

# 11-1197-CV

---

---

## United States Court of Appeals *for the* Second Circuit

---

PATRICK CARIOU,

*Plaintiff-Appellee,*

– v. –

RICHARD PRINCE,

*Defendant-Appellant,*

GAGOSIAN GALLERY, INC., LAWRENCE GAGOSIAN,

*Defendants-Appellants.*

---

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

---

---

### JOINT APPENDIX Volume 3 of 9 (Pages A-551 to A-841)

---

---

HOLLIS ANNE GONERKA BART  
CHAYA WEINBERG-BRODT  
DARA G. HAMMERMAN  
AZMINA N. JASANI  
WITHERS BERGMAN LLP  
*Attorneys for Defendants-Appellants Gagosian  
Gallery, Inc. and Lawrence Gagosian*  
430 Park Avenue, 10<sup>th</sup> Floor  
New York, New York 10022  
(212) 848-9800

DANIEL J. BROOKS  
ERIC A. BODEN  
SCHNADER HARRISON SEGAL & LEWIS LLP  
*Attorneys for Plaintiff-Appellee*  
140 Broadway, Suite 3100  
New York, New York 10005  
(212) 973-8000

JONATHAN D. SCHILLER  
GEORGE F. CARPINELLO  
JOSHUA I. SCHILLER  
BOIES, SCHILLER & FLEXNER LLP  
*Attorneys for Defendant-Appellant  
Richard Prince*  
575 Lexington Avenue, 7<sup>th</sup> Floor  
New York, New York 10022  
(212) 446-2300

**TABLE OF CONTENTS**

	<b>Page</b>
Docket Entries.....	A-1
Amended Complaint, dated January 14, 2009 .....	A-16
Answer to Amended Complaint of Defendant Richard Prince, dated March 3, 2009 .....	A-32
Answer to Amended Complaint of Defendants Gagosian Gallery, Inc. and Lawrence Gagosian, dated March 3, 2009 .....	A-41
Plaintiff’s Initial Disclosure, dated April 30, 2009 ....	A-53
Scheduling Order, dated June 19, 2009 .....	A-58
Memo Endorsed Letter, dated January 27, 2010 .....	A-60
Order of the Honorable Deborah A. Batts, dated March 19, 2010.....	A-61
Memo Endorsed Letter, dated April 21, 2010.....	A-62
Memo Endorsed Letter, dated May 3, 2010 .....	A-63
Notice of Motion by Plaintiff for Summary Judgment, dated May 14, 2010.....	A-64
Plaintiff’s Statement Pursuant to Local Rule 56.1, dated May 14, 2010 .....	A-66
Declaration of Daniel J. Brooks, for Plaintiff, in Support of Motion for Summary Judgment, dated May 7, 2010 .....	A-75
Exhibit A to Brooks Declaration - Amended Complaint, dated January 14, 2009 (Reproduced herein at pp. A-16-A-31)	

	<b>Page</b>
Exhibit B to Brooks Declaration - Answer to Amended Complaint of Defendant Richard Prince, dated March 3, 2009 (Reproduced herein at pp. A-32-A-40)	
Exhibit C to Brooks Declaration - Answer to Amended Complaint of Defendants Gagosian Gallery, Inc. and Lawrence Gagosian, dated March 3, 2009 (Reproduced herein at pp. A-41-A-52)	
Exhibit D to Brooks Declaration - Excerpts from Deposition Transcript of Patrick Cariou, dated January 12, 2010 .....	A-84
Exhibit E to Brooks Declaration - Excerpts from Videotaped Deposition Transcript of Richard Prince, dated October 6, 2009.....	A-117
Exhibit F to Brooks Declaration - Excerpts from Videotaped Deposition Transcript of Lawrence Gagosian, dated October 8, 2009.....	A-167
Exhibit G to Brooks Declaration - Excerpts from Deposition Transcript of Gagosian Gallery, Inc. by Louise Neri, dated December 17, 2009 .....	A-185
Exhibit H to Brooks Declaration - Excerpts from Deposition Transcript of Gagosian Gallery, Inc. by Alison McDonald, dated December 17, 2009 .....	A-189
Exhibit I to Brooks Declaration - Excerpts from Deposition Transcript of John Olson, dated November 16, 2009 .....	A-198

	<b>Page</b>
Exhibit J to Brooks Declaration - Excerpts from Deposition Transcript of Christiane Celle, dated January 26, 2009 .....	A-203
Exhibit K to Brooks Declaration - Certificate of Copyright Registration for Book entitled <i>Yes Rasta</i> .....	A-227
Exhibit L to Brooks Declaration - Cover of <i>Yes Rasta</i> .....	A-229
Exhibit L-1 to Brooks Declaration - Cover of <i>Yes Rasta</i> .....	A-230
Exhibit L-2 to Brooks Declaration - Colophon Page of <i>Yes Rasta</i> .....	A-231
Exhibit M to Brooks Declaration - Cover of the Catalogue published by Gagosian Gallery .....	A-232
Exhibit M-1 to Brooks Declaration - Front, Back and Spine of the <i>Canal Zone</i> Catalogue .....	A-233
Exhibit M-2 to Brooks Declaration - Title Page of the <i>Canal Zone</i> Catalogue .....	A-236
Exhibit M-3 to Brooks Declaration - List of Works depicted in the <i>Canal Zone</i> Catalogue .....	A-237
Exhibit M-4 to Brooks Declaration - Colophon Page of <i>Canal Zone</i> Catalogue .....	A-240
Exhibit N to Brooks Declaration - 22 Paintings depicted in the <i>Canal Zone</i> Catalogue .....	A-241

	<b>Page</b>
Exhibit O to Brooks Declaration - Seven additional Prince Paintings depicted in <i>Canal Zone</i> Catalogue .....	A-263
Exhibit P to Brooks Declaration - Stipulation between Plaintiff and Gagosian Defendants, dated January 26, 2010 .....	A-270
Exhibit Q to Brooks Declaration - Pages from Prince’s Website, including Comments entitled “Practicing Without A License” .....	A-279
Exhibit R to Brooks Declaration - Interview of Prince in <i>Artforum</i> , March 2003 .....	A-281
Exhibit S to Brooks Declaration - June 3, 2008 E-mail .....	A-284
Exhibit T to Brooks Declaration - Interview of Prince in <i>Interview Magazine</i> .....	A-285
Exhibit U to Brooks Declaration - Comparison Document .....	A-298
Exhibit V to Brooks Declaration - Prince Painting entitled “ <i>Canal Zone 2007</i> ” .....	A-325
Exhibit V-1 to Brooks Declaration - <i>Canal Zone 2007</i> .....	A-326
Exhibit W to Brooks Declaration - <i>The Art Newspaper</i> .....	A-327
Exhibit X to Brooks Declaration - Exhibit 32 to Prince Deposition.....	A-329
Exhibit Y to Brooks Declaration - Printout from Gagosian Gallery Website.....	A-331

	<b>Page</b>
Exhibit Z to Brooks Declaration - Inserts to <i>Canal Zone</i> Catalogue.....	A-349
Exhibit AA to Brooks Declaration - Blown-up Details from Prince Paintings .....	A-352
Exhibit BB to Brooks Declaration - Landscape .....	A-354
Exhibit CC to Brooks Declaration - Photographs .....	A-355
Exhibit DD to Brooks Declaration - “Pitch” from Movie written by Prince.....	A-357
Exhibit EE to Brooks Declaration - E-mail from Louise Neri to Betsy Biscone, dated October 7, 2008 .....	A-359
Exhibit FF to Brooks Declaration - Printout from Gagosian Gallery Website.....	A-361
Exhibit GG to Brooks Declaration - Newspaper Advertisements .....	A-364
Exhibit HH to Brooks Declaration - E-mails from Alison McDonald to Darlina Goldak, dated October 2, 2008 .....	A-369
Exhibit II to Brooks Declaration - E-mail from Darlina Goldak to Nicole Heck, dated September 25, 2008.....	A-370
Exhibit JJ to Brooks Declaration - Announcement Card .....	A-371
Exhibit KK to Brooks Declaration - E-mails from Andie Trainer to Jessica Arisohn, dated December 5, 2008 .....	A-373

	<b>Page</b>
Exhibit LL to Brooks Declaration - Invitation to opening Dinner for the <i>Canal Zone</i> Exhibition .....	A-377
Exhibit MM to Brooks Declaration - E-mails from Tom Duncan to Anita Foden, dated September 6, 2008 .....	A-378
Exhibit NN to Brooks Declaration - E-mails from Karen Ho to Vanessa Riding and Rysia Murphy, dated October 28, 2008 .....	A-380
Exhibit OO to Brooks Declaration - E-mail from Meredith Dunn to Sam Orlofsky and Others at the Gagosian Gallery, dated October 23, 2008 .....	A-386
Exhibit PP to Brooks Declaration - E-mail from Vanessa Riding to Barbara Wilhelm Dwek, dated October 23, 2008 .....	A-387
Exhibit QQ to Brooks Declaration - Invitation List .....	A-388
Exhibit RR to Brooks Declaration - Cariou's Cease and Desist Letter, dated December 11, 2008 .....	A-395
Exhibit SS to Brooks Declaration - E-mails from Patrick Cariou to Christiane Celle, dated August 28, 2008, with Certified Translation	A-397
Declaration of Eric Doeringer, for Plaintiff, in Support of Motion for Summary Judgment, dated May 6, 2010 .....	A-400
Exhibit A to Doeringer Declaration - Letter from Peter J. Toren to Eric Doeringer, dated November 10, 2005 .....	A-403

	<b>Page</b>
Exhibit B to Doeringer Declaration - Letter from Eric Doeringer to Peter J. Toren, undated.....	A-405
Exhibit C to Doeringer Declaration - Letter from Peter J. Toren to Eric Doeringer, dated November 28, 2005 .....	A-406
Memorandum of Law in Support of Plaintiff’s Motion for Summary Judgment, dated May 14, 2010 .....	A-408
Notice of Motion by Defendants for Summary Judgment, dated May 14, 2010.....	A-438
Affidavit of Hollis Gonerka Bart, for Defendants Gagosian Gallery, Inc. and Lawrence Gagosian, in Support of Motion for Summary Judgment, sworn to May 14, 2010 .....	A-440
Exhibit A to Bart Affidavit - The Tate Collection’s Glossary defining the Term Appropriation Art.....	A-446
Exhibit B to Bart Affidavit - The Tate Collection’s Glossary defining the Term Collage .....	A-447
Exhibit C to Bart Affidavit - The Tate Collection’s Glossary Information on Marcel Duchamp’s <i>Fountain</i> .....	A-448
Exhibit D to Bart Affidavit - MOMA, Collection’s Information on Andy Warhol’s <i>Gold Marilyn Monroe</i> .....	A-449
Exhibit E to Bart Affidavit - Amended Complaint, dated January 14, 2009 (Reproduced herein at pp. A-16-A31)	



	<b>Page</b>
Exhibit F to Bart Affidavit - Guggenheim Press Release entitled “Richard Prince: Spiritual America Opens at the Guggenheim Museum September 28” .....	A-453
Exhibit G to Bart Affidavit - Excerpts from Deposition Transcript of Richard Prince, dated October 6, 2009.....	A-460
Exhibit H to Bart Affidavit - Artnet’s listing for Richard Prince Work available for sale .....	A-502
Exhibit I to Bart Affidavit - Article from artcritical.com entitled “Eighteen Experts Talk with Brian Appel on the \$1,248,000 Richard Prince Photograph that Has Set a New World Auction Record for Photography” .....	A-507
Exhibit J to Bart Affidavit - Article from ArtDaily entitled “Sotheby’s July 2008 Contemporary Art Evening Sale Triumphs”.	A-514
Exhibit K to Bart Affidavit - Excerpt from Trust & Estates, August 2008 Table of Contents.....	A-519
Exhibit L to Bart Affidavit - Excerpts from Deposition Transcript of Lawrence Gagosian, dated October 8, 2009.....	A-520
Exhibit M to Bart Affidavit - Richard Prince Book <i>Canal Zone</i> also referred to as “The Catalogue” [See Exhibit 1 to the Joint Appendix – Hard Copy of <i>Canal Zone</i> Book].....	A-528

	<b>Page</b>
Exhibit N to Bart Affidavit - Stipulation between Plaintiff and Gagosian Defendants, dated January 26, 2010 (Reproduced herein at pp. A-270-A-278)	
Exhibit O to Bart Affidavit - The Gagosian Gallery General Ledger for the Period from October 1, 2008 to June 30, 2009 .....	A-529
Exhibit P to Bart Affidavit - Advertisements for the <i>Canal Zone</i> Exhibition .....	A-530
Exhibit Q to Bart Affidavit - Guest List for the November 8, 2008 Dinner held at the Gramercy Park Hotel for Richard Prince .....	A-539
Exhibit R to Bart Affidavit - Excerpts from Deposition Transcript of Anthony Petrillose, dated October 23, 2009 .....	A-547
Exhibit S to Bart Affidavit - Stipulation and Order of Dismissal between Plaintiff and Rizzoli International Publications, Inc., entered February 5, 2010 .....	A-549
Exhibit T to Bart Affidavit - Stipulation between Gagosian and powerHouse Cultural Entertainment, Inc., dated February 1, 2010 .....	A-551
Exhibit U to Bart Affidavit - Excerpts from Deposition Transcript of Patrick Cariou, dated January 12, 2010 .....	A-555
Exhibit V to Bart Affidavit - Plaintiff's Answers and Objections to Defendants Gagosian Gallery, Inc. and Lawrence Gagosian's Interrogatories, dated October 5, 2009 .....	A-606

	<b>Page</b>
Exhibit W to Bart Affidavit - powerHouse’s Press Release announcing the publication <i>Yes Rasta</i> , and categorizing the Book as “ <i>Photography/Reggae Culture</i> ” .....	A-621
Exhibit X to Bart Affidavit - Printout of Plaintiff’s Website .....	A-622
Exhibit Y to Bart Affidavit - Excerpts from Deposition Transcript of Christiane Celle, dated January 26, 2010 .....	A-715
Exhibit Z to Bart Affidavit - Letter from Daniel Brooks to the Honorable Deborah A. Batts, dated February 8, 2010.....	A-735
Exhibit AA to Bart Affidavit - Inside Jacket Cover of <i>Yes Rasta</i> .....	A-738
Exhibit BB to Bart Affidavit - Definition of Appropriation Art from ArtLex .....	A-740
Exhibit CC to Bart Affidavit - Composite Exhibit containing Copies of Images of Rastafarians .....	A-742
Exhibit DD to Bart Affidavit - Certificate of Copyright Registration for Book entitled <i>Yes Rasta</i> (Reproduced herein at pp. A-227-A-228)	
Exhibit EE to Bart Affidavit - Photocopy of Patrick Carious’ Book entitled <i>Yes Rasta</i> [See Exhibit 2 to the Joint Appendix – Hard Copy of <i>Yes Rasta</i> Book] .....	A-743
Affidavit of Richard Prince, Defendant, in Support of Motion for Summary Judgment, sworn to May 13, 2010 .....	A-744

	<b>Page</b>
Exhibit A to Prince Affidavit - Composite Exhibit .....	A-772
Memorandum of Law in Support of Defendants’ Joint Motion for Summary Judgment, dated May 14, 2010 .....	A-812
Rule 56.1 Statement of Uncontested Material Facts in Support of Defendants’ Joint Motion for Summary Judgment, dated May 14, 2010 .....	A-842
Declaration of Daniel J. Brooks, for Plaintiff, in Opposition to Defendants’ Motion for Summary Judgment, dated June 11, 2010 .....	A-886
Exhibit A to Brooks Declaration - Excerpts from Deposition Transcript of Richard Prince, dated October 6, 2009.....	A-888
Exhibit B to Brooks Declaration - Excerpts from Deposition Transcript of Lawrence Gagosian, dated October 8, 2009.....	A-893
Exhibit C to Brooks Declaration - Excerpts from Deposition Transcript of Christiane Celle, dated January 26, 2010 .....	A-896
Exhibit D to Brooks Declaration - Photograph entitled <i>V-J Day in Time Square</i> .....	A-901
Memorandum of Law in Opposition to Defendants’ Motion for Summary Judgment, dated June 14, 2010 .....	A-902
Supplemental Affidavit of Richard Prince, Defendant, in Further Support of Defendants’ Motion for Summary Judgment and in Opposition to Plaintiff’s Motion for Summary Judgment, sworn to June 11, 2010.....	A-933

	<b>Page</b>
Exhibit A to Prince Supplemental Affidavit - Composite Exhibit .....	A-936
Counter-Statement Pursuant to Local Civil Rule 56.1 of Undisputed Material Facts in Opposition to Defendants’ Motion for Summary Judgment, dated June 14, 2010 .....	A-937
Defendants Rule 56.1 State of Uncontested Material Fact in Response to Plaintiff’s Statement Pursuant to Local Rule 56.1, filed June 14, 2010..	A-970
Memorandum of Law in Opposition to Plaintiff’s Motion for Summary Judgment, dated June 14, 2010 .....	A-984
Affidavit of Hollis Gonerka Bart, for Defendants Gagosian Gallery, Inc. and Lawrence Gagosian, in Opposition to Plaintiff’s Motion for Summary Judgment, sworn to June 14, 2010.....	A-1014
Exhibit A to Bart Affidavit - Pages from Website of “Ganja Fields and Marijuana Tours” and “Negril Ganja Tour” .....	A-1017
Exhibit B to Bart Affidavit - Web Pages detailing the Amount of Time Cy Twombly and Pablo Picasso dedicated to various Works of Art.....	A-1030
Exhibit C to Bart Affidavit - Complaint, dated December 30, 2008 .....	A-1034
Exhibit D to Bart Affidavit - Excerpts from Deposition Transcript of Richard Prince, dated October 6, 2010.....	A-1049

	<b>Page</b>
Exhibit E to Bart Affidavit - Excerpts from Deposition Transcript of Lawrence Gagosian .....	A-1059
Exhibit F to Bart Affidavit - Excerpts from Deposition Transcript of Christiane Celle, dated January 26, 2010 .....	A-1075
Exhibit G to Bart Affidavit - Excerpts from Deposition Transcript of Patrick Cariou, dated January 12, 2010 .....	A-1082
Exhibit H to Bart Affidavit - Excerpts from Deposition Transcript of Louise Neri, dated December 17, 2009 .....	A-1085
Exhibit I to Bart Affidavit - Excerpts from Deposition Transcript of Allison McDonald, dated December 17, 2009 .....	A-1091
Response to Defendants' Counter-Statement of Uncontested Material Facts Pursuant to Local Rule 56.1, dated June 24, 2010.....	A-1102
Reply Memorandum of Law in Support of Plaintiff's Motion for Summary Judgment, dated June 24, 2010 .....	A-1107
Reply Declaration of Daniel J. Brooks, for Plaintiff, in Further Support of Motion for Summary Judgment, dated June 24, 2010.....	A-1121
Exhibit A to Brooks Reply Declaration - Excerpts from Deposition Transcript of Richard Prince, dated October 6, 2009.....	A-1123
Exhibit B to Brooks Reply Declaration - Excerpts from Deposition Transcript of Lawrence Gagosian, dated October 8, 2009.....	A-1129

	<b>Page</b>
Exhibit C to Brooks Reply Declaration - <i>New York Times</i> Article entitled “If the Copy Is an ArtWork, Then What’s the Original?” .....	A-1131
Exhibit D to Brooks Reply Declaration - Interview of Richard Prince by Brian Appel .....	A-1133
Defendants’ Joint Memorandum of Law in Reply to Plaintiff’s Opposition to Defendants’ Joint Motion for Summary Judgment, dated June 24, 2010 .....	A-1139
Reply Affidavit of Hollis Gonerka Bart, for Defendants Gagosian Gallery, Inc. and Lawrence Gagosian, in Further Support of Defendants’ Motion for Summary Judgment, sworn to June 24, 2010 .....	A-1154
Exhibit A to Bart Reply Affidavit - Excerpts from Deposition Transcript of John Olson, dated November 16, 2009 .....	A-1156
Exhibit B to Bart Reply Affidavit - Chart .....	A-1171
Exhibit C to Bart Reply Affidavit - Deposition Transcript of Richard Prince, dated October 6, 2009 .....	A-1173
Letter from Steven M. Hayes to the Honorable Deborah A. Batts, dated June 24, 2010 with Amendment to Defendants’ Rule 56.1 Statement of Uncontested Material Facts in Response to Plaintiff’s Statement Pursuant to Local Rule 56.1.	A-1271
Memo Endorsed Letter, dated July 1, 2010 .....	A-1273
Deposition Transcript of Lawrence Gagosian, dated October 8, 2009 .....	A-1274

	<b>Page</b>
Deposition Transcript of Anthony Petrillose, dated October 23, 2009 .....	A-1319
Deposition Transcript of Nancyscans Corp. by John Olson, dated November 16, 2009 .....	A-1350
Deposition Transcript of Alison McDonald, dated December 17, 2009 .....	A-1461
Deposition Transcript of Louise Neri, dated December 17, 2009 .....	A-1486
Deposition Transcript of Patrick Cariou, dated January 12, 2010 .....	A-1503
Deposition Transcript of Christiane Celle, dated January 26, 2010 .....	A-1578
Prince Deposition Exhibits 1-43 .....	A-1620
Cariou Deposition Exhibits 1-18 .....	A-1842
Neri Deposition Exhibits 106-109 .....	A-1988
Gagosian Deposition Exhibits 44-62 .....	A-1995
Olson Deposition Exhibits 92-102 .....	A-2067
Celle Deposition Exhibits 1-3 .....	A-2136
Petrillose Deposition Exhibits 63-91 .....	A-2145
McDonald Deposition Exhibits 103-105 .....	A-2235
Notice of Joint Appeal, dated March 25, 2011 .....	A-2260
Stipulation of Counsel, dated April 11, 2011 .....	A-2262



WITHERS BERGMAN LLP  
Hollis Gonerka Bart (HB-8955)  
Dara G. Hammerman (DH-1591)  
430 Park Avenue, 10<sup>th</sup> Floor  
New York, New York 10022  
212.848.9800 (p)  
212.848.9888 (f)  
*Attorneys for Defendants Gagosian Gallery, Inc.  
and Lawrence Gagosian*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PATRICK CARIOU, :

Plaintiff, :

-against- :

RICHARD PRINCE, GAGOSIAN GALLERY, :  
INC., LAWRENCE GAGOSIAN and RIZZOLI :  
INTERNATIONAL PUBLICATIONS, INC. :

Defendants. :

STIPULATION

08 CIV 11327 (DAB)

-----X  
WHEREAS, defendants Gagosian Gallery, Inc. ("Gagosian Gallery") and Lawrence Gagosian (collectively, "Gagosian") served a Subpoena for testimony and documents on non-party witness powerHouse Cultural Entertainment, Inc. ("PH"),

WHEREAS, PH offered, in lieu of a deposition, to stipulate to certain facts in order to avoid the time and expense of questioning a representative of PH as to the production, sale, publication, and advertisement of *Yes Rasta*,

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned that:

1. PH represents that it has printed, as of January 29, 2010, 7,000 copies of the book entitled *Yes Rasta* by Patrick Cariou ("*Yes Rasta*").

2. PH represents that, as of January 29, 2010, it has sold 5,791 copies of *Yes Rasta*.

3. PH represents that they produced 1 edition of *Yes Rasta*.
4. PH represents that it sold *Yes Rasta* through the following channels of distribution and that it sold the following number of books through each channel of distribution:
  - (a) 1676 via retail and wholesale outlets;
  - (b) 271 via direct (end consumer);
  - (c) 391 via special sales (foreign and deep discount) and 3453 below cost.
5. PH represents that *Yes Rasta* was being offered for suggested retail price at \$60 from October 2000 to 2008, and sold all copies at this suggested retail price less applicable discount. Subsequently, sometime between 2006 and 2008, PH raised the sale price of *Yes Rasta* to \$100 on its website only, and has sold very few, if any, copies at this price.
6. PH represents that it has paid Patrick Cariou \$5,931.17 in cash and \$2,156.58 in deductions against royalties due.
7. PH represents that no limited or deluxe editions of *Yes Rasta* were published.
8. PH represents that *Yes Rasta* in its hard cover edition is out of stock.
9. PH represents that the book is currently being offered for sale on the PH website, but due to lack of stock, availability is limited. There are untold *Yes Rasta* books still available for sale in Europe.
10. PH represents that it arranged for *Yes Rasta* to be reviewed or critiqued by the following individuals or entities:
  - (a) VOGUE HOMMES INTERNATIONAL
  - (b) THE FADER
  - (c) NEWSDAY
  - (D) HIGH TIMES

(E) SLEAZE NATION

(F) BLACK ISSUES BOOK REVIEW

(G) NEW MUSIC

11. PH represents that they have discussed working with Patrick Cariou on other projects.

12. PH represents that it received royalty payments above in connection with the publication of *Yes Rasta*.

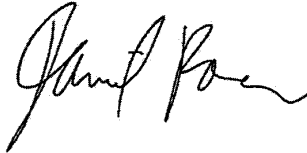
13. This Stipulation shall obviate the need for PH to testify at a deposition.

