> [1] - 32:19</p> <p><b>Hard</b> [6] - 173:17, 173:24, 174:2, 175:7, 187:3, 205:3</p> <p><b>hard</b> [64] - 10:15, 11:6, 22:4, 103:21, 103:22, 118:7, 130:24, 131:12, 134:6, 161:20, 161:24, 171:18, 173:25, 174:3, 174:4, 174:5, 174:6, 174:15, 174:19, 174:24, 175:11, 175:15, 175:23, 175:25, 176:1, 176:4, 176:6, 176:7, 176:9, 176:10, 176:13, 176:14, 176:15, 176:16, 176:18, 176:22, 176:24, 177:8, 177:16, 179:5, 200:11, 200:13, 203:14, 203:19, 203:20, 203:21, 203:24, 204:2, 204:3, 204:6, 205:6, 205:9, 205:13, 206:4, 216:5, 216:8, 216:9, 227:9, 227:10, 227:14, 228:5, 228:8</p> <p><b>harm</b> [1] - 146:15</p> <p><b>harmed</b> [2] - 19:15, 198:5</p> <p><b>harmful</b> [1] - 12:23</p> <p><b>Hart</b> [1] - 25:10</p> <p><b>Harwood</b> [4] - 24:12, 32:17, 48:9, 53:22</p> <p><b>haul</b> [1] - 76:21</p> <p><b>head</b> [4] - 46:25, 110:4, 133:17, 203:2</p> <p><b>heads</b> [2] - 126:4, 148:5</p> <p><b>Healing</b> [1] - 30:7</p> <p><b>health</b> [5] - 30:25, 31:11, 31:15, 32:23, 169:23</p>
		<p><b>G</b></p> <p><b>G-o-s-s-e-t-t</b> [1] - 25:16</p> <p><b>gain</b> [1] - 219:17</p> <p><b>game</b> [4] - 218:22, 218:23, 218:25, 219:3</p> <p><b>games</b> [1] - 44:15</p> <p><b>gaming</b> [2] - 42:15, 42:24</p> <p><b>garden</b> [1] - 35:20</p> <p><b>gardening</b> [2] - 30:9, 41:6</p> <p><b>Gay</b> [1] - 117:8</p> <p><b>gay</b> [1] - 117:14</p>	<p><b>H</b></p> <p><b>H-a-r-t</b> [1] - 25:10</p> <p><b>H-a-r-w-o-o-d</b> [1] - 24:12</p> <p><b>H-i-g-h-t-o-n</b> [1] - 24:23</p> <p><b>half</b> [2] - 92:18, 181:2</p> <p><b>hand</b> [28] - 6:7, 6:8, 26:1, 45:4, 46:4, 46:11, 46:13, 47:16, 47:24, 50:4, 50:5, 50:16, 51:1, 51:19, 51:20, 51:23, 52:6, 52:9, 52:17, 52:20, 52:25, 53:25, 71:18, 75:1, 116:17, 187:23, 195:3, 197:12</p> <p><b>handed</b> [1] - 122:17</p> <p><b>handing</b> [6] - 80:9, 90:13, 112:13, 129:24, 156:4, 230:5</p>	

<p><b>Health</b> [2] - 31:11, 32:3</p> <p><b>hear</b> [20] - 3:13, 7:6, 15:23, 44:20, 51:8, 55:15, 57:20, 61:6, 64:19, 65:4, 65:25, 66:19, 68:11, 77:2, 111:24, 131:2, 131:3, 167:11, 235:1, 235:22</p> <p><b>heard</b> [9] - 46:3, 47:2, 47:15, 52:21, 56:7, 56:18, 75:23, 188:14, 235:21</p> <p><b>hearing</b> [7] - 58:6, 60:22, 88:18, 88:19, 115:21, 120:21, 209:10</p> <p><b>hearings</b> [1] - 31:25</p> <p><b>heart</b> [1] - 10:16</p> <p><b>heavy</b> [1] - 76:22</p> <p><b>hedging</b> [2] - 133:25, 134:4</p> <p><b>held</b> [1] - 229:14</p> <p><b>helicopter</b> [1] - 39:4</p> <p><b>hell</b> [1] - 116:15</p> <p><b>hello</b> [1] - 33:21</p> <p><b>help</b> [11] - 60:18, 61:15, 68:17, 68:22, 70:23, 133:1, 136:17, 148:10, 171:20, 197:14, 215:6</p> <p><b>helpful</b> [1] - 209:8</p> <p><b>helping</b> [3] - 110:8, 136:17, 148:10</p> <p><b>helps</b> [1] - 18:12</p> <p><b>Hernandez</b> [1] - 26:6</p> <p><b>HERNANDEZ</b> [1] - 1:22</p> <p><b>herself</b> [1] - 118:5</p> <p><b>hi</b> [5] - 26:15, 26:17, 35:14, 36:7, 36:15</p> <p><b>hide</b> [3] - 70:12, 199:23, 206:17</p> <p><b>high</b> [2] - 37:1, 134:4</p> <p><b>highlighted</b> [1] - 111:16</p> <p><b>Highton</b> [2] - 24:23, 41:1</p> <p><b>Hill</b> [1] - 75:24</p> <p><b>Hillsboro</b> [1] - 33:22</p> <p><b>himself</b> [8] - 26:19, 67:6, 68:14, 69:16, 89:25, 120:15, 168:7</p> <p><b>hire</b> [1] - 182:19</p> <p><b>hired</b> [7] - 14:16, 64:1, 70:9, 120:17, 167:7, 200:4, 200:10</p> <p><b>hires</b> [1] - 121:16</p>	<p><b>histories</b> [1] - 222:23</p> <p><b>History</b> [3] - 96:25, 108:24, 184:8</p> <p><b>history</b> [6] - 69:25, 92:23, 94:12, 103:17, 109:1, 130:22</p> <p><b>hit</b> [2] - 93:18, 96:5</p> <p><b>hitting</b> [1] - 147:20</p> <p><b>hobbies</b> [8] - 29:16, 33:3, 34:21, 39:2, 42:14, 42:23, 44:14, 76:7</p> <p><b>hobby</b> [1] - 31:4</p> <p><b>Hold</b> [1] - 150:25</p> <p><b>hold</b> [5] - 13:17, 17:22, 103:9, 145:5, 188:13</p> <p><b>holding</b> [1] - 229:13</p> <p><b>home</b> [7] - 23:16, 38:14, 54:25, 125:25, 181:5, 236:1, 236:4</p> <p><b>honest</b> [5] - 27:16, 27:18, 72:9, 225:23, 225:24</p> <p><b>honestly</b> [2] - 15:12, 27:11</p> <p><b>honesty</b> [5] - 47:12, 72:7, 226:16, 226:20</p> <p><b>Honor</b> [51] - 3:12, 4:11, 5:23, 10:17, 15:5, 17:11, 19:6, 19:24, 22:3, 23:11, 39:10, 45:16, 48:19, 53:9, 53:11, 64:10, 69:1, 104:8, 115:13, 122:7, 125:10, 127:4, 128:20, 136:5, 138:3, 145:16, 151:21, 153:22, 154:9, 156:3, 164:10, 164:11, 166:18, 168:19, 170:1, 170:19, 184:14, 189:10, 190:17, 193:16, 196:25, 197:2, 198:3, 212:21, 213:24, 217:7, 220:5, 222:11, 229:15, 235:16, 238:2</p> <p><b>HONORABLE</b> [1] - 1:22</p> <p><b>hope</b> [1] - 221:3</p> <p><b>horrible</b> [5] - 92:12, 100:23, 106:2, 106:3, 146:24</p> <p><b>horror</b> [1] - 68:13</p>	<p><b>hospital</b> [1] - 37:22</p> <p><b>hosting</b> [2] - 9:4, 121:25</p> <p><b>hour</b> [4] - 207:16, 207:17, 207:18, 209:17</p> <p><b>hours</b> [3] - 70:18, 84:10, 235:25</p> <p><b>house</b> [1] - 176:5</p> <p><b>household</b> [1] - 32:20</p> <p><b>hug</b> [1] - 126:13</p> <p><b>huge</b> [2] - 105:23, 105:25</p> <p><b>Human</b> [4] - 43:7, 43:20, 43:21, 43:22</p> <p><b>human</b> [1] - 134:24</p> <p><b>hundreds</b> [1] - 206:4</p> <p><b>hunt</b> [1] - 29:17</p> <p><b>hurt</b> [10] - 71:1, 73:23, 74:9, 149:14, 149:15, 149:16, 166:1, 218:10</p> <p><b>husband</b> [15] - 30:2, 35:15, 35:16, 35:18, 36:16, 36:18, 36:19, 41:2, 41:3, 41:17, 41:18, 43:3, 43:7, 124:7, 124:13</p> <p><b>husband's</b> [1] - 43:5</p>	<p>134:12</p> <p><b>immediately</b> [2] - 126:13, 126:14</p> <p><b>impact</b> [1] - 40:22</p> <p><b>impacted</b> [1] - 194:21</p> <p><b>impartial</b> [1] - 28:7</p> <p><b>impeach</b> [1] - 188:4</p> <p><b>impeachment</b> [4] - 151:22, 185:7, 185:13, 188:6</p> <p><b>implicating</b> [2] - 82:14, 82:15</p> <p><b>import</b> [4] - 65:13, 79:7, 180:4, 180:5</p> <p><b>important</b> [9] - 27:19, 28:9, 40:16, 48:23, 60:22, 213:10, 221:9, 221:10</p> <p><b>importantly</b> [2] - 48:22, 70:5</p> <p><b>imported</b> [3] - 180:1, 180:6, 180:9</p> <p><b>importing</b> [3] - 180:11, 180:17, 180:18</p> <p><b>impression</b> [1] - 159:12</p> <p><b>improper</b> [1] - 10:25</p> <p><b>impropriety</b> [1] - 102:23</p> <p><b>IN</b> [1] - 1:1</p> <p><b>inability</b> [1] - 219:20</p> <p><b>inaccurate</b> [1] - 12:22</p> <p><b>inactive</b> [1] - 20:18</p> <p><b>inadvertently</b> [1] - 82:7</p> <p><b>inappropriate</b> [1] - 127:18</p> <p><b>inappropriately</b> [3] - 126:10, 127:1, 129:20</p> <p><b>inaudible</b> [1] - 51:6</p> <p><b>INC</b> [5] - 1:7, 1:8, 1:10, 1:11, 1:13</p> <p><b>Inc</b> [6] - 1:14, 23:13, 150:11, 150:22, 151:5, 151:15</p> <p><b>incapable</b> [1] - 195:8</p> <p><b>incited</b> [1] - 63:17</p> <p><b>include</b> [2] - 33:3, 63:23</p> <p><b>included</b> [8] - 11:21, 80:1, 88:12, 88:13, 183:8, 186:15, 214:14, 216:7</p> <p><b>includes</b> [3] - 18:16, 59:8, 226:13</p> <p><b>including</b> [4] - 21:11, 39:13, 59:13, 132:8</p> <p><b>inclusive</b> [1] - 150:22</p>	<p><b>incoming</b> [1] - 178:18</p> <p><b>incomplete</b> [2] - 172:3</p> <p><b>inconsistent</b> [1] - 227:1</p> <p><b>Incorporated</b> [6] - 26:5, 45:22, 45:23, 45:24, 45:25, 46:1</p> <p><b>incredibly</b> [2] - 90:7, 213:9</p> <p><b>incurred</b> [1] - 202:18</p> <p><b>independence</b> [2] - 69:23, 71:15</p> <p><b>independent</b> [3] - 71:17, 165:19, 195:12</p> <p><b>indicate</b> [2] - 177:1, 177:2</p> <p><b>indicated</b> [5] - 159:11, 160:9, 162:12, 163:15, 176:25</p> <p><b>indicating</b> [1] - 55:24</p> <p><b>Indicating</b> [1] - 171:21</p> <p><b>indicating</b> [1] - 183:25</p> <p><b>indication</b> [3] - 58:18, 132:16, 202:5</p> <p><b>indirect</b> [1] - 56:19</p> <p><b>individual</b> [4] - 102:25, 121:13, 217:20, 221:14</p> <p><b>individuals</b> [2] - 204:23, 215:9</p> <p><b>industrial</b> [1] - 29:12</p> <p><b>industries</b> [1] - 169:18</p> <p><b>industry</b> [1] - 79:23</p> <p><b>inflection</b> [1] - 78:1</p> <p><b>influenced</b> [1] - 61:4</p> <p><b>inform</b> [1] - 83:2</p> <p><b>information</b> [27] - 28:13, 28:16, 28:21, 58:11, 59:2, 60:11, 65:18, 67:6, 68:12, 69:4, 74:8, 78:18, 127:10, 130:22, 130:23, 174:15, 174:25, 176:20, 176:22, 177:8, 177:15, 185:23, 204:2, 204:10, 215:17, 223:10, 235:8</p> <p><b>informed</b> [3] - 82:10, 152:11, 152:12</p> <p><b>initial</b> [1] - 48:20</p> <p><b>injured</b> [1] - 39:11</p> <p><b>injustice</b> [1] - 4:25</p> <p><b>Inn</b> [1] - 39:1</p> <p><b>inner</b> [1] - 36:25</p> <p><b>inquire</b> [1] - 75:12</p>
<b>I</b>				
<p><b>i.e</b> [1] - 63:20</p> <p><b>ID</b> [2] - 9:6, 122:2</p> <p><b>Idaho</b> [1] - 48:21</p> <p><b>idea</b> [6] - 52:20, 54:16, 120:7, 124:24, 127:3, 208:14</p> <p><b>identified</b> [8] - 69:6, 151:6, 151:18, 158:2, 174:20, 215:9, 216:12, 219:13</p> <p><b>identify</b> [13] - 165:22, 166:15, 186:11, 191:7, 195:1, 201:22, 215:25, 216:16, 216:17, 216:19, 216:20, 223:21, 231:11</p> <p><b>identifying</b> [1] - 195:15</p> <p><b>identity</b> [5] - 7:22, 68:1, 68:21, 101:19, 146:23</p> <p><b>ignore</b> [2] - 57:8, 57:11</p> <p><b>image</b> [2] - 11:7, 11:8</p> <p><b>imagine</b> [4] - 68:7, 133:13, 134:10,</p>				

<p><b>inquiring</b> [1] - 202:3  <b>inside</b> [2] - 126:5, 126:6  <b>insofar</b> [1] - 124:20  <b>inspected</b> [1] - 31:12  <b>installed</b> [1] - 228:6  <b>instead</b> [5] - 103:22, 117:23, 211:25, 215:5  <b>instruct</b> [4] - 55:22, 56:13, 61:25, 236:2  <b>instructed</b> [1] - 64:14  <b>instruction</b> [2] - 127:9, 236:5  <b>instructional</b> [1] - 35:16  <b>instructions</b> [15] - 3:11, 3:14, 54:21, 55:10, 55:11, 55:12, 58:25, 59:23, 64:3, 64:6, 64:7, 235:24, 236:13, 236:15, 236:16  <b>instructors</b> [1] - 29:16  <b>integrity</b> [1] - 210:11  <b>intend</b> [2] - 6:13, 15:21  <b>intended</b> [1] - 215:16  <b>intent</b> [3] - 210:13, 210:14, 236:15  <b>intention</b> [1] - 199:23  <b>interacting</b> [1] - 148:9  <b>interactions</b> [1] - 160:12  <b>interest</b> [3] - 33:4, 57:22, 153:19  <b>interested</b> [5] - 14:20, 79:12, 195:14, 220:23, 220:24  <b>interesting</b> [1] - 29:23  <b>interests</b> [1] - 226:22  <b>interfere</b> [1] - 166:17  <b>interference</b> [1] - 120:15  <b>Internet</b> [31] - 7:23, 59:10, 60:3, 62:9, 68:2, 68:12, 94:22, 95:1, 97:8, 98:17, 101:2, 102:7, 102:10, 102:11, 103:5, 109:13, 109:15, 109:19, 109:21, 109:22, 110:17, 112:10, 125:17, 127:20, 135:25, 137:8, 137:24, 141:22, 148:14, 160:20, 175:12  <b>interpret</b> [1] - 61:25</p>	<p><b>interrupt</b> [1] - 186:6  <b>interrupted</b> [1] - 194:15  <b>intimately</b> [1] - 208:12  <b>introduce</b> [15] - 4:2, 4:3, 4:22, 8:15, 13:18, 15:1, 18:20, 18:23, 19:1, 20:20, 26:13, 44:24, 185:4, 185:17, 187:9  <b>introduced</b> [4] - 6:2, 26:10, 185:10, 211:8  <b>introducing</b> [7] - 5:13, 5:18, 6:6, 6:22, 11:18, 12:24, 18:20  <b>introduction</b> [1] - 6:5  <b>invades</b> [2] - 148:6  <b>invalid</b> [1] - 142:13  <b>invested</b> [1] - 228:21  <b>investigation</b> [2] - 60:4, 208:1  <b>investigator</b> [7] - 118:20, 119:5, 119:11, 120:6, 120:7, 120:9, 121:3  <b>investor</b> [1] - 34:1  <b>invite</b> [1] - 231:11  <b>invoiced</b> [1] - 207:15  <b>invoices</b> [1] - 219:15  <b>involve</b> [1] - 50:6  <b>involved</b> [19] - 30:6, 30:8, 33:5, 35:19, 49:22, 49:23, 50:2, 51:17, 51:19, 52:4, 59:15, 62:4, 64:16, 64:20, 73:12, 110:6, 132:8, 213:18, 225:10  <b>involvement</b> [1] - 225:15  <b>involves</b> [5] - 27:21, 45:19, 50:2, 51:24, 59:2  <b>involving</b> [1] - 94:7  <b>IOWA</b> [1] - 1:11  <b>Iowa</b> [6] - 1:11, 45:25, 64:24, 79:21, 181:4, 216:3  <b>iPad</b> [1] - 147:20  <b>Irlington</b> [1] - 30:2  <b>issue</b> [33] - 3:7, 3:9, 3:10, 3:15, 11:12, 48:13, 50:3, 62:13, 69:23, 70:5, 70:13, 71:8, 72:16, 110:8, 133:9, 133:13, 175:5, 175:9, 175:12, 186:14, 192:7, 192:23, 200:22, 208:25,</p>	<p>209:2, 210:7, 210:12, 223:6, 227:22, 228:13, 238:6  <b>issued</b> [5] - 66:8, 66:23, 86:25, 168:5, 216:20  <b>issues</b> [12] - 14:9, 51:15, 59:2, 70:6, 166:3, 168:2, 182:25, 191:22, 200:9, 217:1, 224:17, 225:12  <b>IT</b> [19] - 34:19, 36:18, 65:12, 76:16, 76:17, 78:17, 79:1, 94:8, 109:23, 114:12, 114:15, 169:11, 181:12, 203:2, 203:3, 204:19, 222:22, 228:15, 228:18  <b>items</b> [1] - 203:13  <b>itself</b> [10] - 45:1, 86:6, 124:20, 132:7, 165:1, 186:23, 192:8, 221:7, 223:20, 228:9</p> <p style="text-align: center;"><b>J</b></p> <p><b>J-o-h-n-s-o-n</b> [1] - 25:13  <b>J-o-n-e-s</b> [1] - 25:4  <b>J.D</b> [1] - 38:21  <b>jail</b> [4] - 120:19, 120:24, 121:16  <b>James</b> [4] - 24:20, 37:20, 50:18, 53:23  <b>January</b> [8] - 1:5, 137:22, 143:2, 144:1, 145:8, 234:8, 238:13, 238:14  <b>JavaScript</b> [1] - 165:16  <b>Jeff</b> [1] - 210:6  <b>Jen</b> [2] - 74:20, 171:20  <b>Jennifer</b> [12] - 23:20, 24:2, 25:7, 26:6, 26:7, 53:13, 54:24, 61:11, 127:12, 188:21, 189:12, 236:8  <b>jeopardizes</b> [1] - 60:9  <b>Jersey</b> [20] - 6:1, 8:16, 65:9, 66:2, 68:10, 71:3, 75:17, 75:20, 75:24, 77:13, 83:13, 83:19, 84:19, 107:22, 120:13,</p>	<p>130:21, 181:5, 207:24, 208:2, 209:11  <b>Joann</b> [3] - 24:15, 35:14, 53:22  <b>job</b> [33] - 26:22, 32:23, 34:17, 37:24, 43:24, 44:13, 65:11, 65:23, 77:6, 77:9, 77:12, 77:15, 78:3, 78:11, 78:16, 79:6, 79:7, 84:6, 92:18, 104:18, 107:14, 110:23, 134:12, 134:13, 140:8, 172:16, 179:22, 188:10, 194:21, 196:13, 196:22, 223:19  <b>jobs</b> [2] - 52:10, 79:3  <b>Joel</b> [7] - 2:2, 26:12, 26:15, 124:4, 124:8, 124:14, 124:15  <b>John</b> [1] - 215:11  <b>Johnson</b> [1] - 25:13  <b>join</b> [1] - 183:16  <b>joined</b> [1] - 219:22  <b>Jones</b> [9] - 5:17, 14:23, 15:7, 25:4, 25:6, 39:14, 124:1, 132:10, 218:25  <b>JPEG</b> [2] - 217:7, 217:13  <b>JUDGE</b> [1] - 1:23  <b>Judge</b> [17] - 6:14, 8:16, 14:22, 15:7, 22:25, 46:13, 48:22, 119:16, 120:10, 120:13, 124:1, 124:17, 130:5, 186:17, 186:20, 218:25, 230:14  <b>judge</b> [29] - 6:16, 7:19, 9:5, 9:11, 9:12, 9:21, 10:1, 10:6, 10:8, 10:11, 11:20, 11:24, 12:11, 12:16, 12:20, 12:22, 18:9, 35:10, 64:14, 119:1, 119:2, 119:15, 119:20, 120:8, 121:8, 121:10, 121:15, 122:1, 169:9  <b>judge's</b> [3] - 6:21, 118:22, 131:8  <b>judges</b> [5] - 9:2, 10:25, 55:14, 121:23, 122:4  <b>judgment</b> [6] - 40:22, 66:23, 67:1, 67:2, 89:17, 211:20</p>	<p><b>jump</b> [1] - 198:15  <b>jumped</b> [4] - 106:19, 107:12, 108:22, 133:10  <b>junction</b> [2] - 3:8, 47:6  <b>June</b> [3] - 139:18, 140:22, 141:21  <b>Juror</b> [3] - 23:23, 23:24, 24:3  <b>JUROR</b> [84] - 29:8, 29:23, 30:1, 30:12, 30:14, 30:20, 30:22, 31:10, 31:15, 31:21, 31:24, 32:4, 32:10, 32:13, 32:16, 33:12, 33:19, 33:21, 34:11, 34:14, 34:16, 34:24, 35:1, 35:5, 35:14, 35:25, 36:3, 36:7, 36:15, 36:25, 37:6, 37:10, 37:12, 37:20, 38:3, 38:6, 38:9, 38:17, 39:10, 39:17, 39:23, 40:3, 40:5, 40:9, 40:15, 40:20, 40:24, 40:25, 41:10, 41:14, 41:16, 41:24, 42:3, 42:5, 42:18, 43:2, 43:13, 43:17, 43:20, 44:1, 44:6, 44:9, 44:11, 46:17, 46:19, 47:2, 47:7, 48:5, 48:8, 48:17, 48:19, 49:2, 49:6, 49:9, 49:11, 49:15, 49:17, 50:6, 50:13, 50:18, 50:23, 50:25, 51:6, 51:9  <b>juror</b> [13] - 29:18, 30:10, 34:5, 36:12, 37:4, 37:5, 39:6, 41:7, 43:10, 44:16, 59:17, 60:10  <b>jurors</b> [21] - 23:9, 25:19, 25:25, 26:2, 26:22, 27:10, 28:2, 28:7, 46:10, 47:15, 52:10, 52:23, 54:10, 55:10, 56:10, 58:20, 58:22, 59:11, 60:20, 61:5, 91:10  <b>jury</b> [97] - 3:11, 3:14, 5:8, 5:13, 9:21, 10:19, 16:1, 16:11, 16:14, 22:19, 22:21, 23:11, 23:14, 23:15, 23:17, 23:18, 23:22, 25:17, 26:4, 28:5, 33:7, 33:14, 35:22, 41:22, 43:11, 43:12,</p>
--	---	---	--	---

44:20, 45:7, 47:6, 47:9, 47:19, 47:21, 48:14, 49:21, 54:1, 54:6, 54:7, 54:24, 55:2, 55:6, 55:8, 58:7, 59:3, 59:18, 60:15, 60:20, 61:2, 64:2, 69:2, 75:18, 78:21, 82:5, 84:3, 85:16, 86:14, 91:1, 91:4, 91:17, 93:16, 93:24, 94:2, 100:6, 100:9, 100:11, 101:15, 105:19, 106:25, 118:14, 121:21, 127:6, 127:13, 127:16, 129:15, 130:19, 132:5, 132:13, 136:7, 136:9, 138:7, 140:7, 141:5, 146:15, 170:12, 184:18, 184:22, 185:5, 188:9, 193:17, 196:2, 198:2, 201:19, 235:21, 236:11, 236:13, 237:1, 237:20, 238:9 <b>Justice</b> [11] - 65:21, 70:4, 70:19, 73:24, 82:23, 146:6, 173:5, 173:11, 199:21, 207:25, 208:5 <b>justice</b> [6] - 29:21, 30:18, 34:9, 62:15, 72:25, 226:19 <b>justification</b> [5] - 202:25, 218:5, 218:14, 219:8, 219:17 <b>justified</b> [2] - 218:11, 218:14 <b>justifies</b> [1] - 218:6 <b>Justin</b> [1] - 167:7	176:21, 206:7 <b>keeping</b> [1] - 159:19 <b>keeps</b> [2] - 118:6, 147:6 <b>Kenneth</b> [5] - 24:8, 24:12, 30:22, 32:17, 48:8 <b>kept</b> [1] - 77:25 <b>Kevin</b> [3] - 24:3, 29:8, 53:22 <b>key</b> [5] - 70:6, 70:7, 205:16, 206:8 <b>kidding</b> [1] - 84:9 <b>kind</b> [34] - 3:5, 4:6, 5:18, 11:16, 31:18, 33:11, 39:9, 41:9, 44:2, 46:20, 50:3, 52:22, 64:1, 64:3, 77:17, 77:18, 77:22, 96:12, 108:12, 111:4, 123:20, 125:7, 126:24, 132:22, 139:9, 148:11, 171:17, 172:23, 179:2, 184:14, 187:1, 197:15, 225:2, 225:8 <b>kinds</b> [7] - 31:17, 79:13, 104:14, 105:11, 127:11, 195:13, 195:21 <b>knowing</b> [2] - 68:14, 74:7 <b>knowingly</b> [2] - 163:14, 199:20 <b>knowledge</b> [3] - 56:9, 101:1, 114:22 <b>known</b> [5] - 111:4, 208:11, 208:12, 210:15, 210:16 <b>knows</b> [3] - 9:19, 63:8, 226:18 <b>koala</b> [1] - 183:20 <b>Kubler</b> [1] - 6:14 <b>Kugler</b> [9] - 5:17, 5:25, 8:16, 18:5, 119:16, 120:10, 120:13, 130:5, 186:17 <b>Kugler's</b> [1] - 186:20	<b>Ladd</b> [5] - 24:3, 24:4, 29:4, 29:8, 53:22 <b>ladies</b> [2] - 64:11, 69:2 <b>laid</b> [2] - 70:10, 114:19 <b>Lake</b> [1] - 38:18 <b>Lane</b> [1] - 65:21 <b>language</b> [1] - 21:17 <b>laptop</b> [1] - 198:25 <b>large</b> [5] - 84:22, 148:19, 191:9, 195:4, 230:18 <b>larger</b> [3] - 79:4, 133:23, 134:6 <b>last</b> [41] - 25:14, 32:1, 35:24, 37:5, 37:6, 64:2, 67:13, 67:15, 70:8, 70:19, 73:19, 75:9, 105:17, 110:14, 111:1, 131:22, 154:15, 160:11, 161:20, 163:19, 163:22, 163:23, 164:20, 164:22, 169:10, 174:1, 175:20, 194:13, 196:7, 196:8, 200:12, 202:13, 203:18, 204:1, 212:6, 214:12, 214:15, 216:10, 228:1 <b>late</b> [1] - 15:12 <b>laundry</b> [2] - 66:10, 66:14 <b>law</b> [24] - 9:17, 11:7, 26:23, 29:10, 29:13, 39:9, 44:3, 44:5, 46:8, 52:15, 52:19, 55:16, 55:18, 56:21, 59:1, 60:6, 62:1, 62:8, 62:22, 118:21, 118:22, 118:24, 121:11, 168:16 <b>Law</b> [3] - 119:2, 119:15, 119:21 <b>lawsuit</b> [20] - 17:5, 17:7, 31:8, 49:22, 49:23, 50:2, 83:8, 83:9, 83:12, 83:13, 83:19, 84:3, 84:18, 85:14, 92:19, 124:2, 124:5, 124:6, 124:25, 220:16 <b>lawyer</b> [6] - 38:20, 56:25, 57:1, 61:7, 160:8, 172:16 <b>lawyers</b> [4] - 28:3, 45:5, 53:2, 184:20 <b>layout</b> [3] - 178:18, 178:20	<b>lead</b> [4] - 159:4, 181:10, 181:13, 195:16 <b>learn</b> [6] - 29:6, 49:20, 60:5, 64:15, 68:9, 104:23 <b>least</b> [5] - 17:12, 43:14, 76:11, 191:15, 227:25 <b>leave</b> [5] - 54:10, 61:1, 134:12, 166:12, 184:24 <b>leaves</b> [4] - 55:2, 127:16, 184:22, 236:11 <b>lectern</b> [1] - 74:20 <b>left</b> [16] - 23:23, 25:15, 29:21, 30:18, 34:13, 61:1, 104:2, 115:24, 116:16, 129:19, 149:16, 179:6, 179:8, 179:9, 188:9, 217:25 <b>legacy</b> [3] - 132:8, 132:20 <b>legal</b> [7] - 3:8, 13:19, 59:23, 85:3, 150:15, 210:5, 224:19 <b>legally</b> [1] - 124:24 <b>legitimate</b> [1] - 202:12 <b>Legos</b> [1] - 42:24 <b>length</b> [2] - 13:2, 58:15 <b>lengthy</b> [1] - 92:9 <b>less</b> [2] - 41:8, 76:18 <b>Lesson</b> [1] - 110:14 <b>lessons</b> [1] - 222:21 <b>letter</b> [56] - 6:14, 6:17, 7:14, 8:13, 8:15, 8:20, 9:10, 9:11, 9:21, 10:1, 10:6, 10:7, 10:9, 10:11, 11:5, 11:8, 11:20, 11:24, 12:8, 12:11, 12:16, 12:20, 12:21, 18:9, 19:1, 82:10, 90:16, 90:17, 90:19, 91:17, 91:19, 92:24, 119:25, 120:4, 127:19, 127:21, 127:24, 128:2, 128:8, 130:5, 130:6, 130:8, 130:9, 130:11, 130:19, 152:15, 152:16, 152:17, 186:17, 186:20, 186:21, 189:23, 205:18, 206:13, 209:25 <b>letters</b> [1] - 88:24	<b>letting</b> [1] - 186:22 <b>level</b> [4] - 81:21, 81:25, 134:4, 147:9 <b>Lewis</b> [1] - 236:22 <b>liability</b> [3] - 1:12, 46:5, 62:4 <b>Liability</b> [1] - 39:12 <b>License</b> [1] - 157:9 <b>license</b> [6] - 31:16, 69:4, 213:20, 213:25, 215:15 <b>licensed</b> [1] - 214:23 <b>licensing</b> [1] - 31:12 <b>lie</b> [3] - 136:23, 219:4, 225:25 <b>lied</b> [1] - 115:25 <b>lies</b> [4] - 109:8, 137:2, 210:22, 225:18 <b>life</b> [13] - 64:13, 120:12, 132:22, 133:16, 134:12, 134:18, 135:9, 146:18, 146:19, 149:3, 149:17, 194:15, 228:24 <b>lifetime</b> [1] - 231:14 <b>light</b> [1] - 57:25 <b>likely</b> [3] - 27:5, 118:25, 232:4 <b>limited</b> [5] - 1:12, 56:12, 56:14, 211:14 <b>limiting</b> [1] - 21:22 <b>limits</b> [1] - 63:24 <b>Lincoln</b> [1] - 50:8 <b>Linda</b> [27] - 14:7, 14:22, 25:2, 43:2, 66:6, 72:11, 74:7, 86:11, 90:16, 91:19, 124:3, 124:7, 124:9, 124:10, 132:9, 168:11, 208:7, 208:24, 209:9, 209:22, 210:3, 210:22, 218:18, 224:22, 225:23, 226:20, 231:8 <b>Linda's</b> [1] - 124:13 <b>line</b> [6] - 108:5, 193:2, 207:13, 208:17, 221:12, 231:12 <b>lines</b> [1] - 232:7 <b>link</b> [9] - 106:18, 107:4, 142:14, 143:11, 144:10, 155:9, 233:14 <b>LinkedIn</b> [18] - 105:2, 139:16, 139:19, 140:3, 140:20, 141:7, 142:18, 142:19, 160:10,
<b>K</b>				
<b>K-a-u-f-f-m-a-n</b> [1] - 24:8 <b>Karen</b> [1] - 25:4 <b>Kauffman</b> [3] - 24:8, 24:10, 30:23 <b>keep</b> [16] - 43:16, 48:2, 58:10, 58:14, 58:20, 60:19, 109:11, 120:18, 120:19, 133:18, 149:9, 161:14, 164:22, 176:13,	<b>L</b> <b>L-a-d-d</b> [1] - 24:3 <b>LA</b> [1] - 44:14 <b>labels</b> [1] - 77:15 <b>Labor</b> [2] - 39:18, 39:20 <b>Labrador</b> [1] - 34:2 <b>lack</b> [3] - 71:15, 71:21, 71:24			

<p>160:15, 160:25, 161:3, 161:11, 182:23, 183:11, 184:10, 225:16 <b>links</b> [1] - 13:8 <b>Linn</b> [1] - 2:6 <b>list</b> [6] - 66:10, 66:14, 79:12, 125:4, 125:6, 125:17 <b>listed</b> [8] - 32:16, 81:21, 140:2, 141:18, 143:20, 151:8, 158:8, 171:15 <b>listen</b> [3] - 45:8, 59:24, 172:14 <b>listening</b> [1] - 64:4 <b>listing</b> [1] - 156:18 <b>lists</b> [2] - 45:6, 140:7 <b>litigant</b> [1] - 33:9 <b>litigate</b> [2] - 6:8, 224:20 <b>litigated</b> [3] - 8:7, 11:12, 51:15 <b>litigating</b> [2] - 3:25, 17:2 <b>litigation</b> [15] - 11:17, 39:6, 73:19, 116:25, 132:7, 211:9, 214:1, 214:5, 214:9, 214:11, 219:18, 222:25, 225:8, 225:14 <b>live</b> [38] - 29:9, 30:2, 30:23, 32:19, 33:22, 34:2, 34:17, 35:15, 36:8, 36:16, 37:1, 37:13, 37:21, 38:10, 38:18, 41:1, 41:17, 42:6, 42:19, 43:3, 44:12, 68:13, 75:16, 75:17, 76:3, 76:4, 134:7, 134:8, 137:8, 146:18, 148:18, 149:3 <b>lived</b> [2] - 76:1, 107:21 <b>lives</b> [3] - 29:10, 38:11, 208:11 <b>living</b> [3] - 31:2, 33:24, 42:6 <b>LLC</b> [3] - 1:12, 46:2, 229:11 <b>local</b> [2] - 31:3, 35:17 <b>located</b> [1] - 140:13 <b>location</b> [1] - 77:7 <b>locksmith</b> [1] - 31:4 <b>log</b> [2] - 231:21, 232:2 <b>login</b> [2] - 9:6, 122:2 <b>logs</b> [1] - 65:14 <b>look</b> [37] - 3:17, 18:10, 19:22, 28:16, 28:24,</p>	<p>53:14, 88:6, 97:4, 103:24, 105:4, 105:14, 105:15, 105:19, 108:13, 118:13, 127:10, 131:16, 131:22, 137:19, 139:10, 144:23, 169:7, 171:5, 171:18, 171:23, 181:21, 183:2, 183:24, 186:9, 193:4, 201:20, 203:9, 203:24, 212:12, 226:14, 236:21, 237:6 <b>looked</b> [13] - 15:13, 66:21, 71:12, 82:9, 106:22, 109:5, 113:12, 113:16, 113:22, 150:25, 200:5, 200:19, 233:13 <b>looking</b> [12] - 85:11, 93:8, 108:16, 110:7, 114:7, 133:3, 141:6, 147:19, 171:20, 179:1, 190:3, 219:23 <b>looks</b> [9] - 95:13, 106:24, 124:24, 141:18, 142:18, 144:25, 146:4, 146:5, 147:14 <b>Los</b> [1] - 140:14 <b>losing</b> [1] - 199:12 <b>losses</b> [1] - 202:19 <b>lost</b> [10] - 5:11, 65:23, 67:19, 67:20, 86:17, 88:19, 116:18, 196:23, 196:24, 202:19 <b>loud</b> [1] - 121:21 <b>love</b> [3] - 35:20, 148:9 <b>low</b> [1] - 109:11 <b>luck</b> [1] - 49:18 <b>lunch</b> [4] - 127:13, 129:14, 147:14, 147:16 <b>lying</b> [2] - 116:1, 226:1</p>	<p>115:17, 115:20, 116:15, 126:14, 144:25, 145:3, 145:7, 145:9, 146:3, 146:8, 146:9, 152:8, 152:12, 152:13, 152:16, 152:18, 152:23, 154:18, 160:20, 163:16, 163:17, 172:2, 172:3, 172:6, 172:19, 173:1, 177:25, 182:4, 188:18, 189:14, 192:4, 192:5, 192:8, 196:21, 200:17, 200:18, 202:3, 204:10, 205:2, 205:5, 205:7, 205:11, 205:13, 205:17, 205:21, 206:1, 206:3, 206:5, 206:9, 206:10, 206:13, 206:17, 206:21, 207:10, 214:20, 215:16, 227:9, 227:15, 227:16, 228:4, 228:5, 228:7, 231:10, 231:13, 235:10 <b>mailed</b> [1] - 82:7 <b>mails</b> [11] - 15:21, 103:14, 105:13, 111:8, 133:9, 133:11, 189:23, 189:24, 204:11, 205:7, 205:8 <b>maintained</b> [3] - 69:3, 102:7, 205:7 <b>maintaining</b> [1] - 204:20 <b>maintains</b> [1] - 200:14 <b>maintenance</b> [1] - 41:18 <b>major</b> [1] - 123:14 <b>malpractice</b> [1] - 39:15 <b>man</b> [4] - 149:2, 208:11, 210:10 <b>manage</b> [1] - 79:2 <b>managed</b> [2] - 79:5, 81:18 <b>manager</b> [5] - 36:18, 38:19, 94:8, 114:15, 228:18 <b>managers'</b> [1] - 114:12 <b>mandates</b> [1] - 229:2 <b>manner</b> [1] - 57:21</p>	<p><b>manufactured</b> [1] - 9:18 <b>map</b> [1] - 165:8 <b>Marco</b> [1] - 26:6 <b>MARCO</b> [1] - 1:22 <b>marine</b> [1] - 29:11 <b>Mark</b> [2] - 24:13, 33:21 <b>mark</b> [1] - 133:6 <b>marked</b> [1] - 6:25 <b>MARKETING</b> [3] - 1:8, 1:9, 1:13 <b>marketing</b> [1] - 30:6 <b>Marketing</b> [8] - 1:14, 45:23, 45:24, 46:1, 162:17, 163:4, 214:13, 229:10 <b>marketplace</b> [1] - 215:4 <b>Marshall</b> [27] - 14:8, 14:16, 14:22, 66:6, 72:11, 74:7, 86:11, 90:16, 91:19, 124:3, 124:9, 124:10, 124:12, 124:13, 132:9, 168:11, 208:7, 208:24, 209:9, 209:22, 210:3, 210:23, 218:18, 224:23, 226:20, 231:9 <b>Marshall's</b> [1] - 225:23 <b>marshals</b> [1] - 125:8 <b>Marshals</b> [3] - 14:18, 125:5, 125:18 <b>master's</b> [2] - 32:24, 42:12 <b>material</b> [15] - 71:10, 101:14, 105:4, 186:15, 186:16, 200:7, 204:25, 205:1, 206:6, 214:1, 214:9, 214:16, 215:6, 216:1, 229:1 <b>materially</b> [1] - 63:2 <b>materials</b> [7] - 3:19, 5:17, 18:5, 18:15, 60:4, 66:21, 216:21 <b>mathematics</b> [1] - 43:5 <b>matter</b> [11] - 13:19, 48:24, 49:7, 59:20, 118:23, 122:7, 124:20, 126:24, 127:4, 127:17, 183:3 <b>matters</b> [1] - 172:13 <b>Max</b> [22] - 8:22, 9:1, 26:16, 26:17, 45:13, 62:2, 74:23, 75:9, 78:7, 94:8, 96:25, 108:24, 110:15,</p>	<p>111:4, 111:5, 113:4, 117:17, 119:1, 121:22, 151:18, 184:8, 232:12 <b>MAX</b> [3] - 1:3, 75:3, 75:9 <b>Max's</b> [2] - 118:21, 220:21 <b>maximum</b> [1] - 79:5 <b>MBA</b> [1] - 30:5 <b>McCann</b> [1] - 167:7 <b>mean</b> [33] - 7:25, 8:18, 10:16, 16:8, 17:19, 44:2, 46:19, 81:18, 88:4, 94:10, 95:5, 95:14, 102:14, 103:16, 104:21, 105:6, 110:17, 110:18, 113:20, 119:13, 124:23, 127:21, 128:4, 134:2, 134:7, 134:17, 167:20, 172:9, 183:18, 183:22, 187:9, 218:24, 236:25 <b>meaning</b> [5] - 71:20, 115:24, 120:19, 124:18, 132:22 <b>means</b> [17] - 20:25, 23:16, 26:8, 47:19, 57:12, 59:9, 63:3, 117:14, 117:15, 124:24, 133:13, 154:21, 175:24, 187:19, 217:22, 221:18 <b>meant</b> [1] - 204:16 <b>mechanic</b> [1] - 37:21 <b>mechanisms</b> [1] - 103:1 <b>media</b> [14] - 13:9, 19:13, 52:1, 59:14, 59:25, 133:8, 133:12, 146:14, 160:9, 160:10, 160:12, 161:17, 191:12, 191:13 <b>medical</b> [2] - 33:23, 39:15 <b>meet</b> [5] - 15:20, 116:10, 179:7, 221:24, 222:3 <b>meeting</b> [1] - 179:14 <b>member</b> [6] - 31:3, 33:8, 36:10, 37:24, 38:25 <b>members</b> [6] - 23:15, 25:17, 59:14, 127:6, 184:18, 235:21</p>
	<b>M</b>			
	<p><b>M's</b> [1] - 205:5 <b>machine</b> [2] - 76:21, 180:20 <b>mad</b> [1] - 117:21 <b>mail</b> [76] - 15:15, 17:12, 59:9, 82:11, 110:25, 115:4, 115:6, 115:8,</p>			



<p><b>membership</b> [1] - 44:14</p> <p><b>memo</b> [1] - 3:6</p> <p><b>memorized</b> [1] - 28:18</p> <p><b>memory</b> [3] - 57:21, 61:4, 169:5</p> <p><b>Men</b> [1] - 117:9</p> <p><b>men</b> [1] - 117:14</p> <p><b>mention</b> [3] - 21:1, 123:7, 194:3</p> <p><b>mentioned</b> [12] - 88:23, 102:17, 120:9, 121:3, 150:16, 162:3, 165:5, 165:6, 165:7, 166:2, 177:11, 232:2</p> <p><b>merely</b> [1] - 5:4</p> <p><b>merit</b> [1] - 106:1</p> <p><b>merits</b> [2] - 3:25, 59:7</p> <p><b>mess</b> [1] - 134:11</p> <p><b>message</b> [4] - 7:21, 22:22, 59:10, 127:22</p> <p><b>met</b> [11] - 73:2, 118:23, 119:2, 119:15, 119:16, 119:19, 119:20, 125:6, 179:8, 208:13, 221:2</p> <p><b>Meyer</b> [1] - 44:13</p> <p><b>Michael</b> [2] - 25:5, 46:17</p> <p><b>microphone</b> [3] - 44:18, 46:16, 51:8</p> <p><b>midday</b> [1] - 127:7</p> <p><b>middle</b> [4] - 32:17, 117:8, 140:6, 205:8</p> <p><b>midst</b> [1] - 67:2</p> <p><b>might</b> [18] - 3:5, 17:25, 27:15, 35:10, 45:3, 45:10, 47:11, 63:3, 75:23, 112:10, 139:8, 177:24, 183:6, 183:19, 186:2, 186:7, 220:23, 237:16</p> <p><b>miles</b> [3] - 207:16, 207:17, 207:18</p> <p><b>million</b> [5] - 105:13, 133:9, 133:11, 136:22, 218:20</p> <p><b>millions</b> [1] - 65:4</p> <p><b>mind</b> [13] - 4:15, 45:5, 58:20, 70:17, 73:3, 73:4, 111:5, 182:15, 182:16, 192:7, 208:15, 218:16, 236:23</p> <p><b>mind-set</b> [1] - 182:16</p> <p><b>mine</b> [4] - 43:4, 69:3, 81:24, 104:7</p>	<p><b>minimum</b> [1] - 58:15</p> <p><b>minute</b> [6] - 53:1, 53:2, 166:9, 171:23, 179:12</p> <p><b>minutes</b> [10] - 27:7, 55:1, 55:3, 55:9, 75:21, 127:14, 129:8, 183:20, 184:19, 193:22</p> <p><b>misconduct</b> [4] - 89:3, 237:8, 237:9, 237:10</p> <p><b>misinterpretation</b> [1] - 11:2</p> <p><b>misleading</b> [2] - 8:3, 12:22</p> <p><b>misled</b> [1] - 73:10</p> <p><b>misrepresentation</b> [1] - 224:15</p> <p><b>misrepresentations</b> [1] - 12:19</p> <p><b>misrepresented</b> [2] - 6:15, 9:11</p> <p><b>misrepresenting</b> [1] - 10:20</p> <p><b>misrepresents</b> [1] - 12:14</p> <p><b>miss</b> [1] - 35:2</p> <p><b>missed</b> [2] - 49:14, 105:16</p> <p><b>missing</b> [2] - 34:23, 49:11</p> <p><b>misunderstand</b> [1] - 177:13</p> <p><b>misunderstood</b> [1] - 96:10</p> <p><b>mitigate</b> [4] - 16:2, 16:7, 17:21, 109:11</p> <p><b>mitigated</b> [1] - 15:17</p> <p><b>mitigating</b> [1] - 220:25</p> <p><b>mitigation</b> [3] - 17:23, 220:24, 223:6</p> <p><b>model</b> [1] - 77:3</p> <p><b>modify</b> [5] - 153:8, 153:9, 153:15, 188:18, 190:8</p> <p><b>mold</b> [1] - 4:14</p> <p><b>molesters</b> [1] - 125:8</p> <p><b>mom</b> [4] - 42:7, 42:8, 42:12, 126:8</p> <p><b>moment</b> [2] - 117:5, 186:6</p> <p><b>moments</b> [1] - 61:13</p> <p><b>Monday</b> [2] - 48:23, 48:25</p> <p><b>money</b> [12] - 71:2, 71:6, 78:10, 78:11, 89:10, 89:15, 89:24, 92:10, 202:19, 209:19, 228:21</p> <p><b>monotone</b> [1] - 78:5</p>	<p><b>month</b> [5] - 115:22, 207:14, 208:6, 219:12, 219:14</p> <p><b>months</b> [5] - 88:10, 88:11, 112:21, 112:23, 216:4</p> <p><b>morality</b> [2] - 104:19, 104:20</p> <p><b>morals</b> [1] - 104:14</p> <p><b>morning</b> [7] - 19:4, 23:10, 26:11, 27:24, 64:11, 191:4, 238:1</p> <p><b>Mosman</b> [1] - 22:25</p> <p><b>Mosman's</b> [1] - 23:2</p> <p><b>most</b> [15] - 23:16, 68:6, 70:5, 79:19, 84:12, 115:5, 120:11, 123:14, 142:7, 182:23, 183:8, 183:10, 211:22, 227:6, 229:8</p> <p><b>mostly</b> [1] - 204:25</p> <p><b>mother</b> [2] - 29:10, 29:13</p> <p><b>mother-in-law</b> [2] - 29:10, 29:13</p> <p><b>motion</b> [4] - 19:21, 124:17, 230:15, 230:19</p> <p><b>motive</b> [2] - 63:8, 63:11</p> <p><b>mountain</b> [1] - 39:3</p> <p><b>mouth</b> [2] - 30:18, 34:13</p> <p><b>move</b> [11] - 25:14, 28:23, 44:25, 45:18, 54:23, 64:13, 74:20, 90:21, 106:4, 111:12, 112:11</p> <p><b>moved</b> [1] - 84:20</p> <p><b>movies</b> [2] - 26:25, 37:3</p> <p><b>moving</b> [1] - 131:20</p> <p><b>mpeg</b> [1] - 10:5</p> <p><b>MR</b> [367] - 3:11, 3:14, 3:16, 4:11, 4:14, 4:20, 5:1, 5:6, 5:15, 5:20, 5:22, 5:25, 6:11, 6:13, 6:24, 7:7, 7:9, 7:10, 7:12, 7:16, 8:3, 8:9, 8:12, 8:18, 8:25, 9:8, 9:10, 9:24, 10:3, 10:7, 10:13, 10:16, 10:22, 11:2, 11:5, 11:20, 11:25, 12:4, 12:9, 12:12, 12:18, 12:21, 13:1, 13:7, 13:12, 13:16, 13:20, 13:24, 14:2, 14:25, 15:2, 15:5,</p>	<p>15:9, 15:14, 15:25, 16:2, 16:5, 16:7, 16:16, 17:7, 17:11, 18:14, 18:18, 19:6, 19:9, 19:23, 20:13, 20:16, 20:23, 21:6, 21:11, 21:15, 21:20, 21:25, 22:9, 22:15, 22:17, 26:15, 26:20, 45:13, 45:16, 53:9, 53:11, 64:10, 69:1, 74:23, 75:15, 78:15, 80:6, 80:9, 80:10, 80:19, 80:22, 80:24, 83:23, 83:24, 84:1, 87:4, 87:6, 87:8, 87:15, 90:21, 90:23, 90:25, 91:6, 91:13, 91:15, 91:16, 93:12, 93:14, 93:16, 93:20, 94:1, 95:25, 96:3, 96:6, 96:9, 96:11, 97:10, 97:12, 97:14, 98:3, 98:4, 98:6, 98:20, 98:21, 98:23, 99:7, 99:9, 99:11, 99:24, 100:3, 100:5, 100:10, 101:6, 101:9, 101:10, 101:11, 101:13, 104:8, 104:12, 115:11, 115:13, 115:15, 116:20, 122:7, 122:13, 122:15, 122:16, 122:19, 125:10, 125:12, 127:4, 127:18, 128:1, 128:4, 128:7, 128:11, 128:15, 128:19, 128:22, 129:4, 129:6, 129:18, 130:13, 130:15, 130:17, 131:10, 136:2, 136:4, 136:7, 136:8, 138:2, 138:3, 138:5, 139:22, 139:23, 140:1, 141:1, 141:2, 141:4, 141:25, 142:1, 142:3, 143:6, 143:8, 143:10, 144:6, 144:7, 144:9, 145:11, 145:14, 145:16, 145:22, 145:24, 149:23, 150:2, 151:21, 152:1, 152:4, 152:5, 153:22, 153:24, 154:2, 154:3, 154:5, 154:6, 154:7, 154:9,</p>	<p>154:12, 156:3, 156:7, 156:16, 156:20, 156:23, 156:24, 158:13, 158:17, 159:6, 159:8, 159:10, 164:8, 164:11, 164:17, 164:18, 165:23, 166:5, 166:14, 166:23, 167:14, 167:23, 168:1, 168:19, 168:22, 169:1, 169:2, 169:25, 170:3, 170:8, 170:10, 170:13, 170:16, 170:18, 170:20, 172:4, 172:18, 172:25, 173:3, 173:6, 173:10, 173:13, 173:18, 173:19, 173:21, 174:13, 174:21, 174:23, 175:2, 175:4, 175:18, 176:8, 177:6, 184:14, 185:6, 185:18, 185:22, 186:4, 186:14, 186:25, 187:12, 187:16, 188:1, 188:3, 188:8, 188:16, 188:18, 189:7, 189:9, 189:13, 189:18, 189:20, 189:23, 190:2, 190:6, 190:9, 190:12, 190:14, 190:17, 190:25, 191:3, 191:9, 191:16, 191:19, 191:21, 191:25, 192:4, 192:5, 192:7, 192:11, 192:14, 192:19, 192:21, 192:25, 193:7, 193:10, 193:16, 194:11, 194:20, 195:17, 195:19, 195:22, 196:4, 196:25, 197:2, 197:8, 197:10, 198:3, 198:20, 199:3, 199:5, 201:6, 201:12, 201:14, 201:17, 201:20, 212:15, 212:21, 212:23, 213:21, 213:22, 213:24, 215:22, 215:23, 217:12, 217:16,</p>
---	---	---	--	---

<p>220:8, 220:12, 220:14, 222:14, 222:16, 223:11, 223:17, 226:6, 226:7, 226:9, 226:12, 229:18, 229:20, 229:22, 230:2, 230:7, 233:24, 234:1, 234:15, 234:19, 234:23, 234:25, 235:2, 235:5, 235:13, 235:16, 235:20, 237:15, 237:22, 238:2, 238:11, 238:12</p> <p><b>Mt</b> [1] - 37:13</p> <p><b>multiple</b> [7] - 160:19, 169:13, 169:14, 169:16, 185:8, 228:20, 234:7</p> <p><b>Multnomah</b> [3] - 37:6, 41:7, 43:11</p> <p><b>muscle</b> [1] - 10:5</p> <p><b>music</b> [2] - 76:10, 148:15</p> <p><b>musician</b> [1] - 33:4</p> <p><b>must</b> [13] - 25:23, 27:1, 52:19, 55:17, 56:1, 56:14, 57:12, 58:24, 59:1, 59:19, 77:6, 166:10, 217:20</p> <p><b>myriad</b> [1] - 157:22</p> <p><b>MZ</b> [1] - 113:4</p>	<p>111:1, 111:9, 111:16, 111:21, 112:5, 112:24, 113:3, 113:5, 113:6, 114:3, 135:9, 135:21, 135:25, 136:19, 136:20, 137:4, 137:5, 137:8, 137:18, 137:24, 140:3, 148:22, 150:6, 151:3, 154:24, 155:12, 160:19, 160:20, 160:21, 162:14, 167:7, 183:7, 183:8, 197:21, 197:23, 210:6, 220:2, 220:21, 221:21, 221:22, 222:7, 222:21, 223:2, 223:20, 223:21, 223:22, 223:25, 224:2, 224:5, 232:17, 232:21, 233:5, 233:9</p> <p><b>named</b> [1] - 66:7</p> <p><b>namely</b> [2] - 67:20, 124:3</p> <p><b>names</b> [12] - 23:21, 45:8, 45:10, 53:20, 112:1, 133:25, 134:5, 150:9, 157:20, 157:21, 223:18</p> <p><b>Nancy</b> [1] - 239:11</p> <p><b>nancy</b> [1] - 2:7</p> <p><b>NANCY</b> [1] - 239:12</p> <p><b>narrow</b> [1] - 39:20</p> <p><b>National</b> [2] - 33:1, 36:20</p> <p><b>nature</b> [8] - 40:12, 46:9, 94:17, 102:3, 102:5, 134:24, 160:16, 212:2</p> <p><b>nauseam</b> [1] - 200:4</p> <p><b>navigate</b> [1] - 171:18</p> <p><b>ND</b> [1] - 88:12</p> <p><b>NDT</b> [5] - 3:3, 20:1, 20:14, 87:11, 212:9</p> <p><b>near</b> [2] - 29:9, 75:23</p> <p><b>nearly</b> [1] - 120:24</p> <p><b>necessarily</b> [2] - 58:3, 109:25</p> <p><b>necessary</b> [3] - 58:6, 177:20, 178:21</p> <p><b>need</b> [5] - 3:7, 9:5, 15:3, 16:10, 16:23, 17:3, 18:9, 18:17, 18:18, 19:7, 23:15, 23:18, 25:24, 28:6,</p>	<p>28:18, 35:7, 48:12, 52:14, 53:25, 54:6, 61:10, 64:3, 81:7, 82:23, 102:11, 104:10, 109:25, 116:3, 122:1, 142:5, 151:22, 164:4, 175:22, 184:17, 185:4, 186:9, 197:14, 197:24, 208:21, 217:21, 218:6, 218:9, 221:24, 222:2, 222:18, 223:6, 237:25, 238:8</p> <p><b>needed</b> [8] - 16:17, 17:4, 19:3, 65:14, 180:3, 199:24, 200:1, 215:2</p> <p><b>needs</b> [4] - 10:19, 116:13, 180:15, 222:4</p> <p><b>negotiations</b> [1] - 15:24</p> <p><b>neighbor</b> [1] - 126:14</p> <p><b>neighbor's</b> [3] - 126:10, 127:2, 129:20</p> <p><b>network</b> [1] - 228:16</p> <p><b>networking</b> [1] - 137:13</p> <p><b>neutral</b> [16] - 29:22, 32:8, 33:18, 34:10, 37:9, 38:5, 40:8, 41:13, 42:1, 44:8, 46:11, 50:12, 50:24, 51:22, 52:5, 52:24</p> <p><b>neutralized</b> [1] - 191:11</p> <p><b>never</b> [33] - 30:10, 34:22, 36:12, 36:23, 37:18, 38:15, 39:5, 39:6, 42:25, 43:24, 44:16, 51:3, 68:2, 103:3, 103:18, 103:23, 103:24, 119:16, 119:18, 123:10, 123:18, 133:15, 134:23, 139:2, 148:23, 148:24, 152:22, 179:7, 192:15, 205:20, 221:2, 221:12</p> <p><b>New</b> [20] - 6:1, 8:16, 65:9, 66:2, 68:10, 71:3, 75:17, 75:20, 75:24, 77:12, 83:13, 83:19, 84:18, 107:22, 120:13,</p>	<p>130:21, 181:5, 207:24, 208:2, 209:11</p> <p><b>new</b> [5] - 15:13, 98:8, 134:19, 149:17</p> <p><b>Newberg</b> [1] - 34:17</p> <p><b>news</b> [4] - 59:25, 105:10, 133:13, 146:5</p> <p><b>next</b> [10] - 29:25, 54:8, 66:24, 104:11, 117:15, 126:9, 135:2, 136:13, 140:3, 197:7</p> <p><b>nice</b> [1] - 146:24</p> <p><b>night</b> [1] - 61:1</p> <p><b>Nike</b> [1] - 36:18</p> <p><b>nine</b> [2] - 88:10, 88:11</p> <p><b>Ninth</b> [1] - 38:25</p> <p><b>NO</b> [84] - 29:8, 29:23, 30:1, 30:12, 30:14, 30:20, 30:22, 31:10, 31:15, 31:21, 31:24, 32:4, 32:10, 32:13, 32:16, 33:12, 33:19, 33:21, 34:11, 34:14, 34:16, 34:24, 35:1, 35:5, 35:14, 35:25, 36:3, 36:7, 36:15, 36:25, 37:6, 37:10, 37:12, 37:20, 38:3, 38:6, 38:9, 38:17, 39:10, 39:17, 39:23, 40:3, 40:5, 40:9, 40:15, 40:20, 40:24, 40:25, 41:10, 41:14, 41:16, 41:24, 42:3, 42:5, 42:18, 43:2, 43:13, 43:17, 43:20, 44:1, 44:6, 44:9, 44:11, 46:17, 46:19, 47:2, 47:7, 48:5, 48:8, 48:17, 48:19, 49:2, 49:6, 49:9, 49:11, 49:15, 49:17, 50:6, 50:13, 50:18, 50:23, 50:25, 51:6, 51:9</p> <p><b>nobody</b> [1] - 205:24</p> <p><b>nomenclature</b> [1] - 111:1</p> <p><b>non</b> [2] - 33:14, 183:5</p> <p><b>non-jury</b> [1] - 33:14</p> <p><b>non-targeted</b> [1] - 183:5</p> <p><b>noncompete</b> [1] - 108:3</p> <p><b>none</b> [13] - 42:14, 57:17, 70:13, 82:3, 86:19, 108:3,</p>	<p>149:10, 206:18, 214:6, 228:7, 234:25</p> <p><b>nonetheless</b> [4] - 153:3, 163:1, 221:6</p> <p><b>nonprofit</b> [1] - 30:4</p> <p><b>nonstop</b> [1] - 178:23</p> <p><b>Nordic</b> [1] - 29:15</p> <p><b>Northeast</b> [3] - 36:8, 38:10, 41:1</p> <p><b>NORTHWEST</b> [5] - 1:6, 1:8, 1:9, 1:10, 1:13</p> <p><b>Northwest</b> [57] - 1:13, 23:12, 26:5, 41:17, 45:22, 45:23, 45:25, 64:17, 64:18, 64:19, 64:22, 65:7, 65:19, 66:9, 66:18, 78:16, 78:21, 78:23, 79:14, 79:22, 80:25, 81:3, 85:3, 86:16, 86:17, 87:13, 88:12, 108:8, 138:13, 150:8, 150:9, 150:11, 150:21, 151:5, 151:14, 151:18, 158:1, 158:11, 158:20, 167:13, 178:19, 212:18, 213:12, 213:15, 213:16, 214:3, 214:6, 214:12, 214:13, 214:19, 227:7, 229:5, 229:10, 233:20</p> <p><b>Note</b> [2] - 9:13, 131:5</p> <p><b>note</b> [5] - 54:18, 60:21, 61:11, 130:25, 131:3</p> <p><b>note-taking</b> [1] - 60:21</p> <p><b>notebook</b> [2] - 171:12, 171:17</p> <p><b>noted</b> [4] - 114:11, 123:4, 201:24, 220:9</p> <p><b>notes</b> [6] - 60:18, 60:19, 61:1, 61:3, 61:5, 185:2</p> <p><b>nothing</b> [13] - 84:6, 85:18, 117:22, 160:15, 178:9, 179:6, 203:2, 203:4, 203:5, 228:2, 228:3, 233:18, 235:13</p> <p><b>notice</b> [3] - 108:10, 116:16, 120:16</p> <p><b>noticed</b> [1] - 138:23</p> <p><b>notifies</b> [1] - 126:9</p> <p><b>notify</b> [3] - 60:11, 126:13, 126:14</p> <p><b>notion</b> [3] - 52:17,</p>
<b>N</b>				
<p><b>nailed</b> [1] - 159:21</p> <p><b>name</b> [114] - 26:6, 26:20, 29:8, 30:1, 30:22, 32:17, 33:21, 36:7, 37:12, 37:20, 40:25, 41:16, 42:5, 42:18, 43:2, 44:11, 46:15, 48:7, 50:17, 51:5, 53:21, 66:6, 66:7, 67:22, 67:25, 68:4, 68:10, 75:7, 75:9, 75:10, 77:3, 77:4, 82:18, 86:12, 90:6, 91:22, 93:6, 93:10, 94:3, 94:8, 96:25, 99:19, 99:22, 100:12, 100:18, 106:17, 106:20, 107:6, 107:7, 107:13, 108:24, 109:4, 110:11, 110:15, 110:16, 110:19, 110:20,</p>	<p><b>named</b> [1] - 159:21</p> <p><b>name</b> [114] - 26:6, 26:20, 29:8, 30:1, 30:22, 32:17, 33:21, 36:7, 37:12, 37:20, 40:25, 41:16, 42:5, 42:18, 43:2, 44:11, 46:15, 48:7, 50:17, 51:5, 53:21, 66:6, 66:7, 67:22, 67:25, 68:4, 68:10, 75:7, 75:9, 75:10, 77:3, 77:4, 82:18, 86:12, 90:6, 91:22, 93:6, 93:10, 94:3, 94:8, 96:25, 99:19, 99:22, 100:12, 100:18, 106:17, 106:20, 107:6, 107:7, 107:13, 108:24, 109:4, 110:11, 110:15, 110:16, 110:19, 110:20,</p>	<p><b>nailed</b> [1] - 159:21</p> <p><b>name</b> [114] - 26:6, 26:20, 29:8, 30:1, 30:22, 32:17, 33:21, 36:7, 37:12, 37:20, 40:25, 41:16, 42:5, 42:18, 43:2, 44:11, 46:15, 48:7, 50:17, 51:5, 53:21, 66:6, 66:7, 67:22, 67:25, 68:4, 68:10, 75:7, 75:9, 75:10, 77:3, 77:4, 82:18, 86:12, 90:6, 91:22, 93:6, 93:10, 94:3, 94:8, 96:25, 99:19, 99:22, 100:12, 100:18, 106:17, 106:20, 107:6, 107:7, 107:13, 108:24, 109:4, 110:11, 110:15, 110:16, 110:19, 110:20,</p>	<p><b>nailed</b> [1] - 159:21</p> <p><b>name</b> [114] - 26:6, 26:20, 29:8, 30:1, 30:22, 32:17, 33:21, 36:7, 37:12, 37:20, 40:25, 41:16, 42:5, 42:18, 43:2, 44:11, 46:15, 48:7, 50:17, 51:5, 53:21, 66:6, 66:7, 67:22, 67:25, 68:4, 68:10, 75:7, 75:9, 75:10, 77:3, 77:4, 82:18, 86:12, 90:6, 91:22, 93:6, 93:10, 94:3, 94:8, 96:25, 99:19, 99:22, 100:12, 100:18, 106:17, 106:20, 107:6, 107:7, 107:13, 108:24, 109:4, 110:11, 110:15, 110:16, 110:19, 110:20,</p>	<p><b>nailed</b> [1] - 159:21</p> <p><b>name</b> [114] - 26:6, 26:20, 29:8, 30:1, 30:22, 32:17, 33:21, 36:7, 37:12, 37:20, 40:25, 41:16, 42:5, 42:18, 43:2, 44:11, 46:15, 48:7, 50:17, 51:5, 53:21, 66:6, 66:7, 67:22, 67:25, 68:4, 68:10, 75:7, 75:9, 75:10, 77:3, 77:4, 82:18, 86:12, 90:6, 91:22, 93:6, 93:10, 94:3, 94:8, 96:25, 99:19, 99:22, 100:12, 100:18, 106:17, 106:20, 107:6, 107:7, 107:13, 108:24, 109:4, 110:11, 110:15, 110:16, 110:19, 110:20,</p>

<p>52:18, 185:16  <b>notwithstanding</b> [2] - 128:23, 195:10  <b>novel</b> [3] - 215:6, 215:8, 215:12  <b>novelist</b> [2] - 140:11, 140:14  <b>November</b> [10] - 65:15, 97:3, 99:20, 99:22, 100:13, 189:14, 205:9, 205:12, 228:5, 228:7  <b>nowhere</b> [2] - 200:2, 224:13  <b>nowhere</b> [13] - 9:12, 39:24, 58:3, 58:14, 89:6, 95:16, 105:21, 108:9, 198:13, 204:22, 220:3, 220:7, 230:18  <b>numbers</b> [2] - 176:21, 177:14  <b>nurse</b> [1] - 30:25  <b>Nutrition</b> [1] - 33:1  <b>nutrition</b> [1] - 33:2</p>	<p>193:11, 193:12, 212:20, 212:21, 213:21, 213:22, 220:11, 220:12, 222:13, 222:14, 223:11, 223:13, 223:15, 234:24  <b>objections</b> [3] - 56:5, 139:23, 144:7  <b>obligated</b> [1] - 231:3  <b>obligations</b> [1] - 214:18  <b>observed</b> [1] - 126:10  <b>obviously</b> [5] - 38:22, 40:17, 70:25, 204:13, 206:14  <b>occupation</b> [3] - 29:11, 30:3, 42:7  <b>occurred</b> [1] - 63:24  <b>October</b> [20] - 90:18, 92:24, 93:6, 93:10, 94:3, 95:22, 96:16, 97:5, 97:16, 98:1, 98:7, 98:8, 98:16, 98:25, 99:5, 99:12, 99:13, 206:12, 206:22  <b>OF</b> [4] - 1:2, 1:8, 1:11, 1:21  <b>offer</b> [38] - 15:21, 15:22, 16:15, 17:21, 80:19, 83:23, 87:4, 90:21, 93:12, 95:25, 97:10, 98:3, 98:20, 99:7, 99:24, 101:4, 101:7, 115:11, 130:13, 136:2, 138:2, 139:22, 141:1, 141:25, 143:6, 144:6, 145:11, 153:8, 153:14, 156:23, 159:6, 170:6, 190:7, 191:6, 201:4, 201:10, 234:23, 235:18  <b>offered</b> [18] - 15:12, 15:17, 16:22, 16:24, 17:13, 19:24, 103:13, 153:7, 169:25, 191:2, 191:16, 191:18, 192:3, 193:6, 217:8, 220:5, 220:9, 231:11  <b>offering</b> [8] - 14:21, 15:20, 74:14, 165:19, 170:17, 187:19, 189:15, 192:24  <b>offers</b> [3] - 16:2, 16:3,</p>	<p>57:1  <b>office</b> [2] - 81:9, 116:16  <b>Office</b> [1] - 65:22  <b>Official</b> [1] - 239:13  <b>offline</b> [1] - 154:23  <b>often</b> [4] - 31:21, 44:4, 113:9, 223:18  <b>old</b> [6] - 37:13, 74:11, 77:16, 78:5, 218:22, 218:25  <b>Older</b> [1] - 117:8  <b>older</b> [3] - 10:5, 117:14, 140:11  <b>omissions</b> [1] - 12:19  <b>once</b> [2] - 77:5, 219:13  <b>one</b> [121] - 5:22, 6:7, 6:18, 6:25, 7:5, 7:25, 10:14, 11:21, 11:25, 13:3, 16:12, 17:9, 17:19, 17:22, 19:9, 19:24, 26:20, 29:15, 29:16, 33:2, 34:13, 35:24, 51:14, 51:18, 52:10, 54:6, 54:15, 56:19, 56:20, 62:20, 63:16, 69:5, 69:6, 69:12, 70:6, 75:21, 77:5, 77:8, 79:2, 79:4, 79:5, 79:17, 79:20, 81:19, 85:21, 88:13, 88:22, 94:7, 97:15, 97:19, 97:21, 97:22, 99:2, 100:17, 101:3, 103:20, 103:21, 105:23, 113:14, 113:23, 115:5, 117:5, 118:22, 120:11, 122:17, 123:25, 125:23, 126:13, 128:8, 128:9, 128:11, 128:13, 130:23, 133:9, 133:24, 136:13, 136:14, 138:9, 141:18, 142:17, 142:18, 144:18, 146:22, 147:9, 147:10, 147:12, 157:5, 158:2, 159:18, 161:23, 164:23, 165:5, 168:2, 173:14, 174:5, 174:9, 175:13, 179:11, 183:2, 185:8, 188:15, 189:16, 189:25, 190:11, 190:23, 194:5,</p>	<p>196:14, 196:15, 200:5, 203:22, 210:6, 214:4, 225:22, 227:8, 227:24, 229:9, 229:22, 237:5  <b>ones</b> [1] - 230:21  <b>ongoing</b> [2] - 69:24, 116:25  <b>oOo</b> [1] - 239:1  <b>open</b> [6] - 27:16, 27:18, 58:20, 70:18, 89:22, 204:18  <b>opened</b> [1] - 21:3  <b>opening</b> [12] - 21:1, 21:8, 22:6, 54:21, 61:14, 61:17, 64:9, 68:24, 105:22, 162:5, 204:21  <b>openly</b> [1] - 208:17  <b>opinion</b> [22] - 8:12, 8:16, 58:18, 87:22, 120:24, 158:11, 158:19, 167:21, 168:2, 168:20, 168:21, 168:24, 169:3, 169:7, 201:1, 201:21, 201:23, 203:10, 213:13, 213:15, 227:22, 230:8  <b>Opinion</b> [1] - 151:16  <b>opinions</b> [1] - 201:25  <b>opportunity</b> [19] - 5:9, 57:19, 60:8, 102:12, 153:3, 153:7, 153:8, 153:15, 188:14, 193:19, 206:20, 217:25, 218:1, 218:3, 218:6, 218:10, 218:20, 219:3, 236:14  <b>opposed</b> [2] - 180:17, 183:13  <b>opposite</b> [1] - 180:15  <b>option</b> [1] - 121:17  <b>OR</b> [3] - 2:3, 2:6, 2:9  <b>oral</b> [1] - 48:22  <b>orange</b> [1] - 78:6  <b>Order</b> [1] - 151:17  <b>order</b> [25] - 15:6, 16:9, 19:13, 23:19, 24:1, 57:10, 86:24, 86:25, 87:2, 87:22, 118:25, 119:4, 128:3, 180:1, 191:13, 191:14, 191:18, 200:1, 208:22, 209:1, 213:16, 216:20, 230:8, 230:11,</p>	<p>230:12  <b>ordered</b> [2] - 59:20, 120:13  <b>orders</b> [1] - 159:17  <b>OREGON</b> [2] - 1:2, 1:8  <b>Oregon</b> [46] - 1:6, 1:6, 1:7, 1:8, 1:10, 1:12, 14:1, 29:9, 31:1, 31:7, 31:9, 31:10, 32:2, 33:7, 34:17, 34:18, 35:15, 38:22, 42:19, 43:6, 43:21, 45:23, 46:1, 65:21, 66:4, 70:18, 79:20, 81:10, 81:12, 83:11, 83:12, 83:14, 84:20, 84:24, 85:1, 87:17, 124:19, 146:6, 207:21, 207:25, 208:4, 210:17, 212:17, 231:9, 236:22, 239:13  <b>organization</b> [1] - 30:8  <b>organizations</b> [12] - 32:25, 34:3, 34:20, 35:20, 36:21, 37:2, 37:16, 38:22, 41:5, 42:14, 42:23  <b>organize</b> [2] - 162:13, 162:15  <b>organized</b> [1] - 95:15  <b>organizer</b> [3] - 77:20, 77:22, 162:20  <b>organizing</b> [1] - 42:10  <b>original</b> [1] - 239:6  <b>originally</b> [1] - 19:13  <b>Oswego</b> [1] - 38:18  <b>otherwise</b> [2] - 59:5, 164:5  <b>ourselves</b> [1] - 193:22  <b>outbound</b> [1] - 65:1  <b>outcome</b> [3] - 57:22, 86:14, 87:20  <b>outer</b> [1] - 36:8  <b>outline</b> [5] - 3:21, 61:15, 72:14, 72:16, 227:4  <b>outlined</b> [1] - 73:9  <b>outlining</b> [1] - 187:3  <b>Outlook</b> [4] - 200:17, 205:10, 206:6, 206:16  <b>outside</b> [13] - 28:1, 52:13, 58:6, 60:10, 63:19, 63:22, 82:2, 125:25, 153:11, 156:18, 185:4, 191:7, 228:16  <b>outsource</b> [1] - 64:24  <b>outsourcing</b> [1] -</p>
<b>O</b>				
<p><b>oath</b> [3] - 25:23, 26:1, 53:25  <b>object</b> [2] - 57:3, 167:15  <b>objecting</b> [2] - 192:25, 193:8  <b>objection</b> [72] - 57:4, 57:5, 57:7, 80:21, 80:22, 83:24, 87:5, 87:6, 90:22, 90:23, 93:13, 93:14, 96:2, 96:3, 97:12, 98:4, 98:21, 99:9, 100:2, 100:3, 101:8, 101:11, 104:9, 115:12, 115:13, 125:10, 129:2, 130:15, 136:3, 136:5, 138:3, 141:2, 142:1, 143:8, 145:16, 145:18, 153:22, 154:9, 159:7, 159:8, 164:11, 165:23, 166:5, 167:23, 170:9, 172:25, 173:2, 173:6, 173:12, 174:21, 175:2, 175:18, 189:20, 189:22, 189:24, 190:12, 192:13, 192:18,</p>				

<p>229:12  <b>overbilled</b> [1] - 219:11  <b>overbilling</b> [4] - 65:19, 82:8, 205:20, 218:13  <b>overcome</b> [1] - 27:17  <b>overly</b> [1] - 61:4  <b>overrule</b> [1] - 57:4  <b>overruled</b> [4] - 158:14, 165:24, 175:19, 223:15  <b>owes</b> [1] - 226:2  <b>own</b> [4] - 37:14, 60:5, 61:3, 66:11, 67:25, 74:4, 75:4, 99:22, 108:11, 110:4, 146:21, 192:19, 197:18, 227:1  <b>owned</b> [6] - 33:13, 51:10, 64:19, 214:20, 214:22, 215:18  <b>owner</b> [3] - 64:18, 140:12  <b>owning</b> [1] - 33:25</p>	<p>235:6  <b>pages</b> [10] - 11:6, 11:8, 18:20, 69:21, 95:17, 105:22, 128:7, 148:15, 172:1, 223:7  <b>Paget</b> [1] - 26:6  <b>paid</b> [2] - 66:25, 120:17  <b>pain</b> [1] - 194:23  <b>painful</b> [2] - 225:9, 225:10  <b>painting</b> [1] - 30:9  <b>panel</b> [3] - 23:8, 26:2, 28:7  <b>Panner</b> [1] - 39:1  <b>Papak</b> [1] - 230:14  <b>paper</b> [2] - 28:15, 28:19  <b>paragraph</b> [28] - 72:1, 106:13, 114:10, 118:13, 118:19, 119:23, 121:20, 122:14, 123:1, 123:24, 125:3, 125:21, 128:9, 128:10, 128:12, 128:17, 128:18, 129:1, 130:18, 131:22, 131:23, 131:25, 133:4, 133:21, 171:1, 186:17  <b>pardon</b> [1] - 131:4  <b>parent</b> [1] - 158:25  <b>parents</b> [3] - 34:17, 34:18, 44:12  <b>parity</b> [1] - 104:5  <b>Parsell</b> [3] - 24:15, 35:14, 53:23  <b>part</b> [51] - 5:12, 7:21, 9:22, 10:12, 11:24, 13:9, 13:10, 15:15, 19:12, 46:5, 53:8, 53:14, 57:16, 62:5, 66:1, 66:9, 70:11, 72:6, 72:16, 73:11, 84:22, 105:24, 106:2, 114:19, 157:8, 158:6, 159:24, 159:25, 170:6, 170:8, 170:23, 171:16, 175:20, 182:3, 183:24, 184:1, 186:8, 186:10, 186:21, 191:1, 198:6, 199:8, 208:21, 219:7, 226:23, 227:24,</p>	<p>228:12, 229:4, 237:2  <b>participate</b> [1] - 49:12  <b>participation</b> [2] - 62:25, 63:7  <b>particular</b> [17] - 6:24, 21:4, 23:19, 47:23, 49:7, 49:22, 51:23, 52:5, 52:11, 62:4, 109:3, 173:4, 194:21, 195:6, 198:11, 215:3, 224:3  <b>particularly</b> [1] - 187:19  <b>parties</b> [20] - 3:2, 16:6, 23:8, 25:17, 28:4, 29:6, 40:17, 45:2, 55:6, 55:21, 56:4, 58:6, 60:7, 85:21, 124:2, 124:17, 124:18, 129:15, 151:17, 193:24  <b>partner</b> [5] - 69:11, 73:9, 208:8, 208:24, 210:23  <b>party</b> [20] - 15:20, 17:13, 17:16, 27:3, 30:10, 31:8, 32:7, 32:11, 33:10, 36:13, 39:6, 39:7, 44:16, 57:1, 60:8, 61:7, 61:16, 61:17, 214:20, 218:5  <b>pass</b> [2] - 46:16, 125:23  <b>passage</b> [3] - 8:18, 106:15, 126:17  <b>passions</b> [1] - 33:2  <b>password</b> [1] - 122:2  <b>passwords</b> [1] - 228:18  <b>past</b> [2] - 209:14, 211:8  <b>path</b> [4] - 73:8, 107:5, 184:12  <b>Paul</b> [4] - 162:15, 162:21, 162:22, 236:20  <b>Pause</b> [16] - 88:9, 106:12, 117:6, 133:20, 136:5, 142:7, 142:10, 142:12, 145:6, 163:9, 171:15, 189:19, 193:6, 193:8, 222:10, 226:12  <b>pause</b> [5] - 53:19, 74:21, 91:12, 199:4, 229:23  <b>Pause</b> [1] - 223:12</p>	<p><b>pay</b> [7] - 60:16, 88:13, 90:1, 209:17, 231:3, 231:24  <b>payday</b> [1] - 136:22  <b>Payne</b> [1] - 25:11  <b>PCC</b> [1] - 44:13  <b>peace</b> [1] - 134:17  <b>pedophile</b> [4] - 9:14, 128:23, 131:6, 131:9  <b>pedophilia</b> [2] - 6:21, 127:21  <b>peer</b> [2] - 204:16  <b>peer-to-peer</b> [1] - 204:16  <b>pending</b> [1] - 146:10  <b>people</b> [42] - 45:10, 47:25, 54:17, 59:14, 66:13, 70:10, 71:1, 79:3, 79:4, 79:12, 81:24, 82:15, 102:10, 102:20, 104:17, 105:3, 105:9, 105:14, 117:1, 119:8, 123:9, 124:7, 137:11, 146:4, 147:16, 148:9, 148:10, 148:21, 151:11, 168:12, 179:17, 182:19, 183:2, 183:6, 183:16, 192:5, 202:6, 204:17, 211:25, 215:4, 219:16  <b>people's</b> [3] - 78:13, 112:1, 132:19  <b>peppered</b> [2] - 102:2, 227:17  <b>per</b> [4] - 207:16, 207:17, 207:18, 225:13  <b>perceived</b> [1] - 89:3  <b>percent</b> [2] - 16:19, 198:14  <b>percentage</b> [1] - 214:23  <b>peremptory</b> [1] - 53:12  <b>perform</b> [1] - 64:1  <b>performance</b> [1] - 107:14  <b>perhaps</b> [4] - 44:3, 101:9, 162:17, 178:20  <b>period</b> [6] - 88:10, 88:14, 120:12, 154:23, 222:8  <b>periods</b> [1] - 120:12  <b>perjurious</b> [2] - 219:5, 226:18</p>	<p><b>Perjury</b> [1] - 138:17  <b>perjury</b> [11] - 71:11, 72:13, 74:6, 74:8, 123:3, 163:7, 163:10, 163:14, 210:22, 224:5, 224:18  <b>permission</b> [3] - 21:2, 90:25, 100:5  <b>permits</b> [1] - 56:21  <b>permitted</b> [1] - 57:2  <b>perpetrated</b> [1] - 72:11  <b>person</b> [22] - 9:4, 10:17, 32:20, 59:8, 79:5, 106:3, 120:16, 122:1, 123:5, 126:22, 132:22, 135:2, 148:11, 179:6, 179:8, 210:14, 219:9, 221:2, 228:15  <b>personal</b> [5] - 69:3, 79:7, 102:2, 112:4, 176:22  <b>personality</b> [1] - 148:8  <b>personally</b> [2] - 56:18, 72:20  <b>perspective</b> [3] - 11:3, 19:5, 218:17  <b>pertinent</b> [1] - 112:17  <b>ph</b> [1] - 167:8  <b>ph</b> [1] - 162:21  <b>pharmacist</b> [1] - 41:2  <b>pharmacy</b> [1] - 41:4  <b>Philadelphia</b> [2] - 65:10, 75:21  <b>phone</b> [2] - 59:9, 77:17  <b>photograph</b> [1] - 126:12  <b>pick</b> [3] - 65:2, 224:6, 232:7  <b>picked</b> [2] - 34:5, 176:5  <b>picture</b> [7] - 9:21, 97:1, 109:2, 109:9, 109:13, 109:16  <b>piece</b> [8] - 28:15, 28:19, 33:12, 148:19, 169:1, 171:4, 172:2, 199:6  <b>pilot</b> [1] - 39:4  <b>place</b> [9] - 7:19, 10:4, 25:18, 52:3, 78:4, 113:7, 173:8, 222:10, 224:10  <b>places</b> [4] - 75:23, 105:3, 133:25, 147:8  <b>Plaintiff</b> [1] - 1:4</p>
<b>P</b>				
<p><b>P-a-r-s-e-l-l</b> [1] - 24:15  <b>P-a-y-n-e</b> [1] - 25:11  <b>page</b> [67] - 11:25, 72:1, 95:17, 106:8, 106:13, 106:16, 107:5, 108:17, 112:17, 113:15, 117:2, 118:11, 119:23, 121:20, 122:20, 122:24, 123:23, 125:2, 125:20, 128:12, 130:23, 131:12, 131:16, 131:20, 133:3, 133:4, 133:19, 136:10, 136:12, 137:5, 139:16, 140:20, 141:7, 142:18, 143:19, 144:3, 144:18, 144:19, 150:6, 150:11, 151:15, 155:6, 155:7, 157:13, 158:2, 158:21, 158:25, 159:1, 159:2, 173:16, 173:17, 173:18, 173:19, 199:8, 199:13, 199:14, 203:15, 206:11, 222:16, 226:12, 232:9, 233:1, 233:2,</p>				