14. This Stipulation is entered into, without prejudice and with full reservation of all rights, solely for the purpose of facilitating the exchange of information between the undersigned.

15. This Stipulation may be executed in multiple counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument and agreement.

Dated: New York, New York  
February \_\_, 2010

PH CULTURAL ENTERTAINMENT, INC.



By: \_\_\_\_\_  
Daniel Power, CEO  
37 Main Street  
Brooklyn, New York 11201

*Non-party witness*

Dated: New York, New York  
February 1, 2010

WITHERS BERGMAN LLP

By: *Dara Hammerman*

Hollis Gonerka Bart  
Dara G. Hammerman  
430 Park Avenue, 10<sup>th</sup> Floor  
New York, NY 10022-3505  
(212) 848-9800

*Attorneys for Defendants Gagosian Gallery, Inc. and  
Lawrence Gagosian*

**Condensed Transcript**

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**PATRICK CARIOU,**

**Plaintiff,**

**vs.**

**Index No.: 08 CIV 11327 (DAB)**

**RICHARD PRINCE, GAGOSIAN  
GALLERY, INC., LAWRENCE  
GAGOSIAN, and RIZZOLI  
INTERNATIONAL PUBLICATIONS,  
INC.,**

**Defendants.**

---

**DEPOSITION OF**

**PATRICK CARIOU**

**Tuesday, January 12, 2010**

**New York, New York**

**Reported by:  
Bryan Nilsen, RPR**

  
**ESQUIRE**  
an All-American Culture Magazine

Telephone: 212.687.8010  
Toll Free: 800.944.9454  
Facsimile: 212.557.5972

One Penn Plaza  
Suite 4715  
New York, N.Y. 10119

Patrick Cariou

January 12, 2010

<p style="text-align: center;">5</p> <p style="text-align: center;">Cariou</p> <p>1</p> <p>2</p> <p>3</p> <p>4 IT IS HEREBY STIPULATED AND AGREED,</p> <p>5 by and among the attorneys for the</p> <p>6 respective parties herein, that filing and</p> <p>7 sealing be and the same are hereby waived.</p> <p>8</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that all objections, except as to the form</p> <p>11 of the question, shall be reserved to the</p> <p>12 time of the trial.</p> <p>13</p> <p>14 IT IS FURTHER STIPULATED AND AGREED</p> <p>15 that the within deposition may be sworn to</p> <p>16 and signed before any officer authorized</p> <p>17 to administer an oath, with the same force</p> <p>18 and effect as if signed and sworn to</p> <p>19 before the Court.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">7</p> <p style="text-align: center;">Cariou</p> <p>1</p> <p>2 Q. And you're also a full-time resident</p> <p>3 of Paris?</p> <p>4 A. Yes.</p> <p>5 Q. And do you consider French to be</p> <p>6 your native language?</p> <p>7 A. Yes.</p> <p>8 Q. And your attorney has told us that</p> <p>9 you speak English fluently, is that correct?</p> <p>10 MR. BROOKS: Objection.</p> <p>11 A. I speak English. Fluently is</p> <p>12 another matter.</p> <p>13 Q. Okay. Well, he's also told us that</p> <p>14 you do not need a translator for purposes of</p> <p>15 this deposition, is that correct?</p> <p>16 A. Yes, that is correct.</p> <p>17 Q. And you're prepared to proceed in</p> <p>18 the English language without a translator?</p> <p>19 A. Absolutely.</p> <p>20 Q. Of course, you know, if I ask you a</p> <p>21 question that you don't understand, please let</p> <p>22 me know.</p> <p>23 A. Sure.</p> <p>24 Q. Otherwise we're going to presume</p> <p>25 that if I've asked a question and you've</p>
<p style="text-align: center;">6</p> <p style="text-align: center;">Cariou</p> <p>1</p> <p>2 PATRICK CARIOU, called as a</p> <p>3 witness, having been duly sworn by a</p> <p>4 Notary Public, was examined and testified</p> <p>5 as follows:</p> <p>6 THE COURT REPORTER: Please state</p> <p>7 your name and address for the record.</p> <p>8 THE WITNESS: Patrick Cariou,</p> <p>9 C-A-R-I-O-U, 4 Rue De La Chaise - Rue is</p> <p>10 R-U-E, then De, D-E, La, L-A, Chaise is</p> <p>11 C-H-A-I-S-E, Paris, France.</p> <p>12 EXAMINATION BY</p> <p>13 MS. BART:</p> <p>14 Q. Good morning, Mr. Cariou. We've met</p> <p>15 before, but just for the record my name is</p> <p>16 Hollis Gonerka Bart, and I represent Gagosian</p> <p>17 Gallery and Larry Gagosian.</p> <p>18 And with me today is Steve Hayes who</p> <p>19 represents Richard Prince, and also John Sherman</p> <p>20 who represents Rizzoli Bookstore. I'm also</p> <p>21 accompanied by my colleague Dara Hammerman who</p> <p>22 also represents the Gagosian defendants.</p> <p>23 Do I understand correctly from your</p> <p>24 papers that you are a French citizen?</p> <p>25 A. Yeah.</p>	<p style="text-align: center;">8</p> <p style="text-align: center;">Cariou</p> <p>1</p> <p>2 answered it you understood the question that was</p> <p>3 being posed to you?</p> <p>4 A. Okay, no problem.</p> <p>5 Q. Now, you heard in the depositions</p> <p>6 that you've attended previously in this case for</p> <p>7 Mr. Prince and Mr. Gagosian that the court</p> <p>8 reporter needs to take down every word that's</p> <p>9 said?</p> <p>10 A. Mm-hmm.</p> <p>11 Q. So I would appreciate it if you</p> <p>12 would let me ask the complete sentence before</p> <p>13 you answer. This will also give Mr. Brooks an</p> <p>14 opportunity to object if he sees fit.</p> <p>15 As a matter of housekeeping, under</p> <p>16 the federal rules, each of the defendants'</p> <p>17 counsel, each of the defendants gets a total of</p> <p>18 seven hours to conduct their examination of you,</p> <p>19 and that's total testimony time.</p> <p>20 To try to make this as easy on</p> <p>21 everyone as possible, the defense counsel has</p> <p>22 agreed among ourselves that Withers Bergman</p> <p>23 would take the lead in this deposition, however,</p> <p>24 the defense counsel will reserve their right to</p> <p>25 ask additional questions, and we're going to</p>



**ESQUIRE**  
AN ALFRED A. KNOPF COMPANY

Toll Free: 800.944.9454  
 Facsimile: 212.557.5972

Suite 4715  
 One Penn Plaza  
 New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

Patrick Cariou

January 12, 2010

<p style="text-align: center;">33</p> <p>1 Cariou</p> <p>2 Exhibit 41.</p> <p>3 A. So you want me to actually tell</p> <p>4 you --</p> <p>5 Q. No, no, no. I just want you to have</p> <p>6 the book in front of you along with Plaintiff's</p> <p>7 Exhibit 40.</p> <p>8 A. Okay.</p> <p>9 Q. I don't believe you told me,</p> <p>10 approximately when did you prepare the document</p> <p>11 that's been marked as Plaintiff's Exhibit 40?</p> <p>12 A. It must have been around February I</p> <p>13 would say.</p> <p>14 Q. Of 2009?</p> <p>15 A. Of 2009, yeah.</p> <p>16 Q. On the first page of Plaintiff's</p> <p>17 Exhibit 40, which is the comparison that you've</p> <p>18 done --</p> <p>19 A. Yeah.</p> <p>20 Q. -- if you will look at the first</p> <p>21 page.</p> <p>22 A. Yeah, uh-huh.</p> <p>23 Q. No, no.</p> <p>24 A. Sorry.</p> <p>25 Q. No problem.</p>	<p style="text-align: center;">35</p> <p>1 Cariou</p> <p>2 Q. And I've read that correctly?</p> <p>3 A. Yeah.</p> <p>4 Q. When did you first approach this --</p> <p>5 MR. BROOKS: Hold on. He's not on</p> <p>6 paragraph 16.</p> <p>7 MS. BART: Sure. No problem.</p> <p>8 BY MS. BART:</p> <p>9 Q. It's the first sentence.</p> <p>10 A. Yeah, yeah. I got it.</p> <p>11 Q. Right.</p> <p>12 MS. BART: He had already agreed</p> <p>13 that it was correct.</p> <p>14 BY MS. BART:</p> <p>15 Q. When did you first approach this</p> <p>16 particular Rastafarian community about the</p> <p>17 possibility of gaining access to them?</p> <p>18 A. In spring '92.</p> <p>19 Q. And is there a reason why you</p> <p>20 approached this community?</p> <p>21 A. Well, first of all, it's not a</p> <p>22 community. It's just Rasta all over Jamaica.</p> <p>23 It's not one particular community. It's, you</p> <p>24 know, it's a community at large.</p> <p>25 Well, yeah, my love for Reggae</p>
<p style="text-align: center;">34</p> <p>1 Cariou</p> <p>2 We see two images there, one of</p> <p>3 Canal Zone and one of the Yes Rasta book. And</p> <p>4 it says Yes Rasta photographs by Patrick Cariou,</p> <p>5 do you see that?</p> <p>6 A. Yeah.</p> <p>7 Q. And you made this comparison because</p> <p>8 the Yes Rasta images you took are found in the</p> <p>9 Yes Rasta book?</p> <p>10 A. Excuse me. Come again, please.</p> <p>11 Q. Yes. In other words, I'm just</p> <p>12 trying to understand, you juxtaposed the Canal</p> <p>13 Zone book and the Yes Rasta book because you are</p> <p>14 saying that the images are -- some of the</p> <p>15 Yes Rasta images are found in the Canal Zone</p> <p>16 book?</p> <p>17 A. Correct.</p> <p>18 Q. Now, according to your complaint</p> <p>19 which you have in front of you, I believe it's</p> <p>20 paragraph 16, you say that you spent parts of</p> <p>21 six years in the secluded mountains of Jamaica</p> <p>22 gaining access to and living and working with</p> <p>23 and earning the trust of the Rastafarians who</p> <p>24 are the subjects of Yes Rasta?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">36</p> <p>1 Cariou</p> <p>2 music, my love for Jamaica, my love for their</p> <p>3 culture, their look, and also the fact that no</p> <p>4 book has ever been done about Rastafarians.</p> <p>5 Q. And so when you first approached</p> <p>6 them you approached them with the idea of</p> <p>7 preparing a book containing images and</p> <p>8 documenting --</p> <p>9 A. Yeah, absolutely.</p> <p>10 Q. -- and documenting the Rastafarian</p> <p>11 lifestyle?</p> <p>12 A. Yes.</p> <p>13 Q. And when you first approached them</p> <p>14 did you tell them that's what you wanted to do?</p> <p>15 A. Yes.</p> <p>16 Q. And what did they say to you?</p> <p>17 A. It depends on which one.</p> <p>18 Q. I see. I guess I understood from</p> <p>19 Mr. Henzell's description in the front part of</p> <p>20 the Yes Rasta book that you had gone and lived</p> <p>21 with one particular community, not that it was</p> <p>22 communities everywhere.</p> <p>23 So what you're saying is there are</p> <p>24 different Rasta communities --</p> <p>25 A. There is no such thing as a Rasta</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">37</p> <p>1 Cariou</p> <p>2 community. Most of them live by themselves, you</p> <p>3 know. So they are individual – extremely</p> <p>4 individualistic. It's not like you have a Rasta</p> <p>5 village or Rasta town. It doesn't – that's not</p> <p>6 the way it works. They are intertwined into the</p> <p>7 Jamaican population.</p> <p>8 Some would live in the city, some</p> <p>9 would live way up in the mountains, you know.</p> <p>10 It's various possibilities.</p> <p>11 Q. I see. So when it says that you</p> <p>12 spent part of six years in the secluded</p> <p>13 mountains of Jamaica, it wasn't just a group</p> <p>14 of Rastafarians –</p> <p>15 A. No, no. It was moving around.</p> <p>16 Q. And it wasn't just in the mountains?</p> <p>17 A. It was most of the time it was in</p> <p>18 the mountains, but not all the time in the</p> <p>19 mountains.</p> <p>20 Sometimes we had to go back to town</p> <p>21 to get some, you know, food or whatever we</p> <p>22 needed. Sometimes I needed batteries or</p> <p>23 whatever. So that's how it works.</p> <p>24 Q. But you lived with different –</p> <p>25 would it be proper to call them families,</p>	<p style="text-align: center;">39</p> <p>1 Cariou</p> <p>2 Jamaican Rastafarians?</p> <p>3 And I'm going to put them – I'm</p> <p>4 trying not to call them a community, because I</p> <p>5 appreciate that's not how you see it, but did</p> <p>6 someone introduce you to this group of people?</p> <p>7 A. No. I went by myself and, you know,</p> <p>8 that's what I'm good at, and make friends with</p> <p>9 someone who knew someone who knew someone and</p> <p>10 developed a network. And that was it.</p> <p>11 And it also took me six years to</p> <p>12 complete it. You know, it wasn't like a quick</p> <p>13 space, quick space sort of thing, you know. You</p> <p>14 had to be very patient and find the right moment</p> <p>15 to talk to someone.</p> <p>16 Q. And when it says you spent parts of</p> <p>17 six years, you didn't live with them the whole</p> <p>18 six years –</p> <p>19 A. No.</p> <p>20 Q. – you just went in and out?</p> <p>21 A. Yeah.</p> <p>22 Q. And during this six-year period did</p> <p>23 you continue your career as a professional</p> <p>24 photographer?</p> <p>25 A. Yeah.</p>
<p style="text-align: center;">38</p> <p>1 Cariou</p> <p>2 Rastafarian families – you lived with different</p> <p>3 Rastafarian families or different individuals?</p> <p>4 A. Yeah, you could say that.</p> <p>5 Q. During this time period?</p> <p>6 A. Yeah, yeah.</p> <p>7 Q. In various parts of Jamaica?</p> <p>8 A. Yeah.</p> <p>9 Q. Some in the mountains, some in the</p> <p>10 town?</p> <p>11 A. Yeah. Well, most of them –</p> <p>12 MR. BROOKS: Say yes, not yeah.</p> <p>13 THE WITNESS: All right. Okay.</p> <p>14 Sorry.</p> <p>15 MR. BROOKS: I'm sorry, what was the</p> <p>16 question?</p> <p>17 MS. BART: I think you might have</p> <p>18 interrupted his last answer.</p> <p>19 (Record read.)</p> <p>20 BY MS. BART:</p> <p>21 Q. And then you were about to say</p> <p>22 something else?</p> <p>23 A. Yeah, most of them in the mountains,</p> <p>24 not in the town.</p> <p>25 Q. Did someone introduce you to the</p>	<p style="text-align: center;">40</p> <p>1 Cariou</p> <p>2 Q. So –</p> <p>3 MR. BROOKS: Sorry. Yes. Say yes.</p> <p>4 A. Yes, yes.</p> <p>5 MS. BART: We can have an</p> <p>6 understanding that yeah means yes.</p> <p>7 I'm okay with it.</p> <p>8 A. Yes.</p> <p>9 MS. BART: Could you read back my</p> <p>10 last question, please.</p> <p>11 (Record read.)</p> <p>12 BY MS. BART:</p> <p>13 Q. So approximately how much of any</p> <p>14 given year during that six-year period did you</p> <p>15 spend living with a Rastafarian person or</p> <p>16 family?</p> <p>17 A. About six months a year.</p> <p>18 Q. And did you do this during a</p> <p>19 particular time of the year or just when your</p> <p>20 assignments allowed you to do it?</p> <p>21 A. When my assignment allowed me to do</p> <p>22 it.</p> <p>23 Q. So when you first approached someone</p> <p>24 about do you know any Rastafarians, you went</p> <p>25 there with this concept to document the</p>



Patrick Cariou

January 12, 2010

<p style="text-align: center;">41</p> <p>1 Cariou</p> <p>2 Rastafarians – I think you mentioned their</p> <p>3 culture, their looks –</p> <p>4 A. Mm-hmm.</p> <p>5 Q. – document those images, you went</p> <p>6 there with that purpose?</p> <p>7 A. Yeah.</p> <p>8 Q. And that's why you were in Jamaica?</p> <p>9 A. Yeah.</p> <p>10 Q. How were you first sort of</p> <p>11 introduced to or exposed to the Rastafarian</p> <p>12 culture?</p> <p>13 A. Well, through Reggae music, you</p> <p>14 know.</p> <p>15 Q. And when did you first begin</p> <p>16 listening to Reggae music?</p> <p>17 A. In – let me think. I don't know.</p> <p>18 I must have been 15, which is, you know, early</p> <p>19 '80s – no, not – late '70s.</p> <p>20 Q. Now, in the second line of your</p> <p>21 complaint, paragraph 16 –</p> <p>22 A. Yeah.</p> <p>23 Q. – it says the Rastafarians are a</p> <p>24 spiritual society living simply, independently,</p> <p>25 and in harmony with nature, apart from the</p>	<p style="text-align: center;">43</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. Now, it says in the sentence that I</p> <p>4 skipped over, it says that it was only after</p> <p>5 living with them for years that Plaintiff was</p> <p>6 finally permitted to photograph them?</p> <p>7 A. Yeah.</p> <p>8 Q. Okay. So you first went to Jamaica</p> <p>9 and made your first approach in 1992, so at what</p> <p>10 point did you first get the first person to</p> <p>11 agree to allow you to photograph them?</p> <p>12 A. I went in Jamaica twice without</p> <p>13 camera before –</p> <p>14 MR. BROOKS: With a what?</p> <p>15 A. Without a camera. And that was in</p> <p>16 spring '93 that I took my first picture of</p> <p>17 Rasta. I was, you know, close enough to some</p> <p>18 of them to be able to ask and to start taking</p> <p>19 pictures. They felt comfortable about it.</p> <p>20 Q. And they gave you permission to do</p> <p>21 that?</p> <p>22 A. Yes.</p> <p>23 MR. BROOKS: Excuse me.</p> <p>24 Did you get the word comfortable?</p> <p>25 (Discussion off the record.)</p>
<p style="text-align: center;">42</p> <p>1 Cariou</p> <p>2 industrialized world of environmental pollution</p> <p>3 and materialism which they reject and refer to</p> <p>4 as, quote, Babylon.</p> <p>5 A. Mm-hmm.</p> <p>6 Q. So it was that society and the</p> <p>7 simple sort of independent way in which they</p> <p>8 live that you wanted to take images of to</p> <p>9 document, if you will?</p> <p>10 A. Yeah.</p> <p>11 Q. In fact, we find this focus in your</p> <p>12 complaint in this allegation that says, you</p> <p>13 know, they're living this simple life and then</p> <p>14 you look down and it says the next paragraph, or</p> <p>15 a couple of lines down, it says the result was</p> <p>16 the photographs in Yes Rasta?</p> <p>17 A. Mm-hmm.</p> <p>18 Q. Approximately 100 strikingly</p> <p>19 original black and white photographs, mostly</p> <p>20 close-up portraits of stern, mystical-looking</p> <p>21 men within a distinctive tropical landscape?</p> <p>22 A. Yeah.</p> <p>23 Q. And so the results of the</p> <p>24 culmination of the photographing of this culture</p> <p>25 is what resulted in Yes Rasta?</p>	<p style="text-align: center;">44</p> <p>1 Cariou</p> <p>2 BY MS. BART:</p> <p>3 Q. When you approached a Rasta for the</p> <p>4 purpose of taking their photograph, I assume</p> <p>5 you – do I understand you correctly to be</p> <p>6 saying you asked each Rasta or each family that</p> <p>7 you photographed for their permission to</p> <p>8 photograph them?</p> <p>9 A. Well, you better – no, you start to</p> <p>10 know them, live with them – not necessarily</p> <p>11 live with them in the sense of living with them</p> <p>12 in their house, but hang out with them for a few</p> <p>13 days, few weeks, sometimes months. It depends.</p> <p>14 And at some point, yeah, you ask</p> <p>15 permission to take their picture.</p> <p>16 Q. And when you say live with them, the</p> <p>17 ones that are up in the mountains of Jamaica,</p> <p>18 would you actually go and camp out in the</p> <p>19 mountains –</p> <p>20 A. Yeah.</p> <p>21 Q. – or would you stay in a hotel and</p> <p>22 go back and forth?</p> <p>23 A. No, no. I never stayed in a hotel.</p> <p>24 Q. And so you would stay there for a</p> <p>25 period of time?</p>

Patrick Cariou

January 12, 2010

45	47
1 Cariou	1 Cariou
2 A. Yeah.	2 in the community or –
3 Q. Did any of the Rastafarians whose	3 A. Yeah.
4 images appear in the Yes Rasta images give you	4 Q. What did you do?
5 written permission to take their photograph?	5 A. Well, everything was to be done, you
6 A. No.	6 know, you need to go get water out of the river,
7 Q. Now, according to your complaint,	7 you need to go get the coconuts, you need to
8 your photographs, the subjects of your	8 cook, you need to clean, you need to be – to
9 photographs, it's portraiture?	9 make yourself part of the small group who is
10 A. Yeah.	10 there and, you know, not just sit and wait until
11 Q. And landscapes?	11 they've done. You participate to whatever needs
12 A. Yeah.	12 to be done.
13 Q. And that was part of your effort to	13 Q. So you were just trying to embed
14 document what I will call the Rastafarian	14 yourself, if you will, in this society, perhaps
15 culture?	15 one or two groups at a time, to really be able
16 A. Yeah. It's also my style of	16 to capture its essence through photography?
17 photography.	17 A. Exactly.
18 Q. Why don't you tell us what your	18 Q. So when I think of the word work
19 style of photography is?	19 with them, I think of maybe doing a job or
20 A. What my style of photography is?	20 performing a job, but in this particular society
21 Oh, that's – I'm into portraiture and masters,	21 making sure there's water and food is the job
22 Paul Strand, August Sander, Edward Curtis, who	22 itself?
23 were traveling photographers, and it's sort of a	23 A. Exactly.
24 static way of taking a picture of when someone	24 Q. And that's how you're using the word
25 is looking at you – the viewer, either the	25 work in this complaint?
46	48
1 Cariou	1 Cariou
2 viewer or anybody understands that the person	2 A. Yeah.
3 whose portrait, in the portrait, has agreed and	3 Q. So it wasn't that you went there to
4 is aware that someone is taking his photograph.	4 photograph them and that was your job in regards
5 That's –	5 to the Rastafarians, that was what you were
6 Q. Because you are trying to stage it	6 there to do but it wasn't the work you were
7 in a certain way?	7 performing for them?
8 A. I stage it, yeah.	8 A. No, no, no.
9 Q. And you're trying to capture as	9 Q. What I'd like to do is take you
10 closely as possible the essence of the person	10 through the images that are in Plaintiff's
11 whose image you're taking?	11 Exhibit 40. So if you could keep the book out,
12 A. Yeah, absolutely.	12 you might want to keep the complaint handy, and
13 Q. Did anyone assist you in the taking	13 go through Plaintiff's Exhibit 40.
14 of any of the Yes Rasta images?	14 And if we could, go to the second
15 A. No.	15 page which is marked C00018.
16 Q. So that was done strictly on your	16 A. Yes.
17 own?	17 MR. BROOKS: Excuse me. This is 40.
18 A. Yeah.	18 A. Oh, yeah, okay.
19 Q. Now, in your complaint it says that	19 Q. That's 41.
20 you – in the first line –	20 MR. BROOKS: And she's talking about
21 MR. BROOKS: Which paragraph?	21 this first page, C00018.
22 MS. BART: 16.	22 MS. BART: Yes.
23 Q. It says that you not only lived with	23 A. Yeah.
24 the Rastas but you also worked with them.	24 Q. Those are numbers, Mr. Cariou, that
25 Did you actually perform like work	25 your counsel placed on this particular document,



**ESQUIRE**  
an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

49	51
1 Cariou	1 Cariou
2 and it's just to help us with identification.	2 Q. When you took this your artistic
3 So when you're talking about a page	3 purpose was strictly to capture this man in his
4 we'll try to refer to it and the same thing with	4 environment, is that correct?
5 the numbers.	5 A. No, it was to make a beautiful
6 A. Okay.	6 portrait.
7 Q. So let's start with this person	7 Q. Did you choose the setting for this
8 which you put as the first image in your	8 or is this around where he lives?
9 comparison, and can you tell me when this	9 A. No, I choose the setting.
10 photograph was taken?	10 Q. And what was it about the landscape
11 A. It must have been taken in around	11 surrounding this gentleman that caused you to
12 '95.	12 choose him, choose this particular setting for
13 Q. And how is it that you place this	13 this particular image?
14 particular image in 1995?	14 A. Because he was -- it fits with him.
15 A. How? Why?	15 It was right in the middle of the jungle.
16 Q. How do you know -- you said it must	16 Q. Now, could you please go to the
17 have --	17 image in the book, and if you will look on the
18 A. Because I remember when I was with	18 right-hand side you will see numbers with blue
19 that man.	19 tabs?
20 Q. And this would have been about three	20 A. Yeah.
21 years into your sojourn into the Rastafarian	21 Q. Those numbers correspond to the
22 culture?	22 Bates Number that your lawyer has put on this
23 A. Yeah.	23 page.
24 Q. And was this a staged photograph?	24 A. Okay.
25 A. Yeah, absolutely.	25 Q. So if you will find the actual
50	52
1 Cariou	1 Cariou
2 Q. And how long did it take you to	2 image --
3 shoot this particular image?	3 A. Okay.
4 A. I don't know. We tried a few	4 Q. Do you find number 18 there?
5 positions. Maybe an hour.	5 A. No, but I will soon.
6 Q. And is there a reason why you wanted	6 (Witness looks through exhibit.)
7 to photograph this particular man, in other	7 A. Yes, I got it.
8 words, was he just one of the Rastas that was	8 Q. Okay. In looking at that photograph
9 willing to give you permission, or was there	9 or that image, I see that the back, the
10 something specific about this particular man	10 landscape behind him is largely blurred --
11 that you wanted to capture on film?	11 A. Yeah.
12 A. There's something really specific	12 Q. -- in part?
13 that I wanted to capture about that man.	13 A. Yeah.
14 Q. And what is that?	14 Q. Why did you choose to do that?
15 A. There's a few things. Like his	15 A. Because it's like that mostly in the
16 strength, for one. His dreads. You know, the	16 book, and I decided to do that, which is --
17 fact that he lives really high up in the	17 there is a thing in photography called depth of
18 mountains. As you can see, he's wearing boots,	18 field, which is, you know, you can see more or
19 plastic boots, because it's so humid.	19 less of the background.
20 And I like that man and, you know,	20 And I decided long before I actually
21 it's hard to explain why a portraitist wants to	21 started that book that I wanted to -- I would
22 take a picture of someone. I liked him. He	22 like to -- I wanted to use little depth of field
23 liked me. And I thought -- it's actually one	23 and a certain lens in order to have my pictures
24 of my favorite pictures. I think it's also	24 like that.
25 Mr. Prince's favorite picture too.	25 MR. BROOKS: Excuse me.



Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

53	55
<p>1 Cariou</p> <p>2 Did you get lens?</p> <p>3 (Record read.)</p> <p>4 (Discussion off the record.)</p> <p>5 BY MS. BART:</p> <p>6 Q. What type of lens did you choose?</p> <p>7 A. What type of lens?</p> <p>8 Q. You said you had chosen a specific</p> <p>9 lens?</p> <p>10 A. Yeah, it was a 165-millimeter Pentax</p> <p>11 lens on a medium camera, medium-format camera,</p> <p>12 sorry.</p> <p>13 Q. And is there something special about</p> <p>14 the use of a 165-millimeter Pentax lens on a</p> <p>15 medium-size camera?</p> <p>16 A. Yeah.</p> <p>17 Q. And what is that?</p> <p>18 In other words, you were obviously</p> <p>19 going for a particular type of look?</p> <p>20 A. Yeah.</p> <p>21 Q. And that's what I'm trying to</p> <p>22 understand.</p> <p>23 A. Yeah.</p> <p>24 Q. So you must have chosen that lens</p> <p>25 and that camera for a specific reason?</p>	<p>1 Cariou</p> <p>2 A. Exactly.</p> <p>3 Q. To save time, Mr. Cariou, did you</p> <p>4 use that same camera and lens on all of these or</p> <p>5 only some of them?</p> <p>6 A. No, I used two lenses.</p> <p>7 Q. Well, then we'll do it photograph by</p> <p>8 photograph.</p> <p>9 So I guess then when you blur out</p> <p>10 the background I take it then that other than</p> <p>11 the fact that this man lives in the tropical</p> <p>12 area that he does, in this particular image the</p> <p>13 background then for artistic purposes is really</p> <p>14 not that important?</p> <p>15 MR. BROOKS: Object to the form.</p> <p>16 You can answer.</p> <p>17 A. No, it's not -- because, as you can</p> <p>18 notice, there's lights around. And the way --</p> <p>19 the angle you choose and the bush you choose</p> <p>20 behind is going to make a huge difference in the</p> <p>21 picture.</p> <p>22 If it's backlit or it's not</p> <p>23 backlit -- you see all the little dots? Those</p> <p>24 are important. Those are extremely important</p> <p>25 when you take those type of pictures.</p>
54	56
<p>1 Cariou</p> <p>2 A. Well, then in order to answer that</p> <p>3 properly we would need to go into photography</p> <p>4 principles, you know, the size of the lens, the</p> <p>5 F-stop. Everything goes with it. The size of</p> <p>6 the neg, et cetera, et cetera.</p> <p>7 You know, why did I use the 165?</p> <p>8 Because I knew I was getting that effect for</p> <p>9 that picture.</p> <p>10 Q. And that effect is what?</p> <p>11 A. That effect is to have the</p> <p>12 background to be a bit blurry.</p> <p>13 Q. And you could also achieve that by</p> <p>14 narrowing the F-stop, correct?</p> <p>15 A. You could do that too, yeah. Yeah.</p> <p>16 Q. For a narrow depth of field?</p> <p>17 A. Yeah.</p> <p>18 Q. And so what that does -- and I'm</p> <p>19 trying to understand, does that then make</p> <p>20 landscape fade into the background and the</p> <p>21 subject that you're taking the portrait of</p> <p>22 become more prominent?</p> <p>23 A. Exactly.</p> <p>24 Q. And that was the purpose of doing</p> <p>25 that?</p>	<p>1 Cariou</p> <p>2 Q. Were you using artificial light or</p> <p>3 was this done --</p> <p>4 A. No, it's natural light.</p> <p>5 Q. -- with natural lighting?</p> <p>6 A. And of course you have the -- you</p> <p>7 choose the period, the time of the day when</p> <p>8 you're going to take the picture.</p> <p>9 Q. To get that light from the correct</p> <p>10 angle?</p> <p>11 A. To get what you want, yeah.</p> <p>12 Q. How long did it take you to find</p> <p>13 this particular setting?</p> <p>14 A. You know, it's hard to say because</p> <p>15 I was living with that man for a few days, you</p> <p>16 know, waiting for the right moment to take a</p> <p>17 picture, and I was looking around for days.</p> <p>18 Not taking the picture, but like --</p> <p>19 Q. I call it scouting.</p> <p>20 A. We could call it scouting. I went</p> <p>21 scouting for a few days before.</p> <p>22 But I was also waiting for him to be</p> <p>23 in a mood to have his picture taken.</p> <p>24 Q. And that's because the essence of</p> <p>25 this picture is really the portrait?</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esqulresolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">61</p> <p>1 Cariou</p> <p>2 the images you used the word we processed.</p> <p>3 Who helped you with the processing?</p> <p>4 A. My lab. It's called Richard</p> <p>5 Foulster, F-O-U-L-S-T-E-R.</p> <p>6 Q. And you've referred to his name by</p> <p>7 looking in the back of Plaintiff's Exhibit 41,</p> <p>8 right, in the acknowledgments?</p> <p>9 A. Yeah.</p> <p>10 Q. He was one of the people that you</p> <p>11 acknowledged?</p> <p>12 A. Yes.</p> <p>13 Q. Now, did you give Mr. Foulster</p> <p>14 specific instructions for how you wanted this</p> <p>15 image, for example –</p> <p>16 A. Of course.</p> <p>17 Q. – to be exposed and printed?</p> <p>18 A. Yes.</p> <p>19 Q. And what did you tell Mr. Foulster</p> <p>20 you wanted done with the image that appears on</p> <p>21 C18?</p> <p>22 A. Well, C18 – you have to take the</p> <p>23 whole book as a whole. You know, C18 didn't</p> <p>24 come as the first image. You know, we already</p> <p>25 had images that we were, you know, happy with</p>	<p style="text-align: center;">63</p> <p>1 Cariou</p> <p>2 Q. Yes. I'm trying to just understand,</p> <p>3 you said there was a trial-and-error period, and</p> <p>4 then once you came up with the look that you</p> <p>5 liked you then exposed and developed each of the</p> <p>6 other images that appear in Yes Rasta in the</p> <p>7 same way.</p> <p>8 MR. BROOKS: Can I just say</p> <p>9 something? I think the exposing – I</p> <p>10 could be wrong – is done when he's</p> <p>11 shooting the picture.</p> <p>12 The processing is in the lab, I</p> <p>13 think.</p> <p>14 MS. BART: He actually used the word</p> <p>15 exposure in connection with processing, so</p> <p>16 I'm trying to follow his –</p> <p>17 A. No, no, no. But if I did, that's my</p> <p>18 mistake.</p> <p>19 Q. Okay.</p> <p>20 A. The exposure is done –</p> <p>21 Q. That's how I usually understand it,</p> <p>22 is the exposure is through the lens. That is</p> <p>23 how I understood it.</p> <p>24 But you were using it in the lab</p> <p>25 context?</p>
<p style="text-align: center;">62</p> <p>1 Cariou</p> <p>2 the look of it.</p> <p>3 And it was – then it became sort of</p> <p>4 a routine of, you know, having – you know, when</p> <p>5 you process a film you get contact sheets. Then</p> <p>6 from the contact sheets you go to printing.</p> <p>7 And we did – we print – we always</p> <p>8 print together. You know, I'm here when he's</p> <p>9 printing my picture.</p> <p>10 Q. In the darkroom?</p> <p>11 A. In the darkroom.</p> <p>12 Q. And so is it fair to say – again,</p> <p>13 I'm just trying to understand the process – but</p> <p>14 is it fair to say then once you developed the</p> <p>15 technique that you wanted to create the certain</p> <p>16 dark look with accents, that is how all of the</p> <p>17 images that appear in the Yes Rasta book were</p> <p>18 developed?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. So could you just describe</p> <p>21 for us what the process was that you finally</p> <p>22 settled upon for this particular – for the</p> <p>23 Yes Rasta book?</p> <p>24 A. Could you repeat your question,</p> <p>25 please?</p>	<p style="text-align: center;">64</p> <p>1 Cariou</p> <p>2 A. Yeah, that's my mistake. Sorry.</p> <p>3 Q. Okay. So what about the processing,</p> <p>4 what was it that you were trying to capture in</p> <p>5 the processing?</p> <p>6 A. We were trying to get extremely dark</p> <p>7 images but still keeping a lot of details.</p> <p>8 C18 is not the best example. I can</p> <p>9 show you another example, like the black man in</p> <p>10 the shade but you can still see every details</p> <p>11 that there is to see in this picture.</p> <p>12 Q. And may the record reflect that the</p> <p>13 witness has showed us the image that appears on</p> <p>14 page 13 of Plaintiff's Exhibit 41.</p> <p>15 MR. BROOKS: Is that 13?</p> <p>16 MS. BART: Down on the bottom.</p> <p>17 MR. BROOKS: I'm sorry, I think –</p> <p>18 oh, it's 13, okay.</p> <p>19 A. As an example.</p> <p>20 Q. Yes, I understand.</p> <p>21 A. That's what we were trying to get.</p> <p>22 And it's not easy to get that, to shoot black</p> <p>23 people in the shade, because most of them are</p> <p>24 shot in the shade, and still getting details is</p> <p>25 something which takes work to do.</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">65</p> <p>1 Cariou</p> <p>2 And we went through the whole</p> <p>3 process of trying one way and another way and</p> <p>4 another way up until we managed to have it.</p> <p>5 Q. And I think you testified earlier</p> <p>6 that you began taking images in 1993 that was</p> <p>7 your first image?</p> <p>8 A. Yes.</p> <p>9 Q. And so approximately how long did it</p> <p>10 take you to sort of work out this process with</p> <p>11 Mr. Foulster?</p> <p>12 A. Well, we've been working together</p> <p>13 forever. And I just want to show you -- you</p> <p>14 know what I mean, that's what we were trying to</p> <p>15 get.</p> <p>16 (Witness indicating.)</p> <p>17 MS. BART: May the record reflect</p> <p>18 that the witness has shown me a two-page</p> <p>19 image which is marked pages 43 and 44 in</p> <p>20 the Yes Rasta book.</p> <p>21 A. You know, I was doing -- I was</p> <p>22 trying things, not being in Jamaica, you know,</p> <p>23 when I was on location sometimes for my</p> <p>24 professional work, on the island, I was trying</p> <p>25 things, and I couldn't tell you exactly how long</p>	<p style="text-align: center;">67</p> <p>1 Cariou</p> <p>2 Q. Other than through the sale of the</p> <p>3 Yes Rasta book have you marketed this particular</p> <p>4 image, which appears on page --</p> <p>5 A. 118.</p> <p>6 Q. -- 118 of the book and C18 of</p> <p>7 Plaintiff's Exhibit 40, have you marketed it in</p> <p>8 any way other than through the book?</p> <p>9 A. No.</p> <p>10 Q. Have you licensed any rights to any</p> <p>11 person other than Powerhouse to use this image?</p> <p>12 A. No.</p> <p>13 Q. Now, if you would go back to the</p> <p>14 complaint, paragraph 16, which you have in front</p> <p>15 of you.</p> <p>16 A. Yeah.</p> <p>17 Q. In that paragraph you make a</p> <p>18 collective reference to the images in the</p> <p>19 Yes Rasta book, and it starts off with -- we</p> <p>20 read it before -- the result was the</p> <p>21 photographs?</p> <p>22 A. Yeah.</p> <p>23 Q. And you say of approximately 100</p> <p>24 strikingly-original black and white photographs,</p> <p>25 can you tell me in your own words why you</p>
<p style="text-align: center;">66</p> <p>1 Cariou</p> <p>2 it took us to define the whole process.</p> <p>3 Q. A year, a month, approximately?</p> <p>4 A. I would say a year.</p> <p>5 Q. And this is trial and error over a</p> <p>6 period of time?</p> <p>7 A. Mm-hmm, yes.</p> <p>8 Q. Returning now, if you wouldn't mind,</p> <p>9 please, you can either look at it on Plaintiff's</p> <p>10 Exhibit 40 or you can look at it in the book,</p> <p>11 which is marked -- the image that appears on</p> <p>12 C00018, which is this gentleman that we first</p> <p>13 started talking about?</p> <p>14 A. Yeah, yeah, the first guy.</p> <p>15 Q. Does this photograph have, or this</p> <p>16 image, does this have a title?</p> <p>17 A. No.</p> <p>18 Q. Did it ever have a title?</p> <p>19 A. No, not yet.</p> <p>20 Q. Is there a reason why you didn't</p> <p>21 title these works of art or these images?</p> <p>22 A. No.</p> <p>23 Q. Have you ever sold any individual</p> <p>24 prints of this photograph, of this image?</p> <p>25 A. Of that image? No.</p>	<p style="text-align: center;">68</p> <p>1 Cariou</p> <p>2 believe this is strikingly original, this image</p> <p>3 that appears on C18 and page 118 of Plaintiff's</p> <p>4 Exhibit 41?</p> <p>5 A. You know, I've been trying for 25</p> <p>6 years to take good pictures, and I think that's</p> <p>7 pretty good. I think it's -- I would even say</p> <p>8 it's a great photograph.</p> <p>9 You know, some people consider this</p> <p>10 book the ultimate book ever done on Rasta.</p> <p>11 Q. But there are others --</p> <p>12 A. No.</p> <p>13 Q. -- in the marketplace?</p> <p>14 A. No.</p> <p>15 Q. Now, in your complaint in paragraph</p> <p>16 16 you then say these portraits were taken</p> <p>17 within a distinctive tropical landscape?</p> <p>18 A. Mm-hmm.</p> <p>19 Q. And I would like to understand why</p> <p>20 you think the landscape that appears in this</p> <p>21 particular image is distinctive, in your view?</p> <p>22 A. It's a group. It's a book. You</p> <p>23 know, next to it you have a tropical landscape.</p> <p>24 You obviously associate both. And the next page</p> <p>25 is the same thing.</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">73</p> <p>1 Cariou</p> <p>2 what a young Rasta should represent to me.</p> <p>3 Q. And is there a reason why you wanted</p> <p>4 him seated on a donkey?</p> <p>5 A. It was a collaboration. He has a</p> <p>6 donkey. He wanted to have his picture taken.</p> <p>7 I was with the idea and we did it that way.</p> <p>8 You know, sometimes you don't have</p> <p>9 an explanation for why things happen a certain</p> <p>10 way.</p> <p>11 Q. And so your reason for taking this</p> <p>12 particular image was just another example, was</p> <p>13 that to you he typifies I think you said a young</p> <p>14 Rastafarian?</p> <p>15 A. Yeah.</p> <p>16 Q. Now, could you spell for the record</p> <p>17 the place where he lives, I think you said it</p> <p>18 was Negril?</p> <p>19 A. He lives on the west end in Negril.</p> <p>20 Q. Could you spell --</p> <p>21 A. Negril. Negril is N-E-G-R-I-L.</p> <p>22 Q. You can do the French spelling of</p> <p>23 you want. I could stay with you. I could see</p> <p>24 you trying to do N --</p> <p>25 A. Yeah.</p>	<p style="text-align: center;">75</p> <p>1 Cariou</p> <p>2 A. Mm-hmm.</p> <p>3 Q. -- to take this particular image?</p> <p>4 A. Yeah.</p> <p>5 Q. And that's because what you were</p> <p>6 focusing on was the portrait of this particular</p> <p>7 man?</p> <p>8 A. Yeah.</p> <p>9 Q. And did you obtain his permission to</p> <p>10 take this image?</p> <p>11 A. Yeah.</p> <p>12 Q. You actually said he wanted to have</p> <p>13 his image taken?</p> <p>14 A. Yeah.</p> <p>15 Q. Did you pay any of the Rastafarians</p> <p>16 any money?</p> <p>17 A. No, I never paid any -- to take</p> <p>18 their pictures, no.</p> <p>19 Q. And so did you give them any other</p> <p>20 kind of -- let me finish --</p> <p>21 A. Sorry.</p> <p>22 Q. -- any kind of -- I want to use the</p> <p>23 word consideration, but I don't want to draw a</p> <p>24 legal conclusion here.</p> <p>25 In other words, did you give them</p>
<p style="text-align: center;">74</p> <p>1 Cariou</p> <p>2 Q. Is the west end of Negril a</p> <p>3 community, like a town, or is it more out in a</p> <p>4 rural setting?</p> <p>5 A. It's more of a little town.</p> <p>6 Q. So was this shot near his home or</p> <p>7 did you have to go somewhere to shoot this</p> <p>8 image?</p> <p>9 A. We had to go somewhere to shoot</p> <p>10 this.</p> <p>11 Q. And is there a reason why you chose</p> <p>12 this particular setting for this photograph?</p> <p>13 A. How can I answer that? You know, it</p> <p>14 felt good. It felt right.</p> <p>15 Q. Now, again, would you mind just</p> <p>16 holding up the book so I can see the image once,</p> <p>17 please, because this is very blurred, the PEX 40</p> <p>18 is very blurred.</p> <p>19 If you notice -- you can turn it</p> <p>20 back around -- the background is quite blurred</p> <p>21 out --</p> <p>22 A. Sure.</p> <p>23 Q. -- a substantial portion.</p> <p>24 Again, you used a narrow depth of</p> <p>25 field --</p>	<p style="text-align: center;">76</p> <p>1 Cariou</p> <p>2 anything in return for letting you take their</p> <p>3 photograph or their image?</p> <p>4 A. That's not the way it works. But I</p> <p>5 would bring back bags of clothes, you know, to</p> <p>6 friends, to guys I really appreciated.</p> <p>7 Whether I photographed them or not,</p> <p>8 it wasn't really an issue. But, you know, I</p> <p>9 had a contact with Adidas at that time and I</p> <p>10 could -- you know, they would give me big bags</p> <p>11 of clothes and I would bring them that, or I</p> <p>12 would, you know, help them out or if they need</p> <p>13 some food or things like that. Things you do in</p> <p>14 a normal way. But I never paid a Rasta to</p> <p>15 photograph them.</p> <p>16 Q. And that's because they don't</p> <p>17 actually use money in their --</p> <p>18 A. No, that's not -- they do use money.</p> <p>19 I mean they use a little bit of money, as little</p> <p>20 as possible. But no one can live without money,</p> <p>21 you know. Sometimes you need a new machete, so.</p> <p>22 No, it's a personal ethical thing to</p> <p>23 me not to pay people to photograph them.</p> <p>24 They either accept it or they don't,</p> <p>25 but I don't pay people to photograph them.</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">77</p> <p>1 Cariou</p> <p>2 Q. For these books that you're going to</p> <p>3 then sell?</p> <p>4 A. Yeah.</p> <p>5 Q. Does this particular image that</p> <p>6 appears on pages 83 and 84 and C00021, does it</p> <p>7 have a title?</p> <p>8 A. No.</p> <p>9 Q. Did it ever have a title?</p> <p>10 A. No.</p> <p>11 Q. I don't want to ask you the same</p> <p>12 question for all of the images, so maybe we can</p> <p>13 rush this through.</p> <p>14 Is it fair to say that none of the</p> <p>15 images have titles, is that correct?</p> <p>16 A. It's correct.</p> <p>17 Q. And none of them have ever had</p> <p>18 titles?</p> <p>19 A. It's correct.</p> <p>20 Q. Is there a reason why you chose to</p> <p>21 make these a collection of untitled works?</p> <p>22 A. Yeah.</p> <p>23 Q. And what is that?</p> <p>24 A. It's right in the end of the book.</p> <p>25 Out of respect for the privacy of the Rasta in</p>	<p style="text-align: center;">79</p> <p>1 Cariou</p> <p>2 (Defendant's Exhibit 3, page from</p> <p>3 Yes Rasta GGP0043113, was marked for</p> <p>4 identification, as of this date.)</p> <p>5 BY MS. BART:</p> <p>6 Q. Mr. Cariou, I'm handing you what's</p> <p>7 been marked for identification as Defendant's</p> <p>8 Exhibit 3. And is this a correct copy of the</p> <p>9 page that you just read to us from?</p> <p>10 A. Yes, it is.</p> <p>11 Q. Okay. You can put that down now.</p> <p>12 Thank you.</p> <p>13 Returning now to the image that</p> <p>14 appears on pages 83 and 84 and C00021, can you</p> <p>15 tell me if you've ever sold any individual</p> <p>16 prints of this particular photograph?</p> <p>17 A. No.</p> <p>18 Q. And other than the sale of the</p> <p>19 Yes Rasta book have you marketed this photograph</p> <p>20 in any way?</p> <p>21 MR. BROOKS: Object to the form.</p> <p>22 I don't know what marketed means,</p> <p>23 but he can answer.</p> <p>24 A. No.</p> <p>25 Q. Marketed to me -- I mean you</p>
<p style="text-align: center;">78</p> <p>1 Cariou</p> <p>2 Yes Rasta caption and names and places have been</p> <p>3 excluded.</p> <p>4 Q. And that is something that you asked</p> <p>5 to have put in the book?</p> <p>6 A. Yeah, I --</p> <p>7 Q. That's something you wrote?</p> <p>8 A. Yeah.</p> <p>9 Q. And that's part of the materials</p> <p>10 that you contributed to the publisher?</p> <p>11 A. Yeah.</p> <p>12 MS. BART: Can we go off the record</p> <p>13 for a second?</p> <p>14 (Discussion off the record.)</p> <p>15 MS. BART: I'm just going hand the</p> <p>16 court reporter a copy of the page that you</p> <p>17 just read from which appears at the end of</p> <p>18 the Yes Rasta book, and for the record</p> <p>19 we'll just mark it.</p> <p>20 It has -- I guess we're producing</p> <p>21 it, but from your work, it's got</p> <p>22 Bates Number GGP0043113.</p> <p>23 MR. BROOKS: This is Defendant's</p> <p>24 Exhibit 3?</p> <p>25 MS. BART: Yes.</p>	<p style="text-align: center;">80</p> <p>1 Cariou</p> <p>2 answered the question, so do you understand that</p> <p>3 to mean selling or trying to get people to buy</p> <p>4 it or in some way commercialize it?</p> <p>5 A. No.</p> <p>6 Q. And have you licensed, other than</p> <p>7 the Powerhouse agreement which you've produced</p> <p>8 to us, have you licensed any rights in this</p> <p>9 image to any person?</p> <p>10 A. No.</p> <p>11 MR. BROOKS: 83 and 84?</p> <p>12 MS. BART: That's correct, same</p> <p>13 photograph.</p> <p>14 BY MS. BART:</p> <p>15 Q. I believe you have answered this, so</p> <p>16 I apologize if I've already asked it, when you</p> <p>17 said you just thought he embodies the strong</p> <p>18 young gentleman, but is that why you believe</p> <p>19 this particular photograph is among the 100</p> <p>20 strikingly beautiful original works that you've</p> <p>21 done?</p> <p>22 A. It's one of the many reasons why,</p> <p>23 yeah.</p> <p>24 Q. So are there other reasons why you</p> <p>25 think this is strikingly original?</p>