<p><b>plaintiff</b> [44] - 9:13, 9:15, 26:11, 45:11, 45:19, 46:6, 46:8, 53:8, 61:18, 62:2, 62:6, 62:8, 62:9, 62:10, 62:11, 62:16, 62:18, 62:20, 62:23, 62:24, 63:6, 63:10, 63:12, 63:14, 63:18, 64:9, 65:8, 130:21, 130:22, 130:24, 131:1, 131:3, 131:5, 131:6, 185:19, 195:11, 209:12, 213:19, 222:17, 229:6, 235:18, 237:13</p> <p><b>PLAINTIFF</b> [2] - 2:2, 26:17</p> <p><b>Plaintiffs</b> [14] - 93:23, 95:25, 100:8, 150:4, 151:1, 155:20, 155:21, 156:17, 163:8, 173:15, 173:16, 201:2, 201:15, 226:13</p> <p><b>plaintiffs</b> [12] - 9:17, 19:5, 61:20, 61:21, 151:16, 156:5, 175:5, 188:24, 193:20, 194:4, 201:6, 230:3</p> <p><b>plaintiffs'</b> [1] - 40:18</p> <p><b>plan</b> [1] - 179:13</p> <p><b>planning</b> [2] - 11:18, 30:3</p> <p><b>plans</b> [1] - 64:24</p> <p><b>play</b> [5] - 34:4, 34:21, 36:11, 44:15, 116:9</p> <p><b>played</b> [1] - 76:12</p> <p><b>playing</b> [4] - 41:6, 76:11, 78:7, 125:25</p> <p><b>pleasant</b> [1] - 238:10</p> <p><b>PLF</b> [3] - 14:7, 14:15, 184:6</p> <p><b>plural</b> [1] - 114:16</p> <p><b>plus</b> [2] - 35:18, 140:5</p> <p><b>point</b> [38] - 3:9, 11:17, 12:17, 16:11, 20:11, 22:16, 45:1, 78:18, 81:15, 96:14, 105:12, 113:1, 113:2, 113:24, 119:25, 120:25, 121:19, 138:10, 165:5, 165:6, 184:14, 185:7, 187:2, 191:11, 191:24, 200:6, 202:18, 206:6,</p>	<p>210:9, 211:1, 213:10, 217:24, 218:4, 218:7, 219:2, 221:4, 236:16, 236:18</p> <p><b>pointed</b> [1] - 222:6</p> <p><b>points</b> [4] - 28:18, 29:1, 29:6, 217:19</p> <p><b>poking</b> [1] - 203:11</p> <p><b>police</b> [1] - 126:15</p> <p><b>policy</b> [3] - 176:1, 176:19, 177:9</p> <p><b>polite</b> [1] - 72:18</p> <p><b>pool</b> [2] - 28:6, 44:20</p> <p><b>pops</b> [1] - 184:8</p> <p><b>porn</b> [15] - 7:19, 9:2, 103:19, 121:23, 122:5, 123:5, 123:10, 123:15, 123:16, 123:18, 123:19, 174:16, 174:18, 203:25, 204:13</p> <p><b>pornography</b> [4] - 68:5, 103:19, 104:15, 104:16</p> <p><b>portion</b> [4] - 9:7, 17:22, 125:2, 125:21</p> <p><b>portions</b> [1] - 11:15</p> <p><b>Portland</b> [27] - 1:6, 2:3, 2:9, 32:21, 36:8, 38:10, 38:20, 41:1, 41:17, 42:6, 43:3, 49:15, 91:23, 94:5, 113:23, 114:2, 114:3, 114:8, 141:9, 209:23, 221:19, 221:20, 224:10, 224:11, 232:20, 233:14</p> <p><b>position</b> [15] - 8:7, 18:12, 52:7, 72:10, 74:3, 74:5, 84:11, 175:1, 195:9, 200:14, 206:12, 208:20, 218:8, 222:19</p> <p><b>positions</b> [2] - 71:17, 74:17</p> <p><b>positive</b> [1] - 35:23</p> <p><b>possession</b> [2] - 175:1, 228:1</p> <p><b>possible</b> [6] - 9:14, 9:18, 44:22, 45:11, 45:13, 131:6</p> <p><b>possibly</b> [3] - 92:7, 121:13, 149:13</p> <p><b>post</b> [10] - 20:5, 20:9, 72:18, 110:9, 116:16, 164:20,</p>	<p>175:9, 175:12, 216:11, 231:21</p> <p><b>post-employment</b> [1] - 164:20</p> <p><b>posted</b> [3] - 136:16, 136:18, 144:20</p> <p><b>posting</b> [1] - 110:10</p> <p><b>posts</b> [3] - 20:7, 196:19, 221:21</p> <p><b>potential</b> [8] - 25:25, 28:7, 45:7, 45:8, 46:10, 47:15, 52:23, 208:25</p> <p><b>potentially</b> [1] - 48:24</p> <p><b>practice</b> [2] - 63:13, 78:1</p> <p><b>practiced</b> [1] - 107:20</p> <p><b>prayer</b> [1] - 237:16</p> <p><b>precaution</b> [1] - 48:20</p> <p><b>precautionary</b> [2] - 54:21, 236:5</p> <p><b>preceding</b> [1] - 114:11</p> <p><b>precisely</b> [5] - 153:15, 198:7, 199:15, 212:25, 220:20</p> <p><b>precluded</b> [2] - 14:20, 203:5</p> <p><b>precludes</b> [1] - 191:14</p> <p><b>preferred</b> [1] - 32:18</p> <p><b>prejudice</b> [5] - 6:1, 8:21, 11:12, 57:23, 120:5</p> <p><b>preliminary</b> [1] - 54:21</p> <p><b>prepared</b> [2] - 14:4, 112:16</p> <p><b>preponderance</b> [4] - 27:5, 62:12, 62:20, 63:15</p> <p><b>presence</b> [7] - 28:2, 28:9, 109:20, 109:21, 109:22, 148:16, 185:5</p> <p><b>present</b> [7] - 58:8, 61:18, 61:21, 120:21, 171:8, 194:4, 213:5</p> <p><b>presentation</b> [1] - 61:8</p> <p><b>presented</b> [3] - 61:23, 207:4, 224:5</p> <p><b>preservation</b> [1] - 227:23</p> <p><b>preserve</b> [2] - 203:1, 203:2</p> <p><b>preserved</b> [1] - 227:23</p> <p><b>president</b> [2] - 81:21, 229:7</p> <p><b>press</b> [9] - 59:14, 105:5, 105:8, 144:19, 144:20,</p>	<p>145:13, 234:4, 234:10, 235:7</p> <p><b>pretend</b> [1] - 215:16</p> <p><b>pretty</b> [13] - 39:20, 49:6, 52:2, 85:23, 102:3, 109:22, 110:6, 124:25, 134:4, 146:20, 162:10, 184:12, 211:1</p> <p><b>prevail</b> [2] - 136:24</p> <p><b>prevailed</b> [2] - 6:8, 71:13</p> <p><b>previously</b> [3] - 14:20, 62:10, 190:25</p> <p><b>primarily</b> [3] - 39:10, 40:18, 78:13</p> <p><b>print</b> [6] - 95:21, 97:2, 97:21, 98:15, 139:15, 140:10</p> <p><b>printed</b> [16] - 95:6, 96:15, 97:8, 97:22, 97:25, 98:16, 98:18, 99:5, 99:13, 138:20, 139:17, 139:18, 140:21, 141:20, 141:21, 142:19</p> <p><b>printout</b> [3] - 10:4, 135:22, 234:20</p> <p><b>printouts</b> [1] - 142:17</p> <p><b>Private</b> [1] - 110:14</p> <p><b>private</b> [11] - 9:1, 9:3, 27:22, 33:10, 56:9, 62:14, 66:4, 121:23, 121:24, 122:4, 215:3</p> <p><b>PrivateLessons.com</b> [1] - 109:15</p> <p><b>Pro</b> [1] - 2:5</p> <p><b>problem</b> [16] - 8:1, 9:23, 10:10, 15:8, 48:10, 84:8, 109:24, 110:2, 110:5, 123:14, 129:13, 136:15, 184:10, 190:13, 217:23, 221:10</p> <p><b>problems</b> [4] - 5:4, 47:23, 110:8, 190:14</p> <p><b>procedure</b> [1] - 132:7</p> <p><b>proceed</b> [5] - 122:12, 129:17, 195:24, 196:3, 223:16</p> <p><b>proceeding</b> [7] - 36:23, 39:7, 103:13, 104:4, 146:11, 146:12, 159:23</p> <p><b>proceedings</b> [9] - 33:5, 53:19, 60:10, 74:21, 91:12, 199:4, 229:23, 238:13,</p>	<p>239:5</p> <p><b>PROCEEDINGS</b> [1] - 1:21</p> <p><b>process</b> [19] - 25:18, 27:17, 28:9, 50:10, 53:14, 78:13, 86:7, 92:9, 92:13, 104:6, 126:20, 133:25, 135:13, 149:5, 177:20, 180:9, 181:10, 200:1, 215:12</p> <p><b>processed</b> [1] - 180:2</p> <p><b>processes</b> [1] - 150:17</p> <p><b>processing</b> [1] - 229:12</p> <p><b>processor</b> [1] - 78:12</p> <p><b>produce</b> [4] - 79:9, 79:10, 174:5, 228:8</p> <p><b>product</b> [8] - 69:3, 74:4, 77:17, 103:10, 103:11, 103:15, 221:15</p> <p><b>profession</b> [3] - 76:15, 103:6, 103:7</p> <p><b>professionally</b> [1] - 168:12</p> <p><b>Professionals</b> [1] - 33:1</p> <p><b>profile</b> [3] - 109:12, 139:19, 140:3</p> <p><b>profiles</b> [1] - 175:16</p> <p><b>profit</b> [6] - 1:7, 1:9, 1:10, 1:11, 45:24, 46:1</p> <p><b>profiteer</b> [2] - 100:21, 100:24</p> <p><b>program</b> [3] - 179:21, 182:17, 216:1</p> <p><b>programmer</b> [6] - 78:12, 165:9, 165:14, 181:10, 181:13, 203:2</p> <p><b>programming</b> [31] - 42:15, 42:24, 70:7, 70:9, 76:10, 77:23, 137:19, 137:20, 139:6, 154:15, 154:18, 165:13, 165:15, 177:17, 177:20, 177:23, 177:25, 178:4, 178:11, 179:6, 179:8, 180:10, 182:7, 182:12, 183:19, 202:13, 202:20, 204:12, 204:14, 216:1</p> <p><b>programs</b> [28] - 32:22,</p>
---	---	--	---	--

78:13, 85:10, 114:12, 139:3, 180:25, 181:25, 182:4, 182:8, 182:11, 182:21, 199:24, 200:1, 200:2, 200:8, 200:11, 202:22, 203:4, 203:25, 205:1, 216:2, 216:4, 216:7, 216:13, 227:25, 228:2 <b>prohibiting</b> [1] - 4:17 <b>project</b> [1] - 36:18 <b>Project</b> [1] - 30:7 <b>proliferating</b> [1] - 105:1 <b>prominently</b> [3] - 106:20, 184:9, 224:5 <b>promoting</b> [1] - 141:7 <b>prong</b> [2] - 218:2, 218:11 <b>proof</b> [1] - 56:19 <b>properly</b> [2] - 59:23, 124:20 <b>property</b> [5] - 33:13, 38:19, 85:9, 86:18, 215:18 <b>proposed</b> [2] - 19:13, 236:13 <b>prosecutor</b> [1] - 27:1 <b>PROSPECTIVE</b> [84] - 29:8, 29:23, 30:1, 30:12, 30:14, 30:20, 30:22, 31:10, 31:15, 31:21, 31:24, 32:4, 32:10, 32:13, 32:16, 33:12, 33:19, 33:21, 34:11, 34:14, 34:16, 34:24, 35:1, 35:5, 35:14, 35:25, 36:3, 36:7, 36:15, 36:25, 37:6, 37:10, 37:12, 37:20, 38:3, 38:6, 38:9, 38:17, 39:10, 39:17, 39:23, 40:3, 40:5, 40:9, 40:15, 40:20, 40:24, 40:25, 41:10, 41:14, 41:16, 41:24, 42:3, 42:5, 42:18, 43:2, 43:13, 43:17, 43:20, 44:1, 44:6, 44:9, 44:11, 46:17, 46:19, 47:2, 47:7, 48:5, 48:8, 48:17, 48:19, 49:2, 49:6, 49:9, 49:11, 49:15, 49:17, 50:6, 50:13, 50:18, 50:23, 50:25, 51:6, 51:9	<b>prospective</b> [3] - 23:9, 26:2, 54:10 <b>protect</b> [3] - 73:21, 204:6, 212:7 <b>protected</b> [3] - 62:21, 62:25, 63:7 <b>protecting</b> [1] - 204:20 <b>protection</b> [1] - 121:12 <b>protective</b> [5] - 15:6, 159:17, 191:12, 191:13, 191:17 <b>prove</b> [4] - 27:2, 27:4, 62:18 <b>provide</b> [12] - 28:8, 28:12, 86:2, 86:5, 199:23, 206:2, 206:5, 206:8, 215:16, 230:25 <b>provided</b> [21] - 9:4, 11:7, 11:9, 50:9, 71:22, 74:1, 103:23, 121:25, 152:6, 166:25, 199:22, 200:16, 203:17, 205:17, 206:4, 208:1, 208:4, 219:10, 224:4, 236:12, 236:16 <b>Providence</b> [1] - 34:19 <b>provides</b> [3] - 130:22, 222:21, 233:14 <b>providing</b> [2] - 103:22, 227:6 <b>proving</b> [4] - 62:11, 62:19, 63:14, 63:16 <b>PST</b> [3] - 206:6, 206:16, 228:9 <b>public</b> [12] - 6:18, 7:18, 10:18, 19:12, 19:20, 52:2, 70:21, 73:12, 104:3, 172:23, 191:11 <b>publication</b> [1] - 96:17 <b>publications</b> [1] - 62:13 <b>publicity</b> [1] - 104:22 <b>publicize</b> [1] - 147:8 <b>publish</b> [18] - 90:25, 93:16, 94:21, 96:5, 100:5, 133:7, 134:16, 136:7, 138:6, 164:13, 170:12, 201:9, 201:18, 212:22, 222:15, 222:18, 223:10 <b>Publish</b> [1] - 96:6 <b>published</b> [21] -	67:13, 72:13, 91:3, 93:23, 98:8, 98:25, 100:8, 102:6, 112:18, 131:18, 138:18, 138:20, 156:21, 164:12, 170:14, 201:5, 225:17, 229:1, 231:19, 234:6, 234:8 <b>publishes</b> [1] - 134:5 <b>publishing</b> [9] - 19:15, 62:8, 67:14, 67:19, 103:4, 121:8, 142:15, 154:10, 191:14 <b>pull</b> [2] - 190:3, 190:9 <b>punishment</b> [1] - 225:21 <b>punitive</b> [10] - 16:13, 17:25, 18:1, 236:18, 236:24, 237:2, 237:9, 237:12, 237:19, 238:6 <b>purpose</b> [6] - 27:8, 56:12, 56:14, 56:15, 58:10, 78:23 <b>purposes</b> [1] - 216:22 <b>pursuing</b> [1] - 218:20 <b>push</b> [1] - 182:17 <b>pushed</b> [1] - 179:11 <b>put</b> [57] - 23:17, 23:25, 70:20, 70:21, 74:8, 74:16, 76:23, 77:18, 79:11, 85:24, 85:25, 86:18, 90:7, 106:9, 108:19, 109:13, 109:16, 111:9, 113:8, 114:10, 115:16, 116:17, 117:7, 122:23, 123:23, 125:2, 125:16, 125:20, 132:4, 134:6, 137:20, 141:8, 148:14, 153:21, 156:11, 165:2, 165:4, 188:13, 192:8, 200:11, 200:23, 211:2, 211:17, 211:19, 211:21, 212:10, 213:19, 216:24, 219:4, 221:11, 226:17, 231:12, 232:4, 234:20, 235:7 <b>puts</b> [2] - 88:25, 203:3 <b>putting</b> [9] - 10:24, 66:13, 147:15, 161:9, 180:13, 207:9, 212:11,	226:24, 226:25 <b>Q</b> <b>qualifications</b> [2] - 25:19, 27:10 <b>quality</b> [1] - 148:6 <b>questioning</b> [3] - 27:24, 28:3, 115:25 <b>questions</b> [30] - 3:5, 3:18, 25:20, 25:21, 25:23, 25:24, 27:8, 27:11, 27:16, 27:19, 28:1, 28:11, 28:13, 28:22, 29:1, 29:21, 44:25, 56:5, 149:23, 151:24, 157:12, 193:14, 193:18, 195:13, 195:14, 195:21, 197:25, 231:18, 236:9 <b>quickly</b> [4] - 44:22, 54:23, 74:1, 124:17 <b>quite</b> [4] - 31:6, 113:10, 121:1, 164:19 <b>R</b> <b>R-o-t-e</b> [1] - 197:23 <b>R-u-t-t-e-r</b> [1] - 24:18 <b>Rachael</b> [2] - 24:23, 40:25 <b>Rachel</b> [2] - 24:24, 41:16 <b>racketeering</b> [2] - 207:16, 207:19 <b>railroad</b> [3] - 39:11, 39:19 <b>Railroad</b> [1] - 39:24 <b>railroads</b> [1] - 39:11 <b>Railway</b> [2] - 39:18, 39:19 <b>raise</b> [27] - 6:14, 21:1, 26:1, 45:3, 46:4, 46:11, 47:16, 47:23, 50:3, 51:19, 51:23, 52:6, 52:9, 52:17, 52:20, 52:24, 53:25, 69:23, 69:24, 70:6, 70:14, 74:25, 133:9, 168:3, 197:12, 209:2, 228:19 <b>raised</b> [5] - 49:24, 50:1, 51:20, 163:15, 225:4 <b>ran</b> [3] - 64:23, 77:11, 228:22 <b>random</b> [2] - 184:2, 184:4	<b>rather</b> [4] - 27:9, 62:14, 119:3, 229:13 <b>Raymond</b> [1] - 25:13 <b>RC</b> [1] - 37:25 <b>re</b> [4] - 11:17, 142:8, 168:14, 178:5 <b>re-create</b> [1] - 178:5 <b>re-litigation</b> [1] - 11:17 <b>re-talk</b> [1] - 142:8 <b>reach</b> [1] - 55:17 <b>reached</b> [6] - 14:2, 15:19, 16:8, 70:20, 120:6, 201:23 <b>reaching</b> [3] - 104:25, 220:18, 221:15 <b>reaction</b> [5] - 92:4, 94:9, 94:13, 111:21, 111:23 <b>read</b> [28] - 3:7, 8:18, 35:20, 37:2, 47:15, 53:20, 59:24, 78:1, 100:15, 105:25, 106:2, 106:6, 108:25, 111:15, 116:4, 118:16, 121:21, 123:12, 125:13, 125:23, 130:18, 132:3, 133:10, 134:1, 142:5, 184:6 <b>Reader's</b> [1] - 29:5 <b>reading</b> [27] - 8:19, 8:25, 30:9, 36:22, 41:21, 43:8, 89:2, 94:6, 107:21, 107:24, 114:11, 114:18, 115:21, 116:6, 118:20, 120:10, 121:22, 123:3, 123:25, 124:17, 125:4, 125:23, 130:20, 132:15, 133:21, 136:22, 184:5 <b>Reading</b> [7] - 9:13, 116:13, 120:13, 131:5, 132:6, 133:6, 137:1 <b>reads</b> [1] - 125:4 <b>ready</b> [4] - 22:20, 22:21, 22:23, 197:11 <b>real</b> [10] - 34:1, 41:3, 82:9, 110:11, 112:1, 148:20, 160:19, 160:20, 160:21 <b>reality</b> [1] - 10:18 <b>really</b> [19] - 16:20, 29:1, 30:7, 40:10, 47:5, 51:25, 78:2,
--	---	---	---	--

<p>78:8, 84:7, 103:2, 107:11, 111:14, 112:4, 116:3, 134:7, 149:21, 177:19, 209:16, 219:20</p> <p><b>reason</b> [10] - 14:11, 68:19, 88:17, 103:4, 107:16, 107:17, 117:20, 135:11, 147:1, 148:5</p> <p><b>reasonable</b> [4] - 8:5, 27:2, 63:2, 63:3</p> <p><b>reasonableness</b> [1] - 57:24</p> <p><b>reasons</b> [4] - 107:14, 172:8, 177:10, 211:16</p> <p><b>rebrand</b> [1] - 224:9</p> <p><b>rebranded</b> [6] - 154:20, 155:11, 221:18, 224:9, 232:19, 232:21</p> <p><b>rebuttal</b> [2] - 15:15, 235:19</p> <p><b>receive</b> [3] - 28:1, 59:22, 88:20</p> <p><b>received</b> [58] - 9:16, 15:14, 55:20, 56:11, 56:25, 57:5, 57:7, 58:25, 80:23, 83:25, 87:7, 90:24, 93:15, 96:4, 97:13, 98:5, 98:22, 99:10, 100:4, 101:12, 103:15, 115:8, 115:14, 116:15, 118:20, 119:4, 130:16, 136:6, 138:4, 139:24, 141:3, 142:2, 143:9, 144:8, 152:13, 152:17, 155:23, 156:22, 159:9, 163:16, 164:14, 170:11, 170:15, 190:16, 193:13, 201:10, 201:16, 205:8, 205:19, 212:14, 212:15, 212:22, 213:23, 220:6, 220:10, 220:13, 222:15, 235:4</p> <p><b>receiving</b> [2] - 115:17, 205:13</p> <p><b>recently</b> [1] - 105:5</p> <p><b>recess</b> [14] - 23:7, 54:19, 55:3, 55:5, 58:8, 127:7, 129:9, 129:14, 145:21, 166:20, 184:19,</p>	<p>193:23</p> <p><b>reclaim</b> [1] - 68:21</p> <p><b>recognize</b> [20] - 45:3, 45:10, 80:13, 83:16, 86:23, 93:3, 95:9, 96:21, 106:15, 115:1, 130:1, 135:20, 137:14, 140:17, 141:15, 142:22, 143:16, 144:14, 145:4, 237:5</p> <p><b>recollection</b> [5] - 159:19, 167:2, 167:3, 167:6, 174:3</p> <p><b>reconvene</b> [3] - 55:7, 129:16, 193:24</p> <p><b>reconvened</b> [1] - 238:14</p> <p><b>record</b> [9] - 23:5, 53:6, 57:11, 122:11, 159:24, 164:5, 192:2, 210:14, 239:4</p> <p><b>recorded</b> [1] - 208:16</p> <p><b>recording</b> [1] - 76:13</p> <p><b>records</b> [2] - 180:13, 204:1</p> <p><b>recourse</b> [1] - 123:21</p> <p><b>recover</b> [1] - 88:18</p> <p><b>recovered</b> [2] - 130:24, 173:25</p> <p><b>recreated</b> [2] - 70:9, 177:24</p> <p><b>recusal</b> [3] - 69:18, 168:14, 211:22</p> <p><b>recused</b> [1] - 69:16</p> <p><b>recusing</b> [1] - 168:7</p> <p><b>redact</b> [3] - 128:25, 220:2, 223:20</p> <p><b>redacted</b> [11] - 130:14, 154:24, 155:1, 155:2, 155:12, 221:21, 221:22, 224:2, 232:21, 233:6</p> <p><b>redacting</b> [2] - 128:8, 220:21</p> <p><b>redactions</b> [2] - 130:10, 224:1</p> <p><b>redirect</b> [3] - 193:19, 195:24, 197:1</p> <p><b>refer</b> [10] - 22:1, 60:16, 156:14, 169:24, 170:21, 201:1, 210:2, 217:6, 220:4</p> <p><b>reference</b> [13] - 19:18, 21:11, 60:3, 128:23, 163:17, 186:17, 187:4, 198:12, 199:9, 199:14, 201:6, 216:16, 222:25</p>	<p><b>referenced</b> [4] - 128:17, 174:14, 174:19, 188:13</p> <p><b>references</b> [4] - 18:16, 143:19, 143:22, 182:23</p> <p><b>referencing</b> [2] - 22:12, 117:13</p> <p><b>referral</b> [1] - 210:1</p> <p><b>referred</b> [4] - 157:1, 183:11, 229:6, 231:17</p> <p><b>referring</b> [2] - 10:13, 21:23</p> <p><b>refers</b> [1] - 176:6</p> <p><b>refiled</b> [1] - 230:21</p> <p><b>reflected</b> [1] - 160:21</p> <p><b>reflecting</b> [1] - 52:22</p> <p><b>reformat</b> [4] - 176:2, 176:20, 204:3, 204:8</p> <p><b>reformatted</b> [15] - 175:17, 175:25, 176:4, 176:5, 176:6, 176:12, 176:13, 176:14, 176:16, 176:19, 176:24, 204:5, 216:5, 227:11</p> <p><b>reformatting</b> [2] - 130:25, 175:17</p> <p><b>refresh</b> [2] - 147:20, 174:2</p> <p><b>refused</b> [3] - 7:13, 7:14, 11:13</p> <p><b>refusing</b> [1] - 8:14</p> <p><b>refute</b> [2] - 163:10, 206:20</p> <p><b>refuted</b> [1] - 185:22</p> <p><b>regarding</b> [5] - 3:19, 3:21, 33:12, 58:20, 183:3</p> <p><b>regards</b> [1] - 18:2</p> <p><b>region's</b> [1] - 210:17</p> <p><b>registered</b> [2] - 30:24, 116:15</p> <p><b>rehabilitation</b> [1] - 43:22</p> <p><b>reinforce</b> [1] - 8:17</p> <p><b>reinstated</b> [1] - 219:22</p> <p><b>rejected</b> [1] - 71:18</p> <p><b>relabeled</b> [1] - 154:23</p> <p><b>relate</b> [1] - 72:2</p> <p><b>related</b> [9] - 19:9, 45:21, 62:10, 101:19, 102:16, 104:14, 162:6, 184:11</p> <p><b>relates</b> [2] - 10:18, 114:6</p> <p><b>relationship</b> [12] - 3:7, 14:7, 20:12, 46:4,</p>	<p>71:14, 72:23, 82:1, 168:11, 208:7, 210:25, 225:2, 226:24</p> <p><b>relax</b> [1] - 147:4</p> <p><b>release</b> [8] - 105:5, 105:8, 144:19, 144:20, 145:13, 234:4, 234:10, 235:7</p> <p><b>relevance</b> [2] - 172:25, 173:6</p> <p><b>relevant</b> [7] - 12:17, 17:25, 58:11, 63:23, 195:7, 228:25, 230:21</p> <p><b>relitigate</b> [2] - 4:4, 5:12</p> <p><b>relitigating</b> [3] - 6:9, 167:9, 167:12</p> <p><b>rely</b> [1] - 61:3</p> <p><b>remaining</b> [1] - 54:10</p> <p><b>remarks</b> [2] - 102:18, 102:20</p> <p><b>remember</b> [31] - 30:13, 36:1, 60:18, 81:10, 83:1, 85:7, 105:21, 108:20, 116:11, 127:9, 151:11, 152:8, 152:24, 152:25, 153:5, 157:20, 161:6, 161:22, 161:25, 162:1, 163:12, 174:4, 175:23, 175:24, 176:11, 181:8, 182:22, 194:10, 194:11, 218:19, 236:5</p> <p><b>remind</b> [2] - 185:3, 194:1</p> <p><b>remote</b> [1] - 196:12</p> <p><b>remotely</b> [1] - 181:5</p> <p><b>remove</b> [3] - 74:14, 79:11, 223:21</p> <p><b>removed</b> [1] - 224:1</p> <p><b>removing</b> [1] - 210:8</p> <p><b>Renee</b> [3] - 24:5, 30:1, 53:22</p> <p><b>rentals</b> [1] - 34:1</p> <p><b>reopened</b> [1] - 221:19</p> <p><b>repeat</b> [4] - 27:12, 87:12, 131:24, 158:16</p> <p><b>Repeat</b> [1] - 234:13</p> <p><b>replace</b> [2] - 202:19, 202:20</p> <p><b>replaced</b> [1] - 209:21</p> <p><b>report</b> [33] - 4:22, 10:14, 10:21, 11:6,</p>	<p>12:1, 12:2, 12:6, 12:7, 12:25, 13:3, 18:21, 18:22, 21:16, 21:17, 22:2, 22:4, 59:20, 65:21, 81:1, 82:7, 84:15, 174:20, 185:10, 185:13, 185:17, 185:25, 186:11, 186:18, 186:23, 187:5, 187:10, 187:18, 187:20</p> <p><b>reporter</b> [1] - 164:5</p> <p><b>REPORTER</b> [14] - 2:7, 3:13, 7:5, 46:13, 50:17, 51:7, 76:25, 87:12, 116:3, 131:2, 167:11, 174:9, 234:13, 234:17</p> <p><b>Reporter</b> [1] - 239:13</p> <p><b>reporters</b> [1] - 105:7</p> <p><b>reporting</b> [3] - 178:21, 179:21, 182:21</p> <p><b>reports</b> [35] - 4:22, 6:7, 11:14, 11:15, 11:19, 11:22, 11:23, 13:1, 13:9, 13:13, 13:17, 13:19, 18:11, 18:17, 18:20, 19:2, 19:11, 19:15, 19:20, 21:12, 22:4, 22:10, 71:17, 71:20, 79:10, 82:16, 166:25, 180:20, 185:9, 191:10, 191:14, 216:16, 216:18, 216:20, 227:5</p> <p><b>represent</b> [3] - 26:16, 39:11, 132:23</p> <p><b>representation</b> [8] - 14:16, 72:17, 93:9, 100:16, 135:24, 153:10, 158:6, 207:18</p> <p><b>representations</b> [1] - 224:22</p> <p><b>represented</b> [14] - 20:17, 26:12, 33:13, 66:5, 69:10, 86:9, 124:10, 128:20, 128:22, 200:19, 204:5, 207:11, 207:14, 218:19</p> <p><b>representing</b> [5] - 6:18, 7:17, 26:19, 108:11, 172:22</p> <p><b>represents</b> [3] - 72:24, 208:5, 224:25</p> <p><b>Republic</b> [1] - 64:25</p> <p><b>reputation</b> [1] -</p>
---	--	--	---	--

<p>132:19  <b>request</b> [2] - 58:16, 58:17  <b>requested</b> [1] - 207:25  <b>requests</b> [2] - 89:17  <b>required</b> [4] - 52:11, 61:17, 69:24, 217:3  <b>requires</b> [2] - 27:17, 60:6  <b>reread</b> [1] - 73:6  <b>research</b> [1] - 60:2  <b>reserved</b> [1] - 22:16  <b>reset</b> [1] - 228:18  <b>reside</b> [1] - 41:18  <b>residence</b> [1] - 32:19  <b>residents</b> [1] - 124:19  <b>residing</b> [1] - 33:22  <b>resigned</b> [1] - 69:16  <b>resistance</b> [1] - 125:6  <b>resolution</b> [6] - 16:25, 84:23, 85:17, 135:13, 136:15, 149:5  <b>resolve</b> [3] - 16:23, 19:3, 190:13  <b>resolves</b> [1] - 190:14  <b>Resources</b> [2] - 43:7, 43:22  <b>respect</b> [21] - 8:13, 14:9, 39:18, 40:20, 103:7, 124:21, 155:4, 160:5, 160:6, 163:7, 163:15, 181:15, 182:25, 185:8, 192:9, 205:1, 206:7, 213:16, 214:22, 225:12, 227:25  <b>respects</b> [1] - 199:11  <b>respond</b> [6] - 5:19, 14:5, 27:10, 59:19, 116:21, 116:24  <b>responded</b> [2] - 116:22, 209:6  <b>respondent</b> [2] - 89:1, 89:3  <b>responding</b> [2] - 164:3, 164:4  <b>response</b> [6] - 14:17, 15:22, 16:10, 16:23, 17:3, 20:11  <b>responsibility</b> [1] - 102:8  <b>responsible</b> [2] - 204:20, 221:14  <b>rest</b> [9] - 12:2, 54:3, 72:5, 133:16, 186:20, 186:21, 186:22, 197:8, 225:1  <b>restate</b> [3] - 21:6,</p>	<p>81:2, 200:21  <b>restrictions</b> [2] - 60:6, 60:9  <b>result</b> [8] - 32:2, 66:2, 66:20, 94:4, 100:18, 100:21, 233:8, 233:11  <b>resulted</b> [1] - 70:8  <b>results</b> [8] - 100:18, 100:20, 136:11, 137:7, 146:14, 155:3, 155:13  <b>Results</b> [4] - 162:16, 162:17, 163:4  <b>retail</b> [1] - 29:11  <b>retakes</b> [2] - 129:16, 196:1  <b>retaliated</b> [1] - 212:1  <b>retaliating</b> [3] - 46:8, 62:7, 62:17  <b>retaliation</b> [20] - 4:8, 5:3, 7:2, 12:10, 40:1, 40:13, 40:21, 52:3, 62:18, 63:5, 63:16, 63:17, 64:15, 69:22, 70:17, 71:24, 89:3, 209:14, 218:11  <b>retaliatory</b> [1] - 62:14  <b>retired</b> [5] - 29:14, 30:24, 38:18, 38:19, 43:4  <b>retriever</b> [1] - 34:2  <b>retry</b> [1] - 3:23  <b>return</b> [4] - 35:8, 35:12, 59:23, 62:1  <b>returned</b> [9] - 69:18, 161:20, 200:12, 203:19, 204:9, 205:6, 216:9, 227:10, 228:6  <b>returning</b> [1] - 130:25  <b>revenue</b> [4] - 202:19, 214:24, 215:1  <b>reverse</b> [1] - 69:17  <b>review</b> [5] - 128:15, 130:20, 130:21, 207:22, 236:14  <b>reviews</b> [1] - 84:7  <b>revised</b> [1] - 107:10  <b>reversionist</b> [4] - 92:22, 94:12, 103:17, 109:1  <b>revisions</b> [1] - 147:24  <b>Rice</b> [1] - 48:22  <b>ride</b> [1] - 39:2  <b>rights</b> [2] - 62:10, 67:5  <b>ring</b> [1] - 7:19  <b>risen</b> [1] - 70:14  <b>risk</b> [3] - 72:22, 73:12, 211:3  <b>risky</b> [1] - 217:1</p>	<p><b>River</b> [1] - 65:10  <b>RMR</b> [2] - 2:7, 239:12  <b>road</b> [4] - 15:21, 39:3, 76:22, 132:8  <b>Road</b> [1] - 2:6  <b>Robert</b> [3] - 24:25, 42:5, 132:10  <b>roles</b> [1] - 81:14  <b>ROM</b> [1] - 103:23  <b>Ron</b> [1] - 36:25  <b>Ronald</b> [2] - 24:18, 53:23  <b>Room</b> [1] - 2:8  <b>room</b> [13] - 25:15, 54:8, 54:24, 59:10, 60:15, 60:20, 61:2, 85:19, 85:20, 127:13, 156:10, 184:20, 236:8  <b>roommate</b> [1] - 38:10  <b>rote</b> [1] - 6:18  <b>ROTE</b> [203] - 1:6, 1:11, 2:5, 4:11, 4:14, 4:20, 5:1, 5:6, 5:15, 5:20, 5:22, 5:25, 7:7, 7:9, 7:12, 8:12, 10:13, 11:2, 11:5, 12:4, 12:9, 13:1, 13:7, 13:12, 13:16, 13:20, 13:24, 14:2, 14:25, 15:9, 16:2, 16:5, 16:7, 16:16, 17:7, 18:14, 18:18, 19:9, 19:23, 20:13, 20:16, 21:6, 21:11, 21:15, 21:20, 21:25, 22:9, 22:15, 22:17, 26:20, 45:16, 53:11, 69:1, 80:22, 83:24, 87:6, 90:23, 93:14, 96:3, 97:12, 98:4, 98:21, 99:9, 100:3, 101:9, 101:11, 104:8, 115:13, 122:15, 125:10, 128:19, 128:22, 129:4, 130:15, 136:4, 138:3, 139:23, 141:2, 142:1, 143:8, 144:7, 145:16, 145:22, 150:2, 151:21, 152:1, 152:4, 152:5, 153:22, 153:24, 154:2, 154:5, 154:7, 154:12, 156:3, 156:7, 156:16, 156:20, 156:23, 156:24, 158:17, 159:6, 159:10,</p>	<p>164:8, 164:17, 164:18, 166:5, 166:14, 166:23, 167:14, 168:1, 168:19, 168:22, 169:1, 169:2, 169:25, 170:3, 170:8, 170:13, 170:16, 170:18, 170:20, 172:4, 172:18, 173:3, 173:10, 173:13, 173:19, 173:21, 174:13, 174:23, 175:4, 176:8, 177:6, 184:14, 185:6, 185:18, 185:22, 186:4, 186:14, 186:25, 187:12, 187:16, 188:1, 188:3, 188:8, 188:16, 188:18, 189:7, 189:9, 189:13, 189:18, 190:6, 190:14, 190:17, 190:25, 191:3, 191:9, 191:19, 191:21, 191:25, 192:4, 192:7, 192:11, 192:25, 193:10, 193:16, 194:11, 195:17, 195:19, 195:22, 196:4, 196:25, 197:10, 197:17, 198:3, 198:20, 199:3, 199:5, 201:6, 201:12, 201:14, 201:20, 212:15, 212:23, 213:22, 213:24, 215:23, 217:12, 217:16, 220:8, 220:14, 222:16, 223:17, 226:7, 226:9, 226:12, 229:20, 234:25, 235:2, 235:16, 238:2, 238:11  <b>Rote</b> [96] - 2:5, 3:4, 3:6, 3:18, 4:10, 7:3, 7:22, 11:4, 15:17, 15:19, 16:15, 17:11, 17:22, 18:6, 19:7, 20:24, 26:19, 26:20, 45:20, 46:2, 46:7, 53:5, 62:3, 64:19, 65:5, 66:19, 67:4, 67:14, 67:17, 68:11, 68:25, 81:5, 81:6,</p>	<p>81:8, 81:9, 82:1, 82:10, 83:2, 84:16, 88:16, 88:24, 89:4, 89:18, 91:20, 91:25, 92:17, 101:8, 101:23, 103:3, 105:21, 108:7, 108:10, 109:10, 110:11, 113:24, 119:20, 119:25, 120:24, 122:10, 123:10, 125:16, 130:5, 135:7, 135:9, 138:10, 140:2, 140:12, 141:7, 143:12, 143:19, 144:19, 166:17, 185:2, 190:1, 190:13, 193:8, 194:1, 196:3, 197:9, 197:23, 197:24, 201:4, 229:11, 229:21, 230:3, 231:17, 232:16, 233:17, 234:2, 234:4, 235:6, 235:14, 237:25  <b>Rote's</b> [9] - 8:7, 9:20, 15:14, 18:12, 81:14, 126:17, 139:16, 139:19, 142:25  <b>roughly</b> [1] - 207:15  <b>row</b> [10] - 23:23, 23:24, 25:14, 29:2, 29:5, 48:4, 54:12, 54:13, 54:15  <b>rule</b> [2] - 171:2, 190:21  <b>Rule</b> [1] - 226:13  <b>ruled</b> [7] - 21:24, 22:13, 66:15, 168:24, 189:13, 190:6, 193:3  <b>rules</b> [4] - 56:24, 57:2, 58:12, 168:16  <b>ruling</b> [7] - 22:16, 68:20, 86:1, 87:11, 87:14, 87:16, 87:21  <b>rulings</b> [1] - 3:19  <b>run</b> [3] - 38:13, 110:20, 211:8  <b>running</b> [3] - 64:20, 78:12, 178:10  <b>runs</b> [1] - 126:2  <b>Rutgers</b> [3] - 119:2, 119:15, 119:21  <b>Rutter</b> [3] - 24:18, 36:25, 53:23</p>
---	---	--	--	--



<b>S</b>				
<p><b>S-c-h-a-e-f-e-r</b> [1] - 24:17</p> <p><b>Safety</b> [1] - 39:24</p> <p><b>salacious</b> [1] - 18:5</p> <p><b>sales</b> [2] - 65:3, 79:11</p> <p><b>salesman</b> [1] - 34:19</p> <p><b>Sandra</b> [14] - 68:10, 76:4, 100:19, 102:17, 102:19, 103:3, 117:17, 117:25, 118:21, 124:3, 124:21, 125:1, 208:3, 232:14</p> <p><b>Sandy</b> [2] - 124:7, 148:2</p> <p><b>satisfied</b> [1] - 217:22</p> <p><b>satisfies</b> [1] - 218:2</p> <p><b>save</b> [2] - 44:21, 116:7</p> <p><b>savvy</b> [1] - 51:25</p> <p><b>saw</b> [32] - 56:18, 93:9, 94:2, 94:4, 94:9, 94:11, 94:13, 94:15, 95:23, 96:13, 97:7, 97:23, 98:17, 98:25, 99:21, 100:12, 101:15, 102:14, 108:22, 114:5, 117:25, 119:7, 135:24, 139:20, 140:23, 141:22, 143:3, 144:2, 145:1, 145:25, 148:24, 199:25</p> <p><b>Scandia</b> [1] - 29:15</p> <p><b>scared</b> [1] - 125:14</p> <p><b>Schaefer</b> [2] - 24:17, 36:15</p> <p><b>Scholls</b> [1] - 42:19</p> <p><b>School</b> [3] - 119:2, 119:15, 119:21</p> <p><b>school</b> [10] - 9:17, 34:23, 34:25, 35:3, 36:17, 37:2, 44:13, 77:16, 118:21, 125:24</p> <p><b>schooling</b> [1] - 49:18</p> <p><b>schoolteacher</b> [1] - 36:9</p> <p><b>science</b> [3] - 42:12, 42:21</p> <p><b>sciences</b> [1] - 43:5</p> <p><b>scope</b> [3] - 63:19, 63:23, 200:22</p> <p><b>screen</b> [10] - 28:14, 28:18, 78:5, 91:10, 91:13, 111:19, 118:18, 131:11, 171:16</p>	<p><b>screenplay</b> [2] - 133:22, 215:13</p> <p><b>screens</b> [1] - 28:24</p> <p><b>screenwriter</b> [2] - 140:12, 140:14</p> <p><b>scripts</b> [1] - 116:19</p> <p><b>scrips</b> [3] - 65:13, 77:16, 77:25</p> <p><b>se</b> [2] - 2:5, 225:13</p> <p><b>search</b> [27] - 93:6, 99:19, 100:16, 100:20, 112:6, 135:21, 136:10, 136:19, 137:6, 137:18, 139:6, 139:9, 146:14, 155:3, 222:7, 222:17, 222:19, 222:21, 223:8, 223:9, 223:17, 223:22, 224:6, 224:12, 232:7, 232:20, 233:8</p> <p><b>searched</b> [1] - 137:24</p> <p><b>searches</b> [2] - 112:7, 155:17</p> <p><b>searching</b> [2] - 60:3, 223:19</p> <p><b>seat</b> [2] - 75:7, 197:21</p> <p><b>seated</b> [8] - 23:10, 23:21, 23:22, 26:3, 26:18, 54:2, 54:18, 59:17</p> <p><b>seating</b> [3] - 23:1, 23:2, 23:3</p> <p><b>second</b> [19] - 47:9, 47:25, 54:7, 58:24, 73:22, 91:9, 93:21, 97:4, 113:17, 113:20, 118:13, 123:24, 141:10, 145:5, 147:11, 192:10, 217:24, 228:15, 229:22</p> <p><b>secretary</b> [1] - 210:5</p> <p><b>Secretary</b> [3] - 19:25, 191:1, 212:17</p> <p><b>see</b> [81] - 10:19, 28:14, 30:2, 30:5, 34:1, 36:5, 54:8, 54:25, 57:20, 61:7, 66:7, 66:16, 67:4, 67:7, 67:17, 67:23, 67:24, 68:16, 77:1, 77:5, 85:20, 91:5, 91:13, 92:22, 92:23, 93:25, 94:24, 95:2, 95:4, 96:17, 98:7, 101:18, 102:16, 104:13, 110:2, 117:10,</p>	<p>117:18, 123:9, 127:14, 129:7, 133:5, 136:9, 138:8, 139:11, 142:10, 142:16, 152:11, 156:19, 157:5, 157:6, 157:8, 157:15, 158:3, 158:4, 171:3, 171:7, 171:8, 171:10, 171:15, 171:18, 172:2, 172:19, 172:21, 172:22, 173:20, 181:15, 183:23, 190:9, 201:1, 201:5, 201:8, 201:10, 201:21, 203:11, 216:8, 221:24, 226:15, 232:12, 236:9, 238:3</p> <p><b>seeing</b> [4] - 95:19, 108:20, 111:21, 127:20</p> <p><b>seek</b> [1] - 137:11</p> <p><b>seeking</b> [2] - 7:16, 209:12</p> <p><b>seeks</b> [2] - 62:16, 63:12</p> <p><b>seem</b> [2] - 182:14, 182:16</p> <p><b>selected</b> [4] - 28:5, 28:8, 54:6, 59:17</p> <p><b>selecting</b> [1] - 26:4</p> <p><b>selection</b> [2] - 23:17, 53:18</p> <p><b>sell</b> [1] - 77:17</p> <p><b>senators</b> [2] - 105:10, 146:5</p> <p><b>send</b> [4] - 105:13, 111:8, 133:9, 236:4</p> <p><b>sending</b> [5] - 82:16, 133:11, 205:12</p> <p><b>sense</b> [2] - 4:10, 4:13</p> <p><b>senses</b> [1] - 147:22</p> <p><b>sensitive</b> [2] - 27:22, 228:11</p> <p><b>sent</b> [22] - 15:15, 18:9, 88:24, 89:18, 105:9, 119:25, 146:3, 146:5, 146:7, 152:15, 152:16, 154:17, 177:25, 182:4, 189:14, 193:1, 200:18, 202:3, 205:8, 206:13, 206:21</p> <p><b>sentence</b> [2] - 123:2, 129:19</p> <p><b>separate</b> [4] - 82:21, 214:17, 214:18,</p>	<p>229:7</p> <p><b>separately</b> [1] - 186:9</p> <p><b>separation</b> [1] - 183:22</p> <p><b>sequential</b> [1] - 184:3</p> <p><b>series</b> [1] - 64:17</p> <p><b>serious</b> [1] - 70:17</p> <p><b>seriously</b> [3] - 73:25, 134:8, 227:3</p> <p><b>served</b> [3] - 35:22, 41:22, 43:11</p> <p><b>server</b> [1] - 180:11</p> <p><b>servers</b> [3] - 179:23, 216:2, 228:18</p> <p><b>Service</b> [3] - 14:18, 125:5, 125:18</p> <p><b>service</b> [4] - 36:17, 54:3, 54:9, 59:19</p> <p><b>Services</b> [2] - 43:21</p> <p><b>services</b> [4] - 74:14, 165:19, 169:11</p> <p><b>session</b> [2] - 56:8, 193:25</p> <p><b>set</b> [12] - 9:3, 72:25, 78:23, 108:1, 110:24, 121:24, 122:4, 156:9, 182:16, 184:4, 196:21, 211:19</p> <p><b>sets</b> [1] - 211:6</p> <p><b>setting</b> [5] - 9:1, 27:14, 31:19, 52:14, 121:22</p> <p><b>settlement</b> [1] - 16:3</p> <p><b>seven</b> [3] - 69:11, 109:12, 224:19</p> <p><b>Seven</b> [1] - 107:6</p> <p><b>Seven-Year</b> [1] - 107:6</p> <p><b>seventies</b> [2] - 32:14, 50:8</p> <p><b>several</b> [2] - 14:13, 39:18</p> <p><b>sexual</b> [1] - 34:7</p> <p><b>sexually</b> [1] - 34:7</p> <p><b>shall</b> [1] - 7:7</p> <p><b>shape</b> [2] - 215:10, 223:23</p> <p><b>share</b> [3] - 126:14, 148:13, 198:1</p> <p><b>shares</b> [1] - 229:14</p> <p><b>sharing</b> [3] - 68:5, 204:15, 204:16</p> <p><b>Sharp</b> [1] - 77:20</p> <p><b>sheer</b> [2] - 68:18, 105:18</p> <p><b>Sherwood</b> [1] - 36:16</p> <p><b>shocking</b> [1] - 118:8</p> <p><b>shooting</b> [1] - 29:17</p> <p><b>shop</b> [1] - 76:21</p> <p><b>short</b> [1] - 114:1</p>	<p><b>shortly</b> [3] - 79:18, 83:4, 83:5</p> <p><b>show</b> [18] - 5:13, 10:21, 18:12, 54:25, 61:16, 70:16, 74:1, 103:14, 111:13, 111:19, 128:3, 155:3, 155:12, 217:11, 222:1, 222:19, 227:23, 232:4</p> <p><b>showcase</b> [4] - 198:6, 221:16, 223:7, 223:8</p> <p><b>showed</b> [3] - 82:8, 189:5, 224:12</p> <p><b>showing</b> [4] - 19:25, 132:25, 136:14, 212:17</p> <p><b>shown</b> [2] - 222:17, 224:16</p> <p><b>shows</b> [16] - 4:7, 4:8, 12:18, 12:22, 19:19, 20:2, 99:12, 100:17, 112:17, 171:3, 187:20, 222:16, 222:20, 222:23, 222:25, 232:3</p> <p><b>shut</b> [21] - 67:21, 73:20, 114:13, 177:24, 178:4, 179:15, 179:16, 202:14, 203:8, 208:1, 212:8, 216:11, 218:15, 221:18, 224:9, 224:10, 224:14, 227:21, 228:14, 229:10</p> <p><b>Shutdown</b> [2] - 164:10, 170:4</p> <p><b>shutdown</b> [18] - 70:25, 115:23, 116:11, 163:18, 163:21, 163:25, 164:16, 164:19, 164:20, 165:2, 165:5, 165:6, 165:7, 165:8, 203:6, 203:23, 215:19, 215:24</p> <p><b>shutting</b> [3] - 66:13, 70:8, 218:10</p> <p><b>side</b> [16] - 3:20, 3:24, 3:25, 8:2, 24:11, 25:15, 57:2, 57:3, 61:14, 76:24, 85:21, 86:3, 156:10, 158:7, 211:23, 237:25</p> <p><b>sidebar</b> [1] - 151:22</p> <p><b>sides</b> [2] - 4:5, 159:18</p>

<p><b>siding</b> [1] - 46:23  <b>signature</b> [3] - 239:6, 239:7  <b>signatures</b> [1] - 111:7  <b>signed</b> [6] - 61:11, 66:3, 67:5, 84:11, 157:15, 239:7  <b>significance</b> [4] - 203:17, 209:24, 211:4, 212:24  <b>significant</b> [3] - 211:3, 223:1, 228:13  <b>significantly</b> [3] - 168:3, 198:5, 211:22  <b>signing</b> [2] - 158:2, 239:3  <b>silent</b> [1] - 125:7  <b>Silicon</b> [1] - 214:15  <b>similar</b> [2] - 106:25, 178:8  <b>similarly</b> [1] - 164:4  <b>simply</b> [8] - 14:10, 22:1, 61:11, 61:15, 185:16, 197:25, 200:7, 215:2  <b>sincerely</b> [1] - 27:11  <b>sincerity</b> [1] - 223:2  <b>single</b> [4] - 46:24, 72:1, 85:19, 202:8  <b>sit</b> [5] - 17:13, 52:11, 65:2, 85:21, 101:1  <b>site</b> [16] - 9:5, 9:14, 105:3, 105:14, 110:14, 122:2, 128:24, 131:6, 140:24, 142:19, 144:20, 204:16, 204:24, 221:19, 231:21  <b>sits</b> [1] - 85:21  <b>sitting</b> [5] - 52:22, 147:4, 147:17, 147:19, 183:24  <b>Sitting</b> [9] - 91:23, 94:4, 113:23, 143:20, 154:22, 221:18, 224:10, 232:20  <b>situation</b> [5] - 33:15, 116:9, 178:8, 179:2, 181:3  <b>six</b> [6] - 38:3, 76:6, 112:23, 196:8, 216:4, 227:5  <b>ski</b> [1] - 39:2  <b>skill</b> [4] - 178:11, 178:13, 179:17, 211:6  <b>skilled</b> [1] - 182:19  <b>skills</b> [7] - 74:12,</p>	<p>165:13, 199:12, 209:4, 210:5, 210:20, 211:7  <b>slide</b> [2] - 54:12, 54:13  <b>slipped</b> [1] - 118:25  <b>slow</b> [4] - 8:24, 77:1, 116:4, 223:9  <b>slowdown</b> [1] - 178:23  <b>small</b> [10] - 100:15, 107:22, 111:14, 139:15, 140:4, 140:10, 157:8, 171:16, 184:12, 198:13  <b>smear</b> [2] - 7:22, 183:7  <b>smearing</b> [1] - 10:23  <b>snippet</b> [2] - 11:25, 12:5  <b>snow</b> [2] - 39:2, 125:24  <b>snowboard</b> [1] - 36:11  <b>snuff</b> [1] - 209:5  <b>soaked</b> [1] - 126:6  <b>soccer</b> [1] - 41:6  <b>social</b> [7] - 43:4, 52:1, 146:14, 160:9, 160:10, 160:11, 161:17  <b>society</b> [1] - 106:5  <b>software</b> [4] - 42:8, 43:7, 66:12, 228:17  <b>solely</b> [2] - 88:25, 224:22  <b>solve</b> [3] - 15:8, 191:22, 217:23  <b>solves</b> [1] - 15:4  <b>someone</b> [8] - 52:7, 73:9, 73:10, 94:25, 103:16, 137:19, 185:24, 195:9  <b>sometime</b> [2] - 57:10, 119:1  <b>sometimes</b> [13] - 44:1, 110:23, 113:11, 147:20, 148:1, 155:5, 155:16, 187:15, 187:17, 188:6  <b>somewhat</b> [1] - 8:19  <b>somewhere</b> [12] - 54:5, 82:19, 88:1, 106:3, 131:9, 147:4, 147:17, 159:4, 161:7, 161:8, 165:7, 183:21  <b>son</b> [3] - 36:17, 38:10, 41:2  <b>Sony</b> [1] - 203:18  <b>soon</b> [5] - 126:3,</p>	<p>133:23, 134:25, 185:6, 225:12  <b>sorry</b> [66] - 3:13, 7:5, 46:14, 48:8, 49:14, 51:7, 76:25, 81:2, 81:5, 83:8, 83:13, 86:7, 86:24, 87:12, 88:9, 88:16, 90:12, 94:14, 95:2, 95:4, 96:10, 97:5, 98:1, 98:2, 99:25, 100:14, 101:20, 104:19, 106:11, 107:2, 116:3, 118:15, 122:14, 128:6, 128:21, 129:12, 130:20, 131:2, 131:24, 132:3, 132:4, 133:20, 135:19, 136:25, 140:4, 140:10, 142:10, 142:16, 145:6, 149:22, 157:21, 167:11, 171:14, 171:25, 172:17, 174:9, 174:11, 177:4, 179:20, 188:21, 234:13, 234:15, 235:1, 235:2  <b>sought</b> [3] - 7:12, 9:19, 220:2  <b>sound</b> [1] - 89:6  <b>Soundex</b> [1] - 139:9  <b>sounds</b> [1] - 4:1  <b>sour</b> [1] - 198:5  <b>source</b> [4] - 157:1, 186:16, 187:4, 216:20  <b>sources</b> [1] - 204:22  <b>south</b> [1] - 30:23  <b>Southwest</b> [2] - 42:6, 43:3  <b>space</b> [4] - 19:20, 63:24, 127:13, 156:12  <b>span</b> [1] - 106:5  <b>speaking</b> [4] - 119:25, 135:3, 163:2, 164:5  <b>speaks</b> [2] - 103:8, 135:2  <b>special</b> [2] - 35:15, 56:9  <b>specialist</b> [4] - 30:25, 32:23, 34:19, 76:16  <b>specialized</b> [1] - 182:19  <b>specific</b> [13] - 16:10, 22:5, 25:19, 28:11, 28:22, 149:8,</p>	<p>157:20, 160:25, 163:17, 169:1, 172:10, 203:13  <b>specifically</b> [13] - 5:25, 8:13, 11:13, 13:2, 17:3, 21:17, 89:16, 118:24, 127:21, 200:10, 201:24, 225:23, 226:13  <b>specificity</b> [3] - 220:20, 222:3, 223:5  <b>speech</b> [3] - 237:8, 237:9, 237:11  <b>speed</b> [1] - 210:5  <b>spell</b> [2] - 75:8, 197:22  <b>spelled</b> [1] - 113:5  <b>spend</b> [1] - 219:21  <b>spent</b> [3] - 71:3, 137:1, 219:23  <b>spins</b> [1] - 72:16  <b>spite</b> [3] - 202:5, 202:6, 209:4  <b>spoken</b> [3] - 51:18, 153:12, 160:18  <b>sports</b> [3] - 34:21, 36:11, 36:22  <b>spot</b> [1] - 88:9  <b>spreadsheet</b> [11] - 152:7, 152:13, 152:18, 205:19, 205:24, 206:2, 207:10, 207:11, 207:13, 208:5, 219:12  <b>staff</b> [3] - 7:20, 79:4, 80:1  <b>stage</b> [3] - 133:22, 185:15, 226:4  <b>stages</b> [3] - 199:5, 199:6, 208:9  <b>stairs</b> [1] - 74:25  <b>stalked</b> [1] - 134:3  <b>stamina</b> [1] - 219:24  <b>stand</b> [9] - 25:25, 26:13, 53:21, 68:22, 120:14, 129:16, 196:1, 229:19, 229:21  <b>start</b> [14] - 5:18, 18:20, 29:3, 29:4, 45:11, 47:25, 48:4, 49:23, 61:13, 138:12, 164:3, 198:9, 198:16, 212:11  <b>started</b> [17] - 20:5, 65:9, 77:23, 79:16, 85:13, 110:12, 113:21, 114:1, 159:20, 178:8,</p>	<p>179:2, 179:3, 188:25, 209:12, 229:8, 229:9  <b>starting</b> [3] - 173:17, 203:15, 209:22  <b>starts</b> [5] - 164:4, 206:10, 206:11, 227:13  <b>State</b> [14] - 14:1, 19:25, 31:1, 31:7, 31:9, 34:18, 38:22, 38:23, 43:6, 43:21, 146:6, 191:1, 210:17, 212:17  <b>state</b> [9] - 1:6, 46:8, 50:17, 62:8, 62:22, 75:7, 179:1, 197:21, 210:18  <b>statement</b> [14] - 5:4, 21:1, 21:8, 22:6, 61:14, 61:15, 61:17, 64:9, 68:24, 70:21, 160:12, 172:23, 180:2, 198:1  <b>statements</b> [6] - 54:22, 56:4, 62:9, 203:12, 225:6  <b>States</b> [2] - 2:8, 36:10  <b>states</b> [1] - 162:11  <b>STATES</b> [2] - 1:1, 1:23  <b>statesman</b> [2] - 210:10, 210:19  <b>status</b> [2] - 39:8, 208:13  <b>stay</b> [3] - 84:18, 155:6, 155:7  <b>staying</b> [1] - 18:3  <b>steal</b> [1] - 136:24  <b>stealing</b> [1] - 218:1  <b>steel</b> [1] - 31:4  <b>step</b> [8] - 74:24, 129:11, 184:23, 185:1, 197:3, 197:11, 235:17  <b>Stephen</b> [1] - 24:22  <b>steps</b> [2] - 221:16, 232:16  <b>Steve</b> [2] - 38:17, 48:20  <b>still</b> [21] - 4:14, 14:20, 14:25, 54:6, 66:25, 77:5, 79:17, 89:19, 123:8, 155:6, 155:7, 161:14, 165:17, 185:9, 188:3, 209:5, 215:12, 219:1, 222:2, 224:1  <b>stimulation</b> [1] - 228:23  <b>Sting</b> [1] - 199:14</p>
---	--	---	---	--

<p><b>stipulated</b> [1] - 15:6  <b>stood</b> [1] - 84:25  <b>stop</b> [8] - 16:9, 44:18, 44:23, 68:8, 133:15, 161:5, 164:4, 166:10  <b>stopped</b> [1] - 222:5  <b>store</b> [2] - 126:2, 126:4  <b>Stores</b> [1] - 236:21  <b>stories</b> [1] - 133:13  <b>story</b> [6] - 51:4, 74:16, 94:7, 133:25, 142:9, 212:4  <b>straight</b> [1] - 46:20  <b>strangers</b> [1] - 27:15  <b>strategic</b> [1] - 30:3  <b>strategy</b> [1] - 158:24  <b>streaming</b> [1] - 42:15  <b>stricken</b> [1] - 57:10  <b>strong</b> [3] - 148:8, 209:5, 219:1  <b>strongly</b> [3] - 208:12, 209:6, 210:8  <b>structured</b> [1] - 104:4  <b>struggling</b> [2] - 168:19, 188:3  <b>stuck</b> [1] - 87:23  <b>student</b> [1] - 34:18  <b>students</b> [2] - 109:15, 109:22  <b>stuff</b> [20] - 5:18, 14:23, 67:19, 67:20, 76:9, 78:9, 94:21, 103:19, 103:25, 104:2, 108:3, 110:7, 110:11, 110:21, 111:24, 112:2, 134:5, 134:23, 148:4, 148:22  <b>subject</b> [4] - 126:24, 146:9, 146:11, 183:3  <b>subjected</b> [5] - 62:22, 62:24, 63:6, 69:8, 212:5  <b>submit</b> [1] - 3:10  <b>submitted</b> [5] - 3:6, 3:11, 3:14, 185:11, 230:15  <b>subpoena</b> [2] - 116:14, 116:15  <b>subpoenaed</b> [2] - 14:1, 14:17  <b>subsequent</b> [1] - 20:7  <b>subsidiary</b> [1] - 158:24  <b>substantial</b> [5] - 28:6, 63:8, 73:10, 202:18, 226:23  <b>substantially</b> [3] - 63:24, 199:22, 220:2</p>	<p><b>successful</b> [3] - 33:9, 195:5, 195:6  <b>successfully</b> [1] - 211:15  <b>sucks</b> [1] - 149:21  <b>sue</b> [3] - 213:4, 213:8  <b>sued</b> [2] - 50:8, 151:9  <b>suffer</b> [1] - 228:14  <b>suffered</b> [3] - 73:18, 228:17, 228:20  <b>suffering</b> [1] - 194:24  <b>suggest</b> [1] - 210:13  <b>suggested</b> [1] - 65:19  <b>suggesting</b> [1] - 15:16  <b>suit</b> [1] - 83:8  <b>sum</b> [1] - 72:21  <b>summarily</b> [3] - 69:19, 200:24, 206:24  <b>summarize</b> [2] - 61:24, 71:25  <b>Summary</b> [1] - 138:17  <b>summary</b> [2] - 98:24, 99:12  <b>summer</b> [1] - 39:3  <b>summertime</b> [1] - 37:7  <b>superior</b> [1] - 162:17  <b>Superior</b> [1] - 163:4  <b>Supply</b> [1] - 236:22  <b>support</b> [7] - 42:22, 74:16, 80:1, 110:1, 217:9, 230:15, 230:19  <b>supporting</b> [1] - 63:4  <b>supposed</b> [3] - 82:22, 94:18, 225:25  <b>surgical</b> [1] - 48:11  <b>survive</b> [1] - 199:24  <b>suspected</b> [1] - 118:22  <b>suspended</b> [2] - 20:6, 20:9  <b>suspension</b> [1] - 31:16  <b>sustain</b> [2] - 57:5, 57:7  <b>sustained</b> [11] - 104:9, 125:11, 153:23, 166:6, 166:10, 167:24, 173:2, 173:7, 173:12, 174:22, 175:3  <b>swears</b> [1] - 26:8  <b>switch</b> [1] - 179:23  <b>sworn</b> [6] - 26:2, 54:1, 74:24, 75:5, 197:12, 197:19  <b>system</b> [13] - 29:22, 30:19, 33:17, 34:9, 43:25, 61:8, 62:15,</p>	<p>74:13, 79:11, 179:24, 180:6, 198:19, 226:19  <b>systematically</b> [1] - 73:20  <b>systems</b> [1] - 165:14  <b>Systems</b> [1] - 10:4</p> <p style="text-align: center;"><b>T</b></p> <p><b>T-h-i-e-m-a-n-n</b> [1] - 24:14  <b>T-h-o-m-p-s-o-n</b> [1] - 24:22  <b>table</b> [6] - 85:19, 85:22, 222:2, 237:2, 237:19  <b>tables</b> [1] - 180:1  <b>Tabor</b> [1] - 37:13  <b>tabs</b> [1] - 164:22  <b>tag</b> [6] - 223:22, 232:4, 232:7, 232:12, 232:14  <b>tagged</b> [2] - 223:25, 224:2  <b>tags</b> [2] - 231:17, 232:2  <b>taint</b> [1] - 132:8  <b>talks</b> [3] - 95:16, 101:22, 237:5  <b>tantamount</b> [1] - 6:6  <b>targeted</b> [1] - 183:5  <b>tarnish</b> [1] - 132:19  <b>tasks</b> [1] - 182:20  <b>taste</b> [2] - 30:18, 34:13  <b>tat</b> [1] - 4:6  <b>taught</b> [1] - 76:13  <b>Taylor</b> [2] - 24:25, 42:5  <b>teach</b> [1] - 44:15  <b>teaching</b> [1] - 33:3  <b>tech</b> [2] - 42:22, 110:1  <b>technician</b> [2] - 35:17, 41:19  <b>technologies</b> [1] - 78:14  <b>technology</b> [2] - 76:19, 78:19  <b>telemarketers</b> [2] - 80:1, 178:24  <b>telemarketing</b> [6] - 64:23, 65:1, 77:12, 78:24  <b>teleservices</b> [4] - 169:19, 169:20, 169:22, 229:13  <b>TELESERVICES</b> [1] - 1:7  <b>Teleservices</b> [26] - 23:13, 26:5, 45:22,</p>	<p>87:13, 108:8, 150:8, 150:9, 150:11, 150:22, 151:5, 151:15, 151:18, 158:1, 158:12, 158:20, 212:18, 213:12, 213:15, 213:17, 214:3, 214:7, 214:12, 214:14, 214:19, 227:7, 233:20  <b>television</b> [1] - 26:25  <b>temper</b> [1] - 209:5  <b>ten</b> [1] - 181:22  <b>Tennis</b> [1] - 36:10  <b>term</b> [2] - 108:11, 127:1  <b>terminated</b> [11] - 70:1, 70:3, 82:6, 83:5, 83:7, 107:14, 107:16, 107:17, 204:4, 206:12, 207:7  <b>terminating</b> [1] - 206:17  <b>termination</b> [6] - 83:9, 84:14, 172:8, 174:1, 200:3, 200:18  <b>terminology</b> [1] - 108:13  <b>terms</b> [7] - 19:17, 165:13, 211:6, 213:10, 220:24  <b>terrible</b> [4] - 8:4, 12:14, 92:19, 117:19  <b>terrifying</b> [1] - 119:14  <b>terrorized</b> [1] - 134:3  <b>test</b> [1] - 42:8  <b>testified</b> [10] - 57:20, 69:20, 152:6, 154:16, 163:4, 205:25, 213:13, 225:9, 228:1, 231:8  <b>testifies</b> [2] - 75:5, 197:19  <b>testify</b> [13] - 58:3, 69:21, 73:2, 154:14, 177:7, 185:20, 185:21, 197:11, 198:22, 199:2, 227:19, 227:20  <b>testifying</b> [3] - 54:17, 57:21, 184:25  <b>testimony</b> [50] - 17:15, 55:19, 56:6, 56:17, 57:15, 57:18, 57:24, 57:25, 60:16, 60:24, 60:25, 65:5, 67:11, 86:5, 152:14, 153:4, 154:13, 159:11, 162:12, 162:19,</p>	<p>163:5, 163:12, 166:25, 167:17, 167:18, 167:19, 175:6, 177:11, 185:7, 187:2, 188:4, 188:7, 188:10, 191:8, 197:14, 198:8, 199:25, 202:6, 202:21, 205:7, 205:17, 211:24, 217:9, 219:4, 219:5, 222:6, 226:17, 226:25, 227:18  <b>text</b> [1] - 59:9  <b>texts</b> [1] - 116:13  <b>Thanksgiving</b> [2] - 70:10, 114:20  <b>THE</b> [477] - 1:1, 1:2, 1:22, 2:2, 2:4, 3:3, 3:13, 3:15, 3:17, 4:12, 4:17, 4:24, 5:2, 5:7, 5:16, 5:21, 5:24, 6:12, 6:22, 7:1, 7:5, 7:8, 7:25, 8:6, 8:24, 9:7, 9:9, 9:22, 9:25, 10:6, 10:9, 10:21, 11:3, 11:18, 11:23, 12:2, 12:7, 12:10, 12:16, 12:20, 12:24, 13:5, 13:11, 13:13, 13:17, 13:21, 13:25, 14:24, 15:4, 15:8, 15:10, 15:23, 16:1, 16:3, 16:6, 16:12, 17:5, 17:9, 17:18, 18:15, 18:24, 19:7, 19:22, 20:11, 20:14, 20:20, 20:24, 21:10, 21:14, 21:18, 21:21, 22:8, 22:11, 22:16, 22:18, 22:20, 22:21, 22:22, 22:24, 22:25, 23:2, 23:6, 23:10, 23:11, 23:15, 24:3, 24:4, 24:5, 24:6, 24:8, 24:10, 24:12, 25:7, 25:9, 25:14, 25:16, 25:17, 26:3, 26:17, 26:18, 26:22, 29:20, 29:24, 30:11, 30:13, 30:17, 30:21, 31:9, 31:13, 31:18, 31:23, 32:1, 32:6, 32:11, 32:15, 33:11, 33:16, 33:20, 34:8, 34:12, 34:15, 34:23, 34:25, 35:2, 35:6, 35:8, 35:9, 35:24, 36:1, 36:6, 36:14, 36:24, 37:5, 37:8,</p>
--	---	---	--	--

<p>37:11, 37:19, 38:2, 38:4, 38:7, 38:16, 39:9, 39:16, 39:21, 40:1, 40:4, 40:6, 40:11, 40:19, 40:23, 41:9, 41:12, 41:15, 41:23, 41:25, 42:4, 42:17, 43:1, 43:12, 43:15, 43:18, 43:24, 44:4, 44:7, 44:10, 44:17, 45:15, 45:17, 46:13, 46:14, 46:18, 47:1, 47:5, 47:8, 48:7, 48:14, 48:18, 48:25, 49:4, 49:8, 49:10, 49:13, 49:16, 49:18, 50:11, 50:14, 50:17, 50:21, 50:24, 51:1, 51:7, 51:13, 53:7, 53:10, 53:12, 53:17, 53:20, 54:2, 54:12, 55:3, 55:8, 68:24, 74:19, 74:22, 74:24, 74:25, 75:7, 75:9, 75:11, 76:25, 77:3, 80:8, 80:21, 80:23, 83:25, 87:5, 87:7, 87:12, 87:13, 90:22, 90:24, 91:2, 91:5, 91:7, 91:8, 91:10, 91:14, 93:13, 93:15, 93:17, 93:18, 93:22, 93:25, 96:2, 96:4, 96:5, 96:8, 97:13, 98:5, 98:22, 99:10, 99:25, 100:1, 100:2, 100:4, 100:7, 101:12, 104:9, 115:12, 115:14, 116:3, 116:5, 122:9, 122:12, 122:17, 125:11, 127:6, 127:17, 127:24, 128:2, 128:6, 128:10, 128:13, 128:18, 128:21, 128:25, 129:5, 129:7, 129:10, 129:11, 129:12, 129:13, 129:17, 130:16, 131:2, 131:4, 136:3, 136:6, 138:4, 139:24, 141:3, 142:2, 143:9, 144:8, 145:12, 145:15, 145:18, 145:23, 149:24, 151:24, 152:2, 153:23, 154:4, 154:11, 155:23, 155:24, 155:25,</p>	<p>156:4, 156:5, 156:9, 156:11, 156:12, 156:13, 156:14, 156:18, 156:22, 158:14, 158:16, 159:7, 159:9, 164:2, 164:13, 165:24, 165:25, 166:6, 166:7, 166:9, 166:11, 166:12, 166:16, 166:19, 166:22, 167:11, 167:12, 167:24, 168:21, 168:23, 170:2, 170:6, 170:9, 170:11, 170:15, 170:17, 171:2, 171:5, 171:7, 171:10, 171:11, 171:12, 171:14, 171:17, 171:21, 171:22, 171:24, 171:25, 172:14, 172:17, 173:2, 173:7, 173:12, 173:20, 174:9, 174:11, 174:12, 174:22, 175:3, 175:19, 175:22, 177:3, 177:4, 177:5, 184:16, 184:23, 184:24, 184:25, 185:16, 185:20, 185:24, 186:6, 186:19, 187:6, 187:14, 187:17, 188:2, 188:6, 188:9, 188:17, 188:19, 188:21, 188:22, 188:24, 188:25, 189:2, 189:3, 189:4, 189:8, 189:11, 189:16, 189:19, 189:22, 189:25, 190:11, 190:13, 190:16, 190:19, 190:20, 190:22, 190:24, 191:2, 191:6, 191:17, 191:20, 191:22, 192:1, 192:3, 192:10, 192:12, 192:15, 192:17, 192:20, 192:22, 192:23, 193:4, 193:8, 193:13, 193:17, 193:25, 194:1, 194:17, 194:22, 195:18, 195:20, 195:23, 196:3, 197:1, 197:3,</p>	<p>197:4, 197:5, 197:6, 197:7, 197:9, 197:11, 197:21, 197:23, 197:24, 198:18, 198:21, 198:25, 199:1, 201:4, 201:8, 201:13, 201:16, 201:18, 212:14, 212:20, 212:22, 213:23, 217:10, 217:14, 220:6, 220:7, 220:9, 220:11, 220:13, 222:13, 222:15, 223:13, 223:14, 226:8, 226:11, 229:16, 230:5, 230:6, 233:23, 234:13, 234:17, 234:18, 234:24, 235:1, 235:3, 235:14, 235:17, 235:21, 236:12, 237:18, 237:24, 238:3</p> <p><b>theirs</b> [1] - 23:1</p> <p><b>theme</b> [2] - 121:5, 126:24</p> <p><b>themselves</b> [4] - 13:14, 13:17, 82:14, 106:1</p> <p><b>theory</b> [2] - 5:2, 5:7</p> <p><b>therefore</b> [2] - 201:25, 202:2</p> <p><b>they've</b> [2] - 69:6, 185:10</p> <p><b>Thiemann</b> [2] - 24:14, 34:16</p> <p><b>thinking</b> [7] - 134:20, 135:9, 148:23, 186:12, 194:17, 223:14</p> <p><b>thinks</b> [2] - 35:10, 57:2</p> <p><b>third</b> [9] - 15:20, 17:13, 17:16, 108:5, 218:4, 218:7, 218:11, 219:7, 228:15</p> <p><b>Third</b> [1] - 2:8</p> <p><b>Thompson</b> [3] - 24:22, 38:17, 48:20</p> <p><b>Thorofare</b> [1] - 77:8</p> <p><b>thoughts</b> [1] - 3:21</p> <p><b>thousand</b> [1] - 88:21</p> <p><b>thousands</b> [1] - 69:21</p> <p><b>thread</b> [1] - 15:15</p> <p><b>threat</b> [1] - 127:23</p> <p><b>three</b> [21] - 42:20,</p>	<p>62:23, 69:20, 73:18, 79:16, 85:11, 95:13, 95:20, 128:11, 136:11, 202:6, 206:22, 209:21, 212:5, 217:19, 225:17, 227:5, 227:19, 228:14, 231:6, 231:8</p> <p><b>throughout</b> [4] - 58:21, 108:10, 224:5, 227:17</p> <p><b>thrown</b> [2] - 86:20, 159:17</p> <p><b>Thursday</b> [1] - 48:11</p> <p><b>ties</b> [1] - 120:8</p> <p><b>Tigard</b> [1] - 37:21</p> <p><b>Tim</b> [26] - 26:20, 81:5, 88:24, 89:24, 91:25, 92:17, 95:16, 103:3, 104:25, 108:7, 110:11, 113:24, 115:21, 117:12, 118:20, 120:19, 120:24, 125:16, 126:17, 130:5, 135:7, 135:9, 138:10, 142:25, 143:19, 144:19</p> <p><b>Tim@roteenterprises.com</b> [1] - 235:11</p> <p><b>timeline</b> [1] - 83:2</p> <p><b>Timothy</b> [8] - 2:5, 24:19, 37:12, 62:3, 64:18, 139:16, 140:2, 197:23</p> <p><b>TIMOTHY</b> [3] - 1:6, 2:5, 197:17</p> <p><b>tit</b> [1] - 4:6</p> <p><b>title</b> [7] - 81:22, 107:9, 109:4, 117:8, 138:16, 234:10</p> <p><b>titled</b> [2] - 97:19, 239:5</p> <p><b>today</b> [32] - 23:11, 23:16, 28:8, 64:15, 64:18, 67:3, 67:7, 67:15, 67:17, 68:11, 68:20, 71:8, 74:3, 74:11, 89:19, 90:2, 90:5, 101:1, 148:18, 152:10, 153:4, 154:16, 155:1, 165:10, 165:15, 177:19, 181:22, 182:9, 228:25</p> <p><b>Today</b> [1] - 152:9</p> <p><b>today's</b> [1] - 181:18</p> <p><b>together</b> [13] - 3:3,</p>	<p>3:4, 45:6, 70:20, 70:21, 73:14, 77:19, 107:22, 120:8, 137:3, 168:13, 236:23, 238:5</p> <p><b>toggling</b> [1] - 91:8</p> <p><b>token</b> [1] - 194:14</p> <p><b>tomorrow</b> [12] - 34:25, 47:18, 47:20, 47:22, 48:6, 48:10, 48:12, 48:14, 236:9, 237:16, 238:1, 238:4</p> <p><b>tone</b> [1] - 203:10</p> <p><b>took</b> [21] - 52:3, 66:20, 67:6, 71:17, 77:12, 78:11, 109:16, 112:4, 147:13, 161:9, 161:11, 173:8, 201:22, 210:7, 221:16, 221:17, 221:23, 224:19, 228:24, 232:16</p> <p><b>tooling</b> [1] - 35:16</p> <p><b>top</b> [15] - 81:21, 100:17, 100:18, 112:17, 133:4, 133:21, 137:7, 140:3, 150:6, 151:4, 157:9, 172:20, 217:20, 218:2</p> <p><b>top-level</b> [1] - 81:21</p> <p><b>topic</b> [4] - 18:23, 47:10, 127:19, 193:2</p> <p><b>topics</b> [1] - 228:24</p> <p><b>total</b> [2] - 88:2, 89:6</p> <p><b>totally</b> [1] - 78:8</p> <p><b>touched</b> [2] - 146:16, 191:4</p> <p><b>touching</b> [5] - 126:10, 127:2, 127:18, 127:22, 129:20</p> <p><b>tough</b> [1] - 142:10</p> <p><b>toward</b> [1] - 65:17</p> <p><b>towards</b> [3] - 25:14, 102:19, 226:14</p> <p><b>towel</b> [1] - 126:12</p> <p><b>towels</b> [1] - 126:7</p> <p><b>town</b> [2] - 77:9, 107:22</p> <p><b>traffic</b> [3] - 30:15, 30:16, 75:20</p> <p><b>trailer</b> [1] - 77:3</p> <p><b>trailers</b> [1] - 76:21</p> <p><b>train</b> [1] - 178:10</p> <p><b>training</b> [1] - 37:23</p> <p><b>TRANSCRIPT</b> [1] - 1:21</p> <p><b>transcript</b> [7] - 5:17, 5:25, 15:7, 60:15, 215:17, 239:4, 239:6</p>
--	---	---	---	--