Patrick Cariou

January 12, 2010

<p style="text-align: center;">81</p> <p>1 Cariou</p> <p>2 A. The composition, the way he looks at</p> <p>3 us, you know, the way his body looks, you know,</p> <p>4 the nature he's in, the light, being slightly</p> <p>5 backlit, and the quality of the black and white.</p> <p>6 Q. And in terms of the landscaping, a</p> <p>7 portion of which is blurred out, what do you</p> <p>8 feel is distinctive about this, or is this just</p> <p>9 another example of you have to look at the whole</p> <p>10 book to get what's distinctive about the</p> <p>11 landscape?</p> <p>12 A. Yeah, you have to look at the whole</p> <p>13 book in order to get a better feel of the place</p> <p>14 than looking at one picture, definitely.</p> <p>15 MS. BART: Off the record.</p> <p>16 (Discussion off the record.)</p> <p>17 (Recess taken: 11:38 a.m.)</p> <p>18 (Proceedings resumed: 11:51 a.m.)</p> <p>19 BY MS. BART:</p> <p>20 Q. Mr. Cariou, will you please turn on</p> <p>21 Plaintiff's Exhibit 40 to the page that's marked</p> <p>22 C00024?</p> <p>23 A. Yes.</p> <p>24 Q. Do you have that in front of you?</p> <p>25 A. Yeah, I do.</p>	<p style="text-align: center;">83</p> <p>1 Cariou</p> <p>2 talking about, which is in the middle of C00024,</p> <p>3 correct?</p> <p>4 A. Yeah.</p> <p>5 Q. Can you tell me approximately when</p> <p>6 this photograph was taken?</p> <p>7 A. Once again, you know, it's hard for</p> <p>8 me to have a recollection of every picture in my</p> <p>9 book and when they were taken.</p> <p>10 Q. Where would you place it in the</p> <p>11 six-year span that you were --</p> <p>12 A. I would put it towards the end.</p> <p>13 Q. Just again, Mr. Cariou, kindly let</p> <p>14 me just get my question all the way out before</p> <p>15 you answer.</p> <p>16 A. Sorry.</p> <p>17 Q. I know in a conversation that's</p> <p>18 acceptable, but in this forum it's a little</p> <p>19 artificial.</p> <p>20 I take it this is another photograph</p> <p>21 that you staged and this is a venue that you</p> <p>22 chose for this particular shot, is that correct?</p> <p>23 A. Absolutely.</p> <p>24 Q. And is there a reason why you wanted</p> <p>25 to focus this particular -- sorry, photograph</p>
<p style="text-align: center;">82</p> <p>1 Cariou</p> <p>2 Q. Now, this page contains multiple</p> <p>3 images from the Yes Rasta book. The first one</p> <p>4 which appears on the bottom left-hand corner,</p> <p>5 there's three in a row, the first one in the</p> <p>6 bottom left-hand corner we've already talked</p> <p>7 about.</p> <p>8 I'd like to turn next to the one</p> <p>9 that's in the middle at the bottom.</p> <p>10 A. Mm-hmm.</p> <p>11 Q. Do you see that one there?</p> <p>12 A. Yeah.</p> <p>13 Q. It's in essence a person's head and</p> <p>14 it looks like it's in the middle of vegetation?</p> <p>15 A. Yeah.</p> <p>16 Q. Is that him?</p> <p>17 A. Yeah.</p> <p>18 Q. Can you please turn to the first</p> <p>19 blue tab on Plaintiff's Exhibit 41 that is</p> <p>20 marked C24, that should be the same image, and</p> <p>21 we can get a page number.</p> <p>22 And what page is that, 33?</p> <p>23 A. 33, yeah.</p> <p>24 Q. Thank you.</p> <p>25 So that is the image that we're</p>	<p style="text-align: center;">84</p> <p>1 Cariou</p> <p>2 this particular man, or is he just another one</p> <p>3 of the strong Rastafarian men that you refer to</p> <p>4 in your complaint?</p> <p>5 A. He is in the middle of his</p> <p>6 plantation.</p> <p>7 MR. BROOKS: Objection. I don't</p> <p>8 think the complaint says strong.</p> <p>9 MS. BART: I certainly don't want to</p> <p>10 mischaracterize the complaint, but hold on</p> <p>11 a second, let me get to paragraph 16.</p> <p>12 And he's referred to strong men as</p> <p>13 well --</p> <p>14 MR. BROOKS: He has, yes. The</p> <p>15 complaint doesn't.</p> <p>16 MS. BART: Mostly close-up portraits</p> <p>17 of stern, mystical-looking men within a</p> <p>18 distinctive landscape, tropical landscape.</p> <p>19 BY MS. BART:</p> <p>20 Q. Is there a reason why you wanted to</p> <p>21 photograph this particular Rastafarian?</p> <p>22 A. Yeah, he's someone that I really</p> <p>23 wanted to photograph. I liked his eyes and his</p> <p>24 look. And I liked the location, made it</p> <p>25 visually compelling, and that's about it.</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">89</p> <p>1 Cariou</p> <p>2 Q. And what were the circumstances that</p> <p>3 caused you to sell him a copy of this particular</p> <p>4 image?</p> <p>5 A. Well, I like him very much, and he</p> <p>6 always wanted to have a print. And some day,</p> <p>7 you know, I decided that I liked him enough to</p> <p>8 sell him a print.</p> <p>9 Q. And that was before this lawsuit was</p> <p>10 filed?</p> <p>11 A. Yeah.</p> <p>12 Q. And it was before you found out</p> <p>13 about the Canal Zone exhibition?</p> <p>14 A. Yeah.</p> <p>15 Q. And so do I understand from your</p> <p>16 answer that you only sell your images or prints</p> <p>17 of your images to people that you like?</p> <p>18 A. Yeah.</p> <p>19 Q. And is there a reason for that?</p> <p>20 A. No.</p> <p>21 Q. Had you and Mr. Girard been talking</p> <p>22 about him purchasing a print of one of the</p> <p>23 images?</p> <p>24 Had the two of you been talking</p> <p>25 about him purchasing --</p>	<p style="text-align: center;">91</p> <p>1 Cariou</p> <p>2 of the -- what other two prints or images he</p> <p>3 purchased prints of?</p> <p>4 A. Yeah.</p> <p>5 Q. Just keep those other materials out</p> <p>6 there.</p> <p>7 A. I know. I'm just going to put them</p> <p>8 there.</p> <p>9 Q. Okay, good.</p> <p>10 A. And I'm going to have to go through</p> <p>11 the book in order to --</p> <p>12 (Witness looks through exhibit.)</p> <p>13 A. This one.</p> <p>14 Q. Which appears on page 30?</p> <p>15 A. On page 30.</p> <p>16 Q. Okay.</p> <p>17 A. And this one on page 11.</p> <p>18 Q. Did Mr. Girard select the images --</p> <p>19 A. Yeah.</p> <p>20 Q. I'm sorry, the images that he wanted</p> <p>21 prints of?</p> <p>22 A. Yeah.</p> <p>23 Q. And had you displayed them somewhere</p> <p>24 and he'd seen them or did he just come to your</p> <p>25 studio or come to your place and see them?</p>
<p style="text-align: center;">90</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. -- one of the images?</p> <p>4 A. Yeah.</p> <p>5 Q. A print of one of the images?</p> <p>6 A. He has three actually. He has three</p> <p>7 prints.</p> <p>8 Q. So did he pay -- your answer says</p> <p>9 that he paid 1,500 Euros, so he purchased three?</p> <p>10 A. Yeah.</p> <p>11 Q. And it says original photographs,</p> <p>12 what you really mean is a print of an original</p> <p>13 photograph, correct?</p> <p>14 MR. BROOKS: Well, it says per</p> <p>15 photograph.</p> <p>16 A. Yeah.</p> <p>17 MS. BART: Right. I know. That's</p> <p>18 what I just said.</p> <p>19 MR. BROOKS: 1,500 Euros.</p> <p>20 BY MS. BART:</p> <p>21 Q. So you received 4,500 Euros</p> <p>22 collectively from Mr. Girard --</p> <p>23 A. Yeah.</p> <p>24 Q. -- from the print?</p> <p>25 Can you tell us from memory which</p>	<p style="text-align: center;">92</p> <p>1 Cariou</p> <p>2 A. Sorry to --</p> <p>3 Q. We'll break you by the end of the</p> <p>4 day.</p> <p>5 A. Yeah. No, I have a bunch of books</p> <p>6 of prints at home, you know, and he hangs out a</p> <p>7 lot at home, and he was going through it.</p> <p>8 And he also has a book, and he liked</p> <p>9 those pictures very much.</p> <p>10 MR. BROOKS: Can I just say which</p> <p>11 book does he have?</p> <p>12 A. The Yes Rasta book.</p> <p>13 MS. BART: I'm sorry, the record</p> <p>14 reflected that he had pointed to the</p> <p>15 Yes Rasta book.</p> <p>16 BY MS. BART:</p> <p>17 Q. Mr. Cariou, how did you arrive at</p> <p>18 the price of 1,500 dollars per print?</p> <p>19 MR. BROOKS: Euros.</p> <p>20 Q. Euros?</p> <p>21 A. It was a mutual agreement, you know.</p> <p>22 It was more a friend's price than anything else.</p> <p>23 Q. And did you sign any of these three</p> <p>24 prints for Mr. Girard?</p> <p>25 A. Yeah.</p>



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

93	95
1 Cariou	1 Cariou
2 Q. And are they signed on the front or	2 Q. And when you say you always wanted
3 on the back?	3 it, did you have that plan at the time that you
4 A. On the back.	4 first began working on the Yes Rasta -- I'll
5 Q. And do you have any notation to	5 call it a collection, if that's all right with
6 Mr. Girard on any of the backs or just your	6 you?
7 name?	7 A. Yes.
8 A. No, it's my name and edition, artist	8 Q. And you said you always wanted to
9 edition of three.	9 do this but you were waiting for the right
10 Q. And what do you mean by artist	10 opportunity. When you say right opportunity
11 edition of three?	11 were you looking for the right person to
12 A. It means that -- it means that three	12 distribute or sell those or was it just the
13 prints were mine out of an edition of eight,	13 right opportunity in terms of your career?
14 because I'd always been planning of selling	14 A. The right opportunity -- the right
15 prints at some point.	15 person to take care of it, yeah.
16 And it would be under the edition of	16 Q. And would that be like an agent?
17 eight. But out of those eight three are called	17 A. More like a gallery.
18 artist edition. And that's usual in the	18 Q. And have you found such an
19 photographic world.	19 opportunity?
20 Q. And did you select the three for the	20 A. Yeah.
21 artist edition because they were the three	21 Q. And which gallery is that?
22 chosen by Mr. Girard, or did he -- let me	22 A. It's called Clic Gallery.
23 finish -- or did he want to purchase those that	23 Q. C-L-I-C, correct?
24 would be designated the artist edition?	24 A. C-L-I-C, yeah.
25 A. No, no, it just -- it happened to be	25 Q. And where is that located?
94	96
1 Cariou	1 Cariou
2 that way. There wasn't really thinking, you	2 Is that here in New York?
3 know, much thinking about it.	3 A. Yeah, it's in New York.
4 Q. Now, you mentioned in your last	4 Q. How did you first learn about Clic
5 answer I believe that you're planning to do an	5 Gallery?
6 edition of eight, that this is something that	6 A. She contacted -- it's owned by a
7 you've been planning to do?	7 lady called Christiane Celle, and she contacted
8 A. Yeah.	8 me on summer 2008 asking me to represent me and
9 Q. When did you first develop the plan	9 to -- she wanted to do my shows.
10 to produce an edition of eight of the images	10 Q. And, in fact, you and Ms. Celle
11 that appears in the Yes Rasta book?	11 communicated by e-mail --
12 A. Well, I always waited for the right	12 A. Yeah.
13 opportunity, and I just finished my fourth book	13 Q. -- in French on that subject,
14 of portraits. And so I've been developing this	14 correct?
15 plan for quite a while now.	15 A. Correct.
16 But I wasn't feeling ready to put --	16 Q. And after the two of you
17 to make those prints available up until	17 communicated by e-mail you then retained her
18 recently.	18 services -- you then said I want you to be my
19 Q. And why is that?	19 agent?
20 A. Because I felt that I needed to	20 A. Yeah.
21 complete my fourth book of portraits.	21 Q. Or my gallery to represent me?
22 Q. And you felt that it might enhance	22 A. Exactly.
23 the value or the price that you could command	23 Q. Is that on an exclusive basis,
24 for a print of your images?	24 Mr. Cariou?
25 A. Yeah.	25 A. Yeah.



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

97	99
1 Cariou	1 Cariou
2 Q. And is there a writing that	2 about the Canal Zone exhibition and happened to
3 memorializes your relationship?	3 learn that Mr. Prince has used some of my Rastas
4 A. No.	4 picture in his work and canceled my show.
5 Q. And what percentage of every, I'll	5 Q. And when did she do this?
6 call them prints, that is sold by the gallery,	6 A. She did it in I think it's December.
7 what percentage does the gallery keep?	7 Q. Of 2009?
8 A. 50 percent.	8 A. Of 2009.
9 Q. And you mentioned that the three	9 Q. And when --
10 images that Mr. Girard picked out, one is found	10 MR. BROOKS: Wait a second, I'm
11 in the middle of 22, I believe it was on page	11 sorry. Nine or eight?
12 33, the three images?	12 Q. This year or last year?
13 A. What are we talking? Sorry.	13 A. Last year, 2008. Sorry about that.
14 Q. In the book you pointed to I believe	14 MR. BROOKS: That's okay.
15 it was page 11 of the book -- I'm just trying to	15 Q. And she first approached you I
16 come back to the record here.	16 believe in June of 2008?
17 At page 11 was one of them?	17 MR. BROOKS: Objection. It's August
18 MR. BROOKS: These are the three	18 if you look at the documents.
19 prints that he sold to Mr. Girard?	19 A. Yeah, I think it's August, yeah.
20 MS. BART: These are what he's	20 Q. And do you know what prompted
21 called the artist edition.	21 Ms. Celle to first contact you in August of
22 A. Yeah, yeah.	22 2008?
23 Q. And the other one was on page 33?	23 A. Because she knew about my work.
24 A. Yeah.	24 Q. And so she just approached you for
25 Q. And then, I'm sorry, I just don't	25 the possibility?
98	100
1 Cariou	1 Cariou
2 remember the third one.	2 A. Yes.
3 A. I'll find it. It's 30.	3 Q. What specifically did Ms. Celle say
4 Q. 30, right.	4 to you when she told you that she was going to
5 MR. BROOKS: And what's the other	5 cancel your show?
6 one? 11?	6 A. Well, she told me that she didn't
7 A. 11, yeah, 33 and 30.	7 want to look opportunistic and ride on
8 Q. Now, you mentioned that there would	8 Mr. Prince's fame and hype and that it wasn't
9 be an edition of eight. Can you tell me by	9 a good idea to show the Rasta picture while they
10 reference to the page numbers in Plaintiff's	10 were in another gallery.
11 Exhibit 41 what the other eight would be that	11 Q. Did she tell you that once the
12 would be included in your edition of eight?	12 lawsuit is resolved she would be willing to
13 A. The edition of eight is an edition	13 resume the representation or to represent you?
14 of eight of one photograph.	14 A. I don't know.
15 Q. I see. I see.	15 Q. She didn't say it?
16 A. Eight prints of the same photograph.	16 A. No.
17 Q. I see. So there's no other special	17 Q. Did you discuss it with her?
18 compilation?	18 A. She didn't say anything about it.
19 A. No, no.	19 We didn't discuss about it.
20 Q. Are prints of the images that appear	20 Q. Did you make any efforts to persuade
21 in the Yes Rasta book available currently for	21 Ms. Celle to continue on with the relationship?
22 sale at Clic Gallery?	22 A. Yeah.
23 A. No.	23 Q. And what did you say?
24 Q. Why is that?	24 A. Well, that, you know, I have other
25 A. Because Christiane Celle found out	25 body of work and eventually maybe, you know,



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

101	103
<p>1 Cariou</p> <p>2 when the time is good we could eventually do</p> <p>3 something.</p> <p>4 Q. And what did she say?</p> <p>5 A. She said maybe.</p> <p>6 Q. The other body of work that you have</p> <p>7 done, one is called Surfer I believe?</p> <p>8 A. Mm-hmm.</p> <p>9 Q. And there's the -- what are the</p> <p>10 other two?</p> <p>11 A. The other book is called Trench Town</p> <p>12 Love.</p> <p>13 Q. And are there any other --</p> <p>14 A. Well, there is one book which is</p> <p>15 completed but with nothing pressed yet. It's</p> <p>16 called Gypsies. It's about gypsies.</p> <p>17 Q. And that's the one that appears on</p> <p>18 your website?</p> <p>19 A. Yeah, I have a few pictures of that</p> <p>20 on my website.</p> <p>21 Q. And there are no images that appear</p> <p>22 from the Surfer, Trench Town Love, or the Gypsy</p> <p>23 collections that appear in any of Mr. Prince's</p> <p>24 Canal Zone paintings, correct?</p> <p>25 MR. BROOKS: I just want to hear</p>	<p>1 Cariou</p> <p>2 this fit with the gallery, did she give you an</p> <p>3 explanation for that?</p> <p>4 A. Well, she does a lot of ethnic</p> <p>5 photography show.</p> <p>6 Q. And she considered the -- did she</p> <p>7 tell you if she considered the Canal Zone show</p> <p>8 to be an ethnic collection?</p> <p>9 MR. BROOKS: Hold on.</p> <p>10 Canal Zone or Yes Rasta?</p> <p>11 Q. I'm sorry, Yes Rasta to be an ethnic</p> <p>12 collection?</p> <p>13 A. Yeah.</p> <p>14 Q. How recently have you spoken with</p> <p>15 Ms. Celle?</p> <p>16 A. Last week.</p> <p>17 Q. And was that about the lawsuit?</p> <p>18 A. No.</p> <p>19 Q. You spoke about works that you're</p> <p>20 working on?</p> <p>21 A. Yeah.</p> <p>22 Q. And she's still considering taking</p> <p>23 you on as an artist?</p> <p>24 A. Eventually. We'll see if it happens</p> <p>25 or not. I don't know.</p>
102	104
<p>1 Cariou</p> <p>2 that question again.</p> <p>3 (Record read.)</p> <p>4 A. Correct.</p> <p>5 Q. Have you had any subsequent</p> <p>6 conversations with Ms. Celle about the</p> <p>7 possibility of her representing you or being</p> <p>8 your exclusive gallery?</p> <p>9 A. Yeah.</p> <p>10 Q. And what have been those</p> <p>11 conversations?</p> <p>12 A. You know, about finding -- our plan</p> <p>13 was to show the Rasta. And because she said it</p> <p>14 would fit in very well with the gallery and now,</p> <p>15 you know, we're in the midst of seeing what's</p> <p>16 going on and what I'm going to produce next and</p> <p>17 if it's going to fit with the gallery or not.</p> <p>18 Q. And why did she think that the</p> <p>19 Yes Rasta collection fit with her gallery?</p> <p>20 MR. BROOKS: Object to the form.</p> <p>21 MS. BART: What's the basis?</p> <p>22 MR. BROOKS: You asked him why did</p> <p>23 she think.</p> <p>24 BY MS. BART:</p> <p>25 Q. Did she tell you why she thought</p>	<p>1 Cariou</p> <p>2 Q. But you've not approached anyone</p> <p>3 else about the possibility of helping you</p> <p>4 implement your plan to sell prints of your</p> <p>5 various bodies of work?</p> <p>6 A. No.</p> <p>7 Q. Okay. If we could return to the</p> <p>8 image that we were discussing, which is the</p> <p>9 gentleman in the --</p> <p>10 A. In the field?</p> <p>11 Q. -- in the field.</p> <p>12 MR. BROOKS: I'm sorry, I'm just</p> <p>13 lost, but it's probably my fault.</p> <p>14 Which one are we discussing?</p> <p>15 MS. BART: 24. It's on C00024 and</p> <p>16 it was on page 33 of the book.</p> <p>17 MR. BROOKS: Okay.</p> <p>18 A. It's on page what, please?</p> <p>19 Q. 33 of the book.</p> <p>20 A. Thank you.</p> <p>21 Q. Actually, you know, I think we had</p> <p>22 gotten through most of the questions that I had</p> <p>23 on this, so my apologies.</p> <p>24 Why don't we turn to the next image</p> <p>25 that appears to the right of the man -- I'll</p>



**ESQUIRE**

an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">109</p> <p>1 Cariou</p> <p>2 saying?</p> <p>3 A. Yeah.</p> <p>4 Q. And that's the portion of that</p> <p>5 particular work that appears, correct?</p> <p>6 A. Yeah.</p> <p>7 Q. Can you tell me what you think is</p> <p>8 distinctive about that particular landscape,</p> <p>9 portion of the landscape, because I take it the</p> <p>10 man is not in the image?</p> <p>11 A. Mm-hmm, mm-hmm.</p> <p>12 Q. So it's just focusing on that tree.</p> <p>13 Can you tell me what you think is</p> <p>14 distinctive about that particular --</p> <p>15 A. What's distinctive about it is that</p> <p>16 it is mine.</p> <p>17 Q. Now, have you sold any portion of</p> <p>18 the image that appears either -- well, I would</p> <p>19 say 87 and 88, have you sold --</p> <p>20 A. No, I haven't sold.</p> <p>21 Q. And have you marketed, other than</p> <p>22 through the Yes Rasta book?</p> <p>23 A. No.</p> <p>24 Q. And I notice that the Rasta in this</p> <p>25 particular image, the part that appears on page</p>	<p style="text-align: center;">111</p> <p>1 Cariou</p> <p>2 because it's easier for me to see?</p> <p>3 A. Sure.</p> <p>4 Q. Thank you kindly.</p> <p>5 I notice that a significant portion</p> <p>6 of the vegetation that he's seen standing in has</p> <p>7 been blurred out, and is that again to draw</p> <p>8 emphasis on the person whose image you're trying</p> <p>9 to photograph?</p> <p>10 A. I would not agree on that one. It's</p> <p>11 like there is much more depth of field than the</p> <p>12 other picture we talked about. This is all, you</p> <p>13 know, in focus.</p> <p>14 Q. Yes, but --</p> <p>15 MR. BROOKS: Just let him finish</p> <p>16 what he was saying.</p> <p>17 MS. BART: Right. He was.</p> <p>18 MR. BROOKS: I'm not sure he's</p> <p>19 finished.</p> <p>20 BY MS. BART:</p> <p>21 Q. Look at page 79, the leaves that are</p> <p>22 on page 79, to my eye that looks more blurred,</p> <p>23 but if you say no?</p> <p>24 See, it starts to become blurred all</p> <p>25 up through here?</p>
<p style="text-align: center;">110</p> <p>1 Cariou</p> <p>2 88, is walking away from you. Is this just</p> <p>3 something you snapped while you were there?</p> <p>4 A. Yeah.</p> <p>5 Q. Let's go back now to the image that</p> <p>6 appears on page 80 of Plaintiff's Exhibit 40 in</p> <p>7 the book.</p> <p>8 A. 80?</p> <p>9 Q. Yes, please.</p> <p>10 And that is the gentleman that</p> <p>11 appears in the bottom right of the page that's</p> <p>12 been marked C00024 of Plaintiff's Exhibit 40,</p> <p>13 correct?</p> <p>14 A. Mm-hmm, yes.</p> <p>15 Q. When did you take this particular</p> <p>16 photograph?</p> <p>17 A. Towards the end of my project.</p> <p>18 Q. And was this a staged portraiture?</p> <p>19 A. Yeah.</p> <p>20 Q. And was this just another example of</p> <p>21 the Rastafarian men you were attempting to sort</p> <p>22 of document in this collection?</p> <p>23 A. Yes.</p> <p>24 Q. Now, would you mind, Mr. Cariou,</p> <p>25 just holding up the book so I can see it,</p>	<p style="text-align: center;">112</p> <p>1 Cariou</p> <p>2 A. Yeah, because it goes further.</p> <p>3 Q. It goes further, but then the back</p> <p>4 portion of it is blurred out, is that correct?</p> <p>5 A. It's correct.</p> <p>6 Q. But again, it was just a place to</p> <p>7 put this man that sort of draws upon the</p> <p>8 tropical theme, correct?</p> <p>9 A. Yeah. And it was visually</p> <p>10 appealing.</p> <p>11 Q. The individual himself?</p> <p>12 A. The setting, the shape of the</p> <p>13 leaves, the backlit, the composition of the</p> <p>14 picture.</p> <p>15 Q. But again, the focus was to use</p> <p>16 that backdrop to really focus or highlight the</p> <p>17 individual?</p> <p>18 A. Yeah.</p> <p>19 Q. Have you sold any prints of the</p> <p>20 image that appears on pages 79 and 80?</p> <p>21 A. No.</p> <p>22 Q. And other than in the Yes Rasta book</p> <p>23 have you attempted to market this image in any</p> <p>24 way?</p> <p>25 A. No.</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

113	115
<p>1 Cariou</p> <p>2 Q. I believe I forgot to ask you on</p> <p>3 the image that appears on page 88 of the book,</p> <p>4 because we got a little phumphered around,</p> <p>5 that's the two-page image 87 and 88, I believe I</p> <p>6 forgot to ask you when you took that image?</p> <p>7 A. When I took that image?</p> <p>8 Q. Yes, sir.</p> <p>9 A. That was in -- right -- it must have</p> <p>10 been in '95.</p> <p>11 Q. And why is it that you're able to</p> <p>12 place that particular --</p> <p>13 A. Because I know exactly -- this type</p> <p>14 of moment, that I remember very well and I</p> <p>15 remember which trip it was.</p> <p>16 Q. And that image that's on 87 and 88,</p> <p>17 that's up on the mountain?</p> <p>18 A. Oh, yeah.</p> <p>19 Q. Right towards the top?</p> <p>20 A. High up.</p> <p>21 Q. High up, okay.</p> <p>22 If you'll now look at the</p> <p>23 comparison, Plaintiff's Exhibit 40, and in the</p> <p>24 upper right-hand corner you'll see another</p> <p>25 hemp -- I'll call it a hemp grove I believe?</p>	<p>1 Cariou</p> <p>2 Q. Is this something that you snapped</p> <p>3 along your way while you were trying to find a</p> <p>4 setting, it just looked of interest to you?</p> <p>5 A. It was probably travelling on foot</p> <p>6 from one location to another --</p> <p>7 Q. To do a portraiture?</p> <p>8 A. Yeah -- and shooting some landscape.</p> <p>9 Q. Was this a staged shot for you or</p> <p>10 just while --</p> <p>11 A. No, I wouldn't consider that as a</p> <p>12 staged shot.</p> <p>13 Q. And what was your purpose for</p> <p>14 including this particular image in the Yes Rasta</p> <p>15 book?</p> <p>16 A. Well, because -- simply because, you</p> <p>17 know, Rasta and even Jamaican and marijuana goes</p> <p>18 together. I needed to have some shots of</p> <p>19 plantations.</p> <p>20 Q. And vegetation?</p> <p>21 A. And vegetation.</p> <p>22 Q. Again, to kind of sort of bolster</p> <p>23 this whole idea of the culture as a whole?</p> <p>24 A. Exactly.</p> <p>25 Q. Have you sold any prints of the</p>
114	116
<p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. And you can find it on pages 159 and</p> <p>4 160 of the book.</p> <p>5 MR. BROOKS: This is the top right?</p> <p>6 A. Yeah.</p> <p>7 MS. BART: Yes. Because the top</p> <p>8 left is Mr. Prince's painting.</p> <p>9 BY MS. BART:</p> <p>10 Q. Mr. Cariou, would you kindly just</p> <p>11 let me see the actual photograph of that?</p> <p>12 Okay, thank you.</p> <p>13 Can you tell me what's depicted in</p> <p>14 this photograph?</p> <p>15 A. It's a plantation of marijuana.</p> <p>16 Q. And so the vegetation that is</p> <p>17 towards the back of the background of this</p> <p>18 photo, to me, from the picture I have in front</p> <p>19 of me, they look like Christmas trees, but</p> <p>20 indeed they're not. Those are also just hemp?</p> <p>21 A. For a happy Christmas.</p> <p>22 Q. So when did you take this particular</p> <p>23 image?</p> <p>24 A. I don't remember. I don't know.</p> <p>25 I really don't know.</p>	<p>1 Cariou</p> <p>2 image that --</p> <p>3 A. No.</p> <p>4 Q. -- appears on 159 and 160?</p> <p>5 A. No.</p> <p>6 Q. And have you made any attempts to</p> <p>7 market that image other than through the</p> <p>8 Yes Rasta book?</p> <p>9 A. No.</p> <p>10 Q. Let's now turn to the image that</p> <p>11 appears just below the one that we were --</p> <p>12 A. Yeah.</p> <p>13 Q. The hemp grove. So this one I would</p> <p>14 call it a banana tree in the middle. So it's on</p> <p>15 the right in the middle of C00024, and you can</p> <p>16 find it on page 79 and 80 of the book.</p> <p>17 A. Not 79 and 80, it's --</p> <p>18 MR. BROOKS: No, that's a different</p> <p>19 one. It's similar, but it's different.</p> <p>20 MS. BART: No, he's on 77 and 78.</p> <p>21 A. Which page you want me to be on?</p> <p>22 MS. BART: Will you see if you can</p> <p>23 find -- I apologize --</p> <p>24 MR. BROOKS: The middle one?</p> <p>25 MS. BART: Yes, please. The one</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">117</p> <p>1 Cariou</p> <p>2 that is between the hemp grove and the man</p> <p>3 in the lower right-hand corner of C24.</p> <p>4 A. I got it.</p> <p>5 Q. You have it?</p> <p>6 A. It's 95 and 96.</p> <p>7 Q. Mr. Cariou, do you recall when this</p> <p>8 particular image, two-page image was shot?</p> <p>9 A. I think it was early into -- it must</p> <p>10 have been in '94.</p> <p>11 Q. And this is not on the mountainside,</p> <p>12 this would be down in the more tropical regions</p> <p>13 of Jamaica, yes?</p> <p>14 A. A little bit, yeah.</p> <p>15 Q. And this is just another photograph</p> <p>16 of a landscape that you shot, again, to create</p> <p>17 this whole feeling of the whole book?</p> <p>18 A. Yeah.</p> <p>19 Q. It was not a staged shot, it was</p> <p>20 just something you were shooting?</p> <p>21 A. Well, what do you mean by staged</p> <p>22 shot? This one I took -- it took me a long --</p> <p>23 not a long time, but it took me time to frame it</p> <p>24 properly, to find the proper light to do it and</p> <p>25 to, you know, to make it the way it is.</p>	<p style="text-align: center;">119</p> <p>1 Cariou</p> <p>2 Exhibit 40, the page that's marked C00026.</p> <p>3 Do you have that in front of you,</p> <p>4 sir -- and you can find that I believe hopefully</p> <p>5 on page 128 of the Yes Rasta book.</p> <p>6 A. Yeah.</p> <p>7 Q. You have that in front of you?</p> <p>8 A. Yeah.</p> <p>9 Q. When was this particular shot taken?</p> <p>10 A. I don't remember. I know this guy</p> <p>11 very well, and we hang out a lot together. And</p> <p>12 I don't remember when I took that picture.</p> <p>13 It was one of the first guys that I</p> <p>14 got to know when I was in Jamaica. So through</p> <p>15 the end. So I don't know -- we spent a lot of</p> <p>16 time together, so I couldn't tell you when we</p> <p>17 took this picture.</p> <p>18 Q. So this was towards the end of the</p> <p>19 series or --</p> <p>20 A. Middle to the end.</p> <p>21 Q. And it looks to me like he's in a</p> <p>22 more -- I don't want to use the word urban, but</p> <p>23 it looks to me like there's a house or something</p> <p>24 behind him, but it's hard to tell?</p> <p>25 A. Yeah. It's in Negril.</p>
<p style="text-align: center;">118</p> <p>1 Cariou</p> <p>2 Q. And you were on your way to another</p> <p>3 shot?</p> <p>4 A. No, I was probably waiting for</p> <p>5 someone or doing scouting like you say all the</p> <p>6 time, you just like -- and that's what I did.</p> <p>7 Also, what was interesting to me in</p> <p>8 that picture is, as you noticed, you have banana</p> <p>9 trees.</p> <p>10 Q. Yes, I see. I can see them.</p> <p>11 A. And plus different food plant, but</p> <p>12 you also have ganja that no one noticed in the</p> <p>13 picture. So it was for me a way to show how</p> <p>14 intertwined ganja is with Jamaica. It's</p> <p>15 everywhere.</p> <p>16 Q. And ganja is another word for hemp</p> <p>17 or marijuana, correct?</p> <p>18 A. Yeah, yeah.</p> <p>19 Q. Have you ever sold any prints of</p> <p>20 this particular image?</p> <p>21 A. No.</p> <p>22 Q. And have you marketed this image in</p> <p>23 any way other than through the Yes Rasta book?</p> <p>24 A. No.</p> <p>25 Q. Let's now turn to Plaintiff's</p>	<p style="text-align: center;">120</p> <p>1 Cariou</p> <p>2 Q. In Negril?</p> <p>3 A. Yeah.</p> <p>4 Q. So this is more in town as opposed</p> <p>5 to the mountains?</p> <p>6 A. Yeah.</p> <p>7 Q. And this is another portraiture,</p> <p>8 another example of a Rastafarian that you wanted</p> <p>9 to photograph?</p> <p>10 A. Yes, absolutely.</p> <p>11 Q. For part of this documentary, is</p> <p>12 that correct?</p> <p>13 A. Yeah.</p> <p>14 MR. BROOKS: Objection to the form</p> <p>15 documentary, the word documentary. I</p> <p>16 don't know what that means.</p> <p>17 MS. BART: Well, he's previously</p> <p>18 testified that this is a documentary of</p> <p>19 the lives of people, the Rastafarians and</p> <p>20 their culture.</p> <p>21 MR. BROOKS: That's why I'm</p> <p>22 objecting, I don't think he ever used the</p> <p>23 word documentary.</p> <p>24 MS. BART: Let's just stand on the</p> <p>25 transcript. But let's move on.</p>



Patrick Cariou

January 12, 2010

<p style="text-align: center;">121</p> <p>1 Cariou</p> <p>2 BY MS. BART:</p> <p>3 Q. By the way, on the previous image</p> <p>4 which was on pages 95 and 96, you said it was</p> <p>5 something that you probably did while you were</p> <p>6 waiting for someone but you took some time to</p> <p>7 set up, it took you about a half hour or so to</p> <p>8 set up for the shot?</p> <p>9 A. Yeah.</p> <p>10 Q. The image that appears on page</p> <p>11 C00026, have you ever sold a print of this</p> <p>12 image?</p> <p>13 A. No.</p> <p>14 Q. Have you ever marketed other than in</p> <p>15 this book?</p> <p>16 A. No.</p> <p>17 Q. And have you licensed any rights in</p> <p>18 this image --</p> <p>19 A. No.</p> <p>20 Q. -- other than to Powerhouse?</p> <p>21 A. No.</p> <p>22 Q. Would you please turn to C27, same</p> <p>23 thing, and you can find this image on page 48 of</p> <p>24 the book, or you can also look for the tab</p> <p>25 number 47, either way.</p>	<p style="text-align: center;">123</p> <p>1 Cariou</p> <p>2 Q. And the focus here, we can see from</p> <p>3 the blurred background, is really on the man, so</p> <p>4 this is another portrait?</p> <p>5 A. Yes.</p> <p>6 Q. Have you sold any copies of prints</p> <p>7 of this particular image?</p> <p>8 A. Yes, I have.</p> <p>9 Q. And to whom did you sell -- if you</p> <p>10 would refer back to I believe Defendant's</p> <p>11 Exhibit 4?</p> <p>12 A. To Caroline De Maigret.</p> <p>13 Q. When did you sell the painting to</p> <p>14 Ms. De Maigret?</p> <p>15 A. When?</p> <p>16 Q. Yes.</p> <p>17 A. That must have been in 2002.</p> <p>18 Q. And how is it that she came to</p> <p>19 purchase --</p> <p>20 A. She's a friend of mine.</p> <p>21 Q. Again, if I could just finish the</p> <p>22 question.</p> <p>23 A. Sorry. Sorry.</p> <p>24 Q. So she's a friend of yours, and so</p> <p>25 this is -- and did she approach you to purchase</p>
<p style="text-align: center;">122</p> <p>1 Cariou</p> <p>2 A. C --</p> <p>3 MR. BROOKS: 48.</p> <p>4 A. Okay.</p> <p>5 Q. Do you have the image in front of</p> <p>6 you?</p> <p>7 A. Yes.</p> <p>8 Q. When was this photograph taken?</p> <p>9 A. Orice again, middle of the trip. In</p> <p>10 '96 probably.</p> <p>11 Q. And where approximately was this</p> <p>12 photograph taken?</p> <p>13 A. Excuse me?</p> <p>14 Q. Where? Was it up in the mountains?</p> <p>15 A. Yeah, that was really high up in the</p> <p>16 mountains.</p> <p>17 Q. And this is another example of the</p> <p>18 Rastafarian men that you were attempting to --</p> <p>19 A. Absolutely.</p> <p>20 Q. -- photograph and document?</p> <p>21 In other words, you were looking to</p> <p>22 take this man's photo as another example of</p> <p>23 these stern-looking men that you've alleged in</p> <p>24 your complaint, correct?</p> <p>25 A. Yes, correct.</p>	<p style="text-align: center;">124</p> <p>1 Cariou</p> <p>2 one of your prints?</p> <p>3 A. Yes.</p> <p>4 MR. BROOKS: Let her finish.</p> <p>5 A. Sorry.</p> <p>6 MR. BROOKS: It's not going to make</p> <p>7 it go faster.</p> <p>8 A. Sorry guys.</p> <p>9 Q. It's all right. You're doing fine,</p> <p>10 Mr. Cariou. I know it's an artificial</p> <p>11 circumstance, so.</p> <p>12 And I believe I just asked you --</p> <p>13 MS. BART: I asked him if she</p> <p>14 approached him, correct, and he answered</p> <p>15 that one?</p> <p>16 (Record read.)</p> <p>17 BY MS. BART:</p> <p>18 Q. Ms. De Maigret, did she select this</p> <p>19 particular image or this particular print or was</p> <p>20 this something that you selected for her?</p> <p>21 A. No, she selected.</p> <p>22 Q. And did you give her an opportunity</p> <p>23 to look at all of the images in the Yes Rasta</p> <p>24 book?</p> <p>25 A. Yeah, she had the book first of all.</p>

Patrick Cariou

January 12, 2010

125	127
1 Cariou	1 Cariou
2 And yeah, she saw -- she saw quite a bit -- I	2 really of your lawyer.
3 don't know if she saw all the prints, but she	3 A. Sure, sure.
4 saw, yeah, quite a few.	4 Q. So when you say two original
5 Q. So she selected this one from the	5 photographs, what you actually did was give her
6 book?	6 a print of the original images, correct?
7 A. Yeah.	7 A. Yeah.
8 Q. And said she wanted to purchase that	8 Q. And did you sign these two prints
9 particular image?	9 for her?
10 A. Yes.	10 A. Yes.
11 Q. And how long have you known	11 Q. And did it have any personal
12 Caroline?	12 inscription or just your name on the back?
13 A. Fifteen years.	13 A. Just my name on the back.
14 Q. And what caused her to approach you	14 Q. And did you date them?
15 to purchase --	15 A. I don't remember.
16 MR. BROOKS: Objection.	16 Q. Do you know whether Caroline has
17 MS. BART: He testified she	17 exhibited those two prints anywhere?
18 approached him.	18 A. I don't know.
19 MR. BROOKS: You said what caused	19 Q. You don't know where she has them
20 her to do something. How would he know?	20 today?
21 I don't mind if you rephrase it.	21 A. I think she has them at home, but I
22 BY MS. BART:	22 don't know. No, I know she has them at home,
23 Q. How did it come about that she just	23 but --
24 wanted to purchase one of your images?	24 Q. Hanging in her house?
25 A. Well, she liked my work. And she	25 A. Yeah, mm-hmm.
126	128
1 Cariou	1 Cariou
2 asked me repeatedly that she wanted to have two	2 Q. And what about Mr. Girard, where are
3 prints. And one day I was in a good mood and	3 his --
4 she got a chance to get my prints.	4 A. At home too.
5 Q. Lucky her.	5 Q. Hanging?
6 MR. BROOKS: Off the record for one	6 A. Yeah.
7 second.	7 Q. Okay. Did Caroline tell you why she
8 (Discussion off the record.)	8 wanted to purchase, why she selected the image
9 BY MS. BART:	9 that appears on C27?
10 Q. Now, it says in Defendant's	10 A. No, she just liked it very much.
11 Exhibit 4 that you sold her two original	11 Q. And the man in the hemp grove, did
12 photographs, I think you just mentioned it	12 she tell you why? These are just two that she
13 there. What was the other image that you sold	13 selected?
14 her?	14 A. Yeah.
15 A. To tell you the truth, I'm not sure.	15 Q. I apologize if I'm asking you a
16 I think that -- but I'm -- it wasn't -- I think	16 duplicate question, maybe I need lunch as well,
17 it's the one -- I am not sure.	17 but did you market this image that appears on
18 I think it's the image of the guy in	18 C27 other than through the Yes Rasta book?
19 the plantation that we talked about again.	19 A. No.
20 Q. The face and the hemp field?	20 Q. And you've not licensed any rights
21 A. Yeah, yeah.	21 other than those rights that were licensed to
22 Q. Okay. Could we just ask you to let	22 Powerhouse --
23 us know which of the images is the second print?	23 A. No.
24 A. Sure.	24 Q. -- is that correct? Okay.
25 Q. At some point, I'm asking that	25 Okay. So let's go to the image that



**ESQUIRE**  
an Alexander Gault Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

129	131
<p>1 Cariou</p> <p>2 appears on C28 of Plaintiff's 40.</p> <p>3 Can you tell me when this photograph</p> <p>4 was taken?</p> <p>5 A. I would say '96.</p> <p>6 Q. And this is something that you</p> <p>7 staged or is this something that you snapped</p> <p>8 while you were --</p> <p>9 A. No, I staged it.</p> <p>10 Q. You staged it?</p> <p>11 And where is this Rastafarian, where</p> <p>12 is this man located generally?</p> <p>13 A. He's in the Blue Mountains.</p> <p>14 Q. So he's up high?</p> <p>15 A. Yeah.</p> <p>16 Q. And that is another example of the</p> <p>17 stern-looking Rastafarian men whose images you</p> <p>18 wanted to capture for this book, correct?</p> <p>19 A. Exactly.</p> <p>20 Q. Have you sold any copies of the</p> <p>21 image that appears on C28 or you can also see it</p> <p>22 on page 59?</p> <p>23 A. No.</p> <p>24 Q. And I notice in my copy, perhaps you</p> <p>25 could turn to page C59, that the images or the</p>	<p>1 Cariou</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So now page 6, which is the</p> <p>4 gentleman whose image appears at the bottom of</p> <p>5 C29, correct?</p> <p>6 A. Yeah.</p> <p>7 Q. Can you tell me when this photograph</p> <p>8 was taken?</p> <p>9 A. Towards the end. It must have been</p> <p>10 like 1997 or '98.</p> <p>11 Q. And was this one staged?</p> <p>12 A. Yeah.</p> <p>13 Q. And this is another example of the</p> <p>14 stern-looking Rastafarian men whose images you</p> <p>15 were wanting to --</p> <p>16 A. To produce.</p> <p>17 Q. -- to photograph?</p> <p>18 A. Yeah. Otherwise none of them would</p> <p>19 be in the book.</p> <p>20 Q. Well, I'm sorry, I'm just doing my</p> <p>21 job here.</p> <p>22 A. Yeah.</p> <p>23 Q. I do notice that the background is</p> <p>24 blurred out. So again, the focus here is to</p> <p>25 really try to hone in on a closeup of this man's</p>
130	132
<p>1 Cariou</p> <p>2 background is completely blurred?</p> <p>3 A. Yes. It's mainly because it's</p> <p>4 backlit.</p> <p>5 Q. Right. And you're wanting to really</p> <p>6 focus on your subject?</p> <p>7 A. Yeah, and it's a close-up portrait</p> <p>8 so I could focus on his dreads and on his face,</p> <p>9 you know. So by using -- the closer you go the</p> <p>10 less depth of field you get.</p> <p>11 Q. The less depth of field?</p> <p>12 A. Yeah.</p> <p>13 Q. Turning now to C29 of Plaintiff's</p> <p>14 Exhibit 40 there's an image that appears on the</p> <p>15 bottom. You can also find this image I believe</p> <p>16 on page 6 of your book.</p> <p>17 Mr. Cariou, I'm terribly sorry,</p> <p>18 before we move on, would you look at the</p> <p>19 image -- hold your finger on that page because</p> <p>20 we will go back to it -- but also turn to page</p> <p>21 62 of the book.</p> <p>22 A. Yeah.</p> <p>23 Q. Can you tell me if that is a side</p> <p>24 image of the same gentleman who appeared on page</p> <p>25 59 that you just talked to me about?</p>	<p>1 Cariou</p> <p>2 portrait, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Where was this particular image</p> <p>5 taken, do you know?</p> <p>6 A. I think it was in a little town</p> <p>7 called Lucille.</p> <p>8 Q. In Jamaica?</p> <p>9 A. In Jamaica, yeah.</p> <p>10 Q. So he's not one of the Rastafarians</p> <p>11 you lived with up in the mountains?</p> <p>12 A. No. I mean all -- I don't know</p> <p>13 all -- because I didn't spend much time with</p> <p>14 that man, or it was just passing through also.</p> <p>15 I was with a few Rasta friends, they</p> <p>16 knew each other, I thought this guy looked</p> <p>17 amazing and I want to take a picture, and they</p> <p>18 ask for me and --</p> <p>19 Q. And you snapped it?</p> <p>20 A. Well, snapped is -- I took my time</p> <p>21 to make a beautiful picture.</p> <p>22 Q. And about how long did it take you</p> <p>23 to make this image?</p> <p>24 A. I don't know. Fifteen minutes.</p> <p>25 MS. BART: This is probably as good</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">133</p> <p>1 Cariou</p> <p>2 a stopping point as any, so why don't we</p> <p>3 break now for lunch.</p> <p>4 (Recess taken: 12:51 p.m.)</p> <p>5 (Proceedings resumed: 1:39 p.m.)</p> <p>6 BY MS. BART:</p> <p>7 Q. Let's turn now to page C30 of</p> <p>8 Plaintiff's Exhibit 40. And I believe this</p> <p>9 image also appears on pages 133 to 134 of the</p> <p>10 book.</p> <p>11 A. 133 and -- got it.</p> <p>12 Q. When was this photograph taken?</p> <p>13 A. In 1997 I think.</p> <p>14 Q. So it was one of the later shots?</p> <p>15 A. Yeah.</p> <p>16 Q. And was this something that you</p> <p>17 look for sort of additional vegetative matter,</p> <p>18 landscape matter to create the tropical feeling</p> <p>19 in the book?</p> <p>20 A. Yes.</p> <p>21 Q. And did you stage this image or was</p> <p>22 this something that you took on your way to</p> <p>23 somewhere else?</p> <p>24 A. No, I staged that. I thought that</p> <p>25 landscape was beautiful, I mean the countryside</p>	<p style="text-align: center;">135</p> <p>1 Cariou</p> <p>2 Q. And I will call him an older</p> <p>3 Rastafarian. When was this photograph taken?</p> <p>4 A. I would say at the early stage,</p> <p>5 probably '94.</p> <p>6 Q. And are you able to place it for</p> <p>7 some particular reason in 1994?</p> <p>8 A. Yeah, because I remember meeting</p> <p>9 that guy and so I know it's around '94.</p> <p>10 Q. And where did you meet him?</p> <p>11 A. I met him on northern coast of</p> <p>12 Jamaica.</p> <p>13 Q. And is that where this shot is</p> <p>14 taken?</p> <p>15 A. Yeah.</p> <p>16 Q. And you chose this person because</p> <p>17 this was another example of the strong</p> <p>18 Rastafarian men you were wanting to photograph,</p> <p>19 or stem?</p> <p>20 A. Yeah, absolutely, and also for the</p> <p>21 length of his dreads, you know.</p> <p>22 Q. Which are about the same I guess as</p> <p>23 the man on the right?</p> <p>24 A. Yeah, except no, this guy has longer</p> <p>25 dreads. Because if you can see in the picture,</p>
<p style="text-align: center;">134</p> <p>1 Cariou</p> <p>2 was beautiful and the light was amazing. I</p> <p>3 waited until the light was perfect, as far as</p> <p>4 I'm concerned, and made it that way.</p> <p>5 You can see there is a tropical</p> <p>6 storm coming in, and I was waiting for that</p> <p>7 storm to get at the right place.</p> <p>8 Q. And in your view what is distinctive</p> <p>9 about this particular landscape?</p> <p>10 A. It's just a beautiful landscape.</p> <p>11 You know, it's --</p> <p>12 Q. Okay. All right.</p> <p>13 Have you ever sold prints of this</p> <p>14 image?</p> <p>15 A. No.</p> <p>16 Q. And have you ever marketed it for</p> <p>17 sale?</p> <p>18 A. No.</p> <p>19 Q. Have you ever licensed it other than</p> <p>20 the rights licensed to Powerhouse?</p> <p>21 A. No.</p> <p>22 Q. Let's turn now to C31, and there's</p> <p>23 an image at the bottom left-hand corner.</p> <p>24 Do you see that image?</p> <p>25 A. Yeah.</p>	<p style="text-align: center;">136</p> <p>1 Cariou</p> <p>2 it goes around his arms before it goes down. So</p> <p>3 if he let it go it goes to the ground.</p> <p>4 Q. And did you stage this shot?</p> <p>5 A. Yeah, of course.</p> <p>6 Q. I see again that the background is</p> <p>7 blurred out, and again that's to draw attention</p> <p>8 to the subject you were trying to capture?</p> <p>9 A. Yeah, same style of portraiture.</p> <p>10 Q. Did you sell this, have you sold a</p> <p>11 print of this image?</p> <p>12 A. No.</p> <p>13 Q. And have you licensed any rights in</p> <p>14 this image other than those licensed to</p> <p>15 Powerhouse?</p> <p>16 A. No.</p> <p>17 Q. And have you marketed this</p> <p>18 particular license -- I'm sorry, this particular</p> <p>19 image in any way?</p> <p>20 A. No.</p> <p>21 Q. Let's turn now to C35.</p> <p>22 A. C35?</p> <p>23 Q. Yes, sir.</p> <p>24 A. Yes.</p> <p>25 Q. And that image is also found on page</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">137</p> <p>1 Cariou</p> <p>2 47 of the Yes Rasta book.</p> <p>3 Are you there?</p> <p>4 A. Yeah.</p> <p>5 Q. When was this particular shot taken,</p> <p>6 Mr. Cariou?</p> <p>7 A. I don't remember.</p> <p>8 Q. Was it early in the series or later?</p> <p>9 A. I think it was later in the series.</p> <p>10 Q. Was this a shot that you just saw</p> <p>11 these individuals and you took it or was this a</p> <p>12 staged shot?</p> <p>13 A. No, it was a staged shot.</p> <p>14 Q. And how long did it take you to put</p> <p>15 together this shot?</p> <p>16 A. Quite a long time actually, because</p> <p>17 we -- once again, we were -- I was waiting for</p> <p>18 the specific light when it comes with tropical</p> <p>19 storms, and we had to wait until the storm was</p> <p>20 close to us to take this picture and make it the</p> <p>21 way it looks.</p> <p>22 Q. Now, in this particular image, at</p> <p>23 least on the copy I have, it looks to me like</p> <p>24 you used a fairly long depth of field, is that</p> <p>25 fair to say?</p>	<p style="text-align: center;">139</p> <p>1 Cariou</p> <p>2 image?</p> <p>3 A. No.</p> <p>4 Q. Have you marketed it for sale in any</p> <p>5 way other than through the Yes Rasta book?</p> <p>6 A. No.</p> <p>7 Q. And have you licensed any rights in</p> <p>8 this image other than through Powerhouse?</p> <p>9 A. No.</p> <p>10 Q. All right. Now, skipping ahead to</p> <p>11 C39, there's an image of a gentleman on the</p> <p>12 bottom of this page. You can also find it on</p> <p>13 page 125 of that book.</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall when this image was</p> <p>16 taken?</p> <p>17 A. Right in the middle. It must have</p> <p>18 been '96.</p> <p>19 Q. And this is another example of a</p> <p>20 portraiture of a Rastafarian man that you wanted</p> <p>21 to include in this book?</p> <p>22 A. Yeah. Any of them, if they are in</p> <p>23 the book.</p> <p>24 Q. Understood. But I'm trying to just</p> <p>25 focus on like the portraiture aspect. The last</p>
<p style="text-align: center;">138</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. And is there a reason why you chose</p> <p>4 to use a longer depth of field in this image?</p> <p>5 A. Well, I'm sure that at the moment I</p> <p>6 had a reason. I don't know.</p> <p>7 Q. But the focus of this image is on</p> <p>8 these two Rastafarian gentlemen, correct?</p> <p>9 A. It is and it is not. Not as much as</p> <p>10 other portraits in the book. I wanted -- that's</p> <p>11 the reason why I wanted to have more depth of</p> <p>12 field is I wanted to feel more about the</p> <p>13 environment around them.</p> <p>14 Q. And why was that? That's what you</p> <p>15 thought was good at the time?</p> <p>16 A. Yeah.</p> <p>17 Q. Where was this particular shot</p> <p>18 taken?</p> <p>19 A. That's in St. Elizabeth. It's a</p> <p>20 parish called St. Elizabeth.</p> <p>21 Q. And this looks to me like it's sort</p> <p>22 of in a village or town?</p> <p>23 A. It's a little town -- yeah, a little</p> <p>24 village, yeah.</p> <p>25 Q. And have you sold a print of this</p>	<p style="text-align: center;">140</p> <p>1 Cariou</p> <p>2 one you said no, you were kind of more focused</p> <p>3 on de-emphasizing -- it was a portrait, but you</p> <p>4 were de-emphasizing the gentleman by bringing in</p> <p>5 more of the landscape, and here we see a</p> <p>6 diffused background and the focus is really on</p> <p>7 the closeup of the man.</p> <p>8 Have you ever sold any prints of</p> <p>9 this particular image?</p> <p>10 A. No.</p> <p>11 Q. Have you marketed this image other</p> <p>12 than through the Yes Rasta book?</p> <p>13 A. No.</p> <p>14 Q. And have you licensed any rights in</p> <p>15 this image to any person?</p> <p>16 A. No.</p> <p>17 Q. Let's turn now to C40.</p> <p>18 A. Yes.</p> <p>19 Q. And we've already talked about the</p> <p>20 images that appear on the bottom left and the</p> <p>21 bottom right, so we'll focus this line of</p> <p>22 questioning on the middle gentleman who is sort</p> <p>23 of --</p> <p>24 A. Crown. Having a crown.</p> <p>25 Q. Is that what they call it?</p>