<p><b>transcripts</b> [2] - 220:1, 221:22</p> <p><b>transfer</b> [5] - 89:23, 181:25, 202:22, 203:3, 204:1</p> <p><b>transferred</b> [1] - 228:2</p> <p><b>travel</b> [3] - 30:9, 43:8, 84:24</p> <p><b>treated</b> [2] - 58:12, 63:10</p> <p><b>trespassing</b> [1] - 41:11</p> <p><b>Trial</b> [3] - 234:10, 234:14, 234:15</p> <p><b>trial</b> [30] - 3:9, 4:19, 22:25, 23:12, 27:20, 35:9, 35:13, 46:6, 54:4, 54:22, 55:11, 55:24, 58:5, 58:21, 58:23, 59:15, 60:7, 60:12, 61:14, 64:4, 64:7, 64:8, 120:14, 146:10, 212:6, 216:15, 221:1, 225:13, 236:7</p> <p><b>TRIAL</b> [1] - 1:20</p> <p><b>triangle</b> [8] - 146:10, 217:13, 217:19, 217:24, 218:4, 219:7</p> <p><b>tribunal</b> [3] - 72:8, 225:24, 226:14</p> <p><b>tried</b> [7] - 6:4, 39:18, 68:17, 77:9, 89:15, 162:15, 211:19</p> <p><b>tries</b> [1] - 133:1</p> <p><b>trigger</b> [3] - 3:24, 4:2, 4:6</p> <p><b>trouble</b> [2] - 52:20, 210:21</p> <p><b>troubling</b> [2] - 121:2, 195:11</p> <p><b>true</b> [15] - 18:13, 27:5, 27:6, 82:9, 83:3, 106:7, 107:23, 108:2, 108:4, 114:22, 114:23, 119:12, 133:24, 182:18, 206:24</p> <p><b>trust</b> [1] - 172:15</p> <p><b>trusted</b> [2] - 73:10, 224:22</p> <p><b>truth</b> [3] - 72:17, 210:21, 210:22</p> <p><b>truthful</b> [1] - 149:10</p> <p><b>truthfully</b> [1] - 25:24</p> <p><b>try</b> [11] - 44:21, 47:17, 60:5, 89:12, 89:18, 89:24, 104:2, 105:13, 111:3, 228:18, 235:25</p>	<p><b>trying</b> [25] - 4:14, 5:13, 66:25, 83:14, 89:19, 107:8, 111:10, 120:18, 121:8, 126:19, 136:17, 138:12, 147:4, 157:11, 159:3, 159:4, 159:5, 168:23, 169:1, 183:22, 187:12, 188:9, 210:13, 217:11, 222:10</p> <p><b>Tualatin</b> [1] - 44:12</p> <p><b>turn</b> [62] - 79:25, 80:3, 80:11, 82:4, 83:15, 85:9, 86:22, 90:12, 93:2, 95:7, 96:20, 97:18, 98:12, 99:2, 99:16, 103:10, 103:14, 106:8, 108:14, 112:11, 113:14, 114:24, 117:2, 118:10, 119:23, 122:14, 123:23, 125:2, 129:21, 131:11, 131:20, 133:3, 133:19, 135:1, 135:16, 137:14, 138:15, 138:22, 139:12, 140:15, 141:11, 142:20, 143:14, 144:12, 150:3, 150:25, 153:18, 153:25, 154:5, 174:11, 175:24, 200:7, 205:14, 205:21, 230:3, 232:8, 232:9, 232:25, 233:7, 233:22, 235:6</p> <p><b>turned</b> [3] - 152:22, 205:20, 206:15</p> <p><b>turning</b> [2] - 100:14, 121:20</p> <p><b>turns</b> [1] - 126:4</p> <p><b>twenties</b> [1] - 33:25</p> <p><b>twenty</b> [1] - 76:6</p> <p><b>twenty-six</b> [1] - 76:6</p> <p><b>twice</b> [1] - 6:4</p> <p><b>twink</b> [1] - 10:5</p> <p><b>twist</b> [1] - 135:14</p> <p><b>Twitter</b> [3] - 142:23, 142:25, 143:7</p> <p><b>two</b> [34] - 14:3, 34:6, 36:16, 41:8, 47:17, 49:11, 62:22, 63:18, 67:13, 71:3, 79:2, 79:4, 79:20, 88:12, 99:6, 100:17,</p>	<p>100:18, 113:6, 128:11, 137:7, 151:17, 157:8, 160:11, 178:23, 189:24, 196:9, 196:10, 200:4, 202:7, 206:15, 221:3, 227:6, 227:20, 229:9</p> <p><b>type</b> [10] - 27:24, 30:13, 31:14, 34:7, 36:1, 79:23, 165:1, 215:11, 236:19, 236:25</p> <p><b>typically</b> [1] - 215:24</p>	<p>179:24</p> <p><b>unlawful</b> [3] - 63:8, 63:11, 63:13</p> <p><b>unless</b> [3] - 21:2, 59:4, 116:16</p> <p><b>unredacted</b> [1] - 130:18</p> <p><b>unrelated</b> [1] - 225:11</p> <p><b>unscrupulous</b> [1] - 136:23</p> <p><b>untrue</b> [2] - 8:2, 103:9</p> <p><b>up</b> [116] - 3:5, 3:8, 4:19, 9:1, 9:3, 22:9, 24:4, 24:6, 25:25, 26:13, 33:14, 46:20, 47:21, 50:5, 53:4, 53:21, 54:15, 61:9, 65:2, 67:15, 68:22, 69:22, 74:25, 78:23, 81:25, 83:14, 84:25, 90:7, 92:21, 93:18, 96:8, 99:6, 100:18, 100:20, 106:9, 106:18, 108:1, 108:19, 108:24, 109:2, 109:13, 110:2, 110:9, 110:25, 111:19, 112:17, 113:1, 114:1, 114:10, 115:16, 117:7, 118:14, 120:20, 121:11, 121:22, 121:25, 122:4, 123:23, 125:2, 125:20, 127:10, 134:11, 134:19, 141:8, 145:20, 146:13, 147:15, 147:23, 148:14, 153:21, 154:4, 155:12, 157:7, 161:9, 166:19, 176:5, 179:9, 181:21, 183:3, 183:7, 183:12, 184:4, 184:7, 184:8, 188:19, 188:22, 189:1, 190:3, 190:9, 191:24, 194:5, 195:23, 196:21, 197:9, 197:10, 197:12, 198:20, 198:24, 199:10, 204:21, 209:5, 210:5, 217:8, 221:1, 222:19, 222:20, 222:23, 222:25, 224:6, 224:12, 230:4, 232:3, 232:4,</p>	<p>232:7, 238:6</p> <p><b>upload</b> [1] - 204:21</p> <p><b>UPS</b> [1] - 42:22</p> <p><b>upset</b> [3] - 117:19, 209:3</p> <p><b>urge</b> [1] - 60:16</p> <p><b>USDOJ</b> [1] - 146:6</p> <p><b>user</b> [2] - 136:15, 174:20</p> <p><b>uses</b> [2] - 67:22, 100:21</p>
<b>V</b>				
<p><b>vacate</b> [2] - 19:21, 211:20</p> <p><b>vacation</b> [2] - 88:13</p> <p><b>Valley</b> [2] - 32:19, 214:15</p> <p><b>value</b> [1] - 28:6</p> <p><b>VAOI</b> [1] - 203:18</p> <p><b>variety</b> [1] - 107:14</p> <p><b>various</b> [3] - 199:5, 199:6, 200:23</p> <p><b>vehicle</b> [1] - 85:18</p> <p><b>verdict</b> [5] - 55:17, 55:25, 58:18, 58:21, 59:24</p> <p><b>version</b> [6] - 10:18, 29:5, 129:22, 133:24, 215:8</p> <p><b>versus</b> [3] - 23:12, 26:5, 219:15</p> <p><b>veteran</b> [1] - 36:20</p> <p><b>via</b> [7] - 82:10, 150:21, 152:7, 152:12, 152:13, 206:1, 206:12</p> <p><b>Vicky</b> [1] - 38:18</p> <p><b>video</b> [5] - 9:14, 44:15, 131:1, 131:6, 198:19</p> <p><b>videos</b> [2] - 10:22, 10:24</p> <p><b>view</b> [2] - 10:25, 52:2</p> <p><b>Viking</b> [1] - 29:15</p> <p><b>vile</b> [3] - 8:3, 67:16, 68:6</p> <p><b>violate</b> [1] - 60:9</p> <p><b>violation</b> [3] - 46:8, 62:8, 108:2</p> <p><b>virtue</b> [1] - 208:23</p> <p><b>visit</b> [1] - 53:13</p> <p><b>visited</b> [3] - 140:24, 143:3, 144:2</p> <p><b>Visual</b> [2] - 179:19, 179:21</p> <p><b>visual</b> [1] - 217:12</p> <p><b>vocation</b> [1] - 102:22</p> <p><b>vocational</b> [2] - 37:23, 43:22</p>				

<p><b>Vogele</b> [1] - 2:2  <b>voice</b> [4] - 102:12, 104:4, 133:23, 134:6  <b>volume</b> [3] - 105:17, 105:18, 183:25  <b>voluminous</b> [1] - 105:23  <b>vs</b> [1] - 1:5</p>	<p>148:15  <b>website</b> [90] - 6:15, 6:16, 6:25, 8:10, 9:3, 10:25, 12:12, 12:13, 12:19, 12:22, 15:18, 59:10, 68:16, 90:7, 90:10, 91:20, 91:22, 91:23, 91:24, 92:1, 92:2, 92:5, 92:25, 94:5, 95:12, 95:13, 95:15, 98:14, 99:5, 99:13, 101:2, 101:19, 101:22, 102:1, 102:5, 102:15, 102:18, 102:19, 103:7, 104:13, 104:22, 104:24, 104:25, 105:18, 109:17, 113:17, 113:20, 113:23, 113:24, 114:2, 114:8, 117:12, 117:13, 118:1, 121:8, 121:9, 121:24, 123:8, 123:9, 123:14, 123:21, 126:17, 131:9, 138:9, 138:11, 139:8, 139:11, 141:8, 141:9, 141:10, 142:15, 143:4, 143:11, 143:21, 144:10, 146:13, 147:12, 153:20, 166:3, 183:6, 183:14, 183:17, 215:3, 231:19, 231:24, 232:3, 232:10, 234:6, 234:21  <b>websites</b> [5] - 9:1, 101:16, 121:23, 122:4, 234:7  <b>week</b> [9] - 66:14, 67:15, 70:10, 70:19, 84:10, 88:13, 105:6, 114:20, 165:6  <b>week-long</b> [1] - 165:6  <b>Weeks</b> [1] - 125:23  <b>weeks</b> [3] - 113:11, 206:22, 221:1  <b>weeks'</b> [1] - 88:13  <b>weigh</b> [2] - 58:4, 188:10  <b>weighing</b> [1] - 137:2  <b>weight</b> [4] - 56:22, 56:23, 58:2, 60:25  <b>welcome</b> [1] - 197:13  <b>weld</b> [1] - 31:5</p>	<p><b>Wells</b> [2] - 25:2, 43:2  <b>Wendy's</b> [3] - 147:18, 147:19  <b>Wesley</b> [3] - 32:17, 48:9, 53:22  <b>West</b> [1] - 2:6  <b>Western</b> [1] - 38:24  <b>wet</b> [1] - 126:7  <b>whatsoever</b> [2] - 82:1, 207:23  <b>Wheeler</b> [1] - 236:20  <b>whistle</b> [5] - 7:10, 40:4, 50:2, 50:7, 82:6  <b>whistle-blowing</b> [1] - 7:10  <b>whistleblower</b> [4] - 39:21, 39:25, 63:4, 70:13  <b>white</b> [1] - 230:4  <b>whole</b> [19] - 6:25, 9:21, 17:20, 18:22, 66:10, 66:14, 109:19, 116:9, 160:1, 160:2, 171:3, 171:5, 171:7, 171:9, 171:10, 183:17, 186:7, 199:15, 202:18  <b>wide</b> [1] - 204:18  <b>wife</b> [3] - 29:9, 29:12, 30:24, 32:20, 37:13, 37:21, 37:22, 37:23, 38:18, 38:21, 42:19, 42:20, 48:10  <b>William</b> [1] - 86:13  <b>willing</b> [5] - 103:9, 121:10, 121:11, 121:14, 222:1  <b>willingness</b> [1] - 121:7  <b>Windows</b> [4] - 180:3, 180:6, 180:11, 180:19  <b>Windows-based</b> [3] - 180:6, 180:11, 180:19  <b>windsurf</b> [1] - 39:3  <b>wish</b> [3] - 60:18, 149:20, 235:18  <b>withdraw</b> [3] - 166:7, 166:8, 193:11  <b>withheld</b> [1] - 70:7  <b>withholding</b> [2] - 66:12, 114:12  <b>WITNESS</b> [43] - 75:9, 77:3, 87:13, 91:5, 91:7, 93:18, 93:22, 93:25, 116:5, 122:17, 129:10, 129:12, 131:4,</p>	<p>145:12, 145:15, 156:5, 156:11, 156:13, 156:18, 158:16, 165:25, 166:7, 166:11, 166:16, 166:22, 167:12, 171:2, 171:7, 171:11, 171:14, 171:22, 171:25, 172:17, 173:20, 174:11, 175:22, 177:4, 184:24, 197:4, 197:6, 197:23, 230:6, 234:18  <b>witness</b> [31] - 30:10, 30:11, 31:7, 32:7, 33:6, 36:12, 38:1, 38:2, 39:5, 44:16, 45:6, 45:13, 56:17, 57:16, 57:18, 57:19, 60:19, 61:7, 74:22, 75:4, 80:6, 129:16, 188:10, 196:1, 197:7, 197:18, 208:16, 229:21  <b>witness's</b> [6] - 57:20, 57:21, 57:22, 57:24  <b>witnessed</b> [1] - 30:16  <b>witnesses</b> [11] - 26:9, 45:7, 45:9, 45:12, 55:20, 58:3, 58:4, 60:22, 60:23, 69:20, 85:25  <b>Wizard</b> [1] - 77:20  <b>won</b> [7] - 5:14, 86:16, 87:9, 92:10, 94:23, 135:5, 149:5  <b>wondered</b> [4] - 8:22, 8:25, 9:1, 121:22  <b>Woodbury</b> [6] - 75:17, 75:19, 75:20, 76:1, 77:8, 77:12  <b>word</b> [10] - 72:1, 100:21, 117:15, 131:3, 137:19, 137:20, 139:3, 139:6, 148:3, 181:8  <b>WordPress</b> [2] - 231:19, 231:25  <b>WordPress.com</b> [1] - 114:2  <b>words</b> [5] - 63:9, 72:2, 105:22, 134:7, 139:9  <b>workday</b> [2] - 125:24, 147:14  <b>worker</b> [2] - 8:5, 63:4  <b>workers</b> [2] - 39:11, 178:13  <b>works</b> [2] - 25:20, 42:9</p>	<p><b>world</b> [11] - 9:20, 104:17, 111:24, 123:22, 125:19, 132:23, 146:19, 148:11, 148:18, 148:20, 160:21  <b>worried</b> [2] - 159:18, 191:23  <b>worry</b> [3] - 147:5, 147:8, 148:21  <b>worse</b> [2] - 67:24, 126:4  <b>worst</b> [1] - 104:21  <b>wow</b> [1] - 106:3  <b>wrap</b> [2] - 3:5, 238:6  <b>wrapping</b> [1] - 126:12  <b>write</b> [6] - 67:7, 133:7, 164:19, 212:4, 213:2, 215:24  <b>writer</b> [1] - 42:9  <b>writing</b> [12] - 42:13, 59:9, 65:13, 91:24, 94:25, 108:11, 116:9, 133:11, 143:12, 199:7, 203:10, 221:15  <b>written</b> [19] - 8:10, 20:10, 21:9, 52:8, 60:15, 65:6, 69:3, 101:2, 118:25, 153:9, 160:14, 160:17, 200:21, 202:24, 203:14, 204:8, 208:14, 215:7, 216:10  <b>wrongdoing</b> [1] - 229:3  <b>wrongful</b> [1] - 83:9  <b>wrote</b> [15] - 4:23, 71:11, 126:18, 187:7, 187:8, 188:23, 193:10, 198:4, 198:10, 207:2, 209:24, 214:1, 225:12, 225:13, 229:3</p>
<b>W</b>				
<p><b>W-a-l-k-e-r</b> [1] - 24:16  <b>W-e-l-l-s</b> [1] - 25:2  <b>wages</b> [1] - 196:24  <b>Wagner</b> [1] - 25:12  <b>WAGNER</b> [1] - 25:12  <b>wait</b> [4] - 51:7, 177:3  <b>waiting</b> [3] - 47:10, 58:9, 189:25  <b>walk</b> [1] - 35:21  <b>walked</b> [1] - 114:5  <b>Walker</b> [5] - 2:7, 24:16, 36:8, 53:23, 239:11  <b>WALKER</b> [1] - 239:12  <b>walking</b> [2] - 43:9, 148:20  <b>wall</b> [2] - 110:4, 114:6  <b>wants</b> [14] - 9:23, 64:13, 95:17, 104:3, 111:25, 116:9, 134:15, 134:16, 135:13, 135:14, 149:7, 211:2  <b>Ware</b> [14] - 68:11, 68:12, 76:4, 76:5, 100:19, 102:17, 103:3, 117:17, 118:21, 124:3, 124:22, 125:1, 208:3, 232:14  <b>warm</b> [1] - 126:7  <b>warrant</b> [1] - 84:14  <b>Washington</b> [5] - 34:6, 38:23, 38:24, 38:25, 48:23  <b>watch</b> [10] - 9:2, 59:24, 60:23, 121:23, 122:4, 125:4, 125:6, 125:17, 126:2, 147:25  <b>watched</b> [1] - 103:2  <b>watching</b> [3] - 36:22, 41:6, 60:22  <b>water</b> [2] - 36:11, 39:2  <b>ways</b> [2] - 102:18, 183:2  <b>weather</b> [1] - 126:4  <b>web</b> [2] - 99:19,</p>	<p><b>Y</b></p>	<p><b>Y-o-u-s-o</b> [1] - 24:13  <b>year</b> [15] - 17:7, 37:13, 73:2, 92:18, 107:24, 135:23, 137:22, 143:2, 144:1, 181:2, 181:7, 208:13, 209:10, 220:17, 232:24  <b>Year</b> [1] - 107:6  <b>years</b> [51] - 8:10, 9:17, 29:18, 29:21, 30:12,</p>		

<p>31:1, 33:6, 33:8, 33:10, 34:6, 35:25, 38:3, 38:19, 41:8, 41:24, 43:14, 51:10, 64:12, 67:13, 68:3, 69:11, 70:1, 71:3, 71:5, 73:14, 74:11, 76:6, 76:11, 76:14, 76:18, 78:20, 90:6, 90:11, 109:12, 135:10, 153:1, 160:11, 161:7, 161:8, 169:8, 169:10, 181:22, 194:13, 196:8, 211:9, 218:22, 218:25, 221:3, 224:19</p> <p><b>YMCA</b> <sup>[1]</sup> - 42:9</p> <p><b>young</b> <sup>[1]</sup> - 10:5</p> <p><b>younger</b> <sup>[1]</sup> - 76:20</p> <p><b>yourself</b> <sup>[3]</sup> - 60:20, 132:23, 197:24</p> <p><b>yourselves</b> <sup>[2]</sup> - 26:13, 44:24</p> <p><b>Youso</b> <sup>[2]</sup> - 24:13, 33:22</p>	<p>115:16, 129:19, 130:1, 131:11, 138:6, 141:5, 142:4, 143:11, 144:10, 144:21, 146:13, 150:3, 151:18, 152:6, 153:25, 154:13, 155:9, 172:14, 174:24, 184:8, 184:23, 185:8, 189:14, 195:25, 196:5, 199:15, 202:2, 202:3, 203:17, 207:5, 209:13, 209:18, 209:24, 212:1, 213:3, 213:17, 214:6, 214:7, 214:22, 215:11, 218:8, 219:5, 219:25, 220:15, 221:8, 222:6, 222:18, 224:16, 225:9, 225:16, 227:8, 227:11, 227:25, 228:15, 230:22, 231:11, 232:12</p>
<b>Z</b>	
<p><b>Z-w-e-i-z-i-g</b> <sup>[1]</sup> - 75:10</p> <p><b>zip</b> <sup>[2]</sup> - 154:18, 182:4</p> <p><b>zone</b> <sup>[1]</sup> - 207:17</p> <p><b>ZWEIZIG</b> <sup>[2]</sup> - 1:3, 75:3</p> <p><b>Zweizig</b> <sup>[122]</sup> - 3:3, 11:10, 15:16, 15:18, 16:20, 18:6, 23:12, 26:4, 26:11, 26:16, 26:17, 45:14, 45:20, 62:2, 64:13, 65:7, 65:9, 65:18, 66:1, 66:5, 66:10, 66:11, 66:24, 67:16, 67:19, 67:21, 67:24, 68:2, 68:3, 68:9, 68:13, 68:17, 68:20, 69:10, 70:1, 70:7, 71:6, 72:18, 72:24, 73:22, 74:23, 75:9, 75:16, 76:8, 90:15, 92:24, 94:8, 96:25, 97:15, 98:7, 98:24, 99:12, 100:11, 100:25, 101:4, 101:14, 102:16, 103:6, 104:13, 104:22, 106:8, 108:24, 109:18, 110:15,</p>	<p><b>Zweizig's</b> <sup>[37]</sup> - 20:1, 66:17, 66:23, 67:11, 67:22, 69:6, 69:11, 69:17, 71:21, 72:3, 191:3, 202:21, 207:21, 207:24, 208:2, 208:3, 209:21, 212:3, 212:9, 212:19, 214:2, 214:11, 214:19, 216:3, 220:2, 220:21, 221:21, 224:23, 225:3, 227:9, 227:15, 232:17, 232:21, 233:5, 233:8, 233:18, 233:21</p>

Joel Christiansen, OSB #080561  
Vogele & Christiansen  
812 NW 17th Avenue  
Portland, OR 97209  
(503) 841-6722  
[joel@oremploymentlawyer.com](mailto:joel@oremploymentlawyer.com)

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MAX ZWEIZIG,

Plaintiff,

v.

TIMOTHY C. ROTE, a citizen of the state of Oregon, NORTHWEST DIRECT TELESERVICES, INC., an Oregon for-profit corporation, NORTHWEST DIRECT MARKETING OF OREGON, INC., an Oregon for-profit corporation, NORTHWEST DIRECT MARKETING, INC., an Oregon for-profit corporation, NORTHWEST DIRECT OF IOWA, INC., an Iowa for-profit corporation, ROTE ENTERPRISES, LLC, an Oregon limited liability company, NORTHWEST DIRECT MARKETING, INC., aka Northwest Direct Marketing (Delaware), Inc., a Delaware Corporation, and DOES 1 through 5,

Defendants.

Case No.: 3:15-cv- 02401-HZ

**PLAINTIFF'S MOTIONS IN LIMINE**

Plaintiff Max Zweizig ("Zweizig") moves in limine to exclude the following evidence in the parties' upcoming trial in this matter:



**(1) MOTION 1: To exclude evidence offered to relitigate the parties' prior arbitration or related proceedings**

Rote's filings throughout this case demonstrate his intent to relitigate the parties' prior arbitration, for which all review and appeal rights have been exhausted for many years. Zweizig moves to exclude any evidence that will result in *de facto* relitigation of the issues involved in that arbitration or in any subsequent court review of that arbitration. This specifically includes any evidence Rote might attempt to offer to prove arbitrator misconduct, judicial misconduct, or perjury in the underlying matters. It also includes evidence related to: (a) Zweizig's basis for his original protected reports to law enforcement, (b) the reason NDT terminated Zweizig's employment, and (c) any other evidence that challenges the result of Zweizig's prior successful legal claims against NDT for whistleblower retaliation.

Any such evidence would be irrelevant to the claims at issue in this case (Fed. R. Evid., Rule 401). The evidence would also be unfairly prejudicial, confusing, time-wasting, and cumulative (Fed. R. Evid., Rule 403). Moreover, the parties are bound by the outcome of the arbitration and subsequent proceedings under the doctrines of res judicata and collateral estoppel and it would therefore be inappropriate to relitigate the issues at this juncture.

Regarding res judicata and collateral estoppel, the Ninth Circuit has held:

[a]n arbitration decision can have res judicata or collateral estoppel effect.... C.D. Anderson & Co., Inc. v. Lemos, 832 F.2d 1097, 1100 (9th Cir.1987). In applying res judicata and collateral estoppel to an arbitration proceeding, we make an examination of the record, if one exists, including any findings of the arbitrators. See, e.g., Emich Motors Corp. v. General Motors Corp., 340 U.S. 558, 569, 71 S.Ct. 408, 414, 95 L.Ed. 534 (1950). We must decide whether a rational factfinder could have reached a conclusion based upon an issue other than that which the defendant seeks to foreclose. See Ashe v. Swenson, 397 U.S. 436, 444, 90 S.Ct. 1189, 1194, 25 L.Ed.2d 469 (1970).

\* \* \*

The party asserting preclusion bears the burden of showing with clarity and certainty what was determined by the prior judgment. United States v. Lasky, 600 F.2d 765, 769 (9th

Cir.), cert. denied, 444 U.S. 979, 100 S.Ct. 480 (1979).

BNSF Ry. Co. v. Albany & E. R.R. Co., 741 F. Supp. 2d 1184, 1193–94 (D. Or. 2010)(quoting Clark v. Bear Stearns & Co., Inc., 966 F.2d 1318, 1321 (9th Cir.1992)).

The arbitrator’s opinion involved in the current case sufficiently identifies the relevant claims and allegations and issues a specific ruling with regard to each such claim. The arbitrator’s determinations were clear: (1) NDT unlawfully terminated Zweizig’s employment in retaliation for protected whistleblowing, and (2) NDT failed to prove that Zweizig engaged in any wrongful conduct related to his employment with NDT. Rote now wishes to sidetrack this case by relitigating the determinations. Zweizig therefore moves this Court for an order preventing Rote from doing so.

**(2) MOTION 2: To exclude evidence offered to prove that Zweizig deleted, destroyed, or otherwise failed to return software, codes, or applications**

Rote’s filings indicate that he will attempt to prove at trial that Zweizig deleted, destroyed, or otherwise failed to return software, codes, or applications during Zweizig’s prior employment with NDT. Plaintiff moves to exclude any evidence that Rote may attempt to offer for this purpose.

In the prior arbitration involving Zweizig and Defendant Northwest Direct Teleservices, Inc. (NDT), NDT alleged that Zweizig engaged in wrongful conduct “by deleting, destroying, or otherwise failing to return to [Northwest Direct Teleservices, Inc.] certain software, codes, and applications.” See Arbitrator’s Opinion & Order dated March 31, 2011 (Pl. Ex. 3). The arbitrator ruled, after comprehensive discovery and multiple days of hearings, that there was not sufficient evidence to prove that Zweizig had deleted, destroyed, or failed to return software, codes, or applications and ruled in Zweizig’s favor on all related claims. *Id.* The findings were reviewed at length and adopted by this Court. See Order Confirming Arbitration Award in Northwest Direct Teleservices, Inc. v. Zweizig, Case 3:11-cv-00910-PK (D. Or., Feb. 14, 2012) [ECF 46].

To the extent Rote wishes to relitigate these issues, his attempts would be based solely upon his knowledge of the facts as NDT’s representative, or, alternatively, through information he

received from NDT under a licensing agreement with NDT See Licensing Agreement (Pl. Ex. 25).

As explained above, the parties are bound by the arbitrator and court rulings under the doctrines of res judicata and collateral estoppel. BNSF Ry. Co., supra. Moreover, given that any evidence related to this topic has no probative value in this case, and also given the risk for unfair prejudice, confusion, and waste of time, the evidence should be excluded under Fed. R. Evid. Rules 401 and 403.

**(3) MOTION 3: To exclude evidence concerning general government practices of prosecuting alleged cyber criminals**

Rote's witness list and trial memorandum indicate that Rote intends to offer general evidence about how, when, and why the government prosecutes or declines to prosecute alleged cyber criminals. Rote's Witness List, p. 2-3 (See Scott Bradford, Assistant United States Attorney) [ECF 148]; Rote's Trial Memo p. 1 [ECF 146]. Zweizig moves to exclude any such evidence as irrelevant (Fed. R. Evid., Rule 401), unfairly prejudicial, confusing, and time-wasting (Fed. R. Evid., Rule 403).

**(4) MOTION 4: To exclude any evidence related to the prosecution of Columbia Sportswear's Director of IT Infrastructure**

Rote's witness list and trial memorandum indicate that Rote intends to offer evidence of the government's prosecution of a former Columbia Sportswear employee in a completely unrelated matter. Rote's Witness List, p. 2-3 (See Scott Bradford, Assistant United States Attorney) [ECF 148]; Rote's Trial Memo p. 1 [ECF 146]. Zweizig moves to exclude any such evidence as irrelevant (Fed. R. Evid., Rule 401), unfairly prejudicial, confusing, and time-wasting (Fed. R. Evid., Rule 403).

**(5) MOTION 5: To exclude any evidence related to the operations of the Oregon State Bar (OSB) or the Professional Liability Fund (PLF)**

Rote's witness list and trial memorandum indicate that Rote intends to call the top-ranking executives at the OSB and PLF as witnesses in this matter. Rote's Witness List, p. 3 (See Helen

Hierschbiel and Carol Bernick) [ECF 148]. According to Rote's summary of the putative witnesses' testimony, Rote intends to offer evidence related to how the OSB and PLF regulate and insure attorneys in Oregon. Zweizig moves to exclude any such evidence as irrelevant (Fed. R. Evid., Rule 401), unfairly prejudicial, confusing, and time-wasting (Fed. R. Evid., Rule 403).

**(6) MOTION 6: To exclude any evidence related to the arbitrator's former law firm, Schwabe, Williamson & Wyatt**

Rote's witness list and trial memorandum indicate that Rote intends to call general counsel for the Schwabe, Williamson & Wyatt law firm. Rote's Witness List, p. 4 (See Kurt Warner) [ECF 148]. According to Rote's summary of the putative witnesses' testimony, Rote intends to offer evidence related to his allegation the Schwabe firm concealed the arbitrator's file. Zweizig moves to exclude any such evidence as irrelevant (Fed. R. Evid., Rule 401), unfairly prejudicial, confusing, and time-wasting (Fed. R. Evid., Rule 403).

**(7) MOTION 7: To exclude evidence concerning Plaintiff's representation agreements with counsel.**

Rote's trial memorandum indicates that he will attempt to offer evidence about the nature of Zweizig's representation agreements with his counsel. Rote's Trial Memorandum, p. 5 [ECF 146] ("Once those law firms reviewed the forensic evidence they attempted to move their relationship with Zweizig to hourly instead of contingent."). Zweizig moves to exclude any such evidence as irrelevant (Fed. R. Evid., Rule 401), unfairly prejudicial, confusing, and time-wasting (Fed. R. Evid., Rule 403).

**(8) MOTION 8: To exclude evidence containing the identity of Zweizig's employer(s) or other persons for whom Zweizig has performed work.**

Zweizig moves to exclude evidence containing the identity of his employer(s) or any other person for whom Zweizig has performed work at any time relevant to this case. At trial, Zweizig will testify that he is not aware of losing any specific work as a result of Rote's publications on the internet. However, Zweizig will testify at length about his ongoing fear and concern that Rote's

voluminous, obsessive, and disparaging publications, by their nature, either: (1) have resulted in loss of work or damage to his reputation without Zweizig ever knowing, and (2) will result in loss of work or damage to his reputation in the future. Zweizig will also testify about the steps he has taken to minimize damage from Rote's publications, including his attempts to maintain complete privacy regarding the nature and details of his work after NDT.

Given Rote's history, the nature of the conduct at issue in this case, the risk of harm to Zweizig, and the extremely limited relevance, if any, of the identity of Zweizig's work details, Zweizig moves to exclude any evidence that would identify his employer(s) or any other person for whom Zweizig has performed work at any time relevant to this case. Alternatively, to the extent the Court may rule this evidence is admissible, Zweizig requests the evidence be published to the jury in a confidential manner and de-identified to Rote.

Date: 12/13/17

/s/ Joel Christiansen

Joel Christiansen, OSB #080561  
joel@oremploymentlawyer.com  
Attorney for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that I served the foregoing PLAINTIFF'S MOTIONS IN LIMINE on:

Timothy Rote  
24790 SW Big Fir Rd.  
West Linn, OR 97068  
*Pro Se Defendant*

through the Court's electronic filing system on December 13, 2017.

/s/ Joel Christiansen  
Joel Christiansen, OSB #080561  
Attorney for Plaintiff

## When Justice Fails

A Portland Story of Fraud, Collusion & Cybercrime

# Chapter 4 – The Forensic Reports

👤 Tim Rote   📁 Uncategorized   🕒 September 29, 2015 January 23, 2018   ☰ 10 Minutes

In the next 48 hours we will provide summaries of the forensic reports and attach them for your perusal. You'll be surprised by this. There is irrefutable evidence that a hard drive M claimed was broken, reformatted and in a fireproof safe was used to store movies, music, ebay files and and .htm pages. I don't think we have ever bothered to recover and open the htm files but I am curious and think we will do so now. T

Much of the forensic evidence we examined can be broken down into two broad groups. The first group is the hard drives, personal and company computers M used while employed by us. Anything that M touched for the company business we wanted to have examined forensically. The second group is a floppy disk I used to save a draft of M's termination letter and my computer hard drive on which was stored my email terminating M. I have written this many times but suffice it to say that M did not turn over any of his personal computers or personal hard drives or other digital mediums used by him to perform his duties while employed by us.

And so the forensic evidence on M's use is contained on a **120 gig** hard drive and **60 gig** hard drive. The 120 gig hard drive was the original hard drive used and one of the forensic reports for that drive follows. The 60 gig hard drive replaced the 120 gig hard drive after it crashed. We expected to find many of our data processing and reporting program files. The programming allegedly done by M over the last two years was not there of course, but that's another story. In an earlier post I confused the 120 gig hard drive and the 60 gig hard drive. But the order is the 120 gig hard drive was the original hard drive on a computer purchased for M's use and the hard drive was used from its initial use to May 2003, at which time M took the 120 gig hard drive out of service and used it to deposit his personal Videos, Movies and Music. The 60 gig hard drive was used from May 12, 2003 until well after M returned it with the business computer. He returned it to us on November 13, 2003.

The key issue here is that neither party should destroy the computer, digital evidence. We did not. Even after Max's attorney told us not to...and again we did not destroy anything...Max still chose to destroy his computer. Had this been in state court, Max's case would have likely been dismissed. We filed a motion with Crow. He did not dismiss the case.

A component of the computer evidence was the emails between me and M and others. He claimed he received an email with this alarming evidence of over billing clients (via an email from one of our employees, an email he did not turn over). The evidence was and is an excel spreadsheet. But again he did not turn over the email. When he returned this company computer (with a 60 gig hard drive) he had created an outlook email account, but it was created the day before he returned it to us and there was no email account for M. And where were his emails? Again, not on the computer he returned. The emails were never there. The emails were on one or more of his personal computers, one's he destroyed. We filed a motion to dismiss the case based on this destroyed evidence. Bill Crow refused to dismiss. We

kept all of our emails and turned them over. He provided some emails but since they were not housed on the computer hard drive he returned to us when he was terminated, where they came from was a material point.

To properly frame this discussion, there is a history of M's business computer (the one we owned) we need to explore. First, the original hard drive on the computer we provided M was small (120 gigs), but in 2003 120 gigs was still pretty good. Some six months before I terminated M I visited him in New Jersey. During that visit and while showing me his programming skills the hard drive appeared to crash. M was pounding the keys pretty quickly and strongly & it locked up. But it did not blue screen. M maintained that this 120 gig hard drive was not usable thereafter, although he was able to recover program and data files. Max requested a replacement, which we of course accommodated...and he installed a new 60 gig hard drive to replace the 120 gig hard drive.

Why this history is important is that after M claimed the 120 gig hard drive was broken, he continued to download and store personal files on that hard drive. One of the more salient and threatening conclusions we reached was that M was downloading and uploading files on a public sharing site. M had access to credit card data. He was after all our IT manager and it is with regret that some of that personal information may have made its way to the internet. The computer was not protected as our company protocol required. The forensic report will show that as well. And that would have been a firing offense had we known about it while he was still employed by us.

But more than anything else we had seen there were movies, including titles indicating the movies were porn, presumably downloaded from and uploaded to a public file sharing service. Said service allows you to download when you upload. Lots of movies. Lots of music. A trademark and copyright violation bonanza. The FBI was notified. The New Jersey State Police was notified. The community was notified. I didn't have any idea M was doing this on company time using a company computer. You just never know. The forensic reports tell us this activity happened while in M's exclusive possession of the 120 gig hard drive.

The other inference we can draw from the 60 gig hard drive use was that there was a reason that no email evidence of M's email was on that 60 gig (new) hard drive. That means that at the time M installed the new hard drive, he had decided to not install an outlook email account on that hard drive and to control the evidence of the emails sent to him and from him thereafter. That also means he was plotting his lawsuit for at least six months before he was terminated. M did not turn over one of his personal computer with his email activity from the time the 60 gig hard drive was deployed to the time he returned said hard drive to me. He turned over emails in hard copy form only. This is very blatant evidence destruction.

But as of today legal counsel for M, Linda Marshall, demanded that we not publish the forensic reports claiming that there was a protective order keeping the confidential information each party provided protected from public disclosure presumably outside of the arbitration. I presume that Max's personal financial data was not covered by this alleged protective order. I have not found the order as yet but even if his personal financial data was not covered by the order we still would not produce or publish it.

M did not provide a personal computer, not a single hard drive used by him while working from his home, for examination by our forensic experts. The forensic data that was examined by our two forensic experts was the property we owned, including the hard drives from the computer M used during his employment with us. And as I previously noted our forensic experts also issued forensic reports on the computer I used to send and receive emails, specifically addressing whether the email terminating M was sent before he filed a complaint with the Oregon DOJ. M provided no forensic data at all. He



provided documents in pdf form & loaded on a flash drive and I recall reaching conclusions that he must have downloaded documents from a source other than the computer hard drives he provided to us...but there was nothing else.

Having reviewed the forensic reports, it covers exclusively our property. And we are free to disclose the conclusions reached on our property. I can imagine that they (Marshall, M, Ware) would not be since the hard drives examined were our property.

Several of the forensic reports were generated over 10 years ago and were published to the FBI, New Jersey State Police and Woodbury New Jersey Police. It's why M was interested in settling the case in 2006 or so, and for a small amount of money. We would have been happy with a walk away even though he destroyed key programming and documents. Nonetheless that evidence has been published and republished many times.

The forensic reports prepared for trial were a bit broader. We wanted to hone in on the fact that the last hard drive M used was not used to send and receive email. Slam dunk. It was not there...ever. But more importantly we wanted the arbitrator to see the names of the movies and music downloaded. And we wanted to showcase that the software we used, years of programming, was being used on that hard drive and was deleted. And in spite of the fact that we were told the 120 gig hard drive had crashed, Max did continue to use it, as we pointed out before.

We will be publishing the forensic reports. But will allow a few more days to see if we can find that protective order and make sure no part of it is attributable to personal property turned over by M. We will also make sure that no such data such as client files and the like will be covered in the report. We will redact that information.

We will publish the police report. And by the way finding movies and titles indicating porn was not surprising. Yes it was disappointing that such an abuse happened, but M worked from home. Probably happens a lot and I feel no moral outrage over this. But the massive amount of the movies and music did surprise me. Folks, keep your porn and other movies and music on your personal computers not on one owned by your employer.

We will publish the arbitration transcripts. We will publish other supporting information.

Sandra, M would not have destroyed his personal computers had he not been advised to do so. That should have been transparent to Bill Crow. And you can be disbarred for making that recommendation, if you did. Of course at the beginning of every session he did open up with "Ms. Marshall where did we leave off on your case."

The forensic reports do nothing but support our position. The key issues the forensic reports address are what was going on with hard drives and when were files created, to recover and report on outlook pst files (email), to identify what was going in with the email accounts and who did them, to identify unauthorized use of the hard drives and to determine if the email I sent terminating Max was sent when we claimed it was and whether that email went out before Max filed his complaint. They were also tasked to determine what happened to the Foxpro files and all the programming generated by Max and our other IT employees. The last of these points was necessary because once M was no longer with the company, our existing IT staff could not find the programs and we had to shut down for a week as we recreated them.

As a matter of disclosure we will redact any information addressing financial data as well as names of movies suggesting the downloaded file may have been more than just porn.

More details to follow.

And Linda Marshall just sent a letter to counsel demanding that we not issue the forensic reports & shut down the blog. I don't really understand their fear.

Free speech. Opinion Speech. The forensic reports and all other litigation information was property of the parent company of the Northwest call center group, a corporation called Northwest Direct Marketing. But prior to the companies shutting down, the litigation material—forensic reports, transcripts, emails and other material in any way used—was licensed to me for my use in writing this blog and other material where the evidence is referenced. Thus a documentary piece referencing evidence from NDT's litigation history involving M or anyone else is covered by the licensing agreement.

And while I initially wrote that “we” are charged to monetize this experience as much as possible, the truth is that we have not attempted in any way to do so. The blog has not been marketed in any way. This is not a product of an otherwise inactive corporation or group of corporations. NDT in fact is dissolved, out of business.

I alone am telling this story. In order to tell a complete story I must explained what one of my companies (Northwest Direct Teleservices, Inc.) was charged with, who made the claim, how we defended it, whether the claim had merit, what we found when we did forensic analysis, and everything else that impacted the arbitration decision. In doing so we are potentially exposing Northwest Direct Teleservices, Inc. to the public's attention and in particular to the claim by M that we fraudulently billed clients. While I found that claim defamatory and proved we did not over-bill clients, the allegation remains a part of our permanent record. I could carry on and say how will we ever over come that but we do not need to. Frankly no client of ours ever believed it. They were not given reason to.

The company nonetheless suffered from the loss of revenue and other very specific damages that arose when the IT department fell apart after M's last day. The remaining members of the IT department could not process data and generate reports. They left a short time thereafter.

And we asserted those damages. Northwest Direct Teleservices was the Plaintiff and we sued M to recover damages. More on that later.

Forensic Report Williams on 120 gig 120-18

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-williams-on-120-gig-120-18.pdf>).

Forensic Report Wiliams on Exit Email 120-19

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-wiliams-on-exit-email-120-19.pdf>).

Forensic Report Cox on Foxpro Files Destroyed 120-2

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-foxpro-files-destroyed-120-2.pdf>).

Forensic Report Cox on 120 gig Doc 116-5

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-120-gig-doc-116-5.pdf>).

[Forensic Report Cox on 120 gig 120-17](#)

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-120-gig-120-17.pdf>).

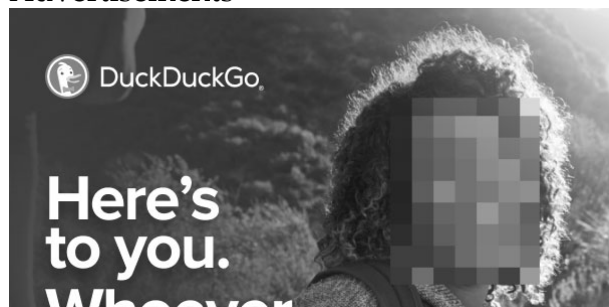
[Forensic Report Cox on 60 gig 120-3](#) (<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-60-gig-120-3.pdf>).

[Forensic Report Cox on PC Anywhere120-20](#)

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-pc-anywhere120-20.pdf>).

[Forensic Exhibit Cox on 60 gig 120-21](#) (<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-exhibit-cox-on-60-gig-120-211.pdf>).

### Advertisements



REPORT THIS AD

**Tagged:**

Arbitrator Error,  
Forensic reports,  
Judicial Disability



## Published by Tim Rote

*Business Owner, Author, Advocate. [View all posts by Tim Rote](#)*

[Create a free website or blog at WordPress.com.](#) [Do Not Sell My Personal Information](#)

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

### ISSUES

I was asked to perform additional analysis of the contents of the Maxtor 120gb hard drive listed below in reference to an item noted in the attachment to my report dated February 7, 2005. On page 52 of the attachment, item number 58, I noted a text fragment from the unallocated space of the C: partition on that hard drive:

*File: D:\shared\Gay Sex Video – Anal – Hardhats (Falcon) – Older Muscle Guy Fucks Young Twink – 57 sec.mpg*

I have included page 52 of the attachment from that report for reference. The additional analysis involved examining the data on the drive's two reformatted partitions for indications of Internet use for the purposes of visiting pornographic web sites and the presence of pornography on the computer.

### QUALIFICATIONS

I am a certified forensic computer examiner through the International Association of Computer Investigative Specialists (IACIS), with more than 440 hours of specialized training in the acquisition and analysis of computer evidence. That training was obtained through IACIS, the National White Collar Crime Center, AccessData Corporation, Guidance Software Inc., the Federal Bureau of Investigation and the Defense Computer Investigations Training Program.

### ITEMS EXAMINED

- (1) Maxtor D540X-4G 120gb hard drive, serial number 4G120J6060511

### ACQUISITION PROCESS

See prior reports.

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

### EXAMINATION

I performed a text search for **http://** to look for evidence of any web site addresses on the drive. I examined several thousand recovered web site addresses, but found no evidence that any of them belonged to sites featuring pornography.

I performed a text search for additional examples of **D:\shared**, noted in the attachment from my earlier report, which would have been a folder on the D: partition prior to reformatting. I found a number of instances of this text with file names that indicated this folder contained a significant number of files. Most of these files were *mpeg* or *avi* movies, as well as *mp3* music files. Examples of the file titles are listed in the attachments to this report. Some of the files included the text *INCOMPLETE* within the file name. This would indicate that the file was being downloaded on this computer at some point, but that the download was interrupted for some reason. This is consistent with my knowledge of peer-to-peer file sharing programs.

Peer-to-peer (P2P) filing sharing programs are installed by the user on a personal computer. Some common programs of this type are *KaZaA*, *Limewire*, *Bearshare* and *Morpheus*. The programs allow the user to see other program users on-line and view folders and files that those users designate as "shared," or available to download from. Typically the programs will by default create a "shared" folder that the user can designate as visible to other users. The programs also allow the user to choose the folder whose contents they want to share with other users.

P2P programs commonly display files by various types in a library-style listing, with search features, allowing the user to select those files he wants to copy to his computer. I searched this drive for the various peer-to-peer file sharing programs that I am familiar with, but found nothing I recognized. However, the presence of a "shared" folder containing movie and music files is consistent with this type of file operation.

I recognized many of the titles of the files in the shared folder as various television shows, such as various episodes of *Star Trek – The Next Generation*, or music videos such as *Styx, "Haven't We Been Here Before"*. Other *mpeg* and *avi* movie files appeared to be pornographic in nature based on words in the title that are commonly associated with those types of movies.

It appears likely that this computer was at one point installed with an undetermined peer-to-peer file sharing program, and the *shared* folder contained files that the user made available to other P2P program users to copy.

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

I also found evidence of other folders that originally existed on the *D:* partition, such as **nwtold**, **paul**, **NWT-1** and **winmx**. These folders contained similar types of file names as noted in the *shared* folder, including file names of popular television shows like the *Simpsons* and *Deep Space 9*.

I found text in the unallocated space of the *C:* partition that indicated the computer originally housing this drive had the following drive letters:

A:\  
C:\  
D:\  
E:\  
F:\  
G:\

The A:\ drive would have been the floppy diskette drive, while the C:\ and D:\ drives were the two partitions on the 120gb Maxtor drive. At one point the computer with this drive had three additional drive letters assigned. These could have included a CD/DVD drive or some type of external storage device, like a thumb drive or an external hard disk drive. I found text examples of what appeared to be folder and file names from an F:\ drive that contained numerous mpeg format movie files, all of which appeared to have titles consistent with music videos. Example: **Bangles – Walk\_Like\_An\_Egyption.mpg**.

I found a number of avi movie file titles that existed in the *D:\shared* folder location. Each had the word *INCOMPLETE* in the title, as well as the phrase "**tvrip**". I researched the term on various Internet web sites and discovered that these types of files are digital video files of television programs. In the six cases where I found the *tvrip* text, each file name was for the program "*The Dead Zone*". The file names also included a string of characters I recognized as Hash values. Hash values are hexadecimal numbers that are unique for a particular file, essentially a digital finger print.

I attempted to recover any actual movie or music files that existed on this drive prior to reformatting using a number of software tools. As of the date of this report I have not been successful in this task. Should I recover any such files in the future, they will be documented in a separate report.

Lastly, I found what appeared to be another drive letter and folder name, **Z:\laptop**. All of the file names associated with this text were mp3 music files for various artists like *Simple Minds*, *Mike and the Mechanics*, *Cindy Lauper*, *Tom*

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

*Petty & The Heartbreakers* and *Tears For Fears*. There was no indication as to what type of device the Z:\ drive would have been.

### CONCLUSIONS

There were no indications of web site addresses on the drive belonging to pornographic web sites. A search of the drive for all recoverable images also did not reveal any pornographic images.

I located data on the drive consistent with the operation of a peer-to-peer file sharing program. File folder entries for the D: partition showed folders containing file names for mpeg and avi movie files. Several of these files had names that would suggest their content was pornographic in nature. Other files appeared to be movie files of music videos and television programs, as well as mp3 music files. The purpose of placing these types of files in a shared folder would be to make them accessible for download by other users of the same file sharing program. Additional music and video files appeared on other drive letters for undetermined devices. This information would support the conclusion that these files were stored on this drive for purposes of sharing with other peer-to-peer file sharing program users across the Internet.

---

Steven E. Williams  
Certified Forensic Computer Examiner

57) Maxtor HDD\C\Unallocated Clusters

□ We had a good meeting to discuss some current projects that we will try to get done next week before the new business rolls in  
Zweizig 2 x Microsoft Word 9.0 n@ šB @ ,□Ů ,Á @ Óá ,Á

58) Maxtor HDD\C\Unallocated Clusters

@ □? " @ □? % Š> 4@ @ -- " @ yh<> n Â@ l file:D:\shared\Gay Sex  
Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec.mpeg - AA F@ X Gay Sex  
Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec AA Â@ SA  
Â@ 3 Š> eA AA fB SA Op'>  
- í Â@ á ° Á á \ p Max Zweizig

59) Maxtor HDD\C\Unallocated Clusters

Following is the requested information for Harry L Zechman. Please forward any moneys from his NFCU accounts to my address below for dispersal to his estate, along with moneys from any entitlements that he may be due under your policies.

Thank you for all of your help in this matter.

Max Zweizig Executor  
140 Ford Avenue  
Woodbury NJ 08096

60) Maxtor HDD\C\Unallocated Clusters

DAILY DTCMS DATA  
To: Discover Group From: NorthWest Marketing Fax: 630/ 355-8387 Pages: 1 Phone: Date: 3/20/03 Re: Daily  
DTCMS Vendor Sign Off CC:  
Daily DTCMS data for file name NWD0320.TS1.txt in zip file NWD0320.ZIP has been placed on the The Allant Group FTP site. For End of Campaign files fill in Campaign ID and # of records sent for campaign.

Campaign ID A55 A58 DCS DCT DCX DDL	Total # of Records in transmission	10 10 10 10 10 10	Total Sales (SS, SO and SL disposition type)	10 5	Total Contacts	10 10 10 10 10 10	Total Depletes	10 10 10 10 10 10	Total Sales per Hour (SPH)	.88 3.69	Total Hours (HHHHHH:MM:SS)	11:21:56 1:21:13 18:51 15:00 1:49:32 1:21:50	Total Talk Time	2:11:29 1:21:13 18:51 15:00 1:49:32 1:21:50	Total Wait Time	9:10:27	My signature
-------------------------------------	------------------------------------	-------------------	--	------	----------------	-------------------	----------------	-------------------	----------------------------	----------	----------------------------	--	-----------------	---	-----------------	---------	--------------

indicates that I have reviewed and approved the data for the transmission date listed above.

Max Zweizig  
(If anyone other than the Account Manager signs off, then print the alternates name and provide a phone number where this person can be reached for questions / clarification)

Contacts calculation = Sales + Refusal + UNW Person + NQR (see list of valid disposition codes for classification)  
Depletes calculation = Contacts + UNW phone (see list of valid disposition codes for classification)



~~D:\shared~~

### 1) Maxtor HDD\CUnallocated Clusters

PlaylistName=Playlist 001  
File=D:\shared\Gay Sex Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec.mpeg  
Title=Gay Sex Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec  
Length=57  
NumberOfEntries=1  
Version=2

### 2) Maxtor HDD\CUnallocated Clusters

D:\shared\ # \\NWT-1\shared Jennifer Lopez - Xxx Movie Video College Porno Flick  
Gizmo6775.asf

### 3) Maxtor HDD\CUnallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Night Ranger - Sign Of The Times4cbf221ee986aefe24798c85ede44e8d03283ca0.mpg

### 4) Maxtor HDD\CUnallocated Clusters

D:\shared\Star Trek TNG - 2x12 - The Royale.avi

### 5) Maxtor HDD\CUnallocated Clusters

4 file:D:\shared\Night Ranger - Sign Of The Times.mpg

### 6) Maxtor HDD\CUnallocated Clusters

D:\shared\Star Trek TNG - 1x20 - The Arsenal Of Freedom.avi

### 7) Maxtor HDD\CUnallocated Clusters

D:\shared\Howard Jones - New Song.mpg

### 8) Maxtor HDD\CUnallocated Clusters

D:\shared\Cyndi Lauper - Madonna Whore.mp3

### 9) Maxtor HDD\CUnallocated Clusters

D:\shared\Copy of \_\_INCOMPLETE\_\_Jennifer Lopez - Xxx Movie Video College Porno Flick  
Gizmo677549c88a47e4d3b03d1bdfedcd005d9669005f19cf.asf

### 10) Maxtor HDD\CUnallocated Clusters

D:\shared\Copy of \_\_INCOMPLETE\_\_Sex Movies - Jenifer Lopez - U-Turn -  
Fuckingaf0d2d88f666f3df26a76c8bb4cf4576000a1056.mpg

~~D:\shared~~

11) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_jennifer lopez xxx porno sexo porn xxx playboy pamelanda anderson pussy free sex anal fisting russion rape fucking teen sex teens(2)10ecfc66e0b5bf296e864fc27827cc2200313881.asf

12) Maxtor HDD\C\Unallocated Clusters

D:\shared\Sex Movies - Jenifer Lopez - U-Turn - Fucking.mpg

13) Maxtor HDD\C\Unallocated Clusters

D:\shared\Jennifer Lopez - Xxx Movie Video College Porno Flick Gizmo6775.asf

14) Maxtor HDD\C\Unallocated Clusters

D:\shared\hold\Ozzy on Greta-Fox News-Pt1.avi

15) Maxtor HDD\C\Unallocated Clusters

D:\shared\Jennifer Lopez - XXX Movie Video College Porno Flick Gizmo(1).avi

16) Maxtor HDD\C\Unallocated Clusters

D:\shared\jennifer lopez xxx porno sexo porn xxx playboy pamelanda anderson pussy free sex anal fisting russion rape fucking teen sex teens(2).asf

17) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek - TNG - 6x14 - Face of the Enemy.avi

18) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 1x16 - When The Bough Breaks.avi

19) Maxtor HDD\C\Unallocated Clusters

D:\shared\Howard Jones - What is love.mpg

20) Maxtor HDD\C\Unallocated Clusters

D:\shared\2. TNG - sle23 - We'll Always Have Paris.avi

21) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Young teen fucks 2 guys gets full cum facial\_lolita\_rape\_young\_sex\_whore\_dick\_pussy\_anal\_teenscum\_hardcore\_69\_orgy\_from\_7cea89335a1f6732d5ff83ab7896c9d20c69f000.mpg

**D:\shared**

**22) Maxtor HDD\C\Unallocated Clusters**

D:\shared\COPY of \_\_INCOMPLETE\_\_ Teen 16 Year Young Cute Lolita (perfect Tits) Girl Gets Fucked With Cock In Pussy And Sucks French Cumshot (blowjob) Ass779c3f7325e62795fc5fe0e4446b1100bb9e00.avi

**23) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Teen 16 Year Young Cute Lolita (perfect Tits) Girl Gets Fucked With Cock In Pussy And Sucks French Cumshot (blowjob) Ass.avi

**24) Maxtor HDD\C\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_ Styx - Haven't We Been Here Before0362d4e186a75f451eaa576d0e006560029a6420.mpeg

**25) Maxtor HDD\C\Unallocated Clusters**

D:\shared\older woman fucking a guy in the back of a car.mpg

**26) Maxtor HDD\C\Unallocated Clusters**

D:\shared\ older sisters get lesbien with little sister mpg.mpg

**27) Maxtor HDD\C\Unallocated Clusters**

D:\shared\older woman getting fucked in all holes.mpg

**28) Maxtor HDD\C\Unallocated Clusters**

D:\shared\great older sex - fucking blowjob and cumshots - 4 women.mpg

**29) Maxtor HDD\C\Unallocated Clusters**

D:\shared\gay video - older man fucking young twink.mpg

**30) Maxtor HDD\C\Unallocated Clusters**

D:\shared\HOT older woman MILF 34 red hair shaved pussy in action.mpeg

**31) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Gay\_Older\_Men\_-\_Quadraplex\_Part\_1.avi

**32) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Styx - Haven't We Been Here Before.mpeg

**D:\shared**

### 33) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_GAY - Older Men - Let daddy do it 2ebdea1a663a53145f7773ae96bbdeb76009a66ba.asf

### 34) Maxtor HDD\C\Unallocated Clusters

D:\shared\Gay Sex Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec.mpeg

### 35) Maxtor HDD\C\Unallocated Clusters

D:\shared\Gay\_Older\_Men\_-\_Quadraplex\_Part\_1.avi

### 36) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_(Gay Teens - St245#1\_001) Older teen kisses, sucks and fucks hairless brother [22m]0d40ba2ea52cff48e19ef2eb3db792a412420042.mpg

### 37) Maxtor HDD\C\Unallocated Clusters

```
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 0x800b0100: No signature was present in the subject. [2003/04/01 19:36:39 3048.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe"
"D:\shared\__INCOMPLETE__(Gay Teens - St245#1_001) Older teen kisses, sucks and fucks hairless brother [22m]0d40ba2ea52cff48e19ef2eb3db792a412420042.mpg"
#E361 An unsigned or incorrectly signed file "c:\docume~1\max\locals~1\temp\icd1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 1168:
```

### 38) Maxtor HDD\C\Unallocated Clusters

```
C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" will be installed (Policy=Ignore). Error 1168: Element not found. [2003/04/01 19:36:41 3048.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe"
"D:\shared\__INCOMPLETE__(Gay Teens - St245#1_001) Older teen kisses, sucks and fucks hairless brother [22m]0d40ba2ea52cff48e19ef2eb3db792a412420042.mpg"
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" to "C:\WINDOWS\Downloaded Program Files\msaudio.inf".
```

### 39) Maxtor HDD\C\Unallocated Clusters

```
[2003/04/04 02:30:24 2328.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_Quadraplex_Part_1.avi"
#E361 An unsigned or incorrectly signed file "c:\docume~1\max\locals~1\temp\icdi.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 1168: Element not found.
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" to "C:\WINDOWS\System32\msadds32.ax".
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" will be installed (Policy=Ignore). Error 1168: Element not found.
[2003/04/04 02:30:28 2328.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_Quadraplex_Part_1.avi"
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" to "C:\WINDOWS\Downloaded Program Files\msaudio.inf".
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 0x800b0100: No signature was present in the subject.
[2003/04/10 16:36:00 3668.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_Quadraplex_Part_1.avi"
#E361 An unsigned or incorretp i>¿<Simp leDialog >
<Tit le H Pext> Search b y any or all of the crit eria belAow.</T b Š"/ @
```

**Dr. shared**

#### 40) Maxtor HDD\C\Unallocated Clusters

```
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" will be
installed (Policy=Ignore). Error 1168: Element not found.
[2003/04/10 16:36:03 3668.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_
_Quadraplex_Part_1.avi"
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" to "C:\WINDOWS\Downloaded Program
Files\msaudio.inf".
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" will be
installed (Policy=Ignore). Error 0x800b0100: No signature was present in the subject.
[2003/04/14 16:15:03 2020.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\_x\Gay_Older_Men_
_Quadraplex_Part_1.avi"
```

#### 41) Maxtor HDD\C\Unallocated Clusters

D:\shared\The\_Beatles\_-\_Yesterday.mpg

#### 42) Maxtor HDD\C\Unallocated Clusters

D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg

#### 43) Maxtor HDD\C\Unallocated Clusters

D:\shared\WhiteSnake\_-\_Is\_This\_Love(SK-VCD).mpg

#### 44) Maxtor HDD\C\Unallocated Clusters

D:\shared\Will\_Smith -- Wild Wild West.mpg

#### 45) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star\_Trek\_TNG - 1x15 - 11001001.avi

#### 46) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star\_Trek\_TNG - 1x16 - When The Bough Breaks.avi

#### 47) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg

#### 48) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Mr.Roboto.mpg

#### 49) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Music Time (MV).mpg

D:\shared

50) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Too Much Time On My Hands (videot).mpg

51) Maxtor HDD\C\Unallocated Clusters

D:\shared\styx\_tgi.mp3

52) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx\_The Best Of Times.mpg

53) Maxtor HDD\C\Unallocated Clusters

D:\shared\Take\_The\_Time.mpg

54) Maxtor HDD\C\Unallocated Clusters

D:\shared\Tears For Fears - Shout.mpg

55) Maxtor HDD\C\Unallocated Clusters

\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take\_The\_Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The\_Beatles\_-\_Yesterday.mpg D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg D:\shared\The\_Human\_League\_-\_Don't\_You\_y\_e\_e\_eot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3

56) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take\_The\_Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The\_Beatles\_-\_Yesterday.mpg D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg D:\shared\The\_Human\_League\_-\_Don't\_You\_Want\_Me\_(videot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3 D:\shared\TNG-235 - The Quality Of Life.avi D:\shared\Toto - Africa.mpg D:\shared\Toto-Africa(MJ).mpg D:\shared\tunes.txt D:\shared\Video - SNL (Chris Farley as Matt Foley).mpg D:\shared\weird\_al(the\_saga\_begins).mpg D:\shared\WhiteSnake\_-\_Is\_This\_Love(SK-VCD).mpg D:\shared\Will Smith -- Wild Wild West.mpg D:\shared\Star Trek TNG - 1x15 - 11001001.avi D:\shared\Star Trek TNG - 1x16 - When The Bough Breaks.avi D:\shared\Styx - Don't Let It End Music Video.mpg

57) Maxtor HDD\C\Unallocated Clusters

d\Styx - Haven't We Been Here Before.mpe , 2 Q v @ Å é , R ... Á 1 M k  
□ ¶ Þ 9 g ¸ On My Hands (videot).mpg D:\shared\%{ ìk- 0~È @ 8%È C:\Program  
Files\WinRAR\Formats\uae.fmt en Here Before . mpeh b D:\shared\Styx - Haven't We Been Here  
Before.mpeg D:\shared\Styx - Mr.Roboto.mpg ah\_(videot)İ \* D : \ s h a r e d \ S t y x - H a v e n ' t  
W e B e e n H e r e B e f o r e . m p e g D : \ s h a r e d \ S t y x - M r . R o b o t o . m p g  
fe.avi D:\shared\Toto ¢ š D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg  
D:\shared\Styx - Music Time (MV).mpg d\weird\_al(the\_saga\_begins).mp( . D : \ s h a r e d \ S t y x - H a  
v e n ' t W e B e e n H e r e B e f o r e . m p e g D : \ s h a r e d \ S t y x - M r . R o b o t  
o . m p g D : \ s h a r e d \ S t y x - M u s i c T i m e ( M V ) . m p g m p g  
X Þ D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music  
Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx

Unshared

### 58) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take\_The\_Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The\_Beatles\_-\_Yesterday.mpg D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg D:\shared\The\_Human\_League\_-\_Don't\_You\_Want\_Me\_(videot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3 D:\shared\TNG-235 - The Quality Of Life.avi D:\shared\Toto - Africa.mpg D:\shared\Toto-Africa(MJ).mpg D:\shared\tunes.txt D:\shared\Video - SNL (Chris Farley as Matt Foley).mpg

### 59) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take\_The\_Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The\_Beatles\_-\_Yesterday.mpg D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg D:\shared\The\_Human\_League\_-\_Don't\_You\_Want\_Me\_(videot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3 D:\shared\TNG-235 - The Quality Of Life.avi D:\shared\Toto - Africa.mpg D:\shared\Toto-Africa(MJ).mpg D:\shared\tunes.txt D:\shared\Video - SNL (Chris Farley as Matt Foley).mpg D:\shared\weird\_al(the\_saga\_begins).mpg D:\shared\WhiteSnake\_-\_Is\_This\_Love(SK-VCD).mpg D:\shared\Will Smith -- Wild Wild West.mpg D:\shared\Star Trek TNG - 1x15 - 11001001.avi

### 60) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 1x14 - Angel One.avi D:\shared er.mpg D:\shared\Mike & The Ú X%È 'á- i' @ 8%È arj|a## C:\Program Files\WinRAR\Formats\bz2.fmt lent Running (Extended Version).mp3 D:\shared\Mike And The Mechanics - Silent Running.mp3 D:\shared\Night Ranger - Don't Tell Me You Love Me.mpg D:\shared\NIGHT RANGER - Four In The Morning (melodicrock.tv).m arj|a## \shared\Night Ranger - SisteÚ' X%È lç- i' @ 8%È C:\Program Files\WinRAR\Formats\bz2.fmt g D:\shared\NIGHT RANGER(Midnight Madness) - (You Can Still) Rock In America(Live).mpg D:\shared\Night\_Ranger\_-\_Four\_In\_The\_Morning.mpg D:\shared\Night\_Ranger\_-\_Goodbye.mpg D:\shared\Oldies-Cindy Lauper - Girls Just Wanna Have Fun.mp3 D:\shared\Ozzy Osbourne - Bark At The Moon.mpg D:\shared\Pat Benatar - Fire And Ice (live).mpg D:\shared\Paul\_Simon\_-\_You\_Can\_Call\_Me\_Al.mpg D:\shared\Paula\_Abdul\_-\_Opposites\_Attract.mpg D:\shared\Paula\_Abdul\_-\_Straight\_Up.mpg D:\shared\rush - red sector a.mp3 D:\shared\Rush\_-\_Limelight\_-\_popup.ram D:\shared " B Z h bz2|tbz|tbz2 d Things 1 & 2.avi D:\sharedæ, X%È tê- r, @ 8%È C:\Program Files\WinRAR\Formats\cab.fmt \Star Trek TNG - 1x06 - Where No One Has Gone Before.avi D:\shared\Star Trek TNG - 1x07 - Lonely Among Us.avi r e d \ m a d o n n a - n o t h i n g \_ r e a l l

### 61) Maxtor HDD\C\Unallocated Clusters

D:\shared\MEN IN BLACK 2 MPEG DIVX.avi

### 62) Maxtor HDD\C\Unallocated Clusters

D:\shared\SNL - Celebrity Jeopardy - Ozzy Osbourne, Martha Stewart, Sean Connery(NTSC).mpg

### 63) Maxtor HDD\D\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Dead Zone - 2x09 - The Man Who Never Wase3e108063b273fe1d66df695c2fe7cd31b885934.mpg

### 64) Maxtor HDD\D\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Dead Zone - 2x08 - Cabin Pressurebd85ac5d6771ad21cdPK

~~Unshared~~

65) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Dead Zone - 1x02 - What it Seems08055b00b626301769aa5fcfcd91786d1a353a44.mpg

66) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Dead Zone - 1x01 - Wheel of FortureNTSC37c71d8f0de035be30a2ec8f473e345b19cfcfa8.mpg

67) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x12 - zion-ftv8f9b53ac3429a257f9050c1b76d2a8e31bbc41bc.mpg

68) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x11 - playing.god.repack-ftvdc717b9473fcdd9f8a2a5a9df1dcc1521b75da00.mpg

69) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x10 - dead.men.tell.tales-ftva4d4701a596fb6017452c7d9439bea691becc4b8.mpg

70) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x07 - misbegotten (xvid-ttc)3e0465f30359b85b464b787cc8d0cc7e15e00800.avi

71) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x05 - precipitate (divx-sfm)110fc80d56737a4815240687c261e7f715ebe000.avi

72) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x07 - tvrip.divx-sfm379d9eb99775a3bbd77c44062bc3aa8a0fde1020.avi

73) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x06 - tvrip.divx-sfmd0e9d7f6657fe7b00d5fecc3a7f8631f15e23000.avi

74) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_522B~1.MPG \_\_Tintin - Tintin och Hajsjön25d21f1508bfdae2b833a55b54b8678c2e2cba1c.mpg

75) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Star Trek DS9 - 6x18 - Inquisition - DivX8a4f0ba20a3f67c1lead29b35e4c3d090999f000.avi

76) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_7894~1.MPG \_\_TinTin - Månen tur och retur Dellef9580ca9b791ebc7b8577f51e4ce37d1d3ad360.mpg



**Unshared**

**77) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x01 - wheel.of.fortunef5359d693b9d67693fdeab02d24cc28e15f3d800.avi

**D:\nwtold**

**1) Maxtor HDD\C\Unallocated Clusters**

d:\nwtold\\_convert\_june\temp\Paula Price - Deep Throat.mpg

**2) Maxtor HDD\C\Unallocated Clusters**

d:\nwtold\\_convert\_june\temp\Deep throats again and again.avi

D:\paul

1) Maxtor HDD\C\Unallocated Clusters

D:\paul\crap\N2.avi

2) Maxtor HDD\C\Unallocated Clusters

D:\paul\JL-Metamorphosis\cd03.mpg

3) Maxtor HDD\C\Unallocated Clusters

D:\paul\JL-Metamorphosis\Osbornes 104.mpg

4) Maxtor HDD\C\Unallocated Clusters

d:\paul\JL-Metamorphosis\cd-0002.mpg

5) Maxtor HDD\C\Unallocated Clusters

d D:\paul\ ! \\NWT-1\paul T\Thai sex guide.mpg

6) Maxtor HDD\C\Unallocated Clusters

D:\paul\ ! \\NWT-1\paul JL-Metamorphosis\cd03.mpg

7) Maxtor HDD\C\Unallocated Clusters

D:\paul\ ! \\NWT-1\paul JL-Metamorphosis ` X nwt-1

D:\NWT-1

Case: NW Direct 120gb Maxtor

Page 1

1) Maxtor HDD\C\Unallocated Clusters

D:\shared\ # \\NWT-1\shared Tara Reid - body shots3.mpg

2) Maxtor HDD\C\Unallocated Clusters

D:\shared\ # \\NWT-1\shared older mom cheating on her husband and fucking some other  
guy.mpg D : \ s h a r e d ` X nwt-1

3) Maxtor HDD\C\Unallocated Clusters

d D:\shared\ # \\NWT-1\shared \_\_INCOMPLETE\_\_ Gay Porn - (Str8 Marine Sex) DYPC 16702 -  
Older marine fucks his youngeac34daf0e6e700043f10bfbacfbf4c4d00457004.mpg D : \ s h a r e d `

4) Maxtor HDD\C\Unallocated Clusters

d D:\shared\ # \\NWT-1\shared sexy older mom fucked.mpg

5) Maxtor HDD\C\Unallocated Clusters

d D:\shared\ # \\NWT-1\shared older woman in pantyhose.mpg D : \ s h a r e d `

D:\winmx

Case: NW Direct 120gb Maxtor

Page 1

### 1) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx s06e20 The Simpsons - Two Dozen & One Greyhounds.mpg

### 2) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx s08e10 The Simpsons - The Springfield Files.mpg

### 3) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx s09e25 The Simpsons - Natural Born Kissers.mpg

### 4) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx DS9 - 7x12 - The Emperor's New Cloak.avi

### 5) Maxtor HDD\C\Unallocated Clusters

D:\winmx\Star Wars Episode II Attack of the Clones (SVCD, pt 2 of 2).mpg

### 6) Maxtor HDD\C\Unallocated Clusters

D:\winmx\The Simpsons - Too Hot For TV .mpg

### 7) Maxtor HDD\C\Unallocated Clusters

D:\winmx\s06e20 The Simpsons - Two Dozen & One Greyhounds.mpg

### 8) Maxtor HDD\C\Unallocated Clusters

D:\winmx\s08e10 The Simpsons - The Springfield Files.mpg

### 9) Maxtor HDD\C\Unallocated Clusters

D:\winmx\Star Trek DS9 - 5x06 - Trials and Tribble-ations.asf

### 10) Maxtor HDD\C\Unallocated Clusters

ek DS9 -9

-  
- ive Pursuit.avi D:\winmx\Star Trek DS9 - 1x19 Duet.avi D:\winmx\Star Trek DS9 - 4x22 - For The Cause.avi  
D:\winmx\Star Trek DS9 - 5x06 - Trials and Tribble-ations.asf D:\winmx\Star Trek DS9 - 6x13 - Far Beyond the  
Stars.avi D:\winmx\Star Trek DS9 - 7x26 - What You Leave Behind (Part 2).avi D:\winmx\StarTrek - TOS TNG DS9  
Voyager 2002 (I GOT GOOSEBUMPS!).mpg D:\winmx\The Simpsons - Too Hot For TV .mpg D:\winmx\The Simpsons-Homer Gets  
a Gun.mpg

### 11) Maxtor HDD\C\Unallocated Clusters

D:\winmx\DS9 - 6x26 - Tears of the Prophets.avi

D:\winmx

## 12) Maxtor HDD\C\Unallocated Clusters

D:\winmx\Flintstones-Simpsons.avi

## 13) Maxtor HDD\C\Unallocated Clusters

C:\Program Files\WinRAR\Formats\lzh.fmt 0`È < e%È 0`È d critic.mpg D:\ \ %È 0`È l © 8%È  
C:\Program Files\WinRAR\Formats\ace.fmt Connery(NTSC).mpg D:\winmx\SNL - Celebrity Jeopardy - Travolta,  
Reynolds, Keaton.mpg D:\winmx\Star Trek - DS9 - 7x18 - 'Til Death Do Us Part.avi D:\winmx\Star Trek - DS9 - 7x21  
- When It Rains.avi D:\winmx\Star Trek - Farewell to DS9 (music by Enya).mpeg D:\winmx\Star Trek DS9 - 1x01 &  
1x02 - Emissary.avi

## 14) Maxtor HDD\C\Unallocated Clusters

C:\Program Files\WinRAR\Formats\uae.fmt \winmx\Kelly Osbourne - PapaÜ' X%È @'- i' © 8%È  
C:\Program Files\WinRAR\Formats\bz2.fmt Dont Preach (Live on 2002 MTV Movie Awards).mpg D:\winmx\Kelly Osbourne  
- Papa Don't Preach.mpg D:\winmx\Kelly Osbourne - Papa Don't Preach-Without Radio Intro.mp3 D:\winmx\s06e20 The  
Simpsons - Two Dozen & One Greyhounds.mpg D:\winmx\s08e10 The Simpsons - The Springfield Files.mpg  
D:\winmx\s09e25 The Simpsons - Natural Born Kissers.mpg D:\winmx\Simpsons - Homer as food critic.mpg  
D:\winmx\SNL - Celebrity Jeopardy - Ozzy Osbourne, Martha Stewart, Sean Connery(NTSC).mpg D:\winmx\SNL -  
Celebrity Jeopardy - Travolta, Reynolds, Keaton.mpg D:\winmx\Star Trek - DS9 - 7x18 - 'Til Death Do Us Part.avi  
D:\winmx\Star Trek - DS9 - 7x21 - When It Rains.avi D:\winmx\Star Trek - Farewell to DS9 (music by Enya).mpeg  
D:\winmx\Star Trek DS9 - 1x01 & 1x02 - Emissary.avi D:\winmx\Star Trek DS9 - 1x03 - Past Prologue.avi  
D:\winmx\Star Trek DS9 - 1x05 - Babel.avi D:\winmx\Star Trek DS9 -

# References to other drive letters

## 1) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\WindowsShell.Manifest

## 2) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\SntUninstallQ307271\$

## 3) Maxtor HDD\C\Unallocated Clusters

F:\Alannah Myles - Black Velvet [videot].mpg  
F:\ASIA - Only Time Will Tell (Live 1990).mpg  
F:\Asia - Only Time Will Tell.mpg  
F:\Asia-only time will tell VCD(m).mpg  
F:\Damn Yankees - Come Again.mpg  
F:\Damn Yankees - High Enough (videot).mpg  
F:\don\_henley\_-\_boys\_of\_summer.mpg  
F:\Flock Of Seagulls\_I Ran(So Far Away).mpg  
F:\Gary Numan - Cars(SK-VCD).mpg  
F:\Huey Lewis\_-\_Heart\_Of\_Rock'n'Roll.mpg  
F:\Kool\_\_\_The\_Gang\_-\_Joanna.mpg  
F:\Mike & The Mechanics - Silent Running.mpg  
F:\MUSICVIDS01  
F:\mvid021001  
F:\mvid021001b  
F:\MVID\_021101  
F:\MYMUSICVID01  
F:\Night Ranger - Don't Tell Me You Love Me.mpg  
F:\NIGHT RANGER - Four In The Morning (melodicrock.tv).mpg  
F:\Night Ranger - Goodbye.mpg  
F:\Night Ranger - I Did It For Love.mpg  
F:\Night Ranger - Sister Christian.mpg  
F:\Night\_Ranger\_-\_Four\_In\_The\_Morning.mpg  
F:\Night\_Ranger\_-\_Goodbye.mpg  
F:\Pat Benatar - Fire And Ice (live).mpg  
F:\Paul\_Simon\_-\_You\_Can\_Call\_Me\_Al.mpg  
F:\Scandal - Good-bye to You(m).mpg  
F:\Styx - Mr.Roboto.mpg  
F:\Styx - Too Much Time On My Hands (videot).mpg  
F:\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg  
F:\The\_Human\_League\_-\_Don't\_You\_Want\_Me\_(videot).mpg  
F:\Toto - Africa.mpg  
F:\Toto-Africa(MJ).mpg  
F:\WhiteSnake - Is This Love(SK-VCD).mpg  
F:\[PV] [ Night Ranger ] When You Close Your Eyes.mpg  
F:\MUSICVIDS01\A-ha - Take on me.mpg  
F:\MUSICVIDS01\ace\_of\_base\_-\_the\_sign.mpg  
F:\MUSICVIDS01\Alannah Myles - Black velvet.mpg  
F:\MUSICVIDS01\Alannah Myles - Black velvet - vsn.nfo  
F:\MUSICVIDS01\Bryan Adams - Run to you - vsn.mpg  
F:\MUSICVIDS01\Bryan Adams - Run to you - vsn.nfo  
F:\MUSICVIDS01\Cyndi Lauper - Time after time.mpg  
F:\MUSICVIDS01\Madonna - beautiful\_stranger.mpg  
F:\MUSICVIDS01\Scandal - The Warrior.mpg  
F:\MUSICVIDS01\hard\_habit\_to\_break.mpg  
F:\MUSICVIDS01\madonna-nothing\_really\_matters(grammys99).mpg  
F:\MUSICVIDS01\madonna.mpg  
F:\MUSICVIDS01\Rush - Limelight - popup.ram  
F:\MUSICVIDS01\weird\_al(the\_saga\_begins).mpg  
F:\MUSICVIDS01\Will Smith -- Wild Wild West.mpg  
F:\mvid021001\Beatles  
F:\mvid021001\Dokken  
F:\mvid021001\Don Henley  
F:\mvid021001\Dream Theater  
F:\mvid021001\Howard Jones  
F:\mvid021001\Huey Lewis  
F:\mvid021001\Kool and the Gang  
F:\mvid021001\Paula Abdul  
F:\mvid021001\Beatles\John\_Lennon\_-\_Imagine\_(Mike\_Douglas\_Show).mpg  
F:\mvid021001\Beatles\The\_Beatles\_-\_Yesterday.mpg

# References to other drive letters

F:\mvid021001\Dokken\Dokken-Heaven\_Sent.mpg  
F:\mvid021001\Dokken\Dokken-Just\_Got\_Lucky.mpg  
F:\mvid021001\Dokken\Dokken\_-\_The\_Hunter.mpg  
F:\mvid021001\Don\_Henley\don\_henley\_-\_boys\_of\_summer.mpg  
F:\mvid021001\Dream\_Theater\Dream\_Theater\_-\_Another\_Day.mpg  
F:\mvid021001\Dream\_Theater\Dream\_Theater\_-\_Pull\_Me\_Under.mpg  
F:\mvid021001\Dream\_Theater\Take\_The\_Time.mpg  
F:\mvid021001\Howard\_Jones\HowardJones-WhatIsLove\_Popup\_fm\_.avi  
F:\mvid021001\Huey\_Lewis\Huey\_Drug.mpg  
F:\mvid021001\Huey\_Lewis\Huey\_Heart.mpg  
F:\mvid021001\Kool\_and\_the\_Gang\Kool\_\_\_The\_Gang\_-\_Joanna.mpg  
F:\mvid021001\Paula\_Abdul\Paula\_Abdul\_-\_Opposites\_Attract.mpg  
F:\mvid021001\Paula\_Abdul\Paula\_Abdul\_-\_Straight\_Up.mpg  
F:\mvid021001b\Britney\_Spears  
F:\mvid021001b\Cyndi\_Lauper  
F:\mvid021001b\David\_Lee\_Roth  
F:\mvid021001b\Hall\_and\_Oates  
F:\mvid021001b\Michael\_Jackson  
F:\mvid021001b\Skid\_Row  
F:\mvid021001b\Britney\_Spears\Britney\_Spears\_\_\_Cops\_I\_Did\_It\_Again\_VMA\_2000\_(HQ).mpg  
F:\mvid021001b\Cyndi\_Lauper\cyndi\_lauper-she\_bop.mpg  
F:\mvid021001b\Cyndi\_Lauper\Cyndi\_Lauper\_-\_Girls\_Just\_Want\_To\_Have\_Fun(Cartman).mpg  
F:\mvid021001b\Cyndi\_Lauper\Cyndi\_Lauper\_-\_Goonies\_Are\_Good\_Enough.mpg  
F:\mvid021001b\Cyndi\_Lauper\Cyndi\_Lauper\_-\_Time\_After\_Time.MPG  
F:\mvid021001b\Cyndi\_Lauper\Cyndi\_Lauper\_\_\_True\_Colors.mpg  
F:\mvid021001b\David\_Lee\_Roth\David\_Lee\_Roth\_-\_California\_Girls.mpg  
F:\mvid021001b\Hall\_and\_Oates\Hall\_\_\_Oates\_-\_Maneater\_Inv\_.avi  
F:\mvid021001b\Michael\_Jackson\Michael\_Jackson\_-\_Thriller.mpg  
F:\mvid021001b\Michael\_Jackson\Michael\_Jackson\_\_\_Janet\_Jackson\_-\_Scream.mpg  
F:\mvid021001b\Skid\_Row\skid\_row-18\_and\_life(pmd).mpg  
F:\MVID\_021101\Bangles  
F:\MVID\_021101\Bee\_Gees  
F:\MVID\_021101\Jewel  
F:\MVID\_021101\Men\_at\_Work  
F:\MVID\_021101\Paul\_Young

## 4) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\Q308677.log

## 5) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\Q311889.EXE

## 6) Maxtor HDD\C\Unallocated Clusters

E:\05-02 TCPA Weekly Suppression.xls

## 7) Maxtor HDD\C\Unallocated Clusters

E:\06-02 TCPA Weekly Suppression.xls

## 8) Maxtor HDD\C\Unallocated Clusters

E:\06cp04.zip

## 9) Maxtor HDD\C\Unallocated Clusters

E:\0415.DBF



10) Maxtor HDD\C\Unallocated Clusters

E:\0416.DBF

11) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\sessmgr.setup.log

12) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\VAIO Brezza Wallpaper TrueColor 1024x768.bmp

13) Maxtor HDD\C\Unallocated Clusters

E:\Program Files\Corel\WordPerfect Office 2002\Macros\WP Rina\end foot.wcm

14) Maxtor HDD\C\Unallocated Clusters

E:\WALDO\V200\TEXTART8\WINDEBUB\TEXTURES\Light\_Blue\_Corduroy.bmp

15) Maxtor HDD\C\Unallocated Clusters

E:\used\Program Files\Microsoft Visual Studio\VB98\VB6.OLB

16) Maxtor HDD\C\Unallocated Clusters

E:\programs\Visual Studio\VC98\bin

17) Maxtor HDD\C\Unallocated Clusters

E:\logs1\build.log

18) Maxtor HDD\C\Unallocated Clusters

E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Net Support\INetURL.x32D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Net Support\NetFile.x32E E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Net Support\NetLingo.x32 A E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Mix\Mix Services.x32 H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Mix\Sound Import Export.x32G E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Media Support\SWADcmpr.x32 F E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Media Support\SWAstrm.x32 G E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Media Support\TextXtra.x32 I E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Media Support\Text Asset.x32 H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Media Support\Font Xtra.x32I E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Media Support\Font Asset.x32 A E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Devices\MacroMix.x32 D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Devices\DirectSound.x32H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Flash Asset\Flash Asset.x32= E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\xtras\Qt3\QT3Asset.x32 " D:\Procomm\Procomm-Final-NoSnd.dir

19) Maxtor HDD\C\Unallocated Clusters

F:\VFP\SAMPLES\CONTROLS\clock.bmp

# References to other drive letters

## 20) Maxtor HDD\C\Unallocated Clusters

A:\ C:\ D:\ E:\ F:\ G:\

## 21) Maxtor HDD\C\Unallocated Clusters

f:\ntitir41\common\filesys\subfile.c      yyyy@    f:\ntitir41\common\filesys\filesys.c  
f:\ntitir41\common\filesys\vf file.c      f:\ntitir41\common\bt tree\btinsert.c  
f:\ntitir41\common\bt tree\btdelete.c      f:\ntitir41\common\bt tree\btmapwr.c  
f:\ntitir41\common\bt tree\btfill.c        f:\ntitir41\fts\search\ftcommon.c

## 22) Maxtor HDD\C\Unallocated Clusters

F:\MVID\_021101\Rodney Dangerfield  
F:\MVID\_021101\Roxette  
F:\MVID\_021101\Rush  
F:\MVID\_021101\Will Smith  
F:\MVID\_021101\Yes  
F:\MVID\_021101\Bangles\Bangles - Walk Like An Egyptian .mpg  
F:\MVID\_021101\Bee Gees\Bee Gees-How Deep Is Your Love-LittleC-mV.mpg  
F:\MVID\_021101\Jewel\Jewel - You Were Ment For Me.mpg  
F:\MVID\_021101\Men at Work\Men at Work - Who Can It Be Now Little C .mpg  
F:\MVID\_021101\Paul Young\Paul Young - Everytime You Go Away.MPG  
F:\MVID\_021101\Rodney Dangerfield\Rodney Dangerfield- Rappin' Rodney.mpg  
F:\MVID\_021101\Roxette\Roxette - It Must Have Been Love.mpg  
F:\MVID\_021101\Roxette\Roxette - The Look (laG).mpg  
F:\MVID\_021101\Rush\rush - closer to the heart(1998).mpg  
F:\MVID\_021101\Rush\Rush - Subdivisions Little C .mpg  
F:\MVID\_021101\Will Smith\MIB Wil Smith Video.mpg  
F:\MVID\_021101\Yes\ABWH (Yes)1989 - 01 - Time and a Word Owner of a Lonely Heart.mpg  
F:\MVID\_021101\Yes\ABWH (Yes)1989 - 14 - Roundabout.mpg  
F:\MYMUSICVID01\Chris Isaak - Wicked Game.mpg  
F:\MYMUSICVID01\Human League - Dont You Want Me.mpg  
F:\MYMUSICVID01\John Cougar - Jack and Diane.mpg  
F:\MYMUSICVID01\Men at Work - Down Under.mpg  
F:\MYMUSICVID01\Men at Work - Who Can It Be Now.mpg  
F:\MYMUSICVID01\Micheal Jackson - Beat It.mpg  
F:\MYMUSICVID01\Micheal Jackson - Billie Jean.mpg  
F:\MYMUSICVID01\Micheal Jackson - Scream.mpg  
F:\MYMUSICVID01\Micheal Jackson - Thriller.mpg  
F:\MYMUSICVID01\Paul Simon - You Can Call Me Al.mpg  
F:\MYMUSICVID01\Rick James - Superfreak.mpg  
F:\MYMUSICVID01\Rockwell - Somebodys Watching Me.mpg  
F:\MYMUSICVID01\Simple Minds - Don't You (Forget About Me).mpg  
F:\MYMUSICVID01\Van Halen - Hot For Teacher.mpg

## 23) Maxtor HDD\C\Unallocated Clusters

f:\temp\IPSecClient\Rel\CSGina\Release\CSGina.pdb

## 24) Maxtor HDD\C\Unallocated Clusters

f:\temp\IPSecClient\Rel\CertMgrGUI\Release\CertMgrGUI.pdb

## 25) Maxtor HDD\C\Unallocated Clusters

E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\INetURL.x32D    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Net Support\NetFile.x32E    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\NetLingo.x32 A  
E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Mix\Mix Services.x32 H    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Mix\Sound Import Export.x32G    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\SWADCmpr.x32 F  
E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\SWAstrm.x32 G    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Media Support\TextXtra.x32 I    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Text Asset.x32  
H    E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Font Xtra.x32I    E:\PROGRAM

# References to other drive letters

Case: **NW Direct 120gb Maxtor**

Page 5

FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Font Asset.x32 A E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Devices\MacroMix.x32 D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Devices\DirectSound.x32H  
E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Flash Asset\Flash Asset.x32= E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Qt3\QT3Asset.x32 D:\Procomm\Procomm-Final-Snd.dir

Z:\Laptop

1) Maxtor HDD\C\Unallocated Clusters

file:Z:\laptop\mp3\cd2\10-You\_Got\_Lucky.mp3 Ê  
æ ) 10-You Got Lucky.mp3 æ e  
Ê  
-°µ= F D file:Z:\laptop\mp3\cd2\Simple Minds - Don't You Forget About Me.mp3 / Q @ ) Simple  
Minds - Don't You Forget About Me Q n -°µ= A ² ?  
file:Z:\laptop\mp3\cd2\\_ (Power\_Station)\_ \_Some\_Like\_It\_Hot.mp3 \* ù c ! Power Station - Some Like it Hot  
ù ² f ² -°µ= ; W 9 file:Z:\laptop\mp3\cd2\[The Clash] - Rock The Casbah.mp3 \$ >  
The Clash - Rock The Casbah > W -°µ= X V  
file:Z:\laptop\mp3\cd2\Mike and the Mechanics - Silent Running (Extended Version).mp3 A t - ( Mike And  
The Mechanics - Silent Running t F -°µ= 1 Å /  
file:Z:\laptop\mp3\cd2\rush - red sector a.mp3 ŷ † Rush - Red Sector A ŷ Å  
Å -°µ= Q p O file:Z:\laptop\mp3\cd2\80's music - Cindy Lauper-Girls Just Wanna Have Fun.mp3 : Ê  
4 80's music - Cindy Lauper-Girls Just Wanna Have Fun Ê p . p -°µ= > { <  
file:Z:\laptop\mp3\cd2\B90 Dennis DeYoung - Desert Moon.mp3 ' o Û Dennis DeYoung - desert moon  
o ( ' ( -°µ= 7 E 5 file:Z:\laptop\mp3\cd2\Madonna\_ \_Into\_The\_Groove.mp3  
□ Madonna - Into The Groove  
E n E -°µ= \*  
æ Ö%=<  
  
ÿÿÿÿ j  
\*  
Tom Petty & The Heartbreakers ^  
<  
You Got Lucky !  
j  
Greatest Hits .  
^  
128  
!  
4410 0 æ ) . Tom Petty & The Heartbreakers - You Got Lucky @ V > file:Z:\laptop\mp3\cd2\Duran  
Duran - Hungry Like The Wolf.mp3 ) Ÿ # Duran Duran - Hungry Like The Wolf Ÿ V  
± V ~°µ= Å Ÿ 128  
Ö ± 4410 ç Å ÿÿÿÿ Ö Ö% 9 @ 7 file:Z:\laptop\mp3\cd2\Catatonia Mulder And  
Scully.mp3 " , ù Catatonia - Mulder And Scully , @ .  
@ ~°µ= Q ó O file:Z:\laptop\mp3\cd2\TEARS\_FOR\_FEARS\_ \_EVERYBODY\_WANTS\_TO\_RULE\_THE\_WORLD.MP3 : M  
" 4 TEARS FOR FEARS - EVERYBODY WANTS TO RULE THE WORLD M  
ó  
ó ~°µ= q  
M  
128  
f  
  
4410 q  
ÿÿÿÿ \$  
, ~°µ= 1  
,  
x Ó  
\$  
  
Catatonia ö  
1  
Mulder And Scully  
  
ó  
1998 ö  
128  
  
4410 @ Ê 128  
R . 4410 @ ÿÿÿÿ y Ÿ Rush - d  
Red Sector A ° y Life Under Pressure İ - Rock  
ä ° 1984 İ Civic Arena, Pittsburgh, PA " ä 128  
4 4410 " k, m t Mike And The Mechanics E F Silent Running \*  
m Mike And The Mechanics Ê E Rock  
Ÿ ³ 1985 İ È 128  
Ÿ 4410 ÷ İ " - >  
The Clash M Rock The Casbah - - 128  
q M 4410 - Ö{ ; ù - Power Station Å f Some Like it Hot à ;  
Power Station ö Å Pop  
à 1985 ! 8 ó Robert Palmer, John/Andy Taylor J 128  
\ 8 4410 J '» e Q 128  
' n 4410 ? e ÿÿÿÿ  
¼

Z: Laptop

Madonna            Û    ¢    Into The Groove                    ¼    The Immaculate Collection                    Û    Dance  
i            1985            \            A Flea Byte© Re-Production                    n    l    160  
€    \    4410            ê    n    ~î            ±    o            Dennis DeYoung                    í    '            desert moon                    é    †  
Desert moon            þ    í            rock                    é    128  
"    þ    4410            5            05            "    Å°    =    '            ; file:Z:\laptop\mp3\cd2\Eddie\_Money\_-  
\_think\_i`m\_in\_love.mp3    &    Ø    G            Eddie Money - think i`m in love

tvrip

1) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x08 - tvrip.divx-sfmaab8ef400bb83c121490209aca0c686b15e41800.avi

2) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x07 - tvrip.divx-sfm379d9eb99775a3bbd77c44062bc3aa8a0fde1020.avi

3) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x05 - tvrip.divx-sfme32a1f162f1a54aefe60919b929ffe7f15ee8000.avi

4) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x04 - tvrip.divx-sfmddf00ac7952d22fe347770e22a3578d415e58800.avi

5) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x03 - tvrip.divx-sfm9424816bfd0822071d136a9dabbaef4315f4f000.avi

6) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x02 - tvrip.divx-sfm86992737aa6f226b7fc6d6e78d15227b15f43000.avi

Digital Recovery Systems  
Computer Examination Report  
**FINAL REPORT**

**ISSUE**

The issue involved an email titled "Exit Time" sent by Timothy Rote, owner of Northwest Direct Teleservices, to Max Zwelzig on October 2, 2003, from Mr. Rote's laptop computer. At issue also is a Microsoft Word document titled "Max term.doc" created on Mr. Rote's computer on October 1, 2003.

**QUALIFICATIONS**

I am a certified forensic computer examiner through the International Association of Computer Investigative Specialists (IACIS), with more than 440 hours of specialized training in the acquisition and analysis of computer evidence. That training was obtained through IACIS, the National White Collar Crime Center, AccessData Corporation, Guidance Software Inc., the Federal Bureau of Investigation and the Defense Computer Investigations Training Program.

**ITEMS EXAMINED**

- (1) Dell Inspiron 4000 laptop computer, model PP01L  
Serial no. TW-0791UH-12800-141-5345  
Containing IBM Travelstar hard drive, model DJSA-210  
Serial no. HU-031YMK-47710-13P-5RM0
  
- (1) Unmarked green floppy diskette, Radio Shack brand  
Double-sided, High-density MFD-2HD

**ACQUISITION PROCESS**

On June 3, 2005, I physically examined Mr. Rote's Dell laptop and found it to be of standard configuration with no unusual components. The laptop itself was mounted in a docking station with connections to a monitor, keyboard, mouse, printer and network cable for Internet access. At the time I examined it, the date and time settings on this computer were consistent with current Pacific Standard Time.

I removed the IBM Travelstar hard drive from the case and attached it to my forensic computer with a FireFly write-blocking device manufactured by Digital Intelligence Inc. I have personally tested this device and it does not allow any data to be written to the drive to which it is attached.

Digital Recovery Systems  
Computer Examination Report  
**FINAL REPORT**

I used the forensic program *EnCase* (version 3.22g) for the actual acquisition process. This program makes a bitstream image of all data on the hard drive, authenticated with CRC and HASH values. I stored the bitstream image on a separate hard drive that I had previously wiped of any residual data with the *EnCase* wipe drive function. I performed all further analysis on the image copy using the *Forensic Tool Kit (FTK)* software program by *AccessData*. I have received training in the use of both *EnCase* and *FTK*, and both are licensed in my name for my use.

I write-protected the unmarked green floppy diskette by sliding the write-protect switch on the diskette itself. This prevents any data from being written to the diskette during acquisition. Using the same method as noted above, I created a bitstream image of the entire diskette.

### ANALYSIS

The email in question (Subject: "Exit Time") was stored in a Microsoft Outlook folder. The date on the email was shown as 10/2/03 at 11:46am. This is the date and time that would have been visible to sender and recipient when sending and receiving the message. Email programs like *Outlook* also create "header" data before a message is actually sent from the user's computer to their Internet Service Provider (ISP), where additional headers are added after it leaves the user's computer. This header data includes dates and times of message creation.

The header information attached to this email by the *Outlook* program lists dates and time for *Creation, Delivery, Submit* and *Modification*. The following dates and times were noted:

<b>Creation</b>	<b>10/2/2003</b>	<b>11:44am</b>
<b>Delivery</b>	<b>10/2/2003</b>	<b>11:46am</b>
<b>Submit</b>	<b>10/2/2003</b>	<b>11:56am</b>
<b>Modification</b>	<b>4/29/2005</b>	<b>6:00pm</b>

Regarding the Modification time and date, I asked Mr. Rote by telephone on June 9, 2005, if he had performed any action with this email recently. He told me that in April 2005 he had been cleaning up his Outlook folders and moved this particular saved email to a specific folder for storage purposes. This would account for the 2005 date. (see Attachment #1)

The Microsoft Word document (**Max term.doc**) was created and saved to the unmarked green floppy diskette. Within the text of the document is the date 10/1/03, which would have been typed by Mr. Rote when creating the document.



Digital Recovery Systems  
Computer Examination Report  
**FINAL REPORT**

Dates and times associated with the document file entry are as follows:

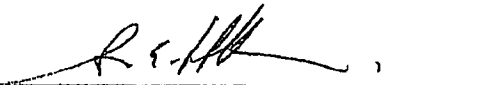
<b>Create Date</b>	<b>10/1/2003</b>	<b>9:29am</b>
<b>Modification Date</b>	<b>10/1/2003</b>	<b>9:29am</b>
<b>Last Access Date</b>	<b>10/1/2003</b>	

I examined the *metadata* within the document itself. *Metadata* is information about a particular file which is stored within the file's data itself by the program used to create the file. I found three instances in the document's data where the date **10/1/2003** existed. This was consistent with the other associated dates listed above. (See Attachment #2, 3 and 4)

### CONCLUSIONS

Based on my examination of the email in question, it does appear that the "Exit Time" email message was created on and transmitted from this computer on October 2, 2003, with a copy of the message saved on Mr. Rote's computer, and subsequently moved to a storage folder on April 29, 2005.

Based on my examination of the Microsoft Word document "Max term.doc" the date and time evidence associated both with the file directory entry and the metadata within the file itself, it does appear that the document was created and saved on this floppy diskette on October 1, 2003.



---

Steven E. Williams CFCE  
Digital Recovery Systems  
3891 Kevington Ave.  
Eugene OR 97405  
(541) 968-2103

ATTACHMENT 01

AccessData FTK version 1.42 build 037.2.05 F:\ANWD 060505 Tim Rote Laptop and floppy\FTK Workup\NW-Disc1

File Edit View Tools Help

Overview Explore Graphics E-Mail Search Bookmark

Bookmarks

- Email: 10/2/2003 email to Max Zvezig
- Word Document:

Bookmark Name: Email  
Bookmark Comment: 10/2/2003 email to Max Zvezig

Bookmarked Files: 1

File Name	File Path
Message007	D:\ELL InspironPart_1\RONAME-N...

Remember the position/selection

Include in Report  Export files

---

Subject: Exit Time

From: Timothy C. Rote

Date: 10/2/2003 11:46:00 AM

To: Max Zvezig

Message Body

I don't think you are going to train the staff and transfer programs as requested, allowing us a full transition. Accordingly, we need to set your exit time for the middle of November. I'll be sending you a letter.

---

Outlook Header Information

Conversation Topic: Exit Time  
 Subject: Exit Time  
 From: Timothy C. Rote  
 Sender Name: Timothy C. Rote  
 To: Max Zvezig  
 Delivery Time: 10/2/2003 11:46:00 AM  
 Creation Time: 10/2/2003 11:44:14 AM  
 Modification Time: 4/29/2005 6:00:21 PM  
 Submit Time: 10/2/2003 11:56:34 AM

1 Unread 0 Checked Total

D:\ELL InspironPart\_1\RONAME-N\F5 Document... \outlook.pst > Personal Folders > Top of Personal Folders > Lindstrom > Max > Message007



AccessData FTK version 1.42 build 03-12-05 - F:\NWD 060505 Tim Rote Laptop and Floppy\FTK Workup\NWD Direct\

File Edit View Tools Help

Overview Explore Graphics E-Mail Search Bookmark

Cess  
DELL Inspiron  
Part 1  
NONAME-NTFS  
UnpartSpace  
Green Floppy  
NONAME-FAT12  
Max term.doc

Name	Value
Title	10/1/03
Subject	
Author	Northwest Direct Employee
Keywords	
Comments	
Template	Normal
LastAuthor	Northwest Direct Employee
Revision Number	2
Created	10/1/2003 9:29:00 AM
Last Saved	10/1/2003 9:29:00 AM
Page Count	1
Word Count	0
Char Count	0
AppName	Microsoft Word 9.0
Doc Security	0

List of descendants

Unfiltered Date File

Listed Checked Total Green Floppy\NONAME-FAT12\Max term.doc - Summary Information

AccessData FTK version 1.42 build 03.12.05 - F:\VWD 060505 Tim Rote Laptop and Floppy\FTK Workup\NW Direct

File Edit View Tools Help

Overview Explore Graphics E-Mail Search Bookmark

Case

- DELL Inspiron
  - Part 1
    - NONAME-NTFS
      - UnpartSpace
  - Green Floppy
    - NONAME-FAT12
      - Max term.doc
      - ObjectPool

bjbrj

10/1/03 Mr. Max Zweizig 140 Ford Avenue Woodbury, New Jersey 08095 Dear Max: After the difficulties of the vacation, the failure to meet our clients expectations on dispositions (Allstate), the length I have to go just to get you to turn in time reports, the failures with Discover Card, your refusal to train personnel on the processing tasks, all against a back drop of being at 50% capacity as compared to our gross sales volume only one year ago, it is imperative that we both look for different alternatives. We are terminating our contract with you and this is notice pursuant to section 3 of the contract. Considering your two-year tenure with the company, I want to allow you to stay on through November 15, 2003, providing that you immediately train Gunawan on the processing required for all of our clients and transfer all software applications you have developed while in our employe by 10/31/03. Said applications, all database files, all records, etc. need to be transferred to our Eugene facility by 10/31/03. Ultimately Max, I believe the remote employee executive position I have allowed to date are not working out as productively as I expect they should be. You should pursue other employment and you have my endorsement and offer of a letter of recommendation, providing you meet the October 31, 2003 deadline in the previous paragraph. Very truly yours, Timothy C. Rote

descendants

File Name	Ext	Cr Date	Mod Date	Apr Date
CompObj		N/A	N/A	N/A
DocumentSummaryIn...		N/A	N/A	N/A
SummaryInformation		N/A	N/A	N/A
Table		N/A	N/A	N/A
ObjectPool		10/1/2003 9:29:34 AM	10/1/2003 9:29:34 AM	10/1/2003
Child document		N/A	N/A	N/A

6 Listed 0 Checked Total Green Floppy\NONAME-FAT12\Max term.doc > Word Document

AccessData FTK version 1.42 build 03.12.05 - F:\VWD 060505 Tim Rote Laptop and Floppy\FTK Workup\NW Direct

## Examination of FoxPro Files

I am the Director of IT and Senior Forensic Consultant at In2itive Technologies in Portland, Oregon. In2itive Technologies is a company that specializes in Computer Forensics and Electronic Discovery. I have 7 years experience in the computer forensic field, and have handled numerous cases ranging from simple data recovery to investigations concerning litigation in billion dollar lawsuits, involving both civil and criminal investigations. My training and certifications include the following: EnCase Certified Examiner (EnCE); EnCase Intermediate Analysis and Reporting; EnCase Advanced Analysis and Reporting; AccessData Forensic ToolKit BootCamp; AccessData Forensic ToolKit Windows Forensics; CompTIA A+ Computer Technician (CompTIA A+); Microsoft Certified Systems Engineer (MSCE); Microsoft Certified Systems Administrator (MCSA); and Sun Java Certified Programmer (SJP).

I was asked to evaluate for the presence of and viability of (ability to function as originally written) database program files for FoxPro, based on FoxPro file extensions, that could be recovered from the 120 GB hard drive. FoxPro is the database program that Max Zweizig was programming in while doing work for NorthWest Direct and the 120 GB hard drive was being used by Mr. Zweizig.

Using forensic methods, FoxPro database files were identified by extension on the 120 GB hard drive used by Max Zweizig. The majority of the files may be “recoverable using forensic” methods but all have the potential to jeopardize the integrity of the software product that they are to be used with. Using several examples, I will demonstrate the areas of concern and why a simple restore process will not protect the integrity of the files in all cases.

As background, when a hard drive is formatted, it is prepared for storage of electronic data. Part of the process is creating boundaries for how much data can be stored in one sector. For the NTFS file system, this is normally 4096 bits, or about 1 page of a double spaced document.

As an explanation, the average user, after deleting a file, can recover that file by going to the Recycle Bin and restoring the file. This is possible because the Windows operating system does not actually delete a file until the Empty Recycle Bin option is selected by the user. For clarity purposes, a deleted file for this report is a file that is no longer available to the average user. This could be as a result of emptying the Recycle Bin, using the Shift-Delete process or reformatting the hard drive.

After a hard drive is newly formatted, all the files stored on the hard drive are grouped together. However, as files are added and deleted, open sectors (4096 bytes) of unused hard drive space are created where deleted files had been stored. The operating system will use these “empty” sectors to store new files. On closer inspection at a forensic byte level, it is actually seen that the “empty” sectors are not actually empty but contain the byte level code of the previous file that had been located in that location. This is because when a file is deleted, the file is not erased but rather, the Master File Table in the NTFS file system marks the “deleted” file area as available to be used if space is needed.

As new files are saved to the hard drive, the files are written to the first available open sector and it overwrites the previous data. However, if the new file is larger than the original file that was previously

stored in that area, the NTFS file system will break the file apart and store parts of the file in separate locations. This is file fragmentation and is a normal consequence of hard drive usage.

Exhibit 1 displays the identified FoxPro files that are “recoverable using forensic” means. The columns of particular interest are the Extents column and the Overwritten column. The Extents column denotes how fragmented the file is known to be. The Overwritten column denotes the current known status of the file during the recovery process.

For explanation purposes, I will be using the data from Exhibit 1 Line 347 to allow evaluation of the viability of the recovered files.

The file *daily.SCT*, on Line 347 was found during the recovery process. Looking at the Extents column on Line 347, it is seen that there are 3 extents. In essence, this denotes that the forensic recovery process determined that the file *daily.SCT* has been stored on three sectors of the hard drive. For an allocated file, this is not a problem as the Master File Table in the NTFS file system keeps track of where each fragment is stored. However, during the recovery process, it could only be determined that the file was located in three different sectors on the hard drive.

At this point, the forensic recovery process must make an assumption that does not always bear out. This assumption is that because this is a recovery of deleted files, **the next available “empty” sector** is part of the deleted file. This is not always a valid assumption. If an additional file is deleted, any sectors assigned to the second deleted files may become **the next available “empty” sector**.

On Line 347, this is exactly what has happened. In Exhibit 2, the code that is assumed to be part of the recovered file *daily.SCT* is displayed as a computer program would see it, one contiguous section of code. To enhance readability, text format is displayed instead of the hexadecimal values (Exhibit 4) used to store data on the hard drive. Even a quick perusal of Exhibit 2 allows the casual viewer to see that there are distinct differences of style throughout the file.

Exhibit 3 is broken into the 3 “extents” that are indicated in the Extents column. As such, each section of Exhibit 3 denotes the 4096 bytes that is present in the three different sectors that were used to “recover” *daily.SCT*. Exhibit 3 Lines 1 through 30 is the first sector, Extent 1. Exhibit 3 Lines 32 through 76 is the second recovered sector, Extent 2. Exhibit 3 Lines 78 through 130 is the third recovered sector, Extent 3. It should be readily apparent that the **“next empty sector”** assumption does not hold true in all instances.

In Exhibit 1, the Overwritten column identifies files as Overwritten as signified by the Yes in the Overwritten column. This is a result of the forensic recovery process identifying that the first sector belonging to the “recovered” file has subsequently been allocated to a different file. In this instance, the initial sector for the file *daily.SCT* from Line 347 can be traced back to another file that was on the hard drive, namely, “DISCOVER\_042903\_DEA01.XLS”.

As seen with the above example of a single file, the “forensic” recovery of a deleted file can be, and should be suspect, as to its recoverability and viability. Out of the files that are “recoverable using

forensic” means, Overwritten files are identified by the recovery system as being unreliable due to the first sector in each of the Overwritten files as being identified as containing data from a different file. Exhibit 2 and Exhibit 3 show that the Overwritten designation raises the question of viability for every file identified as Overwritten.

Extrapolating the process to the all “forensically recoverable” files raises further issues regarding the viability of forensically recovered files. Even if a file is not identified as Overwritten, the Overwritten designation is only applicable if the forensic recovery process is able to identify that the first sector of a file has been re-assigned to another file.

As such, the “*next empty space*” assumption used to “forensically” recover a file raises the question of viability for every file. Even if the Overwritten designation is not assigned to a “forensically recoverable” file, the file may not contain the actual data that was originally in the file before being deleted.

In conclusion, the main purpose of forensically recovering deleted files is to show that the files were present on the hard drive and to forensically investigate details concerning those files to develop realistic scenarios as to events surrounding those files. The accurate recovery of every file using a forensic recovery method to restore the FoxPro files from the 120 GB hard drive is not possible. As has been demonstrated, any FoxPro file that is recovered is suspect as to its accuracy pertaining to the original file before deletion.

In this regard, the viability of the recovered files cannot be assumed and any file recovered must be individually inspected, test and verified to ensure it functions as originally designed. This is a task that would need to be undertaken by FoxPro specialists who are cognizant of the original specifications of the design before releasing to any clients. Based on my knowledge and experience gained while working as a software programmer, failure to perform this in-depth verification of the recovered files could cause catastrophic failure if clients were to use these files in production.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

Dated May 27, 2010

  
Mark Cox



	118 A	B	C	D	E
1	Full Path (Root Path C\Recovered Folders\)	FoxPro Files Exhibit 1	Accessed	File Created	Extents Overwritten
2	wt_convert.FXP		05/06/03 05:48:09AM	03/17/03 10:38:08AM	1
3	wing1.sct		05/13/02 10:38:57AM	02/04/01 08:59:44PM	1
4	whatthis.scx		05/13/02 10:39:12AM	05/02/01 11:01:46AM	1
5	whatthis.sct		05/13/02 10:39:12AM	05/02/01 11:01:46AM	1
6	whandler.scx		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
7	whandler.sct		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
8	webvwr.scx		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
9	webvwr.sct		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
10	viewcode.scx		05/13/02 10:39:32AM	02/04/01 09:00:22PM	1
11	viewcode.sct		05/13/02 10:39:32AM	02/04/01 09:00:22PM	1
12	video.scx		05/13/02 10:39:13AM	05/02/01 11:01:46AM	1
13	video.sct		05/13/02 10:39:13AM	02/04/01 09:00:00PM	1
14	typelib.scx		05/13/02 10:39:24AM	05/07/01 11:02:08AM	1
15	typelib.sct		05/13/02 10:39:24AM	05/07/01 11:02:08AM	1
16	tw.FXP		05/06/03 05:48:09AM	05/06/03 05:48:09AM	1
17	transact.scx		05/13/02 10:39:07AM	05/02/01 11:01:42AM	1
18	transact.sct		05/13/02 10:39:07AM	05/02/01 11:01:42AM	1
19	trans.FXP		05/06/03 05:48:09AM	03/17/03 09:58:01AM	1
20	topics.scx		05/13/02 10:40:10AM	02/04/01 09:00:56PM	1
21	topics.sct		05/13/02 10:40:10AM	02/04/01 09:00:56PM	1
22	toolmenu.scx		05/13/02 10:39:17AM	05/02/01 11:01:48AM	1
23	toolmenu.sct		05/13/02 10:39:17AM	05/02/01 11:01:48AM	1
24	timecomm.scx		05/13/02 10:39:05AM	05/02/01 11:01:40AM	1
25	timecomm.sct		05/13/02 10:39:05AM	05/02/01 11:01:40AM	1
26	therm.scx		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
27	therm.sct		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
28	textbox.scx		05/13/02 10:39:06AM	05/07/01 11:01:56AM	1
29	textbox.sct		05/13/02 10:39:06AM	05/07/01 11:01:56AM	1
30	text.scx		05/13/02 10:39:06AM	05/02/01 11:01:40AM	1
31	text.sct		05/13/02 10:39:06AM	05/02/01 11:01:40AM	1
32	test1.FXP		05/06/03 05:48:09AM	03/15/03 02:15:40PM	2
33	temp.FXP		05/06/03 05:48:09AM	03/20/03 04:04:12PM	1

Exhibit 9  
Page 128

FoxPro Files Exhibit 2

1 .....B...ä.....2.....\$.....\$.....7\$.....\$.....\$.....@...disp.....@...descript.....@...category..

2 .

3 .....@.....

4 ot Interested.....@...Refusal.....@.....@€@.. .....@.....

5 .@.....

6 Rate Too High.....@...Refusal.....@.....@.. .....@.....

7 @`@.. .....@.....

8 sal Refusal...

9 .....

10 t Convert to Platinum...

11 .@.....ø?.. .....@.....

12 :.....@...2Refusal - Didn't Want to Answer Required Questions.....@...Refusal.....@.....@..

13 .....@.....

14 ..@...Non Qualified Refusal.....@.....F@.. .....@.....

15 AA.....@...Already A cardmember.....@...Non Qualified Refusal.....@.....3@.. .....@.....

16 ualified Refusal.....@.....@.. .....@.....

17 ....@...WW.....@...Wrong Phone Number.....@..

18 .....@.. .....@.....

19 .. UNW Phone.....@.....@.. .....@.....

20 .MA.....@...Maximum Attempt.....@...Non Contact.....@.....@.. .....@.....

21 .....@.....(@.. .....@.....

22 l- no tape recording.....@...Refusal.....@....., @.. .....@..... .....@...V..0.....@...(Discover

23 Daily DNS/Responder Suppression..

24 ..@..... o@.. .....@.....

25 .@...Pending Sale..

26 on Contact...#...@.....#...@.....¾E@.. #...@.....\$...@.....\$...@...Non Qualified

27 Refusal...\$...@.....\$...@.....W@.. .\$.@.....%...@.....

FoxPro File daily.SCT at Program Level

Page 1 of 5

## Examination of 120 GB Hard Drive

I am the Operations Manager and Forensic Consultant for Evolve Discovery in Portland, Oregon. Evolve Discovery is a company that specializes in Computer Forensics and Electronic Discovery production. I have 7 years experience in the computer forensic field, and have handled numerous cases ranging from simple data recovery to investigations concerning litigation in billion dollar lawsuits, involving both civil and criminal investigations. My training and certifications include the following: EnCase Certified Examiner (EnCE); EnCase Intermediate Analysis and Reporting; EnCase Advanced Analysis and Reporting; AccessData Forensic ToolKit BootCamp; AccessData Forensic ToolKit Windows Forensics; CompTIA A+ Computer Technician (CompTIA A+); Microsoft Certified Systems Engineer (MSCE); Microsoft Certified Systems Administrator (MCSA); and Sun Java Certified Programmer (SJP).

I was requested to perform a forensic analysis of the 120 GB hard drive that was used by Max [REDACTED] during his services for NorthWest Direct. As testified by Max [REDACTED], the drive was used by Mr. [REDACTED] until it "failed" on May 12, 2003. Max [REDACTED] reports that the hard drive was used as a secondary hard drive for a short period of time while he copied data from the hard drive to a new hard drive that he had purchased. After a period of time, Max [REDACTED] testifies that he removed the hard drive and stored it in a fireproof safe and at some time, formatted the drive. My analysis of the hard drive reveals that the hard drive was formatted on November 12, 2003, indicating that the failure that occurred on May 12, 2003 was most likely a software related incident, as a mechanical failure rarely allows further access to a hard drive without intrusive procedures undertaken at a specialty data recovery facility.

The analysis I was requested to perform concerned indications and conclusions that could be inferred related to the unallocated spaces on the hard drive, namely, usage indications during three time periods: before the failure on May 12, 2003, between May 12, 2003 and November 12, 2003 and after being reformatted on November 12, 2003.

As explanation of process and basis for my analysis, when a hard drive is initially or subsequently formatted for usage, the process creates tables and supporting files to allow storage of electronic data on the hard drive. For most Windows based computers since the year 2000, this is the NTFS file system. Obviously, this is not the electronic data, or files, that the user will put on the hard drive, but is only a means for the operating system to catalog, track and record the electronic data that will be placed on the hard drive for storage by the computer users. These tables occupy only a small percentage of the hard drive, typically 2-5%. As the reformatting event of November 12, 2003 did not overwrite the entire hard drive, about 95% of the hard drive is still available for analysis using forensic methodology and processes. The primary method of investigation would be to analyze the "Unallocated Space", the area of the hard drive that does not contain "Active Files", "Active Files" being files that NTFS is tracking.

As a result of the reformatting that occurred on November 12, 2003, the original NTFS file structure was not available. However, as the re-formatting did not overwrite the entire hard drive my analysis of the 120 GB hard drive indicates that there was extensive use of the hard drive prior to the reported failure on May 12, 2003. This is evidenced by the presence of thousands of dates occurring before May 12,

**120 GB Hard Drive**

Page 1 of 3

2003. While the absence of a file structure reduces the ability to associate a specific date and time to specific file fragments, the existence of the numerous dates does indicate that the computer was in use during this time. The dates and times that are present on the hard drive are indicative of a normal hard drive with the expected partial overwriting of deleted files during the normal operations of the Windows NTFS file system. These dates prior to May 12, 2003 are not limited to a few types of file fragments but are present in all types of file fragments present on the hard drive.

On Page 1 of Exhibit 1, a sample of an error report recovered from the Unallocated Space is displayed. This is an error report created by the operating system and in all likelihood a computer user would not even know that it had been created. The types of information that can be seen in this report, include the date and time of the error report's creation, the operating system and the type of video card.

On Page 2 of Exhibit 1, a file fragment from an email chain is displayed with sufficient body present to ascertain the purpose of the email. Included with the email fragment are dates and times.

Exhibit 1 shows that though the original data no longer has a formal file structure, sufficient remnants remain to indicate hard drive usage based on data recorded on the hard drive. An additional automated process was used to assist in the recovery of the files contained in the Unallocated Spaces. This process systematically searches for and marks files that are contained in the Unallocated Spaces and attempts to make those files available for recovery. In many cases, the files are recoverable but not all files found can be fully recovered. Due to the lack of a formal NTFS file structure, the process is forced to make assumptions about files that are fragmented to different areas of the hard drive, and these assumptions, while useful to show prior existence of files, cannot fully recover those files to their original condition.

While the hard drive usage prior to the May 12, 2003 failure event appears to be normal and expected for a computer in a business environment, some unusual indications did exist and are displayed in Exhibit 2. The various .htm files are an indication that the computer was used to access the eBay site. The presence of the .lnk files, or link files, indicates that the presence of the files was known and the files were accessed. This is borne out by the fact that link files for user generated files are not created until the files are actually accessed by a user.

An analysis of the hard drive was conducted for usage between the dates of May 12, 2003 and November 12, 2003, the time that Max ██████ testifies that the hard drive was in storage after he copied data to the new hard drive. Exhibit 3 is included to indicate the hard drive usage during this time frame.

From the recovered files present on the hard drive that were created or accessed during this time frame, it is apparent that the hard drive was being actively used, mainly for storage of downloaded video files. This assertion is based on the Windows file system operation and the characteristics of the File Created date and time.

**120 GB Hard Drive**

Page 2 of 3

The File Created date and time is recorded when the file is created on the local computer, not when the file was originally made by the user who initially created the files. As is seen in Exhibit 3, the time span across multiple months regarding the File Created date and time indicates that the hard drive was being actively used during the time that Max [REDACTED] testifies the hard drive was in storage.

Regarding the structure and format of the video files in Exhibit 3, these video files are in a format that is typically exhibited in file sharing environments. To enhance the efficiency and reliability for all users participating in the file sharing, large files are segmented into multiple small files for sharing. Embedded error correcting and accessing multiple computers to download multiple segments at that same time are a trademark of file sharing. Once all segments of a video are downloaded to the local computer, those individual parts can be recombined into a copy of the whole file that constitutes the entire video which can then be viewed on the computer.

In addition to file sharing mainly being used to distribute material in violation of US and International copy write laws, use of file sharing software, by default, circumvents the security of the computer and opens pathways to the local computer that can be exploited by other computer users.

An analysis of the hard drive was conducted to determine hard drive usage on or after the re-formatting event that occurred on November 12, 2003. A search for files or file fragments associated with dates on or after November 12, 2003 did not reveal any dates other than those associated with the reformatting that occurred on November 12, 2003. These files are the files that are associated with the operating system creating the NTFS file structure necessary for the storage of electronic data on the hard drive. After this time, there was no subsequent access to the hard drive, indicating that the hard drive was not put into use or accessed after being reformatted.

It is my conclusion that the 120 GB hard drive was in normal usage prior to May 12, 2003. Some exceptions to normal business usage are displayed in Exhibit 2. Between May 12, 2003 and November 12, 2003, the hard drive was being used mainly as a storage medium for video files. This usage is documented in Exhibit 3. Following the November 12, 2003 re-formatting of the hard drive, the hard drive was not used or accessed and no subsequent dates or recovered files are present on the hard drive.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

Dated May 23, 2010



Mark Cox

**120 GB Hard Drive**

Page 3 of 3

**Exhibit 1**

**Physical Hard Drive Sectors 25319 -25320**

```
//  
// Watchdog Event Log File  
//  
LogType: Watchdog  
Created: 2003-04-15 01:44:06  
TimeZone: 300 - Eastern Standard Time  
WindowsVersion: XP  
EventType: 0xEA - Thread Stuck in Device Driver  
//  
// The driver for the display device got stuck in an infinite loop. This  
// usually indicates a problem with the device itself or with the device  
// driver programming the hardware incorrectly. Please check with your  
// display device vendor for any driver updates.  
//  
ShutdownCount: 136  
Shutdown: 0  
EventCount: 2  
BreakCount: 2  
BugcheckTriggered: 1  
DebuggerNotPresent: 1  
DriverName: awvid5  
EventFlag: 1  
DeviceClass: Display  
DeviceDescription: NVIDIA RIVA TNT2 Model 64 (Sony)  
HardwareID: PCI\VEN_10DE&DEV_002D&SUBSYS_40031043&REV_15  
Manufacturer: NVIDIA  
DriverFixedFileInfo: FEEF04BD 00010000 000A0005 000001D6 00050000 08930654 0000003F 00000008  
00040004 00000003 00000004 00000000 00000000
```

**120 GB Hard Drive**

Page 1 of 2

	A	B	C
1	Name (All File Paths From C or D Drive Recovered Folders)	Last Accessed	File Created
2	eBayISAPI[1].htm	03/17/03 10:08:00PM	03/17/03 10:07:59PM
3	eBayISAPI[1].htm	03/17/03 10:09:33PM	03/17/03 10:09:32PM
4	eBayISAPI[3].htm	03/17/03 10:14:00PM	03/17/03 10:14:00PM
5	eBayISAPI[2].htm	03/17/03 10:15:42PM	03/17/03 10:15:42PM
6	eBayISAPI[4].htm	03/17/03 10:15:46PM	03/17/03 10:14:32PM
7	eBayISAPI[1].htm	03/17/03 10:15:46PM	03/17/03 10:12:47PM
8	eBayISAPI[2].htm	03/17/03 10:15:46PM	03/17/03 10:13:38PM
9	eBayISAPI[5].htm	03/17/03 10:16:03PM	03/17/03 10:16:03PM
10	eBayISAPI[6].htm	03/17/03 10:16:47PM	03/17/03 10:16:47PM
11	eBayISAPI[7].htm	03/17/03 10:17:30PM	03/17/03 10:17:30PM
12	eBayISAPI[3].htm	03/17/03 10:17:50PM	03/17/03 10:17:49PM
13	eBayISAPI[3].htm	03/17/03 10:17:57PM	03/17/03 10:17:57PM
14	eBayISAPI[2].htm	03/17/03 10:18:35PM	03/17/03 10:18:35PM
15	eBayISAPI[4].htm	03/17/03 10:19:01PM	03/17/03 10:18:05PM
16	eBayISAPI[8].htm	03/17/03 10:19:16PM	03/17/03 10:19:15PM
17	eBayISAPI[5].htm	03/17/03 10:19:51PM	03/17/03 10:19:51PM
18	eBayISAPI[10].htm	03/17/03 10:20:56PM	03/17/03 10:20:56PM
19	eBayISAPI[6].htm	03/17/03 10:22:30PM	03/17/03 10:22:30PM
20	eBayISAPI[13].htm	03/17/03 10:26:01PM	03/17/03 10:26:01PM
21	eBayISAPI[7].htm	03/17/03 10:26:11PM	03/17/03 10:26:11PM
22	eBayISAPI[8].htm	03/17/03 10:26:37PM	03/17/03 10:26:37PM
23	eBayISAPI[5].htm	03/17/03 10:26:57PM	03/17/03 10:26:38PM
24	eBayISAPI[14].htm	03/17/03 10:28:48PM	03/17/03 10:28:48PM
25	eBayISAPI[1].htm	03/18/03 07:54:42AM	03/18/03 07:54:41AM
26	eBayISAPI[10].htm	03/18/03 07:56:20AM	03/18/03 07:56:20AM
27	eBayISAPI[11].htm	03/18/03 07:56:35AM	03/18/03 07:56:34AM
28	eBayISAPI[4].htm	03/18/03 07:56:42AM	03/18/03 07:56:42AM
29	eBayISAPI[12].htm	03/18/03 07:56:45AM	03/18/03 07:56:45AM
30	eBayISAPI[5].htm	03/18/03 07:57:29AM	03/18/03 07:57:29AM
31	eBayISAPI[15].htm	03/18/03 07:57:41AM	03/18/03 07:56:51AM
32	eBayISAPI[7].htm	03/18/03 07:58:43AM	03/18/03 07:58:23AM
33	eBayISAPI[13].htm	03/18/03 07:58:50AM	03/18/03 07:58:50AM

## Max Zweizig 120 GB Hard Drive Analysis

I was requested to perform an analysis of the 120 GB hard drive to determine possible usage of the hard drive between the dates of May 12, 2003 and November 12, 2003, the time that the hard drive was reported to be unusable. The result of this analysis reveals several dates associated with video file names in a format typically associated with file sharing websites such as PirateBay, BitTorrent and TorrentReactor. The dates notated in Bold in Exhibit 1 are not the actual Windows file system dates and times, as there is no file structure in the unallocated spaces. However, the dates notated in Bold are associated with the file names, that when assembled together, constitute the viewable video. Analysis did not reveal when the date was assigned to these file segment, but the typical timeframe is when the original video is "ripped", the process of copying the video to a hard disk. As such, it could be concluded that on or after the dates notated in Bold, the files were placed on the hard drive, presumably from a file-sharing Internet site.

In conclusion, it is highly probable that the user of the computer knew that the hard drive was not defective and at a later time used it to store video files after the purported hard drive failure.

This analysis was performed by Mark Cox and I affirm that the statements are truthful based on the analysis that I performed.

Mark Cox, EnCE  
April 29, 2010



Physical Sector	Preview
37410188	Generated by SFV32 v1.0a on <b>2003-07-27</b> at 07:10:28 ; Engineering Disasters 4_HIS.r00
39138492	10240000 09:31.58 <b>2003-05-28</b> dilbert-ep29of30.r06
39138492	10240000 09:30.16 <b>2003-05-28</b> dilbert-ep29of30.r05
39138492	10240000 09:28.38 <b>2003-05-28</b> dilbert-ep29of30.r04
39138492	10240000 09:27.10 <b>2003-05-28</b> dilbert-ep29of30.r03
39138492	10240000 09:25.32 <b>2003-05-28</b> dilbert-ep29of30.r02
39138492	10240000 09:24.06 <b>2003-05-28</b> dilbert-ep29of30.r01
39138492	10240000 09:22.08 <b>2003-05-28</b> dilbert-ep29of30.r00
39138493	10240000 09:51.34 <b>2003-05-28</b> dilbert-ep29of30.r15
39138493	10240000 09:49.06 <b>2003-05-28</b> dilbert-ep29of30.r14
39138493	10240000 09:46.36 <b>2003-05-28</b> dilbert-ep29of30.r13
39138493	10240000 09:43.46 <b>2003-05-28</b> dilbert-ep29of30.r12
39138493	10240000 09:41.14 <b>2003-05-28</b> dilbert-ep29of30.r11
39138493	10240000 09:39.16 <b>2003-05-28</b> dilbert-ep29of30.r10
39138493	10240000 09:37.20 <b>2003-05-28</b> dilbert-ep29of30.r09
39138493	10240000 09:35.22 <b>2003-05-28</b> dilbert-ep29of30.r08
39138493	10240000 09:33.38 <b>2003-05-28</b> dilbert-ep29of30.r07
39138494	10240000 09:20.46 <b>2003-05-28</b> dilbert-ep29of30.rar
39138494	7153777 09:57.48 <b>2003-05-28</b> dilbert-ep29of30.r19
39138494	10240000 09:56.38 <b>2003-05-28</b> dilbert-ep29of30.r18
39138494	10240000 09:54.54 <b>2003-05-28</b> dilbert-ep29of30.r17
39138494	10240000 09:53.20 <b>2003-05-28</b> dilbert-ep29of30.r16
45747804	Generated by SFV32 v1.0a on <b>2003-07-16</b> at 07:10.34 ; Modern Marvels - Dangerous Cargo_HIS.r0
45747916	Generated by SFV32 v1.0a on <b>2003-07-24</b> at 07:10.24 ; Behind The Scenes - Demolition Derby_TR
45748012	Generated by SFV32 v1.0a on <b>2003-07-28</b> at 07:10.26 ; More Engineering Disasters_HIS.r00 E422
46641430	alt.binaries.multimedia Posted on.....: <b>7/19/2003</b> Fills Policy.....: Wait until after the repost
52641068	MooSFV v1.7 - <b>Sun Jul 06 19:10:17 2003</b> ; Wonder.Woman.1x05.svcd.BTM.r00
58349932	Generated by SFV32 v1.0a on <b>2003-07-22</b> at 07:10.06 ; Devil's Island - Hell On Earth_HIS.r00

**\*\*Bold added to identify area of interest\*\***

1 Timothy Rote  
2 24790 SW Big Fir Rd.  
3 West Linn, OR 97068  
4 503.702.7225  
5 Timothy.rote@gmail.com

6 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
7 FOR THE COUNTY OF CLACKAMAS

8 MAX ZWEIZIG,

Case No.: 19CV01547

9 Plaintiff,

10 vs.

RESPONSE IN OPPOSITION TO  
PLAINTIFF PETITION FOR GAG ORDER  
LIMITING FREE SPEECH

11 TIMOTHY ROTE, ET. AL.

12 Defendants

HEARING SCHEDULED FOR 3/9/21

13  
14  
15 INTRODUCTION

16 Shortly after Timothy Rote’s blog was started in September 2015, Zweizig was offered  
17 anonymity and redaction. Zweizig rejected that accommodation. Rote carried out the redactions  
18 anyway up to the time of trial in case 3:15-cv-2401. Zweizig did not seek a TRO restraining  
19 publication of the events leading up to and including that trial because it benefitted him in his  
20 case. Defendant did not take down the blog before or since trial because it serves to inform  
21 litigants.

22 Now that it does not benefit him, and more specifically now that Zweizig has admitted  
23 he committed perjury in the 315cv case, before a jury, with that perjury suborned by his  
24 attorney (Christiansen) and with an admission by former counsel in this case (Greene) who  
25 resigned over Zweizig’s past criminal acts, Zweizig now wants a gag order broad enough to  
26 gag the publication of his admission.

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 1

1 There is no legal support for this petition.

2 Any risk to finding counsel because of Zweizig's admission is a nonstarter. There is no  
3 right to counsel in civil litigation. The absence of counsel is not a violation of the Sixth  
4 Amendment.

5 In the next month, protests of Zweizig's criminal conduct are scheduled in Woodbury  
6 New Jersey and Bend Oregon. Defendant's hope is that the protests will bring public awareness  
7 to how significantly child trafficking has invaded the legal profession.

### 8 HISTORY AND BACKGROUND

9 While Zweizig's declaration professes purity worthy of the Greek Gods, his actions have  
10 been criminal, rapacious and morally corrupt.

11 Zweizig always seeks to invoke victim status, when he is in fact the aggressive actor  
12 and predator. In order for the court to understand and frame the historical behavior of both  
13 parties it is necessary to understand that Zweizig was first recruited to become an IT manager  
14 for a company Rote owned (NDT). The company was at the time of Zweizig's hiring operated  
15 by a president by the name of Paul Bower. Paul recruited Zweizig to employer NDT. Zweizig  
16 signed a contract on August 18, 2001 and started immediately (**Exhibit 1**). On September 16,  
17 2001, Zweizig and Bower set up a competing company (**Exhibit 2**). Defendant Rote did not  
18 discover these breaches of contract and threats to his company until October, 2002, more than  
19 a year later. Bower was removed immediately. Zweizig was allowed to stay. But just one year  
20 after Bower was terminated Zweizig was also terminated. During that one-year time period  
21 Zweizig removed all programming his employer owned, some of which he created, attempted  
22 to extort a raise using the programming as leverage, and when that was rebuffed shut down his  
23 employer resulting in the layoff of more than 150 people.

24 On October 24, 2003 Zweizig sent defendant a letter via email claiming the Northwest  
25 companies were over-billing and under-billing clients, both of which he found to criminal. See  
26 **Exhibit 3**. The over-billing he alleged was based on an excel spreadsheet he attached

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 2

1 identifying no clients. He claimed the excel document was received by him and others in an  
2 email. The email Zweizig claimed transmitted the spreadsheet to multiple people was never  
3 provided. The spreadsheet was never corroborated. No invoices had been issued that month  
4 and there was neither over-billing nor under-billing. The allegation of over-billing \$400 was  
5 patently false.

6 Zweizig immediately followed up the complaint to defendant with a complaint to the  
7 Oregon Department of Justice and Lane County DA. Defendant contacted both and offered  
8 them evidence of Zweizig's termination of October 2<sup>nd</sup>, that termination coming after  
9 Zweizig's effort to extort a raise.

10 Zweizig alleged he was terminated because of the complaint to the ODJ and Lane  
11 County DA. Zweizig was terminated three weeks before. Steve William's forensic report  
12 identifying the exit time of the email terminating Zweizig on October 2, 2003 is provided  
13 herein as **Exhibit 4**.

14 Zweizig's email wanting a raise to complete data five months in arrears to one of NDT's  
15 clients is provided herein as **Exhibit 5**. Zweizig completed the data processing by September 30,  
16 2003 and was terminated on October 2, 2003.

17 In spite of defendant's multiple requests and then demands to Zweizig to return the  
18 programming owned by NDT, Zweizig refused. **See Exhibit 6**. NDT shut down after Zweizig's  
19 last day, November 13, 2003.

20 Plaintiff's request for a gag order is an overreach and is likely done to influence the  
21 outcome of the Summary Judgment Motion.

## 22 ARGUMENT

23 Defendant argues the gag order violates his right to free speech under the First  
24 Amendment of Unites State Constitution.

25 There were unqualified prohibitions laid down by the framers of the Constitution which  
26 were intended to give liberty of the press in the broadest scope that could be countenanced in

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 3

1 orderly society. The Supreme Court has mandated that the freedom of discussion should be  
2 given the widest range of discretion possible compatible with essential requirement of fair and  
3 orderly administration of justice. *Sheppard v. Maxwell*, 384 U.S. 333 (1966).

4 The Supreme Court of the United States has addressed this issue with great clarity.  
5 “[I]n any case involving pretrial publicity, the court must decide whether ‘the gravity of the  
6 “evil,” discounted by its improbability, justifies such invasion of free speech as is necessary to  
7 avoid the danger.’” *Id.* at \*2 (quoting *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 562  
8 (1976)).

9 “Like all gag orders, the trial court’s order restricting The Register’s ability to report on  
10 the upcoming trial is presumptively invalid. . . . A prior restraint is the ‘most serious and the  
11 least tolerable infringement on First Amendment rights.’” (quoting *Nebraska Press  
12 Association*).

### 13 I. The Scale of Public Disclosure is Small

14 Although at times gag orders are entertained in public criminal trials, such orders are  
15 uncommon in civil cases. One such civil case is offered as an example among the hundreds that  
16 could be tendered in this argument.

17 In *Julie Slivka v. YMCA of The Pikes Peak Region*, 1:19-cv-00313-PAB (USDC Co.,  
18 2019), plaintiff filed her lawsuit against defendants, raising claims of assault, battery, and  
19 negligence against defendant Lozano and claims of sex discrimination, disability  
20 discrimination, and retaliation. Defendants sought (1) the imposition of a gag order “imposing  
21 reasonable restrictions on the release of information to the media and members of the public by  
22 any parties or counsel in this litigation.” It also requests an order “restricting public access to  
23 the entirety of the proceedings or, in the alternative, level 1 restriction for [plaintiff’s  
24 complaint], as submitted in redacted form herewith.” The Court denied the Motion, Doc #27,  
25 provided herein as **Exhibit 11**.

26  
RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 4

1 The USDC Colorado, Chief Judge Brimmer opined first on the framework of the law.  
2 “In determining whether a gag order is appropriate, a court should consider (1) “the nature and  
3 extent of pretrial news coverage”; (2) “whether other measures would be unlikely to mitigate  
4 the effects of pretrial publicity”; and (3) “how effectively a restraining order would operate to  
5 prevent the threatened danger.” *Nebraska Press Ass’n*, 427 U.S. at 562. The court “must then  
6 consider whether the record supports the entry of a prior restraint on publication, one of the  
7 most extraordinary remedies known to our jurisprudence.” *Id.*”

8 Judge Brimmer further noted “In regard to the extent of pretrial news coverage, the  
9 Court finds that it is insubstantial. YMCA contends that, since the filing of plaintiff’s  
10 complaint, three media sources have published articles related to the lawsuit and that links to  
11 these articles have been posted on various social media accounts. Docket No. 16 at 4-5.  
12 Specifically, YMCA provides evidence of two Twitter posts and one Facebook post containing  
13 links to new articles about the lawsuit. Docket No. 16-3. According to YMCA, the story is now  
14 “accessible to literally hundreds of millions of people on social media platforms.” Docket No.  
15 16 at 7. YMCA also notes that plaintiff’s counsel has given an interview about the case to at  
16 least one media outlet. *Id.* at 5.”

17 Judge Brimmer found that “The number of articles and social media posts concerning  
18 this case is small. And YMCA overestimates the level of online engagement these articles and  
19 posts have received. Although, like anything on the internet, these sources are “accessible to  
20 literally hundreds of millions of people” online, see Docket No. 16 at 7, YMCA does not show  
21 that potential members of the jury pool have been exposed to such articles or have formed  
22 negative impressions of YMCA as a result. Thus, YMCA has failed to show that the nature and  
23 extent of pretrial publicity warrants the imposition of a gag order.”

24 Defendant is drawn to Judge Brimmer’s opinion because it so closely aligns with the  
25 facts in this case. Defendant’s Post #175 on Shenoa Payne and Joel Christiansen refusing to  
26 denounce child porn has only 10 views. See **Exhibit 7**.

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 5

1 Defendant argues that this case, and the litigants involved herein, are not receiving any  
2 public attention on a scale that could taint a jury pool. Plaintiff has provided no proof of that  
3 allegation. Moreover, this is a type of case where it may be appropriate for a bench trial.

4 **II. The Blog Is Equivalent to a Newspaper or Online News Publication**

5 Rote’s Blog is a recognized forum of free speech that is a public forum and raises  
6 issues on topics of public interest. It may not be constrained just because Rote is a party.

7 A Ninth Circuit case offers some insight. “We agree with our sister circuits. The  
8 protections of the First Amendment do not turn on whether the defendant was a trained  
9 journalist, formally affiliated with traditional news entities, engaged in conflict-of-interest  
10 disclosure, went beyond just assembling others’ writings, or tried to get both sides of a story.  
11 As the Supreme Court has accurately warned, a First Amendment distinction between the  
12 institutional press and other speakers is unworkable: “With the advent of the Internet and the  
13 decline of print and broadcast media . . . the line between the media and others who wish to  
14 comment on political and social issues becomes far more blurred.”” *Citizens United*, 558 U.S.  
15 at 352. See *OBSIDIAN FINANCE GROUP V. COX*, 9<sup>th</sup> Circuit case No. 12-35319, Jan. 2014,  
16 reversing U.S. District Court of Oregon 3:11-cv-00537-HZ.

17 **III. The Forensic Reports Are In The Public Domain**

18 The computer forensic reports showing that Zweizig actively engaged in downloading  
19 and disseminating child porn, that he destroyed evidence, destroyed programming to extort a  
20 raise and to hold his employer hostage, and causing a shutdown of his employer, etc., have  
21 been published in the public space since 2011. Several of the 120 gig hard drive computer  
22 forensic reports (such as **Exhibit 9**) were published in the confirmation record of 3:11-cv-910-  
23 pp in federal court in 2011 and have been in the public domain since that time. The computer  
24 forensic reports have arguably been downloaded from court records via pacer and defendant’s  
25 blog hundreds of times.  
26

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 6

1 The 120 gig computer forensic reports are also documents filed with the New Jersey  
2 State Police, the Woodbury New Jersey Police, the FBI, the U.S. Marshals Service, the United  
3 States Department of Justice, the U.S. District Court of Oregon, the 9<sup>th</sup> Circuit Court of  
4 Appeals, Clackamas County Court, the Oregon Court of Appeals, the Supreme Court of  
5 Appeals of Oregon and the United States Supreme Court. The TRO seeks to restrict the  
6 application and use of the forensic reports in this case or alternatively seeks suppress them in  
7 the blog, which is a gross overreach.

8 Judge Brimmer again addresses this question by noting “with regard to whether a gag  
9 order would prevent the purported danger, the information that YMCA seeks to restrain has, by  
10 its own admission, already been publicized. Although not wide-reaching, such information is  
11 still in the public arena, and the Court cannot suppress access to such information. The Court  
12 finds that YMCA has not met its burden of establishing that there is a reasonable likelihood  
13 that prejudicial news will make it difficult to impanel an impartial jury and prevent a fair trial  
14 so as to justify the invasion of free speech that would result from a gag order. See *Lord*, 2011  
15 WL 2559824, at \*3 (finding that defendants’ fear of negative publicity absent pretrial gag  
16 order did not justify invading plaintiff’s right to free speech). The motion for a gag order will  
17 be denied.” *Julie Slivka v. YMCA of The Pikes Peak Region*, 1:19-cv-00313-PAB (USDC Co.,  
18 2019).

19 Zweizig and his attorneys did prevail on claims indirectly arising from the publishing  
20 the forensic reports in case 3:15-cv-2401, but did not seek then a TRO because it served their  
21 interest for the blog to remain published. In fact small portions of 10 chapters of the blog and  
22 1% of the blog’s content represented the sum of their case. Zweizig has therefore waived his  
23 right to at any time restrict the use or publication of the forensic reports.

24 The jury in the 3:15 trial did not see the forensic reports. Zweizig’s legal team  
25 suppressed the reports through the Motion in Limine, arguing the arbitrator opined on them.  
26 See **Exhibit 8**. He did not. Zweizig then went on to deny the very existence of these reports as

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 7



1 he as intimated in his current declaration, with the full knowledge that the experts delivered  
2 their respective opinions during the arbitration and were cross-examined on them. Zweizig’s  
3 deposition testimony shows that he is laughing at being able to pull that off. See the  
4 **Arbitrators Opinion, Exhibit 10.**

5 Now, however, Zweizig’s deposition testimony confirms not only his perjury in the  
6 3:15 case but also credible acknowledgement that his own attorneys recognize the voracity of  
7 the forensic reports and perhaps even the tragic outcome because Zweizig can so credibly lie,  
8 so credibly play the victim card. See **Exhibit 12.**

9 **IV. Voir Dire is A Better Solution**

10 Judge Brimmer also noted that “The Court finds that other, less-restrictive measures  
11 may be taken to mitigate any potential prejudice caused by press coverage of the case...at the  
12 time of trial, the potential jury pool will have to go through extensive voir dire,” which may  
13 include questions about publicity in the case. See *Pfahler*, 2008 WL 323244, at \*2. Instructions  
14 to disregard certain out-of-court information may be given as needed. The Court finds that any  
15 potentially damaging pretrial publicity may be adequately mitigated without the imposition of  
16 a gag order. *Julie Slivka v. YMCA of The Pikes Peak Region*, 1:19-cv-00313-PAB (USDC Co.,  
17 2019)

18 **V. Plaintiff Does Not Have Standing To Bring This TRO On Behalf of**  
19 **Counsel**

20 Albertazzi does not have standing to bring this cause of action in his own name, for the  
21 benefit of his firm, for the benefit of Shenoa Payne, Joel Christiansen, former counsel Ward  
22 Greene, the Oregon State Bar Professional Liability Fund, etc.

23 Greene filed a Motion similar to this one in July 2020. Defendant responded with an  
24 anti-SLAPP Motion. Greene did not reply further and subsequently resigned. By his own  
25 Response and Motion, Greene implicated defamation, libel and slander as possible future  
26 “claims” in this case and in future cases arising from documents filed in this case, even though

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 8

1 the documents were in the blog for more than five years. The allegations against legal counsel  
2 for aiding and abetting Zweizig’s path of destruction, raises a relevant question as to why  
3 counsel would be associated with this.

4 Standing is the concept that “identifies whether a party to a legal proceeding possesses  
5 a status or qualification necessary for the assertion, enforcement, or adjudication of legal rights  
6 or duties.” *Kellas v. Dept. of Corrections*, 341 Or 471, 476-77, 145 P3d 139 (2006). First,  
7 “there must be ‘some injury or other impact upon a legally recognized interest beyond an  
8 abstract interest in the correct application or the validity of [a contract].” *Doyle*, 356 Or at 372  
9 (quoting *League of Oregon Cities v. State of Oregon*, 334 Or 645, 658, 56 P3d 892 (2002)).  
10 Second, “the injury must be real or probable, not hypothetical or speculative.” *Id.* Third, “the  
11 court’s decision must have a practical effect on the rights that the plaintiff is seeking to  
12 vindicate.” *Id.*; see also *Holmes v. Morgan*, 135 Or App 617, 624, 899 P2d 738, rev den, 322  
13 Or 193 (1995).

14 Although “no statute governs the issue of standing to seek injunctive relief,” the  
15 Supreme Court “has long applied essentially the same standing requirements that ordinarily  
16 apply in declaratory judgment actions.” *Morgan*, 353 Or at 201.

17 Plaintiff cites a blog post titled “175 - Shenoa Payne and Joel Christiansen Refuse to  
18 Denounce Child Molestation.” As the blog post aptly describes, both Shenoa Payne and Joel  
19 Christiansen were asked if they would denounce child molestation separate from an admission  
20 that they knew their client Max Zweizig just admitted to duping a jury on the forensic reports  
21 and that Ward Greene resigned over not wanting to be associated with Zweizig any further.  
22 Neither chose to denounce Child Molestation. Neither has the Oregon State Bar PLF.  
23 Defendant points out that Payne and Christiansen represent Zweizig on the 3:15 case and its  
24 appeal and are operating with full knowledge that Zweizig lied to the jury in that case.  
25  
26

1 Quoting the blog, “That necessarily means Ward Greene reviewed the forensic reports  
2 and concluded that Zweizig downloaded and disseminated child pornography. Zweizig did not  
3 deny the allegations in his deposition. He still has not.”

4 Zweizig was warned by counsel Albertazzi to not answer the question on why Greene  
5 resigned, but rejected that advice. Zweizig was given every opportunity to correct the  
6 deposition record before it was published and has not done so. Defendant waited 30 days  
7 before publishing the deposition transcript. Zweizig did not seek confidentiality. Court  
8 documents such as this are published with regularity.

9 Since that time the deposition transcript has been published in 9<sup>th</sup> Circuit case #18-  
10 35991, #18-660, #19-35847 and #20-35017. The deposition is in the public domain as will the  
11 transcripts of the case should it proceed to trial.

12 **VI. Defendant Has a Right To Balance The Scales of Public Opinion and To**  
13 **Draw Financial Support To His Cause**

14 Defendant is building for-profit and not-for-profit businesses around this case and  
15 expects to draw substantial financial support to continue to use counsel.

16 Moreover, countering negative publicity is a right of defense. Countering negative  
17 publicity about a criminal defendant is not merely a permissible activity for a criminal defense  
18 attorney; it is a necessary part of a vigorous defense. See *Gentile v. State Bar of Nevada* (1991)  
19 501 U.S. 1030. *Gentile* involved a state bar disciplinary proceeding where Attorney Gentile  
20 was sanctioned for a press conference he held to defend his client after the press had pushed  
21 out a stream of information, beginning long before his client’s indictment, suggesting that his  
22 client was guilty. *Id.* at 1064 (“Petitioner’s admitted purpose for calling the press conference  
23 was to counter public opinion which he perceived as adverse to his client, to fight back against  
24 the perceived efforts of the prosecution to poison the prospective juror pool, and to publicly  
25 present his client’s side of the case.”).

26  
RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 10

1 The Supreme Court stated that such a press conference was absolutely within the rights  
2 and duties of a criminal defense attorney, an excerpt provided as follows:

3 An attorney's duties do not begin inside the courtroom door. He or she cannot  
4 ignore the practical implications of a legal proceeding for the client. . . . [A]n  
5 attorney may take reasonable steps to defend a client's reputation and reduce the  
6 adverse consequences of indictment, especially in the face of a prosecution  
7 deemed unjust or commenced with improper motives. A defense attorney may  
8 pursue lawful strategies to obtain dismissal of an indictment or reduction of  
9 charges, including an attempt to demonstrate in the court of public opinion that  
10 the client does not deserve to be tried.

11 In fact the very right Zweizig invokes for counsel can be used against him. The Sixth  
12 Amendment right to the assistance of counsel in criminal cases, in conjunction with due-  
13 process and fair-trial rights, would seem to require attorneys to actively seek to counterbalance  
14 a client's negative public image. In high-profile cases, the only way some lawyers can offer  
15 clients, or in this case pro se litigants, their respective Sixth Amendment right to a fair trial is  
16 to set the record straight in the media in hopes that accurate reporting will create a neutral  
17 litigation environment. In other words, to assure a fair trial, public advocacy is an essential part  
18 of a defense strategy. See *Michael Jay Hartman, Yes, Martha Stewart Can Even Teach Us*  
19 *About the Constitution: Why Constitutional Considerations Warrant an Extension of the*  
20 *Attorney-Client Privilege in High-Profile Criminal Cases (2008) 10 U.Pa.J.Const.L. 867, 879*  
21 (quotation marks and ellipses omitted; emphasis added).

22 This is not a criminal case and it's not a high-profile case but the amount of attention  
23 Zweizig received when he got his judgment was significant. This case is not garnering any  
24 attention and is not likely to. Defendant would hope however that the perjury committed by  
25 Zweizig and the subornation of that perjury by counsel, which continues in this case, will get  
26 its fair dose of public attention at some point.

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 11

1 Courts frown upon enjoining speech for the sake of protecting someone from unwanted  
2 public exposure:

3 “[S]paring citizens from embarrassment, shame, or even intrusions into their  
4 privacy has never been held to outweigh the guarantees of free speech in our  
5 federal and state constitutions.” In addition to *YMCA*, see *Hurvitz v. Hoefflin*,  
6 (2000) 84 Cal.App.4th 1232, 1244 (emphasis added). See also *Maggi v. Superior*  
7 *Court* (2004) 119 Cal.App.4th 1218, 1225 (“Gag orders are not an appropriate  
8 method to protect confidential information from disclosure, no matter how  
9 damaging or private that information may be.”).

10 Defendant admits that laws of Oregon are surprising thin on Constitutional application  
11 of gag orders in the context of civil litigation.

12 The blog is still a forum that will produce a credible revenue stream to support  
13 litigation defense, something this court has endorsed. Zweizig’s litigation against the Rote’s  
14 and the companies they own and owned have cost the Rote’s more than \$500,000. Zweizig  
15 may think that is funny, having been the beneficiary of contingency fee counsel for 20 years. It  
16 is not funny and it is not a drop in the bucket.

17 **VII. 9<sup>th</sup> Circuit Case 20-35017 and Judge Mosman**

18 By bringing Defendant’s critiques of Judge Mosman into this discussion, plaintiff has  
19 repeated what he has strongly been warned to not do, which is to ask for a biased ruling from  
20 this court based on Timothy Rote’s Civil Rights case. He just cannot help himself. The court  
21 should take Zweizig’s petition as a desperate act to rehabilitate.

22 Plaintiff previously filed a Jones transcript (2001) and Kugler show cause order (2005),  
23 some 15 times in 9 cases asking for the courts in those cases to deny Rote due process as an act  
24 of solidarity with other Judges. Plaintiff does that wanting the court to overlook that he, in spite  
25 of his declaration to the contrary, is active as a cybercriminal, identity thief and perhaps even  
26

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 12

1 disseminator of child pornography. The solicitation of this bias is in large part what the blog  
2 critiques.

3 The Jones and Kugler documents were unrelated to the litigation in the cases in which  
4 they were filed. The Jones transcript and Kugler show cause were nonetheless filed by  
5 opposing counsel in cases 1:04-cv-2025 (USDC NJ 2005), ASP No. 050511-1 (Arbitration OR  
6 2006-2011), 3:11-CV-0906 (USDCOR 2011-2012), 3:14-CV-0406 (USDCOR, 2014-2018),  
7 3:15-CV-2401 (USDCOR 2015-2019), 16CV07564 (Clackamas OR, 2016-2018), 09CV1189  
8 (Arapahoe CO, 2009-2014), 18CV45257 (Clackamas OR, 2018), and 3:19-CV-00082  
9 (USDCOR 2019). And that's why the civil lawsuits were filed. There was no other way to stem  
10 the tide of this blatant abuse.

11 Just as importantly, the Jones Transcript and Kugler show cause were materially  
12 misrepresented by opposing counsel. Defendant Rote has widely published in the blog that  
13 Judge Robert Jones did the right thing when he resigned once Rote raised a conflict with a  
14 plaintiff post-trial. Judge Jones was angry with Rote, through him out of his Chambers and he  
15 was right to do so. Rote was also right to raise the issue, however uncomfortable it was for  
16 Judge Jones. Defendant has published that he has great respect and affection for Judge Jones  
17 and believes him to be one of the best Judges we've had here in Portland. Judge Jones and  
18 defendant have met several times since 2001 and remain friendly. Yes this goes back to 2001.

19 The Kugler show cause order is also very misleading. Defendant, through an  
20 investigator, caught Sandra Ware meeting with Kugler's law clerk while the Judge had the  
21 Zweizig case. On information and belief Ware passed onto the clerk the Jones transcript. The  
22 transcript has a header showing Ware received the transcript via facsimile to the law firm  
23 where she worked. Ware has not denied this. The clerk has not denied this. Judge Kugler has  
24 not denied this. Immediately after Ware met with the Clerk (who she knew from law school),  
25 Kugler sent the case between Zweizig and Rote back down to the New Jersey State Court.  
26 After that, defendant notified the court of the meeting between Ware and the Clerk. Kugler was

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 13

1 upset and ordered Rote to appear to show why he should not be held in contempt. Rote  
2 appeared with counsel to defend himself. The US Attorney's Office appeared and refused to  
3 pursue any contempt action against Rote for publishing to Judge Kugler after the court no  
4 longer had jurisdiction. As the US Attorney's office pointed out, this letter to Kugler was a first  
5 amendment communication and protected. Rote prevailed. Zweizig never informed any of  
6 these courts that Rote prevailed.

7 Defendant would have the court note that raising Judge Mosman is akin to raising the  
8 Jones and Kugler show cause.

9 Plaintiff, Christiansen, the Oregon State Bar PLF and now Albertazzi are again  
10 attempting to taint the deliberation of this court. When Christiansen did that in his first hearing  
11 with Judge Hernandez, the Judge told him to stop...that Judge Hernandez didn't care what  
12 happened in other cases.

13 On December 20, 2019 Judge Michael Mosman dismissed plaintiff Rote's Civil Rights  
14 complaint with prejudice and further ordered a pre-filing restraint requirement of the plaintiff,  
15 because he did not like the allegations against him. Judge Mosman is a defendant in that case  
16 because he ordered the trial tapes in case 3:15 destroyed after Rote issued a subpoena for the  
17 recordings. Judge Mosman was replaced as Chief Judge of the USDCOR on the same day,  
18 December 20, 2019, he dismissed the case.

19 Plaintiff's arguments with respect to Judge Mosman, or trying to draw any conclusions  
20 about Judge Mosman calling on the U.S. Marshals Service to intimidate defendant and his  
21 family, is well outside the scope of any reasonable attachment to their request for a gag order.  
22 The call for solidarity on behalf of Mosman is palpable and unconstitutional.

23 Defendant published his exchange with the U.S. Marshals Service because  
24 investigations into intervention by judicial actors continue by defendant. The FBI has been  
25 informed of the abuse by the U.S. Marshals Service and the matter is under investigation.

26  
RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 14

1           The Zweizig tactics have been widely reported in the blog. The court should treat  
2 Zweizig's effort to bring Judge Mosman into this case with the disdain it deserves.

3           Because of Zweizig's tactic herein, it is necessary to disclose that defendant's  
4 complaint against Judge Mosman has been referred to the judicial council of the 9<sup>th</sup> Circuit for  
5 disciplinary action. Absent Zweizig's disclosures in his petition, this disclosure would not have  
6 been necessary.

7           Zweizig is again the predator and compromised tactician.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 15



1 **CONCLUSION**

2 The gag order should not be granted. Plaintiff lacks standing to bring it on behalf of his  
3 legal counsel. Zweizig waived such an order more than five years ago when he believed the  
4 public dissemination of his criminal activity served his interests, but now with his admission,  
5 and that of former counsel, wants to cover it up. Plaintiff cannot satisfy the elements of even an  
6 extremely narrow order. Because the order seeks to suppress documents already disseminated  
7 in public forums and court records, the order will also not deliver the benefit sought by  
8 Plaintiff.

9 Finally, defendant Rote continues to write and publish articles on the explosion of child  
10 pornography and trafficking, articles critical of Oregon’s failure to criminally prosecute these  
11 crimes. The topic of pedophilia, child porn and the attorneys who aid and abet these predators  
12 and perpetrators is a topic of public interest. It is only out of the most unpredictable of  
13 circumstances that Zweizig admitted to both his perjury and dissemination of child porn.

14 Dated this 28<sup>th</sup> day of February, 2021

15  
16 /s/ Timothy Rote  
17 Timothy Rote, Pro Se  
18  
19  
20  
21  
22  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

## CERTIFICATE OF SERVICE

I hereby certify that I served the above on:

Albertazzi Law  
Attn: Anthony Albertazzi,  
296 SW Columbia St., Suite B  
Bend, Oregon 97702  
541.317.0231  
Counsel For Zweizig  
[a.albertazzi@albertazzilaw.com](mailto:a.albertazzi@albertazzilaw.com)

Via First Class Mail

Via Email

Via OECF Notification

DATED: February 28, 2021

/s/ Timothy Rote

**Timothy Rote**

*Pro Se*

RESPONSE IN OPPOSITION TO PLAINTIFF PETITION FOR GAG ORDER LIMITING FREE  
SPEECH HEARING SCHEDULED FOR 3/9/21 - 17

1 ALBERTAZZI LAW FIRM  
2 296 SW Columbia St. Ste. B  
3 Bend, OR 97702  
4 Telephone: (541) 317-0231

5 Anthony V. Albertazzi, OSB #960036  
6 E-mail: a.albertazzi@albertazzilaw.com  
7 Attorney for Plaintiff

8 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
9 FOR THE COUNTY OF CLACKAMAS

10 MAX ZWEIZIG, and individual,  
11 Plaintiff,

Case No. 19CV01547

PETITION FOR PRETRIAL ORDER

12 v.

13 TANYA ROTE and TIMOTHY ROTE, husband and  
14 wife; and NORTHWEST HOLDING, LLC, an Oregon  
15 limited liability company,

Defendants.

16 MOTION

17  
18 Plaintiff moves the Court for an order prohibiting the parties from posting on Twitter or  
19 other social media platforms regarding the following topics:

- 20 (a) association of Plaintiff, his past counsel, or his present counsel with pedophilia or child  
21 pornography; and  
22 (b) allegations of conspiracy(ies) to deprive Defendant(s) of due process of law or other legal  
23 rights by any or all of the following persons or entities:  
24 (i) Plaintiff,  
25 (ii) Plaintiff's past of present attorneys;  
26 (iii) the Professional Liability Fund; or  
27 (iv) the Oregon judiciary, its officers and employees.

Plaintiff requests that this order be made effective immediately and continue until a general judgment is entered in this case.

POINTS AND AUTHORITIES

1 Every judicial officer has the power to preserve and enforce order in judicial proceedings.  
2 ORS 1.240(a), ORS 1.210 [defining “judicial officer”]. Likewise, a judge has a duty to administer  
3 justice according to law and to require others to do so. This includes matters relating to impaneling  
4 of juries and the conduct of trials. ORS 1.025(2). The court’s duties and powers extend to  
5 contempt, which is defined for purposes relevant here as “[m]isconduct in the presence of the  
6 court that interferes with a court proceeding or with the administration of justice, or that impairs  
7 the respect due the court.” ORS 33.015. In addition, the Oregon Constitution provides that “In all  
8 civil cases the right of Trial by Jury shall remain inviolate.” OR CONST Art. I, § 17.

10 FACTUAL BACKGROUND

11 Defendant Timothy Rote has a long history of litigation with Plaintiff Max Zweizig, in  
12 both State and Federal courts. In misguided attempts to gain advantage, Mr. Rote has made false  
13 accusations against Mr. Zweizig and his attorneys online. Likewise, he has spun and promulgated  
14 wild conspiracy theories about the judiciary system, the Oregon State Bar, and others involved in  
15 administering justice.  
16

17 ARGUMENT

18 As set forth in the declaration of Max Zweizig, Mr. Rote’s conduct has been egregious  
19 and, because it is being done online, has the potential to taint the jury pool. Mr. Rote’s scurrilous  
20 accusations and conspiracy theories have already interfered with the administration of justice in  
21 this case. If he is allowed to continue with this conduct, Mr. Zweizig’s right to a fair jury and for  
22 orderly administration of justice will be impaired. For these reasons, the motion should be granted.  
23

24  
25 Dated this 18th day of <sup>February</sup>~~January~~, 2021.

26 DocuSigned by:  
  
A1D7D8C69F2F46C...  
27 Anthony Albertazzi, OSB #960036  
Attorney for Plaintiff

1  
2  
3 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
4 FOR THE COUNTY OF CLACKAMAS  
5

6 MAX ZWEIZIG, an individual,  
7 Plaintiff,

8 v.

9 TANYA ROTE and TIMOTHY ROTE,  
10 husband and wife; and NORTHWEST  
11 HOLDING, LLC, an Oregon limited liability  
12 company,

13 Defendants.

Case No. 19CV01547

**PLAINTIFF'S MOTION FOR  
TEMPORARY RESTRAINING ORDER**

**No Oral Argument Requested**

14 **Motion**

15 Pursuant to ORCP 79, Plaintiff respectfully moves the Court for a Temporary Restraining  
16 Order immediately enjoining Timothy Rote from publishing, disseminating, or otherwise making  
17 any statements respecting Ward Greene, Williams Kastner, the nonprofit organization SAGE or  
18 any of the Williams Kastner attorneys and staff working on this file. Additionally, Plaintiff  
19 respectfully requests that such injunction remain in force during the pendency of this matter and  
20 any appeal therefrom. Absent injunctive relief, Plaintiff will suffer immediate and irreparable  
21 injury, loss, or damage in the form of interference with Plaintiff's legal rights to prosecute this  
22 matter in accordance with Oregon law. The injury to Plaintiff is irreparable because such  
23 interference materially compromises the fair and lawful prosecution of this matter.

24 **Factual Background**

25 This case has gone on longer than needed. Below is a short summary of the litigation  
26

1 history of this case.

2 **January 9, 2019:** This fraudulent transfer case was filed. Decl. Greene, ¶ 4.

3 **Spring 2019:** Subsequently, Timothy and Tanya Rote subsequently  
4 filed various claims, counterclaims, third party claims and  
5 fourth party claims against Max Zweizig, Joel  
6 Christiansen, Taryn Basauri, and Sandra Ware, and  
7 Williams Kastner. *Id.* at ¶ 6.

8 **April 3, 2020:** Judgment was entered by the Honorable Judge Ann  
9 Lininger, and all of Timothy Rote’s and Tanya Rote’s  
10 claims were dismissed. Specifically, on April 3, 2020,  
11 judgment was entered against “all of Timothy Rote’s and  
12 Tanya Rote’s claims, counterclaims, third-party claims  
13 and fourth party claims against Max Zweizig, Joel  
14 Christiansen, Taryn Basauri, and Sandra Ware, and  
15 Williams Kastner are dismissed, and judgment is hereby  
16 entered against Timothy and Tanya Rote.” *Id.* at ¶ 8.

17 **April 17, 2020:** Plaintiff’s First Request for Production of Documents to  
18 Defendants Timothy and Tonya Rote was served on  
19 Defendants. *Id.* at ¶ 9.

20 As a result of the dismissal of the Rotes’ claims, discovery is now centered primarily on  
21 determining whether any fraudulent transfer activity has occurred in connection with the real  
22 property located at 4 Cypress Ln., Sunriver, Oregon. *Id.* at ¶ 9. On April 17, 2020, I served  
23 Plaintiff’s First Request for Production of Documents to Defendants Timothy and Tonya Rote. In  
24 total, there are only 10 discovery requests, which are limited in scope and only seek documents  
25 in connection with the real property located at 4 Cypress Ln., Sunriver, Oregon. *Id.* at ¶ 9. And  
26 despite this reasonable request, Defendant Timothy Rote refuses to provide discovery. *Id.* at ¶¶  
11-12.

To address these issues, Defendant Timothy Rote, instead of engaging in professional  
discourse and litigating this matter according the Oregon Rules of Civil Procedure, chooses to

1 make provocative and slanderous statements. For example, in discussing the status of Mr. Rote’s  
2 discovery response, Mr. Rote made the following statement:

3  
4 **From:** tim@rote-enterprises.com  
**Sent:** Saturday, May 23, 2020 3:31:49 PM (UTC-08:00) Pacific Time (US & Canada)  
**To:** Greene, Ward  
**Subject:** RE: Interrogatories and discovery

5 Actually I won both times.

6 Oh we definitely have to confer.

7 Tell me. How many children have you raped so far...given your age?  
8

9 *Id.* at ¶ 10. This is not the first time that Timothy Rote has made unfounded, slanderous  
10 allegations. Decl. Greene, ¶¶ 5-6. For example, in his prior unsuccessful motion to disqualify my  
11 firm, Timothy Rote made untrue statements about a non-profit organization I founded. *Id.*  
12 Similar matters are also set forth in my declaration. Decl. Greene, ¶¶ 1-12.

13  
14 **Points and Authorities**

15 A court may allow a temporary restraining order or preliminary injunction “at any time  
16 after commencement of an action and before judgment.” ORCP 79 A(2). The issuance of an  
17 injunction lies within the sound discretion of the trial court. *Wilson v. Parent*, 228 Or 354, 369,  
18 365 P2d 72 (1961). Injunctive relief “depends upon broad principles of equity and may, in the  
19 discretion of the court, be granted or denied in accordance with the justice and equity of the case.”  
20 *Hickman v. Six Dimension Custom Homes, Inc.*, 273 Or 894, 898, 543 P2d 1043 (1975).  
21

22 Subject to the requirements of ORCP 82 A(1) (security requirements) <sup>1</sup>, a temporary  
23 restraining order or a preliminary injunction may be allowed when it appears that:  
24

25 <sup>1</sup> ORCP 82 sets forth security requirements that must be met when certain types of injunctive relief are requested. No  
26 security is required, however, if the relief requested in a restraining order or preliminary injunction is to  
“protect a person from violent or threatening behavior” or to “prevent unlawful conduct when the effect of the  
injunction is to restrict the enjoined party to available judicial remedies.” ORCP 82 A(1)(b).

- 1 (1) “[A] party is entitled to relief demanded in a pleading, and such relief . . . consists of  
2 restraining the commission or continuance of some act, the commission or continuance of  
3 which during the litigation would produce injury to the party seeking the relief”; or  
4  
5 (2) “[T]he party against whom a judgment is sought is doing or threatens, or is about to do, or  
6 is procuring or suffering to be done, some act in violation of the rights of a party seeking  
7 judgment.”

8 ORCP 79 A(1).

9 An injunction “is a preventive remedy” and “is designed in general to stay the lawless hand  
10 before it strikes the blow.” *Wiegand v. West*, 73 Or 249, 254, 144 P 481 (1914). The purpose of a  
11 temporary restraining order or preliminary injunction is to preserve the status quo during the  
12 pendency of the case by preventing material injury to rights asserted in the litigation. *State ex rel.*  
13 *McKinley Automotive, Inc. v. Oldham*, 283 Or 511, 515, 584 P2d 741 (1978).  
14

15  
16 **Argument**

17 Plaintiff simply seeks to prosecute his action in accordance with Oregon law and the  
18 Oregon Rules of Civil Procedure without unprofessional discourse, name-calling, or slanderous  
19 accusations. To meet this end, Plaintiff respectfully brings this motion to enjoin defendant  
20 Timothy Rote from engaging in such misconduct during the pendency of this matter. Most  
21 recently, in response to Plaintiff’s efforts to obtain discovery, defendant Timothy Rote refused to  
22 address the issue at hand and instead made unfounded criminal sex abuse allegations, Decl.  
23 Greene ¶¶ 10-12. With trial scheduled in January 2021, it is paramount that such conduct cease  
24 immediately so that Plaintiff’s counsel can confer with Defendants in a professional manner on  
25 litigation issues and so that Plaintiff can prepare his case. Although discovery issues remain  
26 outstanding, this is not a discovery motion, it is a motion seeking injunctive relief so that this



1 case can proceed in a civil and professional manner. Thus, Plaintiff respectfully requests the  
2 Court's assistance in furthering these efforts by granting the requested injunctive relief.