**ESQUIRE**

an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">141</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. It looked to me like he had taken it</p> <p>4 and turned it into a turban?</p> <p>5 A. Yeah, also.</p> <p>6 It's beautiful, isn't it?</p> <p>7 Q. It's quite something.</p> <p>8 This picture is another example of a</p> <p>9 portraiture work of a Rastafarian man, correct?</p> <p>10 A. Sure.</p> <p>11 Q. And when was this photograph taken?</p> <p>12 A. I don't remember. I couldn't - I</p> <p>13 would say towards probably '97. It's probably</p> <p>14 towards the end, yeah, towards the end.</p> <p>15 Q. And can you turn to page 20 in the</p> <p>16 book and get the actual image?</p> <p>17 Seeing the larger size, does that</p> <p>18 help you place where this image was shot?</p> <p>19 A. That was actually shot, which is</p> <p>20 rare in this book, on the coast. This guy was a</p> <p>21 fisherman.</p> <p>22 Q. And how did you run into this</p> <p>23 particular individual?</p> <p>24 A. By driving around with friends who</p> <p>25 are Rastas and stopping by and, you know, and</p>	<p style="text-align: center;">143</p> <p>1 Cariou</p> <p>2 of the book.</p> <p>3 Now, when was this photograph taken,</p> <p>4 Mr. Cariou?</p> <p>5 A. I think it was taken in '93.</p> <p>6 Q. 1993?</p> <p>7 A. Yeah.</p> <p>8 Q. Was this before you had obtained</p> <p>9 permission from any of the Rastafarians to</p> <p>10 photograph them?</p> <p>11 A. No.</p> <p>12 Q. No?</p> <p>13 A. No. We were just walking up to the</p> <p>14 mountains, as you can see in the back, and the</p> <p>15 light was amazing, as you can see, the sky was</p> <p>16 amazing, and I thought it was a good time to</p> <p>17 take some landscape.</p> <p>18 Q. And is this down by the coast?</p> <p>19 A. Not really, no. It's about 30 miles</p> <p>20 up already inland.</p> <p>21 Q. And from your point of view what do</p> <p>22 you think is distinctive about this particular</p> <p>23 landscape photograph?</p> <p>24 A. I think the sky is quite amazing</p> <p>25 and, you know, the light. Once again, the</p>
<p style="text-align: center;">142</p> <p>1 Cariou</p> <p>2 having a chat and taking a picture.</p> <p>3 Q. And was this a staged shot or was</p> <p>4 this something that you just snapped?</p> <p>5 A. Oh, yeah. Yeah, yeah, yeah. You</p> <p>6 know, I had to - I wasn't ready - actually</p> <p>7 this picture I wasn't ready to take a picture.</p> <p>8 So then I had to take all my</p> <p>9 equipment out, you know, put the lens on,</p> <p>10 choose - it was in the sun, which is rare for</p> <p>11 the book. So we had to - it took a bit of work</p> <p>12 to take this picture.</p> <p>13 Q. About how long did it take you to -</p> <p>14 A. I would say about two hours.</p> <p>15 Q. And have you sold a copy of this</p> <p>16 image?</p> <p>17 A. No.</p> <p>18 Q. Have you licensed any rights in this</p> <p>19 image to any person other than Powerhouse?</p> <p>20 A. No.</p> <p>21 Q. And have you marketed this image in</p> <p>22 any way for sale?</p> <p>23 A. No.</p> <p>24 Q. Let's turn now to C41 in Plaintiff's</p> <p>25 Exhibit 40. And this is also on pages 1 and 2</p>	<p style="text-align: center;">144</p> <p>1 Cariou</p> <p>2 tropical storm makes extremely specific light.</p> <p>3 And the sugar cane, the sun on the</p> <p>4 sugar cane, and the really dark sky picture</p> <p>5 Jamaica very well I think.</p> <p>6 Q. Have you sold the image that appears</p> <p>7 on pages 1 and 2 of the book to anyone?</p> <p>8 A. No.</p> <p>9 Q. Have you licensed any rights in this</p> <p>10 image other than to Powerhouse?</p> <p>11 A. No.</p> <p>12 Q. And have you otherwise marketed it</p> <p>13 in any way?</p> <p>14 MR. BROOKS: I think I objected</p> <p>15 before. I asked what do you mean by</p> <p>16 marketed -</p> <p>17 MS. BART: He answered it and so we</p> <p>18 agreed that we would use that definition</p> <p>19 which is in any way commercialize it.</p> <p>20 That's what we talked about.</p> <p>21 A. So am I answering right now?</p> <p>22 Q. Yes, you are. Go ahead.</p> <p>23 A. No.</p> <p>24 Q. Let's now turn to C43.</p> <p>25 In the lower half of C43 there are</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">149</p> <p>1 Cariou</p> <p>2 bit complicated. But I can -- yeah, I could</p> <p>3 find it. I mean it's going to take time but I</p> <p>4 can find you everything.</p> <p>5 Q. Well, the only thing is we want to</p> <p>6 know what your position is on this, if this</p> <p>7 is --</p> <p>8 A. My position is on that, that 1, 2,</p> <p>9 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,</p> <p>10 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,</p> <p>11 29, 30, 31, 32, 33, 34, 35 pictures, photographs</p> <p>12 of Yes Rasta were used in a single artwork from</p> <p>13 Mr. Prince. That's my position.</p> <p>14 Q. Understood.</p> <p>15 A. 35 photographs.</p> <p>16 Q. Understood. So now what I'd like to</p> <p>17 try to do, if we could, is have you find -- some</p> <p>18 of these we've gone over, so I won't make you do</p> <p>19 those again, they're obvious, or we will be</p> <p>20 going through them, but if you could, for</p> <p>21 example, find the vegetation that is on the</p> <p>22 upper left-hand corner in the book.</p> <p>23 (Witness looks through exhibit.)</p> <p>24 MS. BART: May the record reflect</p> <p>25 that the witness is flipping through each</p>	<p style="text-align: center;">151</p> <p>1 Cariou</p> <p>2 The image that appears on page 77</p> <p>3 and 78, can you just hold that up for me,</p> <p>4 please?</p> <p>5 A. Yeah, okay.</p> <p>6 Q. Thank you.</p> <p>7 We've not talked about this one</p> <p>8 before, have we?</p> <p>9 A. No.</p> <p>10 Q. All right. When was this particular</p> <p>11 image taken?</p> <p>12 A. I don't remember. I don't know.</p> <p>13 At some point.</p> <p>14 Q. Was this imagery that you took to</p> <p>15 create -- to have more like tropical vegetation</p> <p>16 to create the tropical look and feel of the</p> <p>17 Yes Rasta book?</p> <p>18 A. Yeah.</p> <p>19 Q. In your view what about the image</p> <p>20 that appears on pages 77 and 78 is distinctive?</p> <p>21 A. Same thing, it's a beautiful</p> <p>22 landscape.</p> <p>23 Q. Was this something that you staged</p> <p>24 or was it something that you might have --</p> <p>25 A. Staging a landscape is quite</p>
<p style="text-align: center;">150</p> <p>1 Cariou</p> <p>2 page of Plaintiff's Exhibit 41 at this</p> <p>3 time.</p> <p>4 MR. BROOKS: Is that it?</p> <p>5 MS. BART: Did you get that?</p> <p>6 (Clarification by reporter.)</p> <p>7 MR. BROOKS: I thought that might</p> <p>8 have been it.</p> <p>9 A. That's it.</p> <p>10 (Witness indicating.)</p> <p>11 Q. And can you just state for the</p> <p>12 record the page of the book where you say this</p> <p>13 image in the upper left-hand corner appears?</p> <p>14 A. Yes, it's page 77 and page 78.</p> <p>15 Q. Okay. Is the entirety of the image</p> <p>16 that appears on 77 and 78 reproduced here or is</p> <p>17 it only a portion?</p> <p>18 A. It's a portion of it.</p> <p>19 Q. Now, can we go, for purposes of this</p> <p>20 exercise, from left to right and then we'll move</p> <p>21 down to the next row and go left to right to</p> <p>22 help with the record?</p> <p>23 A. Okay.</p> <p>24 Q. The next image appears to be -- I</p> <p>25 guess I should stop.</p>	<p style="text-align: center;">152</p> <p>1 Cariou</p> <p>2 complicated. You don't really move trees</p> <p>3 around, you know. So it's a matter of being a</p> <p>4 photographer, having an eye and choosing the</p> <p>5 right moment and framing the picture.</p> <p>6 Q. Of course. But there was another</p> <p>7 picture that we spoke about earlier this morning</p> <p>8 where you said you were just in passing on</p> <p>9 somewhere else --</p> <p>10 A. Yeah.</p> <p>11 Q. -- and so that was something you</p> <p>12 took because it caught your eye, it wasn't like</p> <p>13 the one with the sun and the oncoming storm and</p> <p>14 that road where you said you waited until the</p> <p>15 sun reached the exact place?</p> <p>16 A. It's the same thing on this one, the</p> <p>17 storm coming in.</p> <p>18 Q. And you're waiting?</p> <p>19 A. And I'm waiting.</p> <p>20 Q. So how long did it take you to do</p> <p>21 this image?</p> <p>22 A. I don't remember how long. I really</p> <p>23 don't remember how long. I was probably waiting</p> <p>24 for my Rasta friend to do what they had to do,</p> <p>25 and I don't know, maybe an hour.</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">153</p> <p>1 Cariou</p> <p>2 Q. Have you ever sold the image that</p> <p>3 appears on pages 77 and 78?</p> <p>4 A. No.</p> <p>5 Q. Have you ever licensed any rights to</p> <p>6 this image to any person other than Powerhouse?</p> <p>7 A. No.</p> <p>8 Q. And you have in any way marketed the</p> <p>9 image other than through the Yes Rasta book?</p> <p>10 A. No.</p> <p>11 Q. Okay. Let's move to the right of</p> <p>12 that image. We're in the first row, so it's the</p> <p>13 second one from the left. There's an image of a</p> <p>14 Rastafarian, he appears to be wearing a black</p> <p>15 knitted hat or cap?</p> <p>16 A. Yeah. We talked about this picture</p> <p>17 before.</p> <p>18 Q. We did?</p> <p>19 A. Yeah.</p> <p>20 Q. Okay. Was this the gentleman with</p> <p>21 the long beard?</p> <p>22 A. Exactly.</p> <p>23 Q. So let's move on.</p> <p>24 The image to the right of that,</p> <p>25 which is the third from the left in the top row</p>	<p style="text-align: center;">155</p> <p>1 Cariou</p> <p>2 time together.</p> <p>3 Q. You just pointed to something on his</p> <p>4 shirt. What is it?</p> <p>5 A. It's Haile Selassie.</p> <p>6 Q. And why is that of significance to</p> <p>7 you?</p> <p>8 A. Because that's the Rastafarian god.</p> <p>9 Q. And so he's considered to be a</p> <p>10 leader, or is this just a symbol --</p> <p>11 A. No, no, no, because it's just he</p> <p>12 liked --</p> <p>13 Q. He liked the symbol?</p> <p>14 A. He liked the symbol.</p> <p>15 Q. Were you finished with your answer,</p> <p>16 sir?</p> <p>17 A. Oh, yeah, I'm sorry. Yeah.</p> <p>18 Q. Okay. This was a staged portrait?</p> <p>19 A. Yeah, really staged portrait.</p> <p>20 Q. And what do you mean by really</p> <p>21 staged?</p> <p>22 A. Well, I took a lot of time to find</p> <p>23 the perfect lighting, the perfect depth of field</p> <p>24 in order to have the leaves that I really like</p> <p>25 in the background to be the way they are. And</p>
<p style="text-align: center;">154</p> <p>1 Cariou</p> <p>2 on Defendant's 5, the gentleman in a white</p> <p>3 shirt?</p> <p>4 A. Yeah.</p> <p>5 Q. Can you please find that image in</p> <p>6 the book?</p> <p>7 A. Sure.</p> <p>8 (Witness looks at exhibit.)</p> <p>9 A. It's page 98.</p> <p>10 Q. Mr. Cariou, would you mind just</p> <p>11 holding that image up for me please, just so I</p> <p>12 can see it?</p> <p>13 A. Sure.</p> <p>14 Q. Thank you kindly.</p> <p>15 Would you put this in the category</p> <p>16 of portraits of Rastafarians that you wanted</p> <p>17 to include in this book?</p> <p>18 A. Yeah. That's actually one of my</p> <p>19 favorite portraits.</p> <p>20 Q. When was this particular shot taken,</p> <p>21 do you know?</p> <p>22 A. It probably must have been in '96.</p> <p>23 Q. And why do you place it in '96?</p> <p>24 A. Because I remember this man very</p> <p>25 well. I liked him very well, and we had a good</p>	<p style="text-align: center;">156</p> <p>1 Cariou</p> <p>2 he was extremely calm and peaceful and he was</p> <p>3 willing to take as much time as I wanted to to</p> <p>4 take this portrait.</p> <p>5 So we -- yeah, we tried to take a</p> <p>6 powerful portrait and I think we succeed.</p> <p>7 Q. And the we here is you and someone</p> <p>8 else or you and this gentleman?</p> <p>9 A. No, no. He and I.</p> <p>10 Q. Have you sold this particular</p> <p>11 portrait, the image to anyone?</p> <p>12 A. Have I? That's a good question.</p> <p>13 Hold on one second.</p> <p>14 Yes, I have actually.</p> <p>15 Q. And you've, in answering that</p> <p>16 question, picked up your answers to</p> <p>17 interrogatories?</p> <p>18 A. Yeah, yeah.</p> <p>19 Q. Or your initial disclosures, I can't</p> <p>20 see what you have?</p> <p>21 A. No, the --</p> <p>22 (Clarification by reporter.)</p> <p>23 Q. The answers to interrogatories.</p> <p>24 And I think those were marked as</p> <p>25 Defendant's Exhibit 4. Yes, okay.</p>



**ESQUIRE**  
an Alexander O'Neal Company

Toll Free: 800.944.9454  
 Facsimile: 212.557.5972

Suite 4715  
 One Penn Plaza  
 New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)



Patrick Cariou

January 12, 2010

157	159
<p>1 Cariou</p> <p>2 And are you looking at answer 1C?</p> <p>3 A. Yeah.</p> <p>4 Q. And so who is the --</p> <p>5 A. Salina Hori, the last person.</p> <p>6 Q. And so you sold a copy of this one</p> <p>7 for 2,000 Euros, correct?</p> <p>8 A. Yeah.</p> <p>9 Q. Who is Salina Hori?</p> <p>10 A. She's an acquaintance of mine.</p> <p>11 Q. And when did Ms. Hori purchase a</p> <p>12 print of this?</p> <p>13 A. That must have been by the summer</p> <p>14 last year.</p> <p>15 MR. BROOKS: Excuse me one second.</p> <p>16 Do you mean '09 or '08 when you say</p> <p>17 last year? We're now in January 2010.</p> <p>18 A. '09 this time.</p> <p>19 Q. So she purchased this after the</p> <p>20 lawsuit was filed, which was in January -- well,</p> <p>21 your amended complaint was filed on</p> <p>22 January 14th?</p> <p>23 A. No, it's 2008 then. No, it's not</p> <p>24 2009. Yeah, yeah. Sorry about that.</p> <p>25 Q. Under what circumstances did you</p>	<p>1 Cariou</p> <p>2 MR. BROOKS: Off the record.</p> <p>3 (Discussion off the record.)</p> <p>4 BY MS. BART:</p> <p>5 Q. Where we were is we were talking</p> <p>6 about the third image from the left in the top</p> <p>7 row. And while we were off the record,</p> <p>8 Mr. Cariou, we were trying to explore ways of</p> <p>9 shortcutting this examination.</p> <p>10 Unfortunately, we need to understand</p> <p>11 your reasoning for each of the images, but we'll</p> <p>12 try to find ways to short-circuit the questions.</p> <p>13 So let me finish the sequence with</p> <p>14 this gentleman and I'll try to see if we can</p> <p>15 lump some of the other ones together.</p> <p>16 The gentleman in the white shirt,</p> <p>17 you said you sold one to Ms. Hori?</p> <p>18 A. Yes.</p> <p>19 Q. And have you licensed any rights to</p> <p>20 this image other than Powerhouse?</p> <p>21 A. No.</p> <p>22 Q. And have you otherwise marketed this</p> <p>23 image other than through the Yes Rasta book?</p> <p>24 A. No.</p> <p>25 Q. Okay. So in an effort to try to</p>
158	160
<p>1 Cariou</p> <p>2 sell the photograph to Ms. Hori?</p> <p>3 A. Same old story, you know, I like</p> <p>4 her, she's a friend, she really like that</p> <p>5 picture and I was like why not. She was like I</p> <p>6 want to put that there in my place, and she got</p> <p>7 it.</p> <p>8 Q. And I see that this particular piece</p> <p>9 was sold for 2,000 Euros whereas the others were</p> <p>10 sold for 1,500?</p> <p>11 A. Yeah.</p> <p>12 Q. How did you set the price for this</p> <p>13 particular photograph or print?</p> <p>14 A. Because I think it was -- sorry to</p> <p>15 interrupt -- the size was a little bit bigger.</p> <p>16 Q. And do you know if Ms. Hori still</p> <p>17 has this image displayed in that place in her</p> <p>18 home?</p> <p>19 A. Yeah.</p> <p>20 Q. And, again, just for the record,</p> <p>21 this was a print of the image that appears on</p> <p>22 the top row of Defendant's Exhibit 9, correct?</p> <p>23 A. Yeah.</p> <p>24 MR. BROOKS: In page 98 of the book.</p> <p>25 MS. BART: Yes.</p>	<p>1 Cariou</p> <p>2 deal with those three questions collectively,</p> <p>3 I know you testified about some of the other</p> <p>4 images that appear on this on Defendant's</p> <p>5 Exhibit 5, but are there any other images that</p> <p>6 are in Defendant's Exhibit 5 where you have sold</p> <p>7 a print of that image?</p> <p>8 A. Yeah. On the second row, the third,</p> <p>9 starting from the left where Mr. Prince drew a</p> <p>10 monkey face on a beautiful Rasta. This print</p> <p>11 was sold. And it's --</p> <p>12 Q. Is that page 10?</p> <p>13 I think you may have already</p> <p>14 testified about that.</p> <p>15 A. Page 10? Maybe. Yeah.</p> <p>16 Page 11.</p> <p>17 Q. Page 11? All right.</p> <p>18 A. This one was sold.</p> <p>19 Q. And was it sold to any of the</p> <p>20 individuals that are listed in 1C?</p> <p>21 A. Yeah. It was sold to Nicolas</p> <p>22 Laurent Olivier Girard.</p> <p>23 Q. So this is one of the ones that</p> <p>24 Mr. Girard purchased, and we've already talked</p> <p>25 about this work of art this morning so we don't</p>



**ESQUIRE**  
an Alexander Gello Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">161</p> <p>1 Cariou</p> <p>2 need to go over it again.</p> <p>3 Other than that one are there any</p> <p>4 others that appear on Defendant's Exhibit 5</p> <p>5 where you've sold prints of those images?</p> <p>6 A. No.</p> <p>7 Q. And taking the images as a whole</p> <p>8 in Defendant's Exhibit 5, other than through</p> <p>9 Powerhouse Magazine have you licensed any rights</p> <p>10 to any of these images?</p> <p>11 A. No.</p> <p>12 MR. BROOKS: It's not a magazine.</p> <p>13 MS. BART: What did I say?</p> <p>14 MR. BROOKS: Powerhouse Magazine.</p> <p>15 MS. BART: Powerhouse --</p> <p>16 MR. BROOKS: Books.</p> <p>17 BY MS. BART:</p> <p>18 Q. Other than through Powerhouse have</p> <p>19 you licensed any rights to any image on</p> <p>20 Defendant's Exhibit 5?</p> <p>21 A. No.</p> <p>22 Q. And have you otherwise marketed any</p> <p>23 of the other images on Defendant's Exhibit 5</p> <p>24 other than through Yes Rasta?</p> <p>25 A. No.</p>	<p style="text-align: center;">163</p> <p>1 Cariou</p> <p>2 third row, the third image from the left --</p> <p>3 A. Mm-hmm.</p> <p>4 Q. I'm sorry, the first image from the</p> <p>5 left, the third image from the left, the fourth</p> <p>6 image from the left, the sixth image from the</p> <p>7 left, and then the last image in that row?</p> <p>8 A. Yeah.</p> <p>9 Q. Taking those, and then going to the</p> <p>10 fourth row, the second image from the left?</p> <p>11 A. Mm-hmm.</p> <p>12 Q. And that's it.</p> <p>13 All of those that we've just talked</p> <p>14 about, those would be examples, additional shots</p> <p>15 that you took as portraits of Rastafarians</p> <p>16 for inclusion in this book, correct?</p> <p>17 A. Yeah, correct.</p> <p>18 Q. In the portrait style?</p> <p>19 A. Correct.</p> <p>20 Q. And were all of those images</p> <p>21 staged --</p> <p>22 A. Yeah.</p> <p>23 Q. -- by you, or were any of them taken</p> <p>24 spontaneously?</p> <p>25 A. No, none of them were taken</p>
<p style="text-align: center;">162</p> <p>1 Cariou</p> <p>2 Q. If we could now go back to the top</p> <p>3 row. We've already talked about the fourth</p> <p>4 image from the left and the fifth image from the</p> <p>5 left. I don't believe we've talked about the</p> <p>6 sixth image from the left.</p> <p>7 But in the interest of trying to</p> <p>8 speed this along, if we could take that image</p> <p>9 and then go to the second row?</p> <p>10 A. Yeah.</p> <p>11 Q. The first image from the left?</p> <p>12 A. Yeah.</p> <p>13 Q. The fourth image from the left?</p> <p>14 A. Yeah.</p> <p>15 Q. The fifth image from the left?</p> <p>16 A. Fifth image from the left?</p> <p>17 Q. That's the gentleman there where the</p> <p>18 hands have been drawn?</p> <p>19 A. Yeah, okay.</p> <p>20 Q. The seventh image from the left,</p> <p>21 which is the man with the -- it looks like a</p> <p>22 drink?</p> <p>23 A. Yeah, a pipe.</p> <p>24 Q. Like a soda or something in it.</p> <p>25 Then going down to the next row, the</p>	<p style="text-align: center;">164</p> <p>1 Cariou</p> <p>2 spontaneously. They were all staged.</p> <p>3 Q. And the focus of each of the images</p> <p>4 that we've just talked about is all -- they're</p> <p>5 all on the subject that you're photographing,</p> <p>6 that's the primary focus of those images,</p> <p>7 correct?</p> <p>8 A. Yeah, correct.</p> <p>9 Q. Okay. Now, going, if we could, back</p> <p>10 to the top row, there is a man who is the third</p> <p>11 from the right. It looks to me like he's</p> <p>12 standing in front of a stream?</p> <p>13 A. Yeah.</p> <p>14 MR. BROOKS: Isn't that the second</p> <p>15 from the right?</p> <p>16 Q. Well, there's -- I don't know if</p> <p>17 it's a single image or not?</p> <p>18 A. I see the image.</p> <p>19 Q. It looks like it's a waterfall?</p> <p>20 MR. BROOKS: Ocho Rios?</p> <p>21 Is that Ocho Rios?</p> <p>22 A. No, but it could be.</p> <p>23 Q. Could you please find that image in</p> <p>24 the Yes Rasta book?</p> <p>25 A. I got it. It's page 55 and 56.</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
 Facsimile: 212.557.5972

Suite 4715  
 One Penn Plaza  
 New York, NY 10119  
[www.esquiresolutions.com](http://www.esquiresolutions.com)

Patrick Cariou

January 12, 2010

<p style="text-align: center;">165</p> <p>1 Cariou</p> <p>2 Q. So that is a two-page image,</p> <p>3 correct?</p> <p>4 A. Yeah.</p> <p>5 Q. Or it's been printed that way in the</p> <p>6 book?</p> <p>7 A. Yeah, it's a spread.</p> <p>8 Q. Could I ask you please, sir, to hold</p> <p>9 that up just so that I could see the original?</p> <p>10 A. Sure.</p> <p>11 Q. Okay, thank you.</p> <p>12 Is this a portrait that you took</p> <p>13 having staged -- not a portrait -- is this an</p> <p>14 image that you took having staged it for the</p> <p>15 shot, or were you taking out --</p> <p>16 A. Absolutely.</p> <p>17 Q. This was a staged shot?</p> <p>18 A. Yeah.</p> <p>19 Q. And how long did it take you to</p> <p>20 stage this particular shot?</p> <p>21 A. Quite a long time, you know. We</p> <p>22 were both in the water, all in the water, I had</p> <p>23 my camera with me, and it took us a couple hours</p> <p>24 to make it right.</p> <p>25 Q. And what is the expression -- are</p>	<p style="text-align: center;">167</p> <p>1 Cariou</p> <p>2 Q. A gang symbol?</p> <p>3 A. Yeah, it's like a gun.</p> <p>4 Q. All right.</p> <p>5 Moving on then to the image on</p> <p>6 Defendant's Exhibit 5 that appears to the right</p> <p>7 of that, can you tell me what that is?</p> <p>8 A. Could you come again, please?</p> <p>9 Q. Yes. Get Defendant's Exhibit 5,</p> <p>10 which is the Canal Zone.</p> <p>11 A. Yeah.</p> <p>12 Q. And can you tell me where in the</p> <p>13 book that particular image appears?</p> <p>14 A. The first one on the --</p> <p>15 Q. No, the farthest one on the right.</p> <p>16 A. Yeah.</p> <p>17 (Witness looks at exhibit.)</p> <p>18 A. Here. Page 146.</p> <p>19 MR. BROOKS: Can I see that?</p> <p>20 THE WITNESS: Sure.</p> <p>21 BY MS. BART:</p> <p>22 Q. And having now seen the original --</p> <p>23 MR. BROOKS: Ocho Rios.</p> <p>24 A. Sorry.</p> <p>25 Q. That's all right. He knows his</p>
<p style="text-align: center;">166</p> <p>1 Cariou</p> <p>2 these more examples of Rastafarian men that</p> <p>3 you're trying to show in their natural setting?</p> <p>4 A. The first one.</p> <p>5 Q. The first one meaning the closest</p> <p>6 one to us?</p> <p>7 A. Yeah, the closest one, yeah. Not</p> <p>8 the two others. The two other ones are not</p> <p>9 Rastafarians. They're what they call in Jamaica</p> <p>10 Rude Boys. Rude Boys.</p> <p>11 Q. R-U-D-E?</p> <p>12 A. Yeah.</p> <p>13 Q. And I just have to ask?</p> <p>14 A. They're gangsters.</p> <p>15 Q. Gangsters?</p> <p>16 A. Yeah. If you can take the book and</p> <p>17 you look, the sign, he's like that.</p> <p>18 (Witness indicating.)</p> <p>19 Q. Like this?</p> <p>20 A. Yes.</p> <p>21 Q. And this is your index and third</p> <p>22 finger pointed at an angle downward?</p> <p>23 A. Yeah.</p> <p>24 Q. And that's a symbol?</p> <p>25 MR. HAYES: Gang sign.</p>	<p style="text-align: center;">168</p> <p>1 Cariou</p> <p>2 waterfalls.</p> <p>3 MR. BROOKS: I walked down it or up</p> <p>4 it. I don't remember. It was a long time</p> <p>5 ago.</p> <p>6 Q. Having now seen the original image</p> <p>7 is it fair to say that this is probably included</p> <p>8 with the other group of portraiture?</p> <p>9 A. Yeah.</p> <p>10 Q. Going now to the second row of</p> <p>11 Defendant's Exhibit 5, the second from the left?</p> <p>12 A. The second from the left? Yeah.</p> <p>13 Q. It looks to me to be -- on the</p> <p>14 smaller image it looks to me to be a waterfall?</p> <p>15 A. It's actually a river after a storm.</p> <p>16 You want me to --</p> <p>17 Q. If you would please, sir, yes.</p> <p>18 A. Yeah. There's a few, but that's the</p> <p>19 one.</p> <p>20 Q. On page 17 of Plaintiff's Exhibit 41</p> <p>21 in the book? Page 17 of the book, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And was this a landscape picture</p> <p>24 that you included in Yes Rasta to just try to,</p> <p>25 again, connote the tropical --</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">169</p> <p>1 Cariou</p> <p>2 A. Yeah. Look, it doesn't get much</p> <p>3 more tropical than that.</p> <p>4 Q. And what, in your mind, is</p> <p>5 distinctive about that particular image?</p> <p>6 A. Well, the fact, once again, the</p> <p>7 storm is passing by, it's really high up in the</p> <p>8 mountains, the river is -- how do you say it --</p> <p>9 the river is --</p> <p>10 Q. Rushing?</p> <p>11 A. Rushing. And I like the light. And</p> <p>12 I like this picture.</p> <p>13 Q. All right. The next image in that</p> <p>14 same row that I think we have not talked about</p> <p>15 is the second from the right?</p> <p>16 A. Yeah.</p> <p>17 Q. Can you find that image in the</p> <p>18 Yes Rasta book?</p> <p>19 A. Yes. It's page 142.</p> <p>20 Q. Can I just see it, sir?</p> <p>21 A. Is that the one you want?</p> <p>22 Q. No, no, the second from the right,</p> <p>23 which to me -- we've included him as part of the</p> <p>24 portraiture group thing, so I did that short</p> <p>25 form.</p>	<p style="text-align: center;">171</p> <p>1 Cariou</p> <p>2 that I know. So, yeah.</p> <p>3 (Witness looks through exhibit.)</p> <p>4 A. Yeah, I got it.</p> <p>5 Q. And what's the page number?</p> <p>6 A. 147 and 148.</p> <p>7 Q. Can you just hold that up so I can</p> <p>8 see it?</p> <p>9 A. Sure.</p> <p>10 Q. Thank you.</p> <p>11 And was that shot up in the</p> <p>12 mountains of Jamaica?</p> <p>13 A. High up in the mountains of Jamaica.</p> <p>14 Q. And this was again a landscape shot</p> <p>15 that you included to set the stage for the</p> <p>16 Yes Rasta book?</p> <p>17 A. Absolutely.</p> <p>18 Q. And in your view what's distinctive</p> <p>19 about the image that appears on pages 147 and</p> <p>20 148 of Plaintiff's 41?</p> <p>21 A. It's a beautiful landscape.</p> <p>22 Q. Turning now to the next row, the</p> <p>23 first image on the left, can you find that image</p> <p>24 in the book, please?</p> <p>25 A. It's page 150.</p>
<p style="text-align: center;">170</p> <p>1 Cariou</p> <p>2 A. Oh, the second one? Yeah, I think I</p> <p>3 know what it is but, you know, I would really</p> <p>4 need a better reproduction of that to -- but I</p> <p>5 think I know what it is.</p> <p>6 (Witness looks through exhibit.)</p> <p>7 MS. BART: May the record reflect</p> <p>8 that the witness is looking through the</p> <p>9 Yes Rasta book for the image that appears</p> <p>10 second to the right.</p> <p>11 THE WITNESS: Which one is it again?</p> <p>12 MR. BROOKS: This one.</p> <p>13 MS. BART: On row 2 of</p> <p>14 Defendant's 5.</p> <p>15 A. I missed it.</p> <p>16 Q. Would you like to do this on a break</p> <p>17 and we'll fill it in later?</p> <p>18 A. If you want me to, yeah.</p> <p>19 Q. But you're sure this is one of your</p> <p>20 images?</p> <p>21 A. I'm pretty sure, yeah, because --</p> <p>22 yeah. I mean, you know, as you see, that's a</p> <p>23 bad -- it's a small reproduction.</p> <p>24 Q. It's just a portion of an image?</p> <p>25 A. Yeah, it's a portion of a picture,</p>	<p style="text-align: center;">172</p> <p>1 Cariou</p> <p>2 Q. Could you kindly hold that image up</p> <p>3 for me, Mr. Cariou?</p> <p>4 A. Sure.</p> <p>5 Q. Okay. Now, that image is an image</p> <p>6 of two women and a young boy?</p> <p>7 A. It's an image of one woman and two</p> <p>8 young boys.</p> <p>9 Q. Can you hold it up again?</p> <p>10 A. That's the boy.</p> <p>11 Q. That's the boy. I see.</p> <p>12 And would you classify that as a</p> <p>13 portraiture?</p> <p>14 A. I hope so.</p> <p>15 Q. Okay. And what you were trying to</p> <p>16 show there is part of the family life that is</p> <p>17 part of the fabric of the Rastafarian society?</p> <p>18 A. Yes.</p> <p>19 Q. And there are other women that</p> <p>20 appear in the Yes Rasta book?</p> <p>21 A. Very few actually.</p> <p>22 Q. But there are other women in the</p> <p>23 Yes Rasta book, correct?</p> <p>24 A. I would have to check for that.</p> <p>25 MR. BROOKS: No, no.</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

173	175
1 Cariou	1 Cariou
2 Q. That's all right. I can represent	2 an evergreen tree, so I will beg apologies to
3 to you that there are several works that depict	3 the artist.
4 women.	4 A. It's a happy Christmas tree.
5 A. Okay.	5 Q. Okay. Staying on that same row,
6 Q. And my question to you simply is you	6 there's the second picture from the right.
7 were trying to show another aspect of the	7 A. Second picture from the right.
8 Rastafarian culture, which is the emphasis on	8 Yeah.
9 family?	9 Q. There's handwriting, the words
10 A. Yeah.	10 canal?
11 Q. Turning now to I believe it's the	11 A. Yeah.
12 fifth image from the left in that same row, it	12 Q. Could you find that image please for
13 looks like a hut on top of some stones.	13 us in the Yes Rasta book?
14 A. It's page 45 and 46.	14 MR. BROOKS: After this one I would
15 Q. Mr. Cariou, could you just let me	15 like to take a short break.
16 take a look, hold it up?	16 (Witness looks through exhibit.)
17 A. Sure.	17 MS. BART: May the record reflect
18 Q. And again, there are women in that	18 that the witness is flipping through the
19 picture, correct?	19 book to find the image.
20 A. Yeah.	20 BY MS. BART:
21 Q. And this is another example of an	21 Q. I'm sorry, what did you say, sir?
22 attempt to show family life in the Rastafarian	22 A. No, I'm just trying to --
23 society?	23 Q. To see if that's it?
24 A. Yeah, exactly.	24 A. I'm just mumbling.
25 Q. In your view -- well, you'll notice	25 Q. You're not sure?
174	176
1 Cariou	1 Cariou
2 in Defendant's Exhibit 5, Mr. Cariou, only a	2 A. No, I'm not sure. It's too dark and
3 portion of the image that appears on 45 and 46	3 too small. It's either this one --
4 is shown here, and that looks principally to be	4 Q. And this one is pages --
5 the image with the house, so perhaps it's only	5 A. 91 and 92.
6 the page 46?	6 Q. A portion of it?
7 A. It is only page 46.	7 A. Yeah. Or it might be -- no, that's
8 Q. And a portion of it?	8 the one. It's 111 and 112.
9 A. Yeah.	9 MS. BART: I believe counsel has
10 Q. Because we don't see the sky at the	10 asked for a break, so let's do that now.
11 top?	11 MR. BROOKS: Very short.
12 A. Yeah.	12 (Recess taken: 2:38 p.m.)
13 Q. In your view what is distinctive	13 (Proceedings resumed: 2:46 p.m.)
14 about the house or the structure that appears on	14 BY MS. BART:
15 page 46 of Defendant's 5?	15 Q. Mr. Cariou, I'm going to direct your
16 A. Well, it's a really old house for	16 attention to the bottom row of Defendant's
17 Jamaica. It was actually built by the Spanish	17 Exhibit 5, third image from the left. Is that
18 before they left the island to the British.	18 the same image that appears on page 17 and 18?
19 And, you know, it's a family that I	19 A. No.
20 liked and I thought that it was a nice place to	20 Q. Different? Can you just find it in
21 take a picture.	21 the book?
22 And if you notice right in the	22 And while you're looking is it fair
23 middle of the picture, right next to the house	23 to say that this is another example of trying to
24 you have a huge marijuana tree.	24 provide Jamaican landscape to create a look in
25 Q. Being from Peoria I thought it was	25 the book?



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
 Facsimile: 212.557.5972

Suite 4715  
 One Penn Plaza  
 New York, NY 10119  
[www.esquireolutions.com](http://www.esquireolutions.com)

Patrick Cariou

January 12, 2010

<p style="text-align: center;">177</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. So in that respect it's similar to</p> <p>4 17 is all I'm trying to get at, I'm just going</p> <p>5 to lump those two together?</p> <p>6 MR. BROOKS: Hold that one because</p> <p>7 we're going to come back to that one.</p> <p>8 What number is that? 90?</p> <p>9 Okay, I got it.</p> <p>10 MS. BART: The house?</p> <p>11 MR. BROOKS: Yeah, it's 90.</p> <p>12 Is that it? No.</p> <p>13 A. No. It's a big river.</p> <p>14 Yeah, page 51.</p> <p>15 Q. Thank you.</p> <p>16 Is that 51 and 52?</p> <p>17 A. Yeah, 51 and 52.</p> <p>18 Q. And the portion that is at the</p> <p>19 bottom row is only page 51, correct?</p> <p>20 A. Yeah. Right.</p> <p>21 Q. In that same row I believe your</p> <p>22 counsel had you identify page 90 as the house?</p> <p>23 A. Yeah.</p> <p>24 Q. That's the fourth image from the</p> <p>25 right?</p>	<p style="text-align: center;">179</p> <p>1 Cariou</p> <p>2 Q. Bottom row.</p> <p>3 A. Bottom row, yeah.</p> <p>4 Q. And the words zone canal have been</p> <p>5 painted on top of it. Can you tell which image</p> <p>6 that is?</p> <p>7 A. On that one? Honestly, no.</p> <p>8 Q. So the rest of them you're sure</p> <p>9 they're from your book, this one you're not</p> <p>10 sure?</p> <p>11 A. Well, it's not that I'm not sure</p> <p>12 it's from my book, it's just that it's such a</p> <p>13 small reproduction of the artwork that, you</p> <p>14 know.</p> <p>15 I might - I could find it, but it</p> <p>16 would take me hours. You know, I would have to</p> <p>17 go through the book thoroughly.</p> <p>18 Q. All right. Then let's not take the</p> <p>19 time to do that. I don't think that's a good</p> <p>20 use of your time.</p> <p>21 MR. BROOKS: I have a suggestion.</p> <p>22 Maybe Mr. Prince knows where he took it</p> <p>23 from.</p> <p>24 MS. BART: Well, this exercise is</p> <p>25 about your client's comparison and how he</p>
<p style="text-align: center;">178</p> <p>1 Cariou</p> <p>2 A. Yeah.</p> <p>3 Q. Could you kindly just hold the book</p> <p>4 up, because I don't remember this image at all?</p> <p>5 A. Sure.</p> <p>6 Q. Okay. So that's really 89 and 90,</p> <p>7 it's a two-page image?</p> <p>8 A. Yeah.</p> <p>9 Q. And this is an image of a house, and</p> <p>10 is that a person in sort of the foreground?</p> <p>11 A. No, there's nobody in the</p> <p>12 foreground.</p> <p>13 Q. So this is just to show another part</p> <p>14 of family life?</p> <p>15 A. Yeah, the habitat, and it's also</p> <p>16 extremely visually appealing.</p> <p>17 Q. Appealing?</p> <p>18 A. Yeah.</p> <p>19 Q. And that's why in your mind it's</p> <p>20 distinctive?</p> <p>21 A. Yeah.</p> <p>22 Q. Now, looking now in Defendant's</p> <p>23 Exhibit 5, the second from the right there's</p> <p>24 a -</p> <p>25 A. On which row?</p>	<p style="text-align: center;">180</p> <p>1 Cariou</p> <p>2 got to this picture was he said no -</p> <p>3 MR. BROOKS: He didn't do a</p> <p>4 comparison of this.</p> <p>5 MS. BART: That's my point.</p> <p>6 If you let me finish, Mr. Brooks, I</p> <p>7 handed him Plaintiff's Exhibit 40 and I</p> <p>8 asked him if they were all images and he</p> <p>9 said no, and that's how he got to this</p> <p>10 one.</p> <p>11 (Defendant's Exhibit 6, document,</p> <p>12 was marked for identification, as of this</p> <p>13 date.)</p> <p>14 MS. BART: I'd like to hand you</p> <p>15 what's been marked as Plaintiff's</p> <p>16 Exhibit 6. And this is, just for the</p> <p>17 record, to show that in fact color images</p> <p>18 of Defendant's Exhibit 5 were produced to</p> <p>19 you on August 14th, 2009, via Federal</p> <p>20 Express.</p> <p>21 MR. BROOKS: Okay.</p> <p>22 MS. BART: You can set that book</p> <p>23 aside for right now, but keep it handy</p> <p>24 where you can get to it.</p> <p>25 I was able to knock off several</p>



**ESQUIRE**  
an Alexander Gallo Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

185	187
<p>1                   Cariou</p> <p>2 Cultural Entertainment -- we'll just call it</p> <p>3 Powerhouse -- did they subsidize any portion of</p> <p>4 your expenses for the Yes Rasta project?</p> <p>5     A. No.</p> <p>6     Q. So those are all expenses that you</p> <p>7 bore in that project?</p> <p>8     A. Yes.</p> <p>9     Q. Do you know how much money you spent</p> <p>10 putting together producing the Yes Rasta book?</p> <p>11     A. Not really. I never -- no.</p> <p>12     Q. You didn't keep track of it?</p> <p>13     A. No, I didn't keep track of it.</p> <p>14     Q. When you first sat down with the</p> <p>15 people at Powerhouse to talk about the</p> <p>16 possibility of publishing Yes Rasta, or perhaps</p> <p>17 a collection of images, you know, showcasing the</p> <p>18 Rastafarian society, was there any discussion</p> <p>19 about what audience they would try to target</p> <p>20 with your book?</p> <p>21     A. You know, they publish artist book,</p> <p>22 you know, and that's what they do really. So</p> <p>23 they're not much into -- I mean I didn't really</p> <p>24 have any conversation about the marketing aspect</p> <p>25 of it, you know.</p>	<p>1                   Cariou</p> <p>2 didn't have a name then, but let's just refer to</p> <p>3 it that way -- did you give to the Powerhouse</p> <p>4 representatives any description about your</p> <p>5 concept for this book?</p> <p>6     A. Yeah.</p> <p>7     Q. And what did you tell them?</p> <p>8     A. Well, I told them that I wanted to</p> <p>9 have a book of photographs, obviously it would</p> <p>10 be of extreme classical photography, of</p> <p>11 portraiture, and I didn't want that book to look</p> <p>12 pop culture at all, and I explain them the way I</p> <p>13 saw -- the way I envisioned the print to be and</p> <p>14 so on and so forth, and I brought them the first</p> <p>15 couple images, and that was it.</p> <p>16     Q. Now, if you look at paragraph 1 of</p> <p>17 the Powerhouse agreement, in the first sentence</p> <p>18 there it gives Powerhouse the right to publish</p> <p>19 the book in all languages in all territories?</p> <p>20     A. Mm-hmm.</p> <p>21     Q. And my question to you is whether it</p> <p>22 was ever published in any language other than in</p> <p>23 the English language?</p> <p>24     A. No.</p> <p>25     Q. In what territories was it marketed</p>
186	188
<p>1                   Cariou</p> <p>2                   What I'm into is to make beautiful</p> <p>3 books. And they were willing to let me do that.</p> <p>4 And that's what we concentrate about.</p> <p>5     Q. Did you, when you first approached</p> <p>6 them, I guess that would be sometime in 2000,</p> <p>7 about this project, did you tell them what you</p> <p>8 had in your mind --</p> <p>9                   MR. BROOKS: Objection.</p> <p>10     Q. -- with this project?</p> <p>11     A. Oh, yeah.</p> <p>12                   MR. BROOKS: Assumes a fact not in</p> <p>13 evidence that he approached them in 2000.</p> <p>14     Q. I think I corrected it mid-sentence,</p> <p>15 but when you first spoke with Powerhouse in</p> <p>16 2000, and I believe you told me you approached</p> <p>17 them, you said I have another idea for the book,</p> <p>18 that's how they found out about it, right?</p> <p>19     A. No, not exactly. I think that</p> <p>20 Surfers was published in '97, and I was already</p> <p>21 well into the Rasta project, and they knew about</p> <p>22 it and they loved it, and they wanted to publish</p> <p>23 it when it will be finished.</p> <p>24     Q. Okay. So when you first talked to</p> <p>25 them about the Yes Rasta project -- perhaps it</p>	<p>1                   Cariou</p> <p>2 and sold, and by territories I mean let's try</p> <p>3 countries first?</p> <p>4     A. Well, mainly I would say obviously</p> <p>5 the United States, but also Europe and probably</p> <p>6 Australia. And, you know, maybe a bit of</p> <p>7 South America. I don't know. But definitely</p> <p>8 Europe and the States.</p> <p>9     Q. And was there a reason why those two</p> <p>10 territories were being focused on at least</p> <p>11 initially?</p> <p>12     A. Yeah, that's where people buy artist</p> <p>13 books.</p> <p>14     Q. So they were targeting the market of</p> <p>15 consumers of artist books?</p> <p>16     A. Yes.</p> <p>17     Q. And that's one of the best markets,</p> <p>18 followed by Australia?</p> <p>19     A. Yeah.</p> <p>20     Q. Okay. If you'll turn to paragraph</p> <p>21 22 on C5 it says the publisher shall be the</p> <p>22 exclusive producer of this work, the sales of</p> <p>23 said work to other exclusive territorial</p> <p>24 publishers are subject to separate agreements.</p> <p>25                   Were there separate publishing</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