3  
4 **Relief Requested**

5 Based on the record, including the attached declaration of Ward Greene, Plaintiff  
6 respectfully requests that the Court order that Timothy Rote be immediately restrained from  
7 publishing, disseminating or otherwise making any statements respecting Ward Greene,  
8 Williams Kastner, the nonprofit organization SAGE or any of the Williams Kastner attorneys  
9 and staff working on this file and that the Court find as follows:  
10

11 (1) If defendant Timothy Rote is not immediately restrained from publishing, disseminating  
12 or otherwise making any statements respecting Ward Greene, Williams Kastner, the  
13 nonprofit SAGE organization or any of the attorneys and staff working on this file,  
14 Plaintiff will suffer immediate and irreparable injury, loss, or damage in the form of  
15 interference with Plaintiff's legal rights to prosecute this matter in accordance with  
16 Oregon law. The injury to Plaintiff is irreparable because such interference materially  
17 compromises the fair and lawful prosecution of this matter.  
18

19 (2) Plaintiff has no adequate remedy at law.

20 (3) Plaintiff made reasonable efforts to notify defendants of the motion, as follows:

21 Defendants have been provided a copy of this motion in the manner stated on the  
22 accompanying Certificate of Service  
23  
24  
25  
26

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DATED this 10<sup>th</sup> day of July, 2020.

WILLIAMS KASTNER

By s/ S. Ward Greene  
S. Ward Greene, OSB#774131  
Phone: (503) 228-7967  
Fax: (503) 222-7261  
Email: wgreene@williamskastner.com

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing PLAINTIFF’S MOTION FOR TEMPORARY RESTRAINING ORDER on the following attorneys by the method indicated below on the 10<sup>th</sup> day of July, 2020:

Timothy Rote  
24790 SW Big Fir Rd.  
West Linn, OR 97068  
Email: [tim@rote-enterprises.com](mailto:tim@rote-enterprises.com)

- Via First Class Mail
- Via Federal Express
- Via Facsimile
- Via Hand-Delivery
- Via E-Mail
- Via Odyssey eFile & Serve™

*Pro Se*

Tanya Rote  
24790 SW Big Fir Rd.  
West Linn, OR 97068  
Email: [tanyarote5@gmail.com](mailto:tanyarote5@gmail.com)

- Via First Class Mail
- Via Federal Express
- Via Facsimile
- Via Hand-Delivery
- Via E-Mail
- Via Odyssey eFile & Serve™

*Pro Se*

Northwest Holding, LLC  
c/o Timothy Rote  
24790 SW Big Fir Rd.  
West Linn, OR 97068

- Via First Class Mail
- Via Federal Express
- Via Facsimile
- Via Hand-Delivery
- Via E-Mail
- Via Odyssey eFile & Serve™

*Pro Se*

WILLIAMS KASTNER


By /s/ S. Ward Greene  
S. Ward Greene, OSB #774131

*Attorneys for Plaintiff*

**Bend Police Dept.** Follow our emergency messages on [RSS](#) [New information alert on;](#) [Click to turn off](#)

**Emergency Messages as of 7:53 am, Fri. Sep. 9**

*No information currently posted.*

Select Language 

Powered by  **Google Translate**

**News Release**

## Bend Police arrest multiple people during four-month human trafficking project (Photo) - 09/08/22



Press Release

**Date:** September 8, 2022

**Incident:** Human trafficking project from May 19 through August 23 results in multiple arrests

**Arrested:**

- Mathieu Ackah, 46-year-old Oxnard, Calif., resident: luring a minor for sexual conduct
- Christopher Arroway, 30-year-old Bend resident: purchasing sex with a minor, patronizing a prostitute, attempted rape III (arrest #2)
- Gage Bergeron, 31-year-old Bend resident: online sexual corruption of a child I, luring a minor for sexual conduct, attempted rape III, delivery of a controlled substance to a minor (marijuana)
- David Burnham, 73-year-old Bend resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, purchasing sex with a minor, attempted rape III
- Forrest Dodge, 28-year-old Bend resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, attempted sodomy III, purchasing sex with a minor
- Cody Fortune, 32-year-old Bend resident: luring a minor for sexual conduct, patronizing a prostitute, attempted rape III
- Ryan Frye, 23-year-old Bend resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, purchasing sex with a minor
- Rene Hernandez, 28-year-old Bend resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, attempted sodomy III, purchasing sex with a minor, parole violation, endangering the welfare of a minor
- Joshua Huddleston, 45-year-old Bend resident: attempted rape III, attempted delivery of a controlled substance to a minor (marijuana)

- James Kapsalis, 26-year-old Redmond resident: online sexual corruption of a child I, luring a minor for sexual conduct, attempted rape III, delivery of marijuana to a minor
- Miles Leffler, 40-year-old Sisters resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, purchasing sex with a minor
- Devin Linker, 34-year-old Redmond resident: luring a minor for sexual conduct, online sexual corruption of a child I, purchasing sex with a minor, attempted rape III, patronizing a prostitute
- Ian McCord, 38-year-old Prineville resident: online sexual corruption of a child I, luring a minor for sexual conduct, attempted sodomy III, attempted rape III
- Jorge Beltran Mendoza, 29-year-old Redmond resident: luring a minor for sexual conduct, online sexual corruption of a child I, purchasing sex with a minor, attempted sodomy III, patronizing a prostitute
- Waynerd Montgomery, 47-year-old Redmond resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, purchasing sex with a minor, attempted rape III, escape III, criminal mischief III, resisting arrest
- Jacob Schneider, 36-year-old Bend resident: luring a minor for sexual conduct, online sexual corruption of a child I, purchasing sex with a minor, attempted rape III, patronizing a prostitute
- Connor Strupith, 22-year-old Redmond resident: online sexual corruption of a child I, luring a minor for sexual conduct, attempted furnishing liquor to a minor
- Isaac Testerman, 41-year-old Bend resident: purchasing sex with a minor, patronizing a prostitute, attempted rape III
- Eduardo Vega-Ruiz, 22-year-old Madras resident: online sexual corruption of a child I, patronizing a prostitute, attempted sodomy III, purchasing sex with a minor, attempted rape III, escape III, attempt to elude (felony), attempted assault on a public safety officer, reckless driving
- Dylan Zook, 20-year-old La Pine resident: online sexual corruption of a child I, luring a minor for sexual conduct, patronizing a prostitute, attempted sodomy III, purchasing sex with a minor

Over several months, Bend Police conducted a project dedicated to combating human trafficking, sex work and luring of minors, with an emphasis on identifying and arresting people who are attempting to meet underage children for sex. Over the course of this project, 20 adults were arrested for various crimes associated with attempting to lure and engage in sexual acts with minors.

Bend Police officers posted ads online, then posed as minors in both text and phone conversations. Over the course of the project, people at more than 200 distinct phone numbers answered officers' ads. Many of those people, upon learning they were apparently communicating with a minor, immediately cut off communication. However, of the 200-plus people who answered Bend Police's online ads and learned of a minor child being trafficked for sex, not one subsequently shared that information with law enforcement.

Police clearly identified themselves as underage. Those arrested then agreed to meet, sometimes bringing drugs and alcohol to the agreed-upon location. Upon arrival, they were taken into custody on the above charges and lodged at the Deschutes County Jail.

During the course of the project, multiple people came forward and identified themselves as victims of sexual abuse at the hands of these suspects. Bend Police are asking the public to contact nonemergency dispatch at 541-693-6911 if you or someone you know is the victim of any of these suspects.

Bend Police want our community to know we are proactively investigating these crimes. We will continue to conduct projects like this in the future. This outreach will also let potential predators know our community is vigilant. Our goal is to identify traffickers and prevent this activity from taking place in our community. During the operation, Bend Police saw a significant decrease for demand in sex work in our community, and by extension, a decrease in sex workers operating in our community.

Bend Police would also like to remind parents, guardians and caregivers to stay involved in their children's digital world, know the apps they are using and implement parental controls when possible. Children should talk with a trusted adult so they understand online risks, only chat with people they know, and make sure their online accounts are private. There are people who target vulnerable youth via online apps and other internet sources, and we have to work together to keep our children safe.

During the course of this investigation, Bend Police also arrested eight people who attempted to patronize adult sex workers. They were cited and released. Patronizing a prostitute is a Class A misdemeanor.

- Benjamin Adams, 43-year-old Las Vegas, Nev., resident: patronizing a prostitute
- Christopher Arroway, 30-year-old Bend resident: patronizing a prostitute (arrest #1)
- Dennis Dewitt, 71-year-old Bend resident: patronizing a prostitute
- Zachary Douglas, 33-year-old Bend resident: patronizing a prostitute
- Caleb Gump, 24-year-old Bend resident: patronizing a prostitute
- Thomas Myers, 38-year-old Bend resident: patronizing a prostitute
- Tenzin Norbu Sherpa, 37-year-old Bend resident: patronizing a prostitute
- Casey Vitale, 36-year-old Lebanon resident: patronizing a prostitute

**Attached Media Files:** Press Release

---

[View more news releases from Bend Police Dept..](#)

WS

ON AIR NOW

Read All 



# Bend Music Teacher Arrested For Child Porn

Posted About A Week Ago by KBND News

BEND, OR -- A Bend teacher was arrested Thursday morning for possessing explicit images of children. On Sunday, Bend Police

a report from the Department of Justice's Internet Crimes Against Children ce indicating a video containing child sexual abuse had been uploaded and Erik Ekstrom's digital devices. Ekstrom is a 35-year-old Bend resident and teacher in Bend-La Pine Schools. He's also listed as the Music Director for Arrian Universalist Fellowship of Central Oregon.

Investigation revealed additional tips from the task force connected to s digital devices.

Thursday, police executed a search warrant in the 1200 block of NE Viking n Bend. Investigators seized multiple digital devices and Ekstrom was on suspicion of two counts of first-degree encouraging child sexual

Investigation is ongoing, and anyone with information is asked to contact Det. onnell at non-emergency dispatch: 541-693-6911.

Read All



**KBND Mo News**

6:00am - 9:00am

KBND Morn

[My Profile](#)



TRAFFIC



- Click the link above to get the latest road conditions.

KBND ON FACEBOOK



KBND 1,733 likes

Like Page



KBND about an hour ago



NATION

# Man gets life plus 300 years in prison for making child porn

Associated Press | SEPTEMBER 14, 2022 — 6:07PM | [▶ Listen with Speechify](#)

EL PASO, Texas — A Texas Panhandle man was sentenced Wednesday to life plus 300 years in federal prison after he pleaded guilty to aggravated sexual assault of a child and 10 counts of producing child pornography, including filming himself sexually assaulting children, officials said.

Johnny George Gonzalez, 35, admitted to filming himself sexually abusing at least six children, ranging in age from 4 to 10 years old, beginning in 2014. He then shared the material on the internet, according to a statement by the U.S. Attorney's Office for the Western District of Texas.

Gonzalez also admitted to secretly making sexually suggestive videos of children at stores across El Paso.

U.S. District Judge Frank Montalvo sentenced Gonzalez to life imprisonment and added 300 years to the sentence, to be served consecutively with the life sentence.

Canadian authorities detected his activities late last summer and alerted the FBI, which executed a search warrant at Gonzalez's home in El Paso. Agents said they found more than 65 electronic devices, including laptop computers, desktop computers, computer hard drives, cellphones, thumb drives and tablets.

At least 13 different series of child sexual abuse material Gonzalez produced, as well as about 1 million images and videos of child pornography and erotica, have been found so far on the devices, prosecutors said.

"For eight years, Gonzalez documented his depraved sexual abuse through photographs and videos, which he then shared with pedophiles around the world," said U.S. Attorney Ashley C. Hoff. "The heinous nature of his conduct will digitally live forever and continue to victimize these children. While this sentence will not repair their pain and damage, it will ensure he will never again have the opportunity to prey upon children."



ADVERTISEMENT

**View Our Available Inventory Today!**

**Beaverton Toyota**  
Beaverton, OR 97005  
(503) 850-0488

[Learn more](#)

Gonzalez has remained in federal custody since September 2021 and entered his guilty pleas on May 25.

The sentencing came almost a week after a Dallas-area man was sentenced to 60 years in federal prison after admitting to filming himself raping a 7-year-old girl. Mark Allen Miller, 35, of Rowlett, was arrested on Jan. 12 after the girl's father, with whom Miller was staying, said he walked in on Miller raping the girl, who was 9 years old at the time. Miller admitted to police that he had been molesting the girl for years, prosecutors said.



**JOHNNY GEORGE GONZALEZ,**

did knowingly cross a State line with intent to engage in a sexual act, to wit, the intentional touching, not through the clothing, of the genitalia of another person who had not attained the age of sixteen (16) years with an intent to abuse, humiliate, harass, degrade, and arouse and gratify the sexual desire of any person, with Minor A, in violation of Title 18, United States Code, Section 2241(c).

**COUNT TWO**

**(18 U.S.C. §§ 2251(a) & (e) – Production of Child Pornography)**

Between on or about July 31, 2021, and continuing through and including on or about August 4, 2021, in the Western District of Texas, the District of New Mexico, and the Northern District of Texas, Defendant,

**JOHNNY GEORGE GONZALEZ,**

did employ, use, persuade, induce, entice, and coerce any minor, to wit, Minor A, to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct, using materials that have been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer, and the visual depiction was transported using any means and facility of interstate and foreign commerce, and the visual depiction was transported in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Sections 2251(a) and (e).

**COUNT THREE**

**(18 U.S.C. § 2423(b)) – Travel With Intent to Engage in Illicit Sexual Conduct)**

On or about July 31, 2021, in the Western District of Texas, the District of New Mexico, and the Northern District of Texas, Defendant,

**JOHNNY GEORGE GONZALEZ,**

did travel in interstate and foreign commerce for the purpose of engaging in illicit sexual conduct,

as defined in Title 18, United States Code, Section 2423(f), with another person, in violation of Title 18 United States Code, Section 2423(b).

**COUNT FOUR**

**(18 U.S.C. §§ 2251(d)(1)(A) and (e) – Advertising of a Visual Depiction Involving the Sexual Exploitation of a Minor)**

Between on or about April 1, 2021, and continuing through and including on or about June 4, 2021, in the Western District of Texas, and elsewhere, Defendant,

**JOHNNY GEORGE GONZALEZ,**

knowingly made, printed, and published a notice and advertisement offering to exchange, display, and distribute one or more visual depictions, the production of which involved the use of a minor engaging in sexually explicit conduct and which visual depictions were of such conduct, knowing and having reason to know that such notice and advertisement would be transported using any means and facility of interstate and foreign commerce and in and affecting such commerce by any means including by computer, and where such notice and advertisement was actually transported using any means and facility of interstate and foreign commerce and in or affecting such commerce by any means including by computer, in violation of Title 18, United States Code, Sections 2251(d)(1)(A) and (e).

**COUNT FIVE**

**(18 U.S.C. §§ 2252(a)(2) and (b)(1) – Receipt and Distribution of a Visual Depiction Involving the Sexual Exploitation of a Minor)**

Between on or about May 1, 2021, and continuing through and including on or about August 3, 2021, in the Western District of Texas, and elsewhere, Defendant,

**JOHNNY GEORGE GONZALEZ,**

did knowingly receive and distribute any visual depiction that had been mailed and transported in interstate and foreign commerce, and which contains materials which had been so transported, by

any means including by computer, the production of which involved the use of a minor engaging in sexually explicit conduct and which visual depiction was of such conduct, all in violation of Title 18, United States Code, Sections 2252(a)(2) and (b)(1).

**COUNT SIX**

**18 U.S.C. §§ 2252(a)(4)(A),(B), (b)(2) and 7  
(Possession of a Visual Depiction Involving the Sexual Exploitation of a Minor -  
Prepubescent/Under 12 years of Age)**

On or about September 9, 2021, in the Western District of Texas, Defendant,

**JOHNNY GEORGE GONZALEZ,**

did knowingly possess matter, which contained any visual depiction, the production of which involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256(2), which visual depictions had been produced using material transported in interstate and foreign commerce, to wit: by computer, and were produced using materials which had been shipped and transported in interstate and foreign commerce by any means, including by computer, and the production of which involved the use of a minor engaging in sexually explicit conduct, said minor being prepubescent and having not attained the age of twelve (12) years, and such visual depictions were of such conduct, in violation of Title 18, United States Code, Sections 2252(a)(3)(A), (B), and (b)(2).

**NOTICE OF GOVERNMENT'S DEMAND FOR FORFEITURE**

[See Fed. R. Crim. P. 32.2]

**I.**

**Sexual Exploitation of Children Violations and Forfeiture Statutes**

[Title 18 U.S.C. §§ 2241(c), 2251(a),(e) & (d)(1)(A), 2423(b), 2252(a)(2), (b)(1), (a)(4)(A), (B), and (b)(2), subject to criminal forfeiture pursuant to Title 18 U.S.C. §§ 2428 and 2253(a)(1), (2), and (3)]

As a result of the criminal violations set forth in Counts One through Six, the United States gives notice of its intent to seek the forfeiture of certain property from Defendant **JOHNNY GEORGE GONZALEZ** upon conviction and pursuant to Fed. R. Crim. P. 32.2 and Title 18 U.S.C. §§ 2428, and 2253(a)(1), (2), and (3), which state:

**18 U.S.C. § 2428. Forfeitures**

\* \* \*

(a) **In general.**- The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State Law, that such person shall forfeit to the United States-

- (1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and
- (2) any property real or personal, constituting or derived from any proceeds that such person obtained, directly or indirectly, as a result of such violation.

**Title 18 U.S.C. § 2253. Criminal Forfeiture**

\* \* \*

(a) **Property subject to criminal forfeiture.**- A person who is convicted of an offense under this chapter involving a visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter or who is convicted of an offense under section 2251B of this chapter, or who is convicted of an offense under chapter 109A, shall forfeit to the United States such person's interest in-


- (1) any visual depiction described in section 2251, 2251A, 2252, 2252A, or 2260 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;
- (2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and
- (3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

This Notice of Demand for Forfeiture includes but is not limited to the properties described in Paragraph II.

**II.**  
**Properties**

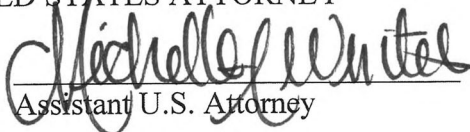
1. Any and all other property and/or accessories involved in or used in the commission of the criminal offense; and
2. Any and all other property involving any visual depiction described in section 2251, 2251A, or 2252, 2252A, 2252B, or 2260.

A TRUE BILL.

  
FOREPERSON OF THE GRAND JURY

ASHLEY C. HOFF  
UNITED STATES ATTORNEY

BY:

  
Assistant U.S. Attorney

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

APR 28 2021

By  
Deputy Clerk

UNITED STATES OF AMERICA	)	
	)	Case No. 5:21-CR-50014-001
	)	
	)	
v.	)	18 U.S.C. § 2252A(a)(2)
	)	18 U.S.C. § 2252A(b)(1)
	)	18 U.S.C. § 2252A(a)(5)(B)
	)	18 U.S.C. § 2252A(b)(2)
	)	
	)	
JOSHUA JAMES DUGGAR	)	

**INDICTMENT**

The Grand Jury Charges:

**COUNT ONE**

(Receipt of Child Pornography)

Between on or about May 14, 2019, and on or about May 16, 2019, in the Western District of Arkansas, Fayetteville Division, the Defendant, **JOSHUA JAMES DUGGAR**, knowingly received child pornography, as that term is defined by 18 United States Code Section 2256(8)(B), using any means and facility of interstate and foreign commerce and that had been mailed, and had been shipped and transported in and affecting interstate and foreign commerce by any means, including computer, and attempted to do so.

All in violation of Title 18, United States Code, Sections 2252A(a)(2) and (b)(1).

**COUNT TWO**

(Possession of Child Pornography)

Between on or about May 14, 2019, and on or about May 16, 2019, in the Western District



of Arkansas, Fayetteville Division, the Defendant, **JOSHUA JAMES DUGGAR**, knowingly possessed material that contained images of child pornography, as that term is defined in Title 18, United States Code, Section 2256(8)(B), including images of minors under the age of 12, that had been mailed, and shipped and transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and that was produced using materials that had been mailed, and shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and attempted to do so.

All in violation of Title 18, United States Code, Sections 2252A(a)(5)(B) and (b)(2).

#### FORFEITURE ALLEGATION

The Grand Jury re-alleges and incorporates by reference herein all Counts of this Indictment.

Upon conviction of any Count of this Indictment, the defendant shall forfeit to the United States pursuant to 18 United States Code, Section 2253 the defendant's interest in:

1. any visual depiction described in 18 United States Code, Sections 2251, 2251A, or 2252, 2252A, 2252B, or 2260, or any book, magazine, periodical, film, videotape, or other matter, which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of the offenses in the Indictment;
2. any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from the offenses in the Indictment; and
3. any property, real or personal, **including any and all computer equipment**, used or intended to be used to commit or to promote the commission of the offenses in the

Indictment, or any property traceable to such property, including, but not limited to computer equipment used in the commission of the offenses in the Indictment.

If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18 United States Code, Section 2253(b), incorporating by reference Title 21 United States Code, Section 853 to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

A True Bill.


/s/Grand Jury Foreperson  
Foreperson

DAVID CLAY FOWLKES  
ACTING UNITED STATES ATTORNEY

By: Carly Marshall  
Carly Marshall  
Assistant U. S. Attorney  
Arkansas Bar No. 2012173  
414 Parker Avenue  
Fort Smith, AR 72901  
Telephone: 479-783-5125  
E-mail: [carly.marshall@usdoj.gov](mailto:carly.marshall@usdoj.gov)

Dustin Roberts  
Dustin Roberts  
Assistant U. S. Attorney  
Arkansas Bar No. 2005185  
414 Parker Avenue

Fort Smith, AR 72901  
Telephone: 479-783-5125  
E-mail: [dustin.roberts@usdoj.gov](mailto:dustin.roberts@usdoj.gov)

*for:*   
William G. Clayman  
Trial Attorney  
Child Exploitation and Obscenity Section  
U.S. Department of Justice  
D.C. Bar No. 1552464  
1310 New York Avenue NW  
Washington, D.C. 20005  
Telephone: 202-514-5780  
Email: [william.clayman@usdoj.gov](mailto:william.clayman@usdoj.gov)

## Examination of 60 GB Hard Drive

I am the Director of IT and Senior Forensic Consultant at In2itive Technologies in Portland, Oregon. In2itive Technologies is a company that specializes in Computer Forensics and Electronic Discovery. I have 7 years experience in the computer forensic field, and have handled numerous cases ranging from simple data recovery to investigations concerning litigation in billion dollar lawsuits, involving both civil and criminal investigations. My training and certifications include the following: EnCase Certified Examiner (EnCE); EnCase Intermediate Analysis and Reporting; EnCase Advanced Analysis and Reporting; AccessData Forensic ToolKit BootCamp; AccessData Forensic ToolKit Windows Forensics; CompTIA A+ Computer Technician (CompTIA A+); Microsoft Certified Systems Engineer (MSCE); Microsoft Certified Systems Administrator (MCSA); and Sun Java Certified Programmer (SJP).

I was requested to perform a forensic examination of a 60 GB hard drive to ascertain the email usage pattern of Max Zweizig. This 60 GB hard drive is reported to have been used by Max Zweizig as a replacement hard drive for a 120 GB hard drive that is reported to have failed in May of 2003. I used the EnCase forensic software to create a forensic image of the 60 GB hard drive on April 10, 2009, using a hardware write blocker, to prevent any changes of data to the hard drive.

The examination of the 60 GB hard drive included both searching active email files and searching the Unallocated Space for any email fragments to provide a pattern of Max Zweizig's usage of the 60 GB hard drive for his email traffic. This search did not reveal any email fragments that could be connected to Max Zweizig having used the 60 GB hard drive as his email computer.

Additionally, the 60 GB hard drive was analyzed to determine if there were any records of deleted email container files, namely Outlook PST files or Outlook Express DBX files used by Max Zweizig. No records were found that could have been used by Max Zweizig prior to his returning the computer to NorthWest Direct. The oldest email container that could be identified and possibly recovered from the 60 GB hard drive was created on November 13, 2003. See 60 GB Hard Drive Exhibit 1.

It is my conclusion that there is no indication in Allocated or Unallocated spaces that the 60 GB hard drive was used by Max Zweizig for sending and receiving emails.

On May 20, 2010, I received a hard drive containing a forensic image of the 60 GB hard drive from Steve Williams. I was informed that this image had been previously thought destroyed but an intensive search for the drive containing the image was conducted and the image was subsequently discovered. Being cognizant of the uncertain history of the older 60 GB drive image, I approached the older image with skepticism until able to show if it were the same drive and it was still a viable image.

As background for my conclusions regarding the older image, the EnCase software developed by Guidance Software is the leading forensic software in use by corporations, government and law enforcement and is accepted by the judicial system. EnCase is used to create forensic images and allow

investigation of those forensic images as if the actual hard drive or media were being accessed. The creation of the forensic image by EnCase is an exact bit by bit mirror image of the hard drive or media that also allows access to all areas of the hard drive or media.

During the creation of a forensic image by EnCase, two different types of verification events take place. The first verification process is a CRC (Cyclical Redundancy Check) that is performed, by default, on every 64 sectors of the hard drive. The CRC is a numerical value (hash) of the contents of each 64 sector block and can have over 4 billion different values. During any subsequent validation process, the CRC is re-calculated and compared to the original CRC value to ensure the contents of that particular 64 sector block has not changed. If during the validation process a CRC value deviates from the original CRC value assigned for that 64 sector block, an error message is displayed by EnCase identifying the particular 64 sector block that is affected.

The second verification process is a MD5 (Message Digest 5) hash value of the entire contents of the image generated. As the EnCase image of the hard drive is a bit by bit mirror image of the hard drive, the MD5 is in essence, a hash of the entire original media. This can be attested to by the fact that if two images of the same hard drive are created, and no changes occurred to the hard drive between the two imaging processes, the MD5 hash value will be exactly the same for both images. This would also hold true for the CRC values generated during the imaging processes. For perspective, the MD5 hash is generated across the entire hard drive and the number of possible values is  $2^{128}$ , resulting in 340 billion billion billion (34 undecillion) possible variations.

The importance of the CRC and MD5 values contained within the verification process becomes paramount during an investigation when multiple people or even multiple sites need access to the forensic images. Because the EnCase image is encapsulated into its own proprietary file format, the image can be transported, copied and even transmitted over the Internet without affecting the integrity of the forensic image. To verify the integrity of the forensic image, a validation process is run which verifies each CRC and the MD5 hash. If any values do not match the original CRC or MD5 value, an error message is generated informing the forensic specialist that the integrity of the image has been compromised.

The encapsulation of the forensic image into a proprietary file format prevents the intermingling of data contained on a hard drive where the image is being created. While it is good forensic practice to always use a clean hard drive that has been "scrubbed" of all previous data, use of an "unscrubbed", or "dirty" hard drive will have no affect on the EnCase forensic image created. By isolating the forensic image in its own format, any underlying data that may exist on the hard drive where the forensic image is being created is prevented from making any changes or affecting the forensic images created. This can again be verified by the creation of two images from the same hard drive. If one is created to a "dirty" hard drive, it will have the same CRC and MD5 hash values as the exact same hard drive imaged to a "clean" hard drive. This encapsulation feature is utilized by every law enforcement forensic laboratory that must allow access to forensic images by multiple specialists involved in investigations involving the same forensic image. The forensic image will be placed on a forensic server that cannot be "scrubbed" each

time a forensic image is placed on the server, and the image shared out to those that need access. In addition, multiple forensic images from multiple unrelated cases will be stored on the same forensic server and the encapsulation feature prevents one image from affecting another.

When I received the older 60 GB forensic image, my first action was to perform the verification process to check that the image was a valid image and had not been corrupted. This process finished with no errors generated, indicating that the image was complete and uncorrupted from its original creation.

My next actions were to attempt to verify that the older image was actually a forensic image of the same hard drive that I had created an image of on April 10, 2009. This process involved four items of comparison,

1. Both hard drive images contained the exact same number of sectors for the volume created. The number of sectors is set at the time a volume is created.
2. Both hard drive images contained the exact same number of clusters for the volume created. The number of clusters is set at the time a volume is created.
3. Both hard drive images contained Windows system files indicating that both hard drives were formatted at the exact same time, 5/12/03 at 8:34:54 AM. This time is set at the time a volume is formatted.
4. Finally, the electronic serial number from both forensic images is exactly the same, 62D40ABD40A9487. This serial number is an electronic serial number that is unique to every hard drive. The hard drive serial number is recorded during the imaging process and as such, is stored as part of the forensic image. Any attempt to change the electronic serial number would result in a verification error being generated during the verification process. No errors were generated during the verification process I performed.

Based on the above four facts, it is conclusive that the two images that I am now in possession of are valid images of the same hard drive taken at two different times.

Creating a forensic image of a hard drive is essentially a snapshot in time, in that what is imaged is the data that is present on the hard drive at the time the image is created. A unique situation is present with these two images as the same hard drive can be compared and evaluated for content and usage, separated by four years of time. The original image was created on May 5, 2005 and the second image was created on April 10, 2009.

Overall, there are 200,000 files on the two images combined. An MD5 hash analysis was performed on the files to generate a MD5 value for each file. After the MD5 hash values were generated, the results showed that 131,000 unique files were contained on the hard drives. Of those unique files, only 39,000 were unique to the older image, indicating that over a four year time frame, only 30% of the files present on the older image were different from the files present on the later image. As an MD5 hash value is generated off the contents of the file, even the adding or removal of a punctuation mark would

make the MD5 value different. As such, the 39,000 unique files would be a combination of new files added and files being modified of a 4 year period.

Using the 30% change over four years as base, this implies that on average, 7% of the files contained on the hard drive are added or modified during any given year. Extrapolating this data to the time period between November 2003 and May 2005, this implies that 11% of the files contained on the hard drive at the time of the creation of the first forensic image had been added or modified.

An additional factor related to the overwriting of deleted data is the Slack Space. When a file is deleted and its space overwritten with new data, the original data may not be completely overwritten, leaving residual data viewable through forensic means. This Slack Space is located at the end of every new file that is smaller than the previous deleted file that was stored in the same space. As a file is saved to the hard drive, the new file overwrites any previous data that was contained in the space previously, except, if the new file is smaller than the previous file. This Slack Space is searchable and its contents can reveal file remnants including email fragments and addresses.

Based on usage percentages it is seen that this hard drive was likely used for light business purposes after being returned by Max Zweizig. Taking into account this usage and the details of what happens when a file is overwritten and the probability that all data is not overwritten, it is difficult to defend the concept that all references to Max Zweizig's email could have been eradicated within the 18 months after the computer was returned to Tim Rote. From personal experience, I have recovered deleted email fragments with indications that the email had been deleted from a personal computer five years previous, to the detriment of the original email user.

I submit that the computer was in use after being returned by Max Zweizig and that the usage was insufficient to eradicate all references to Max Zweizig's email from the hard drive in the 18 months before the first image was taken. Therefore, it is reasonable to conclude that the computer that housed this hard drive was not used by Max Zweizig for his email.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

Dated May 27, 2010



Mark Cox

**Exhibit 1**

<b>Full Path</b>	<b>File Category</b>	<b>Last Accessed</b>	<b>File Created</b>
C:\Recovered Folders\NWT Employee\outlook.pst	Mail	08/30/08 05:40:33PM	11/13/03 12:27:18AM
C:\Recovered Folders\Sent Items.dbx	Mail	06/01/07 05:07:01PM	05/13/05 05:27:57PM
C:\Recovered Folders\Outbox.dbx	Mail	06/01/07 05:07:03PM	05/13/05 05:27:57PM
C:\Recovered Folders\outlook.pst	Mail	11/12/08 03:09:06PM	11/29/05 05:24:28PM



Testimony of Jaime Gedye, FoxPro expert

14 Q. Okay. Well, my name is Scott Cliff and I,  
15 as you know, you've been talking with me trying to  
16 set this up. I represent Northwest Direct and I'm  
17 going to ask you some questions and then the  
18 attorney Linda Marshall who's representing Mr.  
19 Zweizig will have some questions for you as well.  
20 And we may go back and forth a little bit until  
21 we're both done with our questioning.

22 A. Sure.

23 Q. Could you spell your -- state and spell  
24 your full name for the record please?

25 A. Sure. It's James, last name is Gedye, G  
Arbitration

Taken On May 25, 2010 NRC File # 12564-2 Page 355

1 e-d-y-e. First name James. Common spelling.

2 Q. Okay. Thank you. And what is your  
3 profession?

4 A. I am director of technical services for  
5 Teleformix LLC.

6 Q. Okay. And could you just give us a brief  
7 background of your education and vocational  
8 experience, please.

9 A. Sure. I've been working in -- I have a  
10 bachelors in science from Northern Illinois  
11 University, computer science. I've been working in  
12 the call center industry for over 15 years. The  
13 last ten years that we've been in business with  
14 Teleformix, we had a client where we were actively  
15 using the EIF dialer, which is what Northwest Direct  
16 uses. So we -- we integrated with that dialer and  
17 we're, I would say, probably considered experts in  
18 that matter.

19 Q. Okay.

20 A. And then we've since kind of gotten away  
21 from that business because of downturn in outbound  
22 telemarketing, but I'm still very familiar with  
23 those platforms.

24 Q. Okay. And what sort of work have you done  
25 personally regarding the computer -- the IT services  
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 356  
1 for the telemarketing industry?

2 A. In my previous position I basically ran,  
3 not only all of the IT in our call center. I was  
4 also in charge of all of our inbound telemarketing.  
5 And since being with Teleformix, I have done  
everything from the scripting to back end processing



Testimony of Jaime Gedye, FoxPro expert

7 to database administration. So I've -- hardware  
8 network support. So I have a pretty broad  
9 background across the spectrum, a pretty wide  
10 spectrum.

11 Q. Okay. And I'm not sure I got the name.

12 What's the name of the employer you worked for  
13 before you joined Teleformix?

14 A. It was -- at the time was -- oh, God.

15 What was it called? It -- Teleformix became -- kind  
16 of merged out of that. United Marketing Group,  
17 which is one of Northwest Direct's clients, became -  
18 - they had the company I worked for prior to -- they  
19 became part of United Marketing Group. So it was MC  
20 Club Services. Before that I also worked for  
21 Results Telemarketing. I also worked for AMOCO Oil  
22 in their telemarketing facilities.

23 Q. Okay. And are you familiar with the types  
24 of programs that are used to -- the types of  
25 software that are used to write programs for the  
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 357  
1 telemarketing industry?

2 A. If you're in relation to the EIF dialer,  
3 specifically, yes, I am.

4 Q. Okay. What sort of programs did they use?

5 A. That system is based off of either a dBase  
6 3, which would be your FoxPro or FoxBase, depending  
7 on which OS you're working on. Whether you're  
8 working in a Windows environment or a UNIX  
9 environment.

10 Q. Okay. Which is the FoxPro?

11 A. FoxPro is -- was Windows.

12 Q. Okay.

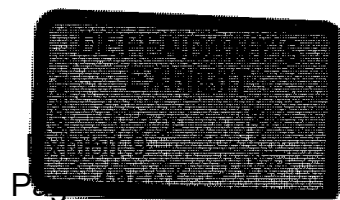
13 A. But the files are compatible so you can  
14 write stuff on the UNIX servers, move them to  
15 Windows, and vice versa.

16 Q. Okay. Let's talk about FoxPro. Is that a  
17 program that was being used by some companies in the  
18 telemarketing industry? We're now talking, of  
19 course, back in the early 2000s, 2001 through 2003?

20 A. Yeah, different -- certainly different  
21 versions of FoxPro were being used.

22 Q. Okay. Now, when -- when you write a  
23 program in FoxPro, can you just kind of walk -- walk  
24 us through what that entails in terms of writing a  
25 program for a telemarketing client. Let's just say

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 358



Testimony of Jaime Gedye, FoxPro expert

1 for importing?

2 A. Well, I mean, it's pretty much the same.

3 I guess the general concept of any programming  
4 language, you have your source data in some sort of  
5 file, be it a flat file or some sort of text file,  
6 Excel file, something, and then you use the APIs of  
7 the programming language to read it into the  
8 database engine, and in the case of the  
9 telemarketing software, it was FoxPro or FoxBase as  
10 the database engine.

11 Q. Okay. And again, we'll just be talking  
12 about FoxPro in this case.

13 A. They're one in the same.

14 Q. Okay. So in your experience in the  
15 telemarketing industry, given the number of -- the  
16 amount of data that comes through, is it possible to  
17 essentially manage that manually on a case-by-case  
18 basis without writing programs that handle those  
19 functions?

20 A. You could, but it would be extremely,  
21 extremely tedious and very, very error prone.

22 Q. Okay. And let's say --

23 A. So in a -- any sort of programmer that's  
24 even reasonable would write programs to do it.

25 Q. Okay.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 359

1 A. Especially if you had repetitive things  
2 that were being done over and over and over again.

3 Q. Okay. And when you write such a program,  
4 are there any sort of protocols for how you would  
5 name that program, in particular the extension, that  
6 is the last part?

7 A. Yeah, usually FoxPro I believe was dot  
8 PRG. It also had a number of different ones relating  
9 to forms. If you're using visual forms, reporting.  
10 I don't remember what those are off the top of my  
11 head.

12 Q. Okay.

13 A. But, yeah, there are specific extensions.

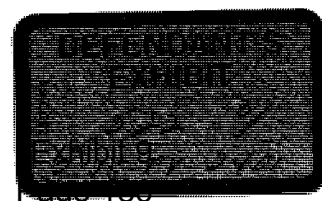
14 Q. And back -- do you do much in FoxPro  
15 anymore?

16 A. No, not at all.

17 Q. Okay. Why is that?

18 A. We don't have any clients that use that  
19 dialer anymore. And it is antiquated language.

20 Q. Okay. When was the last time you did work



Testimony of Jaime Gedye, FoxPro expert

21 in FoxPro that you can recall?

22 A. Probably 2004, 2005 maybe, at the latest.

23 Q. Okay. Taking you back to 2003, were you  
24 still intimately familiar with FoxPro programming?

25 A. Absolutely.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 360

1 Q. Okay. Were you at some point retained by  
2 Northwest Direct to perform some services?

3 A. I was not personally. Teleformix, as a  
4 company, was retained by Northwest.

5 Q. Okay. And I'm just going to ask you for  
6 the moment about your personal involvement.

7 A. Sure.

8 Q. When did you first become involved  
9 personally in work -- doing work for Northwest?

10 A. I believe it was late November 2003.

11 Q. Okay. Just summarize for us what -- what  
12 it was you were called upon to do and, you know,  
13 what you did, where you did it, that sort of thing?

14 A. Sure, we were -- my boss had received a  
15 call from Mr. Rote, basically knowing our experience  
16 with the software, there were a couple of employees  
17 with Northwest at the time that were familiar with  
18 our company and what we do, and basically we were  
19 called to ask for assistance in getting their sales  
20 files out to their clients, getting reporting out to  
21 their clients, because of, you know, whatever the  
22 situation with their IT staff was, they needed  
23 assistance.

24 So I -- basically what we did on -- with  
25 in a 24-hour notice after talking to Tim, I was on a  
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 361

1 plane to Eugene. Spent two or three days out there  
2 working with -- I know I'm going to mess up his  
3 name. Gunawan?

4 Q. Would it be Gunawan Darmadi?

5 A. Yes. I always called him G because it was  
6 easier.

7 Q. Right.

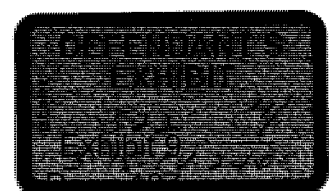
8 A. Worked with him basically, and Tim, the  
9 account manager, Brent. I don't remember his last  
10 name. It started with a K.

11 Q. Kawiuk?

12 A. Yeah, that's it.

13 Q. Okay.

14 A. Basically worked with them on trying to



Testimony of Jaime Gedye, FoxPro expert

15 get specifications. No one seemed to have any of  
16 the specifications on what these sales files, what  
17 the format was supposed to be, what the -- you know,  
18 fixed fields, what codes were supposed to be in to  
19 the clients. We could not find any programs with  
20 dot PRDs. We searched, not only the Call Manager,  
21 which is what the dialing software is, but there I  
22 believe there was a Windows machine as well. And we  
23 looked for them. Couldn't find anything. So while  
24 we were out there what I ended up essentially doing  
25 was rewriting everything from scratch and -- and  
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 362  
1 then when I came back to Chicago I documented the  
2 programs for Northwest to say here's how you can use  
3 these going forward, you know, here's the code,  
4 here's where they're at, all those components.

5 Q. Okay.

6 A. And then we continued to do some work, I  
7 believe, for probably another month or two on and  
8 off for Northwest basically consulting on anything  
9 from scripting to some networking components to new  
10 project development.

11 Q. Okay. I want to take you -- thank you for  
12 that summary. That covers a lot of ground. I want  
13 to ask some questions in a little bit more detail.

14 A. Sure.

15 Q. When you -- when you looked for the  
16 programs you were describing, you described the PRG  
17 extension. Did you search other extensions at the  
18 time that might have been associated with FoxPro  
19 programs?

20 A. I'm sure we probably did.

21 Q. Okay. It's been a long time ago so --

22 A. Like I said, I just don't remember what  
23 those extensions all are anymore.

24 Q. Well, just to be clear, I'm not asking to  
25 you speculate, but do you recall making an effort to  
Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 363  
1 -- a diligent effort to find those programs?

2 A. Yes, I do.

3 Q. Okay. And at the time do you recall  
4 making your best effort to find those searching  
5 under whatever extensions you were aware of at the  
6 time?

7 A. Yes, I did.

Q. Okay. And you didn't find any programs?



Testimony of Jaime Gedye, FoxPro expert

9 A. We did not. We found some output files,  
10 so basically files that were created from programs  
11 and we kind of used those as our template to reverse  
12 engineer, as it were, the program so that we could  
13 rewrite some of the code.

14 Q. Okay.

15 A. We didn't have really any documentation on  
16 what the files were supposed to look like. One of  
17 the clients, United Marketing Group, since it was  
18 our sister company I was intimately familiar with  
19 their layouts so I didn't really need a lot of  
20 documentation. So that code I could pretty much  
21 write without needing samples. But some of their  
22 other clients we had to kind of -- we had to work  
23 our way backwards.

24 Q. Did you find any sort of documentation of  
25 client -- client needs regarding the IT department?

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 364

1 A. Not that I recall.

2 Q. Any documentation regarding procedures for  
3 serving client needs?

4 A. Not that I recall.

5 Q. Did you find any -- any indications that  
6 there was some sort of a directory on the computer  
7 that would have helped people find the FoxPro files  
8 for these various clients?

9 A. Not that I recall either.

10 Q. Did any of the IT staff that you were  
11 working with, or Mr. Kawiuk, were they at all  
12 familiar with how to find these files, program  
13 files? And I'm referring to programs now, not the  
14 data files.

15 A. Sure. Brent certainly would not have  
16 been. He wasn't even on-site, I don't believe. And  
17 G was the only other person that I worked with. He  
18 -- I mean, we were using, you know, Windows search  
19 stuff. And I don't think he was familiar with the  
20 finds we were doing the UNIX systems.

21 Q. Okay. Now, I can't recall the timing  
22 here. Was -- was Chris Cox involved in any of this  
23 at all, do you recall?

24 A. I believe he was gone by the time I got  
25 out to Eugene.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 365

1 Q. Okay. Now, you mentioned that -- I being  
you mentioned earlier in your narrative that you --



Testimony of Jaime Gedye, FoxPro expert

3 there was a -- I think you said a Windows-based  
4 machine there as well. You mentioned you looked at  
5 the -- you searched on the servers?

6 A. Correct.

7 Q. About you also searched another computer.

8 Do you recall that testimony just a few moments ago?

9 A. Yeah, it was the machine Tim had

10 identified where he believed the code should be or  
11 was told that the code should be.

12 Q. Okay. And what -- what, if anything, did

13 you find on that machine in terms of FoxPro

14 programs?

15 A. Like I said, I think we found some of the

16 sample outputs on there but we did not find any

17 actual code.

18 Q. Okay. Okay. Well, I'm going to now take

19 you through some of the -- some of the exhibits in

20 this case. Do you have a packet of exhibits that I

21 sent to you yesterday?

22 A. I do.

23 Q. Okay. Turning your attention to Exhibit

24 97-1. That's 97, page 1.

25 A. Okay.

Arbitration Taken On May 25, 2010 NRC File # 12564-2 Page 366

1 Q. And looking down -- actually it starts on

2 page 2, the string starts. But it looks like -- can

3 you just summarize what -- what you were

4 communicating to Mr. Rote at this point. Was this

5 your -- as far as you recall, was this one of your

6 first communications with Mr. Rote about the

7 project?

8 A. This was -- no, this was actually probably

9 about a week or two later.

10 Q. Okay.

11 A. This was already after we had already -- I

12 had already been on-site and had then back to

13 Chicago and we had kind of -- I had worked with G on

14 figuring out hey, how do you scrub the national

15 lead? How do you load new leads into the dialer?

16 How do you run some of the things? How do you do

17 some of the scripting? Was some of the stuff that I

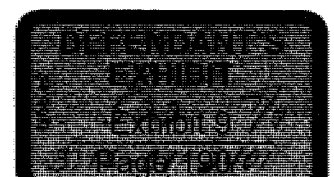
18 kind of referred to.

19 And then I spent time, you know, a lot of

20 phone support time on the phone with him as well,

21 just if he was asking questions or didn't quite

2 understand something.



Timothy C. Rote  
7427 SW Coho Ct. #200  
Tualatin, OR 97062  
Phone: (503) 272-6264  
E-Mail: timothy.rote@gmail.com  
*Pro Se Plaintiff*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

TIMOTHY ROTE,

Plaintiff,

vs.

OREGON JUDICIAL DEPARTMENT,  
OREGON STATE BAR PROFESSIONAL  
LIABILITY FUND, THE HON. ANN  
LININGER, THE HON. ALISON  
EMERSON, THE HON. JOSEPHINE  
MOONEY, THE HON. JACQUELINE  
KAMINS, THE HON. KATHIE STEELE,  
CAROL BERNICK AND MEGAN  
LIVERMORE (in their official and individual  
capacities as CEO of the OSBPLF),  
MICHAEL WISE, JEFFREY EDELSON,  
DESCHUTES COUNTY SHERIFF'S  
DEPARTMENT, MATTHEW YIUM,  
NATHAN STEELE, WARD GREENE,  
ANTHONY ALBERTAZZI, MARTHA  
WALTERS (in her official capacity of Chief  
Judge) and JOHN DOES (2-5), *et al.*,

Defendants.

Case No.: 3:22-CV-00985

PLAINTIFF'S CONSOLIDATED RESPONSE  
IN OPPOSITION TO THE JUDICIAL  
DEFENDANTS' MOTION TO DISMISS  
AMENDED COMPLAINT

HEARING REQUESTED

///

///



**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. RELEVANT FACTS ..... 3

A. The Record of Violations in Deschutes County ..... 4

    1. *Unlawful Solicitation of the Court of Contempt for Rote Prevailing in case 19cv01547* 9

    2. *Unlawful Solicitation of the Court to Endorse Perjury*..... 10

    3. *Unlawful Contempt 19cn01843 during Covid Pandemic* ..... 10

    4. *Unlawful Refusal to Transfer Venue of Case 19cv00824* ..... 11

    5. *Unlawful Solicitation and Support of Child Predation in Case 19cv00824* ..... 11

    6. *Unlawful Ex parte Order to Engage in Unlawful Discovery* ..... 12

    7. *Unlawful Order of the Sale of Stock of a Non-debtor Twice* ..... 13

    8. *Unlawful Failure to Disclose Ex Parte Communication* ..... 13

    9. *Unlawful Soliciting of Support of False Testimony by Albertazzi* ..... 13

    10. *Unlawful Solicitation of Illegal Collection Actions by Albertazzi* ..... 14

B. The Record of Violations in Clackamas County ..... 14

    1. *Unlawful Solicitation of Fee Award Anti-SLAPP Greene/Zweizig*..... 19

    2. *Unlawful Fee Award Anti-SLAPP Greene/Zweizig* ..... 19

    3. *Unlawful Refusal to Acknowledge the MSJ in Favor of the Rote’s* ..... 19

    4. *Unlawful Use of Lis Pendens* ..... 19

    5. *Unlawful Use of Process to Retaliate* ..... 20

    6. *Unlawful Hearing on Disqualification of Wise*..... 21

    7. *Unlawful Solicitation by K Steele, Wise and Lininger* ..... 21

    8. *Unlawful Solicitation by Albertazzi and PLF Group on Disqualification* ..... 22

    9. *Unlawful Solicitation of Abuse of Attorney Fees by Steele/Albertazzi*..... 22

    10. *Deceptive and Unlawful Motion to Dismiss Racketeering Claims* ..... 22

    11. *Unlawful Hearing on Attorney Fees Fee Petition*..... 23

12. *Unlawful Award of Attorney Fees to Steele/Albertazzi* ..... 23

13. *Unlawful Signing of Limited Judgments by Kathie Steele* ..... 24

14. *Unlawful Notice of Signed Judgments* ..... 25

15. *Unlawful and Clandestine Signing of Order and Limited Judgment* ..... 25

16. *Unlawful Solicitation of Abuse of Attorney Fees by PLF Group* ..... 26

17. *History of Unlawful Perjury by Albertazzi and Zweizig* ..... 26

18. *Unlawful Denial of Motion and Judgment for Default* ..... 27

19. *Unlawful Refusal of Court to Allow Case to Proceed* ..... 27

20. *Unlawful Solicitation of Court to Endorse the Distribution of Child Porn* ..... 27

C. The Record of Violations by the Superior Courts ..... 27

D. The Evidence of Collusion ..... 30

E. The Record of Aiding and Abetting Child Pornography ..... 34

    1. *The Inferences That May be Drawn* ..... 34

    2. *Record of Disclosure of Child Pornography* ..... 38

III. ARGUMENT ..... 39

A. Legal Standard ..... 39

B. Satisfied Elements of the 42 USC §1983 Claims ..... 40

    1. *Deprivations of Rights under Color of State Law* ..... 41

    2. *Collusion and Acts of Defendants* ..... 42

C. Judicial Immunity ..... 42

D. The Application of the Plausibility Standard ..... 48

E. Addressing Specific Arguments of the Defendants ..... 52

    1. *The “Setting in Motion” Theory of Participation* ..... 52

    2. *Plaintiff Is Not Attempting To Appeal the Anti-SLAPP Awards* ..... 53

    3. *Status as an Individual Under 42 USC §1983* ..... 57

    4. *Under the Color of State Law 42 USC §1983* ..... 58

5. *Attorney Immunity under 42 USC §1983* ..... 61

6. *Burden of Proof under 42 USC §1983* ..... 62

F. Damages and Relief under 42 USC §1983 ..... 63

G. Application of 42 USC §1985 (3)..... 64

H. Child Pornography Violations and Punishment..... 66

    1. *Federal Definitions* ..... 66

    2. *Oregon Definitions*..... 67

    3. *Efforts by the Oregon Judiciary to Monetize Zweizig’s Criminal Conduct*..... 68

IV. CONCLUSION ..... 71

**TABLE OF AUTHORITIES**

**Cases**

*Ashcroft v. Iqbal*, 556 U.S. 662 (2009)..... 39

*Bell Atlantic Corporation v. Twombly*, 55 U.S. 544 (2007) ..... 39

*Bell Atlantic v. Twombly*, 550 U.S. 544, 547 (2007) ..... 48

*Borunda v. Richmond*, 885 F.2d 1384, 1389 (9th Cir. 1988) ..... 65

*Borunda*, 885 F.2d at 1389 ..... 65

*Bradley v. Fisher*, 13 Wall at 351 ..... 45

*Bradley v. Fisher*, 13 Wall. 335 (1872) ..... 42

*Browning v. Vernon*, 44 F.3d 818, 822 (9th Cir. 1995) ..... 64

*Buckley v. City of Redding*, 66 F.3d 188, 190 (9th Cir. 1995)..... 62

*Burton v. Infinity Capital Mgmt.*, 862 F.3d 740, 748 (9th Cir. 2017)..... 62

*Burton*, 762 F.3d at 748 ..... 63

*Byrd*, 885 F.3d at 642..... 68

*City of Los Angeles v. Lyons*, 461 U.S. 95, 112 (1983); ..... 66

*Clement v. City of Glendale*, 518 F.3d 1090, 1096 (9th Cir. 2008)..... 63

*Conley v. Gibson*, 355 U.S. 41 (1957)..... 39

*Conner v. City of Santa Ana*, 897 F.2d 1487, 1492 n.9 (9th Cir. 1990) ..... 63

*Crowe v. Cty. of San Diego*, 608 F.3d 406, 440 (9th Cir. 2010)..... 58

*Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991) ..... 40

*Demery v. Kupperman*, 735 F.2d 1139, 1146 (9th Cir. 1984) ..... 62

*Dennis v. Sparks*, 449 U.S. 24, 27– 28 (1980)..... 58

*DHS v JH*, 370 Or App 85 (June 8, 2022) ..... 45

*Griffin*, 403 U.S. at 102..... 67

*Humanik v Ciaverella*, 3:09-cv-00286-ARC, #537, page 3..... 46

*Hydrick v Hunter*, 449 F 3d. 978 (9<sup>th</sup> Circuit 2006) ..... 53

*Knudson v. City of Ellensburg*, 832 F.2d 1142, 1149 (9th Cir. 1987) ..... 65

*Lacey v. Maricopa Cty.*, 693 F.3d 896, 915 (9th Cir. 2012) (en banc)..... 58

*Lovell*, 90 F.3d at 370; *Draper v. Coombs*, 792 F.2d 915, 921 (9th Cir. 1986)..... 62

*Marshall v Jericho*, 446 U.S. 238, 242, 100 S. Ct. 1610 (1980) ..... 53

*Mcdonnell V. United States*, 792 F. 3d 478, decided June 27, 2016..... 46

*Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 308 (1986)..... 65

*Mitchum v. Foster*, 407 U.S. 225, 242–43 (1972) ..... 65

*Nordstrom*, 762 F.3d at 908 ..... 67

*Olech v. Village of Willowbrook*", 528 US 562 (2000) ..... 66

*Pierson v. Ray*, 386 U. S. 547 (1967) ..... 42

*Preschooler II v. Clark Cty. Sch. Bd. of Trs.*, 479 F.3d 1175, 1183 (9th Cir. 2007) ..... 57

*Rizzo v. Goode*, 423 U.S. 362, 378 (1976)..... 66

*RK Ventures, Inc. v. City of Seattle*, 307 F.3d 1045, 1056 (9th Cir. 2002)..... 67

*Sellars v. Proconier*, 641 F.2d 1295, 1299 n.7 (9th Cir. 1981) ..... 63

*Smith v. Wade*, 461 U.S. 30, 52 (1983)..... 65

*Sorrels v. McKee*, 290 F.3d 965, 969 (9th Cir. 2002)..... 64

*State v. Cazee*, s 308 Or App 748 (2021)..... 70

*State v. Urbina*, 249 Or App 267, 278 P3d 33 (2012) ..... 70

*Stump v. Sparkman*, 435 U. S. 349 (1978)..... 45, 47

*Stump v. Sparkman*, 435 U. S. 349 (1978)..... 42

*Supreme Court of Va. v. Consumers Union of United States, Inc* ..... 42

*Supreme Court of Va. v. Consumers Union of United States, Inc.*, 446 US 719 - Supreme Court  
1980 ..... 42

*Tower v. Glover*, 467 U.S. 914, 920 (1984)..... 58

*Tower v. Glover*, 467 U.S. 914, 923 (1984)..... 63

*United Steelworkers of Am. v. Phelps Dodge Corp.*, 865 F.2d 1539, 1540–41 (9th Cir. 1989)... 60

*Weilburg v. Shapiro*, 488 F.3d 1202, 1207 (9th Cir. 2007) ..... 62

## I. INTRODUCTION

Included herein is Plaintiff's Response in Opposition to the Judicial Groups ("Judges") Motion to Dismiss Plaintiff's First Amended Complaint.

The citizens of Oregon would likely be surprised by the Oregon Judicial Department's institutional support for child predators that download, possess and disseminate child porn. All but two of the Judicial Defendants named in this case were appointed to their respective positions on the bench by Governor Kate Brown.

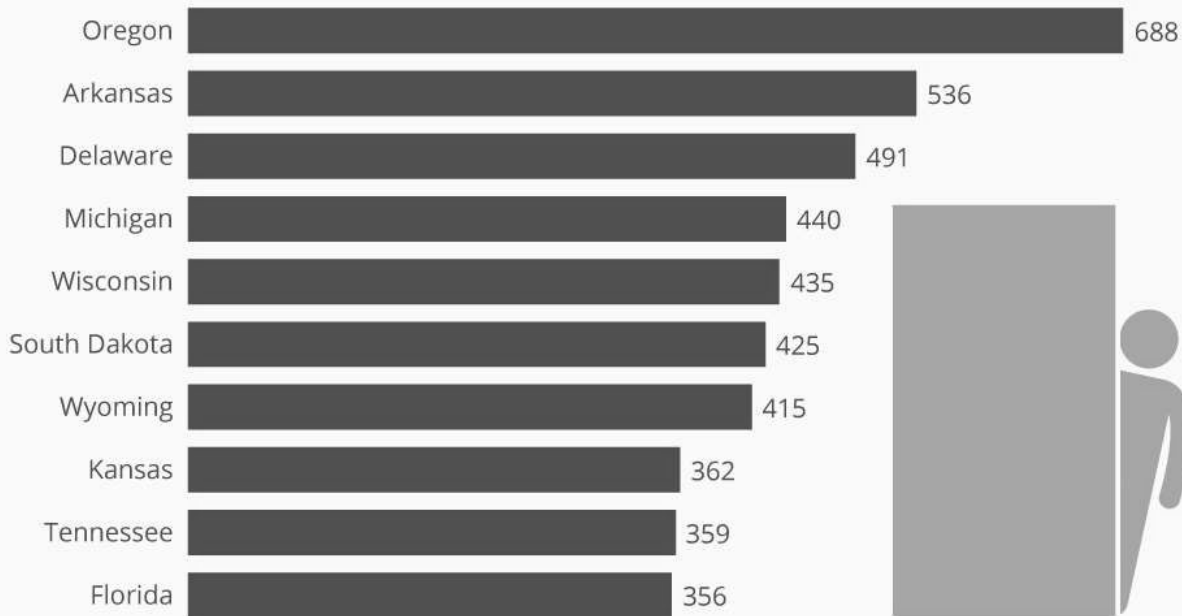
Plaintiff alleges that there is substantial and objective evidence of the Oregon Court's abuse of procedural and substantive due process as outlined herein, for example by awarding attorney fees far in excess of what is reasonable and/or lawful and using those unlawful fee awards to target and harass Plaintiff and other disfavored citizens.

Plaintiff alleges further that he has been targeted by the Clackamas and Deschutes Circuit Courts and the Oregon Court of Appeals, *inter alia* for exposing and opposing violations of due process and for identifying the named defendants as actors within the legal community umbrella who support the decriminalization of child pornography.

According to the Mayo Clinic of the US, studies and case reports indicate that 30% to 80% of individuals who viewed child pornography and 76% of individuals who were arrested for Internet child pornography had molested a child; however, they state that it is difficult to know how many people progress from computerized child pornography to physical acts against children and how many would have progressed to physical acts without the computer being involved. See Ryan C. W. Hall; Richard C. W. Hall (April 2007). "A Profile of Pedophilia: Definition, Characteristics of Offenders, Recidivism, Treatment Outcomes, and Forensic Issues". Oregon ranks first amount the states with the most sex offenders per capita.

## The U.S. States With The Most Sex Offenders Per Capita

Registered sex offenders per 100,000 inhabitants in 2019



@StatistaCharts Source: ASecureLife

statista

One of the latest examples of the solicitation of abuse by child predator Max Zweizig is his recent Motion for Contempt. On September 15, 2022, Defendant Albertazzi filed a Motion with Deschutes County Court to have Plaintiff Rote imprisoned for opposing Max Zweizig’s effort to unlawfully take Rote’s property and otherwise for Rote successfully *engaging* in litigation against Zweizig. Attached to that Motion was a declaration by Max Zweizig, wherein Zweizig denied being a pedophile and child predator but did not deny downloading, possessing and distributing child pornography (**Doc #48-1**). His Declaration is an admission that then taken together with Zweizig’s testimony in trial 3:15-cv-2415, his efforts therein to suppress the forensic reports showing Zweizig’s child pornography activity, his tantamount admissions to distributing child pornography in his deposition of December 21, 2020 in case 19cv01547 and his effort to then suppress that deposition (claiming that he would not receive a fair jury if his



child porn admissions were to become public), all in all the history of these collective acts paint now a very clear picture of Zweizig's criminal conduct that should no longer be ignored. There is no remaining rock for any of the judicial defendants to hide behind.

The judicial support Zweizig received cannot be ignored. We have now a very clear picture of the institutional support Zweizig received by and from the Oregon Judicial Department and the named defendants in this case. That institutional support of the distribution of child porn required that defendants target Plaintiff Rote and work in concert with the other defendants to deny Rote his constitutionally guaranteed procedural and substantive due process rights.

Plaintiff alleges that the Judges named herein as defendants were personally involved beyond the scope of their respective judicial duties to deprive the plaintiff of his constitutional rights and that the defendants' actions were the proximate cause of the plaintiff's federally protected rights.

Plaintiff respectfully submits that the Judicial Defendants' Motion to Dismiss lacks merit and must therefore be denied at this time.

## **II. RELEVANT FACTS**

Plaintiff alleges in his First Amended Complaint that Kathie Steele, Ann Lininger, Alison Emerson, Michael Wise, Jacqueline Kamins and Josephine Mooney, and now subsequently many others colluded with Defendants Nathan Steele, Anthony Albertazzi, PLF, Matthew Yium, Carol Bernick, Megan Livermore, Jeff Edelson, Martha Walters and the Oregon Judicial Department to (1) violate procedural and substantive due process; (2) abuse the anti-SLAPP fee award provisions to retaliate against Plaintiff for publishing concerns and critiques of the judicial actors for supporting the distribution of child pornography; and (3) provide protection to those criminal players like Max Zweizig who download, possess and disseminate child pornography.

Plaintiff alleges that these acts of retaliation are violations of 42 USC §1983, §1985 and other Constitutional mandates that at a minimum require procedural and substantive due process.

**A. The Record of Violations in Deschutes County**

**Narrative and Timeline**

Defendant attorneys have on multiple occasions sought highly prejudicial support from the Deschutes County Court and in particular defendant and **Judge Alison Emerson** in cases 19cn01843 and 19cv00824. The old adage that “be careful of what you ask for because you might just get it” applies here. Albertazzi was successful but created a record of abuse that implicates his and the Court’s role in violating Plaintiff’s constitutional rights.

Defendant Albertazzi sought and secured from Alison Emerson (1) a contempt order and damages of \$8,500 for Rote signing an interrogatory response by declaration instead of by Notary; (2) an ex parte order secured in November 2021 forbidding Rote from selling any of his assets; (3) an ex parte order secured in November 2021 to turn over information on Tanya Rote, her Sunriver property and Insurance agency related to claims that had been dismissed in Clackamas case 19cv01547; (4) a hearing, ruling and judgment of January 20, 2022 allowing Albertazzi to sheriff sale a property not owned by debtor Rote, when the only evidence on the record was Rote’s testimony refuting ownership; (5) assistance from Emerson in soliciting the abuses of other Deschutes Circuit Court Judges; and (6) soliciting a Motion for Contempt against Rote for opposing Zweizig’s unlawful use of a Sheriff sale and for opposing Zweizig’s collection actions.

Just after Plaintiff filed his Amended Complaint on September 4, 2022, Defendant Albertazzi and Zweizig were denied an opportunity to sheriff sale the stock of Northwest Direct Homes, Inc. (“NWDH”) on September 8, 2022, in case 19cv00824, because of Rote’s challenge to that writ. Plaintiff Rote is the defendant in that case and challenged the sale of the stock since

he is not the owner of that stock. The Timothy Rote Irrevocable Trust is the owner of the stock of NWDH. See **48-13**.

In response, and in what may be considered a hissy fit, on September 15, 2022 Albertazzi then filed in case 19cv00824 a Motion for Contempt against Rote asking that Rote be imprisoned and for remedial sanctions of deeming the Trust and Rote CPA, P.C. as alter ego's of Timothy Rote. Albertazzi and Zweizig are asking the Court to help them avoid the necessary fraudulent transfer action under by ORS 95.230-95.240 and common law actions for piercing the veil and alter ego, which would require years of litigation and a likely trial before an independent jury. Zweizig lost two previous and similar actions in Federal case 3:14-cv-0406 and Clackamas case 19cv01547; so now they are asking for a favor from Deschutes County Court. Even requesting this kind of abuse of procedural due process should be of concern to this Court. Historically Judge Alison Emerson has come to Albertazzi's aid. See **Doc #48-1, pgs 3-12**.

Albertazzi and Zweizig are in fact asking the Deschutes Court to now put Rote in jail for Rote successfully opposing Zweizig in case 3:14-cv-0406 and Clackamas case 19cv01547 and for refusing to provide any documents of Tanya Rote's Sunriver property or her Insurance Agency. See **Doc #48-1**. Rote has opposed the Motion and also seeks a contempt filing against Albertazzi and Zweizig for perjury by omitting from their statements and declaration that all of their allegations are academic since Rote had offered the stock of NWDH four times since March of 2019 and as late as July 25, 2022 and each time Zweizig had rejected those offers. See **Doc #48-10**. In the style of Deschutes County, *Rote Cross Motion for Contempt was denied* immediately while child predator's Zweizig's Motion has not yet been denied. A letter requesting clarification was filed with the Court on September 27, 2022 (See **Exhibit 1**). There has been no response.

On July 9, 2021 Albertazzi filed a praecipe to sell the stock of NWDH and was granted that order by **Alison Emerson**. See **Doc 48-11, pg 1-2**. Rote objected on multiple grounds but principally on the grounds that the stock was owned by Rote's Irrevocable Trust (**pgs 3-18**). Judge **Emerson** held a hearing on January 20, 2022, took testimony from Rote on the ownership and in spite of there being no competing evidence permitted the sale of the stock to proceed...and it did proceed. See **Doc #48-11, pages 52-59**. Emerson also awarded Albertazzi/Zweizig damages (**Id, pages 19-22**) for that hearing. Rote appealed to the Oregon Court of Appeals (**Id., pages 60-80**). Albertazzi did not file a responsive brief, which presumably means he was assured a win—and the Oregon Court of Appeals has not yet decided if the presumption of evidence supports Rote and that the original order by Emerson permitting the sale is unlawful.

The Sheriff sale was completed and there were no bidders other than Zweizig for 5% of the value of the property. Notice from the Sheriff's office was nonetheless defective in naming the wrong company (Northwest Homes instead of Northwest Direct Homes, Inc.) and Rote filed a Motion to Set Aside the sale of the stock of NWDH (of **February 3, 2022**) on **February 13, 2022**. That Motion was granted on the notice deficiency only, the order signed on **June 23, 2022**. See **48-11, page 82**.

At the same time Rote filed another Motion to Change Venue from Deschutes County to Clackamas County consistent with the other two related cases, namely 19cv01547 and 19cn01843. Ward Greene had first filed case 19cv01547 in Multnomah County and upon Motion the Rote's moved that to Clackamas. The same effort was made for case 19cn01843 and related case 19cv00824, both in Deschutes, in September 2020 (**Doc #48-11, pages 16-20**). Rote has not at any time lived in Deschutes or Multnomah County. Case 19cn01843 was moved. 19cv00824

was not. Rote renewed his Motion to change Venue. The Motion was denied **Doc #48-11, page 82**. Rote then filed a Writ of Mandamus to transfer the case from Deschutes County to Clackamas. The Supreme Court of Oregon denied that Writ. See **Exhibit 2**.

Albertazzi/Zweizig then again sought to sale the stock of NWDH and as before Rote challenged the sale on grounds that the stock is not owned by Timothy Rote, but rather by the Rote Irrevocable Trust, providing this time a K-1 that was not available during the January 20, 2022 hearing. The sheriff sale of the stock of Northwest Direct Homes, Inc. is now on hold pending a hearing scheduled for October, 20, 2022. See **Doc #48-13**.

In the meantime, Plaintiff has alleged that Emerson is a personal friend of Nathan Steele and Albertazzi and should have recused herself from this 19cv00824 case. Rote alleges that a news article of December 20, 2019 on Emerson's campaign cites public support by Nathan Steele. See **Doc 48-12, page 6**. That information was apparently acquired from Emerson's website, <http://emerson4judge.com>, a site which has become inactive since the filing of this lawsuit. See **Doc 48-12, page 1**.

On **November 4, 2021**, Albertazzi secured from **Emerson** ex parte an order in case 19cv00824 requiring Rote to produce information and documents from (1) R 3.20, Northwest Holding LLC (a defendant in case 19cv01547, where to MSJ had already been granted); (2) R 3.21, 3.22, 3.25 and 3.26 for TR1, LLC, a company owned by Tanya Rote (defendant in 19cv01547) to operate the Sunriver rental business; and (3) R 3.23, 3.24, 3.25 and 3.26 for Tanya Rote Insurance Inc.(where subpoenas for similar information had been quashed by the Court in case 19cv01547). See **#48-1 pgs 8-10**. This is the third time Rote has responded to and objected to requests by Zweizig seeking to use interrogatories and discovery requests to collaterally attack the summary judgment dismissal of Zweizig's claims in case 19cv01547.

It is abundantly clear that the order is overly broad seeking information that was either produced or foreclosed from other lawsuits and information about the confidential work of Rote CPA, P.C. And in particular the order is seeking information on the source of funds allowing Plaintiff to pay filing fees and to continue to engage in litigation. See **R 3.5, 48-1 page 8**. The Motion for Contempt seeks to take more than 25% of the wages Rote earns from Rote CPA, P.C....it seeks to take everything and deny Rote the opportunity to generate income. Albertazzi and Zweizig are asking the Deschutes County Court to take bank accounts that hold exempt funds such as social security. This is the measure of what they believe **Emerson** will give them and it implicates bias and prior successful abuses.

The order solicited by Albertazzi/ Zweizig represents an extraordinary transgression, sought ex parte and signed by Emerson, and is also an act intended to compromise Rote's ability to defend his Fourteenth Amendment Rights. Rote's objection to these requests, when appropriate, forms part of the basis for the Albertazzi/Zweizig Motion for Contempt. The balance of their requests forms from inaccurate statements, the most significant of which is failing to disclose to the Court that the stock valued at approximately \$1,250,000 was offered and rejected by the Albertazzi/Zweizig crime family. The collective acts of perjury by Albertazzi and Zweizig implicate bias and solicitation of Fourteenth Amendment violations. And these acts of perjury also implicate a consciousness of Zweizig's current and past criminal conduct, acts that presume the Court acknowledges Zweizig's child predation in the form of child pornography violations and supports that criminal conduct.

Ward Greene filed the 19cv00824 action in Deschutes County even though Rote has no property there and has never lived there. On information and belief Greene did so because Deschutes County is considered the most favorably disposed Circuit to child pornography and

child trafficking. By their own actions, Deschutes has come to the aid of child predator Max Zweizig multiple times. Greene also filed case 19cn01843, which was transferred to Clackamas Court. Resistance by Albertazzi and Deschutes to transfer the case supports Plaintiff's narrative. The Supreme Court of Oregon has endorsed this violation of Oregon law.

**Doc #48-5** reflects some of the issues Deschutes County is having with respect to child trafficking. A press release by the Bend Police Department on *September 8, 2022* reported a successful sting and arrest of 20 individuals during a four-month child trafficking operation, naming those arrested individual. *Id.*, **pages 1-3**. One week later KBND news published a report that a bend music teacher was arrested for possessing explicit images of children. *Id.*, **page 4**.

While it is clear that the Bend Police department takes child trafficking and child porn seriously, Albertazzi and Zweizig public compromises to the integrity of the Court portend an issue prosecuting these criminals. Plaintiff offers a few examples criminal indictments filed in other districts against defendants Josh Duggar and Johnny Gonzalez, defendants who downloaded, possessed and disseminated child pornography just as Zweizig has done. For example, Josh Duggar was indicted under (1) 18 USC §2252A(a)(2) and (b)(1) for receipt of child porn; (2) 18 USC §2252A(a)(5)(b) and (b)(2) for possession of child porn. Duggar was ultimately convicted and sentenced to 12 years. See **Doc 48-5, page 6-12**.

### **Violations Accepted as True**

#### ***1. Unlawful Solicitation of the Court of Contempt for Rote Prevailing in case 19cv01547***

The Judicial Group cannot deny that Albertazzi's most recent Motion for Contempt filed on September 15, 2022 misleads the Deschutes Court on critical facts—namely (1) that Albertazzi/Zweizig were offered the stock of NWDH four times, a stock valued in excess of Zweizig's judgment, rejecting those offers four times and (2) Zweizig used the sheriff sale

procedure to engage in tax and collection fraud. In spite of those very blatant motivations, the Court denied Rote Cross Motion while allowing child predator Zweizigs to proceed. **See Exhibit 1 and #48-1, pages 3-12, #48-6 and #48-10.** This is objectively provable support for child predation and implicates Deschutes Circuit Court for its support of child predation.

**2. *Unlawful Solicitation of the Court to Endorse Perjury***

The Judicial Group cannot deny that Zweizig in his declaration in support of the Motion for Contempt dated September 15, 2022 made statements denying he was a pedophile but not denying he has and does, download, possess and disseminate child porn. **Doc #48-1, pages 1-2.** This is a material, tantamount to an admission of prior perjury and plaintiff is entitled to a reasonable inference that the declaration was crafted with the assistance of Albertazzi. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators. Zweizig is not afraid of making this admission of downloading, possessing and disseminating child porn in the Deschutes Circuit Court.

**3. *Unlawful Contempt 19cn01843 during Covid Pandemic***

The Judges cannot credibly deny that Albertazzi has sought the preferential judicial support of *Alison Emerson* and expects to continue to garner that favor in his filing of the Motion for Contempt, based in large part in having received favorable treatment and through the relationship Nathan Steele has with Emerson. See **Doc #48-12, page 3-6.** The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

Albertazzi successfully secured a Motion for Contempt from Deschutes County on December 22, 2020 (**Exhibit 6, page 1**) based on his opinion of deficiencies in an interrogatory



response by Rote. The interrogatory responses were filed by Rote to former counsel Ward Greene in August of 2019. Albertazzi took over in August 2020 and claimed to not have received the responses from Greene. The responses were provided to Albertazzi who then filed a Motion for Contempt, claiming among other things that the response was filed by declaration attestation, **page 7**, and for failing to provide documents already in Greene's possession as evidenced in the 19cv01547 case. It took no time at all for Emerson to grant that \$8,500. Even at the time of the judgment (12.22.20), at the height of the Covid Pandemic, attestation by Notary was difficult to accomplish as most notaries were not available and the law in Oregon had not been passed to allow remote notary signatures. See **Exhibit 7**.

**4. Unlawful Refusal to Transfer Venue of Case 19cv00824**

Doc #48-11, page 80, denied Motion to Transfer case 19cv00824 to Clackamas.

Case 19cv00824 was supposed to be transferred to Clackamas when case 19cn01843 was transferred.

Defendants cannot deny that Albertazzi successfully solicited from Deschutes Circuit Court and the Supreme Court of Oregon the opportunity to harass Plaintiff Rote in multiple jurisdictions (in both Clackamas and Deschutes), in violation of Oregon law and in a glaring attack on Rote's *pro se* status. See **Exhibit 2**.

**5. Unlawful Solicitation and Support of Child Predation in Case 19cv00824**

Plaintiff Motion to Transfer case 19cv00824, arguing oversight since both cases 19cn01843 and 19cv00824 should have been transferred. This was a particularly abusive act against a targeted *pro se* litigant. Rote's Writ of Mandamus was denied. See **Exhibit 2**.

Deschutes Circuit Court cannot credibly deny that the Court has been fully informed as early as 2019 that Zweizig is a child predator and has in concurrent actions in Clackamas Court sought to suppress Zweizig's deposition in case 19cv01547 wherein Albertazzi alleged that Zweizig would be denied a fair trial in front of a jury if Zweizig's testimony and admissions in

his deposition of December 21, 2020 of child predation were not suppressed from the public. Deschutes has also been fully informed of that child predation in the forensic reports showing Zweizig's child predation, and the federal indictment platform for similar cases of downloading, possessing and distributing child porn. See **Doc #38-10, #20-10, pages 2-9, #48-4, #48-5, #48-10**. Although Rote won that argument of suppression in Clackamas County, wherein the Court found no legal support for a Motion to Suppress Zweizig's admissions, this ask implicates Zweizig's strong opposition to having case 19cv00824 transferred from Deschutes where **Emerson** could have likely ruled in the case. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and that the defendants named in this case expects Deschutes to violate Plaintiff's substantive due process rights.

**6. Unlawful Ex parte Order to Engage in Unlawful Discovery**

Judges cannot credibly deny that Albertazzi used the ex parte order unlawfully secured from Judge Emerson on November 4, 2021 to continue to attempt to engage in discovery on dismissed case 19cv01547, to continue to interfere in non-debtor Tanya Rote's life and to cause Plaintiff Rote to continue to suffer for the attacks perpetrated by Zweizig on Rote's family. **Doc #48-1, pages 8-12**. The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

Zweizig unlawful subpoena action was quashed in case 19cv01547 on February 22, 2021. See **Exhibit 8**. He then has attempted to use ex parte order from Emerson to seek the same and similar documents.

**7. *Unlawful Order of the Sale of Stock of a Non-debtor Twice***

See Doc #48-11, challenge to February sale before and after it happened. Plaintiff Rote does not now own the stock. The Stock was sold by Notice using an incorrect name.

See Doc #48-13, challenge again as Plaintiff Rote does not own the stock. Based on that successful challenge Albertazzi filed a Motion for Contempt (#48-1). Cross Motion for Contempt (#48-10) denied (Exhibit 1).

**8. *Unlawful Failure to Disclose Ex Parte Communication***

15. The Judges cannot credibly deny that Nathan Steele solicited **Emerson** on behalf of Albertazzi and child predator Zweizig. Nathan Steele does not deny having a personal and campaign relationship with Emerson. **Doc #48-12, pages 3-6.** The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

**9. *Unlawful Soliciting of Support of False Testimony by Albertazzi***

The Judges cannot deny that Zweizig fasely claims to have received no evidence that the Rote Irrevocable Trust owns the stock of NWDH, again lying to the Deschutes Court about the (1) testimony of Rote (#48-11, page 53-59); (2) Appellate Court Brief (*Id.*, pages 60-80) and references to the record in case 19cv00824; (3) email evidence inquiring of Albertazzi if Zweizig was going to accept or disclaim the transfer of Stock in NWDH (#48-6); and (4) subsequent Challenge to the sale that was planned for September 8, 2022, transmitting therein the K-1 and 1099NEC (**Doc #48-13**). Plaintiff brought to the attention of the Court the recent federal indictments against Duggar and Gonzalez for downloading, possessing and distributing child porn in described activity that closely aligns with the Steve Williams forensic report filed in all

actions multiple times (**Doc #48-4**) wherein Williams found that Zweizig engaged in numerous criminal acts including downloading, possessing and disseminating child porn.

The Judges cannot credibly deny that Albertazzi assisted Zweizig in producing his false declaration in support of the Motion for Contempt filed in case 19cv00824 on September 15, 2022. **Doc #48-1, pages 1-2.** The Judges cannot credibly deny that Deschutes County was chosen by Greene, Albertazzi and Zweizig because the Court favors child predators and expects Deschutes to violate Plaintiff's substantive due process rights.

**10. *Unlawful Solicitation of Illegal Collection Actions by Albertazzi***

The Judges cannot deny that based on Zweizig's declaration (**Doc #48-1**), that Albertazzi and Zweizig are attempting to take Rote's EXEMPT retirement income because Rote has successfully opposed Zweizig in two prior fraudulent transfer cases brought by Zweizig, cases 19cv01547 and 3:14-cv-0406 and because Rote stopped the sheriff sale in Deschutes County two times. **Doc #48-1 pages 1-5.**

The Judges cannot credibly deny that Albertazzi is attempting to take Rote's income and assets from Rote CPA P.C. and retirement income from social security to limit Rote's opportunity to defend himself in litigation actions brought by Albertazzi/Zweizig. **Doc 48-1, page 8, line 3.** Zweizig has every right to garnish 25% of Rote's income notwithstanding the transfer of the stock in NWDH, which would result in a full satisfaction of the judgment. Taking all of the income however is illegal and the solicitation to do so is yet another predicate act of racketeering.

**B. The Record of Violations in Clackamas County**

**Narrative and Timeline**

Plaintiff filed a malpractice and related claims in Clackamas County in 2018. Thus far Judge Norby, Kathie Steele and the trial court administrator have blocked Rote from

getting his case before a jury. Plaintiff has filed multiple scheduling order requests, asking for a discovery and trial schedule order. No action moving this case along has been taken. See **Exhibit 3**. That delay benefits the PLF, who is the insurance carrier on the hook for the malpractice committed by Brandsness in the 3:15-cv-2401 trial where Zweizig secured his judgment.

Plaintiff alleges in his complaint that there have been numerous violations as cited in his Complaint and Amended Complaint. Plaintiff alleges that Michael Wise and Kathie Steele aided and abetted Nathan Steele and Albertazzi in filing and being awarded an unlawful fee petition seeking an attorney fee award of far more than was lawful under ORS 31.152 (3) and ORS 20.075 (2) (a). Plaintiff alleges the same against Ann Lininger with respect to Ward Greene's petition for attorney fees.

The relevant facts as to the excessive and unlawful fee petition by Steele and Albertazzi in Clackamas case 18cv45257 are outlined in detail in **Doc #20-6**, wherein Plaintiff Rote in Opposition to the fee petition identifies the excessive and unrelated fee as misleading and conflating block-billed time for the anti-SLAPP action (recoverable) and Rule 21 Motion to Dismiss (non-recoverable). Those specific fee entries on the anti-SLAPP Motion and Rule 21 Motion to Dismiss are identified at pages **16-18 of Doc #20-6**, and supplemented herein as **Doc #38-1 and #38-3**.

Plaintiff identifies that 48 hours are unrelated to the anti-SLAPP or excessive, an amount of fees of **\$10,580 (Doc #20-6, page 6)**. Albertazzi's fee petition overall was for **86.6 hours** and **\$19,357.50** in fees (**Doc #20-6, page 3**). The billing statements support time of \$21,540 (**Doc #38- 3**) and the difference between what the statements support and the amount sought is offset to the anti-SLAPP for purposes of this analysis. When removing the time and fees for the fee petition and for the other time and fees unrelated to the anti-SLAPP, Plaintiff concludes that that

amount of fees associated with the anti-SLAPP is not greater than **\$6,820** (\$19,357.5-\$10,850-\$1,687.50). That \$6,820 compares reasonably to Christiansen's anti-SLAPP fee petition of \$6,325 in case 3:15-cv-2401. See **Doc #20-6, page 2 and Doc #38-1, page 1**.

The above analysis of time and fee associated with and not reasonable connected to the anti-SLAPP is un-refuted by defendant Nathan Steele, who prepared the fee petition and under declaration but attested falsely to the amounts associated with the anti-SLAPP. It is un-refuted that Steele conflated the anti-SLAPP fee petition with the Rule 21 Motion to Dismiss with the intent of misleading in collusion with the Court, namely defendant and pro tem Judge Michael Wise. It is un-refuted that the PLF called on Steele to file that knowing false petition for attorney fees. The anti-SLAPP and Motion to Dismiss filed by Nathan Steele is provided at **Doc #20-3**.

As further evidence of the excessive and unlawful fee petition, Plaintiff provides the fee petition from the PLF defendants in Clackamas case 18cv45257. See **Doc #20-9, #38-1 and #38-2**. Further, Plaintiff outlines in that opposition to the PLF defendants' fee petition that some **28.7 hours** and **\$7,175 of fees** are associated with the anti-SLAPP. See **Doc 20-9, page 10, lines 10-21**. This is *particularly instructive* because the anti-SLAPP brought by the PLF Group was only for Nena Cook, was a separate filing and action that did not conflate the anti-SLAPP with the Motion to Dismiss the PLF, Bernick and Stendahl. The rates of defendant Matthew Yium @ \$250 an hour are comparable but otherwise slightly higher than Nathan Steele's @\$225 an hour. Thus it is un-refuted that the time reasonably associated with the anti-SLAPP Motions proceeding for Albertazzi (Steele representing) and Cook (Yium representing) on the upper end is **28.7 hours** and **\$7,175**. Just as with Steele, however, Yium and the PLF group are seeking an excessive fee award, some \$60,000, although the billing statements support only \$50,000, only a \$7,175 portion of which is associated with the anti-SLAPP. See **Doc #20-9, #38-1 and #38-2**.

In both cases described above, neither the PLF Group nor the Steele-Albertazzi group actually prepared a summary of time by effort or category, pushing that burden to the court or Plaintiff Rote (so that the Court could not hide behind an ORCP 68 request). In both cases, Yium (for the PLF) and Steele (for Albertazzi) filed only billing statements with the Court and left for the Court the effort to deduce how much was reasonable and how much was not. Most *pro se* litigants would not have been sophisticated enough to accumulate and report to the Court the excesses. In both case, Plaintiff opposition included a detailed analysis categorizing the fee entries from each billing statement, summarizing those categories and then linking that data to an Exhibit 1 (**Doc #38-1** for example) and supporting Exhibit 1.1 (**Doc #38-2** for example) filed in opposition to those fee petitions.

Plaintiff filed his revised **Doc #38-1** herein as the summary of time and fees by category of effort for the PLF Group, Steele/Albertazzi and Greene/Zweizig. Plaintiff filed herein as **Doc #38-2** the detailed entries from the defendants' PLF billing statements by category and billing date, which previously was filed in Clackamas County as Plaintiff Exhibit 1.1. Repeating the same concept then Plaintiff filed **Doc #38-3** which is the same detailed accounting spreadsheet for the Steele/Albertazzi team and **Doc #38-4** which is the same spreadsheet categorizing the time and billing entries for the Greene/Zweizig group. All of those detailed entries when summarized carry to Plaintiff **Doc #38-1**.

What Plaintiff has gleaned from the effort to categorize and summarize the Steele fee petition is that he spent **24** hours talking to his client and the other defendants, **18** hours reviewing the cases in which Plaintiff was a party going back almost 20 years, **6.6** hours reviewing the PLF defendants' filings and **7.5** hours generating a two page declaration in support

of his fee petition and redacting the names of the PLF manager(s) approving those invoices. **Doc #38-3** is as follows:

18cv45257		Anti-SLAPP						
C. Steele for Albertazzi (Source Doc #20-6)			See Ex 3					
8	Prepare Anti-SLAPP and MTD		See Ex 3	\$225		16.9	\$	3,802.50
6	Research		See Ex 3	\$225		1.1	\$	247.50
9	Review Response		See Ex 3	\$225		4.1	\$	922.50
10	Reply and Hearing		See Ex 3	\$225		10.1	\$	2,272.50
7	Other		See Ex 3	\$225		0	\$	-
1	Correspondence to/from Others		See Ex 3	\$225		8.4	\$	1,890.00
2	Correspondence to/from Client		See Ex 3	\$225		14.2	\$	3,195.00
3	Correspondence to/from Matthew Yuim		See Ex 3	\$225		1.6	\$	360.00
4	Review Other Cases by Plaintiff		See Ex 3	\$225		17.9	\$	4,027.50
5	Review Other Defendant and Hearing		See Ex 3	\$225		6.6	\$	1,485.00
11 and 12	Objection to order		See Ex 3	\$225		8.2	\$	1,845.00
13	Fee Petition		See Ex 3	\$225		7.5	\$	1,687.50
	Rate variance					0	\$	(195.00)
	Total					<b>96.6</b>	<b>\$</b>	<b>\$21,540.00</b>

Like Steele for Albertazzi, Ward Greene also filed a knowingly fraudulent fee petition for Zweizig. Greene's fee petition is provided herein as **Doc #18-1**. The detailed allocation of those fees to categories is as indicated provided herein as **Doc #38-4**. Unlike with Yium and Steele, the PLF was not reimbursing Williams Kastner. Nonetheless, out of the \$20,970 sought by Greene, \$2,000 was for *post judgment collection*, \$8,685 was for *collections activity* and unrelated to the anti-SLAPP, \$1,775 was for *summary judgment* actions which the Rote's won and \$1,900 was for defense of the third party counter claims brought against them (in which James Callahan and the PLF represented Basuari and Kastner). Only **\$6,610** of the \$20,970 awarded was for the anti-SLAPP or reasonably connected to the anti-SLAPP. See **Doc #38-1, page 4**. Judge Lininger's order is on the record in this case as **Doc #18-2**. The Plaintiff Appellate Brief in that case outlining the unlawful fee award in 19cv01547 is **Doc #18-10**. The Opinion by Kamins and Mooney claiming the Rote appeal of the unlawful fee award was objectively unreasonable is in the record as **Doc #18-19**.

**Allegations Accepted as True**



**1. Unlawful Solicitation of Fee Award Anti-SLAPP Greene/Zweizig**

The defendants do not deny that Ward Greene sought an unlawful fee award (**Docs #38-1 #38-4 and #18-1**) in case 19cv01547 on behalf of his client Zweizig, seeking therein a punitive action against the Rote's for filing counterclaims of slander of title and interference with contract.

Defendants do not deny that Ward Greene drafted the proposed order.

Defendants do not deny that out the \$20,970 awarded to Greene/Zweizig, more than \$12,000 was for collections and other activity unrelated and not reasonable connected to the anti-SLAPP (**Doc #38-1, #38-4, #18-1 and #18-10**).

**2. Unlawful Fee Award Anti-SLAPP Greene/Zweizig**

The defendants do not deny that the excessive and unlawful fee award by Lininger (**Doc #18-2**) in case 19cv01547 adopting the language of the proposed order provided by Greene claimed that the Rote's affirmative defenses and counterclaims were some form of harassment. The defendants do not deny that

**3. Unlawful Refusal to Acknowledge the MSJ in Favor of the Rote's**

The defendants do not deny that the Rote's were granted summary judgment on Zweizig's claims in case 19cv01547 (**Doc #18-10**), which was affirmed in Appeal (**Doc #18-13**)

**4. Unlawful Use of Lis Pendens**

Defendants do not deny that Greene filed an unlawful *lis pendens* against Tanya Rote's property at the start of case 19cv01547 (in case 19cv00824) and that the *lis pendens* resulted in the loss of a sale of the Sunriver property.

Defendants do not deny that Albertazzi and Zweizig filed a Motion for Contempt in case 19cv00824 for among other things the Rote's prevailing in case 19cv01547. See **Doc #48-1**.

**5. Unlawful Use of Process to Retaliate**

Defendants do not deny that when summary judgment against the fraudulent transfer claim were granted it had the effect of vitiating the false allegations against the Rote and published by Ann Lininger.

Defendants do not deny that Kamins, Mooney and the Oregon Judicial Department endorsed Ann Lininger's order of July 16, 2020 (**Doc #18-2**), wherein Lininger wrote "Mr. Zweizig is entitled to attorney fees because ...The Rotes have acted willfully, maliciously, and in bad faith to harass and intimidate Mr. Zweizig because Mr. Zweizig is trying to collect on a judgment against the Rotes, to force him to incur large attorney fees, and to delay resolution of his claim that the Rotes have fraudulently concealed assets to avoid paying on the judgment. ORS [20].075(1)(a)."

Defendants Kamins and Mooney, before issuing the order of May 19, 2022 (**Doc #18-19**), were fully aware that the allegations by Lininger in her order (#18-1) were proven false after close of discovery on March 9, 2021, when the claims against the Rote's in that case 19cv01547 were dismissed (**Doc #18-11**), a full year before Kamins and Mooney issued their pro-child predation order. The Judicial department was most certainly aware that the unlawful use of a *lis pendens* by Zweizig was endorsed and has gone unpunished. Kamins and Mooney were aware that the Oregon Court of Appeals had already affirmed without opinion the dismissal at Summary Judgment of Zweizig's unfounded and unsupported claims in case 19cv01547. See order March 21, 2022 (**Doc #18-13**). Kamins and Mooney cannot credibly deny that their order of May 19, 2022 is seen by the public as conflating support for the LGBTQ community with support for decriminalizing child porn.

Defendants do not deny that the order issued by Kamins and Mooney (**Doc #18-19**) of May 19, 2022 *claimed* the Rote's had no objectively reasonable basis for challenging the

attorney fees petitioned by Greene and awarded by Ann Lininger in the amount of \$20,970, in spite of the clear evidence showing that 37 entries and \$12,000 were unrelated to the anti-SLAPP. See **Doc #38-1, #38-4 and #18-10**.

Defendants cannot credibly deny that Plaintiff was targeted by Kamins, Mooney, Lininger and Kathie Steele to punish Rote for pursuing his right of petition, for publishing critiques of the judiciary and for opposing child pornography. The order showcases collective support of the child predation of Max Zweizig.

**6. *Unlawful Hearing on Disqualification of Wise***

Defendants, and in particular Steele and Wise, do not deny that they knew Wise could not act on his own disqualification in case 18cv45257. They do not deny that they knew Wise's term had expired. They do not deny that Kathie Steele was disqualified and could not under Oregon law sign **the limited judgments of 1.12.22 and 1.25.22**. See **Docs #20-13, #20-4, #38-5, and #48-14**. The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Steele and the other defendants to violate Plaintiff's substantive due process rights.

**7. *Unlawful Solicitation by K Steele, Wise and Lininger***

Michael Wise and Kathie Steele do not deny knowing that Albertazzi was only entitled to a fee award for attorney fees directly or reasonably connected to the anti-SLAPP portion of the proceeding in case 18cv45257 and pursued an unlawful amount of fee and relatedly cannot credibly deny that Steele's declaration in seeking unlawful fees was deceptive and intentional. See **Doc #20-6, pages 11-12**. The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited or invited Albertazzi, Steele, Yium and the other defendants to violate Plaintiff's substantive due process rights.

Wise and Kathie Steele cannot credibly deny that Wise's unprovoked statement in the September 2021 hearing in case 18cv45257, identifying Lininger and Kathie Steele as having recruited Wise to become a pro tem Judge, implicated bias and signaled Wise's willingness to

award an excessive and amount of attorney fees that were unrelated to the anti-SLAPP fee proceeding (**Doc #20-1, pages 3-18**).

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights.

**8. *Unlawful Solicitation by Albertazzi and PLF Group on Disqualification***

Defendants do not deny that they were well aware that Wise could not act on his own disqualification in the September 2021 hearing. See **Docs #48-14, #20-1**.

**9. *Unlawful Solicitation of Abuse of Attorney Fees by Steele/Albertazzi***

Defendants do not and cannot deny that Nathan Steele block-billed the anti-SLAPP and Motion to Dismiss time charges in case 18cv45257 in order to seek an unlawful fee award on the successful anti-SLAPP. Steele does not deny that the strategy was encouraged by the PLF and/or Albertazzi. Steele does not deny that there is any finding by Michael Wise in the record in case 18cv45257 that would allow him to petition for fees unrelated to the anti-SLAPP. See **Docs #38-1, page 2, #38-3 and #20-6, pages 13-29**.

Defendants cannot credibly deny that Michael Wise solicited Albertazzi, Steele and the other defendants to violate Plaintiff's substantive due process rights.

**10. *Deceptive and Unlawful Motion to Dismiss Racketeering Claims***

Defendants do not deny that Wise dismissed the Oregon Racketeering Claims against Cook and Albertazzi immediately after the unlawful hearing of September 2021, based on attorney immunity, when no such immunity exists for those OR RICO Claims. See **Doc #48-14**.

Defendants do not deny that Nathan Steele represented Anthony Albertazzi in an anti-SLAPP Motion to Strike and Alternative Motion to Dismiss Oregon Racketeering Claims against Albertazzi in Clackamas case 18cv45257, claims that implicated the defendants' support of multiple crimes including witness tampering, perjury, subornation of perjury, and the

downloading, possession and dissemination of child porn. See **Compl., pg 9, par 17 and Doc #20-3**. See **Doc #38-6, pages 13-19**.

Defendants do not deny that Nathan Steele/Albertazzi anti-SLAPP Motion to Strike argument was entirely based on litigation and/or attorney immunity for Oregon RICO predicate acts alleged against Albertazzi, including acts for bribery, unlawful collection, subornation of perjury, unsworn falsification, witness tampering, perverting the course of justice, etc. See Doc #20-3.

Defendants cannot credibly deny that Michael Wise was not conflicted in attempting to expand the reach of attorney immunity.

Defendants cannot credibly deny that Ann Lininger, Michael Wise and Kathie Steele used the litigation proceeding to punish Plaintiff for exposing the attorney misconduct in the cited cases.

**11. *Unlawful Hearing on Attorney Fees Fee Petition***

Defendants cannot credibly deny that the hearing in case 18cv45257 on the fee petition by Steele/Albertazzi, a hearing in which Plaintiff did not able to attend., was unlawful until such as time as a different judge acted on Wise's disqualification.

**12. *Unlawful Award of Attorney Fees to Steele/Albertazzi***

Defendants cannot credibly deny knowing that Nathan Steele and Albertazzi intentionally pursued an unlawful fee award (for fees Nathan Steele charged the PLF) for a portion of the litigation not associated or reasonably connected to the anti-SLAPP proceeding, fees that would not otherwise be awarded and used block-billing time entries to conflate the time spent on the anti-SLAPP versus the Motion to Dismiss, an unreasonable and unlawful amount of \$4,700. Plaintiff alleges that the block-billing is a strategy embraced by the PLF Group and Vendors (Nathan Steele and Yium) to maximize their fee petition awards (**Docs #20-6, pages 3-6, #38-1 and #38-3**).

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited of the attorney defendants that the fee petition detail should use the block-billing to attempt to conceal the fees not recoverable under ORS 31.152 (3).

Defendants cannot credibly deny that Nathan Steele slammed the file at the request of the PLF. Nathan Steele does not deny that he slammed the file for unrelated activities including downloading and reading cases over a 10 year prior period, which had nothing to do with the anti-SLAPP. Steele does not deny that he slammed the file for over 55 alleged conversations with Albertazzi, the PLF and Yium. See **Docs #38-1 page 2, #38-3 and #20-6**.

Defendants cannot credibly deny that Docs **#38-1 and #38-3** are an accurate summary of Nathan Steele's time by category of work performed for the anti-SLAPP and Motion to Dismiss Albertazzi in case 18cv45257. Albertazzi and Nathan Steele do not deny that they intentionally did not provide that equivalent report or summary similar to Plaintiff's (**Doc #38-1, page 2**) in order to succeed in petitioning for an unlawful fee award.

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights.

Wise and Kathie Steele cannot credibly deny that Nathan Steele redacted the name of the PLF manager with whom he engaged in these unconstitutional petitions. Nathan Steele does not deny that the PLF manager was Bernick and/or Livermore (**Doc #20-6, page 13-29**).

Unlawful Support of Oregon Racketeering

**13. *Unlawful Signing of Limited Judgments by Kathie Steele***

Defendants cannot credibly deny that Kathie Steele was a defendant in federal case 3:19-cv-01988 and under Oregon law disqualified from signing the limited judgments of January 12, 2022 and January 25, 2022.

**14. *Unlawful Notice of Signed Judgments***

Defendants do not deny that Nathan Steele and Albertazzi conspired with Kathie Steele, Michael Wise and others to not inform Plaintiff that the limited judgment dismissing the RICO claims against Albertazzi had been signed on January 12, 2022, interfering therein with proper Notice of the signed Judgment.

Defendants do not deny that the Court sent the Notice to an incorrect address, as did Albertazzi. **See Doc #20-4, page 5.** The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights by discouraging defendants from separately notifying Rote of the judgment events.

**15. *Unlawful and Clandestine Signing of Order and Limited Judgment***

Defendants cannot deny credibly that Wise and Kathie Steele conspired with Nathan Steele, Albertazzi and PLF to file and serve a fee petition (on the successful challenge and dismissal of Plaintiff's appeal of the January 12, 2022 limited judgment—a filing deemed late by the Oregon Court of Appeals) on Rote only by first class mail to an incorrect address (former address of Rote). The conspiracy involved filing and serving the fee petition to an address Nathan Steele knew to be invalid, the same former incorrect address of the Plaintiff that had repeatedly been used incorrectly by Clackamas Court (Plaintiff sold his former home on Big Fir Rd. in West Linn in August 2021). For the first time, Nathan Steele and Albertazzi did not provide a courtesy copy by email and cannot credibly deny that they perpetrated service violations multiple times in an attempt to take advantage of Plaintiff's pro se status. **See Doc #48-17, page 6 and 7.** The Judges cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights by discouraging defendants from separately notifying Rote of the judgment events.

Defendants do not deny that Nathan Steele and Albertazzi conspired with Wise, Kathie Steele, the PLF and others to not inform Plaintiff that the limited judgment awarding fees had

been signed on April 18, 2022, the defendants interfering with proper Notice of the signed Judgment. The Court sent the Notice to an incorrect address. This abuse of service happened numerous times and intentionally as Plaintiff alleged. One such example is provided as **#48-17, 6-7**.

Defendants cannot credibly deny that Michael Wise and Kathie Steele solicited Albertazzi, Nathan Steele and the other defendants to violate Plaintiff's substantive due process rights by discouraging defendants from separately notifying Rote of the judgment events. Subsequently Plaintiff informed the Clackamas and trial court administrators to stop sending notices to the incorrect address and to notify Rote of such actions by email.

**16. *Unlawful Solicitation of Abuse of Attorney Fees by PLF Group***

Defendants do not deny that the PLF Group of PLF, Bernick, Stendahl and Cook in case 18cv45257 filed an unlawful fee petition of approximately \$60,000, when the supporting billing statements submitted by Yium only supported an anti-SLAPP fee of **\$7,175**. See **Docs 38-1, page 2, #38-2, column 14, and #20-9**. Some **\$10,000** of the fee petition was not supported by the billing statements and **\$31,000** was for fees associated with a 9<sup>th</sup> Circuit appeal (a case and action which they lost).

**17. *History of Unlawful Perjury by Albertazzi and Zweizig***

The Judges cannot deny that Albertazzi and Zweizig filed a false declaration in case 19cv01547 to attempt to liquidate the bond posted to secure the anti-SLAPP fee award on appeal, an award that Greene claimed Williams Kastner abandoned. The false declarations by Albertazzi and Zweizig claimed an appellate judgment was final in case 19cv01547, but attached an appellate judgment from a different case (19cv14552). This was an intentional act by Albertazzi and Zweizig. See **Docs #18-16, pages 2, 3, 9 and 10**. Rote opposed and is seeking sanctions. See **Doc #18-17**, Plaintiff's Motion in Opposition. This is one of the few times that a judicial actor looked at the evidence and ruled that the package provided by Albertazzi was incorrect.



Nonetheless, the Judges cannot deny that Albertazzi and Zweizig have been emboldened by judicial support that led them to believe they would get away with this false declaration and exhibit.

**18. *Unlawful Denial of Motion and Judgment for Default***

Defendants cannot deny credibly that Clackamas Court staff, instructed by Ann Lininger, rejected Plaintiff's Motion for Default Judgment against Max Zweizig. Plaintiff alleges that it is unlawful to for Court staff, regardless of who supervises Clackamas Court staff, from denying (rejecting) a Motion for Default Judgment based on an un-served and late Answer in case 22cv17744. **See Exhibit 4, page 8.** Plaintiff filed a Motion to Strike because Defendant's Answer was not filed timely and has not yet been served. **Exhibit 4, pages 1-5.**

**19. *Unlawful Refusal of Court to Allow Case to Proceed***

Defendants do not deny that Judge Norby of Clackamas Court has refused to allow the remaining malpractice claim in case 18cv45257 to proceed. The Court has thus far, now after more than two years from being remanded back from the federal court, refused to respond to Motions, issue a scheduling order or otherwise allow the malpractice claim against Brandsness to proceed. All the while the PLF has refused to cover the damage associated with the malpractice. **See Exhibit 3.**

**20. *Unlawful Solicitation of Court to Endorse the Distribution of Child Porn***

Defendants cannot credibly deny that Zweizig has admitted to child predation not less than acquiring, possessing and distributing child pornography and Albertazzi has attempted to suppress those admissions to benefit his collection activity and to seek favor with the Court. Albertazzi was provided notice of Steve Williams forensic reports (**Doc #38-10**), was present at the deposition of Zweizig of December 21, 2020 (**Doc #18-4**), sought to suppress that deposition (**Doc #38-9**), and argued for that suppression (**Doc #20-10, pages 2-9**).

**C. The Record of Violations by the Superior Courts**

**Oregon Court of Appeals**

The Oregon Court of Appeals reviewed and affirmed without opinion the dismissal of the Rote's counterclaims for interference with contract and slander of title, Appeal A173748. **See Doc #18-8.** The Rote's Petitioned the Supreme Court for Review, outlining in substantial part that virtually all other states in the County require a Bond or permit counterclaims for slander of title and interference with contract to protect the defendants in a fraudulent transfer lawsuit by a Plaintiff pursuing a money judgment—distinguishing a money judgment from one based on title or lien. The Supreme Court of Oregon denied Review. This is in spite of the fact that neither Ward Greene nor Zweizig made an appearance in that lawsuit. **See Doc #48-16.**

Perhaps the most glaring and clear evidence that the Oregon Court of Appeals is targeting Plaintiff Rote and denying Plaintiff substantive due process is the order issued by Kamins and Mooney awarding attorney fees to Helen Tomkins for representing Zweizig in the appeal of attorney fees, A174364. Plaintiff opposed the attorney fee petition by Tomkins because it attempted to collect fees for the A174364 appeal and A175781 appeal (which she lost). **See Doc #18-12.** In Appeal A174364, Plaintiff Rote filed a detailed Opening Brief in that appeal showing that court, in meticulous detail, the 37 entries from Ward Greene's fee petition having nothing to do and not reasonably connected with the anti-SLAPP. **See Doc #18-10.** Although that appeal was affirmed without opinion, as all the other appeal have been (**Doc #18-9**), Kamins and Mooney decided to announce that in spite of those identified 37 entries, that the Court would abandon the facts for a retaliatory public statement that the appeal was objectively unreasonable (**Doc #18-19**). Plaintiff never had a chance of substantive due process. It is not possible for Kamins and Mooney to reach their findings based on the evidence in the record...in the absence of retaliatory animus. Plaintiff opposition to that fee petition is reflected in **Doc #38-1 and #38-4.** Ann Lininger issued the award and in that order claimed the Rote's were filing counterclaims

to harass Zweizig. See **Doc #18-2, pg 2, line 7-14**. Plaintiff filed this complaint after the Supreme Court denied review, making this claim ripe. See **#48-15**. Plaintiff reiterates that ultimately the Rote's prevailed on Summary Judgment on all claims with a finding that Zweizig provided not credible evidence to overcome a 2012 transfer to a holding company or Tanya Rote's ownership of the subject Sunriver property (**Doc #18-11**). The Motion for Summary Judgment transcript is provided herein as **Doc #20-10**.

**Supreme Court of Oregon**

In 9<sup>th</sup> Circuit case #18-36060, the 9<sup>th</sup> Circuit referred a question to the Supreme Court of Oregon on whether there was a \$500,000 cap on noneconomic damages in Zweizig's case 3:15-cv-2401. Rote, defendant and appellee on that question, filed a Motion to Disqualify Justice Nakamoto, Garrett, Balmer and Walters in that case, although particularly emphasizing the disqualification of Lynn Nakamoto and Garrett because of prior and caustic associations with the Markowitz and Perkins Coie firms. See **Exhibit 5, pages 21 to 29**.

In what should be considered a solicitation by Nakamoto and the Supreme Court of Oregon, of Defendant Jeffrey Edelson, Appellant attorneys Joel Christiansen and Shenoa Payne secured from Edelson a highly prejudicial declaration and series of false statement that misled the court on Nakamoto's prior contact with then defendant Rote.

Edelson was fully informed of the child pornography reports and testimony of forensic experts Justin McAnn (Zweizig's expert), Mark Cox and police officer Steve Williams showing the child pornography downloaded, possessed and disseminated by Zweizig, having represented Rote and employer Northwest Direct against Zweizig in ASP 050511-1, **Doc #48-8**.

It is not plausible that Joel Christiansen or Shenoa Payne could have induced Edelson to issue a declaration in support much less commit perjury in his declaration. See Exhibit 5, page

14-17. What is feasible is that Nakamoto reached out to Edelson. And Nakamoto wrote the Opinion of the Supreme Court removing the cap on noneconomic damage awards on employment claims, even though the Oregon Tort Act still retains that cap and evolved from the same initial legislation codified in ORS 31.710.

Rote also sought to disqualify Justice Garrett for a threat he made during his representation of David Wu. That issue arose when Wu refused to pay an invoice for get out the vote calling during his re-election campaign. Garrett was on that legal team and threatened Rote after the litigation was resolved in Rote's favor.

The Supreme Court denied Rote's Motion to disqualify Nakamoto and Garrett. See **Exhibit 5**.

The Supreme Court has in fact denied every Motion filed by Rote. See Exhibit 2, on Writ of Mandamus to force Deschutes to transfer the case to Clackamas, **See Exhibit 2**. The OSC also denied Review of 174364, award of unlawful fees (**#48-15**) dismissal of counterclaims for interference with contract and slander of title (**#48-16**).

#### **D. The Evidence of Collusion**

Plaintiff previously references the above **Docs #18-1, 18-2, 18-10, 18-19, 38-1 to 38-4, 20-1, 20-3, 20-4, 20-5, 20-6, 20-7, 20-8, and 20-9** in Plaintiff's prior responses. Plaintiff incorporates all of those allegations against the Judicial Defendants and further submits Plaintiff's Docs **#48-1 to #48-18**, filed herein, as support.

Plaintiff also previously submitted in this analysis his **Doc #38-5**, which is a letter to Judge Wise. The Plaintiff shows by that he did not raise issues associated with Ann Lininger or Kathie Steele in that letter to Wise. Judge Wise raised those issues unilaterally in the hearing in September 2021 (**Doc #20-1, page 7**), implicating collusion and interference with the other

judicial actors and attorney defendants. In fact Wise indicated that he talked to presiding Judge Kathie Steele the day before the hearing.

Plaintiff alleges Wise' decision to conduct a hearing on his own disqualification violates Oregon law, ORS 14.250. That decision sent a message to defendants Nathan Steele, Albertazzi, Yium and PLF Group, a message they well understood to mean aggressive and unlawful billing would be invited by Wise to retaliate on behalf of the judicial group. The attorney defendants were in possession of the letter sent to Wise (#38-5). A judge does not have authority to rule on substantive validity of motion to disqualify. See *Phelps and Nelson*, 122 Or App 410, 857 P2d 900 (1993), Sup. Ct. review denied.

Wise also made statements that were proven to be incorrect. Wise claimed "While I'm quite familiar with Judge Steele and Judge Lininger, especially being that those are the ones that asked me to serve as a pro tem judge, I must let you know, Mr. Rote, that for the first time in my 30-year career, I had to hire a lawyer on a matter. And that lawyer hired another lawyer to assist in the case and that lawyer is Matt Kalmanson." See **Doc #20-1, page 7, lines 3-10**. The truth however is that while Kalmanson was hired by the PLF to represent attorney defendants in case 19cv01547, there was no recent event as Wise described. To put this delicately Wise lied about this record of "first time in my 30 year" statement. Plaintiff contacted Kalmanson, who denied having represented Wise on any matter in the last ten years. Plaintiff could provide that email.

Nathan Steele's attestation as to the accuracy and reasonableness of his fee petition is knowingly false, claiming "Previously provided (as Doc #38-1) are true and accurate copies of billing statements for the reasonably-related attorney fees, costs and disbursements incurred in the defense of the above-captioned matter. The amount of the attorney fees totals \$19,357.50, and the amount of the costs and disbursements totals \$1,777.76." That attestation by Steele that

the fees were reasonably connected to the anti-SLAPP was knowingly false for the reasons outlined in the argument section of this brief and there is no record in the case that supports a different finding.

Judge Wise, even while disqualified, made no findings on the record in any hearing, in any published order or judgment that would have allowed an award of attorney fees and costs for anything but the mandatory fee award under ORS 31.152 (3), the anti-SLAPP provisions. There was no necessary finding by the Court that the *un-served third amended* complaint claims against Albertazzi for Oregon RICO were somehow objectively unreasonable (a necessary finding for attorney fees) or that Albertazzi was absolutely immune (which would not have provided a fee opportunity). See **Doc #20-4**. And as pointed out in **Doc #48-1**, Albertazzi filed a false declaration on his own account and constructed the false declaration of Max Zweizig, which is an affirmation of prior predicate acts under the Oregon and Federal racketeering Statutes. The point is Wise showcased that he was willing to violate the law in order to retaliate against Rote, even concealing from the record that Zweizig's appellate attorney Shenoa Payne shared office space with Wise.

Plaintiff alleged in his Third Amended Complaint in case 18cv45257 that Albertazzi, Cook and the PLF group engaged in racketeering. The Third Amended Complaint described in detail those defendants' predicate acts, which included that both Zweizig and Albertazzi:

“participated in the enterprise through a pattern of racketeering activity by committing or attempting to commit acts of bribery (ORS 162.015 & 162.025), perjury (ORS 162.065), unsworn falsification (ORS 162.085), obstructing judicial administration (ORS 162.235, to include witness tampering, spoliation, false evidence and perverting the course of justice) and Coercion (ORS 163.275),

committing most of these act within a five year period of time measured from the date the complaint was filed. Less than two months ago the enterprise through defendants Zweizig and attorney Albertazzi also engaged in an effort to extort money, by attempting to collect on a debt not owed by plaintiff, also predicate act (ORS 260.575).”

The allegations against Albertazzi, Cook and PLF Group for Oregon RICO have not been refuted. See **Plaintiff Doc #38-6**. More specifically, and on information and belief, the PLF did not issue a 1099 to Zweizig and joined Zweizig in his effort to not report \$100,000 in free legal services provided by the PLF. This tax fraud could only be accomplished with the approval of Carol Bernick and Megan Livermore, since the Chief Financial Officer of the PLF would have been required to file 1099 NEC or 1099 Misc. The Treasury Department has been put on notice and it is likely they will pursue their own criminal investigation.

One of the key reasons raised by Plaintiff to ask Wise recuse himself was that he is actively practicing law in Oregon and would not likely be impartial in a case alleging criminal conduct of attorneys who would commit these crimes for their own benefit and for the benefit of his or her clients. Wise understood that, as the transcript so indicates. See **Doc #20-1, pages 1-12**. In spite of Albertazzi’s and Cook’s effort to constrain Zweizig’s testimony in multiple actions, Zweizig did blurt out that Greene resigned no longer wanting to be associated with Zweizig and the raping of children (**Doc #18-4, page 15**). Per Zweizig, Greene specifically responded to an email Rote sent him with a copy of the Steve Williams forensic report. Greene has not refuted that statement in this action.

Judge Kathie Steele while disqualified to the 18cv45257 case signed the limited judgment dismissing Albertazzi (**Doc #20-4**) and PLF (**Doc #20-5**). At the time Steele was a defendant in

civil rights case 3:19-cv-01988. Plaintiff argues that this is prima facie evidence that Kathie Steele solicited Wise to violate Plaintiff's rights and does not enjoy judicial immunity for those acts while clearly being disqualified to perform them.

Judge Wise signed the order and judgments awarding attorney fees while still disqualified and while his pro tempore status had terminated. See **Doc #20-7 and #20-13**. The limited judgment referenced a hearing in which Rote was not in attendance.

And last but certainly not least is the solicitation of Nakamoto of Edelson to publish a knowingly false declaration to aid and abet child predation. See **Exhibit 5**.

**E. The Record of Aiding and Abetting Child Pornography**

Plaintiff alleges that the violations of Plaintiff's First and Fourteenth Amendment rights sought by the defendants also implicate criminal conduct of aiding and abetting.

**1. The Inferences That May be Drawn**

As part of that Motion for Contempt reflected in Doc #48-1, Zweizig filed a declaration in support and seeks to have Plaintiff Rote imprisoned in Deschutes County jail for Rote's role in (1) successfully defending Tanya Rote's Sunriver property and prevailing in case 19cv01547; (2) pursuing a wrongful use of a civil proceeding action, Clackamas case 22cv17744, for Zweizig bringing the fraudulent transfer action (19cv01547) with no evidence; (3) defending against First and Fourteenth Amendment abuses in case 19cv00824 and other cases, including this one; and (4) exposing Zweizig as a distributor of child pornography and cybercriminal. Make no mistake, Albertazzi and Zweizig are asking the Court to imprison Plaintiff Rote for engaging in civil litigation successfully. See Doc #48-1, pgs 1-2.

Zweizig's declaration claims that the allegations that Zweizig is a child predator and pedophile are false (#48-1, pg 2, ¶4). Most notably, **Zweizig does not deny** that he has in the past and does in the present download, possess and disseminate child porn. Federal law prohibits the



production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce (18 U.S.C. § 2251; 18 U.S.C. § 2252; 18 U.S.C. § 2252A). This is a particularly noteworthy affirmation and attempt to deceive the Court by an omission that was not doubt commissioned by defendant Albertazzi.

Albertazzi is pursuing a judgment of \$1 Million that Zweizig secured in federal case 3:15-cv-2401. Zweizig filed an ORS 659A.030 lawsuit against Rote alleging therein that Rote had published blogs alleging forensic evidence ignored by the arbitrator in 2010 that objectively and summarily vitiated Zweizig's ORS 659A claims in that case. **Doc #48-2** is the trial transcript in case 3:15-cv-2415 in which Zweizig denies that he committed these federal and Oregon crimes of downloading, possessing and disseminating porn of any kind. See **Doc #48-2, pgs 7, 9, 68, 103, 104, 123 and 172.**

**Doc #48-3** is Zweizig's Motion in Limine in that 3:15-cv-2401 case, wherein he sought successfully to suppress the forensic reports from the jury that affirmed Zweizig's criminal conduct related to child porn and for other criminal conduct including spoliation, perjury, cybercrime and destruction of evidence.

**Doc #48-4** is one of Rote's blog posts, the post with which Zweizig took most offense and which allegedly caused him to file his ORS 659A.030 complaint of case 3:15-cv-2401. The forensic reports used to reach the conclusions by Rote are cited and linked in that blog post. The forensic report by Police officer Steve Williams is attached thereto starting at **page 5**. Williams report and the others provided herein confirm that Zweizig separated his employer issued 120 gig hard drive into multiple partitions or sector such as d:\, d:\paul, d:\shared, d:\winmx, d:\laptop and others which were used to download, store and disseminate child porn, porn, movies and videos. D:\ paul refers to Paul Bower, who had organized a competing company called Superior

Results Marketing with Zweizig on September 16, 2001. The group intent was to breach their respective non-compete agreements and to solicit and steal Rote's clients. See **Doc #48-7, Plaintiff's Declaration Doc #48 at ¶12**. Zweizig and Bower did not succeed and it was a now obvious mistake to allow Zweizig to stay with the company.

The evidence against Zweizig was, as early as 2005, overwhelming on his criminal, cybercriminal and misplaced litigation, which is why Rote and Zweizig's former employer Northwest Direct ("ND") filed a Motion for Summary in that arbitration, arguing that the forensic reports showed there was no credible question of fact on when (October 2, 2003 by email) and why (Zweizig was terminated and the lengths he went to in an effort to extort a raise) Zweizig was terminated. That MSJ was filed by then counsel for NW and Rote, namely Jeff Edelson. See **Doc #48-8**.

The testimony from the arbitration of Jamie Gedye and Zweizig's former forensic expert Justin McAnn was also suppressed from the 3:15-cv-2401 trial. McAnn confirmed the cybercriminal activity and destruction of programming by Zweizig, programming which was removed from other company servers by Zweizig. Once Zweizig removed the programming he then used that leverage to attempt to extort a payoff from his former employer and Rote. See **Doc #48-9**.

Zweizig also admitted in his deposition of December 21, 2020 that his former attorney Ward Greene reviewed the forensic reports provided to him by Rote (Steve Williams 120 gig hard drive report) and resigned no longer wanting to be associated with Zweizig and the raping of children. See **Doc #18-4, pg 10, line 12**. Soon thereafter and also in case 19cv01547 Zweizig/Albertazzi filed a Motion to suppress his deposition from the public space claiming he would not receive a fair trial if this child porn evidence was available to the jury pool. Rote

opposed. See **Doc #38-9**. Clackamas Court refused to suppress his deposition testimony. See **Doc #20-10, pages 3-10**. The Rote's were granted Summary Judgment against all of Zweizig's fraudulent transfer claims in case 19cv01547 (**Doc #18-11, #20-10**). As previously noted, Zweizig appealed and the Oregon Court of Appeals affirmed the Court granting the MSJ and denied reconsideration (**Doc #18-13**).

Plaintiff argues there is now a stacking of evidence that shows Zweizig no longer denies that he downloads, possesses and disseminates child porn and that he has in multiple cases asked the Court to suppress that evidence so he could lie about it under oath. The evidence that he lied is objectively provable. When a Court suppresses that credible evidence, Zweizig's history is to then lie about the existence of the forensic evidence and even of his own expert's prior testimony, implicating perjury in the 3:15-cv-2401 trial during which he claimed he did not download, possess or disseminate any porn. See **Doc #48-2 to 48-4**.

Zweizig's new omission of his declaration in support of Motion for Contempt (Doc #48-1, pages 1 and 2) confirms that Zweizig is a child predator when that is defined to include downloading, possessing and/or distributing child porn, even though he has not yet been arrested or prosecuted for those crimes or when he defines child predator to not include criminal allegations of downloading, possessing and disseminating child porn. Reformatting his hard drive on November 12, 2003 was a masterful stroke by him, no doubt then assisted by attorney Sandra Ware. Zweizig admitted to reformatting the 1120 gig hard drive. And again Zweizig then made admissions in his deposition of December 21, 2020 and, like in the federal case, then attempted to suppress that testimony evidence (**Doc #38-9**).

Zweizig asked the defendants identified herein to help him perpetrate these crimes. The defendants named herein did perpetrate the crimes and violations so identified.

Plaintiff asks this Court for a finding that Zweizig committed perjury in case 3:15-cv-2401, in case 19cv01547 and has renewed his effort to do so by declaration omissions in case 19cv00824. In this new Motion for Contempt, Zweizig and defendant Albertazzi have again solicited favors that violate due process. Plaintiff is entitled to inference that the defendants solicited, colluded and received prior favors from the State Courts that violated Plaintiff's First and Fourteenth Amendment rights.

**2. *Record of Disclosure of Child Pornography***

Clackamas County Court was first given Notice of Zweizig's child predator activity in case 19cv01547 on June 24, 2019 with the filing of the Police Officer Steve William's forensic report (August 2005). See **Doc #38-7**. Subsequently Zweizig admitted to perjury and his child predator activity in a deposition dated December 21, 2020 and filed in that case on March 1, 2021. Albertazzi and Zweizig moved to suppress Zweizig's deposition on Date. That Motion to suppress the deposition was denied on March 9, 2021 (**Doc #20-10**).

Clackamas County Court was first given Notice of Zweizig's child predator activity in case 18cv45257 on September 3, 2021 with the filing of the Police Officer Steve William's forensic report (August 2005). See **Doc #38-8**. Subsequently Zweizig admitted to perjury and his child predator activity in a deposition dated December 21, 2020 (**Doc #18-4**) in case 19cv01547 and filed in case 18cv45257 on September 3, 2021. The Court in case 18cv45257 was informed that Albertazzi and Zweizig moved to suppress Zweizig's deposition in case 19cv01547. That Motion to suppress by Albertazzi and Zweizig was denied on March 9, 2021 (**Doc #20-10, pages 3-10**).

Deschutes County Court was first given Notice of Zweizig's child predator activity in case 19cv00824 on January 11, 2019 with the filing of the Police Officer Steve William's

forensic report (August 2005). See **Doc #38-10**. Subsequently Zweizig admitted to perjury and his child predator activity in a deposition dated December 21, 2020 (**Doc #18-4**). The Court in case 19cv00824 was not informed that Albertazzi and Zweizig moved to suppress Zweizig's deposition in case 19cv01547. That Motion by Albertazzi and Zweizig in case 19cv01547 to suppress his deposition from the public space was denied on March 9, 2021 (**Doc #20-10**).

Every Judge and attorney identified as defendants in this case were informed of Zweizig's child predator behavior, the forensic reports showing that behavior, proof that other jurisdictions have imprisoned comparable players for possessing and distributing child porn just as the forensic reports show Zweizig doing. See **Doc #38-7 to #38-10**. HGTV celebrity Josh Duggar was arrested and convicted of possessing and distributing child porn through a peer to peer sharing program just as Zweizig did. See **Doc #20-11**. Every defendant nonetheless chose to act outside the law to benefit Zweizig.

All Plaintiff asked of the defendants was to follow Oregon law...which they refused to do.

### III. ARGUMENT

#### A. Legal Standard

In *Conley v. Gibson*, 355 U.S. 41 (1957), the Supreme Court stated the interplay between Rule 8 (pleading) and Rule 12(b)(6) as follows: “[T]he accepted rule [is] that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.” 355 U.S. at 45-46. In *Bell Atlantic Corporation v. Twombly*, 55 U.S. 544 (2007), the Court noted questions raised regarding the “no set of facts” test and clarified that “once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint,” *id.* at 563. It continued: “Conley, then, described the breadth of opportunity to prove

what an adequate complaint claims, not the minimum standard of adequate pleading to govern a complaint's survival." *Id.* In *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), the Court further elaborated on the test, including this statement: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face.'" *Id.* at 1949 (citation omitted).

### **B. Satisfied Elements of the 42 USC §1983 Claims**

The factual allegations are voluminous, but does not represent all of the First and Fourteenth Amendment violations perpetrated by the defendants.

"Traditionally, the requirements for relief under [§] 1983 have been articulated as: (1) a violation of rights protected by the Constitution or created by federal statute, (2) proximately caused (3) by conduct of a 'person' (4) acting under color of state law." *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). Plaintiff so alleges against the Judicial defendants and incorporates the "Relevant Facts" section of this brief.

For points of clarification, Plaintiff alleges that an unlawful fee petition rises to unconstitutionality when an adverse party seeks attorney fees through one or more strategies designed to conflate and conceal fees from recoverable proceedings (such as an anti-SLAPP) with non-recoverable proceedings (such as a Motion to Dismiss). Plaintiff alleges that the PLF does as a rule ask its vendors to conflate those actions in an effort to recoverable unlawful fees. Every fee petition identified in this case, Doc's #38-2 to #38-4 used block-billing to conflate recoverable and non-recoverable fees. In every case a summary by category of fees was not filed by the defendants. And in all cases the defendant attorneys sought three (3) to eight (8) times more than allowed by law. Plaintiff is entitled to an inference that these were intentional acts to aid and abet the unconstitutional acts of all the defendants.

Whether unlawful and unconstitutional acts are targeted or not targeted offers a degree of credibility on a finding of 42 USC §1983 violations, but does not diminish that the practices of a

given court are substantive violations particularly when solicited by one or more of the defendants.

Plaintiff would also note that a defendant who avoided a Federal or Oregon Racketeering action by invoking attorney immunity or privilege, such as on witness tampering, perjury or unlawful collection actions, cannot avoid 42 USC §1983 violations when engaging in the deprivation of rights under the color of state law. And in this case the non-judicial defendants continued their equally unlawful pursuits including solicitations of the Court to collude in perjury, subornation of perjury, witness tampering, unlawful collection actions, and the distribution of child pornography.

***1. Deprivations of Rights under Color of State Law***

a. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law by the Deschutes Circuit Court and Alison Emerson raised by Plaintiff in Section II A of this Brief;

b. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law by the Clackamas Circuit Court, Michael Wise, Ann Lininger and Kathie Steele raised by Plaintiff in Section II B of this brief; and

c. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law by the Supreme Court of Oregon and Oregon Court of Appeals, Kamins and Mooney raised by Plaintiff in Section II C of this brief; and

d. Plaintiff reiterates the allegations and evidence of First and Fourteenth Amendment Violations under color of state law against the Judicial Actors for collusion raised by Plaintiff in Sections II A-D of this brief.

## 2. ***Collusion and Acts of Defendants***

Plaintiff reiterates the allegations and evidence of the 30 First and Fourteenth Amendment Violations of sections II A-II C and multiple acts of collusion by defendants in sections II D.

### C. **Judicial Immunity**

With Zweizig's Declaration of September 15, 2022 (**Doc #48-1**) as well as the other evidence in support, it is now axiomatic that Zweizig has and does download, possess and disseminate child pornography in violation of federal and state law. It is also now reasonably certain that the Judges named as defendants in this case knew or believed Zweizig is a child predator as defined to include Zweizig and his child porn business. With that relative certainty comes an inference that the Judicial Defendants are using their respective roles to aid and abet in the downloading, possession, distribution and monetization of child pornography.

The question that will always be raised is whether State Judges enjoy absolute immunity to 42 USC §1983 claims? The Supreme Court of the United States opined that they are protected from damages but not injunctive and declaratory relief. See *Supreme Court of Va. v. Consumers Union of United States, Inc.*, 446 US 719 - Supreme Court 1980.

Citing at *Id.* 735, "Adhering to the doctrine of *Bradley v. Fisher*, 13 Wall. 335 (1872), we have held that judges defending against § 1983 actions enjoy absolute immunity from damages liability for acts performed in their judicial capacities. *Pierson v. Ray*, 386 U. S. 547 (1967); *Stump v. Sparkman*, 435 U. S. 349 (1978). However, we have never held that judicial immunity absolutely insulates judges from declaratory or injunctive relief with respect to their judicial acts. The Courts of Appeals appear to be divided on the question whether judicial immunity bars declaratory or injunctive relief we have not addressed the question.



Plaintiff has amended his complaint to add a demand for declaratory and injunctive relief against the Judicial defendants. Plaintiff notes that case *Supreme Court of Va. v. Consumers Union of United States, Inc.* specifically arose and resulted in a finding that the Virginia Court and its chief justice properly were held liable in their enforcement capacities. *Id.*, at 736. Plaintiff amended his complaint to allege violations by the Oregon Judicial Department and Chief Justice Martha Walters.

What remains is a question of judicial capacities in the context of the anti-SLAPP and other identified actions of the defendants and whether the acts specifically described in this case fall within judicial capacity.

Plaintiff argues that the September 20, 2021 hearing shows that it is plausible to find Michael Wise engaged with the Court (presiding Judge) before the hearing including contact with Judges Lininger and Steele before addressing his recusal in case 18cv45257, by reference to **Doc #20-1, pages 6-8**. No part of Plaintiff's communication to the Court invokes any statement about Lininger and Steele and accordingly Plaintiff alleges contact by them to Wise falls outside of their respective judicial capacities (**Doc #38-5**). Discovery needs to be done on what the contact with the Court involved. Defendants would not be shielded against a §1983 claim or §1985 conspiracy claim on actions and violations outside of their official judicial capacities. Plaintiff argues that the meeting between Wise, Steele and Lininger on or before the hearing of September 20, 2021 was first not a meeting from which these judges have immunity and second not a meeting on Wise's judicial disqualification, there being no separate finding on his disqualification.

Plaintiff argues that Kathie Steele executing the limited judgments of January 12<sup>th</sup> and 25<sup>th</sup> of 2022 are not likely acts enjoying judicial immunity. Steele was not presiding Judge at the

time those orders were signed. Defendants have made no allegation that these orders (derived from her interference with the anti-SLAPP and Motions to Dismiss proceedings, those proceedings adjudicated by Michael Wise), were protected and immune judicial acts. Further discovery may reveal that presiding Judge Michael Wetzel assigned these limited judgments to Steele, but as of this time Plaintiff makes a plausible argument that they were not and could not be assigned to Steele without Steele taking unilateral action. The Oregon Code of Judicial Conduct would have specifically precluded Steele from engaging in this case while she was a defendant in case 3:19-cv-01988, which was not dismissed until March 23, 2022.

Steele is not protected from soliciting the abusive acts of Ann Lininger when she granted the anti-SLAPP Motions to Strike Plaintiff's claims in case 19cv01547. Plaintiff alleges plausibly, and without any attempt to refute by the judicial defendants, that Steele was in Lininger's chamber coaching Lininger during the January 2020 anti-SLAPP hearing. That allegation is sufficient to impune the attorney fee awarded by Ann Lininger of July 16, 2020 (**Doc #18-2, page 2, line 15-20**). The allegations asserted by Lininger were that the Rote's were guilty of resisting Zweizig's efforts to take Tanya Rote's property and thus an anti-SLAPP award was appropriate because that opposition was some form of harassment. Of course the Rote's have an absolute right to defend against Zweizig's efforts to take properties unlawfully and to attempt to in his various forms molest Rote's grandchildren.

Zweizig made a similar claim as Lininger, that Plaintiff Rote should be arrested for opposing and prevailing against Zweizig in case 19cv01547 (**Doc #48-1, pages 1-2**). That is the record of retaliation coming from Lininger's chamber. The Rote's subsequently prevailing at Summary Judgment refutes any suggestion that the Rote's opposed for any other reason than to prevail.

Plaintiff does not concede that Lininger is immune from §1983 damages from that order (**Doc 18-2**), nor for §1985 conspiring with Kathie Steele (who was presiding Judge at that time in 2020 and 2021) to deprive the Rote's of substantive due process.

Citing *Stump v. Sparkman*, 435 U. S. 349 (1978), the scope of the judge's jurisdiction must be construed broadly where the issue is the immunity of the judge. A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority; rather, he will be subject to liability only when he has acted in the "clear absence of all jurisdiction citing therein *Bradley v. Fisher*, 13 Wall at 351.

On August 16, 2022 Clackamas County Judge Michael Wetzel issued a letter confirming that Michael Wise was not a duly appointed pro tempore Judge from December 8, 2021 to July 20, 2022. See **Doc #48-13**. Judge Wetzel cites the de facto Judge doctrine, *DHS v JH*, 370 Or App 85 (June 8, 2022), as providing validity to Wise's actions and orders, especially since many of the orders were signed by regular Judges. Plaintiff interprets that letter and case citation as confirming jurisdiction to Wise during his proceedings, but arguably does not excuse Wise from liability under §1983 and §1985.

Defendants Michael Conahan ("Conahan") and Mark Ciavarella ("Ciavarella") abused their positions as judges of the Luzerne County Court of Commons Pleas by accepting compensation in return for favorable judicial determinations. As part of this conspiracy, Conahan and Ciavarella acted with Defendants Robert Powell, Robert Mericle, Mericle Construction, Pennsylvania Child Care ("PACC"), Western Pennsylvania Child Care ("WPACC"), Pinnacle, Beverage, Vision, and perhaps others. The basic outline of the conspiracy was that Conahan and Ciavarella used their influence as judicial officers to select PACC and WPACC as detention facilities, and that they intentionally filled those facilities with juveniles to earn the conspirators

excessive profits. In return, approximately \$2.6 million was paid to Conahan and Ciavarella for their influence. See *Humanik v Ciavarella*, 3:09-cv-00286-ARC, #537, page 3. Ultimately the §1983 claims against Ciavarella were dismissed under a judicial immunity theory. Subsequently, Ciavarella petitioned the Supreme Court to vacate his bribery charge, for which he was found guilty citing *Mcdonnell V. United States*, 792 F. 3d 478, decided June 27, 2016.

Former Judge Ciavarella was convicted in federal court on Feb. 18, 2011 of 12 of 39 charges alleging he took bribes and kickbacks while serving as a judge. He was later sentenced to 28 years in prison. Ciavarella, 71, remains jailed at Federal Correctional Institution-Ashland in eastern Kentucky. His expected release date is June 18, 2035. A federal judge overturned three charges, but later refused to reduce his sentence. That same judge in January rejected Ciavarella's request for compassionate release due to the COVID-19 pandemic.

Former Judge Conahan pleaded guilty and was sentenced to 17 1/2 years in federal prison, but in June he was granted early release from a Florida federal prison due to the COVID-19 pandemic. Conahan, 68, is now under home confinement and reports to a Residential Reentry Management field office in Miami. He's expected to remain under Bureau of Prisons supervision until Aug. 19, 2026. Conahan and his wife now live in a \$1.05 million home in a private gated community known as The Estuary along the waterfront in Delray Beach, Florida.

Attorney Powell, co-owner of the juvenile detention centers, was disbarred and sentenced to 18 months in federal prison after pleading guilty for his role in paying \$770,000 in kickbacks to Ciavarella and Conahan. He was released from prison on April 16, 2013. Powell, 62, and his wife now live in a \$2.38 million home in the private gated Frenchman's Reserve Country Club golf community in Palm Beach Gardens, Florida. Powell entered into a settlement in the §1983 cases brought against him.

Developer Robert Mericle, the developer of the juvenile detention centers, paid \$2.1 million to the judges and was charged with failing to disclose to investigators and a grand jury that he knew the judges were defrauding the government by failing to report the money on their taxes. Mericle, 58, served one year in federal prison and was released on May 29, 2015. He continues to lead his commercial real estate and construction firm that draws national and worldwide companies to the region. Mericle entered into a settlement in the §1983 cases brought against him.

Plaintiff would also argue that the Wise orders were derived after Wise presided over his own hearing on disqualification, which at a minimum makes his decisions void or voidable under Oregon law. Plaintiff raises this as a component of the volume of activity also satisfying the plausibility standard. See **Doc #48-14, #20-1, #20-7, #20-8, #20-13**. These violations were conceived and executed against Plaintiff, a *pro se* litigant, and believe they deserve enhanced review.

Thus Plaintiff argues that with respect to Kathie Steele there was a clear absence of jurisdiction on any direct act or act of collusion because she never had jurisdiction or authority to act in any capacity in case 19cv01547 or 18cv45257, particularly after being sued in federal court in case c:19-cv-01988. Following the guidance of *Stump v. Sparkman*, 435 U. S. 349 (1978), Steele was not acting in her capacity as a Judge or within the scope of the Judges jurisdiction, at 362.

The acts of Lininger while more blatant appear to convey judicial immunity for her order awarding Zweizig attorney fees in case 19cv01547 (**Doc #18-2**), but not soliciting the violations of Michael Wise in September 2021.

Kamins, Mooney and Emerson have jurisdiction for their judicial acts and would not to that extent be subject to damage under §1983. Should discovery show however that one or more of these judges solicited from others, including any one of the other defendants, violations of the Plaintiff's Fourteenth Amendment right to substantive due process, there should be liability under 42 USC §1985.

Regardless this Court would have jurisdiction and discretion to provide declaratory relief that as applied in case 19cv01547 and 18cv45257, the anti-SLAPP fee awards were used to retaliate against Plaintiff pursuit of his due process rights, are as applied unconstitutional and enjoin the Oregon Judicial Department from awarding anti-SLAPP fees above those supported by the fee petition for fee directly related or reasonable connected to the anti-SLAPP portion of proceedings.

There is nothing in these statutes that would provide qualified immunity to the other non-judicial defendants.

#### **D. The Application of the Plausibility Standard**

In *Bell Atlantic v. Twombly*, 550 U.S. 544, 547 (2007) and *Aschroft v. Iqbal*, 556 U.S. 662, 678 (2009) the Supreme Court held that in order to survive a motion to dismiss for failure to state a claim, a complaint must be plausible. To satisfy this plausibility standard, a complaint must plead sufficient facts to permit a reasonable inference that the defendant is liable for the alleged misconduct.

Plaintiff has alleged specific facts to show that the Order issued by Ann Lininger contained highly prejudicial statements about the Rote's, allegations that were subsequently proven false when the Rote's prevailed in Summary Judgment, implicating substantive due process violations. See **Doc 18-2, 18-1 and 18-10**. That violation was solicited by Greene and child predator Zweizig.

Plaintiff has alleged specific facts to show that the fee petition by Greene/Zweizig contained 37 entries that had nothing to do with the anti-SLAPP proceedings and should not under Oregon law have been awarded, citing ORS 31.152 (3) and ORS 20.075 (2) (a). See **Doc 18-1 and 18-10**.

Plaintiff has alleged specific facts to show that the abuses of Ann Lininger were solicited by then presiding Judge Kathie Steele (2020). See Plaintiff Declaration **Doc #20**. This allegation is un-refuted.

Plaintiff alleged specific facts to show that Michael Wise invoked Judge Steele and Lininger in a September 20, 2021 hearing without provocation implicating a facial admission that Wise had engaged with Lininger and Steele and was going to retaliate against Plaintiff for his Civil Rights actions. See **Doc #20-1, pages 6-8**.

Plaintiff alleged specific facts to show that Wise held a hearing on his own disqualification rendering his orders and judgments void or voidable under Oregon law. **Doc #20-1, page 4-10**.

Plaintiff alleged specific facts to show that Wise granted a Motion to Dismiss and anti-SLAPP in favor of Albertazzi knowing full well that Albertazzi had not been served the Third Amended Complaint. See **Doc #20-1**.

Plaintiff alleged specific facts to show that Wise awarded attorney fees to Albertazzi of twice the amount supported in the attorney fee petition and applying ORS 31.152 (3) and ORS 20.075 (2). See **Doc #20-6**.

Plaintiff alleged specific facts to show that in a rehearing in June 2022, in front of Wise on the April 18, 2022 Judgments signed by Wise, that Wise invoked ORCP 68 after Mooney and

Kamins did the same in the order issued by them in Appeal case 174364. See **Plaintiff's Declaration Doc #20, #20-7 and #18-19.**

Plaintiff alleged specific facts to show that Wise signed the order and limited judgment on the award of attorney fees to Albertazzi when Wise was not an appointed pro tem Judge and that Wise knew he was not an appointed pro tem Judge. See **Doc #20-7, #20-8 and #20-13.**

Plaintiff alleged specific facts to show that Judges Mooney and Kamins opined in an order dated May 19, 2022, that the Rote's appeal of Ward Greene's fee petition was objectively unreasonable in spite of the Rote's objectively proving that 37 out of 63 entries were unrelated to the anti-SLAPP proceedings. See **Docs #18-19, #18-10 and #18-1.**

Plaintiff alleged specific facts to show that Judge Steele acted outside of any plausible jurisdiction to sign the January 12<sup>th</sup> and 25<sup>th</sup> 2022 limited judgments secured by Michael Wise and signed by Steele when she was not the presiding Judge of Clackamas County and was a defendant in 3:19-cv-01988. See **Doc #20-4 and #20-5.**

Plaintiff alleged specific facts to show that the Oregon State Bar Professional Liability Fund Group filed a fee petition seeking \$60,000 on an anti-SLAPP fee petition, wherein the billing statements only supported a \$7,175 fee. See **Doc #20-9.** Plaintiff has shown that the anti-SLAPP fee petition awards should have been in the \$7,000 range and not the plus \$20,000 in damages awarded punitively. See **Docs #18-1, #18-10 and Doc #20-6 and #20-9.** Plaintiff will address the PLF in greater depth in his Response to the PLF Group.

Plaintiff has alleged sufficient facts to show Judge Alison Emerson awarded \$8,500 to Max Zweizig for Plaintiff failing to secure a notary's signature and instead provided a response by declaration, and issued an order ex parte at Albertazzi's request to engage in discovery on cases already dismissed and affirmed by the Oregon Court of Appeals. At the time Albertazzi



solicited Emerson, the Covid Pandemic was in full force. See **Exhibit 6**. There were very few opportunities to secure a notaries signature in Oregon until that law was past by the Oregon Senate. See **Exhibit 7, Doc #48-1, #18-11, #18-13**.

Plaintiff has alleged sufficient facts to show that the judicial defendants actions are designed to benefit litigant Max Zweizig and that the defendants are well aware that Zweizig is an active child predator. Plaintiff has alleged specific facts to show that Defendants are aware that Zweizig's deposition of December 21, 2020 (filed in cases 19cv01547 and 18cv45257) shows he admits to lying to the jury and losing an attorney over his child predation (which he did not deny). See **Doc 18-4**. Plaintiff has alleged specific facts to show that Zweizig moved to suppress his Deposition of December 21, 2020, claiming he would not get a fair trial if his child porn activity was known. See **Doc #20-1**. Plaintiff showed Zweizig published a recent declaration testifying to not being a pedophile, but did not deny the specifically alleged criminal activity of downloading, possessing and disseminating child porn. **Doc #48-1, pages 1-2, #48-2, #48-3, #48-4** and indictments of similar crimes, Duggar and Gonzalez in **Doc #48-5**. Plaintiff alleges that Zweizig and Albertazzi crafted that declaration of September 15, 2022 to not deny the crimes associated with child porn by claiming to not be a pedophile or child predator.

Plaintiff alleged sufficient facts to show that the Defendants were aware of the forensic reports on Zweizig's child predation and other criminal activity, said forensic report (s) filed in cases 19cv01547 and 18cv45257. See excerpt of such a report by Steve Williams, **#20-12** Plaintiff alleged sufficient facts to show that Josh Duggar has been convicted of possessing and distributing child porn, the same findings and forensic opinion on the record in that case showing the same forensic detail as found on Zweizig's computer. See **Doc #20-11**.

Plaintiff has alleged sufficient facts to show that the anti-SLAPP fee petition is tool in the Oregon Judicial Departments arsenal and to show a pattern of abusive behavior implicating US 42 §1983 and §1985 and Constitutional violations of due process.

Plaintiff has alleged that the violations contained herein are endorsed by the Oregon Court of Appeals and Supreme Court of Oregon. See **Doc #18-19, 48-15, 48-16, and Exhibit 2.**

**E. Addressing Specific Arguments of the Defendants**

**1. The “Setting in Motion” Theory of Participation**

Plaintiff believes he has adequately pled that the judicial defendants were personally involved in the deprivation of plaintiff’s constitutional rights and that the defendants’ actions were with those of the other defendants the proximate cause of the violation of plaintiff’s federal rights.

Plaintiff also ascribes to all defendants a setting in motion theory of causation, which is described as follows:

“A person subjects another to the deprivation of a constitutional right, within the meaning of §1983, if that person does an affirmative act, participates in another’s affirmative acts, or omits to perform an act which is legally required to do that causes the deprivation of which complaint is made. Indeed, the requisite causal connection can be established not only by some kind of direct personal participation in the deprivation, but also by setting in motion a series of acts by others which the actor knows or reasonably should know would cause others to inflict the constitutional injury.”

See *Hydrick v Hunter*, 449 F 3d. 978 (9<sup>th</sup> Circuit 2006). See *Starr v Bacca*, 652 F 3d. (9<sup>th</sup> Circuit 2011), supported by cases in the 1<sup>st</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 11<sup>th</sup> Circuits. See *Belanger v Ciavarella*, 3:09-cv-00286, page 20 (July 2012).

**2. Plaintiff Is Not Attempting To Appeal the Anti-SLAPP Awards**

In many respects there must be some maturity of a state case, state actions, violations under the color of state law and the solicitation of those violations to establish causation and to firmly document the setting in motion theory of causation.

The Fourteenth Amendment prohibits a state from depriving any person of life, liberty or process without due process. U.S. Const. Amend XIV, §1. The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. *Marshall v Jericho*, 446 U.S. 238, 242, 100 S. Ct. 1610 (1980).

In spite of repeated warnings to the defendants in this case, they repeatedly seek to have Plaintiff imprisoned, have his family destroyed, have his exempt income taken, and have his businesses destroyed simply because he is peacefully engaging in and opposing litigation brought by Abertazzi and Zweizig. See **Doc #48-1, pages 1 and 3-12**. Albertazzi also for example sought an unlawful fee petition on successful dismissal of a racketeering claim brought against him even when Albertazzi had not yet been served with the Complaint. See **Doc #20 ¶4, Doc #20-3**. The allegations against Albertazzi are numerous and would not have been discovered in the absence of the state sponsored abuses against Plaintiff.

Plaintiff is not attempting to use this action to appeal Albertazzi's or Greene's unlawful fee petition.s To the contrary, there is pending in that Clackamas case 18cv45257 a Motion to Set Aside the Judgment on multiple grounds, some of which are addressed in this case. See **48-14**. As such the neither the Rooker-Feldman doctrine nor an affirmative defense of issue preclusion have merit in this case against defendants Ann Lininger, Kathie Steele, Michael Wise, Alison Emerson, Jacqueline Kamins and Josephine Mooney because the civil rights violations did not

fully mature until after Plaintiff was denied the opportunity to add defendants and/or the case 3:19-cv-01988 was dismissed.

Plaintiff identifies a voluminous pattern of unconstitutional actions by defendants, whether that is seeking to have Rote imprisoned, taking from Rote his exempt social security income to limit his ability to pay for filing fees or counsel or petitions and awards of attorney fees that shows a pattern of violating substantive due process and to target Plaintiff. See Plaintiff **Docs #38-1-4, Doc #20-6, #20-9, #18-1 and Docs #48-1-18.**

Plaintiff asserts that the abuses of the anti-SLAPP fee petitions were solicited by the judicial defendants and/or the institutional support for child porn is so well known that no additional schooling of prejudicial behavior need be encouraged. Moreover the pattern of abuse of favor by Judges Lininger, Wise, Kathie Steele, Kamins, Mooney and Emerson, have been objectively proven and all of those decisions were made without Oregon law support and/or by ignoring evidence prejudicial the abusers findings—such as Ann Lininger finding that the Rote’s counterclaims for slander of title and interference with contract were filed to harass Zweizig. See **Doc #18-2, page 2, line 15-20.** That so emboldened Zweizig and Albertazzi that they repeated the language used by Ward Greene when presenting that draft order to Lininger, repeating it in Zweizig’s Motion to have Rote imprisoned (**Doc #48-1, pages 1-2**).

The objective evidence of Albertazzi’s attempt to abuse the anti-SLAPP fee petition opportunity is his fee petition, which very clearly shows block-billing of the recoverable anti-SLAPP time and the non-recoverable Motion to Dismiss time. Plaintiff believes the Court will accept that this is a transparent attempt to abuse mandatory award provisions of ORS 31.152 (3) and ORS 20.075 (2)(a). ORS 20.075 (1) factors are irrelevant in a mandatory fee petition.

By Steele's own declaration in support of his fee petition, Albertazzi sought \$7,245 for the conflated time to prepare, file, research and defend the combined anti-SLAPP and Motion to Dismiss, where after reviewing those filings one could reasonably conclude that (based on the Motions content of only) only 1/3 of the total brief preparation time is associated with the anti-SLAPP. One could reasonably argue then that the fee petition was specifically designed to circumvent the limitations of Oregon's anti-SLAPP fee award statutes of ORS 3.152 (3) and ORS 20.075 (2). There is nothing in the ORS 20.075 (2) statutes that would allow Steele to conflate these two separate Motions and seek fees for the Motion to Dismiss portion. See Doc #38-1, categories 6, 8, 9 and 10, and supporting Doc #38-3.

But there's more. Albertazzi also sought \$5,445 in time for chit chatting with his client, the PLF and defendant Yium over the short pendency of the anti-SLAPP proceedings, some 40 separate entries. And he used this hyperbolic billing opportunity to download from pacer every case in which Plaintiff has been involved in over the last 20 years, charged \$5,512.50 for that effort as well as some \$400 in pacer fees. Steele was slamming the file and his actions were condoned by the PLF manager who approved his invoices and condoned and supported by pro tem Judge Wise with the full knowledge of its abuse.

Plaintiff asserts that this is a pattern of behavior adopted and first perpetrated by Ward Greene in his fee petition of May 27, 2020, wherein he sought and secured attorney fees on an anti-SLAPP Motion. Greene represented Zweizig at the time. As with Steele the detailed billing entries are put into a spreadsheet by Plaintiff, categorizing each billing entry. See #38- 4. That information is then summaries for time and fees by those sale categories. See Doc #38-1, page 3. This analysis clearly and objectively proves that Greene sought \$8,685 for collections actions unrelated and not reasonably connected to the anti-SLAPP proceedings. Greene was representing

Zweizig at that time and was involved in, filed and prosecuted the fraudulent transfer action on behalf of Zweizig in Clackamas case 19cv01547. Greene used this time to attempt to recover fees from his collection activity (\$8,685), Motion for Summary Judgment (\$1,775) and other unrelated activities (\$1,900). The Rote's objected to this fee petition and outlined their objections in great detail, just as Plaintiff had done with respect to Steele's. Unlike Steele/Albertazzi, Greene did not attest to the fees even being associated with the anti-SLAPP and they were still approved by Judge Lininger.

Plaintiff would also bring to the Court's attention that defendant Yium also filed a fee petition in case 18cv45257 in an attempt to recover an unlawful amount of fees, which showed that his time and fees associated with the anti-SLAPP portion of the proceeding in Nena Cook's anti-SLAPP is \$7,175. **See 38-1, page 2.** Yium was hired by the PLF to represent the PLF group, which included the PLF, Carol Bernick, Nena Cook and Pam Stendahl. Had Yium just sought the fees for the anti-SLAPP he would not be a named defendant in this case; however, he did not. Instead he is seeking \$60,000 in attorney fees. The portion of his fees associated with the Motion to Dismiss the PLF, Bernick and Stendahl was approximately \$12,000, in close alignment with Alberetazzi's excessive fee petition. Yium also seeks \$31,000 in fees for a previous Motion to Dismiss and Appeal to the 9<sup>th</sup> Circuit, wherein Plaintiff Rote prevailed. And he is seeking fees of \$10,000 not even supported by the billing detail (**#38-2**).

Like Steele/Albertazzi, Greene and Yium the fee petitions by all three defendants are designed intentionally to give the judicial defendants the opportunity to abuse substantive due process, to attack and retaliate against Plaintiff for Plaintiff exposing these actors' support of child pornography and other criminal conduct. These acts have been described in great detail and this case is not an appeal or pseudo appeal of defendants' violations. In all cases, Plaintiff

brought the fraudulent fee petitions to the attention of the Court by filing a detailed response and objection.

Defendant Albertazzi's argument on jurisdiction and/or affirmative defenses are in error and his Motion to Dismiss should be denied.

### **3. Status as an Individual Under 42 USC §1983**

Defendants misconstrue the law of 42 USC §1983 and §1985 as to the capacity of Judge or Michael Wise in acting through his private practice. Presuming that some of the judicial acts are not immune, the defendant judges would have engaged in the violations herein outlines as an individual.

A person deprives another of a constitutional right, "within the meaning of § 1983, 'if he does an affirmative act, participates in another's affirmative act, or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.'" See *Preschooler II v. Clark Cty. Sch. Bd. of Trs.*, 479 F.3d 1175, 1183 (9th Cir. 2007) (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)); see also *Lacey v. Maricopa Cty.*, 693 F.3d 896, 915 (9th Cir. 2012) (en banc); *Stevenson v. Koskey*, 877 F.2d 1435, 1438–39 (9th Cir. 1989).

Plaintiff adequately alleged individuals working concert with the state and others, through the acts of the defendants was the proximate cause of Plaintiff's damages.

Where a private party conspires with state officials to deprive others of constitutional rights, however, the private party is acting under color of state law. See *Tower v. Glover*, 467 U.S. 914, 920 (1984); *Dennis v. Sparks*, 449 U.S. 24, 27– 28 (1980); *Crowe v. Cty. of San Diego*, 608 F.3d 406, 440 (9th Cir. 2010); *Franklin v. Fox*, 312 F.3d 423, 441 (9th Cir. 2002); *DeGrassi v. City of Glendora*, 207 F.3d 636, 647 (9th Cir. 2000); *George v. Pacific-CSC Work Furlough*,

91 F.3d 1227, 1231 (9th Cir. 1996) (per curiam); *Kimes v. Stone*, 84 F.3d 1121, 1126 (9th Cir. 1996); *Howerton v. Gabica*, 708 F.2d 380, 383 (9th Cir. 1983).

The defendants, individually and collectively, set in motion and took action in concert with state officials specifically designed to deny Plaintiff a right to a fair and impartial tribunal that one would predict if embraced to be one or more violations of due process.

**4. Under the Color of State Law 42 USC §1983**

It is un-refuted that the Oregon State Bar Professional Liability Fund (PLF) is organized under the umbrella of the Oregon Judicial Department in order to skirt jurisdiction of the Oregon Insurance Commission. It is un-refuted that the PLF enjoys tax exempt status tantamount to a quasi-city or a municipality of this state.

It is un-refuted that Nathan Steele was hired by the PLF to represent Albertazzi in case 18cv45257. It is un-refuted that the PLF provided a budget of \$20,000 for the anti-SLAPP action, asked Steele to attempt to recover all of his attorney time through deceptive block-billing techniques, to solicit or exploit bias of Judge Wise and to redact the names of the PLF manager who instructed him. It is undisputed that Albertazzi colluded with Nathan Steele to accomplish listed violations of due process.

It is un-refuted that Matthew Yium was hired by the PLF defendants in case 18cv45257 to represent the PLF, Bernick, Stendahl and Cook. It is un-refuted that the anti-SLAPP was only filed on the racketeering claims against Cook, who represented Zweizig without request by Zweizig. The PLF defendants were fully aware that Zweizig downloads, possesses and distributes child pornography.

It is un-refuted that the nature of Nathan Steele declaration in support of his fee petition and is attached billing statements were designed to solicit abuses of the fee petition opportunity



under ORS 31.152 (3) and ORS 20.075 (2) and that those solicitations were directed to Judge Wise, who is also a practicing attorney, specifically seeking an act of abuse simply because Albertazzi is at this time an attorney with a license to practice in Oregon. In the absence of Albertazzi's fee petition, Wise could not have acted unilaterally to use the fee petition to violate Plaintiff's rights of substantive due process. And it is un-refuted that Wise granted the Motion to Dismiss the PLF, Bernick, Stendahl and Cook after committing his own perjury by invoking some recent malpractice event of his own, fees that were covered by the PLF. **Doc #20-1.**

This understanding the PLF has with the judicial community must be exposed and stopped. Even now, Plaintiff's malpractice claim in case 18cv45257 is going nowhere. Judge Norby refuses to set a scheduling order of any kind and Plaintiff's \$10 Million economic and noneconomic damage claims in that case are artificially being held in abeyance.

“To prove a conspiracy between the state and private parties under [§] 1983, the plaintiff must show an agreement or meeting of the minds to violate constitutional rights. To be liable, each participant in the conspiracy need not know the exact details of the plan, but each must at least share the common objective of the conspiracy.” See *United Steelworkers of Am. v. Phelps Dodge Corp.*, 865 F.2d 1539, 1540–41 (9th Cir. 1989) (en banc) (citations and internal quotation 18 marks omitted).

Plaintiff has shown that there is a common objective, which is to use the fee petition in an unlawful way to target and punish Plaintiff. Plaintiff has shown that this abuse is not an isolated incident. Without being rebuffed in these earlier unconstitutional petitions, Plaintiff is also brazenly being denied a right to proceed with his case in 18cv45257 and being threatened by everyone of the defendants while criminal Zweizig is applauded and financially supported.

In case 19cv01547 Ann Lininger used the fee petition by Ward Greene to attack the Rote's right to oppose Zweizig's fraudulent transfer claims. The order issued by Lininger is prima facie evidence of the animus Lininger had for the Rote's (**Doc #18-2**), making claims therein that are tantamount to punishing the Rote's for merely opposing child predator Zweizig's claims and his fee petition. It is un-refuted that Greene was awarded \$20,970 on fee petition evidence (**Doc #18-1**) that only supported a fee award of approximately \$6,600 (**#38-1, page 3 and #38-4**). It is un-refuted that the Rote's informed Lininger by Motion and hearing testimony before making the unlawful award. It is un-refuted that Greene did not refute the Rote's contemporary filings similar to **Doc #38-1 and #38-4**. It is un-refuted that on Appeal the Rote's brought excessive and unlawful billing to the attention of the Oregon Court of Appeals (**Doc #18-10**) showing the detailed 37 entries unrelated to the anti-SLAPP. It is un-refuted that the analysis reflected in **#38-1 and #38-4** was not refuted by Helen Tomkins in opposing the Rote's appeal. And it is un-refuted that the Oregon Court of Appeal via Kamins and Mooney indicted the Rote's for opposing the anti-SLAPP award and filing the appeal, tainting the appeal as being objectively unreasonable (**Doc #18-19**).

It is un-refuted that Judge Wise without provocation raised Lininger and Kathie Steele in the September hearing in case 18cv45257 (**Doc #20-1**), the hearing in which Wise acted while disqualified and acted with animus to dismiss the racketeering claims against Albertazzi and Cook.

Plaintiff argues that it is objectively unreasonable for the defendants to deny the evidence offered in this case heretofore. This evidence shows absolute and unequivocal attempts to solicit of the Court excessive and unlawful fee awards, solicitations of bias of the Court and acts of bias by the Courts implicating 42 USC §1983 violations.

The defendants collectively acted under the color of state law, using the ORS 31.152 (3) and ORS 20.075 (2) statutes to grant a facially defective fee award as a tool for retaliation. There was a necessary symbiotic relationship between the judges and the attorney defendants to carry out the abuses.

In all cases, Albertazzi, Nathan Steele, Yium and Greene sought fee awards far greater than their billing detail supported and in every case where that issue was tried they succeeded in securing unlawful fee awards. Therefore, 42 US §1983 provides a cause of action against persons acting under color of state law who have violated rights guaranteed by the Constitution. *See Buckley v. City of Redding*, 66 F.3d 188, 190 (9th Cir. 1995); *Demery v. Kupperman*, 735 F.2d 1139, 1146 (9th Cir. 1984).

Where a violation of state law is also a violation of a constitutional right, however, § 1983 does provide a cause of action. *See Lovell*, 90 F.3d at 370; *Draper v. Coombs*, 792 F.2d 915, 921 (9th Cir. 1986); see also *Weilburg v. Shapiro*, 488 F.3d 1202, 1207 (9th Cir. 2007).

Plaintiff alleges that the violation of state law ORS 31.152 (3) and ORS 20.075 (2) also violates Plaintiff's constitutional rights and these violations do not mature or are not ripe in this cause of action until the judicial actors take action implicating constitutional violations.

#### **5. Attorney Immunity under 42 USC §1983**

“Prosecutors enjoy immunity when they take ‘action that only a legal representative of the government could take.’” *Burton v. Infinity Capital Mgmt.*, 862 F.3d 740, 748 (9th Cir. 2017) (quoting *Stapley v. Pestalozzi*, 733 F.3d 804, 812 (9th Cir. 2013)). Note the Supreme Court has not extended immunity beyond the prosecutorial function. *Burton*, 862 F.3d at 748. For example, “[e]ven court-appointed defense attorneys do not enjoy immunity because, despite being ‘officers’ of the court, ‘attorneys [are not] in the same category as marshals, bailiffs, court clerks

or judges.” *Burton*, 762 F.3d at 748 (quoting *Ferri v. Ackerman*, 444 U.S. 193, 202 n.19 (1979)).

Defense counsel, even if court-appointed and compensated, are not entitled to absolute immunity. See *Tower v. Glover*, 467 U.S. 914, 923 (1984); *Sellars v. Procnier*, 641 F.2d 1295, 1299 n.7 (9th Cir. 1981). See also *Burton v. Infinity Capital Mgmt.*, 862 F.3d 740, 748 (9th Cir. 2017) (explaining that “[e]ven court-appointed defense attorneys do not enjoy immunity because, despite being ‘officers’ of the court, ‘attorneys [are not] in the same category as marshals, bailiffs, court clerks or judges.” (*Ferri v. Ackerman*, 444 U.S. 193, 202 n.19 (1979)).

The Ninth Circuit has concluded that private individuals are not entitled to qualified immunity in either § 1983 or Bivens actions. See *Clement v. City of Glendale*, 518 F.3d 1090, 1096 (9th Cir. 2008); *Franklin v. Fox*, 312 F.3d 423, 444 (9th Cir. 2002); *Conner v. City of Santa Ana*, 897 F.2d 1487, 1492 n.9 (9th Cir. 1990); *F.E. Trotter, Inc. v. Watkins*, 869 F.2d 1312, 1318 (9th Cir. 1989).

#### **6. Burden of Proof under 42 USC §1983**

The plaintiff bears the burden of proving that the right allegedly violated was clearly established at the time of the violation. If the plaintiff meets this burden, then the defendant bears the burden of establishing that the defendant reasonably believed the alleged conduct was lawful. See *Sorrels v. McKee*, 290 F.3d 965, 969 (9th Cir. 2002); *Trevino v. Gates*, 99 F.3d 911, 916–17 (9th Cir. 1996); *Browning v. Vernon*, 44 F.3d 818, 822 (9th Cir. 1995); *Neely v. Feinstein*, 50 F.3d 1502, 1509 (9th Cir. 1995), overruled in part on other grounds by *L.W. v. Grubbs*, 92 F.3d 894 (9th Cir. 1996).

It is not altogether clear that Albertazzi’s Motion to have Rote imprisoned (**Doc #48-1**) is a lawful request, for the reasons outlined in Rote’s Cross Motion for Contempt. **See Doc #48-10.**

Measured however against Albertazzi's success at soliciting bias and contempt findings from the Deschutes Court, it is clear that Albertazzi and Zweizig feel they have a cart blanche relationship with that Court regardless of the facts or how outlandish the act. Plaintiff alleges that Albertazzi withheld from the Deschutes Court key information such as Rote's offer four times to transfer the Stock of NWDH to Zweizig and that those offers were summarily rejected by Zweizig, **pages 2-5**. Or by Albertazzi pursuing discovery via the ex parte order issued by Emerson on November 4, 2021 (19cv00824) that very clearly sought discovery for a case (19cv01547) that had already been dismissed on March 21, 2021 (**#48-1, pages 3-10**) in **Clackamas**, and quashed subpoena (**Exhibit 8**) post discovery also in Clackamas. But Albertazzi did all of this and more and it demonstrates a proclivity of support for child predator Zweizig and a history to success in securing from the defendant judges violations of the Plaintiff's federal rights.

Plaintiff alleges he has satisfied the burden of proof showing the numerous violations that could only have been accomplished by the intent of the defendants to directly engage in or to collude to violate state laws in retaliation against Plaintiff, which are in turn violations of Plaintiff's First and Fourteenth Amendment Rights.

**F. Damages and Relief under 42 USC §1983**

"A plaintiff who establishes liability for deprivations of constitutional rights actionable under 42 U.S.C. § 1983 is entitled to recover compensatory damages for all injuries suffered as a consequence of those deprivations." *Borunda v. Richmond*, 885 F.2d 1384, 1389 (9th Cir. 1988); see also *Smith v. Wade*, 461 U.S. 30, 52 (1983) ("Compensatory damages ... are mandatory."). The Supreme Court has held that "no compensatory damages [may] be awarded for violation of [a constitutional] right absent proof of actual injury." *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 308 (1986).

Compensatory damages include actual losses, mental anguish and humiliation, impairment of reputation, and out-of-pocket losses. See *Borunda*, 885 F.2d at 1389; *Knudson v. City of Ellensburg*, 832 F.2d 1142, 1149 (9th Cir. 1987); *Chalmers v. City of Los Angeles*, 762 F.2d 753, 760–61 (9th Cir. 1985).

Section 1983 is an exception to the Anti-Injunction Act, 28 U.S.C. § 2283, which establishes that federal courts may not enjoin state-court proceedings unless expressly authorized to do so by Congress. See *Mitchum v. Foster*, 407 U.S. 225, 242–43 (1972); *Goldie's Bookstore, Inc. v. Superior Court*, 739 F.2d 466, 468 (9th Cir. 1984). This does “not displace the normal principles of equity, comity and federalism that should inform the judgment of federal courts when asked to oversee state law enforcement authorities.” *City of Los Angeles v. Lyons*, 461 U.S. 95, 112 (1983); *Mitchum*, 407 U.S. at 243. In fact, injunctive relief should be used “sparingly, and only ... in clear and plain case[s].” *Rizzo v. Goode*, 423 U.S. 362, 378 (1976) (citation and internal quotation marks omitted).