209	211
1 Cariou	1 Cariou
2 A. A few different persons. I don't	2 A. Yeah.
3 have the list right now with me, you know, but a	3 Q. Did you ever conduct an interview
4 few different magazines did.	4 with anyone concerning the book, now we've moved
5 Q. And have you given those reviews to	5 from reviews to interviews?
6 your attorneys?	6 A. Yes, I did. Once in Paris for
7 MR. BROOKS: We gave them to you.	7 French Vogue.
8 MS. BART: We have them?	8 Q. And who arranged for that?
9 MR. BROOKS: Yes.	9 A. I was actually working for that
10 BY MS. BART:	10 magazine at the time and the director wanted to
11 Q. And other than the reviews that we	11 do a review about me and the Rasta book. So
12 have been provided, I believe many of them were	12 that was, you know, on a personal level it was
13 in French, some of them were French?	13 done.
14 MR. BROOKS: English.	14 Q. As a result of the publication of
15 MS. BART: English?	15 these reviews and also the interview that
16 MR. BROOKS: The ones we gave you	16 appeared in the French Vogue magazine, did you
17 were all in English.	17 receive any inquiries concerning the possible
18 BY MS. BART:	18 sale of a print of any of the images that appear
19 Q. And are there others besides those?	19 in Yes Rasta?
20 A. There might have been a few that I'm	20 A. I might have received it. I don't
21 not aware of. But I think we gave you pretty	21 remember. I don't know.
22 much what we had.	22 Q. Do you know whether Powerhouse
23 Q. And there are no other reviews of	23 received any inquiries about the possibility of
24 the book besides those?	24 being able to purchase prints of the images?
25 A. No, I don't think so.	25 A. I don't know.
210	212
1 Cariou	1 Cariou
2 Q. Did you arrange for those interviews	2 Q. Do you know if Powerhouse ever sold
3 or did Powerhouse?	3 any prints of the images in the book?
4 MR. BROOKS: Are you talking about	4 A. I would be -- no, I don't think so,
5 interviews or reviews? Those are not	5 they don't have them.
6 necessarily the same thing.	6 Q. So that was a right you reserved
7 What interviews?	7 to --
8 MS. BART: He answered the question	8 A. Yeah, yeah.
9 yes about interviews --	9 Q. That was something you reserved for
10 MR. BROOKS: No, reviews and	10 yourself to do?
11 interviews are two completely different	11 A. Yeah.
12 things. You've been asking about reviews.	12 Q. Besides placement on the Powerhouse
13 MS. BART: Let me break the question	13 website was the book advertised anywhere?
14 down and we can move on.	14 A. I don't know.
15 BY MS. BART:	15 Q. And you have no copies of any
16 Q. Did you arrange to have the book	16 advertising by Powerhouse?
17 reviewed or did Powerhouse have the book --	17 A. No.
18 A. Powerhouse did it.	18 Q. Since the publication of the
19 Q. And were you satisfied with the	19 Yes Rasta collection has anyone done an
20 reviews that you received for your book?	20 appraisal or attempted to place a value on the
21 A. Yeah.	21 images that are found in the Yes Rasta book?
22 Q. And did you think that they had	22 A. I don't understand your question.
23 accurately captured the reviews -- accurately	23 Q. Do you know what an appraisal is?
24 captured what you were trying to express through	24 A. Sort of.
25 the book?	25 Q. I don't mean to make this a legal



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com



Patrick Cariou

January 12, 2010

<p style="text-align: center;">213</p> <p>1 Cariou</p> <p>2 definition, it's just a layperson definition.</p> <p>3 An appraisal would be if I wanted to</p> <p>4 know how much this yellow highlighter was worth</p> <p>5 and there wasn't another yellow highlighter –</p> <p>6 in other words, you can't just go and there's</p> <p>7 not a retail price for it, I could maybe go to</p> <p>8 Steve Hayes if he was a specialist in valuing,</p> <p>9 putting a value on yellow highlighters, and ask</p> <p>10 him could you tell me what this is worth.</p> <p>11 A. Yeah, yeah.</p> <p>12 Q. It's like the people at Sotheby's</p> <p>13 that value antiques.</p> <p>14 A. I understand. I understand.</p> <p>15 Q. So did anyone ever appraise or put a</p> <p>16 value on the images that appear in the Yes Rasta</p> <p>17 book?</p> <p>18 A. Not that I know of.</p> <p>19 Q. You've never asked anyone to do</p> <p>20 that?</p> <p>21 A. No.</p> <p>22 Q. Let's turn back to the Powerhouse</p> <p>23 agreement. And you said that you received the</p> <p>24 entirety of the nonreturnable sum of \$6,000</p> <p>25 which is mentioned in section paragraph 7.</p>	<p style="text-align: center;">215</p> <p>1 Cariou</p> <p>2 received?</p> <p>3 A. I don't remember.</p> <p>4 Q. Is it less than a thousand dollars?</p> <p>5 A. No, I think it would be more than a</p> <p>6 thousand dollars.</p> <p>7 Q. Do you have any idea of how much you</p> <p>8 received?</p> <p>9 A. No. I'm really bad with that. No,</p> <p>10 I have no idea. I don't know.</p> <p>11 Q. From the period 2000 to the present</p> <p>12 what portion of your annual income would you say</p> <p>13 was derived from the sale of the Yes Rasta book?</p> <p>14 A. Very little.</p> <p>15 Q. Less than 1 percent?</p> <p>16 A. Less than 1 percent? I don't know.</p> <p>17 I really don't know. Yeah, maybe.</p> <p>18 Less than 10 percent, that's for</p> <p>19 sure.</p> <p>20 RQ MS. BART: We'd like to call for</p> <p>21 the production of records showing the</p> <p>22 amounts –</p> <p>23 MR. BROOKS: You already got them.</p> <p>24 MS. BART: – that he received.</p> <p>25 He said he doesn't have them.</p>
<p style="text-align: center;">214</p> <p>1 Cariou</p> <p>2 And then later on in that section –</p> <p>3 MS. BART: We're missing – in your</p> <p>4 production copy it looks like we're</p> <p>5 missing paragraphs because it jumps from</p> <p>6 paragraph 7 right up to paragraph 11.</p> <p>7 See? We look at C3 is paragraph 7</p> <p>8 and then –</p> <p>9 MR. BROOKS: No, the next paragraph</p> <p>10 is 8. What are you talking about?</p> <p>11 It goes 7, 8, 9, 10, 11.</p> <p>12 MS. BART: Oh, I'm sorry, it's up</p> <p>13 there. Let me get it. It's my eyes.</p> <p>14 It's not anything else.</p> <p>15 BY MS. BART:</p> <p>16 Q. Paragraphs 8 and 10 also talk about</p> <p>17 additional amounts that you would receive from</p> <p>18 the sale of Yes Rasta or in connection with the</p> <p>19 publication of Yes Rasta.</p> <p>20 Did you receive any other moneys</p> <p>21 besides the \$6,000 from Powerhouse?</p> <p>22 A. I might have received a check or</p> <p>23 two. Yeah, I don't recall precisely but I might</p> <p>24 have.</p> <p>25 Q. Do you recall the amount that you</p>	<p style="text-align: center;">216</p> <p>1 Cariou</p> <p>2 MR. BROOKS: We gave you records in</p> <p>3 document production. You have all the</p> <p>4 records.</p> <p>5 We went and got them from</p> <p>6 Powerhouse, we Bates stamped them, we gave</p> <p>7 them to you months ago.</p> <p>8 MS. BART: We'll check for those on</p> <p>9 a break because that's not ringing a bell</p> <p>10 for me. But we'll check that.</p> <p>11 So whatever the numbers are that</p> <p>12 are in those documents, that would be the</p> <p>13 amounts that he received from Powerhouse?</p> <p>14 MR. BROOKS: I believe so.</p> <p>15 According to Powerhouse.</p> <p>16 BY MS. BART:</p> <p>17 Q. Do you know what the original sales</p> <p>18 price for the book is?</p> <p>19 I know there's limited quantities</p> <p>20 available for a hundred dollars.</p> <p>21 A. It was \$60.</p> <p>22 Q. And at what point did it increase?</p> <p>23 A. At what point did it increase?</p> <p>24 I don't know. I don't know.</p> <p>25 Q. Did it increase once or did it</p>



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquiresolutions.com

Patrick Cariou

January 12, 2010

217	219
1 Cariou	1 Cariou
2 increase several times?	2 Borders?
3 A. I think it increased once.	3 MS. BART: There's absolutely
4 Q. And do you know if it increased	4 nothing wrong, Mr. Brooks. I'm not
5 after the lawsuit was commenced?	5 responding to your questions.
6 A. No, it was way before.	6 BY MS. BART:
7 Q. The hundred dollars?	7 Q. Mr. Cariou, we'll move on a lot
8 A. Yeah.	8 faster if your counsel will just let me do the
9 Q. The increase to \$100?	9 examination. I'm sorry for the interruption.
10 A. Yeah.	10 Do you know if any bookstores -- a
11 Q. Did Powerhouse ever give you any	11 better bookstore would be like a premium-tier
12 projected sales figures for the books?	12 bookstore?
13 A. No.	13 A. Yeah, yes.
14 Q. And do you know --	14 Q. Rizzoli might be considered one of
15 A. You know, it's a small operation.	15 those?
16 MR. BROOKS: Just answer the	16 A. Yeah. They definitely sold them
17 question.	17 there.
18 Q. It's a small what?	18 Q. In the United States and Europe?
19 A. It's a small operation, you know,	19 A. Yeah.
20 Powerhouse.	20 Q. But you don't have a list of where
21 Q. But it's a Powerhouse.	21 they were distributed?
22 Do you know how many copies of	22 A. No.
23 Yes Rasta were initially published?	23 Q. And you don't know whether or not
24 A. Published?	24 they were sold in a mass distribution channel,
25 Q. Well, produced for sale?	25 do you?
218	220
1 Cariou	1 Cariou
2 A. I think it's 5,500.	2 A. No, I don't know.
3 Q. And do you know how many of those	3 Q. If you will look at paragraph 13 of
4 have been sold?	4 the Powerhouse agreement it gives you the right
5 A. No.	5 to examine their books and records. Here we
6 Q. Do you know what the phrase channel	6 call that an audit.
7 of distribution means?	7 A. Yeah.
8 A. Yeah.	8 Q. Did you ever exercise that right?
9 Q. Do you know what channels of	9 A. No.
10 distribution Powerhouse attempted to sell	10 Q. Other than the cash that you have
11 Yes Rasta through?	11 received from Powerhouse have you ever received
12 A. I have no idea now. I have no idea.	12 any other types of remuneration or consideration
13 They changed a few times. I couldn't tell you.	13 from anything else tangible or intangible I
14 Q. Do you know if they were sold in	14 guess from Powerhouse?
15 museums, for example?	15 A. No.
16 A. They might have.	16 Q. Like no Adidas shorts?
17 Q. But you don't know?	17 A. No Adidas shorts. You know, I can
18 A. No, I don't know.	18 go pick up a book if I need a book that I like.
19 Q. Better book stores?	19 You know, it's -- you know what I mean?
20 MR. BROOKS: Objection. What does	20 Q. Right. It's miniscule?
21 that mean?	21 A. Yeah, whatever.
22 A. What do you mean better book stores?	22 Q. Okay. So speaking of picking up
23 Q. Something other than Borders, not a	23 a book that you might like, let's turn to
24 mass distribution?	24 paragraph 20 of the contract. And it says there
25 MR. BROOKS: What's wrong with	25 that you are entitled to receive 70 free copies



**ESQUIRE**  
an Alexander Delle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">221</p> <p>1 Cariou 2 of the first edition once it's published. 3 Did you receive those 70 copies? 4 A. Yeah. 5 Q. And what did you do with them? 6 A. I send quite a bit of them in 7 Jamaica. 8 Q. To the Rastafarians whose images 9 appear in the book? 10 A. I send them to Ms. Schnepf, you 11 know, to -- 12 Q. In Negrit? 13 A. Yeah, in Negrit. And I gave the 14 rest to my friends. 15 Q. Did you give any of them to 16 galleries or to museums? 17 A. No. 18 Q. Did you give any copies of Yes Rasta 19 to any person who might be interested in trying 20 to help you market -- 21 A. No. 22 Q. -- the images? 23 A. No. I -- yeah. 24 Q. Did you want to add something? 25 A. I wasn't ready at the time to market</p>	<p style="text-align: center;">222</p> <p>1 Cariou 2 my photographs. I was waiting for the proper 3 opportunity and the proper timing to do so. 4 Q. If you'll turn to paragraph 32 of 5 the Powerhouse agreement, it says for publicity 6 purposes the publisher shall have the right to 7 publish or permit to be published or to be 8 broadcast by television or radio or through 9 online services without charge or royalty such 10 selections from the work as in the opinion of 11 the publisher may benefit its sale. 12 Do you know, Mr. Cariou, whether 13 there were any broadcasts in any other form of 14 media besides the print media? 15 A. No, I don't think so. 16 Q. Now, if you'll look at the last 17 sentence or the next sentence, it says the 18 proprietor and the publisher will agree on 10 19 photographs from the work. 20 MR. BROOKS: Hold on, which 21 paragraph is this? 22 MS. BART: The same paragraph -- 23 MR. BROOKS: He closed the document. 24 So I'm asking you -- 25 MS. BART: You just don't have to be</p>	<p style="text-align: center;">223</p> <p>1 Cariou 2 so hostile all the time, Mr. Brooks. Just 3 ask me for the paragraph number. 4 BY MS. BART: 5 Q. Mr. Cariou, if you'll go back to 6 that same paragraph -- 7 MR. BROOKS: I asked you for the 8 paragraph number and you said the same one 9 he was looking at, and he's not looking at 10 it anymore. 11 MS. BART: Just stop, Brooks. 12 MR. BROOKS: You stop, Bart. 13 MS. BART: Just stop. 14 MR. BROOKS: This is ridiculous. 15 This is a complete colossal waste of time. 16 MS. BART: You'll see how we intend 17 to -- 18 MR. BROOKS: Yeah, we'll see. 19 MS. BART: Fine. We endured your 20 depositions, Mr. Brooks. 21 BY MS. BART: 22 Q. Mr. Cariou, looking back at 23 paragraph 32, do you have that in front of you? 24 A. Yeah. 25 Q. All right. I did not notice that</p>	<p style="text-align: center;">224</p> <p>1 Cariou 2 you had closed the document. I'm sorry for 3 that. 4 A. That's okay. 5 Q. If you will look at the second 6 sentence, it says the proprietor and the 7 publisher will agree on 10 photographs of the 8 work for publicity. Did you and Powerhouse 9 choose 10 works for publicity? 10 A. I can't recall. I can't recall it. 11 We probably did. I have no idea. 12 Q. Would Powerhouse have kept a record 13 of that? 14 MR. BROOKS: Objection. 15 Q. If you know? 16 A. I don't know. 17 RQ MS. BART: We would call for the 18 production of any identification of the 19 10 photographs that were selected by 20 Mr. Cariou and Powerhouse for publicity. 21 MR. BROOKS: He has no records and I 22 have no access to what Powerhouse might 23 have. 24 MS. BART: Well, you did get the 25 sales.</p>
--	---	--	---



**ESQUIRE**  
an Alexander Galle Company

Toll Free: 800.944.9454  
Facsimile: 212.557.5972

Suite 4715  
One Penn Plaza  
New York, NY 10119  
www.esquireolutions.com

Patrick Cariou

January 12, 2010

<p style="text-align: center;">229</p> <p>1 Cariou</p> <p>2 Q. And when I pointed to you earlier I</p> <p>3 think one of the provisions we talked about, the</p> <p>4 first edition of this book, has there been a</p> <p>5 second edition?</p> <p>6 A. No.</p> <p>7 Q. So there's strictly the one edition</p> <p>8 that we all have?</p> <p>9 A. Yes.</p> <p>10 Q. Is it currently being published?</p> <p>11 A. Being published?</p> <p>12 Q. Well, in other words, reproduced,</p> <p>13 are copies being printed, are they out of print?</p> <p>14 A. No, they're not producing any copies</p> <p>15 right now.</p> <p>16 Q. An do you know when that started,</p> <p>17 when they stopped producing copies?</p> <p>18 A. Well, they did it in one batch. It</p> <p>19 was one run of like those 5,500 copies, and that</p> <p>20 was it. It's not like going back to the -- on</p> <p>21 artist book it cost too much to put the machine</p> <p>22 together in order to -- you don't reprint it</p> <p>23 every month or every year like that. You decide</p> <p>24 that you want 5,000, 6,000, 7,000 copies and</p> <p>25 that's it.</p>	<p style="text-align: center;">231</p> <p>1 Cariou</p> <p>2 BY MS. BART:</p> <p>3 Q. You may answer the question.</p> <p>4 MR. BROOKS: He's not going to</p> <p>5 answer that. Go on to the next question.</p> <p>6 I direct him not to answer.</p> <p>7 MS. BART: You've got to be kidding</p> <p>8 me.</p> <p>9 MR. BROOKS: I'm not kidding. Ask</p> <p>10 your next question.</p> <p>11 CQ MS. BART: Would you please mark</p> <p>12 that question as well.</p> <p>13 BY MS. BART:</p> <p>14 Q. Is Powerhouse still the only entity</p> <p>15 that you've given the ability to publish the</p> <p>16 images that appear in Yes Rasta or Yes Rasta</p> <p>17 itself?</p> <p>18 A. Yes.</p> <p>19 Q. Have you approached anyone else</p> <p>20 about the possibility of publishing Yes Rasta or</p> <p>21 the images that appear in that book?</p> <p>22 A. No.</p> <p>23 Q. If you look at paragraph 15 -- I'd</p> <p>24 like to now focus on your exhibitions.</p> <p>25 If you look at paragraph 15 of this</p>
<p style="text-align: center;">230</p> <p>1 Cariou</p> <p>2 Q. And is Yes Rasta out of print at</p> <p>3 this time?</p> <p>4 A. I'm not sure. I don't know.</p> <p>5 Q. In paragraph 28 it says that you can</p> <p>6 terminate the contract if the book is out of</p> <p>7 print. Have you ever taken any steps --</p> <p>8 MR. BROOKS: Where does it say that?</p> <p>9 MS. BART: If at any time during the</p> <p>10 initial term specified above the said work</p> <p>11 shall go out of print with the publisher,</p> <p>12 or to the extent of it selling fewer than</p> <p>13 200 copies, then the proprietor shall be</p> <p>14 at liberty to dispose of such rights that</p> <p>15 were granted under this agreement to his</p> <p>16 full discretion.</p> <p>17 A. Yeah, we had no discussion about</p> <p>18 that.</p> <p>19 Q. So at this point the publishing</p> <p>20 rights that were given to Powerhouse still</p> <p>21 remain with Powerhouse?</p> <p>22 MR. BROOKS: Objection, calls for</p> <p>23 a legal conclusion.</p> <p>24 MS. BART: No, it doesn't. It's a</p> <p>25 fact.</p>	<p style="text-align: center;">232</p> <p>1 Cariou</p> <p>2 Powerhouse agreement, it speaks to the use of</p> <p>3 the work as to be utilized as the exclusive</p> <p>4 catalog of exhibitions planned in said</p> <p>5 territories for a period of four years following</p> <p>6 the first publication.</p> <p>7 Do you see that language?</p> <p>8 A. Yes.</p> <p>9 Q. My focus on it is really just --</p> <p>10 was a catalog put together or some catalog put</p> <p>11 together of the Yes Rasta book?</p> <p>12 A. No.</p> <p>13 Q. And were there, at the time when</p> <p>14 you entered into this agreement, plans to do</p> <p>15 exhibitions?</p> <p>16 A. No, I didn't. It was just like, you</p> <p>17 know, their contract, their standard contract.</p> <p>18 Q. Okay. So Powerhouse did not arrange</p> <p>19 for any exhibitions of this work?</p> <p>20 A. No.</p> <p>21 Q. Have any of the Yes Rasta images</p> <p>22 been displayed or exhibited in any museums?</p> <p>23 A. No.</p> <p>24 Q. And have the images appeared in any</p> <p>25 print media other than perhaps media associated</p>

Patrick Cariou

January 12, 2010

<p style="text-align: center;">233</p> <p>1 Cariou 2 with this lawsuit? 3 A. In French Vogue, yeah, once. 4 Q. There was one? 5 A. Yeah. 6 Q. And I should have excluded that out 7 of course. 8 A. Yeah. 9 Q. Anything other than that instance? 10 A. I don't think so. 11 Q. Now, if you'll get Defendant's 12 Exhibit 4, which are your responses to 13 interrogatories – I think it's that one right 14 there in your left hand. 15 A. Yeah, I got it. 16 Q. Okay. And if you turn to response 17 number 3F? 18 A. 3 what? 19 Q. 3F as in Frank. 20 MR. BROOKS: Page 10. 21 It's on page 10. 22 A. Yeah, I just want to make sure. 23 Q. Why don't you just take a second. 24 We asked in the question – the way this is done 25 you have to flip back and forth, so if you look</p>	<p style="text-align: center;">235</p> <p>1 Cariou 2 A. Yeah. 3 Q. I know it. 4 At the time that was the only 5 exhibition that you had at Gallery 213? 6 A. Yeah. 7 Q. And who arranged for that 8 exhibition? 9 A. The owner of the gallery called 10 Marion de Beaupre. 11 Q. Who we've seen in the 12 acknowledgments? 13 A. Yeah. 14 Q. During this exhibition at Gallery 15 213 were any of the images or prints of the 16 images offered for sale? 17 A. No. 18 Q. They were not. 19 And was that your choice? 20 A. Yeah. 21 Q. Was there a reason why you did not 22 want any of them to be offered for sale? 23 A. Yeah, once again, I wasn't ready to 24 make my work available, and I was waiting for my 25 work to develop in a more consistent way and</p>
<p style="text-align: center;">234</p> <p>1 Cariou 2 at the question we asked you in F for the date 3 and location of each exhibition of the 4 photographs, which are defined as the Yes Rasta 5 images, for every such exhibition state the cash 6 or other consideration you received. 7 And then in your answer you talk 8 about a two-month exhibition at Gallery 213 in 9 Paris? 10 A. Yeah. 11 Q. From September through October of 12 2000? 13 A. Mm-hmm. 14 Q. Is that the only instance in which 15 the images from the Yes Rasta book have been 16 exhibited in a gallery? 17 A. Yes. 18 Q. And that was a one-person show, 19 correct? 20 A. Yeah. 21 Q. One-artist show? 22 A. Yeah. 23 Q. And Gallery 213, where was that – 24 I know it's no longer in business, I think it's 25 become a photography bookstore, correct?</p>	<p style="text-align: center;">236</p> <p>1 Cariou 2 waiting for the right opportunity. 3 Q. And did anyone do a review or 4 critique of the exhibition at Gallery 213? 5 A. I have no idea. I don't know. 6 THE WITNESS: You know what, I need 7 a five-minute break, if you don't mind. 8 MS. BART: No, that's all right. 9 (Recess taken: 3:57 p.m.) 10 (Proceedings resumed: 4:23 p.m.) 11 BY MS. BART: 12 Q. Mr. Cariou, before the break we were 13 talking about the exhibition at Gallery 213 in 14 Paris? 15 A. Yeah. 16 Q. You said there were no sales and so 17 none were offered, so a price list wasn't put 18 together for that show, correct? 19 A. Correct. 20 Q. Did you have anyone contact you 21 following the exhibition at Gallery 213 about 22 the possible purchase of any print of any image 23 from Yes Rasta? 24 A. Yes. 25 Q. Who called you, who contacted you?</p>