### **G. Application of 42 USC §1985 (3)**

To state a cause of action under § 1985(3), a complaint must allege (1) a conspiracy, (2) to deprive any person or a class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, (3) an act by one of the conspirators in furtherance of the conspiracy, and (4) a personal injury, property damage or a deprivation of any right or privilege of a citizen of the United States.

Plaintiff alleges that he is a class of one, that there is historical precedent for this action and that the defendants in this case conspired to violate Plaintiff's rights. Plaintiff alleges conspiracy under both §1983 and §1985.

The Courts have also recognized "class of one" claims. If an individual can show that he or she has been "singled out" for irrational or differential treatment by a Federal, state or local

government entity or official, Section 1983 can be used in filing a "class of one claim." This occurred in *Olech v. Village of Willowbrook*, 528 US 562 (2000). The Olechs sued the Village of Willowbrook in Federal Court (Section 1983) for delaying their access to the village water line in 1995. The Olechs maintained that the Village denied them access due to an earlier lawsuit they had filed against the village over an easement, which they successfully won. They believed that the officials for the Village of Willowbrook intentionally withheld the water line, causing them to have to use an over ground rubber hose to connect to a neighbor's well for water. They also believed that the Village officials intentionally waited until winter to attempt to solve their water problems, knowing that the rubber hose would freeze and leave them without water for the entire winter. The Olechs were in their seventies and showed that these actions caused them suffering and "singled them out" as no other citizens of the Village had been treated in such a manner. See Richter, Nicole, "A Standard for "Class of One" Claims Under the Equal Protection Clause of the Fourteenth Amendment: Protecting Victims of Non-Class based Discrimination From Vindictive State Action", Valparaiso University Law Review, Volume35, Number 1, Fall 2000, pg.197-200.

“The language requiring intent to deprive of equal protection ... means that there must be some racial, or perhaps otherwise class-based, invidiously discriminatory animus behind the conspirators’ action.” *Griffin*, 403 U.S. at 102; see also *RK Ventures, Inc. v. City of Seattle*, 307 F.3d 1045, 1056 (9th Cir. 2002); *Butler v. Elle*, 281 F.3d 1014, 1028 (9th Cir. 2002) (per curiam); *Sever*, 978 F.2d at 1536. Plaintiff alleges that the animus against Plaintiff is reflected in the defendants’ collective violations and conspiracy to engage in those violations. Plaintiff is a class of one.

*Pro se* complaints are construed liberally, and may only be dismissed if it appears beyond doubt the plaintiff can prove no set of facts in support of his claim would entitle him to relief. *Nordstrom*, 762 F.3d at 908; see also *Byrd*, 885 F.3d at 642 (explaining the court has “an obligation where the petitioner is *pro se*, particularly in civil rights cases, to construe the pleadings liberally and to afford the petitioner the benefit of any doubt.”).

## **H. Child Pornography Violations and Punishment**

Why are the named defendants in this case supporting Zweizig’s child porn distribution business? After some investigation, Plaintiff alleges collusion among the defendants to groom and exploit children. There is substantial evidence that executives at the Oregon Health Authority and Oregon Children’s Theater are aware of the grooming and molestation of children at the hands of one or more of the defendants named herein and that evidence had been turned over to the FBI. Support of Zweizig’s use of the Oregon Court’s to monetize and collect and award he secured by perjury, denying that he downloaded and disseminated child porn, now testimony that has been reversed, does nothing less than solidify those concerns of a vast network of child predators at the highest ranks of the state judiciary.

### **1. Federal Definitions**

Child pornography under federal law is defined as any visual depiction of sexually explicit conduct involving a minor (someone under 18 years of age). Visual depictions include photographs, videos, digital or computer generated images indistinguishable from an actual minor, and images created, adapted, or modified, but appear to depict an identifiable, actual minor. Undeveloped film, undeveloped videotape, and electronically stored data that can be converted into a visual image of child pornography are also deemed illegal visual depictions under federal law.

Federal law prohibits the production, distribution, reception, and possession of an image of child pornography using or affecting any means or facility of interstate or foreign commerce



(18 U.S.C. § 2251; 18 U.S.C. § 2252; 18 U.S.C. § 2252A). Specifically, Section 2251 makes it illegal to persuade, induce, entice, or coerce a minor to engage in sexually explicit conduct for purposes of producing visual depictions of that conduct. Any individual who attempts or conspires to commit a child pornography offense is also subject to prosecution under federal law.

Federal jurisdiction is implicated if the child pornography offense occurred in interstate or foreign commerce. This includes, for example, using the U.S. Mails or common carriers to transport child pornography across state or international borders. Federal jurisdiction almost always applies when the Internet is used to commit a child pornography violation. Even if the child pornography image itself did not travel across state or international borders, federal law may be implicated if the materials, such as the computer used to download the image or the CD-ROM used to store the image, originated or previously traveled in interstate or foreign commerce.

In May 2008, the Supreme Court upheld the 2003 federal law Section 2252A(a)(3)(B) of Title 18, United States Code that criminalizes the pandering and solicitation of child pornography, in a 7–2 ruling penned by Justice Antonin Scalia. The court ruling dismissed the United States Court of Appeals for the 11th Circuit's finding the law unconstitutionally vague. Attorney James R. Marsh, founder of the *Children's Law Center* in Washington, D.C., wrote that although the Supreme Court's decision has been criticized by some, he believes it correctly enables legal personnel to fight crime networks where child pornography is made and sold.

## 2. *Oregon Definitions*

A person commits the crime of using a child in a display of sexually explicit conduct “if the person employs, authorizes, permits, compels or induces a child to participate or engage in sexually explicit conduct for any person to observe or to record in a visual recording.” ORS 163.670(1). A child is any person less than 18 years of age or, when a visual recording is at

issue, less than 18 years of age at the time of the original recording. ORS 163.665(1). The Oregon Court of Appeals has resisted the credible application of this statute to fight criminal distribution of child pornography. See *State v. Cazee*, s 308 Or App 748 (2021).

ORS 163.684 provides that (1) A person commits the crime of encouraging child sexual abuse in the first degree if the person:

(a)(A) Knowingly develops, duplicates, publishes, prints, disseminates, exchanges, displays, finances, attempts to finance or sells a visual recording of sexually explicit conduct involving a child or knowingly possesses, accesses or views such a visual recording with the intent to develop, duplicate, publish, print, disseminate, exchange, display or sell it; or

(B) Knowingly brings into this state, or causes to be brought or sent into this state, for sale or distribution, a visual recording of sexually explicit conduct involving a child; and

(b) Knows or is aware of and consciously disregards the fact that creation of the visual recording of sexually explicit conduct involved child abuse.

A violation of ORS 163.684 is only a class b felony, without much strength in contrast to the federal statutes, although case law supports a broad interpretation. See for example "Duplicates" includes downloaded videos from peer-to-peer network. *State v. Urbina*, 249 Or App 267, 278 P3d 33 (2012), Sup Ct review denied.

### ***3. Efforts by the Oregon Judiciary to Monetize Zweizig's Criminal Conduct***

The body of evidence cited in this brief invokes a finding that Albertazzi is attempting to monetize the perjury and other criminal act of Zweizig that first arose in case 3:15-cv-2401 and proceeded in cases 18cv45257, 19cv01547 and 19cv00824. Albertazzi has sought and received the benefit of judicial intervention that violated Oregon law and targeted Plaintiff to violate Plaintiff's First and Fourteenth Amendment Rights. All of this also benefits Zweizig.

Zweizig's **collective admissions** of #48-1, **Doc #18-4** and his **Motions to suppress** his testimony (**#48-3, Doc #38-9, #20-10**), necessarily lead to a conclusion that Zweizig is a

producer and distributor of child pornography and secured a \$1 Million judgment by first moving the Court to suppress the evidence against him (#48-4) and then deny before a jury that he downloaded, possessed and distributed porn of any kind (#48-2). He does not now deny he did and does download, possess and distribute child porn (#48-1). He may have strained the definition of being a child predator as being limited to being a pedophile.

Martha Walters (John Doe 1) was appointed to the Supreme Court of Oregon by Ted Kulongoski. As Chief Judge, Walters assigned the Zweizig cases to Nakamoto, Kamins and Mooney. Walters pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Lynn Nakamoto (John Doe 2) worked at the Markowitz firm through 2011 and until her appointment to the Oregon Court of Appeals by Ted Kulongoski. Governor Kate Brown appointed Nakamoto to the Supreme Court. Nakamoto retired soon after writing the Supreme Court Opinion supporting Zweizig. Nakamoto pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Jacqueline Kamins worked at the Markowitz firm until her appointment to the Oregon Court of Appeals on January 17, 2020 by Kate Brown. Kamins pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Kathie Steele was appointed presiding Judge of Clackamas Circuit by Martha Walters and remained Presiding Judge through 2021. Steele assigned Ann Lininger to the Zweizig cases until Lininger recused herself. Steele pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Josephine Mooney was appointed to the Oregon Court of Appeals by Kate Brown on May 17, 2019. Mooney pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Ann Lininger was appointed to the Clackamas County Circuit in July 2017 by Kate Brown. Lininger pledged support for the decriminalization of possessing and distributing child pornography and is a child predator.

Alison Emerson was appointed to the Deschutes County Circuit in February 2020 by Kate Brown. Emerson pledged support for the decriminalization of possessing and distributing child pornography and is a child predator. Emerson's husband is a corporal in the Bend Police Department.

Bethany Flint (John Doe 3) was appointed to the Deschutes County Circuit in February 2016 and has been assigned the Zweizig Motion practice multiple times by presiding Judge Wells Ashby.

Wells Ashby (John Doe 4) was appointed presiding of Deschutes County Circuit Judge by Martha Walters in 2019 and remains presiding Judge today.

#### IV. CONCLUSION

Plaintiff asks for a declaratory judgment restraining the Oregon Judicial Department and the named judicial defendants in this case from aiding and abetting in the distribution of child pornography and monetizing of Zweizig's child porn business which includes the judgment secured in case 3:15-cv-2401 and registered in Deschutes in case 19cv00824.

Plaintiff asks for a declaratory judgment freezing the collection action in Deschutes Case 19cv00824.

Plaintiff seeks a declaratory judgment restraining the Oregon Judicial from using the anti-SLAPP fee petitions identified as violations in this case to deny Plaintiff substantive due process.

Plaintiff seeks economic and noneconomic damages in an amount not less than \$10,000,000, joint and several liability against the judicial defendants and Oregon judicial department to the extent of their non-immune acts. There are numerous non-immune acts listed in Sections II A-D of this brief.

For the reasons outlined above, the Court should deny the Judges Motion to Dismiss until post discovery, when summary judgment on just the judicial acts will be more clearly formed. At the moment there is a conflation of immune and non-immune activities.

Dated: October 3, 2022

*s/ Timothy C. Rote*

\_\_\_\_\_  
Timothy C. Rote

*Pro Se Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 3, 2022, I filed the foregoing with the Clerk of the Court. Defendants making an appearance, as reflected below, have been served electronically through the Court's ecf system. I also provided a copy by email.

James M. Callahan, OSB #780232  
j.callahan@callahanandshears.com  
Callahan & Shears, PC  
PO Box 22677  
Portland, OR 97269-2677  
Telephone: 503-513-5130  
Of Counsel for Defendant Ward Greene

John E. Laherty OSB #036084  
Senior Assistant Legal Counsel  
1300 NW Wall St., Ste. 205  
Bend, OR 97703  
541-330-4645  
John.laherty@deschutes.org  
Of Counsel for Deschutes County

Kim E. Hoyt  
Garrett Hemann Robertson P.C.  
PO Box 749  
Salem, OR 97308-0749  
503-581-1501  
Email: khoyt@ghrlawyers.com  
Of Counsel for Jeffrey Edelson

Matthew J. Yium, OSB No. 054377  
121 SW Morrison St 11th Floor  
Portland, OR 97204  
Telephone: (503) 228-3939  
Email: matthew.yium@foster.com  
Of Counsel for Defendants Bernick;  
Professional Liability Fund; Cook;  
Livermore and Yium

Nathan G. Steele, OSB#004386  
Email: ngs@steelefirm.com  
The Steele Law Firm  
125 NW Greeley Ave  
Bend, Oregon 97703  
Telephone: (541) 647-1812  
Of Attorney for Anthony Albertazzi

Nathaniel Aggrey  
Oregon Department of Justice  
Civil Litigation Unit  
1162 Court Street NE  
Salem, OR 97301  
503-947-4700  
Email: nathaniel.aggrey@doj.state.or.us  
Of Counsel for Oregon Judicial Department,  
Hon. Ann Lininger, Hon. Alison Emerson,  
Hon. Josephine Mooney, Hon. Jacqueline  
Kamins, Hon. Kathie Steele, Michael Wise

BRETT MERSEREAU, OSB No. 023922  
brett@brettmersereau.com  
The Law Office of Brett Mersereau  
2100 NE Broadway, #119  
Portland, OR 97232  
Telephone: 503-673-3022  
Facsimile: 503-218-1760  
Of Attorneys for Defendant Nathan Steele

Federal Bureau of Investigations  
Child Pornography Victims Assistance  
1 Edgar Hoover Building, Room 3329  
935 Pennsylvania Avenue, NW  
Washington, DC 20535

Dated: October 3, 2022

s/ Timothy C. Rote

Timothy C. Rote  
*Pro Se Plaintiff*

No. 23-35292

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

Timothy Rote,

*Defendant-Appellant,*

v.

Max Zweizig, et. al.

*Plaintiffs-Appellees*

On Appeal from the United States District Court  
for the Portland District of Oregon  
No. 3:15-cv-2401-HZ  
Hon. Marco Hernandez

---

**APPELLANT'S EXCERPT OF RECORD  
VOLUME I of III**

---

Timothy C. Rote  
Defendant-Appellant *Pro Se*  
7427 SW Coho Ct. #200  
Tualatin, Oregon 97062  
503.272.6264  
timothy.rote@gmail.com



No. 23-35292

TABLE OF CONTENTS

ECF No.	DATE	DESCRIPTION	VOL.	ER PAGE#
366	3/17/23	Order Denial	I	1-3
353	2/4/21	Order Denying Filing	I	4-5
365	11/15/22	Motion to Vacate	I	6-31
365	11/15/22	Declaration in Support	I	32-37
365	11/15/22	Exhibit 1	I	38-84
365	11/15/22	Exhibit 2	I	85-89
365	11/15/22	Exhibit 3	I	90-298
365	11/15/22	Exhibit 3 continued	II	

No. 23-35292

---

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

Timothy Rote,

*Defendant-Appellant,*

v.

Max Zweizig, et. al.

*Plaintiffs-Appellees*

On Appeal from the United States District Court  
for the Portland District of Oregon  
No. 3:15-cv-2401-HZ  
Hon. Marco Hernandez

---

**APPELLANT'S EXCERPT OF RECORD  
VOLUME III of III**

---

Timothy C. Rote  
Defendant-Appellant *Pro Se*  
7427 SW Coho Ct. #200  
Tualatin, Oregon 97062  
503.272.6264  
timothy.rote@gmail.com


No. 23-352692

TABLE OF CONTENTS

ECF No.	DATE	DESCRIPTION	VOL.	ER PAGE#
365	11/15/22	Exhibit 11	III	567-659
369	4/5/23	Denial MTR (#367)	III	660-661
367	3/31/23	Motion to Reconsider	III	662-685
367	3/31/23	Exhibit 1	III	686-691
367	3/31/23	Exhibit 2	III	692-694
367	3/31/23	Exhibit 3	III	695-729
			III	
			III	
			III	
			III	

7171

VOID  CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  Timothy Rote Irrevocable Trust PO Box 1583 Tualatin, OR 97062		OMB No. 1545-0116 Form <b>1099-NEC</b> (Rev. January 2022) For calendar year 20 <u>22</u>		<b>Nonemployee Compensation</b>
PAYER'S TIN 87-7034602	RECIPIENT'S TIN 	1 Nonemployee compensation \$ <b>750,000</b>		
RECIPIENT'S name  Max Zweizig		2 Payer made direct sales totaling \$5,000 or more of consumer products to recipient for resale <input type="checkbox"/>		<b>Copy A</b> <b>For Internal Revenue Service Center</b> <b>File with Form 1096.</b> <small>For Privacy Act and Paperwork Reduction Act Notice, see the <b>current General Instructions for Certain Information Returns.</b></small>
Street address (including apt. no.) 140 Ford Avenue		3		
City or town, state or province, country, and ZIP or foreign postal code Woodbury, NJ 08096		4 Federal income tax withheld \$		
Account number (see instructions)	2nd TIN not. <input type="checkbox"/>	5 State tax withheld \$	6 State/Payer's state no.	
		7 State income \$		

Form **1099-NEC** (Rev. 1-2022)      Cat. No. 72590N      www.irs.gov/Form1099NEC      Department of the Treasury - Internal Revenue Service

**Do Not Cut or Separate Forms on This Page – Do Not Cut or Separate Forms on This Page**

## When Justice Fails

A Portland Story of Fraud, Collusion & Cybercrime

# Chapter 4 – The Forensic Reports

👤 Tim Rote   📁 Uncategorized   ⌚ September 29, 2015 January 23, 2018   ☰ 10 Minutes

In the next 48 hours we will provide summaries of the forensic reports and attach them for your perusal. You'll be surprised by this. There is irrefutable evidence that a hard drive M claimed was broken, reformatted and in a fireproof safe was used to store movies, music, ebay files and and .htm pages. I don't think we have ever bothered to recover and open the htm files but I am curious and think we will do so now. T

Much of the forensic evidence we examined can be broken down into two broad groups. The first group is the hard drives, personal and company computers M used while employed by us. Anything that M touched for the company business we wanted to have examined forensically. The second group is a floppy disk I used to save a draft of M's termination letter and my computer hard drive on which was stored my email terminating M. I have written this many times but suffice it to say that M did not turn over any of his personal computers or personal hard drives or other digital mediums used by him to perform his duties while employed by us.

And so the forensic evidence on M's use is contained on a **120 gig** hard drive and **60 gig** hard drive. The 120 gig hard drive was the original hard drive used and one of the forensic reports for that drive follows. The 60 gig hard drive replaced the 120 gig hard drive after it crashed. We expected to find many of our data processing and reporting program files. The programming allegedly done by M over the last two years was not there of course, but that's another story. In an earlier post I confused the 120 gig hard drive and the 60 gig hard drive. But the order is the 120 gig hard drive was the original hard drive on a computer purchased for M's use and the hard drive was used from its initial use to May 2003, at which time M took the 120 gig hard drive out of service and used it to deposit his personal Videos, Movies and Music. The 60 gig hard drive was used from May 12, 2003 until well after M returned it with the business computer. He returned it to us on November 13, 2003.

The key issue here is that neither party should destroy the computer, digital evidence. We did not. Even after Max's attorney told us not to...and again we did not destroy anything...Max still chose to destroy his computer. Had this been in state court, Max's case would have likely been dismissed. We filed a motion with Crow. He did not dismiss the case.

A component of the computer evidence was the emails between me and M and others. He claimed he received an email with this alarming evidence of over billing clients (via an email from one of our employees, an email he did not turn over). The evidence was and is an excel spreadsheet. But again he did not turn over the email. When he returned this company computer (with a 60 gig hard drive) he had created an outlook email account, but it was created the day before he returned it to us and there was no email account for M. And where were his emails? Again, not on the computer he returned. The emails were never there. The emails were on one or more of his personal computers, one's he destroyed. We filed a motion to dismiss the case based on this destroyed evidence. Bill Crow refused to dismiss. We

kept all of our emails and turned them over. He provided some emails but since they were not housed on the computer hard drive he returned to us when he was terminated, where they came from was a material point.

To properly frame this discussion, there is a history of M's business computer (the one we owned) we need to explore. First, the original hard drive on the computer we provided M was small (120 gigs), but in 2003 120 gigs was still pretty good. Some six months before I terminated M I visited him in New Jersey. During that visit and while showing me his programming skills the hard drive appeared to crash. M was pounding the keys pretty quickly and strongly & it locked up. But it did not blue screen. M maintained that this 120 gig hard drive was not usable thereafter, although he was able to recover program and data files. Max requested a replacement, which we of course accommodated...and he installed a new 60 gig hard drive to replace the 120 gig hard drive.

Why this history is important is that after M claimed the 120 gig hard drive was broken, he continued to download and store personal files on that hard drive. One of the more salient and threatening conclusions we reached was that M was downloading and uploading files on a public sharing site. M had access to credit card data. He was after all our IT manager and it is with regret that some of that personal information may have made its way to the internet. The computer was not protected as our company protocol required. The forensic report will show that as well. And that would have been a firing offense had we known about it while he was still employed by us.

But more than anything else we had seen there were movies, including titles indicating the movies were porn, presumably downloaded from and uploaded to a public file sharing service. Said service allows you to download when you upload. Lots of movies. Lots of music. A trademark and copyright violation bonanza. The FBI was notified. The New Jersey State Police was notified. The community was notified. I didn't have any idea M was doing this on company time using a company computer. You just never know. The forensic reports tell us this activity happened while in M's exclusive possession of the 120 gig hard drive.

The other inference we can draw from the 60 gig hard drive use was that there was a reason that no email evidence of M's email was on that 60 gig (new) hard drive. That means that at the time M installed the new hard drive, he had decided to not install an outlook email account on that hard drive and to control the evidence of the emails sent to him and from him thereafter. That also means he was plotting his lawsuit for at least six months before he was terminated. M did not turn over one of his personal computer with his email activity from the time the 60 gig hard drive was deployed to the time he returned said hard drive to me. He turned over emails in hard copy form only. This is very blatant evidence destruction.

But as of today legal counsel for M, Linda Marshall, demanded that we not publish the forensic reports claiming that there was a protective order keeping the confidential information each party provided protected from public disclosure presumably outside of the arbitration. I presume that Max's personal financial data was not covered by this alleged protective order. I have not found the order as yet but even if his personal financial data was not covered by the order we still would not produce or publish it.

M did not provide a personal computer, not a single hard drive used by him while working from his home, for examination by our forensic experts. The forensic data that was examined by our two forensic experts was the property we owned, including the hard drives from the computer M used during his employment with us. And as I previously noted our forensic experts also issued forensic reports on the computer I used to send and receive emails, specifically addressing whether the email terminating M was sent before he filed a complaint with the Oregon DOJ. M provided no forensic data at all. He

provided documents in pdf form & loaded on a flash drive and I recall reaching conclusions that he must have downloaded documents from a source other than the computer hard drives he provided to us...but there was nothing else.

Having reviewed the forensic reports, it covers exclusively our property. And we are free to disclose the conclusions reached on our property. I can imagine that they (Marshall, M, Ware) would not be since the hard drives examined were our property.

Several of the forensic reports were generated over 10 years ago and were published to the FBI, New Jersey State Police and Woodbury New Jersey Police. It's why M was interested in settling the case in 2006 or so, and for a small amount of money. We would have been happy with a walk away even though he destroyed key programming and documents. Nonetheless that evidence has been published and republished many times.

The forensic reports prepared for trial were a bit broader. We wanted to hone in on the fact that the last hard drive M used was not used to send and receive email. Slam dunk. It was not there...ever. But more importantly we wanted the arbitrator to see the names of the movies and music downloaded. And we wanted to showcase that the software we used, years of programming, was being used on that hard drive and was deleted. And in spite of the fact that we were told the 120 gig hard drive had crashed, Max did continue to use it, as we pointed out before.

We will be publishing the forensic reports. But will allow a few more days to see if we can find that protective order and make sure no part of it is attributable to personal property turned over by M. We will also make sure that no such data such as client files and the like will be covered in the report. We will redact that information.

We will publish the police report. And by the way finding movies and titles indicating porn was not surprising. Yes it was disappointing that such an abuse happened, but M worked from home. Probably happens a lot and I feel no moral outrage over this. But the massive amount of the movies and music did surprise me. Folks, keep your porn and other movies and music on your personal computers not on one owned by your employer.

We will publish the arbitration transcripts. We will publish other supporting information.

Sandra, M would not have destroyed his personal computers had he not been advised to do so. That should have been transparent to Bill Crow. And you can be disbarred for making that recommendation, if you did. Of course at the beginning of every session he did open up with "Ms. Marshall where did we leave off on your case."

The forensic reports do nothing but support our position. The key issues the forensic reports address are what was going on with hard drives and when were files created, to recover and report on outlook pst files (email), to identify what was going in with the email accounts and who did them, to identify unauthorized use of the hard drives and to determine if the email I sent terminating Max was sent when we claimed it was and whether that email went out before Max filed his complaint. They were also tasked to determine what happened to the Foxpro files and all the programming generated by Max and our other IT employees. The last of these points was necessary because once M was no longer with the company, our existing IT staff could not find the programs and we had to shut down for a week as we recreated them.

As a matter of disclosure we will redact any information addressing financial data as well as names of movies suggesting the downloaded file may have been more than just porn.

More details to follow.

And Linda Marshall just sent a letter to counsel demanding that we not issue the forensic reports & shut down the blog. I don't really understand their fear.

Free speech. Opinion Speech. The forensic reports and all other litigation information was property of the parent company of the Northwest call center group, a corporation called Northwest Direct Marketing. But prior to the companies shutting down, the litigation material—forensic reports, transcripts, emails and other material in any way used—was licensed to me for my use in writing this blog and other material where the evidence is referenced. Thus a documentary piece referencing evidence from NDT's litigation history involving M or anyone else is covered by the licensing agreement.

And while I initially wrote that “we” are charged to monetize this experience as much as possible, the truth is that we have not attempted in any way to do so. The blog has not been marketed in any way. This is not a product of an otherwise inactive corporation or group of corporations. NDT in fact is dissolved, out of business.

I alone am telling this story. In order to tell a complete story I must explained what one of my companies (Northwest Direct Teleservices, Inc.) was charged with, who made the claim, how we defended it, whether the claim had merit, what we found when we did forensic analysis, and everything else that impacted the arbitration decision. In doing so we are potentially exposing Northwest Direct Teleservices, Inc. to the public's attention and in particular to the claim by M that we fraudulently billed clients. While I found that claim defamatory and proved we did not over-bill clients, the allegation remains a part of our permanent record. I could carry on and say how will we ever over come that but we do not need to. Frankly no client of ours ever believed it. They were not given reason to.

The company nonetheless suffered from the loss of revenue and other very specific damages that arose when the IT department fell apart after M's last day. The remaining members of the IT department could not process data and generate reports. They left a short time thereafter.

And we asserted those damages. Northwest Direct Teleservices was the Plaintiff and we sued M to recover damages. More on that later.

Forensic Report Williams on 120 gig 120-18

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-williams-on-120-gig-120-18.pdf>)

Forensic Report Wiliams on Exit Email 120-19

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-wiliams-on-exit-email-120-19.pdf>)

Forensic Report Cox on Foxpro Files Destroyed 120-2

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-foxpro-files-destroyed-120-2.pdf>)

Forensic Report Cox on 120 gig Doc 116-5

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-120-gig-doc-116-5.pdf>)



[Forensic Report Cox on 120 gig 120-17](https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-120-gig-120-17.pdf)

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-120-gig-120-17.pdf>)

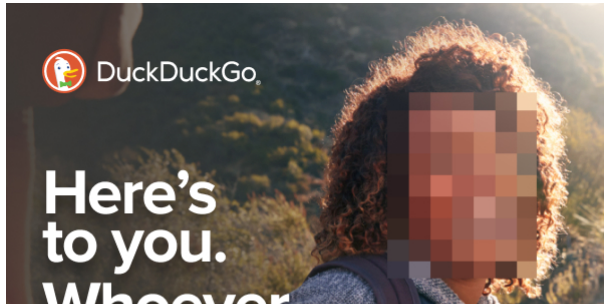
[Forensic Report Cox on 60 gig 120-3](https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-60-gig-120-3.pdf) (<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-60-gig-120-3.pdf>)

[Forensic Report Cox on PC Anywhere120-20](https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-pc-anywhere120-20.pdf)

(<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-report-cox-on-pc-anywhere120-20.pdf>)

[Forensic Exhibit Cox on 60 gig 120-21](https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-exhibit-cox-on-60-gig-120-211.pdf) (<https://thefirstdutyportland.files.wordpress.com/2018/01/forensic-exhibit-cox-on-60-gig-120-211.pdf>)

#### Advertisements



REPORT THIS AD

#### Tagged:

Arbitrator Error,  
Forensic reports,  
Judicial Disability

Published by Tim Rote



*Business Owner, Author, Advocate. [View all posts by Tim Rote](#)*

[Create a free website or blog at WordPress.com.](#) [Do Not Sell My Personal Information](#)

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

### ISSUES

I was asked to perform additional analysis of the contents of the Maxtor 120gb hard drive listed below in reference to an item noted in the attachment to my report dated February 7, 2005. On page 52 of the attachment, item number 58, I noted a text fragment from the unallocated space of the C: partition on that hard drive:

*File: D:\shared\Gay Sex Video – Anal – Hardhats (Falcon) – Older Muscle Guy Fucks Young Twink – 57 sec.mpg*

I have included page 52 of the attachment from that report for reference. The additional analysis involved examining the data on the drive's two reformatted partitions for indications of Internet use for the purposes of visiting pornographic web sites and the presence of pornography on the computer.

### QUALIFICATIONS

I am a certified forensic computer examiner through the International Association of Computer Investigative Specialists (IACIS), with more than 440 hours of specialized training in the acquisition and analysis of computer evidence. That training was obtained through IACIS, the National White Collar Crime Center, AccessData Corporation, Guidance Software Inc., the Federal Bureau of Investigation and the Defense Computer Investigations Training Program.

### ITEMS EXAMINED

- (1) Maxtor D540X-4G 120gb hard drive, serial number 4G120J6060511

### ACQUISITION PROCESS

See prior reports.

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

### EXAMINATION

I performed a text search for **http://** to look for evidence of any web site addresses on the drive. I examined several thousand recovered web site addresses, but found no evidence that any of them belonged to sites featuring pornography.

I performed a text search for additional examples of **D:\shared**, noted in the attachment from my earlier report, which would have been a folder on the D: partition prior to reformatting. I found a number of instances of this text with file names that indicated this folder contained a significant number of files. Most of these files were *mpeg* or *avi* movies, as well as *mp3* music files. Examples of the file titles are listed in the attachments to this report. Some of the files included the text *INCOMPLETE* within the file name. This would indicate that the file was being downloaded on this computer at some point, but that the download was interrupted for some reason. This is consistent with my knowledge of peer-to-peer file sharing programs.

Peer-to-peer (P2P) filing sharing programs are installed by the user on a personal computer. Some common programs of this type are *KaZaA*, *Limewire*, *Bearshare* and *Morpheus*. The programs allow the user to see other program users on-line and view folders and files that those users designate as "shared," or available to download from. Typically the programs will by default create a "shared" folder that the user can designate as visible to other users. The programs also allow the user to choose the folder whose contents they want to share with other users.

P2P programs commonly display files by various types in a library-style listing, with search features, allowing the user to select those files he wants to copy to his computer. I searched this drive for the various peer-to-peer file sharing programs that I am familiar with, but found nothing I recognized. However, the presence of a "shared" folder containing movie and music files is consistent with this type of file operation.

I recognized many of the titles of the files in the shared folder as various television shows, such as various episodes of *Star Trek – The Next Generation*, or music videos such as *Styx*, "Haven't We Been Here Before". Other *mpeg* and *avi* movie files appeared to be pornographic in nature based on words in the title that are commonly associated with those types of movies.

It appears likely that this computer was at one point installed with an undetermined peer-to-peer file sharing program, and the *shared* folder contained files that the user made available to other P2P program users to copy.

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

I also found evidence of other folders that originally existed on the *D:* partition, such as **nwtold**, **paul**, **NWT-1** and **winmx**. These folders contained similar types of file names as noted in the *shared* folder, including file names of popular television shows like the *Simpsons* and *Deep Space 9*.

I found text in the unallocated space of the *C:* partition that indicated the computer originally housing this drive had the following drive letters:

**A:\**  
**C:\**  
**D:\**  
**E:\**  
**F:\**  
**G:\**

The *A:\* drive would have been the floppy diskette drive, while the *C:\* and *D:\* drives were the two partitions on the 120gb Maxtor drive. At one point the computer with this drive had three additional drive letters assigned. These could have included a CD/DVD drive or some type of external storage device, like a thumb drive or an external hard disk drive. I found text examples of what appeared to be folder and file names from an *F:\* drive that contained numerous mpeg format movie files, all of which appeared to have titles consistent with music videos. Example: **Bangles – Walk\_Like\_An\_Egyption.mpg**.

I found a number of avi movie file titles that existed in the *D:\shared* folder location. Each had the word *INCOMPLETE* in the title, as well as the phrase "**tvrip**". I researched the term on various Internet web sites and discovered that these types of files are digital video files of television programs. In the six cases where I found the *tvrip* text, each file name was for the program "*The Dead Zone*". The file names also included a string of characters I recognized as Hash values. Hash values are hexadecimal numbers that are unique for a particular file, essentially a digital finger print.

I attempted to recover any actual movie or music files that existed on this drive prior to reformatting using a number of software tools. As of the date of this report I have not been successful in this task. Should I recover any such files in the future, they will be documented in a separate report.

Lastly, I found what appeared to be another drive letter and folder name, **Z:\laptop**. All of the file names associated with this text were mp3 music files for various artists like *Simple Minds*, *Mike and the Mechanics*, *Cindy Lauper*, *Tom*

Digital Recovery Systems  
Computer Examination Report

## FINAL REPORT

*Petty & The Heartbreakers* and *Tears For Fears*. There was no indication as to what type of device the Z:\ drive would have been.

### CONCLUSIONS

There were no indications of web site addresses on the drive belonging to pornographic web sites. A search of the drive for all recoverable images also did not reveal any pornographic images.

I located data on the drive consistent with the operation of a peer-to-peer file sharing program. File folder entries for the *D:* partition showed folders containing file names for mpeg and avi movie files. Several of these files had names that would suggest their content was pornographic in nature. Other files appeared to be movie files of music videos and television programs, as well as mp3 music files. The purpose of placing these types of files in a shared folder would be to make them accessible for download by other users of the same file sharing program. Additional music and video files appeared on other drive letters for undetermined devices. This information would support the conclusion that these files were stored on this drive for purposes of sharing with other peer-to-peer file sharing program users across the Internet.

---

Steven E. Williams  
Certified Forensic Computer Examiner

57) Maxtor HDD\C\Unallocated Clusters

□ We had a good meeting to discuss some current projects that we will try to get done next week before the new business rolls in  
Zweizig 2 x Microsoft Word 9.0 n@ šB @ ,Ü ,Á @ Óa ,Á Normal.dot Max

58) Maxtor HDD\C\Unallocated Clusters

@ □? " @ □? % Š> 4 @ @ -- " @ yh<> n Â@ l file:D:\shared\Gay Sex  
Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec.mpeg - AA F@ X Gay Sex  
Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec AA Â@ SA  
Â@ 3 Š> eA AA fš SA Op'>  
- í Â@ á ° Á á \ p Max Zweizig

59) Maxtor HDD\C\Unallocated Clusters

Following is the requested information for Harry L Zechman. Please forward any moneys from his NFCU accounts to my address below for dispersal to his estate, along with moneys from any entitlements that he may be due under your policies.

Thank you for all of your help in this matter.

Max Zweizig Executor  
140 Ford Avenue  
Woodbury NJ 08096

60) Maxtor HDD\C\Unallocated Clusters

DAILY DTCMS DATA  
To: Discover Group From: NorthWest Marketing Fax: 630/ 355-8387 Pages: 1 Phone: Date: 3/20/03 Re: Daily  
DTCMS Vendor Sign Off CC:  
Daily DTCMS data for file name NWD0320.TS1.txt in zip file NWD0320.ZIP has been placed on the The Allant Group FTP site. For End of Campaign files fill in Campaign ID and # of records sent for campaign.  
Campaign ID A55 A58 DCS DCT DCX DDI Total # of Records in transmission 10 10 10 10 10 10 Total Sales (SS, SO and SL disposition type) 10 5 Total Contacts 10 10 10 10 10 10 Total Depletes 10 10 10 10 10 10  
Sales per Hour (SPH) .88 3.69 Total Hours (HHHHHH:MM:SS) 11:21:56 1:21:13 18:51 15:00 1:49:32 1:21:50  
Total Talk Time 2:11:29 1:21:13 18:51 15:00 1:49:32 1:21:50 Total Wait Time 9:10:27 My signature  
indicates that I have reviewed and approved the data for the transmission date listed above.

Max Zweizig  
(If anyone other than the Account Manager signs off, then print the alternates name and provide a phone number where this person can be reached for questions / clarification)

Contacts calculation = Sales + Refusal + UNW Person + NQR (see list of valid disposition codes for classification)  
Depletes calculation = Contacts + UNW phone (see list of valid disposition codes for classification)

**D:\shared**

Case: NW Direct 120gb Maxtor

Page 1

### 1) Maxtor HDD\C\Unallocated Clusters

PlaylistName=Playlist 001  
File1=D:\shared\Gay Sex Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec.mpeg  
Title1=Gay Sex Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec  
Length1=57  
NumberOfEntries=1  
Version=2

### 2) Maxtor HDD\C\Unallocated Clusters

D:\shared\ # \\NWT-1\shared Jennifer Lopez - Xxx Movie Video College Porno Flick  
Gizmo6775.asf

### 3) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Night Ranger - Sign Of The Times4cbf221ee986aefe24798c85ede44e8d03283ca0.mpg

### 4) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 2x12 - The Royale.avi

### 5) Maxtor HDD\C\Unallocated Clusters

4 file:D:\shared\Night Ranger - Sign Of The Times.mpg

### 6) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 1x20 - The Arsenal Of Freedom.avi

### 7) Maxtor HDD\C\Unallocated Clusters

D:\shared\Howard Jones - New Song.mpg

### 8) Maxtor HDD\C\Unallocated Clusters

D:\shared\Cyndi Lauper - Madonna Whore.mp3

### 9) Maxtor HDD\C\Unallocated Clusters

D:\shared\Copy of \_\_INCOMPLETE\_\_ Jennifer Lopez - Xxx Movie Video College Porno Flick  
Gizmo677549c88a47e4d3b03d1bdfedcd005d9669005f19cf.asf

### 10) Maxtor HDD\C\Unallocated Clusters

D:\shared\Copy of \_\_INCOMPLETE\_\_ Sex Movies - Jenifer Lopez - U-Turn -  
Fuckingaf0d2d88f666f3df26a76c8bb4cf4576000a1056.mpg

**D:\shared**

**Case: NW Direct 120gh Maxtor**

**Page 2**

**11) Maxtor HDD\C\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_jennifer lopez xxx porno sexo porn xxx playboy pamela anderson pussy free sex anal fisting russion rape fucking teen sex teens(2)10ecfc66e0b5bf296e864fc27827cc2200313881.asf

**12) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Sex Movies - Jenifer Lopez - U-Turn - Fucking.mpg

**13) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Jennifer Lopez - Xxx Movie Video College Porno Flick Gizmo6775.asf

**14) Maxtor HDD\C\Unallocated Clusters**

D:\shared\hold\Ozzy on Greta-Fox News-Pt1.avi

**15) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Jennifer Lopez - XXX Movie Video College Porno Flick Gizmo(1).avi

**16) Maxtor HDD\C\Unallocated Clusters**

D:\shared\jennifer lopez xxx porno sexo porn xxx playboy pamela anderson pussy free sex anal fisting russion rape fucking teen sex teens(2).asf

**17) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Star Trek - TNG - 6x14 - Face of the Enemy.avi

**18) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Star Trek TNG - 1x16 - When The Bough Breaks.avi

**19) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Howard Jones - What is love.mpg

**20) Maxtor HDD\C\Unallocated Clusters**

D:\shared\2. TNG - s1e23 - We'll Always Have Paris.avi

**21) Maxtor HDD\C\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_Young teen fucks 2 guys gets full cum facial\_lolita\_rape\_young\_sex\_whore\_dick\_pussy\_anal\_teenscum\_hardcore\_69\_orgy\_from\_7cea89335a1f6732d5ff83ab7896c9d20c69f000.mpg



**D:\shared**

**Case: NW Direct 120gb Maxtor**

**Page 3**

**22) Maxtor HDD\C\Unallocated Clusters**

D:\shared\COPY of \_\_INCOMPLETE\_\_ Teen 16 Year Young Cute Lolita (perfect Tits) Girl Gets Fucked With Cock In Pussy And Sucks French Cumshot (blowjob) Ass779c3f7325ebe62795fc5fe0e4446b1100bb9e00.avi

**23) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Teen 16 Year Young Cute Lolita (perfect Tits) Girl Gets Fucked With Cock In Pussy And Sucks French Cumshot (blowjob) Ass.avi

**24) Maxtor HDD\C\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_ Styx - Haven't We Been Here Before0362d4e186a75f451eaa576d0e006560029a6420.mpeg

**25) Maxtor HDD\C\Unallocated Clusters**

D:\shared\older woman fucking a guy in the back of a car.mpg

**26) Maxtor HDD\C\Unallocated Clusters**

D:\shared\ older sisters get lesbien with little sister mpg.mpg

**27) Maxtor HDD\C\Unallocated Clusters**

D:\shared\older woman getting fucked in all holes.mpg

**28) Maxtor HDD\C\Unallocated Clusters**

D:\shared\great older sex - fucking blowjob and cumshots - 4 women.mpg

**29) Maxtor HDD\C\Unallocated Clusters**

D:\shared\gay video - older man fucking young twink.mpg

**30) Maxtor HDD\C\Unallocated Clusters**

D:\shared\HOT older woman MILF 34 red hair shaved pussy in action.mpeg

**31) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Gay\_Older\_Men\_-\_Quadraplex\_Part\_1.avi

**32) Maxtor HDD\C\Unallocated Clusters**

D:\shared\Styx - Haven't We Been Here Before.mpeg

D:\shared

### 33) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_GAY - Older Men - Let daddy do it 2ebdea1a663a53145f7773ae96bbdeb76009a66ba.asf

### 34) Maxtor HDD\C\Unallocated Clusters

D:\shared\Gay Sex Video - Anal - Hardhats (Falcon) - Older Muscle Guy Fucks Young Twink - 57 sec.mpeg

### 35) Maxtor HDD\C\Unallocated Clusters

D:\shared\Gay\_Older\_Men\_-\_Quadraplex\_Part\_1.avi

### 36) Maxtor HDD\C\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_(Gay Teens - St245#1\_001) Older teen kisses, sucks and fucks hairless brother [22m]0d40ba2ea52cff48e19ef2eb3db792a412420042.mpg

### 37) Maxtor HDD\C\Unallocated Clusters

```
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 0x800b0100: No signature was present in the subject. [2003/04/01 19:36:39 3048.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe"
"D:\shared\__INCOMPLETE__(Gay Teens - St245#1_001) Older teen kisses, sucks and fucks hairless brother [22m]0d40ba2ea52cff48e19ef2eb3db792a412420042.mpg"
#E361 An unsigned or incorrectly signed file "c:\docume~1\max\locals~1\temp\icd1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 1168:
```

### 38) Maxtor HDD\C\Unallocated Clusters

```
C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" will be installed (Policy=Ignore). Error 1168: Element not found. [2003/04/01 19:36:41 3048.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe"
"D:\shared\__INCOMPLETE__(Gay Teens - St245#1_001) Older teen kisses, sucks and fucks hairless brother [22m]0d40ba2ea52cff48e19ef2eb3db792a412420042.mpg"
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" to "C:\WINDOWS\Downloaded Program Files\msaudio.inf".
```

### 39) Maxtor HDD\C\Unallocated Clusters

```
[2003/04/04 02:30:24 2328.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_Quadraplex_Part_1.avi"
#E361 An unsigned or incorrectly signed file "c:\docume~1\max\locals~1\temp\icd1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 1168: Element not found.
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" to "C:\WINDOWS\System32\msadds32.ax".
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" will be installed (Policy=Ignore). Error 1168: Element not found. [2003/04/04 02:30:28 2328.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_Quadraplex_Part_1.avi"
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" to "C:\WINDOWS\Downloaded Program Files\msaudio.inf".
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" will be installed (Policy=Ignore). Error 0x800b0100: No signature was present in the subject. [2003/04/10 16:36:00 3668.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_Quadraplex_Part_1.avi"
#E361 An unsigned or incorretu I>¿<Simp leDialog >
<Tit le H Pext> Search b y any or all of the crit eria belAow.</T b Š"/ @
```

**Dr. shared**

#### 40) Maxtor HDD\C\Unallocated Clusters

```
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msadds32.ax" will be
installed (Policy=Ignore). Error 1168: Element not found.
[2003/04/10 16:36:03 3668.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\shared\Gay_Older_Men_-_
_Quadraplex_Part_1.avi"
#-024 Copying file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" to "C:\WINDOWS\Downloaded Program
Files\msaudio.inf".
#E361 An unsigned or incorrectly signed file "C:\DOCUME~1\Max\LOCALS~1\Temp\ICD1.tmp\msaudio.inf" will be
installed (Policy=Ignore). Error 0x800b0100: No signature was present in the subject.
[2003/04/14 16:15:03 2020.1]
#-198 Command line processed: "C:\Program Files\Windows Media Player\mplayer2.exe" "D:\_x\Gay_Older_Men_-_
_Quadraplex_Part_1.avi"
```

#### 41) Maxtor HDD\C\Unallocated Clusters

D:\shared\The\_Beatles\_-\_Yesterday.mpg

#### 42) Maxtor HDD\C\Unallocated Clusters

D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg

#### 43) Maxtor HDD\C\Unallocated Clusters

D:\shared\WhiteSnake\_-\_Is\_This\_Love(SK-VCD).mpg

#### 44) Maxtor HDD\C\Unallocated Clusters

D:\shared\Will Smith -- Wild Wild West.mpg

#### 45) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 1x15 - 11001001.avi

#### 46) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 1x16 - When The Bough Breaks.avi

#### 47) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg

#### 48) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Mr.Roboto.mpg

#### 49) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Music Time (MV).mpg

D:\shared

50) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Too Much Time On My Hands (videot).mpg

51) Maxtor HDD\C\Unallocated Clusters

D:\shared\styx\_tgi.mp3

52) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx\_The Best Of Times.mpg

53) Maxtor HDD\C\Unallocated Clusters

D:\shared\Take\_The\_Time.mpg

54) Maxtor HDD\C\Unallocated Clusters

D:\shared\Tears For Fears - Shout.mpg

55) Maxtor HDD\C\Unallocated Clusters

\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take\_The\_Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The\_Beatles\_-\_Yesterday.mpg D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg D:\shared\The\_Human\_League\_-\_Don't\_You\_y € - € - eot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3

56) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take\_The\_Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The\_Beatles\_-\_Yesterday.mpg D:\shared\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg D:\shared\The\_Human\_League\_-\_Don't\_You\_Want\_Me\_(videot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3 D:\shared\TNG-235 - The Quality Of Life.avi D:\shared\Toto - Africa.mpg D:\shared\Toto-Africa(MJ).mpg D:\shared\tunes.txt D:\shared\Video - SNL (Chris Farley as Matt Foley).mpg D:\shared\weird\_al(the\_saga\_begins).mpg D:\shared\WhiteSnake\_-\_Is\_This\_Love(SK-VCD).mpg D:\shared\Will Smith -- Wild Wild West.mpg D:\shared\Star Trek TNG - 1x15 - 11001001.avi D:\shared\Star Trek TNG - 1x16 - When The Bough Breaks.avi D:\shared\Styx - Don't Let It End Music Video.mpg

57) Maxtor HDD\C\Unallocated Clusters

d\Styx - Haven't We Been Here Before.mpe , 2 Q v @ Å é , R ... Á 1 M k  
□ ¶ Þ 9 g ¢ On My Hands (videot).mpg D:\shared\%( ĩk- 0~È @ 8%È C:\Program  
Files\WinRAR\Formats\uee.fmt en Here Before . mpeh b D:\shared\Styx - Haven't We Been Here  
Before.mpeg D:\shared\Styx - Mr.Roboto.mpg ah\_(videot)Ī \* D:\shared\Styx - Haven't  
We Been Here Before . mpeg D:\shared\Styx - Mr.Roboto . mpg  
fe.avi D:\shared\Toto € š D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg  
D:\shared\Styx - Music Time (MV).mpg d\weird\_al(the\_saga\_begins).mp( . D:\shared\Styx - Ha  
ven't We Been Here Before . mpeg D:\shared\Styx - Mr.Robot  
o . mpg D:\shared\Styx - Music Time (MV) . mpg  
X Þ D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music  
Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx

Unshared

### 58) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take The Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The Beatles - Yesterday.mpg D:\shared\The Clash - Rock The Casbah (videot).mpg D:\shared\The Human League - Don't You Want Me (videot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3 D:\shared\TNG-235 - The Quality Of Life.avi D:\shared\Toto - Africa.mpg D:\shared\Toto-Africa(MJ).mpg D:\shared\tunes.txt D:\shared\Video - SNL (Chris Farley as Matt Foley).mpg

### 59) Maxtor HDD\C\Unallocated Clusters

D:\shared\Styx - Haven't We Been Here Before.mpeg D:\shared\Styx - Mr.Roboto.mpg D:\shared\Styx - Music Time (MV).mpg D:\shared\Styx - Too Much Time On My Hands (videot).mpg D:\shared\styx\_tgi.mp3 D:\shared\Styx\_The Best Of Times.mpg D:\shared\Take The Time.mpg D:\shared\Tears For Fears - Shout.mpg D:\shared\The Beatles - Yesterday.mpg D:\shared\The Clash - Rock The Casbah (videot).mpg D:\shared\The Human League - Don't You Want Me (videot).mpg D:\shared\Tina the big 80s - abracadabra; the steve miller band.mp3 D:\shared\TNG-235 - The Quality Of Life.avi D:\shared\Toto - Africa.mpg D:\shared\Toto-Africa(MJ).mpg D:\shared\tunes.txt D:\shared\Video - SNL (Chris Farley as Matt Foley).mpg D:\shared\weird\_al(the\_saga\_begins).mpg D:\shared\WhiteSnake - Is This Love(SK-VCD).mpg D:\shared\Will Smith -- Wild Wild West.mpg D:\shared\Star Trek TNG - 1x15 - 11001001.avi

### 60) Maxtor HDD\C\Unallocated Clusters

D:\shared\Star Trek TNG - 1x14 - Angel One.avi D:\shared er.mpg D:\shared\Mike & The Ü' X%È 'á- i' @ 8%È arj|a## C:\Program Files\WinRAR\Formats\bz2.fmt lent Running (Extended Version).mp3 D:\shared\Mike And The Mechanics - Silent Running.mp3 D:\shared\Night Ranger - Don't Tell Me You Love Me.mpg D:\shared\NIGHT RANGER - Four In The Morning (melodicrock.tv).m arj|a## \shared\Night Ranger - SisteÜ' X%È lç- i' @ 8%È C:\Program Files\WinRAR\Formats\bz2.fmt g D:\shared\NIGHT RANGER(Midnight Madness) - (You Can Still) Rock In America(Live).mpg D:\shared\Night\_Ranger - Four In The Morning.mpg D:\shared\Night\_Ranger - Goodbye.mpg D:\shared\Oldies-Cindy Lauper - Girls Just Wanna Have Fun.mp3 D:\shared\Ozzy Osbourne - Bark At The Moon.mpg D:\shared\Pat Benatar - Fire And Ice (live).mpg D:\shared\Paul\_Simon - You Can Call Me Al.mpg D:\shared\Paula\_Abdul - Opposites Attract.mpg D:\shared\Paula\_Abdul - Straight Up.mpg D:\shared\rush - red sector a.mp3 D:\shared\Rush - Limelight - popup.ram D:\shared B Z h bz2|tbz|tbz2 d Things 1 & 2.avi D:\sharedø, X%È tē- r, @ 8%È C:\Program Files\WinRAR\Formats\cab.fmt \Star Trek TNG - 1x06 - Where No One Has Gone Before.avi D:\shared\Star Trek TNG - 1x07 - Lonely Among Us.avi r e d \ m a d o n n a - n o t h i n g \_ r e a l l

### 61) Maxtor HDD\C\Unallocated Clusters

D:\shared\MEN IN BLACK 2 MPEG DIVX.avi

### 62) Maxtor HDD\C\Unallocated Clusters

D:\shared\SNL - Celebrity Jeopardy - Ozzy Osbourne, Martha Stewart, Sean Connery(NTSC).mpg

### 63) Maxtor HDD\D\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_ Dead Zone - 2x09 - The Man Who Never Wase3e108063b273fe1d66df695c2fe7cd31b885934.mpg

### 64) Maxtor HDD\D\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_ Dead Zone - 2x08 - Cabin Pressurebd85ac5d6771ad21cdPK

Unshared

65) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Dead Zone - 1x02 - What it Seems08055b00b626301769aa5fcfcd91786d1a353a44.mpg

66) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Dead Zone - 1x01 - Wheel of FortureNTSC37c71d8f0de035be30a2ec8f473e345b19cfcfa8.mpg

67) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x12 - zion-ftv8f9b53ac3429a257f9050c1b76d2a8e31bbc41bc.mpg

68) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x11 - playing.god.repack-ftvdc717b9473fcdd9f8a2a5a9df1dcc1521b75da00.mpg

69) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x10 - dead.men.tell.tales-ftva4d4701a596fb6017452c7d9439bea691becc4b8.mpg

70) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x07 - misbegotten (xvid-ttc)3e0465f30359b85b464b787cc8d0cc7e15e00800.avi

71) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 2x05 - precipitate (divx-sfm)110fc80d56737a4815240687c261e7f715ebe000.avi

72) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x07 - tvrip.divx-sfm379d9eb99775a3bbd77c44062bc3aa8a0fde1020.avi

73) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x06 - tvrip.divx-sfmd0e9d7f6657fe7b00d5fecc3a7f8631f15e23000.avi

74) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_522B~1.MPG \_\_Tintin - Tintin och Hajsjön25d21f1508bfdae2b833a55b54b8678c2e2cba1c.mpg

75) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_INCOMPLETE\_\_Star Trek DS9 - 6x18 - Inquisition - DivX8a4f0ba20a3f67c1lead29b35e4c3d090999f000.avi

76) Maxtor HDD\Unallocated Clusters

D:\shared\\_\_7894~1.MPG \_\_TinTin - Månen tur och retur Dellef9580ca9b791ebc7b8577f51e4ce37d1d3ad360.mpg

**Unshared**

**Case: NW Direct 120gb Maxtor**

**Page 9**

**77) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x01 - wheel.of.fortunef5359d693b9d67693fdeab02d24cc28e15f3d800.avi

**D. Inwold**

Case: **NW Direct 120gb Maxtor**

Page 1

1) Maxtor HDD\C\Unallocated Clusters

d:\nwtold\\_convert\_june\temp\Paula Price - Deep Throat.mpg

2) Maxtor HDD\C\Unallocated Clusters

d:\nwtold\\_convert\_june\temp\Deep throats again and again.avi



D:\paul

Case: NW Direct 120gb Maxtor

Page 1

1) Maxtor HDD\C\Unallocated Clusters

D:\paul\crap\N2.avi

2) Maxtor HDD\C\Unallocated Clusters

D:\paul\JL-Metamorphosis\cd03.mpg

3) Maxtor HDD\C\Unallocated Clusters

D:\paul\JL-Metamorphosis\Osbornes 104.mpg

4) Maxtor HDD\C\Unallocated Clusters

d:\paul\JL-Metamorphosis\cd-0002.mpg

5) Maxtor HDD\C\Unallocated Clusters

d D:\paul\ ! \\NWT-1\paul T\Thai sex guide.mpg

6) Maxtor HDD\C\Unallocated Clusters

D:\paul\ ! \\NWT-1\paul JL-Metamorphosis\cd03.mpg

7) Maxtor HDD\C\Unallocated Clusters

D:\paul\ ! \\NWT-1\paul JL-Metamorphosis ` X nwt-1

D:\NWT-1

Case: NW Direct 120gb Maxtor

Page 1

1) Maxtor HDD\C\Unallocated Clusters

D:\shared\ # \\NWT-1\shared Tara Reid - body shots3.mpg

2) Maxtor HDD\C\Unallocated Clusters

D:\shared\ # \\NWT-1\shared older mom cheating on her husband and fucking some other  
guy.mpg D : \ s h a r e d ` X nwt-1

3) Maxtor HDD\C\Unallocated Clusters

d D:\shared\ # \\NWT-1\shared \_\_INCOMPLETE\_\_ Gay Porn - (Str8 Marine Sex) DYPC 16702 -  
Older marine fucks his youngeac34daf0e6e700043f10bfbacfbf4c4d00457004.mpg D : \ s h a r e d `

4) Maxtor HDD\C\Unallocated Clusters

d D:\shared\ # \\NWT-1\shared sexy older mom fucked.mpg

5) Maxtor HDD\C\Unallocated Clusters

d D:\shared\ # \\NWT-1\shared older woman in pantyhose.mpg D : \ s h a r e d `

D:\winmx

Case: NW Direct 120gb Maxtor

Page 1

### 1) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx s06e20 The Simpsons - Two Dozen & One Greyhounds.mpg

### 2) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx s08e10 The Simpsons - The Springfield Files.mpg

### 3) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx s09e25 The Simpsons - Natural Born Kissers.mpg

### 4) Maxtor HDD\C\Unallocated Clusters

D:\winmx\ " \\NWT-1\winmx DS9 - 7x12 - The Emperor's New Cloak.avi

### 5) Maxtor HDD\C\Unallocated Clusters

D:\winmx\Star Wars Episode II Attack of the Clones (SVCD, pt 2 of 2).mpg

### 6) Maxtor HDD\C\Unallocated Clusters

D:\winmx\The Simpsons - Too Hot For TV .mpg

### 7) Maxtor HDD\C\Unallocated Clusters

D:\winmx\s06e20 The Simpsons - Two Dozen & One Greyhounds.mpg

### 8) Maxtor HDD\C\Unallocated Clusters

D:\winmx\s08e10 The Simpsons - The Springfield Files.mpg

### 9) Maxtor HDD\C\Unallocated Clusters

D:\winmx\Star Trek DS9 - 5x06 - Trials and Tribble-ations.asf

### 10) Maxtor HDD\C\Unallocated Clusters

ek DS9 -9

-  
- ive Pursuit.avi D:\winmx\Star Trek DS9 - 1x19 Duet.avi D:\winmx\Star Trek DS9 - 4x22 - For The Cause.avi  
D:\winmx\Star Trek DS9 - 5x06 - Trials and Tribble-ations.asf D:\winmx\Star Trek DS9 - 6x13 - Far Beyond the  
Stars.avi D:\winmx\Star Trek DS9 - 7x26 - What You Leave Behind (Part 2).avi D:\winmx\StarTrek - TOS TNG DS9  
Voyager 2002 (I GOT GOOSEBUMPS!).mpg D:\winmx\The Simpsons - Too Hot For TV .mpg D:\winmx\The Simpsons-Homer Gets  
a Gun.mpg

### 11) Maxtor HDD\C\Unallocated Clusters

D:\winmx\DS9 - 6x26 - Tears of the Prophets.avi

D:\winmx

Case: NW Direct 120gb Maxtor

Page 2

## 12) Maxtor HDD\C\Unallocated Clusters

D:\winmx\Flintstones-Simpsons.avi

## 13) Maxtor HDD\C\Unallocated Clusters

C:\Program Files\WinRAR\Formats\lzh.fmt 0~È < e%È 0~È d critic.mpg D:\ \ %È 0~È l @ 8%È  
C:\Program Files\WinRAR\Formats\ace.fmt Connery(NTSC).mpg D:\winmx\SNL - Celebrity Jeopardy - Travolta,  
Reynolds, Keaton.mpg D:\winmx\Star Trek - DS9 - 7x18 - 'Til Death Do Us Part.avi D:\winmx\Star Trek - DS9 - 7x21  
- When It Rains.avi D:\winmx\Star Trek - Farewell to DS9 (music by Enya).mpeg D:\winmx\Star Trek DS9 - 1x01 &  
1x02 - Emissary.avi

## 14) Maxtor HDD\C\Unallocated Clusters

C:\Program Files\WinRAR\Formats\uee.fmt \winmx\Kelly Osbourne - PapaÜ' X%È @'~ i' @ 8%È  
C:\Program Files\WinRAR\Formats\bz2.fmt Dont Preach (Live on 2002 MTV Movie Awards).mpg D:\winmx\Kelly Osbourne  
- Papa Don't Preach.mpg D:\winmx\Kelly Osbourne - Papa Don't Preach-Without Radio Intro.mp3 D:\winmx\s06e20 The  
Simpsons - Two Dozen & One Greyhounds.mpg D:\winmx\s08e10 The Simpsons - The Springfield Files.mpg  
D:\winmx\s09e25 The Simpsons - Natural Born Kissers.mpg D:\winmx\Simpsons - Homer as food critic.mpg  
D:\winmx\SNL - Celebrity Jeopardy - Ozzy Osbourne, Martha Stewart, Sean Connery(NTSC).mpg D:\winmx\SNL -  
Celebrity Jeopardy - Travolta, Reynolds, Keaton.mpg D:\winmx\Star Trek - DS9 - 7x18 - 'Til Death Do Us Part.avi  
D:\winmx\Star Trek - DS9 - 7x21 - When It Rains.avi D:\winmx\Star Trek - Farewell to DS9 (music by Enya).mpeg  
D:\winmx\Star Trek DS9 - 1x01 & 1x02 - Emissary.avi D:\winmx\Star Trek DS9 - 1x03 - Past Prologue.avi  
D:\winmx\Star Trek DS9 - 1x05 - Ebel.avi D:\winmx\Star Trek DS9 -

## References to other drive letters

Case: NW Direct 120gb Maxtor

Page 1

### 1) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\WindowsShell.Manifest

### 2) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\SNTUninstallQ307271\$

### 3) Maxtor HDD\C\Unallocated Clusters

F:\Alannah Myles - Black Velvet [videot].mpg  
F:\ASIA - Only Time Will Tell (Live 1990).mpg  
F:\Asia - Only Time Will Tell.mpg  
F:\Asia-only time will tell VCD(m).mpg  
F:\Damn Yankees - Come Again.mpg  
F:\Damn Yankees - High Enough (videot).mpg  
F:\don\_henley\_-\_boys\_of\_summer.mpg  
F:\Flock Of Seagulls\_I Ran(So Far Away).mpg  
F:\Gary Numan - Cars(SK-VCD).mpg  
F:\Huey Lewis\_-\_Heart\_Of\_Rock'n'Roll.mpg  
F:\Kool\_\_\_The\_Gang\_-\_Joanna.mpg  
F:\Mike & The Mechanics - Silent Running.mpg  
F:\MUSICVIDS01  
F:\mvid021001  
F:\mvid021001b  
F:\MVID 021101  
F:\MYMUSICVID01  
F:\Night Ranger - Don't Tell Me You Love Me.mpg  
F:\NIGHT RANGER - Four In The Morning (melodicrock.tv).mpg  
F:\Night Ranger - Goodbye.mpg  
F:\Night Ranger - I Did It For Love.mpg  
F:\Night Ranger - Sister Christian.mpg  
F:\Night\_Ranger\_-\_Four\_In\_The\_Morning.mpg  
F:\Night\_Ranger\_-\_Goodbye.mpg  
F:\Pat Benatar - Fire And Ice (live).mpg  
F:\Paul\_Simon\_-\_You\_Can\_Call\_Me\_Al.mpg  
F:\Scandal - Good-bye to You(m).mpg  
F:\Styx - Mr.Roboto.mpg  
F:\Styx - Too Much Time On My Hands (videot).mpg  
F:\The\_Clash\_-\_Rock\_The\_Casbah\_(videot).mpg  
F:\The\_Human\_League\_-\_Don't\_You\_Want\_Me\_(videot).mpg  
F:\Totò - Africa.mpg  
F:\Totò-Africa(MJ).mpg  
F:\WhiteSnake - Is This Love(SK-VCD).mpg  
F:\[PV] [ Night Ranger ] When You Close Your Eyes.mpg  
F:\MUSICVIDS01\A-ha\_-\_Take\_on\_me.mpg  
F:\MUSICVIDS01\ace\_of\_base\_-\_the\_sign.mpg  
F:\MUSICVIDS01\Alannah Myles)\_Black\_velvet.mpg  
F:\MUSICVIDS01\Alannah\_Myles)\_Black\_velvet\_-\_vsn.nfo  
F:\MUSICVIDS01\Bryan Adams) - Run to you - vsn.mpg  
F:\MUSICVIDS01\Bryan Adams) - Run to you - vsn.nfo  
F:\MUSICVIDS01\Cyndi Lauper)\_Time\_after\_time.mpg  
F:\MUSICVIDS01\Madonna) - beautiful\_stranger.mpg  
F:\MUSICVIDS01\Scandal) - The Warrior.mpg  
F:\MUSICVIDS01\hard\_habit\_to\_break.mpg  
F:\MUSICVIDS01\madonna-nothing\_really\_matters(grammys99).mpg  
F:\MUSICVIDS01\madonna.mpg  
F:\MUSICVIDS01\Rush\_-\_Limelight\_-\_popup.ram  
F:\MUSICVIDS01\weird\_al(the\_saga\_begins).mpg  
F:\MUSICVIDS01\Will Smith -- Wild Wild West.mpg  
F:\mvid021001\Beatles  
F:\mvid021001\Dokken  
F:\mvid021001\Don Henley  
F:\mvid021001\Dream Theater  
F:\mvid021001\Howard Jones  
F:\mvid021001\Huey Lewis  
F:\mvid021001\Kool and the Gang  
F:\mvid021001\Paula Abdul  
F:\mvid021001\Beatles\John Lennon - Imagine (Mike Douglas Show).mpg  
F:\mvid021001\Beatles\The\_Beatles\_-\_Yesterday.mpg

## References to other drive letters

Case: NW Direct 120gb Maxtor

Page 2

F:\mvid021001\Dokken\Dokken-Heaven\_Sent.mpg  
F:\mvid021001\Dokken\Dokken-Just\_Got\_Lucky.mpg  
F:\mvid021001\Dokken\Dokken\_-\_The\_Hunter.mpg  
F:\mvid021001\Don\_Henley\don\_henley\_-\_boys\_of\_summer.mpg  
F:\mvid021001\Dream\_Theater\Dream\_Theater\_-\_Another\_Day.mpg  
F:\mvid021001\Dream\_Theater\Dream\_Theater\_-\_Pull\_Me\_Under.mpg  
F:\mvid021001\Dream\_Theater\Take\_The\_Time.mpg  
F:\mvid021001\Howard\_Jones\HowardJones-WhatIsLove\_Popup\_fm\_.avi  
F:\mvid021001\Huey\_Lewis\Huey\_Drug.mpg  
F:\mvid021001\Huey\_Lewis\Huey\_Heart.mpg  
F:\mvid021001\Kool\_and\_the\_Gang\Kool\_\_\_The\_Gang\_-\_Joanna.mpg  
F:\mvid021001\Paula\_Abdul\Paula\_Abdul\_-\_Opposites\_Attract.mpg  
F:\mvid021001\Paula\_Abdul\Paula\_Abdul\_-\_Straight\_Up.mpg  
F:\mvid021001b\Britney Spears  
F:\mvid021001b\Cyndi Lauper  
F:\mvid021001b\David Lee Roth  
F:\mvid021001b\Hall and Oates  
F:\mvid021001b\Michael Jackson  
F:\mvid021001b\Skid Row  
F:\mvid021001b\Britney Spears\Britney Spears\_\_\_- Oops\_I\_Did\_It\_Again\_VMA\_2000\_(HQ).mpg  
F:\mvid021001b\Cyndi Lauper\cyndi\_lauper-she\_bop.mpg  
F:\mvid021001b\Cyndi Lauper\Cyndi\_Lauper\_-\_Girls\_Just\_Want\_To\_Have\_Fun(Cartman).mpg  
F:\mvid021001b\Cyndi Lauper\Cyndi\_Lauper\_-\_Goonies\_Are\_Good\_Enough.mpg  
F:\mvid021001b\Cyndi Lauper\Cyndi\_Lauper\_-\_Time\_After\_Time.MPG  
F:\mvid021001b\Cyndi Lauper\Cyndi\_Lauper\_-\_True\_Colors.mpg  
F:\mvid021001b\David Lee Roth\David\_Lee\_Roth\_-\_California\_Girls.mpg  
F:\mvid021001b\Hall and Oates\Hall\_\_\_Oates\_-\_Maneater\_Inv\_.avi  
F:\mvid021001b\Michael Jackson\Michael\_Jackson\_-\_Thriller.mpg  
F:\mvid021001b\Michael Jackson\Michael\_Jackson\_\_\_Janet\_Jackson\_-\_Scream.mpg  
F:\mvid021001b\Skid Row\skid\_row-18\_and\_life(pmd).mpg  
F:\MVID\_021101\Bangles  
F:\MVID\_021101\Bee Gees  
F:\MVID\_021101\Jewel  
F:\MVID\_021101\Men at Work  
F:\MVID\_021101\Paul Young

#### 4) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\Q308677.log

#### 5) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\Q311889.EXE

#### 6) Maxtor HDD\C\Unallocated Clusters

E:\05-02 TCPA Weekly Suppression.xls

#### 7) Maxtor HDD\C\Unallocated Clusters

E:\06-02 TCPA Weekly Suppression.xls

#### 8) Maxtor HDD\C\Unallocated Clusters

E:\06cp04.zip

#### 9) Maxtor HDD\C\Unallocated Clusters

E:\0415.DBF

# References to other drive letters

## 10) Maxtor HDD\C\Unallocated Clusters

E:\0416.DBF

## 11) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\sessmgr.setup.log

## 12) Maxtor HDD\C\Unallocated Clusters

E:\WINDOWS\VAIO Brezza Wallpaper TrueColor 1024x768.bmp

## 13) Maxtor HDD\C\Unallocated Clusters

E:\Program Files\Corel\WordPerfect Office 2002\Macros\WP Rina\end foot.wcm

## 14) Maxtor HDD\C\Unallocated Clusters

E:\WALDO\V200\TEXTART8\WINDEBUG\TEXTURES\Light\_Blue\_Corduroy.bmp

## 15) Maxtor HDD\C\Unallocated Clusters

E:\used\Program Files\Microsoft Visual Studio\VB98\VB6.OLB

## 16) Maxtor HDD\C\Unallocated Clusters

E:\programs\Visual Studio\VC98\bin

## 17) Maxtor HDD\C\Unallocated Clusters

E:\logs1\build.log

## 18) Maxtor HDD\C\Unallocated Clusters

E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\InetURL.x32D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\NetFile.x32E E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\NetLingo.x32 A E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Mix\Mix Services.x32 H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Mix\Sound Import Export.x32G E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\SWADCmpr.x32 F E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\SWASTrm.x32 G E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\TextXtra.x32 I E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Text Asset.x32 H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Font Xtra.x32I E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Font Asset.x32 A E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Devices\MacroMix.x32 D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Devices\DirectSound.x32H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Flash Asset\Flash Asset.x32= E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Qt3\QT3Asset.x32 " D:\Procomm\Procomm-Final-NoSnd.dir

## 19) Maxtor HDD\C\Unallocated Clusters

F:\VFP\SAMPLES\CONTROLS\clock.bmp

## 20) Maxtor HDD\C\Unallocated Clusters

A:\ C:\ D:\ E:\ F:\ G:\

## 21) Maxtor HDD\C\Unallocated Clusters

f:\ntitir41\common\filesys\subfile.c yyyyc f:\ntitir41\common\filesys\filesys.c  
f:\ntitir41\common\filesys\vf file.c f:\ntitir41\common\bt tree\btinsert.c  
f:\ntitir41\common\bt tree\btdelete.c f:\ntitir41\common\bt tree\btmapwr.c  
f:\ntitir41\common\bt tree\btfill.c f:\ntitir41\fts\search\ftcommon.c

## 22) Maxtor HDD\C\Unallocated Clusters

F:\MVID\_021101\Rodney Dangerfield  
F:\MVID\_021101\Roxette  
F:\MVID\_021101\Rush  
F:\MVID\_021101\Will Smith  
F:\MVID\_021101\Yes  
F:\MVID\_021101\Bangles\Bangles - Walk Like An Egyptian.mpg  
F:\MVID\_021101\Bee Gees\Bee Gees-How Deep Is Your Love-LittleC-mV.mpg  
F:\MVID\_021101\Jewel\Jewel - You Were Ment For Me.mpg  
F:\MVID\_021101\Men at Work\Men at Work - Who Can It Be Now\_Little\_C.mpg  
F:\MVID\_021101\Paul Young\Paul Young - Everytime You Go Away.MPG  
F:\MVID\_021101\Rodney Dangerfield\Rodney Dangerfield- Rappin'\_Rodney.mpg  
F:\MVID\_021101\Roxette\Roxette - It Must Have Been Love.mpg  
F:\MVID\_021101\Roxette\Roxette - The Look (laG).mpg  
F:\MVID\_021101\Rush\rush - closer to the heart(1998).mpg  
F:\MVID\_021101\Rush\Rush - Subdivisions\_Little\_C.mpg  
F:\MVID\_021101\Will Smith\MIB Wil Smith Video.mpg  
F:\MVID\_021101\Yes\ABWH (Yes)1989 - 01 - Time and a Word Owner of a Lonely Heart.mpg  
F:\MVID\_021101\Yes\ABWH (Yes)1989 - 14 - Roundabout.mpg  
F:\MYMUSICVID01\Chris Isaak - Wicked Game.mpg  
F:\MYMUSICVID01\Human League - Dont You Want Me.mpg  
F:\MYMUSICVID01\John Cougar - Jack and Diane.mpg  
F:\MYMUSICVID01\Men at Work - Down Under.mpg  
F:\MYMUSICVID01\Men at Work - Who Can It Be Now.mpg  
F:\MYMUSICVID01\Micheal Jackson - Beat It.mpg  
F:\MYMUSICVID01\Micheal Jackson - Billie Jean.mpg  
F:\MYMUSICVID01\Micheal Jackson - Scream.mpg  
F:\MYMUSICVID01\Micheal Jackson - Thriller.mpg  
F:\MYMUSICVID01\Paul Simon - You Can Call Me Al.mpg  
F:\MYMUSICVID01\Rick James - Superfreak.mpg  
F:\MYMUSICVID01\Rockwell - Somebodys Watching Me.mpg  
F:\MYMUSICVID01\Simple Minds - Don't You (Forget About Me).mpg  
F:\MYMUSICVID01\Van Halen - Hot For Teacher.mpg

## 23) Maxtor HDD\C\Unallocated Clusters

f:\temp\IPSecClient\Rel\CSGina\Release\CSGina.pdb

## 24) Maxtor HDD\C\Unallocated Clusters

f:\temp\IPSecClient\Rel\CertMgrGUI\Release\CertMgrGUI.pdb

## 25) Maxtor HDD\C\Unallocated Clusters

E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\InetURL.x32D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Net Support\NetFile.x32E E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Net Support\NetLingo.x32 A  
E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Mix\Mix Services.x32 H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Mix\Sound Import Export.x32G E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\SWADCmpr.x32 F  
E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\SWAStm.x32 G E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Media Support\TextXtra.x32 I E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Text Asset.x32  
H E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Font Xtra.x32I E:\PROGRAM



## References to other drive letters

Case: **NW Direct 120gb Maxtor**

Page 5

FILES\MACROMEDIA\DIRECTOR 7\extras\Media Support\Font Asset.x32 A E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Devices\MacroMix.x32 D E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Devices\DirectSound.x32H  
E:\PROGRAM FILES\MACROMEDIA\DIRECTOR 7\extras\Flash Asset\Flash Asset.x32= E:\PROGRAM FILES\MACROMEDIA\DIRECTOR  
7\extras\Qt3\QT3Asset.x32 D:\Procomm\Procomm-Final-Snd.dir

Z:\Laptop

1) Maxtor HDD\C\Unallocated Clusters

```
file:Z:\laptop\mp3\cd2\10-You_Got_Lucky.mp3  Ê
æ ) 10-You Got Lucky.mp3 æ e
Ê
-°µ= F D file:Z:\laptop\mp3\cd2\Simple Minds - Don't You Forget About Me.mp3 / Q @ ) Simple
Minds - Don't You Forget About Me Q n -°µ= A ² ?
file:Z:\laptop\mp3\cd2\_ (Power Station)_ - Some Like It Hot.mp3 * ù c ! Power Station - Some Like it Hot
ù ² f ² -°µ= ; W 9 file:Z:\laptop\mp3\cd2\[The Clash] - Rock The Casbah.mp3 $ >
The Clash - Rock The Casbah > W -°µ= X V
file:Z:\laptop\mp3\cd2\Mike and the Mechanics - Silent Running (Extended Version).mp3 A t - ( Mike And
The Mechanics - Silent Running t F -°µ= 1 Å /
file:Z:\laptop\mp3\cd2\rush - red sector a.mp3 ŷ † Rush - Red Sector A ŷ Å d
Å -°µ= Q p O file:Z:\laptop\mp3\cd2\80's music - Cindy Lauper-Girls Just Wanna Have Fun.mp3 : Ê
4 80's music - Cindy Lauper-Girls Just Wanna Have Fun Ê p . p -°µ= > ( <
file:Z:\laptop\mp3\cd2\B90 Dennis DeYoung - Desert Moon.mp3 ' o Ü Dennis DeYoung - desert moon
o ( ' ( -°µ= 7 E 5 file:Z:\laptop\mp3\cd2\Madonna_-_Into_The_Groove.mp3
□ Madonna - Into The Groove
E □ E -°µ= *
æ Ö%=<

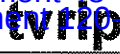
ÿÿÿÿ j
*
Tom Petty & The Heartbreakers
<
You Got Lucky !
j
Greatest Hits
^
128
!
4410 0 æ ) . Tom Petty & The Heartbreakers - You Got Lucky @ V > file:Z:\laptop\mp3\cd2\Duran
Duran - Hungry Like The Wolf.mp3 ) Ÿ # Duran Duran - Hungry Like The Wolf Ÿ V
± V ± -°µ= Å Ÿ 128
Ö ± 4410 ç Å ÿÿÿÿ Ö Ö%=> 9 @ 7 file:Z:\laptop\mp3\cd2\Catatonia Mulder And
Scully.mp3 " , ù Catatonia - Mulder And Scully , @
@ -°µ= Q ó O file:Z:\laptop\mp3\cd2\TEARS_FOR_FEARS_-_EVERYBODY_WANTS_TO_RULE_THE_WORLD.MP3 : M
" 4 TEARS FOR FEARS - EVERYBODY WANTS TO RULE THE WORLD M
ó
ó -°µ= q
M
128
f
4410 q
ÿÿÿÿ $
' -°µ= 1
x ó
$
Catatonia ö
1
Mulder And Scully
ó
1998 ö
128
4410 @ Ê 128
R . 4410 @ ÿÿÿÿ y Ÿ Rush - d
Red Sector A ° y Life Under Pressure İ - Rock
ä ° 1984 İ Civic Arena, Pittsburgh, PA " ä 128
4 4410 " k, m t Mike And The Mechanics E F Silent Running *
m Mike And The Mechanics Ê E Rock
Ÿ ³ 1985 İ Ê 128
Ÿ 4410 ÷ İ " - >
The Clash M Rock The Casbah - - 128
q M 4410 - Ô{ ; ü - Power Station Å f Some Like it Hot à ;
Power Station ó Å Pop
à 1985 ! 8 ó Robert Palmer, John/Andy Taylor J 128
\ 8 4410 J '» E Q 128
' n 4410 ? e ÿÿÿÿ
¼
```

Z: Laptop

Case: NW Direct 120gb Maxtor

Page 2

Madonna      Û    ¢      Into The Groove                      ¼      The Immaculate Collection                      Û      Dance  
i            1985            \            A Flea Byte© Re-Production                      n    l    160  
€ \        4410            ê    n    -î                      ±    o            Dennis DeYoung                      í    '            desert moon                      é    ±  
Desert moon            þ    í            rock                      é    128  
"    þ        4410            5            05                      "    Å°    =    '                      ; file:Z:\laptop\mp3\cd2\Eddie\_Money\_-  
\_think\_i`m\_in\_love.mp3    &    Ø    G            Eddie Money - think i`m in love



**1) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x08 - tvrip.divx-sfmaab8ef400bb83c121490209aca0c686b15e41800.avi

**2) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x07 - tvrip.divx-sfm379d9eb99775a3bbd77c44062bc3aa8a0fde1020.avi

**3) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x05 - tvrip.divx-sfme32alf162f1a54aeefe60919b929ffe7f15ee8000.avi

**4) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x04 - tvrip.divx-sfmddf00ac7952d22fe347770e22a3578d415e58800.avi

**5) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x03 - tvrip.divx-sfm9424816bfd0822071d136a9dabbaef4315f4f000.avi

**6) Maxtor HDD\Unallocated Clusters**

D:\shared\\_\_INCOMPLETE\_\_the dead zone 1x02 - tvrip.divx-sfm86992737aa6f226b7fc6d6e78d15227b15f43000.avi

Digital Recovery Systems  
Computer Examination Report  
**FINAL REPORT**

**ISSUE**

The issue involved an email titled "Exit Time" sent by Timothy Rote, owner of Northwest Direct Teleservices, to Max Zweifel on October 2, 2003, from Mr. Rote's laptop computer. At issue also is a Microsoft Word document titled "Max term.doc" created on Mr. Rote's computer on October 1, 2003.

**QUALIFICATIONS**

I am a certified forensic computer examiner through the International Association of Computer Investigative Specialists (IACIS), with more than 440 hours of specialized training in the acquisition and analysis of computer evidence. That training was obtained through IACIS, the National White Collar Crime Center, AccessData Corporation, Guidance Software Inc., the Federal Bureau of Investigation and the Defense Computer Investigations Training Program.

**ITEMS EXAMINED**

- (1) Dell Inspiron 4000 laptop computer, model PP01L  
Serial no. TW-0791UH-12800-141-5345  
Containing IBM Travelstar hard drive, model DJSA-210  
Serial no. HU-031YMK-47710-13P-5RM0
  
- (1) Unmarked green floppy diskette, Radio Shack brand  
Double-sided, High-density MFD-2HD

**ACQUISITION PROCESS**

On June 3, 2005, I physically examined Mr. Rote's Dell laptop and found it to be of standard configuration with no unusual components. The laptop itself was mounted in a docking station with connections to a monitor, keyboard, mouse, printer and network cable for Internet access. At the time I examined it, the date and time settings on this computer were consistent with current Pacific Standard Time.

I removed the IBM Travelstar hard drive from the case and attached it to my forensic computer with a FireFly write-blocking device manufactured by Digital Intelligence Inc. I have personally tested this device and it does not allow any data to be written to the drive to which it is attached.

Digital Recovery Systems  
Computer Examination Report  
**FINAL REPORT**

I used the forensic program *EnCase* (version 3.22g) for the actual acquisition process. This program makes a bitstream image of all data on the hard drive, authenticated with CRC and HASH values. I stored the bitstream image on a separate hard drive that I had previously wiped of any residual data with the *EnCase* wipe drive function. I performed all further analysis on the image copy using the *Forensic Tool Kit (FTK)* software program by *AccessData*. I have received training in the use of both *EnCase* and *FTK*, and both are licensed in my name for my use.

I write-protected the unmarked green floppy diskette by sliding the write-protect switch on the diskette itself. This prevents any data from being written to the diskette during acquisition. Using the same method as noted above, I created a bitstream image of the entire diskette.

### ANALYSIS

The email in question (Subject: "Exit Time") was stored in a Microsoft Outlook folder. The date on the email was shown as 10/2/03 at 11:46am. This is the date and time that would have been visible to sender and recipient when sending and receiving the message. Email programs like *Outlook* also create "header" data before a message is actually sent from the user's computer to their Internet Service Provider (ISP), where additional headers are added after it leaves the user's computer. This header data includes dates and times of message creation.

The header information attached to this email by the *Outlook* program lists dates and time for *Creation*, *Delivery*, *Submit* and *Modification*. The following dates and times were noted:

<b>Creation</b>	<b>10/2/2003</b>	<b>11:44am</b>
<b>Delivery</b>	<b>10/2/2003</b>	<b>11:46am</b>
<b>Submit</b>	<b>10/2/2003</b>	<b>11:56am</b>
<b>Modification</b>	<b>4/29/2005</b>	<b>6:00pm</b>

Regarding the Modification time and date, I asked Mr. Rote by telephone on June 9, 2005, if he had performed any action with this email recently. He told me that in April 2005 he had been cleaning up his Outlook folders and moved this particular saved email to a specific folder for storage purposes. This would account for the 2005 date. (see Attachment #1)

The Microsoft Word document (*Max term.doc*) was created and saved to the unmarked green floppy diskette. Within the text of the document is the date 10/1/03, which would have been typed by Mr. Rote when creating the document.

Digital Recovery Systems  
Computer Examination Report  
**FINAL REPORT**

Dates and times associated with the document file entry are as follows:

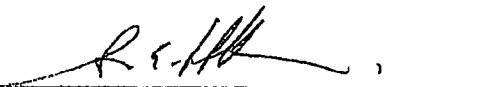
<b>Create Date</b>	<b>10/1/2003</b>	<b>9:29am</b>
<b>Modification Date</b>	<b>10/1/2003</b>	<b>9:29am</b>
<b>Last Access Date</b>	<b>10/1/2003</b>	

I examined the *metadata* within the document itself. *Metadata* is information about a particular file which is stored within the file's data itself by the program used to create the file. I found three instances in the document's data where the date **10/1/2003** existed. This was consistent with the other associated dates listed above. (See Attachment #2, 3 and 4)

### CONCLUSIONS

Based on my examination of the email in question, it does appear that the "Exit Time" email message was created on and transmitted from this computer on October 2, 2003, with a copy of the message saved on Mr. Rote's computer, and subsequently moved to a storage folder on April 29, 2005.

Based on my examination of the Microsoft Word document "Max term.doc" the date and time evidence associated both with the file directory entry and the metadata within the file itself, it does appear that the document was created and saved on this floppy diskette on October 1, 2003.



---

Steven E. Williams CFCE  
Digital Recovery Systems  
3891 Kevington Ave.  
Eugene OR 97405  
(541) 968-2103

ATTACHMENT 01

AccessData FTK version 1.42 build 03 - 2.05 - F:\NWD 060505 Tim Rote Laptop and Floppy\FTK Workup\NWD\Digcell

File Edit View Tools Help

Overview Explore Graphics E-Mail Search Bookmark

Bookmarks

- ✚ Email: 10/2/2003 email to Max Zvezig
- ✚ Word Document:

Bookmark Name: Email  
Bookmark Comment: 10/2/2003 email to Max Zvezig

Bookmarked Files: 1

File Name	File Path
Message007	D:\ELL thepron\Part_1\WONAME-N...

Remember the position/selection

Include in Report  Export Files

---

Subject: Exit Time

From: Timothy C. Rote

Date: 10/2/2003 11:46:00 AM

To: Max Zvezig

Message Body

I don't think you are going to train the staff and transfer programs as requested, allowing us a full transition. Accordingly, we need to set your exit time for the middle of November. I'll be sending you a letter.

---

Outlook Header Information

Conversation Topic: Exit Time  
 Subject: Exit Time  
 From: Timothy C. Rote  
 Sender Name: Timothy C. Rote  
 To: Max Zvezig  
 Delivery Time: 10/2/2003 11:46:00 AM  
 Creation Time: 10/2/2003 11:44:14 AM  
 Modification Time: 4/29/2005 6:00:21 PM  
 Submit Time: 10/2/2003 11:58:34 AM

1 Listed 0 Checked Total [D:\ELL thepron\Part\_1\WONAME-N\F5\document... \outlook.pst > Personal Folders > Top of Personal Folders > Inbox > Item? Message007]





AccessData FTK version 1.42 build 03.12.05 F:\NWD 060505 Tim Rote Laptop and Floppy\FTK Workup\NWD Direct\

File Edit View Tools Help

Overview Explorer Graphics E-Mail Search Bookmark

Case

- DELL Inspiron
  - Part 1
    - NONAME-NTFS
      - UnpartSpace
    - Green Floppy
      - NONAME-FAT12
        - Max term.doc

Name	Value
Title	10/1/03
Subject	
Author	Northwest Direct Employee
Keywords	
Comments	
Template	Normal
LastAuthor	Northwest Direct Employee
Revision Number	2
Created	10/1/2003 9:29:00 AM
Last Saved	10/1/2003 9:29:00 AM
Page Count	1
Word Count	0
Char Count	0
App Name	Microsoft Word 9.0
Doc Security	0

List all descendants

Unfiltered Date File

Listed Checked Total Green Floppy\NONAME-FAT12\Max term.doc >> Summary Information

Start Microsoft FTK Explorer Summary Information 100%

AccessData FTK version 1.42 build 03.12.05 - F:\HWD 060505 Tim Rote Laptop and Floppy\FTK Workup\NW Direct

File Edit View Tools Help

Overview Explore Graphics E-Mail Search Bookmark

Case

- DELL Inspiron
  - Part 1
    - NORNAME-NTP5
    - UnpartSpace
- Green Floppy
  - NORNAME-FAT12
    - Max term.doc
    - ObjectPool

bjbrj

10/1/03 Mr. Max Zweig 140 Ford Avenue Woodbury, New Jersey 08096 Dear Max: After the difficulties of the vacation, the failure to meet our clients expectations on dispositions (Allstate), the length I have to go just to get you to turn in time reports, the failures with Discover Card, your refusal to train personnel on the processing tasks, all against a back drop of being at 50% capacity as compared to our gross sales volume only one year ago, it is imperative that we both look for different alternatives. We are terminating our contract with you and this is notice pursuant to section 3 of the contract. Considering your two-year tenure with the company, I want to allow you to stay on through November 15, 2003, providing that you immediately train Gunawan on the processing required for all of our clients and transfer all software applications you have developed while in our employe by 10/31/03. Said applications, all database files, all records, etc. need to be transferred to our Eugene facility by 10/31/03. Ultimately Max, I believe the remote employee executive position I have allowed to date are not working out as productively as I expect they should be. You should pursue other employment and you have my endorsement and offer of a letter of recommendation, providing you meet the October 31, 2003 deadline in the previous paragraph. Very truly yours, Timothy C. Rote

descendants

File Name	Ext	Cr Date	Mod Date	Acc Date
CompObj		N/A	N/A	N/A
DocumentSummaryIn...		N/A	N/A	N/A
SummaryInformation		N/A	N/A	N/A
Table		N/A	N/A	N/A
ObjectPool		10/1/2003 9:29:34 AM	10/1/2003 9:29:34 AM	10/1/2003
WordDocument		N/A	N/A	N/A

6 Listed 0 Checked Total Green Floppy\NORNAME-FAT12\Max term.doc > Word Document

Start AccessData FTK v1.42 FTK Workup\NW Direct

## Examination of FoxPro Files

I am the Director of IT and Senior Forensic Consultant at In2itive Technologies in Portland, Oregon. In2itive Technologies is a company that specializes in Computer Forensics and Electronic Discovery. I have 7 years experience in the computer forensic field, and have handled numerous cases ranging from simple data recovery to investigations concerning litigation in billion dollar lawsuits, involving both civil and criminal investigations. My training and certifications include the following: EnCase Certified Examiner (EnCE); EnCase Intermediate Analysis and Reporting; EnCase Advanced Analysis and Reporting; AccessData Forensic ToolKit BootCamp; AccessData Forensic ToolKit Windows Forensics; CompTIA A+ Computer Technician (CompTIA A+); Microsoft Certified Systems Engineer (MSCE); Microsoft Certified Systems Administrator (MCSA); and Sun Java Certified Programmer (SJP).

I was asked to evaluate for the presence of and viability of (ability to function as originally written) database program files for FoxPro, based on FoxPro file extensions, that could be recovered from the 120 GB hard drive. FoxPro is the database program that Max Zweizig was programming in while doing work for NorthWest Direct and the 120 GB hard drive was being used by Mr. Zweizig.

Using forensic methods, FoxPro database files were identified by extension on the 120 GB hard drive used by Max Zweizig. The majority of the files may be “recoverable using forensic” methods but all have the potential to jeopardize the integrity of the software product that they are to be used with. Using several examples, I will demonstrate the areas of concern and why a simple restore process will not protect the integrity of the files in all cases.

As background, when a hard drive is formatted, it is prepared for storage of electronic data. Part of the process is creating boundaries for how much data can be stored in one sector. For the NTFS file system, this is normally 4096 bits, or about 1 page of a double spaced document.

As an explanation, the average user, after deleting a file, can recover that file by going to the Recycle Bin and restoring the file. This is possible because the Windows operating system does not actually delete a file until the Empty Recycle Bin option is selected by the user. For clarity purposes, a deleted file for this report is a file that is no longer available to the average user. This could be as a result of emptying the Recycle Bin, using the Shift-Delete process or reformatting the hard drive.

After a hard drive is newly formatted, all the files stored on the hard drive are grouped together. However, as files are added and deleted, open sectors (4096 bytes) of unused hard drive space are created where deleted files had been stored. The operating system will use these “empty” sectors to store new files. On closer inspection at a forensic byte level, it is actually seen that the “empty” sectors are not actually empty but contain the byte level code of the previous file that had been located in that location. This is because when a file is deleted, the file is not erased but rather, the Master File Table in the NTFS file system marks the “deleted” file area as available to be used if space is needed.

As new files are saved to the hard drive, the files are written to the first available open sector and it overwrites the previous data. However, if the new file is larger than the original file that was previously

stored in that area, the NTFS file system will break the file apart and store parts of the file in separate locations. This is file fragmentation and is a normal consequence of hard drive usage.

Exhibit 1 displays the identified FoxPro files that are “recoverable using forensic” means. The columns of particular interest are the Extents column and the Overwritten column. The Extents column denotes how fragmented the file is known to be. The Overwritten column denotes the current known status of the file during the recovery process.

For explanation purposes, I will be using the data from Exhibit 1 Line 347 to allow evaluation of the viability of the recovered files.

The file *daily.SCT*, on Line 347 was found during the recovery process. Looking at the Extents column on Line 347, it is seen that there are 3 extents. In essence, this denotes that the forensic recovery process determined that the file *daily.SCT* has been stored on three sectors of the hard drive. For an allocated file, this is not a problem as the Master File Table in the NTFS file system keeps track of where each fragment is stored. However, during the recovery process, it could only be determined that the file was located in three different sectors on the hard drive.

At this point, the forensic recovery process must make an assumption that does not always bear out. This assumption is that because this is a recovery of deleted files, **the next available “empty” sector** is part of the deleted file. This is not always a valid assumption. If an additional file is deleted, any sectors assigned to the second deleted files may become **the next available “empty” sector**.

On Line 347, this is exactly what has happened. In Exhibit 2, the code that is assumed to be part of the recovered file *daily.SCT* is displayed as a computer program would see it, one contiguous section of code. To enhance readability, text format is displayed instead of the hexadecimal values (Exhibit 4) used to store data on the hard drive. Even a quick perusal of Exhibit 2 allows the casual viewer to see that there are distinct differences of style throughout the file.

Exhibit 3 is broken into the 3 “extents” that are indicated in the Extents column. As such, each section of Exhibit 3 denotes the 4096 bytes that is present in the three different sectors that were used to “recover” *daily.SCT*. Exhibit 3 Lines 1 through 30 is the first sector, Extent 1. Exhibit 3 Lines 32 through 76 is the second recovered sector, Extent 2. Exhibit 3 Lines 78 through 130 is the third recovered sector, Extent 3. It should be readily apparent that the **“next empty sector”** assumption does not hold true in all instances.

In Exhibit 1, the Overwritten column identifies files as Overwritten as signified by the Yes in the Overwritten column. This is a result of the forensic recovery process identifying that the first sector belonging to the “recovered” file has subsequently been allocated to a different file. In this instance, the initial sector for the file *daily.SCT* from Line 347 can be traced back to another file that was on the hard drive, namely, “DISCOVER\_042903\_DEA01.XLS”.

As seen with the above example of a single file, the “forensic” recovery of a deleted file can be, and should be suspect, as to its recoverability and viability. Out of the files that are “recoverable using

forensic” means, Overwritten files are identified by the recovery system as being unreliable due to the first sector in each of the Overwritten files as being identified as containing data from a different file. Exhibit 2 and Exhibit 3 show that the Overwritten designation raises the question of viability for every file identified as Overwritten.

Extrapolating the process to the all “forensically recoverable” files raises further issues regarding the viability of forensically recovered files. Even if a file is not identified as Overwritten, the Overwritten designation is only applicable if the forensic recovery process is able to identify that the first sector of a file has been re-assigned to another file.

As such, the “*next empty space*” assumption used to “forensically” recover a file raises the question of viability for every file. Even if the Overwritten designation is not assigned to a “forensically recoverable” file, the file may not contain the actual data that was originally in the file before being deleted.

In conclusion, the main purpose of forensically recovering deleted files is to show that the files were present on the hard drive and to forensically investigate details concerning those files to develop realistic scenarios as to events surrounding those files. The accurate recovery of every file using a forensic recovery method to restore the FoxPro files from the 120 GB hard drive is not possible. As has been demonstrated, any FoxPro file that is recovered is suspect as to its accuracy pertaining to the original file before deletion.

In this regard, the viability of the recovered files cannot be assumed and any file recovered must be individually inspected, test and verified to ensure it functions as originally designed. This is a task that would need to be undertaken by FoxPro specialists who are cognizant of the original specifications of the design before releasing to any clients. Based on my knowledge and experience gained while working as a software programmer, failure to perform this in-depth verification of the recovered files could cause catastrophic failure if clients were to use these files in production.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

Dated May 27, 2010

  
Mark Cox

118

	A	B	C	D	E
1	Full Path (Root Path C\Recovered Folders\)	FoxPro Files Exhibit 1	File Accessed	File Created	Extents Overwritten
2	wt_convert.FXP		05/06/03 05:48:09AM	03/17/03 10:38:08AM	1
3	wing1.sct		05/13/02 10:38:57AM	02/04/01 08:59:44PM	1
4	whatthis.scx		05/13/02 10:39:12AM	05/02/01 11:01:46AM	1
5	whatthis.sct		05/13/02 10:39:12AM	05/02/01 11:01:46AM	1
6	whandler.scx		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
7	whandler.sct		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
8	webvwr.scx		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
9	webvwr.sct		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
10	viewcode.scx		05/13/02 10:39:32AM	02/04/01 09:00:22PM	1
11	viewcode.sct		05/13/02 10:39:32AM	02/04/01 09:00:22PM	1
12	video.scx		05/13/02 10:39:13AM	05/02/01 11:01:46AM	1
13	video.sct		05/13/02 10:39:13AM	02/04/01 09:00:00PM	1
14	typelib.scx		05/13/02 10:39:24AM	05/07/01 11:02:08AM	1
15	typelib.sct		05/13/02 10:39:24AM	05/07/01 11:02:08AM	1
16	tw.FXP		05/06/03 05:48:09AM	05/06/03 05:48:09AM	1
17	transact.scx		05/13/02 10:39:07AM	05/02/01 11:01:42AM	1
18	transact.sct		05/13/02 10:39:07AM	05/02/01 11:01:42AM	1
19	trans.FXP		05/06/03 05:48:09AM	03/17/03 09:58:01AM	1
20	topics.scx		05/13/02 10:40:10AM	02/04/01 09:00:56PM	1
21	topics.sct		05/13/02 10:40:10AM	02/04/01 09:00:56PM	1
22	toolmenu.scx		05/13/02 10:39:17AM	05/02/01 11:01:48AM	1
23	toolmenu.sct		05/13/02 10:39:17AM	05/02/01 11:01:48AM	1
24	timecomm.scx		05/13/02 10:39:05AM	05/02/01 11:01:40AM	1
25	timecomm.sct		05/13/02 10:39:05AM	05/02/01 11:01:40AM	1
26	therm.scx		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
27	therm.sct		05/13/02 10:39:09AM	02/04/01 08:59:56PM	1
28	textbox.scx		05/13/02 10:39:06AM	05/07/01 11:01:56AM	1
29	textbox.sct		05/13/02 10:39:06AM	05/07/01 11:01:56AM	1
30	text.scx		05/13/02 10:39:06AM	05/02/01 11:01:40AM	1
31	text.sct		05/13/02 10:39:06AM	05/02/01 11:01:40AM	1
32	test1.FXP		05/06/03 05:48:09AM	03/15/03 02:15:40PM	2
33	temp.FXP		05/06/03 05:48:09AM	03/20/03 04:04:12PM	1

FoxPro Files Exhibit 2

1 .....B...ä.....2.....\$.....\$.....7\$.....\$.....\$.....@...disp.....@...descript.....@...category..

2 .

3 .....@.....

4 ot Interested.....@...Refusal.....@.....@€@.. .....@.....

5 .@.....

6 Rate Too High.....@...Refusal.....@.....@.. .....@.....

7 @`@.. .....@.....

8 sal Refusal...

9 .....

10 t Convert to Platinum...

11 .@.....ø?.. .....@.....

12 :.....@...2Refusal - Didn't Want to Answer Required Questions.....@...Refusal.....@.....@..

13 .....@.....

14 ..@...Non Qualified Refusal.....@.....F@.. .....@.....

15 AA.....@...Already A cardmember.....@...Non Qualified Refusal.....@.....3@.. .....@.....

16 ualified Refusal.....@.....@.. .....@.....

17 ....@...WW.....@...Wrong Phone Number.....@..

18 .....@.. .....@.....

19 .. UNW Phone.....@.....@.. .....@.....

20 .MA.....@...Maximum Attempt.....@...Non Contact.....@.....@.. .....@.....

21 .....@.....(@.. .....@.....

22 l- no tape recording.....@...Refusal.....@....., @.. .....@..... .....@...V..0.....@...(Discover

23 Daily DNS/Responder Suppression..

24 ..@..... o@.. .....@.....

25 .@...Pending Sale..

26 on Contact...#...@.....#...@.....¾£@.. #...@.....\$...@.....\$...@...Non Qualified

27 Refusal...\$...@.....\$...@.....W@.. .\$.@.....%...@.....

FoxPro File daily.SCT at Program Level



## Examination of 120 GB Hard Drive

I am the Operations Manager and Forensic Consultant for Evolve Discovery in Portland, Oregon. Evolve Discovery is a company that specializes in Computer Forensics and Electronic Discovery production. I have 7 years experience in the computer forensic field, and have handled numerous cases ranging from simple data recovery to investigations concerning litigation in billion dollar lawsuits, involving both civil and criminal investigations. My training and certifications include the following: EnCase Certified Examiner (EnCE); EnCase Intermediate Analysis and Reporting; EnCase Advanced Analysis and Reporting; AccessData Forensic ToolKit BootCamp; AccessData Forensic ToolKit Windows Forensics; CompTIA A+ Computer Technician (CompTIA A+); Microsoft Certified Systems Engineer (MSCE); Microsoft Certified Systems Administrator (MCSA); and Sun Java Certified Programmer (SJP).

I was requested to perform a forensic analysis of the 120 GB hard drive that was used by Max [REDACTED] during his services for NorthWest Direct. As testified by Max [REDACTED], the drive was used by Mr. [REDACTED] until it "failed" on May 12, 2003. Max [REDACTED] reports that the hard drive was used as a secondary hard drive for a short period of time while he copied data from the hard drive to a new hard drive that he had purchased. After a period of time, Max [REDACTED] testifies that he removed the hard drive and stored it in a fireproof safe and at some time, formatted the drive. My analysis of the hard drive reveals that the hard drive was formatted on November 12, 2003, indicating that the failure that occurred on May 12, 2003 was most likely a software related incident, as a mechanical failure rarely allows further access to a hard drive without intrusive procedures undertaken at a specialty data recovery facility.

The analysis I was requested to perform concerned indications and conclusions that could be inferred related to the unallocated spaces on the hard drive, namely, usage indications during three time periods: before the failure on May 12, 2003, between May 12, 2003 and November 12, 2003 and after being reformatted on November 12, 2003.

As explanation of process and basis for my analysis, when a hard drive is initially or subsequently formatted for usage, the process creates tables and supporting files to allow storage of electronic data on the hard drive. For most Windows based computers since the year 2000, this is the NTFS file system. Obviously, this is not the electronic data, or files, that the user will put on the hard drive, but is only a means for the operating system to catalog, track and record the electronic data that will be placed on the hard drive for storage by the computer users. These tables occupy only a small percentage of the hard drive, typically 2-5%. As the reformatting event of November 12, 2003 did not overwrite the entire hard drive, about 95% of the hard drive is still available for analysis using forensic methodology and processes. The primary method of investigation would be to analyze the "Unallocated Space", the area of the hard drive that does not contain "Active Files", "Active Files" being files that NTFS is tracking.

As a result of the reformatting that occurred on November 12, 2003, the original NTFS file structure was not available. However, as the re-formatting did not overwrite the entire hard drive my analysis of the 120 GB hard drive indicates that there was extensive use of the hard drive prior to the reported failure on May 12, 2003. This is evidenced by the presence of thousands of dates occurring before May 12,

2003. While the absence of a file structure reduces the ability to associate a specific date and time to specific file fragments, the existence of the numerous dates does indicate that the computer was in use during this time. The dates and times that are present on the hard drive are indicative of a normal hard drive with the expected partial overwriting of deleted files during the normal operations of the Windows NTFS file system. These dates prior to May 12, 2003 are not limited to a few types of file fragments but are present in all types of file fragments present on the hard drive.

On Page 1 of Exhibit 1, a sample of an error report recovered from the Unallocated Space is displayed. This is an error report created by the operating system and in all likelihood a computer user would not even know that it had been created. The types of information that can be seen in this report, include the date and time of the error report's creation, the operating system and the type of video card.

On Page 2 of Exhibit 1, a file fragment from an email chain is displayed with sufficient body present to ascertain the purpose of the email. Included with the email fragment are dates and times.

Exhibit 1 shows that though the original data no longer has a formal file structure, sufficient remnants remain to indicate hard drive usage based on data recorded on the hard drive. An additional automated process was used to assist in the recovery of the files contained in the Unallocated Spaces. This process systematically searches for and marks files that are contained in the Unallocated Spaces and attempts to make those files available for recovery. In many cases, the files are recoverable but not all files found can be fully recovered. Due to the lack of a formal NTFS file structure, the process is forced to make assumptions about files that are fragmented to different areas of the hard drive, and these assumptions, while useful to show prior existence of files, cannot fully recover those files to their original condition.

While the hard drive usage prior to the May 12, 2003 failure event appears to be normal and expected for a computer in a business environment, some unusual indications did exist and are displayed in Exhibit 2. The various .htm files are an indication that the computer was used to access the eBay site. The presence of the .lnk files, or link files, indicates that the presence of the files was known and the files were accessed. This is borne out by the fact that link files for user generated files are not created until the files are actually accessed by a user.

An analysis of the hard drive was conducted for usage between the dates of May 12, 2003 and November 12, 2003, the time that Max [REDACTED] testifies that the hard drive was in storage after he copied data to the new hard drive. Exhibit 3 is included to indicate the hard drive usage during this time frame.

From the recovered files present on the hard drive that were created or accessed during this time frame, it is apparent that the hard drive was being actively used, mainly for storage of downloaded video files. This assertion is based on the Windows file system operation and the characteristics of the File Created date and time.

The File Created date and time is recorded when the file is created on the local computer, not when the file was originally made by the user who initially created the files. As is seen in Exhibit 3, the time span across multiple months regarding the File Created date and time indicates that the hard drive was being actively used during the time that Max [REDACTED] testifies the hard drive was in storage.

Regarding the structure and format of the video files in Exhibit 3, these video files are in a format that is typically exhibited in file sharing environments. To enhance the efficiency and reliability for all users participating in the file sharing, large files are segmented into multiple small files for sharing. Embedded error correcting and accessing multiple computers to download multiple segments at that same time are a trademark of file sharing. Once all segments of a video are downloaded to the local computer, those individual parts can be recombined into a copy of the whole file that constitutes the entire video which can then be viewed on the computer.

In addition to file sharing mainly being used to distribute material in violation of US and International copy write laws, use of file sharing software, by default, circumvents the security of the computer and opens pathways to the local computer that can be exploited by other computer users.

An analysis of the hard drive was conducted to determine hard drive usage on or after the re-formatting event that occurred on November 12, 2003. A search for files or file fragments associated with dates on or after November 12, 2003 did not reveal any dates other than those associated with the reformatting that occurred on November 12, 2003. These files are the files that are associated with the operating system creating the NTFS file structure necessary for the storage of electronic data on the hard drive. After this time, there was no subsequent access to the hard drive, indicating that the hard drive was not put into use or accessed after being reformatted.

It is my conclusion that the 120 GB hard drive was in normal usage prior to May 12, 2003. Some exceptions to normal business usage are displayed in Exhibit 2. Between May 12, 2003 and November 12, 2003, the hard drive was being used mainly as a storage medium for video files. This usage is documented in Exhibit 3. Following the November 12, 2003 re-formatting of the hard drive, the hard drive was not used or accessed and no subsequent dates or recovered files are present on the hard drive.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND THEY ARE MADE FOR USE AS EVIDENCE IN COURT AND ARE SUBJECT TO PENALTY FOR PERJURY.

Dated May 23, 2010



Mark Cox

**120 GB Hard Drive**

Page 3 of 3

3:15-cv-2401

Exhibit 12

Page 47

**Exhibit 1**

**Physical Hard Drive Sectors 25319 -25320**

```
//  
// Watchdog Event Log File  
//  
LogType: Watchdog  
Created: 2003-04-15 01:44:06  
TimeZone: 300 - Eastern Standard Time  
WindowsVersion: XP  
EventType: 0xEA - Thread Stuck in Device Driver  
//  
// The driver for the display device got stuck in an infinite loop. This  
// usually indicates a problem with the device itself or with the device  
// driver programming the hardware incorrectly. Please check with your  
// display device vendor for any driver updates.  
//  
ShutdownCount: 136  
Shutdown: 0  
EventCount: 2  
BreakCount: 2  
BugcheckTriggered: 1  
DebuggerNotPresent: 1  
DriverName: awvid5  
EventFlag: 1  
DeviceClass: Display  
DeviceDescription: NVIDIA RIVA TNT2 Model 64 (Sony)  
HardwareID: PCI\VEN_10DE&DEV_002D&SUBSYS_40031043&REV_15  
Manufacturer: NVIDIA  
DriverFixedFileInfo: FEEF04BD 00010000 000A0005 000001D6 00050000 08930654 0000003F 00000008  
00040004 00000003 00000004 00000000 00000000
```

**120 GB Hard Drive**

Page 1 of 2

	A	B	C
1	Name (All File Paths From C or D Drive Recovered Folders)	Last Accessed	File Created
2	eBayISAPI[1].htm	03/17/03 10:08:00PM	03/17/03 10:07:59PM
3	eBayISAPI[1].htm	03/17/03 10:09:33PM	03/17/03 10:09:32PM
4	eBayISAPI[3].htm	03/17/03 10:14:00PM	03/17/03 10:14:00PM
5	eBayISAPI[2].htm	03/17/03 10:15:42PM	03/17/03 10:15:42PM
6	eBayISAPI[4].htm	03/17/03 10:15:46PM	03/17/03 10:14:32PM
7	eBayISAPI[1].htm	03/17/03 10:15:46PM	03/17/03 10:12:47PM
8	eBayISAPI[2].htm	03/17/03 10:15:46PM	03/17/03 10:13:38PM
9	eBayISAPI[5].htm	03/17/03 10:16:03PM	03/17/03 10:16:03PM
10	eBayISAPI[6].htm	03/17/03 10:16:47PM	03/17/03 10:16:47PM
11	eBayISAPI[7].htm	03/17/03 10:17:30PM	03/17/03 10:17:30PM
12	eBayISAPI[3].htm	03/17/03 10:17:50PM	03/17/03 10:17:49PM
13	eBayISAPI[3].htm	03/17/03 10:17:57PM	03/17/03 10:17:57PM
14	eBayISAPI[2].htm	03/17/03 10:18:35PM	03/17/03 10:18:35PM
15	eBayISAPI[4].htm	03/17/03 10:19:01PM	03/17/03 10:18:05PM
16	eBayISAPI[8].htm	03/17/03 10:19:16PM	03/17/03 10:19:15PM
17	eBayISAPI[5].htm	03/17/03 10:19:51PM	03/17/03 10:19:51PM
18	eBayISAPI[10].htm	03/17/03 10:20:56PM	03/17/03 10:20:56PM
19	eBayISAPI[6].htm	03/17/03 10:22:30PM	03/17/03 10:22:30PM
20	eBayISAPI[13].htm	03/17/03 10:26:01PM	03/17/03 10:26:01PM
21	eBayISAPI[7].htm	03/17/03 10:26:11PM	03/17/03 10:26:11PM
22	eBayISAPI[8].htm	03/17/03 10:26:37PM	03/17/03 10:26:37PM
23	eBayISAPI[5].htm	03/17/03 10:26:57PM	03/17/03 10:26:38PM
24	eBayISAPI[14].htm	03/17/03 10:28:48PM	03/17/03 10:28:48PM
25	eBayISAPI[1].htm	03/18/03 07:54:42AM	03/18/03 07:54:41AM
26	eBayISAPI[10].htm	03/18/03 07:56:20AM	03/18/03 07:56:20AM
27	eBayISAPI[11].htm	03/18/03 07:56:35AM	03/18/03 07:56:34AM
28	eBayISAPI[4].htm	03/18/03 07:56:42AM	03/18/03 07:56:42AM
29	eBayISAPI[12].htm	03/18/03 07:56:45AM	03/18/03 07:56:45AM
30	eBayISAPI[5].htm	03/18/03 07:57:29AM	03/18/03 07:57:29AM
31	eBayISAPI[15].htm	03/18/03 07:57:41AM	03/18/03 07:56:51AM
32	eBayISAPI[7].htm	03/18/03 07:58:43AM	03/18/03 07:58:23AM
33	eBayISAPI[13].htm	03/18/03 07:58:50AM	03/18/03 07:58:50AM

## Max Zweizig 120 GB Hard Drive Analysis

I was requested to perform an analysis of the 120 GB hard drive to determine possible usage of the hard drive between the dates of May 12, 2003 and November 12, 2003, the time that the hard drive was reported to be unusable. The result of this analysis reveals several dates associated with video file names in a format typically associated with file sharing websites such as PirateBay, BitTorrent and TorrentReactor. The dates notated in Bold in Exhibit 1 are not the actual Windows file system dates and times, as there is no file structure in the unallocated spaces. However, the dates notated in Bold are associated with the file names, that when assembled together, constitute the viewable video. Analysis did not reveal when the date was assigned to these file segment, but the typical timeframe is when the original video is "ripped", the process of copying the video to a hard disk. As such, it could be concluded that on or after the dates notated in Bold, the files were placed on the hard drive, presumably from a file-sharing Internet site.

In conclusion, it is highly probable that the user of the computer knew that the hard drive was not defective and at a later time used it to store video files after the purported hard drive failure.

This analysis was performed by Mark Cox and I affirm that the statements are truthful based on the analysis that I performed.

Mark Cox, EnCE  
April 29, 2010

Physical Sector	Preview
37410188	Generated by SFV32 v1.0a on <b>2003-07-27</b> at 07:10:28 ; Engineering Disasters 4_HIS.r00
39138492	10240000 09:31.58 <b>2003-05-28</b> dilbert-ep29of30.r06
39138492	10240000 09:30.16 <b>2003-05-28</b> dilbert-ep29of30.r05
39138492	10240000 09:28.38 <b>2003-05-28</b> dilbert-ep29of30.r04
39138492	10240000 09:27.10 <b>2003-05-28</b> dilbert-ep29of30.r03
39138492	10240000 09:25.32 <b>2003-05-28</b> dilbert-ep29of30.r02
39138492	10240000 09:24.06 <b>2003-05-28</b> dilbert-ep29of30.r01
39138492	10240000 09:22.08 <b>2003-05-28</b> dilbert-ep29of30.r00
39138493	10240000 09:51.34 <b>2003-05-28</b> dilbert-ep29of30.r15
39138493	10240000 09:49.06 <b>2003-05-28</b> dilbert-ep29of30.r14
39138493	10240000 09:46.36 <b>2003-05-28</b> dilbert-ep29of30.r13
39138493	10240000 09:43.46 <b>2003-05-28</b> dilbert-ep29of30.r12
39138493	10240000 09:41.14 <b>2003-05-28</b> dilbert-ep29of30.r11
39138493	10240000 09:39.16 <b>2003-05-28</b> dilbert-ep29of30.r10
39138493	10240000 09:37.20 <b>2003-05-28</b> dilbert-ep29of30.r09
39138493	10240000 09:35.22 <b>2003-05-28</b> dilbert-ep29of30.r08
39138493	10240000 09:33.38 <b>2003-05-28</b> dilbert-ep29of30.r07
39138494	10240000 09:20.46 <b>2003-05-28</b> dilbert-ep29of30.rar
39138494	7153777 09:57.48 <b>2003-05-28</b> dilbert-ep29of30.r19
39138494	10240000 09:56.38 <b>2003-05-28</b> dilbert-ep29of30.r18
39138494	10240000 09:54.54 <b>2003-05-28</b> dilbert-ep29of30.r17
39138494	10240000 09:53.20 <b>2003-05-28</b> dilbert-ep29of30.r16
45747804	Generated by SFV32 v1.0a on <b>2003-07-16</b> at 07:10.34 ; Modern Marvels - Dangerous Cargo_HIS.r0
45747916	Generated by SFV32 v1.0a on <b>2003-07-24</b> at 07:10.24 ; Behind The Scenes - Demolition Derby_TR
45748012	Generated by SFV32 v1.0a on <b>2003-07-28</b> at 07:10.26 ; More Engineering Disasters_HIS.r00 E422
46641430	alt.binaries.multimedia Posted on.....: <b>7/19/2003</b> Fills Policy.....: Wait until after the repost
52641068	MooSFV v1.7 - <b>Sun Jul 06 19:10:17 2003</b> ; Wonder.Woman.1x05.svcd.BTM.r00
58349932	Generated by SFV32 v1.0a on <b>2003-07-22</b> at 07:10.06 ; Devil's Island - Hell On Earth_HIS.r00

**\*\*Bold added to identify area of interest\*\***





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

GENERAL INDEX

Page No.

April 5, 2023 Proceedings	3
Case Called; Parties Introduced	3
Technical Difficulties	3
Court's Comments, re: Hearing Procedure	5
Defendant's Motion for Summary Judgment	5
Defendant's Argument by Mr. Beguin	5
Plaintiff's Argument by Mr. Rote	12
Colloquy Between the Court and Plaintiff	14
Defendant's Rebuttal Argument by Mr. Beguin	22
Court's Comments and Ruling	24
Transcriber's Certificate	27

\* \* \*

1 (Wednesday, April 5, 2023, 2:28 p.m.)

2 P R O C E E D I N G S

3 (Whereupon, the following proceedings were  
4 held in open court:)

5 (*TRANSCRIBER'S NOTE:* The audio record  
6 begins midsentence.)

7 THE COURT: -- the judgment motion in the  
8 case of Rote versus Zweizig, Case No. 22CV17744. I'll  
9 ask to -- each to simply state your name and who  
10 you're appearing for.

11 And we'll start with plaintiff, Mr. Rote.

12 MR. ROTE: Timothy Rote, Your Honor.

13 THE COURT: And, Mr. -- oh. Okay.

14 Mr. Beguin. Unmute yourself and state your name. I'm  
15 not hearing you. Can you unmute? I'm sorry, even  
16 when you're unmuted, I'm not getting a sound. Make  
17 sure that your computer isn't -- the sound on your  
18 computer isn't muted.

19 THE DEFENDANT: This is Max, Your Honor. I  
20 have to use the button at the bottom. The icon on the  
21 screen does not work. So it just might be -- you have  
22 to use that button at the bottom of the screen for  
23 unmute. My interface may be different.

24 THE COURT: Mr. Beguin, do you see at the  
25 bottom of the screen the mute and unmute button?

1 It's -- it's green if it's working and it's red if  
2 it's muted. Yeah, I still can't -- I can't quite read  
3 your lips, but I can't hear you. Make sure that your  
4 microphone on your computer is not --

5 THE DEFENDANT: I also see a hotkey of  
6 control-M that you might try. It says control-M on  
7 the tool tip. And make sure you're on the right  
8 microphone.

9 (Pause in proceedings, 2:31 p.m. -  
10 2:32 p.m.)

11 THE COURT: Okay.

12 THE CLERK: And, Judge, this is Elliott  
13 (phonetic). I have a suggestion. If Mr. Beguin wants  
14 to e-mail me his cell phone number, I can call him  
15 through Webex and then we can get the audio from him  
16 that way.

17 THE COURT: Okay.

18 THE CLERK: He'll just need to put his  
19 computer sound on off so we don't get feedback.

20 THE COURT: I don't think we'll have a  
21 problem with his computer sound.

22 THE CLERK: Okay. I'm calling now. It  
23 should be a (408) area code.

24 MR. BEGUIN: Can you guys hear me now?

25 THE COURT: Yes.

1                   MR. BEGUIN: Sorry about that. I have no  
2                   idea why my audio has decided to stop working all of  
3                   a sudden.

4                   THE CLERK: And, now, you need to turn the  
5                   sound off of your computer since the audio from your  
6                   computer is making the feedback loop.

7                   MR. BEGUIN: Okay. I -- I've got it down  
8                   and I'll -- I'll leave it up for when I'm not speaking  
9                   and turn it back on for when it's my turn if that's  
10                  okay with Your Honor.

11                  THE COURT: That -- that'll be fine.  
12                  That'll work.

13                  All right. Now, for Mr. Rote's benefit in  
14                  particular, I'll go over quickly how we are going to  
15                  proceed. We have a period of time set for this motion  
16                  and we're going to use it in this way. The moving  
17                  party, which in this case is defense, will go first.

18                  While he is speaking, we'll have no  
19                  interruptions from anybody other than me. I get to  
20                  interrupt, but otherwise we'll finish his argument.  
21                  Then we will hear from the plaintiff's response and,  
22                  similarly, we will not have interruptions during that.

23                  And then, finally, we'll hear from the  
24                  movant for a brief reply. That is how we conduct  
25                  these hearings and that's how we will conduct this

1 hearing. As long as we are in this -- these  
2 proceedings, we will observe decorum, which includes  
3 not relying upon any evidence which has not been  
4 submitted and also not engaging in anything that is  
5 irrelevant to the issues here or derogatory toward  
6 other persons. You can disagree without invectives.

7 So with that said, I will -- I'll hear from  
8 the moving party.

9 MR. BEGUIN: Thank you, Your Honor.

10 Can everybody still hear me clearly?

11 THE COURT: I can hear you.

12 MR. ROTE: (Indiscernible).

13 MR. BEGUIN: Thank you. Your Honor, here  
14 this is clearly a case of retaliatory suit by the  
15 plaintiff in an attempt to distract the Court and  
16 defendant, Mr. Zweizig, from the \$1.2 million punitive  
17 judgment that my client has against the plaintiff from  
18 previous between -- proceedings between the parties.

19 My client has been the victim of the  
20 plaintiffs, weaponized this information for years,  
21 as evident in the pleadings filed by the plaintiff  
22 in this case, which themselves make unsubstantiated  
23 claims in the public record and don't even have  
24 basis on a claim for wrongful initiation of civil  
25 proceeding, which is before the Court today.

1           Regarding the standard for summary judgment  
2 before us today, ORCP 47 requires that summary  
3 judgment be granted in favor of the moving party if  
4 the pleadings, depositions, affidavits and admissions  
5 on file show that there are no genuine issues as to  
6 any material facts and the moving party is entitled to  
7 judgment as a matter of law.

8           In determining whether a -- a material fact  
9 exists, ORCP 47 provides no genuine issue as to a  
10 material fact exists if, based upon the record before  
11 the Court, viewed in the manner most favorable to the  
12 adverse party, no objectively reasonable juror could  
13 return a verdict for the adverse party on that matter  
14 that is subject to the motion. This is citing Jones  
15 v. General Motor Corp.

16           THE COURT: Yeah, you're pretty much --

17           MR. BEGUIN: The phrase "genuine issue" --

18           THE COURT: Just a second.

19           MR. BEGUIN: Yes.

20           THE COURT: You can assume that I am very  
21 familiar with the rule and the authorities for it.

22           MR. BEGUIN: That is entirely fine. I'll  
23 skip past all procedural arguments, Your Honor. As  
24 Your Honor and the opposing side is well aware, the  
25 requirements for the wrongful initiation of civil

1 proceedings are commenced in a prosecution of a  
2 judicial proceeding, termination of the proceeding  
3 in plaintiff's favor, absence of probable cause,  
4 existence of malice and damages.

5 In the current matter before the Court,  
6 plaintiff has not presented any evidence such to  
7 establish that there are any genuine issues of  
8 material fact regarding whether defendant underwent  
9 any litigation against the plaintiff with the  
10 existence of malice or without probable cause.

11 This failure to present supporting evidence  
12 cannot lead an objectively reasonable juror to  
13 possibly return a favor -- a favorable verdict for the  
14 plaintiff in this matter. In fact, plaintiff has not  
15 even attempted to put forth any substantial evidence  
16 for either of these claims so far in the proceeding.

17 Regarding probable cause requirement, the  
18 Court requires that for purposes of a claim for  
19 wrongful initiation of civil proceeding, probable  
20 cause means that the person initiating the civil  
21 action reasonably believes that he or she had a good  
22 chance of prevailing or that she had -- meaning that  
23 he or she had the objective -- excuse me -- that he or  
24 she subjectively has that belief and that belief is  
25 objectively reasonable.

1           Defendant's previous actions brought against  
2 plaintiff here meet this element fully. As stated in  
3 defendant's declaration, Mr. Zweizig has always acted  
4 within his legal rights and within reasonable belief  
5 to attempt to enforce a judgment against the plaintiff  
6 that defendant had acquired in a previous lawsuit.

7           Defendant Zweizig, who was represented in  
8 the previous proceedings against Mr. Rote, had no  
9 reason to believe that he would not be successful in  
10 any of the lawsuits against him at the outset. The  
11 Court in Perry (phonetic) further established that  
12 probable cause to file civil litigation requires a  
13 reasonable belief before the claim is filed.

14           Again, the plaintiff has failed to present  
15 evidence that defendant not have reason to believe  
16 that he would not be successful in a lawsuit between  
17 the parties before the claim was filed, as Mr. Zweizig  
18 had already procured the judgment against Mr. Rote  
19 and had been attempting to collect on that judgment  
20 for years.

21           Regarding the malice prong, which is  
22 otherwise referred to in this light as the existence  
23 of a primary purpose of (indiscernible) securing  
24 adjudication of the claim, the lack of malice is clear  
25 in this instance.



1 Defendant had no other agenda when filing  
2 the action against the plaintiff (indiscernible)  
3 making a reasonable and rational attempt to enforce  
4 this judgment against the plaintiff.

5 In the plaintiff's initial complaint in this  
6 proceeding, in Paragraph 7 and 13, Mr. Rote references  
7 the case 19CV01547, which is the judgment and  
8 collection matter regarding my client's million-dollar  
9 judgment against the defendant.

10 While there was an award of summary judgment  
11 to Mr. Rote on part of the claim in that case,  
12 Mr. Rote has failed to present evidence or statements  
13 from the Court that establish that Mr. Zweizig had  
14 either no probable cause to bring the claim or that  
15 the claim was brought with malice in that time.

16 The plaintiff has also failed to identify  
17 that Mr. Zweizig satisfied his judgment on Mr. Rote's  
18 property in the same case on November 15th, 2022 after  
19 the Court allowed him to do so.

20 Excuse me. The plaintiff has used this  
21 lawsuit in a continuing effort to put incorrect and  
22 defamatory information into the public record in an  
23 attempt to damage my client's reputation and has  
24 presented no substantiated information to support or  
25 even suggest that there are issues of material fact

1 present in this case regarding the existence of malice  
2 or lack of probable cause.

3 It is, in fact, the plaintiff who is  
4 continuously engaging in frivolous litigation simply  
5 to harass my client. In short, plaintiff has failed  
6 to establish to any reasonable degree evidence to  
7 support his current claims against the defendant in  
8 this matter.

9 Defendant has acted fully in accordance with  
10 the legal rights to attempt to enforce his judgment  
11 against the plaintiff that defendant had acquired in  
12 a previous lawsuit. And plaintiff brought this claim  
13 in an attempt to delay or distract from said judgment  
14 collection.

15 The decision of the plaintiff in the  
16 collection matter to force the defendant to go after  
17 his assets as opposed to just paying the judgment was  
18 the decision of the plaintiff and was not a decision  
19 of my client in that event. That is all, Your Honor.

20 THE COURT: Okay. Mr. Rote.

21 MR. ROTE: (Indiscernible).

22 THE COURT: Make sure that you're -- yeah,  
23 go ahead.

24 MR. ROTE: I believe it's clear that -- that  
25 Mr. Zweizig did bring an action in 19CV01547 and it's

1 equally clear that I prevailed on that at summary  
2 judgment. He brought that action on three properties:  
3 First, my wife's rental property she acquired in 2003.

4 Mr. Zweizig's judgment was November 2018.  
5 You're aware the fraudulent statutes have a look-back  
6 period of about four years and the transfers have to  
7 be made without reasonably equivalent value.

8 Also he attempted to unravel the use of an  
9 equity line in my home. And, finally, a Sunriver  
10 property that my wife owns, he pursued that. Those  
11 first two properties, the rental and the home equity  
12 line, were defeated in summary judgment in the first  
13 four months after he filed the complaint.

14 The Sunriver property, the Court permitted  
15 discovery to see if there was any fraudulent transfer  
16 on that Sunriver property. Then we proceeded to a  
17 hearing on summary judgment where the Court gave  
18 Mr. Zweizig a lot of opportunity to try to establish  
19 that there was any credible evidence to show on his  
20 part that the property was fraudulently transferred in  
21 2012, a full six -- at least six years before his --  
22 his -- his judgment and a full six-plus years after  
23 he -- before hearing brought his claim.

24 We prevailed on summary judgment on the  
25 Sunriver property in March of 2021. He appealed

1 through the Oregon Court of Appeals. He was --  
2 summary judgment was sustained. He asked for a  
3 motion for reconsideration of the petition and we  
4 sustained that.

5 The Oregon Court of Appeals denied that  
6 reconsideration. He has acted out in multiple cases  
7 with the thinnest of evidence that, even after he was  
8 presented credible evidence of a tax return within  
9 the first three months and contracts, he refused to  
10 withdraw this case.

11 And he required us to hire legal counsel and  
12 incur substantial damages over that period of time  
13 and, again, did not get past summary judgment on any  
14 of these properties, although the Sunriver property he  
15 was permitted discovery on.

16 My questions of probable cause, I recognize  
17 that there's an affirmative defense of having legal  
18 counsel. But I have argued in my brief that the  
19 reliance on legal counsel -- that there must be  
20 evidence that he brings forward that his reliance of  
21 counsel was in good faith and whether or not the  
22 reliance was preceded by a full and frank disclosure  
23 of the pertinent facts.

24 And he has not provided a declaration from  
25 counsel that any of that is true based on my research

1 that this is a question of fact for the jury, citing  
2 Lampos v. Bazar and SPS of Oregon, Inc.

3 I've also cited multiple retaliatory actions  
4 he took in addition and in this case and in another  
5 case where he sought to sheriff sell my home when it  
6 was already sold and going through the process of  
7 closing, refused to remove liens when he had no  
8 ability to collect against that house or --

9 THE COURT: I thought -- just a second.  
10 I -- I -- I wonder if we're not getting a little  
11 beyond what has been submitted on summary judgment.  
12 Is that -- I -- I recall the arguments about the --  
13 the two cases, the one -- the summary -- summary  
14 judgment -- or the two instances that went to  
15 summary judgment.

16 And I understand that you would -- that  
17 there was a -- a lis pendens filed when you were  
18 trying to sell the house. The house doesn't get  
19 sold until title passes, so lis pendens is a way  
20 of preserving an interest while a -- an action is  
21 going on.

22 But I -- I want to really direct your  
23 comments to the issue of malice because that's where  
24 the -- the problem lies. The fact that the other  
25 action has been resolved in your favor is an element,

1 but that's not the hardest element.

2 The -- the evidence of some proof, some  
3 interest other than the desire to collect on an  
4 outstanding judgment is the point that I want you  
5 to -- to direct your comments on.

6 MR. ROTE: I'm trying to do that. In fact,  
7 what I outlined in the brief was these multiple events  
8 that I think implicate malice. And those events  
9 included his efforts to interfere with the sale of the  
10 home, interfere with the Sunriver property --

11 THE COURT: So those are the -- the actions,  
12 themselves, aren't they, that you're complaining on.  
13 You can't -- I -- I don't think that it's proof of  
14 malice -- I know it isn't proof of malice -- merely --

15 MR. ROTE: (Indiscernible) --

16 THE COURT: -- to show the same thing again,  
17 which was that actions were undertaken, legal actions  
18 were undertaken. So the question is, what proof is  
19 there of an interest other than the collection of the  
20 outstanding judgment?

21 MR. ROTE: (Indiscernible) to the record  
22 where he consistently refers to and acknowledges  
23 that -- that he's identified me as a rich person and,  
24 therefore, that's one of his motivating pack factors.

25 THE COURT: I'm sorry, I -- I -- it -- I'm

1       sorry. I -- I just couldn't hear what your comment  
2       was. I didn't hear what you said and I want to hear  
3       what you said.

4               MR. ROTE: (Indiscernible) to the record  
5       that he specifically identified one of his motivations  
6       as the -- given the fact that I was a rich person,  
7       that he identified me as a rich and that I thought I  
8       was getting away with something.

9               THE COURT: Is -- is that something --

10              MR. ROTE: (Indiscernible) --

11              THE COURT: -- is that something in the  
12       record here --

13              MR. ROTE: It's something (indiscernible) --

14              THE COURT: -- in this motion?

15              MR. ROTE: Summary judgment (indiscernible).

16              THE COURT: You're going to have to lean  
17       forward when you speak because when you lean back,  
18       I notice that it -- your voice drops and I can't  
19       hear it.

20              MR. ROTE: My voice is low anyway,  
21       Your Honor, so it is difficult. But, yes, he did make  
22       reference to the fact that I was a rich person. He --  
23       and was, therefore, motivated.

24              He's made -- simply refusing to -- and he  
25       also acknowledged simply refusing to acknowledge

1 evidence that the Court found highly credible, like  
2 tax returns of (indiscernible) --

3 THE COURT: I -- I'm sorry. When I refer to  
4 the record, I am referring to materials that have been  
5 submitted on this motion. So --

6 MR. ROTE: Those materials were submitted by  
7 declaration, Your Honor.

8 THE COURT: I -- let me see. Let me see if  
9 I can find it.

10 (Pause in proceedings, 2:50 p.m. -  
11 2:51 p.m.)

12 MR. ROTE: Your Honor, I -- I identify  
13 it as --

14 THE COURT: I'm sorry, it just takes me a  
15 little while and I can only -- I -- I have to search  
16 through the electronic record.

17 MR. ROTE: I identified it as Exhibit 4,  
18 Page 55.

19 THE COURT: Can you -- well, I'll find it  
20 eventually, I suppose. Here --

21 MR. ROTE: I'll also argue, though, that  
22 malice is a question for the jury. This is a  
23 pre-discovery --

24 THE COURT: Well, there's a question --  
25 I'm sorry. I can't do two things at one time, so



1 if you --

2 MR. ROTE: Okay.

3 THE COURT: Okay. I'll go back to the -- to  
4 this screen because I can't both look at that screen  
5 and hear what you say. Now, on the -- on the issue of  
6 questions for the jury, there are only issues for a  
7 jury if the case passes summary judgment.

8 And in order to get past summary judgment on  
9 issues raised by the motion, then the party who has  
10 the burden of proof on those issues -- and that would  
11 be you as to the specific -- as to the elements of  
12 the claim, itself -- has to present some admissible  
13 evidence to show that there is a triable issue on  
14 the question.

15 Did you -- do you understand what I'm  
16 saying there?

17 MR. ROTE: I do.

18 THE COURT: Okay. Well, perhaps if it is --  
19 if I am mistaken about whether or not there is a -- a  
20 declaration that includes the material that you've  
21 mentioned, then perhaps Mr. Beguin will raise that  
22 issue. But I will take your word for it that it's  
23 somewhere in a declaration.

24 But, once again, evidence that there was an  
25 objective other than the prosecution of the claims.

1           MR. ROTE: Yes. I think we've -- I have  
2 attempted to provide evidence of consistent behavior,  
3 including historical behavior on -- including citation  
4 to a federal case where he also lost a fraudulent  
5 transfer case and should have been well educated on  
6 the rules.

7           And I included that also in the record. In  
8 fact, I have 24 exhibits that I included.

9           THE COURT: There was a great deal in your  
10 submission that I must say that I kind of zipped past  
11 because I could not begin to understand the relevance  
12 of some materials about scurrilous behavior that had  
13 nothing to do with the questions raised by this  
14 lawsuit.

15           So I may have overlooked that, but let me  
16 tell you this. Malice, for this purpose, consists of  
17 a purpose other than the pursuit of the claim. And  
18 the argument that he should have known that he didn't  
19 have a claim, that's not evidence of malice.

20           Argument that it was -- that he had other  
21 unsuccessful claims in other cases is not proof of  
22 malice. Malice would be proof that the individual  
23 was, say, an estranged marital partner and simply  
24 wanted to impose harm without rely -- without regard  
25 to the lawsuit involved.

1                   Malice would include, for instance, a  
2                   purpose merely to place on the record scurrilous  
3                   claims that weren't related to a legal right. That  
4                   might be malice. So what have you that shows that  
5                   there was a purpose here other than the purpose of an  
6                   outstanding judgment?

7                   MR. ROTE: Acknowledgement on the record  
8                   that he had no evidence to prove his case, his  
9                   acknowledgement on the record that he was trying  
10                  to hold me accountable as a rich person. His -- I  
11                  think his behavior -- I've identified his behavior as  
12                  repeating acts of malice because of his general enmity  
13                  that he has towards me over (indiscernible).

14                 THE COURT: It would be helpful to me if  
15                 I could understand -- when you simply say you have  
16                 shown acts of malice, that doesn't illuminate what  
17                 you're talking about as being an act of malice. He  
18                 doesn't -- it's not malice if he doesn't like you.

19                 MR. ROTE: No, I understand.

20                 THE COURT: It's not -- you know, it's  
21                 not -- that's not malice. Malice is a --

22                 MR. ROTE: He's --

23                 THE COURT: -- purpose other than the  
24                 pursuit of a legal claim. I'm sorry, I can't hear  
25                 you again.

1                   MR. ROTE: I said understand you like  
2                   Mr. Zweizig's position. I understand. But  
3                   probable --

4                   THE COURT: You understand what?

5                   MR. ROTE: I said I understand that you like  
6                   Mr. Zweizig's position in this case. I appreciate the  
7                   fact that you do.

8                   THE COURT: I did not say that. And a  
9                   comment of that sort is precisely the type of comment  
10                  which can result in a bad outcome, which includes  
11                  Contempt of Court. But it -- I -- that doesn't rise  
12                  to Contempt of Court. I -- I'm not saying it bothers  
13                  me that much.

14                  But I want you to behave as if you were  
15                  a lawyer, which is to say with composure and with  
16                  dignity and without attacking the Court.

17                  MR. ROTE: Okay. My arguments have included  
18                  that probable cause and the absence of probable cause  
19                  may implicate malice as well. And I believe the  
20                  record shows that he had no evidence to support his  
21                  positions in this case, in Case 19CV01547 and in other  
22                  actions he took.

23                  THE COURT: Okay. Anything further?

24                  All right. Mr. Beguin.

25                  MR. BEGUIN: Thank you, Your Honor. Can you

1 hear me still?

2 THE COURT: Yes.

3 MR. BEGUIN: Awesome. I'll be quick.

4 First, to address the -- the defense that he brought  
5 up of reliance of counsel and good faith, while  
6 Mr. Rote has not given the Court any reason to believe  
7 that Mr. Zweizig acted without probable cause on the  
8 collection matters, even in the unlikely event that  
9 Mr. Zweizig improperly collected on this judgment,  
10 considering the information available to him at this  
11 time, Mr. Zweizig was represented in all matters  
12 against Mr. Rote and, therefore, acted with reasonable  
13 reliance and in good faith that he had a valid claim  
14 from the advice of his attorney.

15 While Mr. Rote argues the good-faith  
16 requirement of this, he has also failed to present  
17 evidence which shows that the defendant in this  
18 case lacked that good faith when defendant got his  
19 counsel's advice.

20 Regarding the statements of Mr. Zweizig --  
21 and you'll have to excuse me. I couldn't find the --  
22 the exact quote in the declaration in the interim  
23 during the discussion. However, I remember it to a  
24 certain extent.

25 And I believe Mr. Zweizig's statement was

1 taken out of context. Mr. Zweizig stated that  
2 Mr. Rote was a rich person and was, therefore -- or  
3 excuse me. Mr. Zweizig never stated that Mr. Rote was  
4 a rich person -- rich person and was, therefore,  
5 motivated to move forward.

6 All that Mr. Zweizig said was that Mr. Rote  
7 is rich and, therefore, should not have an issue  
8 paying the judgment which is owed to my client in  
9 this -- at this current time.

10 Likewise, Mr. Rote has failed to present any  
11 evidence to suggest that Mr. Zweizig could not have  
12 reasonably relied on counsel in order to meet any of  
13 the defenses to the claims that he's brought forth.  
14 That is all, Your Honor.

15 THE COURT: Reliance on -- reliance on  
16 counsel is, in fact, an -- an affirmative defense. So  
17 as to that, you have the burden of -- of establishing  
18 that there is a lack of an issue rely -- as to  
19 reliance on counsel and that's a hard thing to claim  
20 on summary judgment.

21 MR. BEGUIN: Of course.

22 THE COURT: Go -- go ahead. I didn't mean  
23 to cut you off.

24 MR. BEGUIN: Oh, no -- no, you're fine,  
25 Your Honor. That -- that's all I have on the

1 rebuttal, Your Honor.

2 THE COURT: Okay. Now, as -- as should not  
3 come to any great surprise, the law does not look  
4 particularly kindly on claims that make -- that --  
5 that extend the dispute by making, first, the dispute  
6 resolved and then the dispute over whether there  
7 should have been the dispute and so on and so forth.

8 Cases in all but the most extraordinary  
9 circumstances should conclude when they conclude. If  
10 there is a -- a grounds for seeking attorney's fees in  
11 that case, then they're claimed in that case, not in  
12 the subsequent case.

13 And here what we have is a showing that  
14 these claims in the collection actions were resolved  
15 in -- in the plaintiff's favor -- that is to say  
16 (indiscernible) favor -- and that -- and, arguably, we  
17 can argue or someone can argue about probable cause.

18 But the requirement of a showing of malice,  
19 legal malice, requires a showing of a purpose other  
20 than the pursuit of the claims. And the fact that  
21 that is a requirement of this cause of action reflects  
22 the reluctance of the Court to extend litigation to  
23 subsequent cases which are only about the initial  
24 litigation. And that could, of course, go on  
25 indefinitely.

1           It is necessary to show that there's a  
2           purpose other than the pursuit of the litigation.  
3           And on this record, there has not been evidence of a  
4           purpose other than the collection of the outstanding  
5           judgment.

6           And so summary judgment should enter in  
7           favor of the defense on this -- on this -- on this  
8           record. And I'll sign an order to that extent -- or  
9           to that effect and I can submit that. Mr. Beguin can  
10          submit that electronically and I can -- and I can sign  
11          it. I do hope --

12                   MR. BEGUIN: Yes, Your Honor.

13                   THE COURT: Yes. I do hope that this will  
14          conclude these kind of -- these -- these kind of  
15          collateral litigations. I hope that we don't now have  
16          a claim on behalf of the defendant here for malicious  
17          initiation of civil litigation, that it -- that it can  
18          end here.

19                   And I certainly hope that statements that  
20          are made in the pleadings which are personal about  
21          various participants are never reflected outside of  
22          absolutely privileged circumstances. If -- if some of  
23          the -- the documents and -- and I -- I assume that you  
24          know who I'm talking -- talking about.

25                   If some of these documents were read on the



1 street corner, there would be a very successful claim  
2 for defamation. And so with that, I hope this is the  
3 end of this litigation. Thank you all.

4 MR. BEGUIN: Thank you, Your Honor.

5 THE CLERK: We're off record.

6 \* \* \*

7 (Conclusion of Proceedings,

8 4-5-23 at 3:05 p.m.)

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

--oOo--

TRANSCRIBER'S CERTIFICATE

I certify, by signing below, that the foregoing is a correct transcript, of the audio record in the above-entitled cause, as recorded on digital audio and transcribed to the best of my ability and in accordance to the quality of the audio recording.



---

BRIAN KEAST  
Legal Transcriptionist  
KR Transcription  
(971) 285-5256

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 I am going to make sure I agree with what you're  
2 saying. So if you could repeat it I'd  
3 appreciate it.

4 Q. The dialer report can provide detail of how many  
5 hours were logged or worked by client?

6 A. Yes.

7 Q. You can pull that information up in a dialer  
8 report?

9 A. You can.

10 Q. And that would be the source of the information  
11 for us to perform this analysis?

12 A. I would think that would be the source. Again,  
13 my concern was hours added. You had mentioned  
14 breaks and things like that. I would think the  
15 column would say breaks. I wouldn't think that  
16 they would say that. And actually some things  
17 you said today would also furthers my belief  
18 that they have been a problem there.

19 ARBITRATOR CROW: Let me, there are a lot of  
20 decisions that I need to make, as you both know,  
21 with respect to this matter. Let me see if I  
22 can summarize what I think the issue is with  
23 respect to Exhibit 15 and what ultimately  
24 resulted from it, and that is that Mr. Zweizig



25 received Exhibit 15 via e-mail from someone. He



1 looked at Exhibit 15 and saw columns about hours  
2 added, which he believed to be inappropriate  
3 believing, as I understand it, that someone of  
4 NorthWest Direct tell a services clients had  
5 been over billed because of the hours added. He  
6 forwarded this Exhibit 15 to Mr. Rote and said  
7 it appears to me that the company is over  
8 billing someone. Can you explain to me whether  
9 that is the case? And if not, why it is not the  
10 case. Mr. Zweizig did not hear from Mr. Rote  
11 within the time he thought was reasonable, so he  
12 asked his lawyer what shall I do?

13 Based upon advice of counsel from  
14 Mr. Zweizig's testimony, he was told that he  
15 should report it to the state of Oregon  
16 department justice as a potential over billing.  
17 The department of justice, as I understand it,  
18 investigated and found there was no over  
19 billing. And I think it's fair for me to  
20 conclude, based upon the department of justice  
21 conclusion as well as what I've heard from  
22 Mr. Rote and now Exhibit 120, that there was, in  
23 fact, no over billing. But it does not  
24 necessarily lead to the conclusion that

**DEFENDANT'S  
EXHIBIT**

567

25

Mr. Zweizig was wrongful in following advice of



1           counsel about the report. Am I miss judging the  
2           circumstances of Exhibit 15? First of all you,  
3           Mr. Rote. Am I mistaken in my conclusions about  
4           Exhibit 15.

5                     MR. ROTE: You are not, no.

6                     ARBITRATOR CROW: Ms. Marshall.

7                     MS. MARSHALL: I would take one exception  
8           and that is I don't think there's been any  
9           evidence that the department of justice reached  
10          any conclusion. They simply didn't investigate,  
11          is I think what the evidence has been.

12                    ARBITRATOR CROW: Certainly they didn't  
13          conclude NorthWest Direct had done anything  
14          wrongful.

15                    MS. MARSHALL: Right. So they may have  
16          drawn that, well I don't know that they drew  
17          that conclusion.

18                    ARBITRATOR CROW: They didn't do anything  
19          about it.

20                    MS. MARSHALL: They may not have  
21          investigated because they didn't believe it was  
22          within their purview to investigate T it may not  
23          have fallen under their statute. They just  
24          didn't do anything.

**DEFENDANT'S  
EXHIBIT**

567

25

ARBITRATOR CROW: Well, I have nothing in





1 front of me at this point to conclude that  
2 NorthWest Direct did anything wrongful. But I  
3 do have evidence this front of me that led  
4 Mr. Zweizig to question whether it had done  
5 anything wrong. Okay.

6 MR. ROTE: Yes.

7 ARBITRATOR CROW: Is that what I can  
8 conclude from Exhibit 15 and the analysis of  
9 that exhibit from Exhibit 120?

10 MR. ROTE: I presume everyone's exhausted  
11 with Exhibit 120 at this point. So I'm going  
12 to --

13 ARBITRATOR CROW: Good. I think I  
14 understand what the issue is with respect to the  
15 report by Mr. Zweizig, why he made it and.

16 MS. MARSHALL: May I take a one minute  
17 break?

18 ARBITRATOR CROW: Yes. Starting right now.

19 (Break taken from \* to \*.)

20 ARBITRATOR CROW: You are prepared to  
21 proceed with cross-examination.

22 MR. ROTE: I am, yes.

23 ARBITRATOR CROW: Go ahead.

24 Q. BY MR. ROTE: There are a number of just kind of

**DEFENDANT'S  
EXHIBIT**

567

1 [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

5 MR. ROTE: Is now a good time to break?

6 ARBITRATOR CROW: Sure, it is. Let me,  
7 before we break, let me go back to write-offs in  
8 Exhibit 7. Mr. Zweizig, is it your testimony  
9 that a telemarketing service must bill for every  
10 hour that is worked for a client, whether it was  
11 productive or not?

12 THE WITNESS: My testimony is that a  
13 telemarketing company must report to their  
14 clients everything. If the client at that point  
15 has some kind of thing that they want to say,  
16 okay, we'll, you know, we'll give you extra  
17 money because you've done better production or  
18 something like that or we'll agree to something  
19 after that, then maybe that's acceptable. But  
20 under reporting and over reporting of hours I do  
21 not find in my experience to be a correct  
22 business practice in a telemarketing company.

23 Q. Is it your testimony that a telemarketing  
24 service must bill for every hour that it works

**DEFENDANT'S  
EXHIBIT**

576

25

and that it may not write-off hours that it

**DEFENDANT'S  
EXHIBIT**

576

---

1 considers unproductive? Is that your testimony?

2 A. I would say yes.

3 ARBITRATOR CROW: Thank you. It is a  
4 convenient time to break?

5 (Break taken from \* to \*.)

6 ARBITRATOR CROW: Mr. Rote, as I understand  
7 it you completed your cross-examination of  
8 Mr. Zweizig; is that correct.

9 MR. ROTE: No. I still have a few.

10 ARBITRATOR CROW: I misunderstood what you  
11 said. All right. Then you can proceed with  
12 your cross-examination.

13 MR. ROTE: Okay.

14 Q. BY MR. ROTE: Mr. Zweizig, you, your income from  
15 the book business, if we can talk about that for  
16 a minute. [REDACTED]

17 A. That's correct.

18 Q. And how much is that as a percentage?

19 A. I [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]





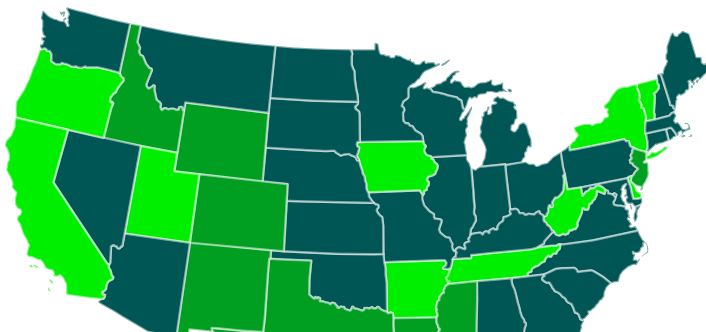
## What is the Oregon Age of Consent?

The Oregon Age of Consent is **18 years old**. In the United States, the age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 17 or younger in Oregon are not legally able to consent to sexual activity, and such activity may result in prosecution for **statutory rape**.

Oregon statutory rape law is violated when a person has consensual sexual intercourse with an individual under age 18. The age of the offender affects the severity of the punishment.

**Oregon does not have a close-in-age exemption.** Close in age exemptions, commonly known as "Romeo and Juliet laws", are put in place to prevent the prosecution of individuals who engage in consensual sexual activity when both participants are significantly close in age to each other, and one or both partners are below the age of consent.

Because there is no such "Romeo and Juliet law" in Oregon, it is possible for two individuals both under the age of 18 who willingly engage in intercourse to **both** be prosecuted for statutory rape, although this is rare. Similarly, no protections are reserved for sexual relations in which one participant is a 17 year old and the second is a 18 or 19 year old.



## Age of Consent across the United States

The Age of Consent ranges state-by-state from 16 to 18 years old across the United States. Click the map to view any state's age of consent laws.

### Age Of Consent:

- 16 years old
- 17 years old
- 18 years old

## Punishments for Violating the Age Of Consent in Oregon

Oregon has fourteen statutory sexual abuse charges on the books which are used to prosecute age of consent and child abuse related crimes within the state. One or more of these charges may be used to prosecute violations of the Oregon Age of Consent, as statutory rape or the Oregon equivalent of that charge.

The severity of the criminal charge (felony, misdemeanor, etc) depends on the specifics of the acts committed and the relative ages of the perpetrator and victim. Click any charge for more detailed information.

Criminal Charge	Severity	Punishment
Contributing to the sexual delinquency of a minor	Class A misdemeanor	A maximum prison sentence of 1 year and/or a maximum fine of 6250

Online sexual corruption of a child- first degree	Class B felony	Up to 10 years; \$200,000 fine
Online sexual corruption of a child- second degree	Class C felony	Up to 5 years; \$100,000 fine
Rape- first degree	Class A felony	Up to 20 years; \$300,000 fine
Rape- second degree	Class B felony	Up to 10 years; \$200,000 fine
Rape- third degree	Class C felony	Up to 5 years; \$100,000 fine
Sexual abuse- first degree	Class B felony	Up to 10 years; \$200,000 fine
Sexual abuse- second degree	Class C felony	Up to 5 years; \$100,000 fine
Sexual abuse- third degree	Class A misdemeanor	A maximum prison sentence of 1 year and/or a maximum fine of 6250
Sexual misconduct	Class C misdemeanor	A maximum prison sentence of 30 days and/or a maximum fine of \$1250
Sodomy- first degree	Class A felony	Up to 20 years; \$300,000 fine
Unlawful contact with a child	Class C felony	Up to 5 years; \$100,000 fine
Unlawful sexual penetration- first degree	Class A felony	Up to 20 years; \$300,000 fine
Unlawful sexual penetration- second degree	Class B felony	Up to 10 years; \$200,000 fine

\*\* This Document Provided By **AgeOfConsent.net** \*\*  
**Source:** <http://www.ageofconsent.net/states/oregon>

**Timothy C. Rote**

**From:** Timothy C. Rote [tim@nwdirectmarketing.com]  
**Sent:** Tuesday, November 11, 2003 4:34 PM  
**To:** Max Z  
**Cc:** John Weil  
**Subject:** RE: I'm coming out

*At the time did you understand his computer to be on top of (the) that you could not back (up)*

As you know Max, the last time I came out your hard drive crashed, a coincidence I do not want to repeat or risk. I'm sure we will have key files on the hard drive and I don't want the computer showing up broken, anticipating you will be blaming that on the shipping company. It is worth it to me to come out.

However, you can minimize your time with me by copying the entire contents of your harddrive and transferring it to the Eugene server, where a computer consultant will be waiting to review the contents of your files.

Make a list, as of right now, of the files you have transferred to the Eugene server as mandated over one week ago and e-mail it to me.

I will be in at 11 am. I expect you to meet me tomorrow afternoon at 1 PM to go over the product of your extraordinary contribution to the company over the past two years.

John Weil can not communicate with you, as you know. You should e-mail your own attorney.

-----Original Message-----

**From:** Max Z [mailto:max@nwtelemarketing.com]  
**Sent:** Tuesday, November 11, 2003 3:45 PM  
**To:** Tim Rote  
**Cc:** JWeil@hoooplw.com  
**Subject:** RE: I'm coming out.  
**Importance:** High

After giving this a lot of thought, I do not think you coming here is a good idea. From the day I informed you of illegal activities at Northwest, your behavior in my opinion, has been very erratic. You have continually berated me with verbal abuse and have accused me of running a "scam" here.

Quite frankly, the idea of meeting you alone at an airport hotel is very intimidating under the circumstances, nor am I inviting you to my home for the same reasons.

It is unfortunate that our working relationship is ending in such a manner. This email is not intended to anger you, but again, I feel that it would be inappropriate for us to meet.

With regards to Northwest's equipment, I propose that I send it to your lawyer's office with a complete inventory and an acknowledgment of receipt. He will then make a copy and send me back the signed original. As an officer of the court, I trust him to be forthright about what he has received back from me. Of course, I will thoroughly document everything sent on my end.

I will of course need your fed-ex account number to get this done, along with the address of your attorney.

DEFENDANT'S  
EXHIBIT  
600

**DENTIAL**

Unknown

From: Max Z [max@nwtelemarketing.com]  
Sent: Tuesday, November 11, 2003 5:06 PM  
To: Timothy C. Rote  
Subject: RE: I'm coming out.

ok

I am giving you your computer with your files on it. There is no "transfer". Knowing what I know of your history I do not feel at all safe meeting with you.

You may send anyone but yourself to my house and I will bring the computer to curbside and they may place it in their vehicle, along with everything else I have that belongs to Northwest. Please let me know a specific time and date to expect them.

They will need to sign an acknowledgement of receipt for the inventory they take.

or

I will ship the computer to Eugene. All the data that exists on this computer also exists either in Dyersville or Eugene. I have nothing else.

*difference between data and program?*

For someone to take over what I do they would need to be at a similar skill level as I am. They would then get all recent client specs, and do the work as I did the first week I came here. I don't know why I have to keep telling you there is no magic program that does all of this, it is a skill.

-----Original Message-----

From: Timothy C. Rote [mailto:tim@nwdirectmarketing.com]  
Sent: Tuesday, November 11, 2003 7:13 PM  
To: Max Z  
Subject: RE: I'm coming out.

Max, I'm coming out to meet and go over the extent of the files you have on your computer, to make sure they are transferred, etc. Its no different than demanding you come here, except that I'm coming to you and meet in a conference room at the Sheraton Hotel.

-----Original Message-----

From: Max Z [mailto:max@nwtelemarketing.com]  
Sent: Tuesday, November 11, 2003 3:45 PM  
To: Tim Rote  
Cc: JWeil@hooplaw.com  
Subject: RE: I'm coming out.  
Importance: High

After giving this a lot of thought, I do not think you coming here is a good idea. From the day I informed you of illegal activities at Northwest, your behavior in my opinion, has been very erratic. You have continually berated me with verbal abuse and have accused me of running a "scam" here.

Quite frankly, the idea of meeting you alone at an airport hotel is very intimidating under the circumstances, nor am I inviting you to my home for the same reasons.

It is unfortunate that our working relationship is ending in such a manner. This email is not intended to anger you, but again, I feel that it would be inappropriate for us to meet.

With regards to Northwest's equipment, I propose that I send it to your lawyer's office with a complete inventory and an acknowledgment of receipt.

Then make a copy and send me back the signed original. As an officer of the court, I am to be forthright about what he has received back from me. Of course, I will document everything sent on my end.

DEFENDANT'S  
EXHIBIT

600

1

Arb Ex  
Page

1  
252

Exhibit 16

Page 2



1 forms and programs for work that has been requested.  
2 So Mr. Rote had been requesting this, and you were  
3 responding to that back in May of 2003?

4 A. That's true. This is the only time that  
5 Mr. Rote had requested this this way. He requested  
6 that they be zipped up and sent to him and to Brett.

7 Q. Okay. So you understood that, and you  
8 were able to honor that request at that time, and  
9 this was before -- well, already -- obviously, back  
10 in May of 2003?

11 A. Okay. I --

12 Q. Did you ever respond to Mr. Rote in a  
13 similar fashion on any of the other occasions in  
14 which he was requesting you provide these programs  
15 --

16 A. No, I -- I've already answered no with an  
17 explanation, and my attorney will give me an  
18 opportunity, I imagine.

19 Q. Okay. Now, turning back to Exhibit 251.

20 MR. CROW: Exhibit 251?

21 BY MR. CLIFF:

22 Q. I'm sorry, Exhibit 1, Page 251.

23 A. Okay.

24 Q. Mr. Rote on that occasion proposed that  
25 one -- one option would be to transfer the computer

1 files without having to physically do it?

2 A. Um-hum.

3 Q. Okay. "Just to minimize your time with  
4 me, by copying the entire contents of your hard  
5 drive and transferring it to the Eugene server."  
6 Okay.

7 Now, you didn't -- you didn't do that, did  
8 you?

9 A. I may have talked to Tim about this. I  
10 don't know. But I think -- isn't there an e-mail  
11 answering this saying something about there is no  
12 transfer?

13 Q. Right, the following page.

14 A. Okay.

15 Q. You told Mr. Rote there is no transfer?

16 A. Um-hum.

17 Q. Okay. So you understood that he was  
18 coming out to preserve -- because he was concerned  
19 about the integrity of the data that you had in your  
20 possession, correct?

21 A. I understood that's what he was saying.  
22 It didn't make a lot of sense, but I understood  
23 that's what he was saying. And I have two different  
24 strings to this e-mail.

25 Q. I want you to focus on Exhibit 252.

1 A. Okay.

2 Q. You told him -- and I am sorry, Page 252.

3 All the -- all the data that -- however you  
4 pronounce it -- that exists on this computer also  
5 exists in either Dyersville or Eugene.

6 A. Okay, right.

7 Q. Now, you understand the difference between  
8 data and programming, correct?

9 A. May I have an opportunity to --

10 THE COURT REPORTER: I'm sorry. Between  
11 data and what?

12 MR. CLIFF: Programming.

13 A. Programming and data.

14 BY MR. CLIFF:

15 Q. Yes. So you were telling Mr. -- Mr. Rote  
16 was saying I want your programs, among other things,  
17 and your response was all the data that you knew  
18 exists in these locations, correct?

19 A. That is what I said.

20 Q. Okay, thank you.

21 A. With an explanation.

22 Q. Okay. Now --

23 A. Would you --

24 MR. CROW: No. You answered the question.

25 THE WITNESS: Okay.

DEFENDANT'S  
EXHIBIT

600

**Naegeli Reporting**  
"The Deposition Experts"

(800) 528-3335  
NaegeliReporting.com  
Serving all of Washington, Oregon, Idaho and the Nation  
Selected "Best Court Reporting Firm"

EX1 pg157

Exhibit 16  
Page 5

1 BY MR. CLIFF:

2 Q. You agree that Mr. Rote did not come to  
3 your house to physically pick up the -- the  
4 equipment that you've discussed until November 13;  
5 is that correct?

6 A. Yes. Yes, sir, that's correct.

7 Q. Okay. And I assume it's your testimony  
8 that you did not delete any files from any of the  
9 equipment you had in your possession; is that  
10 correct?

11 A. That's also correct.

12 Q. Okay. And at that time, you didn't, for  
13 lack of a better term, re-reformat the 120-gig  
14 drive, correct?

15 A. Correct, sir.

16 Q. Okay. And the e-mails that you sent and  
17 received related to Northwest Direct, both when you  
18 had the -- the 120-gig drive in the machine, and  
19 also when you had the 60-gig drive, those were all  
20 sent and received on -- on the Sony Vaio machine; is  
21 that correct?

22 A. That is correct. Yes, it is.

23 Q. So when the -- when the 120-gig drive  
24 failed, you would have lost access to those e-mails,  
25 correct?

DEFENDANT'S  
EXHIBIT

600

**Naegeli Reporting**  
"The Deposition Experts"

(800) 528-3335  
NaegeliReporting.com

Serving all of Washington, Oregon, Idaho and the Nation  
Selected "Best Court Reporting Firm"

EX1 pg158

Exhibit 16  
Page 6

18 MR. ROTE: Okay.

19 ARBITRATOR CROW: Okay. Cross-examination.

20 Q. BY MR. ROTE: Okay. I have, with respect to

21 your arbitration Exhibit 103, only attached

22 exhibits one through eight. I don't have nine

23 and ten. But let's go and talk about some of

24 the issues. Your conclusions with respect to

25 the 120-gig hard drive was that it was

132

1 reformatted on November 12th, 2003.

2 A. That is correct. Which Exhibit No. Are you

3 looking at?

4 Q. I was unable to find exhibits beyond eight in my

5 records.

6 ARBITRATOR CROW: On Exhibit 103 you are

7 talking about.

8 MR. ROTE: On Exhibit 103. I had separate

9 records but I had only exhibits one through

10 eight. Only a few exhibits are attached as part

11 of this report. So we're still kind of back to

12 some of the exhibits in your original report

13 never made it into the record.

14 THE WITNESS: Okay.

15 Q. BY MR. ROTE: But let's go on with respect to



16 the question which was that you concluded that  
17 the 120-gigabyte hard drive had been reformatted  
18 on November 12, 2003?

19 A. That's correct.

20 Q. And that was during the time that Max Zweizig  
21 had that computer?

22 A. The date and time was supposedly during the time  
23 that Max Zweizig had that computer, yes.

24 Q. Now, many of the files that you also identified  
25 that were deleted I presume were zip files, had

133

1 NWD identifications, do you recall?

2 A. No. The files that I found, the 1900, is that  
3 what you're referring to?

4 Q. Yes, I am.

5 A. Those 1900 were simply based on extensions for  
6 Fox Pro files.

7 Q. So they were all Fox Pro files?

8 A. Yeah. FXT's, anything like that.

9 Q. So in addition to those 1900, there were lots of  
10 other files that were deleted, Excel files,  
11 porn, other things?

12 A. I am not going to say porn was part of it. But  
13 the fact is I wrote or I, yeah, I wrote in my  
14 report I believe that like you say, this drive



15 was formatted. Formatting a drive is the same  
16 thing as deleting every file on the hard drive.  
17 So I found, so everything is deleted. There is  
18 no such as deleted and not deleted when you  
19 format a hard drive.

20 Q. Did you find a reformat date before December 12,  
21 2000, -- I mean, November 12, 2003?

22 A. No.

23 Q. You did not. Would you have expected to find  
24 them?

25 A. No.

134

1 Q. You would not. The, you mention that you didn't  
2 find any evidence of porn on the 120-gigabyte  
3 hard drive? I'm confused about your testimony.

4 A. Did I put that in my report?

5 Q. No. Your testimony just a short time ago. Did  
6 you testify that you didn't find any evidence --

7 A. That's right. And what I mean by I didn't find  
8 any porn, is I didn't find any pictures.

9 Q. You didn't find any pictures?

10 A. Right.

11 Q. You didn't find any recoverable video files?

12 A. No. All the video files that were named in a



13 fashion that would line up with pornography I

14 was unable to recover.

15 Q. Were you able to determine that there was a lot

16 of, that there was a shared hard drive and the

17 existence of software programs for file sharing?

18 A. I was able to determine that.

19 Q. Okay. Did, were you able to determine that

20 there was a substantial amount of activity with

21 respect to that?

22 A. Yes, I was.

23 Q. Okay. And the dates and times for many of those

24 files were during the course of the period of

25 time from May 2003 until it was reformatted in

135

1 November 2003?

2 A. Yes.

3 Q. That's correct? That's a period of time in

4 which Mr. Zweizig testified that it was in his

5 fireproof safe. You found dates and times for

6 files during that period of time?

7 A. Yes.

8 Q. Okay. With respect to the 60-gigabyte hard

9 drive, you had mentioned that, I want to focus

10 on e-mail activity right now. I think your

11 testimony was there was evidence that the





**Exhibit #2**

Name	File Created	Last Written	Logical Size	Full Path
c8.jpg	09/30/03 11:09:03AM	09/30/03 11:06:57AM	34,137	60GB VAIO\C:\Documents and Settings\NWT Employee\My Documents\My Pictures\c8.jpg

**c8.jpg**



**Arb Ex** 103  
**Page** 10